

**NINETEENTH DAY - FEBRUARY 2, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****NINETEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 2, 2005

**PRAYER**

The prayer was offered by Pastor Doyle Karst, St. John's Lutheran Church, Sterling.

**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 Beutler, Brown, Cunningham, Mines, Dw. Pedersen, Schimek, and Schrock who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighteenth day was approved.

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

Room 1510

LB 331      Thursday, February 17, 2005 (reschedule)      2:00 p.m.

(Signed) Jim Jensen, Chairperson

**Government, Military and Veterans Affairs**

Room 1507

LB 233      Wednesday, February 9, 2005      1:30 p.m.  
 LB 290      Wednesday, February 9, 2005      1:30 p.m.  
 LB 401      Wednesday, February 9, 2005      1:30 p.m.  
 LB 408      Wednesday, February 9, 2005      1:30 p.m.  
 LB 473      Wednesday, February 9, 2005      1:30 p.m.  
 LB 477      Wednesday, February 9, 2005      1:30 p.m.

Wednesday, February 9, 2005 1:30 p.m.  
 Stuart MacTaggart - Department of Aeronautics  
 Samuel Seever - State Personnel Board

LB 451	Thursday, February 10, 2005	1:30 p.m.
LB 525	Thursday, February 10, 2005	1:30 p.m.
LB 581	Thursday, February 10, 2005	1:30 p.m.
LB 591	Thursday, February 10, 2005	1:30 p.m.
LB 685	Thursday, February 10, 2005	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 96.** Title read. Considered.

The Standing Committee amendment, AM0047, found on page 331, was considered.

### SENATOR LANDIS PRESIDING

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

FA7

Amend AM0047

In line 2 strike "four hundred thousand"

### SENATOR CUDABACK PRESIDING

Senator Chambers withdrew his amendment.

The Standing Committee amendment lost with 0 ayes, 31 nays, and 18 present and not voting.

Senator Thompson offered the following amendment:

FA8

P. 2 line 7 insert "up to" after of

The Thompson amendment was adopted with 30 ayes, 2 nays, 16 present and not voting, and 1 excused and not voting.

Pending.

### STANDING COMMITTEE REPORTS Natural Resources

**LEGISLATIVE BILL 8.** Placed on General File.

**LEGISLATIVE BILL 336.** Placed on General File.

**LEGISLATIVE BILL 544.** Placed on General File.

(Signed) Ed Schrock, Chairperson

**NOTICE OF COMMITTEE HEARINGS****Judiciary**  
Room 1113

LB 130	Wednesday, February 9, 2005	1:30 p.m.
LB 410	Wednesday, February 9, 2005	1:30 p.m.
LB 727	Wednesday, February 9, 2005	1:30 p.m.
LB 729	Wednesday, February 9, 2005	1:30 p.m.
LB 755	Wednesday, February 9, 2005	1:30 p.m.
LB 756	Wednesday, February 9, 2005	1:30 p.m.
LB 152	Thursday, February 10, 2005	1:30 p.m.
LB 281	Thursday, February 10, 2005	1:30 p.m.
LB 320	Thursday, February 10, 2005	1:30 p.m.
LB 537	Thursday, February 10, 2005	1:30 p.m.
LB 669	Thursday, February 10, 2005	1:30 p.m.
LB 703	Thursday, February 10, 2005	1:30 p.m.
LB 757	Thursday, February 10, 2005	1:30 p.m.
LB 111	Friday, February 11, 2005	1:30 p.m.
LB 279	Friday, February 11, 2005	1:30 p.m.
LB 348	Friday, February 11, 2005	1:30 p.m.
LB 700	Friday, February 11, 2005	1:30 p.m.
LB 726	Friday, February 11, 2005	1:30 p.m.
LB 758	Friday, February 11, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 96.** Senator Janssen offered the following amendment:

FA9

Page 2 in line 27, put a period after "year" and strike and show as stricken "and the amount of tuition credits granted shall not exceed nine hundred thousand dollars during any fiscal year"

The Janssen amendment was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Senator Chambers offered the following amendment:

FA10

On page 2 in line 5, after "college" strike "or any independent, not-for-profit, regionally accredited college or university in this state."

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Aguilar	Cudaback	Pahls	Price
Baker	Fischer	Pedersen, Dw.	Raikes
Beutler	Hudkins	Pederson, D.	Schimek
Chambers	Johnson	Preister	Stuthman

Voting in the negative, 27:

Bourne	Engel	Howard	Landis	Smith
Brashear	Erdman	Janssen	Langemeier	Stuhr
Byars	Flood	Jensen	McDonald	Synowiecki
Combs	Foley	Kopplin	Mines	
Connealy	Friend	Kremer	Redfield	
Cunningham	Heidemann	Kruse	Schrock	

Present and not voting, 3:

Burling	Louden	Thompson
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Excused and not voting, 3:

Brown	Cornett	Wehrbein
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The Chambers amendment lost with 16 ayes, 27 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

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

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

Voting in the affirmative, 37:

Aguilar	Engel	Hudkins	Louden	Schimek
Baker	Erdman	Janssen	McDonald	Schrock
Beutler	Fischer	Johnson	Mines	Smith
Burling	Flood	Kopplin	Pahls	Synowiecki
Byars	Foley	Kremer	Pedersen, Dw.	Thompson
Combs	Friend	Kruse	Preister	
Connealy	Heidemann	Landis	Price	
Cunningham	Howard	Langemeier	Redfield	

Voting in the negative, 3:

Bourne            Chambers        Raikes

Present and not voting, 3:

Cudaback        Pederson, D.    Stuthman

Excused and not voting, 6:

Brashear        Cornett          Stuhr  
Brown            Jensen            Wehrbein

Advanced to E & R for review with 37 ayes, 3 nays, 3 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

### **STANDING COMMITTEE REPORTS Transportation and Telecommunications**

**LEGISLATIVE BILL 70.** Placed on General File.

**LEGISLATIVE BILL 79.** Placed on General File as amended.  
Standing Committee amendment to LB 79:  
AM0186

1    1. On page 2, after line 17, insert the following new  
2 subsection:  
3    "(3) An interested party may object to an action taken  
4 under subsection (2) of this section only if a written request is  
5 submitted to the Department of Roads by a professional engineer  
6 licensed to practice in the State of Nebraska. The engineer shall  
7 state in writing that the engineer is familiar with the  
8 requirements in this section and with all relevant aspects of the  
9 railroad crossing. The engineer shall also provide a detailed  
10 explanation of why subsection (2) of this section should not apply  
11 to the railroad crossing in question and a statement that the  
12 railroad crossing corridor has been examined by the engineer and  
13 the engineer believes that the railroad crossing will be safe as  
14 designed.".

**LEGISLATIVE BILL 67.** Indefinitely postponed.

**LEGISLATIVE BILL 156.** Indefinitely postponed.

(Signed) Tom Baker, Chairperson

### **Business and Labor**

**LEGISLATIVE BILL 99.** Placed on General File as amended.  
Standing Committee amendment to LB 99:

## AM0203

- 1 1. On page 3, line 2, after "created" insert "consisting  
2 of ten members".
- 3 2. On page 7, after line 21 insert:  
4 "(3) The act applies to conveyances in private residences  
5 at the time of installation, and such conveyances are subject to  
6 inspection at installation and are not subject to periodic  
7 inspections.".
- 8 3. On page 8, strike lines 26 through 28.
- 9 4. On page 9, line 1, strike "(18)" and insert "(17)";  
10 and in line 2 after "mills" insert "; and  
11 (18) Dock levelators".
- 12 5. On page 10, line 23, strike "A" and insert "Neither  
13 a"; and in line 24 strike "is not" and insert "nor a licensed  
14 elevator mechanic is".
- 15 6. On page 14, line 13, after "any" insert "public"; and  
16 in lines 13 and 14 strike ", public or private," and show as  
17 stricken.
- 18 7. On page 18, line 27, strike "licensee" and insert  
19 "individual holding the elevator mechanic license".
- 20 8. On page 22, line 10, after the period insert "The  
21 commissioner or state elevator inspector shall keep a record of  
22 each request for an investigation received under this section for  
23 three years after such request is made.".

**LEGISLATIVE BILL 122.** Placed on General File as amended.  
Standing Committee amendment to LB 122:

## AM0204

- 1 1. On page 3, strike lines 15 through 28 and insert:  
2 "(1) Unfired pressure vessels (i) not exceeding a maximum  
3 allowable working pressure of five hundred pounds per square inch,  
4 (ii) that contain carbon dioxide, helium, oxygen, nitrogen, argon,  
5 hydrofluorocarbon refrigerant, or any other nonflammable gas  
6 determined by the commissioner not to be a risk to the public,  
7 (iii) that are manufactured and repaired in accordance with  
8 applicable American Society of Mechanical Engineers standards, and  
9 (iv) that are installed in accordance with the manufacturer's  
10 specifications.".
- 11 2. On page 4, strike lines 1 through 4.

(Signed) Douglas Cunningham, Chairperson

### Transportation and Telecommunications

**LEGISLATIVE BILL 295.** Placed on General File.

**LEGISLATIVE BILL 471.** Placed on General File.

**LEGISLATIVE BILL 251.** Placed on General File as amended.  
Standing Committee amendment to LB 251:

AM0187

1 1. On page 2, line 12, after the period insert "For  
 2 purposes of this section, place of secure safekeeping means a place  
 3 off the traveled portion of the highway that can accommodate the  
 4 parking of such vehicles in order for the vehicles to be (1)  
 5 repaired or (2) dismantled and operated in compliance with  
 6 subdivision (1)(b) of section 60-6,290 and subsections (2) and (3)  
 7 of section 60-6,294.".

(Signed) Tom Baker, Chairperson

**AMENDMENT - Print in Journal**Senator Landis filed the following amendment to LB 216:

AM0216

1 1. On page 50, line 26, after "agent" insert "in  
 2 accordance with section 3504 of the Internal Revenue Code of 1986,  
 3 as amended.".

**RESOLUTIONS****LEGISLATIVE RESOLUTION 35.** Introduced by Byars, 30.

WHEREAS, seventy-six and three tenths percent of Nebraska's population have less than a college education; and

WHEREAS, a large majority of Nebraska's people need developmental course work, tutoring, and counseling to succeed in secondary school and in postsecondary freshman-level courses; and

WHEREAS, these people are one or more of the following: Low-income, children of parents with no postsecondary experience, nontraditional students, or disabled or culturally disadvantaged; and

WHEREAS, the twenty-nine TRIO Programs in Nebraska, located on the campuses of Southeast Community College, University of Nebraska at Lincoln, Doane College, University of Nebraska at Omaha, University of Nebraska at Kearney, Central Community College, Chadron State College, Creighton University, Metropolitan Community College, Nebraska Indian Community College, Peru State College, Wayne State College, Western Nebraska Community College, and Applied Information Management Institute; and

WHEREAS, these twenty-nine programs, with a combined budget of \$8,011,315 of federal funding for educational opportunity services, have provided support services that enhance the prospects of educational excellence for those who are disadvantaged and will serve approximately seven thousand six hundred ninety students during the 2004-05 program years.

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

1. That February 26, 2005, shall be known as National TRIO Day.
2. That a copy of this resolution be sent to the Director of the TRIO

Program on the Southeast Community College campus in Beatrice, Nebraska.

Laid over.

**LEGISLATIVE RESOLUTION 36.** Introduced by Synowiecki, 7.

WHEREAS, Margaret Engstrom of Omaha, Nebraska, will celebrate her ninetieth birthday on February 18, 2005; and

WHEREAS, Ms. Engstrom has lived in the same house at 4502 South 14th Street in Omaha for fifty-four years; and

WHEREAS, Ms. Engstrom raised seven wonderful children, who proudly carry on her spirit of volunteerism; and

WHEREAS, Ms. Engstrom continues to serve her family and community every day through acts of kindness.

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

1. That the Legislature of the State of Nebraska wishes Ms. Margaret Engstrom a very happy ninetieth birthday.

2. That a copy of this resolution be provided to Ms. Engstrom.

Laid over.

**LEGISLATIVE RESOLUTION 37.** Introduced by Synowiecki, 7.

WHEREAS, Yolanda Bernhardt of Omaha, Nebraska, will celebrate her one hundred and sixth birthday on February 14, 2005; and

WHEREAS, Ms. Bernhardt was born in Hungary, as Jan Ruisz, and was the youngest of six children; and

WHEREAS, Ms. Bernhardt was a Hungarian elementary school teacher and studied art in Europe before coming to Omaha in 1926; and

WHEREAS, Ms. Bernhardt married Joseph Bernhardt in 1942 and resided on South 10th Street in Omaha until she was ninety-nine years old; and

WHEREAS, Ms. Bernhardt is a magnificent artist, who sold many paintings out of her painting studio in her garage; and

WHEREAS, Ms. Bernhardt currently resides at St. Joseph Villa at 2305 South 10th Street in Omaha, Nebraska.

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

1. That the Legislature of the State of Nebraska wishes Ms. Yolanda Bernhardt a very happy one hundred and sixth birthday.

2. That a copy of this resolution be provided to Ms. Bernhardt.

Laid over.

### ANNOUNCEMENT

The Nebraska Retirement Systems Committee designates LB 503 as its priority bill.

**UNANIMOUS CONSENT - Add Cointroducers**

Senators Foley and Dw. Pedersen asked unanimous consent to have their names added as cointroducers to LB 64. No objections. So ordered.

Senator Combs asked unanimous consent to have her name added as cointroducer to LB 332. No objections. So ordered.

Senator Jensen asked unanimous consent to have his name added as cointroducer to LB 542. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Senator Louden's wife, SharonAnn Louden, and Harry and Lee Ann Merrihew from Ashby; Shirley Petsche from Petersburg; and 35 seventh grade students and teacher from Cross County Community Schools, Benedict.

**ADJOURNMENT**

At 12:00 p.m., on a motion by Senator Aguilar, the Legislature adjourned until 9:00 a.m., Thursday, February 3, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

