

**NINTH DAY - NOVEMBER 20, 2002****LEGISLATIVE JOURNAL****NINETY-SEVENTH LEGISLATURE  
THIRD SPECIAL SESSION****NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, November 20, 2002

**PRAYER**

The prayer was offered by Senator Janssen.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senators Bourne, McDonald, Dw. Pedersen, Preister, Schimek, and Suttle who were excused; and Senators Dierks and Landis who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighth day was approved.

**SELECT COMMITTEE REPORT  
Enrollment and Review**

**LEGISLATIVE BILL 1.** Placed on Select File as amended.  
(E & R amendment, AM7245, is on file and available in the Clerk's Office, Room 2014.)

(Signed) Philip Erdman, Chairperson

**STANDING COMMITTEE REPORTS  
Nebraska Retirement Systems**

The Nebraska Retirement Systems Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Nebraska Investment Council  
Earl Scudder

VOTE: Aye: Senators Erdman, Bourne, Stuhr, and Wehrbein. Nay: None.  
Absent: None.

The Nebraska Retirement Systems Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

State Investment Officer  
Carol Kontor

VOTE: Aye: Senators Erdman, Bourne, Stuhr, and Wehrbein. Nay: None. Absent: None.

The Nebraska Retirement Systems Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Nebraska Investment Council  
Gail Werner-Robertson

VOTE: Aye: Senators Erdman, Bourne, Stuhr, and Wehrbein. Nay: None. Absent: None.

(Signed) Philip Erdman, Vice Chairperson

### SELECT FILE

**LEGISLATIVE BILL 3.** Senator Coordsen renewed his pending amendment, AM9034, found on page 65.

The Coordsen amendment was adopted with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 1.** E & R amendment, AM7245, found in this day's Journal, was adopted.

Senator Chambers offered the following amendment:  
AM9036

(Amendments to E & R amendments, AM7245)

- 1 1. Insert the following new sections:
- 2 "Section 1. The Legislature finds that:
- 3 (1) It is unwholesome when a state and the legislative
- 4 and executive departments are held hostage due to the legislative
- 5 skill, brainpower, will, and tenacity of one man, State Senator
- 6 Ernie Chambers;
- 7 (2) It is embarrassing and detrimental to the reputation
- 8 and image of the State of Nebraska that one man, State Senator
- 9 Ernie Chambers, is so feared and disliked by so many citizens of
- 10 the State of Nebraska that he has been enshrined in the
- 11 Constitution of the State of Nebraska; that is, the Constitution

12 was amended pursuant to a successful citizens' petition to impose  
 13 term limits on members of the Legislature with the expressed intent  
 14 and purpose to turn one man, State Senator Ernie Chambers, out of  
 15 office even though the unavoidable, negative consequence is to turn  
 16 all members of the Legislature out of office;

17 (3) The Legislature, session after futile session, has  
 18 amended its own rules in an unsuccessful campaign to curb the  
 19 legislative effectiveness and influence of one man, State Senator  
 20 Ernie Chambers;

21 (4) The Governor has publicly criticized, disparaged, and  
 22 condemned State Senator Ernie Chambers and vetoed his bills but has  
 23 failed to nullify, thereby, his continuing (and maddening) impact  
 1 and influence on the course of public and governmental affairs;

2 (5) It is imprudent, as well as embarrassing, that the  
 3 Governor called a special session of the Legislature pursuant to  
 4 his publicly announced aim to stifle and circumvent one man, State  
 5 Senator Ernie Chambers, and thereby attempt to restrict and limit  
 6 full and robust debate on an extraordinarily grave and complex  
 7 issue of profound public interest: The death penalty; and

8 (6) Because the public mind is disturbed and the  
 9 transaction of the state's business is crippled when one man, State  
 10 Senator Ernie Chambers, so dominates the legislative and executive  
 11 departments and when state policy is formulated around the flawed  
 12 strategy of stifling, conquering, and shutting him up, there is a  
 13 compelling necessity to enact appropriate legislation to meet and  
 14 remedy such a threat to political order, governmental tranquility,  
 15 and the independence of the legislative and executive departments.

16 Sec. 2. Being Ernie Chambers and a member of the  
 17 Legislature on and after the effective date of this act is a Class  
 18 I felony.

19 Sec. 3. Section 28-101, Revised Statutes Supplement,  
 20 2002, is amended to read:

21 28-101. Sections 28-101 to 28-1348 and sections 1 and 2  
 22 of this act shall be known and may be cited as the Nebraska  
 23 Criminal Code."

24 2. On page 15, lines 4 and 10; and page 16, line 21,  
 25 after "28-303" insert "or section 2 of this act".

26 3. On page 23, after line 19 insert the following new  
 27 paragraph:

1 "Upon the court being satisfied that the offender has, in  
 2 fact and law, resigned from the Legislature, the conviction against  
 3 the offender of violating section 2 of this act shall be set aside  
 4 and the offender shall be immediately discharged from custody with  
 5 the stern warning that it will not go so well for the offender  
 6 should the offender be guilty of recidivism."

7 4. On page 25, line 4, strike "or" and show as stricken;  
 8 in line 8 before the period insert  
 9 ": or

10 (j) The offender convicted of violation of section 2 of

11 this act refuses to resign from the Legislature prior to the  
 12 imposition of sentence"; and in line 23 strike the second "or" and  
 13 show as stricken.

14 5. On page 26, line 1, before the period insert

15 "or

16 (h) The offender convicted of violating section 2 of this

17 act submits to the court a letter of resignation from the

18 Legislature and proof that such resignation has been legally

19 effectuated"; and in line 5 strike "section 13" and insert

20 "sections 1, 2, and 16".

21 6. Renumber the remaining sections and correct internal

22 references and the repealer accordingly.

Senator Chambers moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Chambers requested a record vote on his amendment.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 35:

Aguilar	Connealy	Hartnett	Kremer	Redfield
Baker	Coordsen	Hlava	Kruse	Schrock
Beutler	Cudaback	Hudkins	Landis	Smith
Brashear	Cunningham	Janssen	Mossey	Synowiecki
Bromm	Engel	Jensen	Pederson, D.	Thompson
Burling	Erdman	Johnson	Price	Vrtiska
Byars	Foley	Jones	Raikes	Wehrbein

Present and not voting, 6:

Brown	Quandahl	Stuhr
Maxwell	Robak	Tyson

Excused and not voting, 7:

Bourne	McDonald	Preister	Suttle
Dierks	Pedersen, Dw.	Schimek	

The Chambers amendment lost with 1 aye, 35 nays, 6 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator Beutler offered the following amendment:

AM9035

(Amendments to Standing Committee amendments, AM7245)

- 1 1. On page 16, line 14, strike the second "the" and
- 2 insert "(i) the changes to subdivision (1)(d) of section 29-2523
- 3 are prospective and shall only apply to crimes committed on or
- 4 after the effective date of this act and (ii) the other".
- 5 2. On page 24, line 18, after "atrocious," insert "or";
- 6 and strike beginning with the last comma in line 18 through
- 7 "intelligence" in line 20, show as stricken, and insert "in that it
- 8 involved torture or serious physical abuse beyond that necessary to
- 9 produce death".

**SENATOR CUDABACK PRESIDING**

**SPEAKER BROMM PRESIDING**

Senator Beutler moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 8:

Beutler	Kruse	Maxwell	Robak
Connealy	Landis	Redfield	Thompson

Voting in the negative, 33:

Aguilar	Chambers	Hlava	Mossey	Stuhr
Baker	Coordsen	Hudkins	Pederson, D.	Synowiecki
Brashear	Cudaback	Janssen	Price	Tyson
Bromm	Cunningham	Jensen	Quandahl	Vrtiska
Brown	Engel	Johnson	Raikes	Wehrbein
Burling	Erdman	Jones	Schrock	
Byars	Hartnett	Kremer	Smith	

Present and not voting, 2:

Dierks	Foley
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Excused and not voting, 6:

Bourne	Pedersen, Dw.	Schimek
McDonald	Preister	Suttle

The Beutler amendment lost with 8 ayes, 33 nays, 2 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 36 ayes, 7 nays, and 6 excused and not voting.

### **EASE**

The Legislature was at ease from 10:57 a.m. until 11:19 a.m.

### **SENATOR CUDABACK PRESIDING**

#### **SELECT COMMITTEE REPORTS Enrollment and Review**

#### **Correctly Engrossed**

The following bills were correctly engrossed: LBs 1 and 3.

(Signed) Philip Erdman, Chairperson

### **VISITORS**

Visitors to the Chamber were Alexander Gibb from Hamburg, Germany, Ulrike Kanert from Parchim, Germany, and Ronda Vondra from Fremont; and Senator Coordsen's wife, Janice, and sisters-in-law and nieces, Luella Windhorst from Hebron, Gloria Reinboth and Maurine Wassom from Deshler, and Lisa Reinboth and Merry Kellogg from Lincoln.

### **ADJOURNMENT**

At 11:20 a.m., on a motion by Speaker Bromm, the Legislature adjourned until 10:00 a.m., Thursday, November 21, 2002.

Patrick J. O'Donnell  
Clerk of the Legislature