

EIGHTEENTH DAY - FEBRUARY 3, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****EIGHTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 3, 2004

PRAYER

The prayer was offered by Pastor Kim Cottingham, St. Paul's Lutheran Church, Uehling.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Heineman presiding.

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Beutler, Brashear, Bromm, Cunningham, Johnson, Maxwell, Preister, Price, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventeenth day was approved.

ANNOUNCEMENT

Senator Cunningham designates LB 1049 as his priority bill.

NOTICE OF COMMITTEE HEARINGS

Revenue
Room 1524

LB 1041	Wednesday, February 25, 2004	1:30 p.m.
LB 1095	Wednesday, February 25, 2004	1:30 p.m.
LB 1249	Thursday, February 26, 2004	1:30 p.m.
LB 1178	Thursday, February 26, 2004	1:30 p.m.
LB 892	Thursday, February 26, 2004	1:30 p.m.

(Signed) David Landis, Chairperson

ATTORNEY GENERAL'S OPINIONOpinion # 04003

DATE: February 2, 2004

SUBJECT: Whether LR4CA, a proposed amendment to the Nebraska Constitution regarding hunting, fishing, and trapping, will have an affect on the Nebraska Constitution and various existing statutes.

REQUESTED BY: Senator Ed Schrock
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
David Cookson, Assistant Attorney General
Justin Lavene, Assistant Attorney General

On January 20, 2004, you requested an opinion from the Attorney General's Office regarding LR4CA, a proposed amendment to the Nebraska Constitution, and its possible affect on the Nebraska Constitution and various existing statutes. The relevant language of the proposed constitutional amendment reads as follows:

Fishing, trapping, and hunting are a valued part of the heritage of the people and will be a right forever preserved for the people subject to reasonable restrictions as prescribed by law.

LR4CA (Ninety-Eighth Legislature, First Session, First Reading January 10, 2003). Please find our responses outlined below.

Question No. 1: Whether the adoption of the proposed constitutional amendment would impair or negatively affect the Nebraska Constitution. For the reasons set forth below, we conclude that the proposed constitutional amendment will not impair or negatively affect the Nebraska Constitution.

The Nebraska Supreme Court has provided a number of rules for the application and construction of constitutional provisions. Essentially, the proposed constitutional amendment would not impair or negatively affect the Nebraska Constitution because the amendment would simply become part of the Constitution and would have the same authority as any other provision within the Constitution.

The Nebraska Constitution represents the supreme written will of the people regarding the framework for their government. *Pig Pro Nonstock Co-op v. Moore*, 253 Neb. 72, 79, 568 N.W.2d 217, 222 (1997). The state constitution is only subject to the limitations found in the Federal Constitution. *Jaksha v. State*, 241 Neb. 106, 110, 486 N.W.2d 858, 863

(1992). In *Jaksha*, the Nebraska Supreme Court found the following:

A constitutional amendment becomes an integral part of the instrument and must be construed and harmonized, if possible, with all other provisions so as to give effect to every section and clause as well as to the whole instrument. If inconsistent, a constitutional amendment prevails over a provision in the original instrument...

Jaksha, 241 Neb. at 110-111, 486 N.W.2d at 863 (internal citations omitted). Constitutional provisions relating to the same subject matter should be construed together, with a view to giving effect to each provision if possible. *State ex rel. Randall v. Hall*, 125 Neb. 236, 249 N.W. 756 (1933). Constitutional provisions are repugnant to each other or conflicting only when they relate to the same subject, are adopted for the same purpose, and cannot be enforced without substantial conflict. *Swanson v. State*, 132 Neb. 82, 271 N.W. 264 (1937). Differences in Constitutional provisions must, if possible, be reconciled. *State ex rel. Randall v. Hall*, *supra*.

Upon review of the Nebraska Constitution, there is one provision that appears to relate to the subject matter of the proposed constitutional amendment. Pursuant to Article III, Section 18 of the Nebraska Constitution, "The Legislature shall not pass local or special laws in any of the following cases, that is to say: . . . the protection of game or fish . . ." Therefore, it is unconstitutional for the Legislature to pass special legislation for the protection of game or fish. A legislative act can violate the Nebraska Constitution as special legislation if (1) it creates an arbitrary and unreasonable method of classification or (2) it creates a permanently closed class. *Gourley ex rel. Gourley v. Nebraska Methodist Health System*, 265 Neb. 918, 663 N.W.2d 43 (2003), (Per curiam, with three justices concurring and two justices concurring in result). Although Article III, Section 18 of the Constitution and the proposed amendment appear to have some relation in subject matter, the provisions do not appear to be in conflict as the provisions were not adopted for the same purpose. Moreover, both provisions can be enforced without substantial conflict. Therefore, the proposed amendment would not impair the current language of the special legislation provision. Notwithstanding Article III, Section 18, there appear to be no other conflicts, either direct or indirect, between the remainder of the provisions and the proposed constitutional amendment.

Furthermore, no limit is placed on the subject matter of proposed language to the Constitution. "A proposed amendment to our Constitution does not have to deal with fundamental rights...but may deal with any subject." *Omaha National Bank v. Spire*, 223 Neb. 209, 219, 389 N.W.2d 269, 276 (1986). The people of the state of Nebraska may amend their Constitution in any way they see fit, provided the amendment is not in violation of the United States Constitution or in conflict with federal statutes or treaties. *Id.* Moreover, the Nebraska Supreme Court is without authority to judge the wisdom or desirability of a Constitutional Amendment. *State ex rel. Stenberg v. Moore*, 251 Neb. 598, 606, 558 N.W.2d 794, 798 (1997).

It can be derived from the language in the above cited cases that there are no limitations on the subject matter of constitutional amendments, provided such amendments are not in violation of the United States Constitution, or federal laws or treaties. Whether the proposed language "clutters" the Constitution is a policy issue and has no effect on the ability of the constitutional amendment to be proposed to the people of the state of Nebraska: it simply is an argument in opposition of the adoption of the amendment.

Question No. 2: Whether the adoption of the proposed constitutional amendment would negatively affect the interpretation of any relevant existing statutes. For the reasons set forth below, we conclude that the proposed constitutional amendment will have an affect on the interpretation of relevant existing statutes. Whether or not these effects can be characterized as "negative" is not within our purview to review.

The Nebraska Game and Parks Commission ("Commission") is vested with sole charge and responsibility for state parks, game and fish, recreation grounds, and all things pertaining thereto, pursuant to Neb. Rev. Stat. §37-301 (Reissue 1998). The Commission is further granted the authority, pursuant to Neb. Rev. Stat. §37-314 (Reissue 1998), to adopt and promulgate rules and regulations as they relate to specifications of hunting, fishing, and fur-harvesting. The qualifying language of the constitutional amendment, "subject to reasonable restrictions as prescribed by law," appears to have no effect on the ability of the Commission to exercise its authority to regulate game and parks pursuant to the current statutory grant of authority by the Legislature.

The language, "reasonable restrictions as proscribed by law," however, has the potential of presenting additional challenges to both the Legislature and the Commission. Currently, all statutes passed by the Legislature and regulations adopted by the Commission relating to the right to fish, trap and hunt are presumed to be constitutional provided the laws are "rationally related to a legitimate governmental interest." The legitimate government interest the Legislature is seeking to protect is the preservation and conservation of wildlife within the state. The burden is on the person challenging the statute to prove that the statute is unconstitutional because it is irrational and satisfies no legitimate governmental interest.

The proposed constitutional amendment recognizes the right of Nebraskans to fish, trap, and hunt as a constitutionally-protected right. As such, the adoption of the amendment may raise the level of judicial scrutiny upon laws related to fishing, trapping, and hunting passed by both the Legislature and the Commission. Under this heightened level of scrutiny, the government would be subject to an increased burden to show that the law is constitutional because it is "substantially related to an important governmental interest." Although the proposed amendment does not directly limit the powers of the Legislature and the Commission to regulate and

control fishing, trapping, and hunting, by recognizing such activities as a constitutional right of the citizens of this state, there is the likelihood that this amendment will open the doors to potential constitutional attacks on the laws of the State, questioning whether the law "reasonably restricts" the right to fish, trap, and hunt.

For the foregoing reasons, the proposed constitutional amendment does not impair or negatively affect the Constitution and is an appropriate amendment to be presented to the people of Nebraska. Furthermore, the amendment may affect the interpretation of relevant existing statutes. There is the potential that such an amendment would heighten the level of scrutiny a court would use in determining the constitutionality of laws related to fishing, trapping, and hunting.

Sincerely,
 JON BRUNING
 Attorney General
 (Signed) David D. Cookson
 Assistant Attorney General
 (Signed) Justin D. Lavene
 Assistant Attorney General

pc: Patrick O'Donnell, Clerk of the Legislature

AMENDMENT - Print in Journal

Senator Schrock filed the following amendment to LB 449:
 AM2420

- 1 1. On page 20, line 28, after the period insert "Any
- 2 money in the fund available for investment shall be invested by the
- 3 state investment officer pursuant to the Nebraska Capital Expansion
- 4 Act and the Nebraska State Funds Investment Act.".

RESOLUTIONS

LEGISLATIVE RESOLUTION 230. Read. Considered.

LR 230 was adopted with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

LEGISLATIVE RESOLUTION 231. Read. Considered.

LR 231 was adopted with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 230 and 231.

MOTIONS - Approve Appointments

Senator Kremer moved the adoption of the Agriculture Committee report for the confirmation of the following appointment found on page 453:

Beginning Farmer Board
Timothy Schram

Voting in the affirmative, 32:

Aguilar	Foley	Kremer	Quandahl	Thompson
Burling	Friend	Kruse	Raikes	Tyson
Byars	Hartnett	Landis	Redfield	Vrtiska
Chambers	Janssen	Louden	Schimek	Wehrbein
Combs	Jensen	Maxwell	Schrock	
Engel	Johnson	Mines	Stuthman	
Erdman	Jones	Pedersen, Dw.	Synowiecki	

Voting in the negative, 0.

Present and not voting, 10:

Baker	Brown	Cudaback	Mossey	Smith
Bourne	Connealy	Cunningham	Pederson, D.	Stuhr

Excused and not voting, 7:

Beutler	Bromm	McDonald	Price
Brashear	Hudkins	Preister	

The appointment was confirmed with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment found on page 453:

Nebraska Power Review Board
Eugene Bade

Voting in the affirmative, 30:

Aguilar	Cunningham	Janssen	Louden	Schimek
Bromm	Engel	Jensen	Mines	Schrock
Burling	Erdman	Johnson	Mossey	Synowiecki
Byars	Foley	Jones	Pedersen, Dw.	Thompson
Chambers	Friend	Kremer	Pederson, D.	Vrtiska
Connealy	Hartnett	Kruse	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 12:

Baker	Combs	Quandahl	Stuhr
Bourne	Cudaback	Raikes	Stuthman
Brown	Maxwell	Smith	Tyson

Excused and not voting, 7:

Beutler	Hudkins	McDonald	Price
Brashear	Landis	Preister	

The appointment was confirmed with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

Senator Connealy moved the adoption of the Revenue Committee report for the confirmation of the following appointment found on page 453:

Tax Equalization and Review Commission
Robert L. Hans

Voting in the affirmative, 36:

Aguilar	Cunningham	Johnson	Pedersen, Dw.	Thompson
Bromm	Engel	Jones	Quandahl	Tyson
Brown	Erdman	Kremer	Raikes	Vrtiska
Burling	Foley	Kruse	Redfield	Wehrbein
Byars	Friend	Louden	Schimek	
Chambers	Hartnett	Maxwell	Schrock	
Combs	Janssen	Mines	Stuthman	
Connealy	Jensen	Mossey	Synowiecki	

Voting in the negative, 0.

Present and not voting, 6:

Baker	Bourne	Smith
Beutler	Cudaback	Stuhr

Excused and not voting, 7:

Brashear	Landis	Pederson, D.	Price
Hudkins	McDonald	Preister	

The appointment was confirmed with 36 ayes, 0 nays, 6 present and not voting, and 7 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment found on page 467:

Board of Educational Lands and Funds
Demarus Carlson

Voting in the affirmative, 28:

Aguilar	Erdman	Kremer	Preister	Stuthman
Burling	Foley	Kruse	Quandahl	Tyson
Byars	Hartnett	Maxwell	Raikes	Vrtiska
Combs	Jensen	Mines	Redfield	Wehrbein
Cunningham	Johnson	Mossey	Schimek	
Engel	Jones	Pedersen, Dw.	Schrock	

Voting in the negative, 0.

Present and not voting, 15:

Baker	Bromm	Connealy	Janssen	Stuhr
Beutler	Brown	Cudaback	Louden	Synowiecki
Bourne	Chambers	Friend	Smith	Thompson

Excused and not voting, 6:

Brashear	Landis	Pederson, D.
Hudkins	McDonald	Price

The appointment was confirmed with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 644A. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

STANDING COMMITTEE REPORTS Natural Resources

LEGISLATIVE BILL 183. Indefinitely postponed.

LEGISLATIVE BILL 363. Indefinitely postponed.

LEGISLATIVE BILL 527. Indefinitely postponed.

LEGISLATIVE BILL 624. Indefinitely postponed.

LEGISLATIVE BILL 633. Indefinitely postponed.

LEGISLATIVE BILL 638. Indefinitely postponed.

LEGISLATIVE BILL 738. Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 1087:

AM2423

1 1. On page 2, strike beginning with the comma in line 24
 2 through the comma in line 26; and in line 26 after the period
 3 insert "If the speaker knowingly divulges or makes known
 4 confidential information or confidential records, he or she shall
 5 be guilty of a Class III misdemeanor.".

Senator Beutler filed the following amendment to LB 1118:

AM2424

1 1. On page 5, strike beginning with "be" in line 2
 2 through "provisions" in line 4 and insert "not include performance
 3 audits, whether conducted pursuant to attestation engagements or
 4 performance audit standards as set forth in Government Auditing
 5 Standards (2003 Revision), published by the Comptroller General of
 6 the United States, General Accounting Office".

Senators Schimek, Beutler, and Janssen filed the following amendment to
LR 14CA:

AM2401

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. At the general election in November 2004 the
 4 following proposed amendment to the Constitution of Nebraska shall
 5 be submitted to the electors of the State of Nebraska for approval
 6 or rejection:
 7 To amend Article III, section 24:
 8 III-24 "(1) Except as provided in this section, the
 9 Legislature shall not authorize any game of chance or any lottery
 10 or gift enterprise when the consideration for a chance to
 11 participate involves the payment of money for the purchase of
 12 property, services, or a chance or admission ticket or requires an
 13 expenditure of substantial effort or time.
 14 (2) The Legislature may authorize and regulate a state
 15 lottery pursuant to subsection (3) of this section and other
 16 lotteries, raffles, and gift enterprises which are intended solely
 17 as business promotions or the proceeds of which are to be used
 18 solely for charitable or community betterment purposes without
 19 profit to the promoter of such lotteries, raffles, or gift
 20 enterprises.
 21 (3) The Legislature may establish a lottery to be
 22 operated and regulated by the State of Nebraska. The proceeds of
 23 the lottery shall be appropriated by the Legislature for the costs
 24 of establishing and maintaining the lottery and for other purposes
 1 as directed by the Legislature. No lottery game shall be conducted
 2 as part of the lottery unless the type of game has been approved by
 3 a majority of the members of the Legislature.
 4 (4) Nothing in this section shall be construed to
 5 prohibit (a) the enactment of laws providing for the licensing and
 6 regulation of wagering on the results of horse races, wherever run,

7 either within or outside of the state, by the parimutuel method,
 8 when such wagering is conducted by licensees within a licensed
 9 racetrack enclosure or (b) the enactment of laws providing for the
 10 licensing and regulation of bingo games conducted by nonprofit
 11 associations which have been in existence for a period of five
 12 years immediately preceding the application for license, except
 13 that bingo games cannot be conducted by agents or lessees of such
 14 associations on a percentage basis.

15 (5)(a) For purposes of this subsection, casino gaming
 16 includes games of chance played for money, credit, or any
 17 representative of value using cards; dice; equipment;
 18 player-activated electronic, video, or mechanical gaming devices;
 19 and other methods authorized by the Legislature.
 20 (b) Nothing in the Constitution of Nebraska shall be
 21 construed to prohibit or restrict casino gaming as authorized by
 22 the Legislature at up to eight casino locations. Only the
 23 Legislature may provide for the operation, regulation, and taxation
 24 of casino gaming at such casino locations."

25 Sec. 2. The proposed amendment shall be submitted to the
 26 electors in the manner prescribed by the Constitution of Nebraska,
 27 Article XVI, section 1, with the following ballot language:

1 "A constitutional amendment to define casino gaming and
 2 to permit the Legislature to authorize up to eight casino
 3 locations and provide for the operation, regulation, and
 4 taxation of casino gaming at such locations.
 5 For
 6 Against".

SELECT FILE

LEGISLATIVE BILL 172. Senator Schimek renewed her pending amendment, AM2362, found on page 461.

Senator Foley offered the following motion:
 Invoke cloture on LB 172.

Senator Foley moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Senator Foley requested a roll call vote on his motion to invoke cloture.

Voting in the affirmative, 37:

Aguilar	Connealy	Jensen	Pedersen, Dw.	Stuthman
Baker	Cudaback	Jones	Preister	Synowiecki
Beutler	Cunningham	Kremer	Quandahl	Tyson
Brashear	Engel	Kruse	Raikes	Vrtiska
Bromm	Erdman	Louden	Redfield	Wehrbein
Burling	Foley	Maxwell	Schrock	
Byars	Friend	Mines	Smith	
Combs	Hartnett	Mossey	Stuhr	

Voting in the negative, 7:

Bourne	Chambers	Johnson	Thompson
Brown	Janssen	Schimek	

Present and not voting, 1:

McDonald

Excused and not voting, 4:

Hudkins	Landis	Pederson, D.	Price
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The Foley motion to invoke cloture prevailed with 37 ayes, 7 nays, 1 present and not voting, and 4 excused and not voting.

Senator Chambers requested a roll call vote on the Schimek amendment, AM2362.

Voting in the affirmative, 13:

Aguilar	Brown	Johnson	Raikes	Wehrbein
Beutler	Chambers	Kruse	Schimek	
Bourne	Janssen	McDonald	Thompson	

Voting in the negative, 20:

Burling	Foley	Kremer	Quandahl	Stuhr
Cudaback	Friend	Mines	Redfield	Stuthman
Engel	Jensen	Mossey	Schrock	Tyson
Erdman	Jones	Pedersen, Dw.	Smith	Vrtiska

Present and not voting, 12:

Baker	Byars	Cunningham	Maxwell
Brashear	Combs	Hartnett	Preister
Bromm	Connealy	Louden	Synowiecki

Excused and not voting, 4:

Hudkins Landis Pederson, D. Price

The Schimek amendment lost with 13 ayes, 20 nays, 12 present and not voting, and 4 excused and not voting.

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

Voting in the affirmative, 35:

Baker	Connealy	Hartnett	Mossey	Smith
Beutler	Cudaback	Jensen	Pedersen, Dw.	Stuhr
Brashear	Cunningham	Jones	Preister	Stuthman
Bromm	Engel	Kremer	Quandahl	Synowiecki
Burling	Erdman	Louden	Raikes	Tyson
Byars	Foley	Maxwell	Redfield	Vrtiska
Combs	Friend	Mines	Schrock	Wehrbein

Voting in the negative, 4:

Bourne Chambers Kruse Schimek

Present and not voting, 6:

Aguilar	Janssen	McDonald
Brown	Johnson	Thompson

Excused and not voting, 4:

Hudkins Landis Pederson, D. Price

Advanced to E & R for engrossment with 35 ayes, 4 nays, 6 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 227. Senator Quandahl renewed his pending amendment, AM2236, found on page 357.

Senator Chambers offered the following amendment to the Quandahl pending amendment:

FA1442

Amend AM2236

In line 2 strike "twenty-five" and insert "twenty"

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

The Chambers amendment lost with 7 ayes, 25 nays, 11 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Quandahl pending amendment:

FA1443

Amend AM2236

In line 2 strike "twenty-five" and insert "thirty"

Pending.

STANDING COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 877. Placed on General File.

LEGISLATIVE BILL 882. Placed on General File as amended.

Standing Committee amendment to LB 882:

AM2308

- 1 1. On page 2, line 16, strike "defendant's last-known
- 2 address" and insert "detained premises"; and in line 17 strike
- 3 "such" and insert "the defendant's last-known".

(Signed) Kermit A. Brashear, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 860. Placed on General File.

LEGISLATIVE BILL 861. Placed on General File.

LEGISLATIVE BILL 867. Placed on General File.

(Signed) Tom Baker, Chairperson

General Affairs

LEGISLATIVE BILL 914. Placed on General File as amended.

Standing Committee amendment to LB 914:

AM2363

- 1 1. On page 3, line 19, after "commerce" insert ", but
- 2 does not include a residential installation".

LEGISLATIVE RESOLUTION 209CA. Placed on General File as amended.

Standing Committee amendment to LR 209CA:

AM2346

- 1 1. On page 2, strike the new matter in lines 9 through
- 2 21 and insert
- 3 "(i) The first five hundred thousand dollars after the
- 4 payment of prizes and operating expenses shall be transferred to
- 5 the Compulsive Gamblers Assistance Fund;

- 6 (ii) Forty-four and one-half percent of the money
 7 remaining after the payment of prizes and operating expenses and
 8 the initial transfer to the Compulsive Gamblers Assistance Fund
 9 shall be transferred to the Nebraska Environmental Trust Fund to be
 10 used for competitive grants as provided in the Nebraska
 11 Environmental Trust Act;
 12 (iii) Twenty-two and one-fourth percent of the money
 13 remaining after the payment of prizes and operating expenses and
 14 the initial transfer to the Compulsive Gamblers Assistance Fund
 15 shall be transferred to the Education Innovation Fund;
 16 (iv) Twenty-two and one-fourth percent of the money
 17 remaining after the payment of prizes and operating expenses and
 18 the initial transfer to the Compulsive Gamblers Assistance Fund
 19 shall be transferred to the Nebraska Scholarship Fund;
 20 (v) Ten percent of the money remaining after the payment
 21 of prizes and operating expenses and the initial transfer to the
 22 Compulsive Gamblers Assistance Fund shall be transferred to the
 23 Nebraska State Fair Board; and
 24 (vi) One percent of the money remaining after the payment
 1 of prizes and operating expenses and the initial transfer to the
 2 Compulsive Gamblers Assistance Fund shall be transferred to the
 3 Compulsive Gamblers Assistance Fund".

The General Affairs 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 Liquor Control Commission
 Rhonda R. Flower

VOTE: Aye: Senators Connealy, Cunningham, Erdman, Friend, Janssen, Landis, Mossey, and Schimek. Nay: None. Absent: None.

The General Affairs 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 Arts Council
 Steven Bloch
 Janet Korell
 Nancy Schwertley
 Fred Simon

VOTE: Aye: Senators Connealy, Cunningham, Erdman, Friend, Janssen, Landis, Mossey, and Schimek. Nay: None. Absent: None.

(Signed) Ray Janssen, Chairperson

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 155:
AM2426

(Amendments to Standing Committee amendments, AM0322)

- 1 1. On page 1, line 2, strike "or a single family
- 2 residence lease".

Senator Preister filed the following amendment to LB 301:
AM2262

(Amendments to Standing Committee amendments, AM0669)

- 1 1. On page 3, line 16, strike "2003" and insert "2004";
- 2 and in line 26 after "fee" insert "and shall remit such amount to
- 3 the State Treasurer for credit to the Electronic Equipment
- 4 Recycling Administration Fund, which fund is hereby created".
- 5 2. On page 4, line 6, after the period insert "Any money
- 6 in the Electronic Equipment Recycling Administration Fund available
- 7 for investment shall be invested by the state investment officer
- 8 pursuant to the Nebraska Capital Expansion Act and the Nebraska
- 9 State Funds Investment Act".

Senators Jones and Wehrbein filed the following amendment to LB 279:
AM2417

(Amendments to AM2353)

- 1 1. On page 4, strike lines 14 through 16 and insert "on
- 2 such taxes due of fourteen percent per annum. Such late fee shall
- 3 be credited to the county general fund".

Senator Chambers filed the following amendment to LB 172:
FA1441

- 1 1. Strike the original section and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Each school district shall post and leave
- 4 posted throughout the year in a prominent location, available to
- 5 all students in grades seven through twelve, a toll-free telephone
- 6 number to the Department of Health and Human Services for the
- 7 exclusive purpose of providing information explaining the
- 8 provisions of section 71-6902 with regard to the requirements for
- 9 parental notification as a condition to obtaining an abortion.
- 10 The information shall explain the provisions of sections 71-6903
- 11 and 71-6904 with regard to seeking a judicial waiver of the
- 12 parental notification requirements. The provisions of this section
- 13 shall be narrowly construed to authorize and require the department
- 14 to provide only the information specified in this section. The
- 15 provisions of this section do not authorize the department to
- 16 provide specific information regarding how students may implement
- 17 the judicial waiver provisions of section 71-6903.
- 18 The Director of Health and Human Services in conjunction

19 with the Commissioner of Education shall develop and approve the
20 information to be provided. The Department of Health and Human
21 Services shall establish a statewide toll-free number in order to
22 comply with this section.

23 Sec. 2. The following section is outright repealed:

24 Section 71-6909, Reissue Revised Statutes of Nebraska."

COMMUNICATIONS

From: Nebraska Game and Parks Commission
Bruce K. Sackett
Division Administrator
Realty/Environmental Services Division

Your permission is respectfully requested for us to transfer land in Seward County to the Nebraska Game and Parks Commission. ...

The gift from the Wehrs family to the Nebraska Game and Parks Commission is all of the real estate described as:

The Northeast Quarter (NE1/4) of Section Thirty-two (32), Township Eleven (11) North, Range One (1) East of the 6th P.M., in Seward County, Nebraska, containing 160 acres more or less. These premises are subject to a warranty easement deed to USA (Natural Resources Conservation Service - NRCS) as filed in Seward County, Nebraska.

The land described shall be designated and utilized as a Wildlife Management Area.

February 3, 2004

Senator Patrick Engel
Chairman, Executive Board
Room 2010, State Capitol
Lincoln, NE 68509

Dear Senator Engel,

Enclosed please find correspondence from the Nebraska Game and Parks Commission. The correspondence related to a request for the State Legislature to accept a Gift of Real Property.

I am forwarding this correspondence to you for action by the Executive Board.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

GENERAL FILE

LEGISLATIVE BILL 32. The Standing Committee amendment, AM0811, found on page 897, First Session, 2003, and considered on pages 411 and 421, was renewed.

Senator Chambers requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:
FA1445

- 1 1. Insert the following new sections:
- 2 "Sec. 14. Any municipality, county, or natural resources
- 3 district which establishes a system of storm water management
- 4 pursuant to sections 18-501 to 18-512 and sections 1 and 10 to 16
- 5 of this act, which system serves property owned or leased by the
- 6 State of Nebraska or any entity thereof, but not including
- 7 political subdivisions, shall bill storm water management fees or
- 8 use charges attributable to such property to the State of Nebraska.
- 9 Such fees or charges shall be paid from the General Fund pursuant
- 10 to appropriation by the Legislature but shall not be charged to the
- 11 budget of the state entity owning or leasing such property.

SPEAKER BROMM PRESIDING

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 559. Placed on Select File as amended.
(E & R amendment, AM7169, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 559A. Placed on Select File as amended.
E & R amendment to LB 559A:
AM7170

- 1 1. On page 1, line 3; and page 2, line 5, strike "First
- 2 Session, 2003" and insert "Second Session, 2004".
- 3 2. On page 2, line 2, strike "FY2003-04" and insert
- 4 "FY2004-05".

LEGISLATIVE BILL 449. Placed on Select File as amended.
E & R amendment to LB 449:
AM7168

- 1 1. On page 1, line 4, after the first semicolon insert

2 "to create a fund; to define terms;"

3 2. On page 19, line 11, strike the comma and show as
4 stricken.

LEGISLATIVE BILL 449A. Placed on Select File.

LEGISLATIVE BILL 323. Placed on Select File.

LEGISLATIVE BILL 511. Placed on Select File as amended.

E & R amendment to LB 511:

AM7167

1 1. On page 3, line 1, strike "phone" and insert

2 "telephone".

LEGISLATIVE BILL 279A. Placed on Select File.

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORT
Business and Labor

LEGISLATIVE BILL 1049. Placed on General File.

(Signed) Floyd P. Vrtiska, Chairperson

NOTICE OF COMMITTEE HEARINGS

Judiciary
Room 1113

LB 1035	Wednesday, February 11, 2004	1:30 p.m.
LB 1068	Wednesday, February 11, 2004	1:30 p.m.
LB 1075	Wednesday, February 11, 2004	1:30 p.m.
LB 1113	Wednesday, February 11, 2004	1:30 p.m.
LB 1210	Wednesday, February 11, 2004	1:30 p.m.
LB 1218	Wednesday, February 11, 2004	1:30 p.m.
LB 851	Thursday, February 12, 2004	1:30 p.m.
LB 1050	Thursday, February 12, 2004	1:30 p.m.
LB 1055	Thursday, February 12, 2004	1:30 p.m.
LB 1162	Thursday, February 12, 2004	1:30 p.m.
LB 1213	Thursday, February 12, 2004	1:30 p.m.

(Signed) Kermit A. Brashear, Chairperson

AMENDMENTS - Print in Journal

Senator Price filed the following amendment to LB 37:

AM2382

1 1. Strike section 6 and insert the following new
2 section:

- 3 "Sec. 5. The State Treasurer or his or her designee may
 4 contract for goods and services and engage personnel as necessary,
 5 including consultants, actuaries, managers, legal counsels, and
 6 auditors to render professional, managerial, and technical
 7 assistance and advice regarding trust administration and operation
 8 under the Wage Replacement Savings Plan Act. The State Treasurer
 9 may establish, impose, and collect administrative fees and
 10 reasonable service charges in connection with the trust. Such fees
 11 and service charges shall be credited to the Wage Replacement
 12 Savings Plan Administrative Cash Fund, which is hereby created.
 13 Beginning in fiscal year 2005-06, the State Treasurer shall use
 14 money appropriated from the fund to carry out the act. Any money
 15 in the fund available for investment shall be invested by the state
 16 investment officer pursuant to the Nebraska Capital Expansion Act
 17 and the Nebraska State Funds Investment Act."
 18 2. Strike beginning with "The" on page 2, line 28,
 19 through the period on page 3, line 7.
 20 3. On page 3, line 15, after the period insert "All
 21 money paid by participants under a participation agreement shall be
 22 deposited as received into separate accounts within the trust.";
 23 and in line 23 strike "administrative fund" and insert "Wage
 24 Replacement Savings Plan Administrative Cash Fund".
 1 4. Renumber the remaining section accordingly.

Senator Price filed the following amendment to LB 37A:
 AM2383

- 1 1. On page 2, line 10, strike the second "General" and
- 2 insert "Wage Replacement Savings Plan Administration Cash"; and in
- 3 line 12 strike "503" and insert "23".

Senator Loudon filed the following amendment to LB 1049:
 AM2291

- 1 1. On page 5, strike beginning with "primary" in line 26
- 2 through "(d)" in line 28 and show as stricken.
- 3 2. On page 6, line 2, strike "(e)", show as stricken,
- 4 and insert "(d)"; and in line 13 before "shall" insert "and primary
- 5 insurance benefits payable under Title II of the Social Security
- 6 Act, as amended, or similar payments under any act of Congress".

UNANIMOUS CONSENT - Add Cointroducers

Senators Dw. Pedersen and Thompson asked unanimous consent to have their names added as cointroducers to LB 1000. No objections. So ordered.

VISITORS

Visitors to the Chamber were Kent Lorens from Stratton and Matt Jedlicka from Schuyler; Senator Loudon's wife, SharonAnn, and her cousin, LeeAnn Merrihew, from Ashby; Stephanie Stueckrath from Osmond, Mark Linville

from Randolph, and Mike Zakrewski from O'Neill; and Travis and Nikki Edeal from Overton.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Burling, the Legislature adjourned until 9:00 a.m., Wednesday, February 4, 2004.

Patrick J. O'Donnell
Clerk of the Legislature