

**FIFTY-FIFTH DAY - APRIL 2, 2003****LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE  
FIRST SESSION****FIFTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 2, 2003

**PRAYER**

The prayer was offered by Pastor William Arnold, United Methodist Church, Lincoln, Nebraska.

**ROLL CALL**

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

The roll was called and all members were present except Senators Bourne, Brown, Landis, and Quandahl who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-fourth day was approved.

**GENERAL FILE**

**LEGISLATIVE BILL 46A.** Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 439A.** Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 667A.** Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 210.** Senator Beutler renewed his pending amendment, AM1113, found on page 1128, to the Standing Committee amendment, AM0926, found on page 1022 and considered on page 1128.

Senator Beutler withdrew his amendment.

Senator Beutler withdrew his pending amendment, AM1114, found on page 1128.

Senator Connealy renewed his pending amendment, AM1093, found on page 1129, to the Standing Committee amendment.

Senator Connealy withdrew his amendment.

Senator Beutler offered the following amendment to the Standing Committee amendment:

FA1256

Amend AM0926

Strike lines 4 through 10 on page 2.

Senator Byars asked unanimous consent to be excused until he returns. No objections. So ordered.

### **SENATOR SCHIMEK PRESIDING**

Senators Brashear and Wehrbein asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Beutler moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 6:

Beutler	Kruse	Schimek
Chambers	Price	Thompson

Voting in the negative, 31:

Aguilar	Engel	Kremer	Pederson, D.	Stuthman
Baker	Erdman	Landis	Quandahl	Tyson
Bromm	Friend	Louden	Raikes	Vrtiska
Burling	Hudkins	McDonald	Redfield	
Combs	Jensen	Mines	Schrock	
Cudaback	Johnson	Mossey	Smith	
Cunningham	Jones	Pedersen, Dw.	Stuhr	

Present and not voting, 9:

Bourne	Connealy	Hartnett	Maxwell	Synowiecki
Brown	Foley	Janssen	Preister	

Excused and not voting, 3:

Brashear      Byars      Wehrbein

The Beutler amendment lost with 6 ayes, 31 nays, 9 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment, as amended, was adopted with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 39 ayes, 1 nay, 7 present and not voting, and 2 excused and not voting.

### **MESSAGE FROM THE GOVERNOR**

April 2, 2003

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 72, 72A, 291e, 319e, 331, 365, 371, 381, 381A, 394e, 418, 429e, 443, 537, 561e, 562, 562A, and 563 were received in my office on March 27, 2003. In addition, engrossed Legislative Bills 216 and 385 were received in my office on March 28, 2003.

These bills were signed by me on April 2, 2003 and delivered to the Secretary of State.

Sincerely,  
(Signed) Mike Johanns  
Governor

### **VISITORS**

Visitors to the Chamber were Larry and Darlene Betts from Lincoln; 40 fourth-grade students from North Park Elementary School, Columbus; 26 fourth-grade students and teacher from Northern Hills School, Norfolk; and 40 fourth-grade students and teachers from Washington Elementary School, Norfolk.

**RECESS**

At 11:53 a.m., on a motion by Senator Cudaback, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Baker, Combs, Cunningham, Engel, Kremer, Landis, McDonald, Raikes, Schrock, Stuhr, and Wehrbein who were excused until they arrive.

**STANDING COMMITTEE REPORTS**  
**Health and Human Services**

**LEGISLATIVE BILL 412.** Placed on General File.

**LEGISLATIVE BILL 411.** Placed on General File as amended.  
Standing Committee amendment to LB 411:  
AM1082

- 1 1. On page 2, lines 25 through 27, strike the new matter
- 2 and reinstate the stricken matter.
- 3 2. On page 4, line 13, strike "section" and insert
- 4 "sections 1920 and"; and in line 14 strike the new matter and
- 5 reinstate the stricken matter.

(Signed) Jim Jensen, Chairperson

**SELECT FILE**

**LEGISLATIVE BILL 233.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 233A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 487.** E & R amendment, AM7078, found on page 682, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 111.** Senator Mossey renewed his pending amendment, AM0670, found on page 745.

The Mossey amendment was adopted with 29 ayes, 0 nays, 9 present and not voting, and 11 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE RESOLUTION 11CA.** E & R amendment, AM7079, found on page 743, was adopted.

Senator D. Pederson renewed the D. Pederson et al. pending amendment, AM1119, found on page 1130.

Senator Bromm offered the following amendment to the D. Pederson et al. pending amendment:  
AM1139

(Amendments to AM1119)

- 1 1. On page 1, line 1, after the first comma insert "line
- 2 22, strike 'eight' and insert 'four'; and in"; and in line 10 after
- 3 the first comma insert "line 4, strike 'eight' and insert 'four';
- 4 in".

Senator Chambers offered the following motion:  
Bracket until April 4, 2003.

Senator Chambers withdrew his motion.

Senator Bromm withdrew his amendment, AM1139.

## **SENATOR VRTISKA PRESIDING**

Senator Cudaback asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator D. Pederson asked unanimous consent to withdraw the D. Pederson et al. pending amendment, AM1119, found on page 1130, and replace it with the D. Pederson-Bromm substitute amendment, AM1146. No objections. So ordered.  
AM1146

(Amendments to E & R amendments, AM7079)

- 1 1. On page 2, line 22, strike "eight" and insert "four";
- 2 and in line 25 after the first period insert the following new
- 3 subsection:
- 4 "(6) Nothing in the Constitution of Nebraska shall
- 5 prohibit the Legislature from authorizing and regulating games of
- 6 chance using player-activated electronic gaming devices (a) for
- 7 charitable or community betterment purposes in a county, city, or
- 8 village which approves such gaming devices at a regular or special
- 9 election or (b) by licensees within a licensed racetrack
- 10 enclosure.".
- 11 2. On page 3, line 4, strike "eight" and insert "four";
- 12 in line 5 strike "and"; and in line 7 after "facilities" insert ",
- 13 and to permit the Legislature to authorize and regulate games of
- 14 chance using player-activated electronic gaming devices in certain
- 15 localities".

Senator Mines asked unanimous consent to be excused until he returns. No objections. So ordered.

## SENATOR CUDABACK PRESIDING

Pending.

### SELECT COMMITTEE REPORTS Enrollment and Review

**LEGISLATIVE BILL 265.** Placed on Select File as amended.  
E & R amendment to LB 265:

AM7097

- 1 1. In the Chambers amendment, FA1224, on page 1, after
- 2 "officer" insert an underscored comma.
- 3 2. In the Standing Committee amendments, AM0768:
- 4 a. On page 2, line 6, strike "this" and insert "the";
- 5 and in line 24 after the third comma insert "and" and strike the
- 6 fourth comma and insert "and contain";
- 7 b. On page 3, line 2, after "property" insert an
- 8 underscored comma;
- 9 c. On page 4, line 13, strike "diffuse" and insert
- 10 "defuse";
- 11 d. On page 5, line 12, after the first comma insert
- 12 "pled";
- 13 e. On page 6, line 20, after the first comma insert "the
- 14 permitholder's";
- 15 f. On page 7, line 12, after "dollars" insert an
- 16 underscored comma; and in line 17 after "county" insert an
- 17 underscored comma;
- 18 g. On page 11, line 21, strike "subsection" and insert
- 19 "section";
- 20 h. On page 12, line 22, strike "subsections" and insert
- 21 "subsection";
- 22 i. On page 13, line 12, strike "this section" and insert
- 23 "the Concealed Handgun Permit Act"; and in line 17 after the first
- 24 comma insert "a"; and
- 1 j. On page 14, line 1, strike the second "or" and insert
- 2 "of"; in line 2 after the comma insert "a"; in line 24 strike the
- 3 comma; and in line 25 strike "2" and insert "3".
- 4 2. On page 1, strike beginning with the comma in line 2
- 5 through "2002" in line 3; and strike beginning with "for" in line 6
- 6 through line 8 and insert "an operative date; to provide
- 7 severability; and to repeal the original section."

**LEGISLATIVE BILL 724.** Placed on Select File as amended.  
E & R amendment to LB 724:

AM7096

- 1 1. In the Standing Committee amendments, AM1031, on page

2 4, lines 12 and 24, after the first "the" insert "behavioral  
3 health".

4 2. On page 1, strike beginning with the semicolon in  
5 line 2 through "date" in line 3.

**LEGISLATIVE BILL 46A.** Placed on Select File.

**LEGISLATIVE BILL 439A.** Placed on Select File.

**LEGISLATIVE BILL 667A.** Placed on Select File.

(Signed) Ray Mossey, Chairperson

### **AMENDMENT - Print in Journal**

Senator Beutler filed the following amendment to LB 46:

FA1257

Strike Section 1.

### **SELECT FILE**

**LEGISLATIVE RESOLUTION 11CA.** The D. Pederson-Bromm pending amendment, AM1146, found in this day's Journal, was renewed.

Senator Beutler requested a division of the question on the D. Pederson-Bromm amendment.

The Chair sustained the division of the question.

Senator D. Pederson challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?" The motion failed with 14 ayes, 19 nays, and 16 present and not voting.

The Chair was sustained.

The first D. Pederson-Bromm amendment is as follows:

FA1258

1 1. On page 2, line 22, strike "eight" and insert "four";  
2 and in line 25 after the first period insert the following new  
3 subsection:  
4 "(6) Nothing in the Constitution of Nebraska shall  
5 prohibit the Legislature from authorizing and regulating games of  
6 chance using player-activated electronic gaming devices (a) for  
7 charitable or community betterment purposes in a county, city, or  
8 village which approves such gaming devices at a regular or special  
9 election or (b) by licensees within a licensed racetrack  
10 enclosure.".

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 1 nay, and 19 not voting.

Senator D. Pederson moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

Senator Bromm requested a roll call vote on the first D. Pederson-Bromm amendment.

Voting in the affirmative, 18:

Aguilar	Burling	Hudkins	Mossey	Synowiecki
Baker	Connealy	Johnson	Pedersen, Dw.	Wehrbein
Bourne	Cunningham	McDonald	Pederson, D.	
Bromm	Friend	Mines	Smith	

Voting in the negative, 18:

Beutler	Foley	Landis	Redfield	Thompson
Combs	Jensen	Louden	Schimek	Tyson
Engel	Jones	Quandahl	Schrock	
Erdman	Kremer	Raikes	Stuthman	

Present and not voting, 13:

Brashear	Chambers	Janssen	Preister	Vrtiska
Brown	Cudaback	Kruse	Price	
Byars	Hartnett	Maxwell	Stuhr	

The first D. Pederson-Bromm amendment lost with 18 ayes, 18 nays, and 13 present and not voting.

The Chair declared the call raised.

The second D. Pederson-Bromm amendment is as follows:

FA1259

11 2. On page 3, line 4, strike "eight" and insert "four";  
 12 in line 5 strike "and"; and in line 7 after "facilities" insert "  
 13 and to permit the Legislature to authorize and regulate games of  
 14 chance using player-activated electronic gaming devices in certain  
 15 localities".

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 31 ayes, 2 nays, and 16 not voting.

The second D. Pederson-Bromm amendment lost with 14 ayes, 22 nays, and 13 present and not voting.

Senator Dw. Pedersen asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Janssen offered the following amendment:

AM1107

(Amendments to E & R amendments, AM7079)

- 1 1. On page 2, line 16, strike "or a machine" and insert
- 2 "a player-activated electronic gaming device, or a player-activated
- 3 mechanical gaming device"; in line 23 strike "under this
- 4 subsection" and insert "regardless of whether any activity
- 5 authorized by this section is conducted at such facilities"; and in
- 6 line 25 after the first period insert "The proceeds of gaming
- 7 authorized under this subdivision shall be used for such purposes
- 8 as are determined by the Legislature.".

### **SPEAKER BROMM PRESIDING**

Senator Brashear asked unanimous consent to be excused. No objections. So ordered.

Senator Janssen moved for a call of the house. The motion prevailed with 34 ayes, 4 nays, and 11 not voting.

The Janssen amendment was adopted with 25 ayes, 0 nays, 22 present and not voting, and 2 excused and not voting.

Pending.

### **AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 165:

AM1068

(Amendments to E & R amendments, AM7080)

- 1 1. On page 8, line 21, after "plant" insert "that
- 2 provides for compensation on an at-cost basis. This section does
- 3 not authorize indemnification for any direct damages from the
- 4 misconduct of such public or private entity engaged in management
- 5 or operation of a nuclear power plant. The same limitations of
- 6 liability and other protections available to a public power
- 7 district or a public power and irrigation district under the
- 8 Political Subdivisions Tort Claims Act shall apply to any public or
- 9 private entity acting as an agent for a public power district or a
- 10 public power and irrigation district pursuant to a contract for the
- 11 management or operation of a nuclear power plant".

Senator Loudon filed the following amendment to LR 11CA:

AM1122

(Amendments to E & R amendments, AM7079)

- 1 1. On page 2, line 23, after "subsection" insert "a
- 2 three of which shall be located within the Mountain Standard or
- 3 Mountain Daylight time zone".

Senator Wehrbein filed the following amendment to LB 607:  
AM1123

(Amendments to E & R amendments, AM7084)

- 1 1. On page 12, line 10, strike the second "and" and
- 2 insert an underscored comma; and in line 11 after "Audits" insert
- 3 ", and the Reporting Standards for Performance Audits".
- 4 2. On page 27, line 14; and page 28, line 27, after the
- 5 underscored comma insert "as that term is defined in the Electronic
- 6 Codification of Government Auditing Standards as of July 1999,
- 7 published by the Comptroller General of the United States, General
- 8 Accounting Office,".
- 9 3. On page 29, line 3, after "shall" insert
- 10 "immediately" and after "them" insert "in writing"; in line 4 after
- 11 "may" insert "investigate the issue further," and strike "them" and
- 12 insert "it"; and in line 5 after "Legislature" insert ", or both".

#### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Redfield asked unanimous consent to have her name added as cointroducer to LB 17, LB 95, LB 148, LB 172, LB 208, LB 528, LB 572, and LB 670. No objections. So ordered.

#### **VISITORS**

Visitors to the Chamber were Daniel and Shirley Hall from Fairmont; 20 fourth-grade students and teacher from Howells Community Catholic School, Howells; 15 fourth-grade students and teacher from Humphrey St. Francis School, Humphrey; Paul, Brenda, Connor, and Tom Beranek from Ravenna; and Ralph Knoebel from Fairbury.

The Doctor of the Day was Dr. Mike Myers from Lincoln.

#### **ADJOURNMENT**

At 3:58 p.m., on a motion by Senator Bourne, the Legislature adjourned until 9:00 a.m., Thursday, April 3, 2003.

Patrick J. O'Donnell  
Clerk of the Legislature