

TWENTY-THIRD DAY - FEBRUARY 12, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****TWENTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 12, 2008

PRAYER

The prayer was offered by Pastor Jimmy Shelbourn, First Presbyterian Church, Beatrice.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Stuthman presiding.

The roll was called and all members were present except Senator Johnson who was excused; and Senators Ashford, Cornett, Fulton, Preister, Synowiecki, and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-second day was approved.

ANNOUNCEMENT

The Banking, Commerce and Insurance Committee designates LB855 as its priority bill.

GENERAL FILE

LEGISLATIVE BILL 763. Considered.

Senator Avery moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Avery requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 20:

Adams	Friend	Kruse	Pahls	Rogert
Aguilar	Gay	Lathrop	Pankonin	Schimek
Avery	Hansen	Lautenbaugh	Pedersen	Synowiecki
Christensen	Janssen	McDonald	Raikes	Wightman

Voting in the negative, 13:

Burling	Dubas	Harms	Langemeier	Stuthman
Carlson	Flood	Heidemann	Nantkes	
Chambers	Fulton	Hudkins	Nelson	

Present and not voting, 12:

Ashford	Fischer	Kopplin	Pirsch
Cornett	Howard	Louden	Preister
Engel	Karpisek	McGill	White

Excused and not voting, 4:

Dierks	Erdman	Johnson	Wallman
--------	--------	---------	---------

Failed to advance to Enrollment and Review for Initial with 20 ayes, 13 nays, 12 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR Committee
LR238 Health and Human Services

(Signed) L. Patrick Engel, Chairperson
Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARING

Natural Resources

Room 1525

Wednesday, February 20, 2008 1:30 p.m.

AM1808 to LB1094

(Signed) LeRoy Louden, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 239. Introduced by Loudon, 49; Fischer, 43.

WHEREAS, Alice Marie Jones was born in Hyannis, Nebraska, on February 20, 1908; and

WHEREAS, Ms. Jones attended Chillicothe (Missouri) Business College, taught school, and worked at the Alliance, Nebraska, Air Base before pursuing a long and productive career with the federal government in Colorado and Kansas; and

WHEREAS, Ms. Jones will celebrate her one hundredth birthday with friends and relatives in Alliance, Nebraska, on February 16, 2008.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature congratulates A. Marie Jones on her one hundredth birthday February 20, 2008.

2. That a copy of this resolution be presented to A. Marie Jones.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 744. Title read. Considered.

Advanced to Enrollment and Review Initial with 26 ayes, 1 nay, 19 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 747. Title read. Considered.

SENATOR LANGEMEIER PRESIDING

Advanced to Enrollment and Review Initial with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 722. Title read. Considered.

SPEAKER FLOOD PRESIDING**SENATOR LANGEMEIER PRESIDING**

Pending.

COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 804. Placed on General File.

(Signed) Brad Ashford, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 761A. Introduced by Avery, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 761, One Hundredth Legislature, Second Session, 2008.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 791. Placed on Select File.

LEGISLATIVE BILL 925. Placed on Select File with amendment.

ER8161

- 1 1. On page 1, strike beginning with "sections" in line 1
- 2 through line 4 and insert "section 54-401, Reissue Revised Statutes
- 3 of Nebraska; to provide liability for damage done by certain goats
- 4 as prescribed; and to repeal the original section."
- 5 2. Renumber original section 3 as section 2.

(Signed) Amanda McGill, Chairperson

MESSAGE FROM THE GOVERNOR

February 12, 2008

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 632 was received in my office on February 7, 2008.

I signed this bill and delivered it to the Secretary of State on February 12, 2008.

Sincerely,
(Signed) Dave Heineman
Governor

GENERAL FILE

LEGISLATIVE BILL 722. Senator Chambers offered the following amendment:

FA176

P. 4, line 1 strike "sixty-five" and insert "ninety-five".

Senator Chambers moved for a call of the house. The motion prevailed with 28 ayes, 2 nays, and 19 not voting.

Senator Chambers requested a record vote on his amendment.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 22:

Burling	Erdman	Harms	Lathrop	Pirsch
Carlson	Flood	Heidemann	Lautenbaugh	Stuthman
Christensen	Fulton	Karpisek	McDonald	
Dubas	Gay	Kopplin	Pankonin	
Engel	Hansen	Kruse	Pedersen	

Present and not voting, 21:

Aguilar	Howard	McGill	Raikes	Wightman
Ashford	Hudkins	Nantkes	Rogert	
Avery	Janssen	Nelson	Schimek	
Fischer	Langemeier	Pahls	Synowiecki	
Friend	Louden	Preister	Wallman	

Excused and not voting, 5:

Adams	Cornett	Dierks	Johnson	White
-------	---------	--------	---------	-------

The Chambers amendment lost with 1 aye, 22 nays, 21 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENTS - Print in Journal

Senator Howard filed the following amendment to LB782:

AM1847

- 1 1. On page 4, after line 12, insert the following new
- 2 subsection:

3 "(5) For purposes of this section, the best interests of
 4 the child, the child's siblings, or other children in the household
 5 does not allow the disclosure of information that would impede
 6 a pending or current criminal investigation by a law enforcement
 7 agency."; and in line 13 strike "(5)" and insert "(6)".

Senator Pirsch filed the following amendment to LB624:
 AM1842

1 1. Strike original section 1 and insert the following new
 2 section:

3 Section 1. Section 28-905, Revised Statutes Cumulative
 4 Supplement, 2006, is amended to read:

5 28-905 (1) Any person who operates any motor vehicle to
 6 flee in such vehicle in an effort to avoid arrest or citation ~~for~~
 7 ~~the violation of any law of the State of Nebraska constituting a~~
 8 ~~misdemeanor, infraction, traffic infraction, or any city or village~~
 9 ~~ordinance, except nonmoving traffic violations, commits the offense~~
 10 of ~~misdemeanor~~ operation of a motor vehicle to avoid arrest.

11 ~~(2) Any person who operates any motor vehicle to flee~~
 12 ~~in such vehicle in an effort to avoid arrest for the violation of~~
 13 ~~any law of the State of Nebraska constituting a felony commits the~~
 14 ~~offense of felony operation of a motor vehicle to avoid arrest.~~

15 ~~(3) Operating a motor vehicle to avoid arrest under~~
 16 ~~subsection (1) of this section is a Class I misdemeanor. The court~~
 17 ~~shall, as part of the judgment of conviction, order such person not~~
 18 ~~to operate any motor vehicle for any purpose for a period of two~~
 19 ~~years and shall order that the operator's license of such person be~~
 20 ~~revoked for a like period.~~

21 ~~(4) Operating a motor vehicle to avoid arrest under~~
 22 ~~subsection (2) of this section is a Class IV felony. The court~~
 23 ~~shall, as part of the judgment of conviction, order such person not~~
 1 ~~to operate any motor vehicle for any purpose for a period of two~~
 2 ~~years and shall order that the operator's license of such person be~~
 3 ~~revoked for a like period.~~

4 (2)(a) Except as otherwise provided in subsection (3)
 5 of this section, any person who violates subsection (1) of this
 6 section shall be guilty of a Class I misdemeanor.

7 (b) The court may, as part of the judgment of conviction
 8 under subdivision (a) of this subsection, order that the operator's
 9 license of such person be revoked or impounded for a period of
 10 not more than one year and order the person not to drive any
 11 motor vehicle for any purpose in the State of Nebraska for a like
 12 period. The revocation or impoundment shall be administered upon
 13 sentencing, upon final judgment of any appeal or review, or upon
 14 the date that any probation is revoked.

15 (3)(a) Any person who violates subsection (1) of this
 16 section shall be guilty of a Class IV felony if, in addition to
 17 the violation of subsection (1) of this section, one or more of the
 18 following also applies:

- 19 (i) The person committing the offense has previously been
 20 convicted under this section;
 21 (ii) The flight to avoid arrest results directly and
 22 proximately in the death of or injury to any person if such death
 23 or injury is caused directly and proximately by the vehicle being
 24 driven by the person fleeing to avoid arrest; or
 25 (iii) The flight to avoid arrest includes the willful
 26 reckless operation of the motor vehicle.
 27 (b) The court shall, as part of the judgment of
 1 conviction under subdivision (a) of this subsection, order that
 2 the operator's license of such person be revoked or impounded for
 3 a period of two years and order the person not to drive any
 4 motor vehicle for any purpose in the State of Nebraska for a like
 5 period. The revocation or impoundment shall be administered upon
 6 sentencing, upon final judgment of any appeal or review, or upon
 7 the date that any probation is revoked.
 8 (5)(a)-(4)(a) Any person who operates a vessel as defined
 9 in section 37-1203 to flee in such vessel in an effort to avoid
 10 arrest or citation for the violation of any statute punishable as
 11 a misdemeanor or any city or village ordinance shall be guilty of
 12 misdemeanor operation of a vessel to avoid arrest.
 13 (b) Any person violating subdivision (a) of this
 14 subsection shall be guilty of a Class I misdemeanor. Upon
 15 conviction thereof the court shall, as part of the judgment of
 16 conviction, order such person not to operate any vessel for any
 17 purpose for a period of one year.
 18 (6)(a)-(5)(a) Any person who operates a vessel as defined
 19 in section 37-1203 to flee in such vessel in an effort to avoid
 20 arrest for the violation of any statute punishable as a felony
 21 shall be guilty of felony operation of a vessel to avoid arrest.
 22 (b) Any person violating subdivision (a) of this
 23 subsection shall be guilty of a Class IV felony. Upon conviction
 24 thereof the court shall, as part of the judgment of conviction,
 25 order such person not to operate any vessel for any purpose for a
 26 period of two years.
 27 (7)-(6) An order of the court under subsection (4) or
 1 (5) of this section prohibiting operation of a ~~vehicle or vessel~~
 2 and ~~revoking the operator's license~~ shall be administered upon
 3 sentencing, upon final judgment of any appeal or review, or upon
 4 the date that any probation is revoked, ~~whichever is later.~~
 5 Sec. 2. Original section 28-905, Revised Statutes
 6 Cumulative Supplement, 2006, is repealed.

Senator Johnson filed the following amendment to LB395A:
 AM1870

(Amendments to Final Reading copy)

- 1 1. Strike section 1 and insert the following new section:
 2 Section 1. There is hereby appropriated (1) \$25,000 from
 3 the Tobacco Prevention and Control Cash Fund for FY2008-09 and

- 4 (2) \$25,000 from the Tobacco Prevention and Control Cash Fund
 5 for FY2009-10 to the Department of Health and Human Services, for
 6 Program 179, to aid in carrying out the provisions of Legislative
 7 Bill 395, One Hundredth Legislature, Second Session, 2008.
 8 No expenditures for permanent and temporary salaries and
 9 per diems for state employees shall be made from funds appropriated
 10 in this section.
 11 2. On page 1, line 3, strike "First Session, 2007" and
 12 insert "Second Session, 2008".

MOTION - Print in Journal

Senator Chambers filed the following motion to LB722:
 MO127
 Indefinitely postpone.

COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 1063. Placed on General File with amendment.
 AM1841 is available in the Bill Room.

(Signed) Brad Ashford, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Lautenbaugh asked unanimous consent to add his name as
 cointroducer to LB873 and LB879. No objections. So ordered.

VISITORS

Visitors to the Chamber were 37 seventh-grade students, teacher, and
 sponsors from Cross County School, Benedict; Family and Consumer
 Science teachers and students from across the state; Rogene Aulner from
 Hastings and Edith Solomon from Blair; and 6 high school students and
 teacher from Omaha Public Schools, Omaha.

The Doctor of the Day was Dr. Brett Meyer from Omaha.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Loudon, the Legislature adjourned
 until 9:00 a.m., Wednesday, February 13, 2008.

Patrick J. O'Donnell
 Clerk of the Legislature