

FIFTY-FIRST DAY - MARCH 31, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FIFTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 31, 2004

PRAYER

The prayer was offered by Pastor Jose Flores, Zion-Peace Evangelical Lutheran Church and School, Omaha.

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 Senator Landis who was excused; and Senators Brown, Jensen, Maxwell, Mines, Mossey, D. Pederson, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fiftieth day was approved.

**SELECT COMMITTEE REPORTS
Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 297, 514, 868, 888, 917, 1047, 1071, and 1144.

ER9122

Enrollment and Review Change to LB 888

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, AM7184:
 - a. On page 7, line 9, "subsection" has been struck, shown as stricken, and "subdivision" inserted; and
 - b. On page 9, line 15, the first comma has been struck and shown as stricken.

(Signed) Ray Mossey, Chairperson

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendments to LB 958:

FA1613

Amend AM3226

On page 1, strike lines 3-7; in lines 9 and 10, and on page 2 in line 15 strike "of an Unborn Child" and insert "on the Separation between Church and State".

FA1614

Amend AM3226

Add a new section: "No prosecutor shall file a charge under this act prior to the alleged victim having reached the fetal stage of development when body structures are in recognizable form."

FA1615

Amend AM3226

On page 1, in line 18 after "utero." insert "This is a declaration of religious belief, not a statement of scientific fact nor does it command the assent of all religions, great or small."

FA1616

Amend AM3226

Add a new section: "Any prosecutor who files a charge under this act prior to the alleged victim having reached the fetal stage of development when body structures are in recognizable form shall be taken into custody by the sheriff of the county where such charge has been filed and such sheriff shall straightway transport and deliver such prosecutor to the nearest Regional Center for the purpose of having such prosecutor's head examined by a licensed psychiatrist."

FA1617

Amend AM3226

On page 1, in lines 9 and 10; and on page 2, in line 15 strike "an Unborn Child" and insert "a Laddy or Lassy".

On page 1, in line 17 strike "Unborn child" and insert "Laddy or lassy".

On page 1, in lines 20, 22; and on page 2, in lines 1, 4, 8, 17, 18-19 strike "an unborn child" and insert "a lady or lassy".

FA1618

Amend AM3226

On page 1, in lines 9 and 10; and on page 2 in line 15 strike "an Unborn Child" and insert "a Zygote, Embryo or Fetus".

On page 1, in line 17 strike "Unborn child" and insert "Zygote, embryo or fetus", and put a period after "sapiens" and strike remaining language.

On page 1, in lines 20, 22; and on page 2, in lines 1, 4, 8, 17, 18-19 strike "an unborn child" and insert "a zygote, embryo or fetus".

FA1619

Amend AM3226

On page 1, in lines 9 and 10; and on page 2, in line 15 strike "Unborn Child" and insert "Embryo or Fetus".

On page 1, in line 17 strike "Unborn child" and insert "Embryo or fetus", put a period after "sapiens" and strike remaining language.

On page 1, in lines 20, 22; and on page 2, in lines 1, 4, 8, 17, 18-19 strike "unborn child" and insert "embryo or fetus".

FA1620

Amend AM3226

In page 1, in lines 9 and 10; and on page 2, in line 15 strike "an Unborn Child" and insert "a Fetus".

On page 1, in line 17 strike "Unborn child" and insert "Fetus", put a period after "sapiens" and strike remaining language.

On page 1, in lines 20, 22; and on page 2, in lines 1, 4, 8, 17, 18-19 strike "unborn child" and insert "fetus".

FA1621

Amend AM3226

On page 1, in line 18 after "utero" insert "or in vitro resulting from in vitro fertilization".

FA1622

Amend AM3226

On page 1, in line 17 after "member" insert "or conjoined twins".

FA1623

Amend AM3226

On page 1, in line 12 strike "bodily" and insert "physical".

FA1624

Amend AM3226

On page 1, in line 12 after "bodily" insert "or cellular"; in line 13 after "death" insert "or rupture of a cellular membrane"; in line 16 after "body" insert "or a cell".

FA1625

Amend AM3226

On page 1, in line 12 after "bodily" insert "or cellular"; in line 14 after "disfigurement" insert "or rupture of a cellular membrane and leakage of any contents"; in line 16 after "body" insert "or a cell".

FA1626

Amend AM3226

On page 1, in line 20 strike "intentionally or", and in line 21 after "knowingly" insert "and intentionally".

FA1627

Amend AM3226

On page 2, in line 3 after "instrument" insert "if such person knew or should have known that the prospective mother was pregnant".

FA1628

Amend AM3226

On page 1, in line 14 strike beginning with "or" through "body" in line 16.

FA1629

Amend AM3226

On page 1, in line 13 strike beginning with "or" through "body" in line 16.

FA1630

Amend AM3226

On page 1, in lines 13 and 14 strike "or which involves a substantial risk of serious permanent disfigurement".

FA1631

Amend AM3226

On page 2, in line 11 strike "sixty" and insert "forty five".

FA1632

Amend AM3226

On page 1, in line 20; and on page 2, in line 1 strike "he or she" and insert "such person".

On page 2, in lines 10, 17, 18 strike "the" and insert "such".

FA1633

Amend AM3226

On page 2, in line 9 strike "shall" and insert "may".

Senator Foley filed the following amendment to LB 958:

AM3432

(Amendments to Standing Committee amendments, AM3226)

1 1. On page 1, line 13, strike the last occurrence of

2 "a".

Senator Beutler filed the following amendment to LB 958:

AM3449

(Amendments to Standing Committee amendments, AM3226)

1 1. On page 1, line 21, after "child" insert "with

2 knowledge of the pregnancy".

3 2. On page 2, lines 2 and 3, strike "a dangerous

4 instrument" and insert "knowledge of the pregnancy".

Senator Beutler filed the following amendment to LB 958:
AM3448

(Amendments to Standing Committee amendments, AM3226)

- 1 1. On page 2, strike beginning with "Committed" in line
- 2 18 through "(2)" in line 20; and in line 22 strike "(3)" and insert
- 3 "(2)".

Senator Chambers filed the following amendment to LB 958:
FA1635

Amend AM3226

Add a new section: The Legislature finds and declares: (1) Gamete is a mature reproductive cell that unites with another gamete to form a new organism. (2) Ovum is a female gamete. (3) Spermatozoon is a male gamete. (4) Zygote is the union of two gametes before such zygote undergoes cleavage. (5) Embryo is the phase of development up to the end of the second month of gestation. (6) Fetus is the phase of development after the end of the second month when body structures are in recognizable form. (7) In vitro fertilization is the fertilization of an ovum by sperm in a vessel outside of the body, and the resulting embryo is later implanted in the uterus."

COMMUNICATIONS

From: Nebraska Game and Parks Commission
Roger L. Kuhn
Assistant Director

Your permission is respectfully requested for us to transfer a roadway in Knox County, Nebraska, to the Nebraska Game and Parks Commission.

Richard and Eileen Stewart have been leasing the above mentioned roadway to the Nebraska Game and Parks Commission for the past six years as an access to Board of Educational Lands and Funds property formerly leased by the Nebraska Game and Parks Commission. This 1.4 mile roadway is connected to the Miller Creek State Recreation Area. The Stewart family will convey to the Nebraska Game and Parks Commission, a roadway located in Knox County, Nebraska. The roadway will be maintained by the Nebraska Game and Parks Commission. The Nebraska Game and Parks Commission has the general authority to acquire real estate with the consent of the Governor by gift; and in the interest of promoting outdoor opportunities for Nebraskans, the Nebraska Legislature wishes to grant approval for the Nebraska Game and Parks Commission to obtain title to all or any part of such land presently held by the Stewart family.

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

A roadway approximately 66 feet wide located in Section Twenty-one (21), Township Thirty-three (33) North, Range Three (3) West of the 6th P.M., Knox County, Nebraska containing 6 +/- acres.

March 31, 2004

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

Dear Senator Engel,

Enclosed you will find correspondence from the Nebraska Game and Parks Commission. The correspondence relates 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 841A. Title read. Considered.

Senator Byars renewed his pending amendment, AM3450, found on page 1384.

The Byars amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 1097A. Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 1090. E & R amendment, AM7202, found on page 1169, was adopted.

Senator Brashear offered the following motion:
Bracket to April 13, 2004.

Senator Brashear withdrew his motion to bracket.

Senator Beutler renewed his pending amendment, AM3474, found on page 1378.

SPEAKER BROMM PRESIDING

Pending.

CEREMONIES

The Speaker introduced a group from the Nebraska Association of Former State Legislators.

EASE

The Legislature was at ease from 11:35 a.m. until 11:56 a.m.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Buscher, Michael - Board of Emergency Medical Services - Health and Human Services

Corbin, David - Nebraska Health Care Council - Health and Human Services

Dillon, Sid R. - Nebraska Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Gajardo, Joel - Nebraska Health Care Council - Health and Human Services

Harr, Phil - Nebraska Health Care Council - Health and Human Services

Klosterman, John - Nebraska Health Care Council - Health and Human Services

Morgan, P.J. - Nebraska Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Okoye, Cordelia - Nebraska Health Care Council - Health and Human Services

Pile, William J. - Coordinating Commission for Postsecondary Education - Education

Rolfsmeier, Douglas P. - Nebraska Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Storey, A. Jane - Child Abuse Prevention Fund Board - Health and Human Services

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

RESOLUTIONS

LEGISLATIVE RESOLUTION 392. Introduced by Aguilar, 35.

WHEREAS, child abuse prevention is a community problem and finding solutions depends on involvement among people throughout the community; and

WHEREAS, statistics of children who are abused and neglected escalate each year; and

WHEREAS, the effects of child abuse are felt by whole communities and need to be addressed by the entire community; and

WHEREAS, effective child abuse prevention programs succeed when partnerships are created among social services agencies, schools, religious organizations, law enforcement agencies, and the business community; and

WHEREAS, youth-serving prevention programs offer positive alternatives for young people and encourage youth to develop strong ties to their community; and

WHEREAS, all citizens should become more aware of child abuse and its prevention within the community and become involved in supporting parents to raise their children in a safe, nurturing environment.

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

1. The Legislature hereby proclaims April as Child Abuse Prevention Month in Nebraska and calls upon all citizens to increase their participation in efforts to prevent child abuse, thereby strengthening the communities in which we live.

Laid over.

LEGISLATIVE RESOLUTION 393. Introduced by Aguilar, 35.

WHEREAS, on March 31, 1927, Cesar Chavez was born on a small ranch near Yuma, Arizona; and

WHEREAS, when severe drought forced the Chavez family to give up their ranch in Yuma, they began picking crops on California farms; and

WHEREAS, after serving our nation in World War II, Cesar Chavez

returned to farm labor in California and began advocating for workers' rights; and

WHEREAS, in 1962, Cesar Chavez founded the National Farm Workers Association, which later became the United Farm Workers of America (UFW), AFL-CIO, the first successful farm workers' union in United States' history; and

WHEREAS, under Cesar Chavez's tireless leadership, the UFW was the first to win collective bargaining for farm workers; and

WHEREAS, at its peak in the 1980's, the UFW's collective bargaining agreements covered approximately 80,000 workers across the nation; and

WHEREAS, Cesar Chavez led a successful five-year grape-pickers' strike that rallied millions of supporters to the UFW and forged a national coalition of unions, church groups, students, minorities, and consumers; and

WHEREAS, on April 23, 1993, Cesar Chavez passed away, leaving behind an enduring legacy of service and leadership; and

WHEREAS, Cesar Chavez's influence has made a lasting impact on farm labor issues and inspired millions of Latinos to achieve educational and political success; and

WHEREAS, on March 31, 2004, individuals and organizations throughout Nebraska are encouraged to celebrate Cesar Chavez's life and work by participating in community service projects.

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

1. That the Legislature hereby designates March 31, 2004, as "Cesar Chavez Day of Service and Learning".

Laid over.

AMENDMENTS - Print in Journal

Senator Stuhr filed the following amendment to LB 1097A:
AM3482

- 1 1. Insert the following new section:
- 2 "Sec. 2. There is hereby appropriated \$115,000 from the
- 3 Nebraska Public Employees Retirement Systems Expense Fund for
- 4 FY2004-05 to the Public Employees Retirement Board, for Program 41,
- 5 to aid in carrying out the provisions of Legislative Bill 1097,
- 6 Ninety-eighth Legislature, Second Session, 2004.
- 7 No expenditures for permanent and temporary salaries and
- 8 per diems for state employees shall be made from funds appropriated
- 9 in this section."
- 10 2. Renumber the remaining section accordingly.

Senator Hartnett filed the following amendment to LB 499:
AM3491

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 66-1850, Reissue Revised Statutes of

4 Nebraska, is amended to read:

5 66-1850. (1) The State Natural Gas Regulation Act shall
6 not be enforced retroactively before May 31, 2003. A rate filing
7 made pursuant to the provisions of the Municipal Natural Gas
8 Regulation Act prior to such date shall be governed by the act by
9 its terms as in effect on the date of the filing. The enactment
10 into law of the State Natural Gas Regulation Act shall not have the
11 effect of releasing or waiving any right of action by the state,
12 any body corporate and politic, municipal corporation, person, or
13 corporation, pending on May 31, 2003, for any right which may have
14 arisen or accrued under the Municipal Natural Gas Regulation Act.

15 (2) The rates, terms and conditions of service, and rate
16 areas of a jurisdictional utility in effect on or before May 31,
17 2003, shall remain in effect after May 31, 2003, and shall be
18 treated as if approved and adopted by the commission pursuant to
19 the State Natural Gas Regulation Act.

20 (3) The rate areas established pursuant to the Municipal
21 Natural Gas Regulation Act and in effect on May 31, 2003, shall be
22 the initial rate areas in effect under the State Natural Gas
23 Regulation Act. Each jurisdictional utility shall file with the
24 commission a map showing the boundaries of such areas and
1 intervening and adjacent rural territories served within such rate
2 areas.

3 (4) Except as provided in subsection (5) of this section,
4 following the filing of maps pursuant to subsection (3) of this
5 section, a jurisdictional utility may file with the commission a
6 revised map or maps of any affected rate areas reflecting changes
7 in the boundaries of one or more of the initially filed rate areas
8 and such changes shall become effective upon filing. The
9 commission may, upon its own initiative or upon complaint, review
10 such rate area boundaries and, following notice and hearing, reject
11 or modify proposed changes upon the basis that the proposed changes
12 in boundaries are unduly preferential, unjustly discriminatory, or
13 not just and reasonable.

14 (5) A rate area containing a city of the primary class
15 shall not be changed to include any other city until after June 1,
16 2007.

17 (6) The commission may waive application of the
18 definition of high-volume ratepayer for all ratepayers who (a)
19 prior to the effective date of this act obtained natural gas
20 service from a jurisdictional utility pursuant to subsection (3) of
21 former section 19-4604, as such section existed prior to May 24,
22 2003, and (b) whose current consumption of natural gas would
23 qualify such ratepayers to receive natural gas service pursuant to
24 such former section if the section had not been repealed. All
25 ratepayers meeting such criteria may be treated as high-volume
26 ratepayers pursuant to the State Natural Gas Regulation Act. The
27 authority granted pursuant to this subsection and any such waiver
1 shall expire on June 1, 2007.

- 2 Sec. 2. Original section 66-1850, Reissue Revised
 3 Statutes of Nebraska, is repealed.
 4 Sec. 3. Since an emergency exists, this act takes effect
 5 when passed and approved according to law."

BILL ON FIRST READING

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

LEGISLATIVE BILL 916A. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 916, Ninety-eighth Legislature, Second Session, 2004.

SELECT COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 841A. Placed on Select File as amended.
 E & R amendment to LB 841A:
 AM7225

- 1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. There is hereby appropriated (1) \$984,000
 4 from the Department of Health and Human Services Cash Fund and
 5 \$1,476,000 from federal funds for FY2004-05 and (2) \$984,000 from
 6 the Department of Health and Human Services Cash Fund and
 7 \$1,476,000 from federal funds for FY2005-06 to the Department of
 8 Health and Human Services, for Program 421, to aid in carrying out
 9 the provisions of Legislative Bill 841, Ninety-eighth Legislature,
 10 Second Session, 2004.
 11 No expenditures for permanent and temporary salaries and
 12 per diems for state employees shall be made from funds appropriated
 13 in this section.
 14 Sec. 2. There is hereby appropriated (1) \$55,000 from
 15 the ICF/MR Reimbursement Protection Fund for FY2004-05 and (2)
 16 \$55,000 from the ICF/MR Reimbursement Protection Fund for FY2005-
 17 06
 18 to the Department of Health and Human Services Finance and Support,
 19 for Program 341, to aid in carrying out the provisions of
 20 Legislative Bill 841, Ninety-eighth Legislature, Second Session,
 21 2004.
 22 Total expenditures for permanent and temporary salaries
 23 and per diems from funds appropriated in this section shall not
 24 exceed \$33,535 for FY2004-05 or \$34,205 for FY2005-06.
 25 Sec. 3. There is hereby appropriated (1) \$1,692,000 from
 1 the ICF/MR Reimbursement Protection Fund and \$2,899,000 from
 2 federal funds for FY2004-05 and (2) \$1,692,000 from the ICF/MR
 3 Reimbursement Protection Fund and \$2,899,000 from federal funds for

4 FY2005-06 to the Department of Health and Human Services Finance
5 and Support, for Program 348, to aid in carrying out the provisions
6 of Legislative Bill 841, Ninety-eighth Legislature, Second Session,
7 2004.

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 Sec. 4. There is hereby appropriated (1) \$312,000 from
12 the ICF/MR Reimbursement Protection Fund for FY2004-05 and (2)
13 \$312,000 from the ICF/MR Reimbursement Protection Fund for
14 FY2005-06 to the Department of Health and Human Services Finance
15 and Support, for Program 424, to aid in carrying out the provisions
16 of Legislative Bill 841, Ninety-eighth Legislature, Second Session,
17 2004.

18 No expenditures for permanent and temporary salaries and
19 per diems for state employees shall be made from funds appropriated
20 in this section.

21 Sec. 5. Since an emergency exists, this act takes effect
22 when passed and approved according to law."

LEGISLATIVE BILL 1097A. Placed on Select File.

Correctly Engrossed

The following bill was correctly engrossed: LB 1092.

ER9123

Enrollment and Review Change to LB 1092

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, AM7205, on page 1, line 5, "and" has been struck and "and 85-414," has been inserted after the last comma; and in line 11 "to provide for the demolition of University of Nebraska Miller Hall;" has been inserted after the last semicolon.

(Signed) Ray Mossey, Chairperson

MESSAGE FROM THE GOVERNOR

March 31, 2004

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 172, 454, 906, 906A, 963, and 969e were received in my office on March 25, 2004.

These bills were signed and delivered to the Secretary of State on March 31, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

VISITORS

Visitors to the Chamber were Brooke Lurvey from Bennington; Senator Dw. Pedersen's daughter, Megan, and her husband, Michael Nelson, from Hastings; 58 eighth-grade students and teachers from St. Robert's School, Omaha; 33 students, teachers, and sponsors from Grant Elementary School, Norfolk; John Benson and Virginia Tilden from Omaha; and David Bandi from Omaha.

RECESS

At 11:57 a.m., on a motion by Senator Erdman, 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 Senator Landis who was excused; and Senators Cunningham, Engel, Mossey, D. Pederson, and Thompson who were excused until they arrive.

SELECT FILE

LEGISLATIVE BILL 1090. Senator Beutler withdrew his pending amendment, AM3474, found on page 1378 and considered in this day's Journal.

Senator Brashear renewed his pending amendment, AM3454, printed separately and referred to on page 1378.

SPEAKER BROMM PRESIDING

Pending.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 277 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 277.

NOTICE OF COMMITTEE HEARINGS**Health and Human Services**

Room 1510

Wednesday, April 7, 2004

1:00 p.m.

Michael Buscher - Board of Emergency Medical Services

A. Jane Storey - Child Abuse Prevention Fund Board

David Corbin - Nebraska Health Care Council

Joel Gajardo - Nebraska Health Care Council

Phil Harr - Nebraska Health Care Council

John Klosterman - Nebraska Health Care Council

Cordelia Okoye - Nebraska Health Care Council

(Signed) Jim Jensen, Chairperson

Transportation and Telecommunications

Room 1113

Tuesday, April 13, 2004

1:00 p.m.

Sid R. Dillon - Nebraska Motor Vehicle Industry Licensing Board

P.J. Morgan - Nebraska Motor Vehicle Industry Licensing Board

Douglas P. Rolfmeier - Nebraska Motor Vehicle Industry Licensing Board

(Signed) Tom Baker, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 394. Introduced by Schrock, 38.

WHEREAS, Richard Stewart and Eileen Stewart, husband and wife, will convey to the Game and Parks Commission real estate located in Knox County, Nebraska, which will be maintained as a roadway connected to the Miller Creek State Recreation Area for public outdoor activities; and

WHEREAS, the Game and Parks Commission has the general authority to acquire real estate, with the consent of the Governor, by gift; and

WHEREAS, in the interest of promoting outdoor opportunities for Nebraskans, the Legislature wishes to grant approval for the Game and Parks Commission to obtain title to all or any part of such real estate.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature approves the gift from Richard Stewart and Eileen Stewart, husband and wife, to the Game and Parks Commission of all of the real estate described as:

A roadway approximately 66 feet wide located in Section Twenty-one (21), Township Thirty-three (33) North, Range Three (3) West of the 6th P.M., Knox County, Nebraska, containing six (6) acres, more or less.

2. That such approval is granted with the understanding that the real estate described shall be designated and utilized as a roadway.

Referred to the Reference Committee.

SELECT FILE

LEGISLATIVE BILL 1090. The Brashear pending amendment, AM3454, printed separately and referred to on page 1378 and considered in this day's Journal, was renewed.

Senator Brashear withdrew his amendment.

Senator Hartnett renewed the Hartnett-Beutler pending amendment, AM3461, found on page 1380.

SPEAKER BROMM PRESIDING

Senator Chambers offered the following motion:
Bracket until April 1, 2004.

SENATOR CUDABACK PRESIDING

Pending.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LR 394	Natural Resources

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARING

Natural Resources
Room 1525

LR 394 Wednesday, April 7, 2004

8:30 a.m.

(Signed) Ed Schrock, Chairperson

AMENDMENTS - Print in Journal

Senator Wehrbein filed the following amendment to LB 1091:
AM3347

(Amendments to E & R amendments, AM7203)

- 1 1. Insert the following new sections:
- 2 "Sec. 3. Section 48-162.01, Revised Statutes Supplement,
- 3 2002, is amended to read:
- 4 48-162.01. (1) One of the primary purposes of the
- 5 Nebraska Workers' Compensation Act is restoration of the injured
- 6 employee to gainful employment. To this end the Nebraska Workers'
- 7 Compensation Court may employ one or more specialists in physical,
- 8 medical, or vocational rehabilitation to be appointed by the
- 9 presiding judge. Salaries, other benefits, and administrative
- 10 expenses incurred by the compensation court for purposes of
- 11 vocational rehabilitation may shall be paid from the ~~Workers'~~
- 12 ~~Compensation Trust~~ Compensation Court Cash Fund.
- 13 (2) Such specialists shall continuously study the
- 14 problems of rehabilitation, both physical and vocational, and shall
- 15 investigate and maintain a directory of rehabilitation facilities
- 16 and individual service providers, counselors, and specialists which
- 17 have been approved by the Nebraska Workers' Compensation Court.
- 18 The compensation court may approve as qualified such facilities,
- 19 institutions, physicians, and other individual service providers,
- 20 counselors, and specialists as are capable of rendering competent
- 21 rehabilitation service to seriously injured employees. No facility
- 22 or institution shall be considered as qualified unless it is
- 23 specifically equipped to provide rehabilitation services for
 - 1 persons suffering from either some specialized type of disability
 - 2 or some general type of disability within the field of occupational
 - 3 injury and is staffed with trained and qualified personnel and,
 - 4 with respect to physical rehabilitation, unless it is supervised by
 - 5 a physician qualified to render such service. No physician shall
 - 6 be considered qualified unless he or she has had the experience and
 - 7 training specified by the compensation court. No individual
 - 8 service provider, counselor, or specialist shall be considered
 - 9 qualified unless he or she has satisfied the standards for
 - 10 certification established by the compensation court and has been
 - 11 certified by the compensation court.
 - 12 (3) An employee who has suffered an injury covered by the
 - 13 Nebraska Workers' Compensation Act is entitled to prompt medical
 - 14 and physical rehabilitation services. When as a result of the
 - 15 injury an employee is unable to perform suitable work for which he
 - 16 or she has previous training or experience, he or she is entitled
 - 17 to such vocational rehabilitation services, including job placement
 - 18 and retraining, as may be reasonably necessary to restore him or
 - 19 her to suitable employment.

20 If entitlement to vocational rehabilitation services is
21 claimed by the employee, the employee and the employer or his or
22 her insurer shall attempt to agree on the choice of a vocational
23 rehabilitation counselor from the directory of vocational
24 rehabilitation counselors established pursuant to subsection (2) of
25 this section. If they are unable to agree on a vocational
26 rehabilitation counselor, the employee or employer or his or her
27 insurer shall notify the compensation court, and the compensation
1 court shall select a counselor from the directory of vocational
2 rehabilitation counselors established pursuant to subsection (2) of
3 this section. Only one such vocational rehabilitation counselor
4 may provide vocational rehabilitation services at any one time, and
5 any change in the choice of a vocational rehabilitation counselor
6 shall be approved by the compensation court. The vocational
7 rehabilitation counselor so chosen or selected shall evaluate the
8 employee and, if necessary, develop and implement a vocational
9 rehabilitation plan. It is a rebuttable presumption that any
10 vocational rehabilitation plan developed by such vocational
11 rehabilitation counselor and approved by a vocational
12 rehabilitation specialist of the compensation court is an
13 appropriate form of vocational rehabilitation. The fee for the
14 evaluation and for the development and implementation of the
15 vocational rehabilitation plan shall be paid by the employer or his
16 or her insurer. The compensation court may establish a fee
17 schedule for services rendered by a vocational rehabilitation
18 counselor. Any loss-of-earning-power evaluation performed by a
19 vocational rehabilitation counselor shall be performed by a
20 counselor from the directory established pursuant to subsection (2)
21 of this section and chosen or selected according to the procedures
22 described in this subsection. It is a rebuttable presumption that
23 any opinion expressed as the result of such a loss-of-earning-power
24 evaluation is correct.

25 The following priorities shall be used in developing and
26 evaluating a vocational rehabilitation plan. No higher priority
27 may be utilized unless all lower priorities have been determined by
1 the vocational rehabilitation counselor to be unlikely to result in
2 a job placement for the injured employee that is consistent with
3 the priorities listed in this section. If a lower priority is
4 clearly inappropriate for the employee, the next higher priority
5 shall be utilized. The priorities are, listed in order from lower
6 to higher priority:

- 7 (a) Return to the previous job with the same employer;
- 8 (b) Modification of the previous job with the same
9 employer;
- 10 (c) A new job with the same employer;
- 11 (d) A job with a new employer; or
- 12 (e) A period of formal retraining which is designed to
13 lead to employment in another career field.
- 14 Vocational rehabilitation training costs shall be paid

15 from the Workers' Compensation Trust Fund.

16 (4) If physical or medical rehabilitation services are
17 not voluntarily offered and accepted, the Nebraska Workers'
18 Compensation Court or any judge thereof on its or his or her own
19 motion, or upon application of the employee or employer, and after
20 affording the parties an opportunity to be heard by the
21 compensation court or judge thereof, may refer the employee to a
22 qualified facility, institution, physician, or other individual
23 service provider for evaluation and report of the practicability
24 of, need for, and kind of service or treatment necessary and
25 appropriate to render him or her fit for a remunerative occupation,
26 and the costs of such evaluation and report involving physical or
27 medical rehabilitation shall be borne by the employer or his or her
1 insurer. Upon receipt of such report and after affording the
2 parties an opportunity to be heard, the compensation court or judge
3 thereof may order that the physical or medical services and
4 treatment recommended in the report or other necessary physical or
5 medical rehabilitation treatment or service be provided at the
6 expense of the employer or his or her insurer.

7 (5) When physical or medical rehabilitation requires
8 residence at or near the facility or institution away from the
9 employee's customary residence, whether within or without this
10 state, the reasonable costs of his or her board, lodging, and
11 travel shall be paid for by the employer or his or her insurer in
12 addition to any other benefits payable under the Nebraska Workers'
13 Compensation Act, including weekly compensation benefits for
14 temporary disability. When vocational rehabilitation requires
15 residence at or near the facility or institution away from the
16 employee's customary residence, whether within or without this
17 state, the reasonable costs of his or her board, lodging, and
18 travel shall be paid from the Workers' Compensation Trust Fund and
19 weekly compensation benefits for temporary disability shall be paid
20 by the employer or his or her insurer.

21 (6) The Nebraska Workers' Compensation Court may
22 cooperate on a reciprocal basis with federal and state agencies for
23 vocational education or vocational, physical, or medical
24 rehabilitation or with any public or private agency.

25 (7) If the injured employee without reasonable cause
26 refuses to undertake or fails to cooperate with the rehabilitation,
27 training, or educational program determined by the compensation
1 court or judge thereof to be suitable for him or her or refuses to
2 be evaluated under subsection (3) or (4) of this section or fails
3 to cooperate in such evaluation, the compensation court or judge
4 thereof may suspend, reduce, or limit the compensation otherwise
5 payable under the Nebraska Workers' Compensation Act. The
6 compensation court or judge thereof may also modify a previous
7 finding, order, award, or judgment relating to physical, medical,
8 or vocational rehabilitation services as necessary in order to
9 accomplish the goal of restoring the injured employee to gainful

10 and suitable employment, or as otherwise required in the interest
11 of justice.

12 Sec. 8. Section 81-504, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-504. The Attorney General may appoint a special
15 attorney to assist and advise the State Fire Marshal. The attorney
16 appointed for this purpose shall at all times be under the
17 supervision of the Attorney General, who shall fix his or her
18 compensation, which shall be paid wholly out of the ~~fund created~~
19 ~~under section 81-523~~ State Fire Marshal Cash Fund."

20 2. On page 10, lines 16 and 17, strike the new matter;
21 and in line 18 strike "for paying", show as stricken, and insert
22 "to make legislative fund transfers to the Compensation Court Cash
23 Fund for the purpose of paying salaries, other benefits, and" and
24 after "expenses" insert "of the compensation court".

25 3. On page 13, line 18, strike "transfers or"; and in
26 lines 18 and 20 after "payments" insert "and transfers".

27 4. On page 14, line 10, strike "on behalf of", show as
1 stricken, and insert "in connection with a proceeding brought by or
2 against

3 5. On page 25, line 2, after the last comma insert
4 "81-504,"; and in line 4 before "and" insert ", 48-162.01,".

5 6. Renumber the remaining sections accordingly.

Senator Raikes filed the following amendment to LB 1091:
AM3480

(Amendments to E & R amendments, AM7203)

1 1. Insert the following new sections:

2 "Sec. 7. Section 79-1001, Reissue Revised Statutes of
3 Nebraska, is amended to read:
4 79-1001. Sections 79-1001 to 79-1033 and sections 8 and
5 9 of this act shall be known and may be cited as the Tax Equity and
6 Educational Opportunities Support Act.

7 Sec. 8. (1) To encourage consolidation of Class II and
8 III school districts with less than three hundred ninety students,
9 incentives shall be paid to reorganized Class II, III, IV, or V
10 districts resulting from consolidations which meet the requirements
11 of this section. This section shall only apply to consolidations
12 with an effective date after May 31, 2005, and before June 1, 2007.

13 (2) To qualify for incentive payments under this section,
14 the consolidation must be approved for incentive payments by the
15 State Committee for the Reorganization of School Districts.
16 Consolidating school districts shall file an application with the
17 state committee within thirty days following the issuance of the
18 boundary change order pursuant to subsection (1) of section 79-479.
19 The state committee shall approve or disapprove incentive payments
20 within thirty days after receipt of the application.

21 (3) For incentive payments to be approved by the state
22 committee, a reorganization study, including efficiency,

23 demographic, curriculum, facility, financial, and community
1 components, must be completed. If a study containing such elements
2 is completed and the reorganization will most likely result in more
3 efficiency in the delivery of educational services or greater
4 educational opportunities, the state committee may approve
5 incentive payments.

6 (4) Incentive payments shall be based on the number of
7 students moving from Class II or III school districts with less
8 than three hundred ninety students into a reorganized Class II,
9 III, IV, or V school district with at least three hundred ninety
10 students based on the average daily membership in each affected
11 district in the school fiscal year immediately preceding the first
12 school fiscal year the boundary change will be in effect and the
13 average daily membership the consolidated district would have had
14 following the boundary change if it had occurred in the school
15 fiscal year immediately preceding the first school fiscal year the
16 boundary change will be in effect. The per-student incentive
17 amount for each district involved in the reorganization having an
18 average daily membership of less than three hundred ninety students
19 shall equal four thousand dollars minus the product of the average
20 daily membership in such district multiplied by the ratio of three
21 thousand divided by three hundred ninety. The total incentives for
22 each such district shall equal the district's per-student incentive
23 amount multiplied by the district's average daily membership.

24 (5) For school fiscal years 2005-06 and 2006-07, one
25 million dollars shall be transferred from the Education Innovation
26 Fund to the School District Reorganization Fund pursuant to section
27 9-812.

1 (6) Except as otherwise provided in this subsection, base
2 fiscal year incentive payments shall equal fifty percent of the
3 amount calculated pursuant to subsection (4) of this section. Base
4 fiscal year incentive payments shall be calculated as of August 2
5 immediately preceding the base fiscal year and shall be paid
6 directly to the reorganized district from the School District
7 Reorganization Fund pursuant to subsection (5) of this section.
8 The payments shall be made in ten as nearly as possible equal
9 payments on the last business day of each month, beginning in
10 September and ending the following June, for the base fiscal year.
11 If the total amount of base fiscal year incentive payments for that
12 school fiscal year exceeds the amount in the School District
13 Reorganization Fund, the base fiscal year incentive payments shall
14 be reduced proportionately so that the total amount of base fiscal
15 year incentive payments equals the amount in the fund. The base
16 fiscal year incentive payments shall not be included in local
17 system formula resources as calculated under section 79-1018.01.

18 (7) The amount calculated pursuant to subsection (4) of
19 this section minus the amount of base fiscal year incentive
20 payments pursuant to subsection (6) of this section shall be
21 included in the distribution of state aid for the first school

22 fiscal year following the base fiscal year.

23 Sec. 9. The School District Reorganization Fund is
 24 created. The fund shall be administered by the department. The
 25 fund shall consist of money transferred from the Education
 26 Innovation Fund and shall be used to provide payments to
 27 reorganized school districts pursuant to section 8 of this act.
 1 Any money remaining in the fund on July 1, 2008, shall be
 2 transferred to the General Fund on such date. Any money in the
 3 School District Reorganization Fund available for investment shall
 4 be invested by the state investment officer pursuant to the
 5 Nebraska Capital Expansion Act and the Nebraska State Funds
 6 Investment Act.

7 Sec. 10. Section 79-1028, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 79-1028. (1) A Class II, III, IV, V, or VI school
 10 district may exceed the local system's applicable allowable growth
 11 rate for (a) expenditures in support of a service which is the
 12 subject of an agreement or a modification of an existing agreement
 13 whether operated by one of the parties to the agreement or an
 14 independent joint entity or joint public agency, (b) expenditures
 15 to pay for repairs to infrastructure damaged by a natural disaster
 16 which is declared a disaster emergency pursuant to the Emergency
 17 Management Act, (c) expenditures to pay for judgments, except
 18 judgments or orders from the Commission of Industrial Relations,
 19 obtained against a school district which require or obligate a
 20 school district to pay such judgment, to the extent such judgment
 21 is not paid by liability insurance coverage of a school district,
 22 (d) expenditures to pay for sums agreed to be paid by a school
 23 district to certificated employees in exchange for a voluntary
 24 termination of employment, or (e) expenditures to pay for
 25 lease-purchase contracts approved on or after July 1, 1997, and
 26 before July 1, 1998, to the extent the lease payments were not
 27 budgeted expenditures for fiscal year 1997-98.

1 (2) A Class II, III, IV, V, or VI district may exceed its
 2 applicable allowable growth rate by a specific dollar amount if the
 3 district projects an increase in formula students in the district
 4 over the current school year greater than twenty-five students or
 5 greater than those listed in the schedule provided in this
 6 subsection, whichever is less. Districts shall project increases
 7 in formula students on forms prescribed by the department. The
 8 department shall approve, deny, or modify the projected increases.

9	Average daily	Projected increase
10	membership of	of formula students
11	district	by percentage
12	0 - 50	10
13	50.01 - 250	5
14	250.01 - 1,000	3
15	1,000.01 and over	1

16 The department shall compute the district's estimated

17 allowable budget per pupil using the budgeted general fund
 18 expenditures found on the budget statement for the current school
 19 year divided by the number of formula students in the current
 20 school year and multiplied by the district's applicable allowable
 21 growth rate. The resulting allowable budget per pupil shall be
 22 multiplied by the projected formula students to arrive at the
 23 estimated budget needs for the ensuing year. The department shall
 24 allow the district to increase its general fund budget of
 25 expenditures for the ensuing school year by the amount necessary to
 26 fund the estimated budget needs of the district as computed
 27 pursuant to this subsection. On or before July 1, the department
 1 shall make available to districts which have been allowed
 2 additional growth pursuant to this subsection the necessary
 3 document to recalculate the actual formula students of such
 4 district. Such document shall be filed with the department under
 5 subsection (1) of section 79-1024.

6 (3) A Class II, III, IV, V, or VI district may exceed its
 7 applicable allowable growth rate by a specific dollar amount if
 8 construction, expansion, or alteration of district buildings will
 9 cause an increase in building operation and maintenance costs of at
 10 least five percent. The department shall document the projected
 11 increase in building operation and maintenance costs and may allow
 12 a Class II, III, IV, V, or VI district to exceed the local system's
 13 applicable allowable growth rate by the amount necessary to fund
 14 such increased costs. The department shall compute the actual
 15 increased costs for the school year and shall notify the district
 16 on or before July 1 of the recovery of the additional growth
 17 pursuant to this subsection.

18 (4) A Class II, III, IV, V, or VI district may exceed its
 19 applicable allowable growth rate by a specific dollar amount if the
 20 district demonstrates to the satisfaction of the department that it
 21 will exceed its applicable allowable growth rate as a result of
 22 costs pursuant to the Retirement Incentive Plan authorized in
 23 section 79-855 or the Staff Development Assistance authorized in
 24 section 79-856. The department shall compute the amount by which
 25 the increased cost of such program or programs exceeds the
 26 district's applicable allowable growth rate and shall allow the
 27 district to increase its general fund expenditures by such amount
 1 for that fiscal year.

2 (5) A Class II, III, IV, or V district may exceed its
 3 applicable allowable growth rate by the specific dollar amount of
 4 incentive payments or base fiscal year incentive payments to be
 5 received in such school fiscal year pursuant to section 8 of this
 6 act."

7 2. On page 3, lines 17 and 18, strike the new matter and
 8 reinstate the stricken matter; and in line 21 after the period
 9 insert "For fiscal years 2005-06 and 2006-07, the Education
 10 Innovation Fund shall be allocated as follows: The first one
 11 million dollars each fiscal year shall be transferred to the School

12 District Reorganization Fund, and the remaining amount shall be
 13 allocated to the General Fund after operating expenses for the
 14 Excellence in Education Council are deducted."

15 3. Amend the repealer and renumber the remaining
 16 sections accordingly.

Senator Beutler filed the following amendment to LB 391:

FA1644

Amend AM3247

On page 35, line 18 and page 36, line 2 strike the new language and restore the old language.

Senators Hartnett and Louden filed the following amendment to LB 1231:

AM3490

(Amendments to E & R amendments, AM7221)

1 1. On page 3, strike beginning with "(4)" in line 8
 2 through "(5)" in line 26 and insert
 3 "(4) The director may make formal application to the
 4 federal government regarding federal financial assistance for the
 5 construction of any of the facilities comprising the state veteran
 6 cemetery system which is located in a county with a population of
 7 less than one hundred thousand persons when sufficient funds have
 8 been remitted to the Nebraska Veteran Cemetery System Endowment
 9 Fund such that (a) the projected annual earnings from such fund
 10 available for transfer to the Nebraska Veteran Cemetery System
 11 Operation Fund in each of the succeeding five years plus (b) the
 12 projected annual value of formal agreements that have been entered
 13 into between the state and any political subdivisions or private
 14 entities to subsidize or undertake the operation, administration,
 15 or maintenance of the subject facility within the state veteran
 16 cemetery system, has a value that is equal to or exceeds one
 17 hundred twenty-five percent of the projected annual cost of the
 18 operation, administration, and maintenance of the subject facility
 19 in each of the succeeding five years.

20 (5) The director may make formal application to the
 21 federal government regarding financial assistance for the
 22 construction of any facility comprising a portion of the state
 23 veteran cemetery system located in a county with a population of
 1 more than one hundred thousand persons when sufficient funds have
 2 been remitted to the Nebraska Veteran Cemetery System Endowment
 3 Fund such that (a) the projected annual earnings from such fund
 4 available for transfer to the Nebraska Veteran Cemetery System
 5 Operation Fund in each of the next succeeding five years plus (b)
 6 the projected annual value of formal agreements that have been
 7 entered into between the state and any political subdivisions or
 8 private entities to subsidize or undertake the operation,
 9 administration, or maintenance of any of the facilities within the
 10 state veteran cemetery system, has a value that is equal to or
 11 exceeds one hundred twenty-five percent of the projected annual

12 cost of the operation, administration, and maintenance of the three
 13 facilities comprising the state veteran cemetery system in each of
 14 the succeeding five years.

15 (6) The director may expend such funds as may be
 16 available for any of the purposes authorized in this section.
 17 (7)".

18 2. On page 4, line 1, after "persons" insert " political subdivisions."; in line 8 strike "(6)" and insert "(8)";
 19 in line 11 after the period insert "Any money in the Veteran
 20 Cemetery Maintenance Fund on the effective date of this act shall
 21 be transferred to the Veteran Cemetery Construction Fund."; and in
 22 line 12 strike "(7)" and insert "(9)".

24 3. On page 5, line 4, strike "(8)" and insert "(10)".

Senator Erdman filed the following amendment to LB 391:
 AM3496

(Amendments to Standing Committee amendments, AM3247)

- 1 1. On page 36, after line 19, insert:
- 2 "(5) Changes made to this section by this legislative
 3 bill shall apply only to child support orders entered on or after
 4 the operative date of this act.".
- 5 2. On page 93, line 4, after "section" insert "by this
 6 legislative bill".

Senator Beutler filed the following amendment to LB 391:
 AM3500

(Amendments to Standing Committee amendments, AM3247)

- 1 1. On page 35, line 18, after "(1)" insert "(a)"; in
 2 line 19, strike "(a)", show as stricken, and insert "(i)"; in line
 3 20 after "age" insert "or, if the child is a full-time student
 4 under the age of nineteen, until he or she completes high school or
 5 the equivalent level of vocational or technical training, whichever
 6 is later", strike "(b)", show as stricken, and insert "(ii)",
 7 strike "(c)", show as stricken and insert "(iii)", and strike
 8 "(d)", show as stricken, and insert "(iv)"; after line 23 insert:
 9 "(b) Upon written application of the obligee, the court
 10 shall extend the obligor's duty to pay child support for a child
 11 who is a full-time student in a postsecondary educational
 12 institution until the child reaches twenty years of age. The
 13 amount of such extended support shall not exceed the amount of the
 14 child support order in effect when the child reached eighteen years
 15 of age.".
- 16 2. On page 36, after line 19, insert:
 17 "(5) The change from nineteen to eighteen years of age in
 18 subsections (1) and (3) of this section made by this legislative
 19 bill shall not affect support orders issued prior to the operative
 20 date of this act.".

Senator Brashear filed the following amendment to LB 1090:

(Amendment, AM3477, is printed separately and available in the Bill Room, Room 1104.)

Senator Hartnett filed the following amendment to LB 1231:
AM3504

(Amendments to E & R amendments, AM7221)

- 1 1. On page 3, strike beginning with "(4)" in line 8
- 2 through "(5)" in line 26 and insert
- 3 "(4) The director may make formal application to the
- 4 federal government regarding federal financial assistance for the
- 5 construction of any of the facilities comprising the state veteran
- 6 cemetery system which is located in a county with a population of
- 7 less than one hundred thousand persons when he or she determines
- 8 that the requirements for such assistance have been met.
- 9 (5) The director may make formal application to the
- 10 federal government regarding financial assistance for the
- 11 construction of any facility comprising a portion of the state
- 12 veteran cemetery system located in a county with a population of
- 13 more than one hundred thousand persons when sufficient funds have
- 14 been remitted to the Nebraska Veteran Cemetery System Endowment
- 15 Fund such that (a) the projected annual earnings from such fund
- 16 available for transfer to the Nebraska Veteran Cemetery System
- 17 Operation Fund in each of the next succeeding five years plus (b)
- 18 the projected annual value of formal agreements that have been
- 19 entered into between the state and any political subdivisions or
- 20 private entities to subsidize or undertake the operation,
- 21 administration, or maintenance of any of the facilities within the
- 22 state veteran cemetery system, has a value that is equal to or
- 23 exceeds one hundred twenty-five percent of the projected annual
- 1 cost of the operation, administration, and maintenance of the three
- 2 facilities comprising the state veteran cemetery system in each of
- 3 the succeeding five years.
- 4 (6) The director may expend such funds as may be
- 5 available for any of the purposes authorized in this section.
- 6 (7)".
- 7 2. On page 4, line 1, after "persons" insert ";
- 8 political subdivisions."; in line 8 strike "(6)" and insert "(8)";
- 9 in line 11 after the period insert "Any money in the Veteran
- 10 Cemetery Maintenance Fund on the effective date of this act shall
- 11 be transferred to the Veteran Cemetery Construction Fund."; and in
- 12 line 12 strike "(7)" and insert "(9)".
- 13 3. On page 5, line 4, strike "(8)" and insert "(10)".

Senator Chambers filed the following amendment to LB 1144:
AM3505

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 "Sec. 5. Laws 2003, LB 407, section 122, is amended to
- 3 read:

- 4 Sec. 122. AGENCY NO. 27 -- DEPARTMENT OF ROADS
 5 Total expenditures by the Department of Roads for
 6 permanent and temporary salaries and per diems shall not exceed
 7 \$88,173,941 for FY2003-04. Total expenditures by the Department of
 8 Roads for permanent and temporary salaries and per diems shall not
 9 exceed \$90,111,569 for FY2004-05.
- 10 There is hereby appropriated for FY2003-04 \$338,000,000
 11 from the Highway Cash Fund to the Roads Operations Cash Fund, which
 12 fund is hereby appropriated. There is included in the amount
 13 appropriated from the Highway Cash Fund to the Roads Operations
 14 Cash Fund \$1,000,000 for assistance to the local transit
 15 authorities program. There is hereby appropriated for FY2004-05
 16 ~~\$338,000,000~~ \$338,000,000 from the Highway Cash Fund to the Roads
 17 Operations Cash Fund, which fund is hereby appropriated. There is
 18 included in the amount appropriated from the Highway Cash Fund to
 19 the Roads Operations Cash Fund ~~\$1,000,000~~ \$1,524,088 for assistance
 20 to the local transit authorities program and intercity bus system
 21 assistance".
- 22 2. On page 1, line 3, strike "and"; in line 4 after
 23 "2003" insert ", and Laws 2003, LB 407, section 122"; and in line 6
 1 after the second semicolon insert "to change appropriations;".
- 2 3. On page 7, line 18, before the period insert "
 3 Amounts used to support the public transportation assistance
 4 program and the intercity bus system assistance program shall
 5 reduce amounts expended for other purposes set forth in this
 6 section and shall not result in an increase in motor fuel tax"; and
 7 in line 28 strike "and".
- 8 4. On page 8, line 1, after the last comma insert "and
 9 Laws 2003, LB 407, section 122,".
- 10 5. Renumber the remaining sections accordingly.

Senator Bromm filed the following amendment to LB 1091:
 AM3501

(Amendments to E & R amendments, AM7203)

- 1 1. Insert the following new section:
 2 "Sec. 2. Section 25-21,211, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 25-21,211. The court by which any judgment is rendered
 5 against the state shall certify the same to the Director of
 6 Administrative Services, who shall pay the same from any special
 7 fund or appropriation applicable thereto, and if none such has been
 8 provided or made, then from any appropriations made to the
 9 department or institution, relating to which the cause of action
 10 arose. A ; ~~PROVIDED~~, a certificate of the Director of
 11 Administrative Services, or of the chief officer of such department
 12 or institution, that the current appropriations will not permit
 13 payment of such judgment without great public inconvenience, shall
 14 operate as a stay of such judgment until the adjournment of the
 15 next regular session of the Legislature. In ; ~~and in~~ case of such

16 stay being claimed or taken, interest shall run on such judgment
 17 from ~~its date at the rate of ten percent per annum~~ the date the
 18 judgment becomes final at the rate set in section 45-103.".

19 2. On page 25, line 2, after "sections" insert

20 "25-21,211,".

21 3. Renumber the remaining sections accordingly.

Senator Baker filed the following amendment to LB 1083A:
 AM3483

(Amendments to AM3009)

- 1 1. On page 2, line 4, after "illness" insert ", except
- 2 that funding for existing affordable housing agencies and programs
- 3 shall not be seriously jeopardized by this allocation".

Senator Janssen filed the following amendment to LB 1090:
 AM3512

(Amendments to E & R amendments, AM7202)

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 77-2701.01, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 77-2701.01. Pursuant to section 77-2715.01, for all
- 5 taxable years beginning or deemed to begin on or after January 1,
- 6 1990, and before January 1, 1991, under the Internal Revenue Code
- 7 of 1986, as amended, the rate of the income tax levied pursuant to
- 8 section 77-2715 shall be three and forty-three-hundredths percent.
- 9 Pursuant to section 77-2715.01, for all taxable years beginning or
- 10 deemed to begin on or after January 1, 1991, and before January 1,
- 11 2004, and for all taxable years beginning on or after January 1,
- 12 2005, under the Internal Revenue Code of 1986, as amended, the rate
- 13 of the income tax levied pursuant to section 77-2715 shall be three
- 14 and seventy-hundredths percent. Pursuant to section 77-2715.01,
- 15 for all taxable years beginning or deemed to begin on or after
- 16 January 1, 2004, and before January 1, 2005, under the Internal
- 17 Revenue Code of 1986, as amended, the rate of income tax levied
- 18 pursuant to section 77-2715 shall be three and ninety-one
- 19 hundredths percent.
- 20 Sec. 2. Section 77-2701.02, Reissue Revised Statutes of
- 21 Nebraska, is amended to read:
- 22 77-2701.02. Pursuant to section 77-2715.01:
- 23 (1) Until July 1, 1998, the rate of the sales tax levied
- 1 pursuant to section 77-2703 shall be five percent;
- 2 (2) Commencing July 1, 1998, and until July 1, 1999, the
- 3 rate of the sales tax levied pursuant to section 77-2703 shall be
- 4 four and one-half percent;
- 5 (3) Commencing July 1, 1999, and until the start of the
- 6 first calendar quarter after July 20, 2002, the rate of the sales
- 7 tax levied pursuant to section 77-2703 shall be five percent; ~~and~~
- 8 (4) Commencing on the start of the first calendar quarter
- 9 after July 20, 2002, and until October 1, 2004, and commencing

10 October 1, 2005, the rate of the sales tax levied pursuant to
11 section 77-2703 shall be five and one-half percent; and
12 (5) Commencing October 1, 2004, and until September 30,
13 2005, the rate of the sales tax levied pursuant to section 77-2703
14 shall be five and three-fourths percent.

15 Sec. 3. Section 77-2715.02, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2715.02. (1) Whenever the primary rate is changed by
18 the Legislature under section 77-2715.01, the Tax Commissioner
19 shall update the rate schedules required in subsection (2) of this
20 section to reflect the new primary rate and shall publish such
21 updated schedules.

22 (2) The following rate schedules are hereby established
23 for the Nebraska individual income tax and shall be in the
24 following form:

25 (a) The income amounts for columns A and E shall be:

26 (i) \$0, \$2,400, \$17,000, and \$26,500, for single returns;

27 (ii) \$0, \$4,000, \$30,000, and \$46,750, for married filing
1 joint returns;

2 (iii) \$0, \$3,800, \$24,000, and \$35,000, for

3 head-of-household returns;

4 (iv) \$0, \$2,000, \$15,000, and \$23,375, for married filing
5 separate returns; and

6 (v) \$0, \$500, \$4,700, and \$15,150, for estates and
7 trusts;

8 (b) The amount in column C shall be the total amount of
9 the tax imposed on income less than the amount in column A;

10 (c) The amount in column D shall be the rate on the
11 income in excess of the amount in column E;

12 (d) For taxable years beginning or deemed to begin before
13 January 1, 2003, under the Internal Revenue Code of 1986, as
14 amended, the primary rate set by the Legislature shall be
15 multiplied by the following factors to compute the tax rates for
16 column D. The factors for the brackets, from lowest to highest
17 bracket, shall be .6784, .9432, 1.3541, and 1.8054;

18 (e) For taxable years beginning or deemed to begin on or
19 after January 1, 2003, and before January 1, 2004, and for taxable
20 years beginning or deemed to begin on or after January 1, 2005,
21 under the Internal Revenue Code of 1986, as amended, the primary
22 rate set by the Legislature shall be multiplied by the following
23 factors to compute the tax rates for column D. The factors for the
24 brackets, from lowest to highest bracket, shall be .6932, .9646,
25 1.3846, and 1.848;

26 (f) For taxable years beginning or deemed to begin on or
27 after January 1, 2004, and before January 1, 2005, under the
1 Internal Revenue Code of 1986, as amended, the primary rate set by
2 the Legislature shall be multiplied by the following factors to
3 compute the tax rates for column D. The factors for the brackets,
4 from lowest to highest bracket, shall be .6932, .9646, 1.3846, and

5 1.7487;

6 (g) The amounts for column C shall be rounded to the
7 nearest dollar, and the amounts in column D shall be rounded to
8 hundredths of one percent; and

9 ~~(g)~~ (h) One rate schedule shall be established for each
10 federal filing status.

11 (3) The tax rate schedules shall use the format set forth
12 in this subsection.

13	A	B	C	D	E
14	Taxable income	but not	pay	plus	of the
15	over	over			amount over

16 (4) The tax rate applied to other federal taxes included
17 in the computation of the Nebraska individual income tax shall be
18 eight times the primary rate.

19 (5) The Tax Commissioner shall prepare, from the rate
20 schedules, tax tables which can be used by a majority of the
21 taxpayers to determine their Nebraska tax liability. The design of
22 the tax tables shall be determined by the Tax Commissioner. The
23 size of the tax table brackets may change as the level of income
24 changes. The difference in tax between two tax table brackets
25 shall not exceed fifteen dollars. The Tax Commissioner may build
26 the personal exemption credit and standard deduction amounts into
27 the tax tables.

1 (6) The Tax Commissioner may require by rule and
2 regulation that all taxpayers shall use the tax tables if their
3 income is less than the maximum income included in the tax tables.
4 Sec. 4. Section 77-27,132, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-27,132. (1) There is hereby created a fund to be
7 designated the Revenue Distribution Fund which shall be set apart
8 and maintained by the Tax Commissioner. Revenue not required to be
9 credited to the General Fund or any other specified fund may be
10 credited to the Revenue Distribution Fund. Credits and refunds of
11 such revenue shall be paid from the Revenue Distribution Fund. The
12 balance of the amount credited, after credits and refunds, shall be
13 allocated as provided by the statutes creating such revenue.

14 (2) The Tax Commissioner shall pay to a depository bank
15 designated by the State Treasurer all amounts collected under the
16 Nebraska Revenue Act of 1967. The Tax Commissioner shall present to
17 the State Treasurer bank receipts showing amounts so deposited in
18 the bank, and of the amounts so deposited the State Treasurer shall
19 credit to the Highway Trust Fund all of the proceeds of the sales
20 and use taxes derived from motor vehicles, trailers, and
21 semitrailers, except that (a) the proceeds equal to any sales tax
22 rate provided for in section 77-2701.02 that is in excess of five
23 percent derived from motor vehicles, trailers, and semitrailers
24 shall be credited to the General Fund except as provided in
25 subdivision (2)(b) of this section, and (b) commencing October 1,
26 2004, through September 30, 2005, all the proceeds equal to

27 one-fourth percent of the sales tax rate shall be credited to the
1 subaccount of the Cash Reserve Fund created in section 5 of this
2 act. The balance of all amounts collected under the Nebraska
3 Revenue Act of 1967 shall be credited to the General Fund.

4 Sec. 5. (1) For purposes of this section:

5 (a) Subscriber means any person, firm, partnership,
6 corporation, limited liability company, municipality, cooperative,
7 or other entity to whom a supplier sells electricity at retail; and

8 (b) Supplier means any public power district, public
9 power and irrigation district, individual municipality, registered
10 group of municipalities, electric membership association, or
11 cooperative selling electricity at retail to subscribers.

12 (2) Beginning October 1, 2004, and ending December 31,
13 2005, each supplier shall assess and collect monthly from each
14 subscriber a surcharge equivalent to three percent of the
15 subscriber's monthly charge for electricity, excluding all federal,
16 state, and local taxes. The supplier shall remit the amounts
17 collected to the State Treasurer for credit to the Cash Reserve
18 Fund. The Accounting Administrator of the Department of
19 Administrative Services shall create a subaccount within the Cash
20 Reserve Fund for the deposit and accounting of revenue received as
21 a result of the surcharge. The surcharge shall be collected
22 monthly in the same manner as the sales tax under the Nebraska
23 Revenue Act of 1967, including provisions of the act relating to
24 due dates, interest, penalties, and collection procedures, except
25 that no collection fees shall be allowed any supplier.

26 (3) Failure by the subscriber to pay the surcharge is
27 deemed to be nonpayment for services rendered by the supplier and
1 shall be subject to the remedies set forth in Chapter 70, article
2 6, for nonpayment, including, but not limited to, disconnection of
3 electrical service."

4 2. On page 4, after line 18 insert the following new
5 subsection:

6 "(10) The State Treasurer, at the direction of the budget
7 administrator of the budget division of the Department of
8 Administrative Services, shall transfer the following amounts from
9 the General Fund to the subaccount of the Cash Reserve Fund created
10 in section 5 of this act to reflect the income tax increase
11 provided in sections 77-2701.01 and 77-2715.02, as amended by this
12 legislative bill:

13 (a) Forty-three million three hundred five thousand
14 dollars on or before June 30, 2005; and

15 (b) Seven million four hundred two thousand dollars on or
16 before December 31, 2005."

17 3. Renumber the remaining sections and correct internal
18 references accordingly.

Senator Chambers filed the following amendment to LB 1089:
AM3519

(Amendments to AM3263)

1 1. On page 1, lines 9 and 10, strike "306,208" and
2 insert "153,104".

MOTION - Adjournment

Senator Mines moved to adjourn. The motion prevailed with 21 ayes, 9 nays, 12 present and not voting, and 7 excused and not voting, and at 5:02 p.m., the Legislature adjourned until 9:00 a.m., Thursday, April 1, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

