

**TWENTY-SEVENTH DAY - FEBRUARY 18, 2004****LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE  
SECOND SESSION****TWENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 18, 2004

**PRAYER**

The prayer was offered by Senator Stuhr.

**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 Burling, Hartnett, Landis, Maxwell, and Mines who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-sixth day was approved.

**STANDING COMMITTEE REPORTS  
Banking, Commerce and Insurance**

**LEGISLATIVE BILL 1120.** Placed on General File.

**LEGISLATIVE BILL 1228.** Placed on General File.

**LEGISLATIVE BILL 334.** Indefinitely postponed.

**LEGISLATIVE BILL 386.** Indefinitely postponed.

(Signed) Mark Quandahl, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 963.** Senator Beutler withdrew his pending amendment, FA1466, found on page 637.

Senator Chambers offered the following amendment:

FA1467

Amend AM2348

On page 3, in line 20 strike beginning with the period through "authority" and insert "who".

Senator Chambers moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

The Chambers amendment was adopted with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Beutler offered the following amendment:

AM2653

- 1 1. On page 4, lines 6, 9, 11, 19, 22, and 24, after
- 2 "who" insert "knowingly".

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

FA1468

Amend AM2653

In line 2 after "knowingly" insert "and intentionally"

The Chambers amendment was adopted with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

The Beutler amendment, as amended, was adopted with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

Senator Vrtiska offered the following amendment:

AM2675

- 1 1. On page 2, strike beginning with "The" in line 5
- 2 through line 11 and insert "The portions of the federal
- 3 Servicemembers Civil Relief Act, Public Law 108-189, listed in this
- 4 section or any other portions of federal law referred to in the
- 5 federal Servicemembers Civil Relief Act in existence and effective
- 6 as of January 1, 2004, are adopted as Nebraska law and are
- 7 applicable to all persons in military service as defined in Public
- 8 Law 108-189, Title I, section 101. The Legislature hereby adopts,
- 9 as modified in this section, the following portions of the federal
- 10 Servicemembers Civil Relief Act:".

Senator Vrtiska withdrew his amendment.

Advanced to E & R for review with 26 ayes, 1 nay, 20 present and not voting, and 2 excused and not voting.

## RESOLUTION

**LEGISLATIVE RESOLUTION 237.** Introduced by Johnson, 37.

WHEREAS, Warner Phipps, an esteemed resident of Kearney, Nebraska,

and a student at Sunrise Christian Academy, has achieved national recognition for exemplary volunteer service by receiving a 2004 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Warner Phipps earned this award by giving generously of his time and energy to design and teach grain bin safety workshops at safety camps, school assemblies, farm shows, and other community events across the State of Nebraska; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depends, in great measure, upon the dedication of young people like Warner Phipps who use their considerable talents and resources to serve others.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature hereby congratulates and honors Warner Phipps as a recipient of a Prudential Spirit of Community Award and recognizes his outstanding record of volunteer service, peer leadership, and community spirit.

2. That a copy of this resolution be sent to Warner Phipps and his family.

Laid over.

## ANNOUNCEMENT

The Agriculture Committee designates LB 869 and LB 212 as its priority bills.

## GENERAL FILE

**LEGISLATIVE BILL 999.** Title read. Considered.

The Standing Committee amendment, AM2339, printed separately and referred to on page 446, was considered.

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

FA1470

Amend AM2339

On page 31, line 20, after the word "deposit" insert "or time deposit"

The Beutler amendment was adopted with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

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

**STANDING COMMITTEE REPORTS**  
**Judiciary**

**LEGISLATIVE BILL 526.** Placed on General File.

(Signed) Kermit A. Brashear, Chairperson

**Revenue**

**LEGISLATIVE BILL 816.** Placed on General File.

(Signed) David Landis, Chairperson

**AMENDMENT - Print in Journal**

Senator Schrock filed the following amendment to LB 832:  
AM2673

- 1 1. Insert the following new section:
- 2 "Sec. 5. Section 81-1411, Revised Statutes Supplement,
- 3 2002, is amended to read:
- 4 84-1411. (1) Each public body shall give reasonable
- 5 advance publicized notice of the time and place of each meeting by
- 6 a method designated by each public body and recorded in its
- 7 minutes. Such notice shall be transmitted to all members of the
- 8 public body and to the public. Such notice shall contain an agenda
- 9 of subjects known at the time of the publicized notice or a
- 10 statement that the agenda, which shall be kept continually current,
- 11 shall be readily available for public inspection at the principal
- 12 office of the public body during normal business hours. Except for
- 13 items of an emergency nature, the agenda shall not be altered later
- 14 than (a) twenty-four hours before the scheduled commencement of the
- 15 meeting or (b) forty-eight hours before the scheduled commencement
- 16 of a meeting of a city council or village board scheduled outside
- 17 the corporate limits of the municipality. The public body shall
- 18 have the right to modify the agenda to include items of an
- 19 emergency nature only at such public meeting.
- 20 (2) A meeting of a state agency, state board, state
- 21 commission, state council, or state committee, of an advisory
- 22 committee of any such state entity, of an organization created
- 23 under the Interlocal Cooperation Act, the Joint Public Agency Act,
- 24 or the Municipal Cooperative Financing Act, of the governing body
- 1 of a public power district having a chartered territory of more
- 2 than fifty counties in this state, or of the governing body of a
- 3 risk management pool or its advisory committees organized in
- 4 accordance with the Intergovernmental Risk Management Act may be

5 held by means of videoconferencing or, in the case of the Judicial  
6 Resources Commission in those cases specified in section 24-1204,  
7 by telephone conference, if:

- 8 (a) Reasonable advance publicized notice is given;
- 9 (b) Reasonable arrangements are made to accommodate the  
10 public's right to attend, hear, and speak at the meeting, including  
11 seating, recordation by audio or visual recording devices, and a  
12 reasonable opportunity for input such as public comment or  
13 questions to at least the same extent as would be provided if  
14 videoconferencing or telephone conferencing was not used;
- 15 (c) At least one copy of all documents being considered  
16 is available to the public at each site of the videoconference or  
17 telephone conference;
- 18 (d) At least one member of the state entity, advisory  
19 committee, or governing body is present at each site of the  
20 videoconference or telephone conference; and
- 21 (e) No more than one-half of the state entity's, advisory  
22 committee's, or governing body's meetings in a calendar year are  
23 held by videoconference or telephone conference.

24 Videoconferencing or telephone conferencing shall not be  
25 used to circumvent any of the public government purposes  
26 established in sections 84-1408 to 84-1414.

27 (3)(a) A meeting of the governing body of an entity  
1 formed under the Interlocal Cooperation Act or the Joint Public  
2 Agency Act or of the governing body of a risk management pool or  
3 its advisory committees organized in accordance with the  
4 Intergovernmental Risk Management Act may be held by telephone  
5 conference call if:

- 6 ~~(a)~~ (i) The territory represented by the member public  
7 agencies of the entity or pool covers more than one county;
- 8 ~~(b)~~ (ii) Reasonable advance publicized notice is given  
9 which identifies each telephone conference location at which a  
10 member of the entity's or pool's governing body will be present;
- 11 ~~(c)~~ (iii) All telephone conference meeting sites  
12 identified in the notice are located within public buildings used  
13 by members of the entity or pool or at a place which will  
14 accommodate the anticipated audience;
- 15 ~~(d)~~ (iv) Reasonable arrangements are made to accommodate  
16 the public's right to attend, hear, and speak at the meeting,  
17 including seating, recordation by audio recording devices, and a  
18 reasonable opportunity for input such as public comment or  
19 questions to at least the same extent as would be provided if a  
20 telephone conference call was not used;
- 21 ~~(e)~~ (v) At least one copy of all documents being  
22 considered is available to the public at each site of the telephone  
23 conference call;
- 24 ~~(f)~~ (vi) At least one member of the governing body of the  
25 entity or pool is present at each site of the telephone conference  
26 call identified in the public notice;

- 27 ~~(g)~~ (vii) The telephone conference call lasts no more  
 1 than one hour; and  
 2 ~~(h)~~ (viii) No more than one-half of the entity's or  
 3 pool's meetings in a calendar year are held by telephone conference  
 4 call.
- 5 (b) A meeting of the Nebraska Environmental Trust Board  
 6 may be held by telephone conference call if:
- 7 (i) Reasonable advance publicized notice is given which  
 8 identifies each telephone conference location at which a member of  
 9 the board will be present;
- 10 (ii) All telephone conference meeting sites identified in  
 11 the notice are located within public buildings used by members of  
 12 the board or at a place which will accommodate the anticipated  
 13 audience;
- 14 (iii) Reasonable arrangements are made to accommodate the  
 15 public's right to attend, hear, and speak at the meeting, including  
 16 seating, recordation by audio recording devices, and a reasonable  
 17 opportunity for input such as public comment or questions to at  
 18 least the same extent as would be provided if a telephone  
 19 conference call were not used;
- 20 (iv) At least one copy of all documents being considered  
 21 is available to the public at each site of the telephone conference  
 22 call;
- 23 (v) At least one member of the board is present at each  
 24 site of the telephone conference call identified in the public  
 25 notice;
- 26 (vi) The telephone conference call lasts no more than one  
 27 hour; and
- 1 (h) No more than one-half of the board's meetings in a  
 2 calendar year are held by telephone conference call.
- 3 (c) Nothing in this subsection shall prevent the  
 4 participation of consultants, members of the press, and other  
 5 nonmembers of the governing body at sites not identified in the  
 6 public notice. Telephone conference calls shall not be used to  
 7 circumvent any of the public government purposes established in  
 8 sections 84-1408 to 84-1414.
- 9 (4) The secretary or other designee of each public body  
 10 shall maintain a list of the news media requesting notification of  
 11 meetings and shall make reasonable efforts to provide advance  
 12 notification to them of the time and place of each meeting and the  
 13 subjects to be discussed at that meeting.
- 14 (5) When it is necessary to hold an emergency meeting  
 15 without reasonable advance public notice, the nature of the  
 16 emergency shall be stated in the minutes and any formal action  
 17 taken in such meeting shall pertain only to the emergency. Such  
 18 emergency meetings may be held by means of electronic or  
 19 telecommunication equipment. The provisions of subsection (4) of  
 20 this section shall be complied with in conducting emergency  
 21 meetings. Complete minutes of such emergency meetings specifying

22 the nature of the emergency and any formal action taken at the  
 23 meeting shall be made available to the public by no later than the  
 24 end of the next regular business day.

25 (6) A public body may allow a member of the public or any  
 26 other witness other than a member of the public body to appear  
 27 before the public body by means of video or telecommunications  
 1 equipment."

2 2. On page 2, line 7, strike "sections" through

3 "84-1414" and insert "section 84-1411".

4 3. On page 8, line 3, strike the last "and"; and in line

5 4 before "Revised" insert "and 84-1411,".

6 4. Renumber the remaining section accordingly.

### ANNOUNCEMENT

The Revenue Committee designates LB 1017 and LB 1034 as its priority bills.

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 238.** Introduced by Burling, 33.

WHEREAS, Captain E. "Bobby" Heminger was an honorable and dedicated firefighter and citizen of the community of Wood River; and

WHEREAS, Captain Heminger gave his life in the line of duty as a member of the Wood River Fire Department on February 15, 2004; and

WHEREAS, the Wood River firefighters held Captain Heminger as a member of their family, a brother of their own; and

WHEREAS, Captain Heminger will be remembered for his bravery, commitment, and sacrifice to his community, state, and country; and

WHEREAS, Captain Heminger will be remembered for his actions by the community of Wood River and the State of Nebraska; and

WHEREAS, Captain Heminger shall be remembered as a fallen hero.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature expresses and extends its sympathy and condolences to the family of Captain Heminger, to the Wood River Fire Department, and to the bereaved community of Wood River.

2. That a copy of this resolution be sent to the family of Captain Heminger.

Laid over.

**LEGISLATIVE RESOLUTION 239.** Introduced by Burling, 33.

WHEREAS, Captain Kenny Woitalewicz was a dedicated firefighter and citizen of the community of Wood River; and

WHEREAS, Captain Woitalewicz gave his life in the line of duty as a

member of the Wood River Fire Department on February 17, 2004; and

WHEREAS, the Wood River firefighters held Captain Woitalewicz as a member of their family, a brother of their own; and

WHEREAS, Captain Woitalewicz will be remembered for his bravery, commitment, and sacrifice to his community, state, and country; and

WHEREAS, Captain Woitalewicz will be remembered for his actions by the community of Wood River and the State of Nebraska; and

WHEREAS, Captain Woitalewicz shall be remembered as a fallen hero.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature expresses and extends its sympathy and condolences to the family of Captain Woitalewicz, to the Wood River firefighters, and to the bereaved community of Wood River.

2. That a copy of this resolution be sent to the family of Captain Woitalewicz.

Laid over.

### NOTICE OF COMMITTEE HEARING

**Education**  
Room 1525

Tuesday, March 2, 2004

12:00 p.m.

Colleen Adam - Coordinating Commission for Postsecondary Education

Stan Carpenter - Nebraska Educational Telecommunications Commission

James O'Rourke - Coordinating Commission for Postsecondary Education

Louis Pofahl - Coordinating Commission for Postsecondary Education

Eric Seacrest - Coordinating Commission for Postsecondary Education

(Signed) Ron Raikes, Chairperson

### SELECT FILE

**LEGISLATIVE RESOLUTION 14CA.** Senator Smith offered the following amendment:

AM2572

(Amendments to AM2401)

- 1 1. On page 2, line 22, after "locations" insert "in
- 2 counties in which the registered voters have approved the placement
- 3 of a casino location within such county subsequent to the
- 4 proclamation of the Governor under Article III, section 4, of this
- 5 Constitution".
- 6 2. On page 3, line 3, after "locations" insert "subject
- 7 to approval by registered voters of the county".

Senator Smith asked unanimous consent to withdraw his pending amendment, AM2572, found in this day's Journal, and replace it with his substitute amendment, FA1469. No objections. So ordered.

FA1469

Amend AM2401

On page 2, line 23, strike "eight" and insert "one".

Pending.

**AMENDMENTS - Print in Journal**

Senator Smith filed the following amendment to LR 14CA:  
AM2599

(Amendments to AM2401)

- 1 1. On page 2, line 22, after "locations" insert ",
- 2 subject to the approval of the registered voters of the county
- 3 voting on the question of whether such casino location shall be in
- 4 such county".
- 5 2. On page 3, line 3, after "locations" insert "subject
- 6 to approval by voters in the affected counties".

Senator Smith filed the following amendment to LR 14CA:  
AM2670

(Amendments to AM2401)

- 1 1. On page 2, line 22, after the period insert "The
- 2 registered voters of a county in which a casino location is
- 3 authorized shall, after such casino location has been in existence
- 4 for five years, approve or disapprove the continued presence of
- 5 such casino location within the county.".
- 6 2. On page 3, line 1, strike "and" and insert a comma;
- 7 and in line 4 after "locations" insert ", and to authorize
- 8 registered voters of a county to approve the continued presence of
- 9 such location".

Senator Smith filed the following amendment to LR 14CA:  
AM2576

(Amendments to AM2401)

- 1 1. On page 2, line 24, after the first period insert "At
- 2 least twenty-five percent of the revenue derived by the state from
- 3 the operation and regulation of casino gaming at a casino location
- 4 shall be remitted to the county general fund of the county in which
- 5 such casino location is authorized.".
- 6 2. On page 3, line 1, strike "and" and insert a comma;
- 7 and in line 4 before the period insert ", and to require at least
- 8 twenty-five percent of the revenue derived by the state to be
- 9 remitted to the county in which the casino location is authorized".

Senator Smith filed the following amendment to LR 14CA:  
AM2600

(Amendments to AM2401)

- 1 1. On page 2, line 24, before the first period insert ",
- 2 except that the county board of a county in which a casino location

3 is authorized shall approve or disapprove all contractual agreements relating to casino gaming at such location".

Senator Schimek filed the following amendment to LR 14CA:  
AM2474

(Amendments to AM 2401)

- 1 1. On page 2, line 23, after "the" insert
- 2 "authorization."; and in line 24 strike "at" through "locations".
- 3 2. On page 3, line 3, after "the" insert
- 4 "authorization,"; and in line 4 strike "at" through "locations".

Senator Smith filed the following amendment to LR 14CA:  
AM2686

(Amendments to AM2401)

- 1 1. On page 2, line 24, after the first period insert
- 2 "Two and one-half percent of the proceeds from such taxation shall
- 3 be used for the treatment of gambling addiction.".

## RESOLUTION

**LEGISLATIVE RESOLUTION 240.** Introduced by Cudaback, 36.

WHEREAS, Fred Yeiter of Cozad, Nebraska, will celebrate his one hundredth birthday on February 23, 2004; and

WHEREAS, Mr. Yeiter farmed most of his life south of Cozad, Nebraska; and

WHEREAS, Mr. Yeiter is still active and enjoys music, football, daily lunch at the senior center, and visiting with his many friends; and

WHEREAS, the celebration of a person's one hundredth birthday is deserving of recognition.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the members of the Legislature wish Mr. Yeiter a very happy one hundredth birthday.
2. That a copy of this resolution be sent to Mr. Yeiter.

Laid over.

## VISITORS

Visitors to the Chamber were Linda Olson from O'Neill; Trudy Spicer and Kellie Knop from Fairbury; and 40 fifth-grade students and teachers from Clarmar Elementary School, Fremont.

**ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Hartnett, the Legislature adjourned until 9:00 a.m., Thursday, February 19, 2004.

Patrick J. O'Donnell  
Clerk of the Legislature

