

TWENTY-FIRST DAY - FEBRUARY 4, 2005**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
FIRST SESSION****TWENTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, February 4, 2005

PRAYER

The prayer was offered by Senator Kruse.

ROLL CALL

Pursuant to adjournment, the Legislature met at 11:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Combs, McDonald, and Thompson who were excused; and Senators Aguilar, Brown, Byars, Connealy, Heidemann, Jensen, Mines, Dw. Pedersen, Price, Smith, and Stuthman who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twentieth day was approved.

**SELECT COMMITTEE REPORTS
Enrollment and Review**

LEGISLATIVE BILL 119. Placed on Select File as amended.

E & R amendment to LB 119:

AM7006

- 1 1. On page 1, line 3, strike "44-789,"; in line 5 strike
- 2 "44-5418,"; in line 10 strike "bone or joint treatment and"; and in
- 3 line 12 strike ", investments, and utilization review" and insert
- 4 "and investments".
- 5 2. On page 2, line 3, after "provide" insert "and
- 6 eliminate"; in line 4 strike "insolvency, reinsurance," and insert
- 7 "reinsurance"; and in line 6 after the semicolon insert "to provide
- 8 requirements for mandatory coverage and services;".
- 9 3. On page 9, line 5; page 10, lines 21 and 27; page 71,
- 10 line 14; page 76, line 5; page 80, line 18; and page 81, lines 2
- 11 and 3, strike "31 to 36" and insert "29 to 34".
- 12 4. On page 13, line 27, after "the" insert "individual
- 13 or".

- 14 5. On page 15, line 1, strike "group" and show as
15 stricken.
- 16 6. On page 16, line 3, after the first comma insert "as
17 such chapter existed".
- 18 7. On page 25, line 7, after "a" insert "clearing"; and
19 in line 23 strike "act" and insert "Insurers Investment Act".
- 20 8. On page 26, line 8, strike "this act" and insert "the
21 Insurers Investment Act"; and in line 19 strike "Equity" and insert
22 "Entry".
- 23 9. On page 27, lines 10 through 16, renumber
24 subdivisions (13) and (14) as subdivisions (14) and (13),
1 respectively.
- 2 10. On page 29, line 6, after the second "corporation"
3 insert an underscored comma.
- 4 11. On page 35, line 16, after "thereof" insert an
5 underscored comma.
- 6 12. On page 52, lines 6 and 13, strike "34" and insert
7 "32".
- 8 13. On page 53, line 17, strike "26" and insert "24".
- 9 14. On page 58, line 22, strike "the" and insert "such".
- 10 15. On page 59, line 2, after "intermediate" insert
11 "stock".
- 12 16. On page 73, line 23, strike "statute" and insert
13 "section".
- 14 17. On page 76, line 23, and page 79, line 8, strike the
15 semicolon and insert an underscored comma.
- 16 18. On page 79, line 1, strike "32" and insert "30".
- 17 19. On page 80, line 4, strike "33" and insert "31" and
18 strike "U.S." and insert "United States"; in line 6 after "or"
19 insert an underscored comma; and in line 12 strike "director" and
20 insert "Director of Insurance".
- 21 20. On page 101, line 15, strike "compact" and insert
22 "Act".
- 23 21. On page 110, line 6, strike "40 to 42" and insert
24 "38 to 40".
- 25 22. On page 111, line 27, strike "director" and insert
26 "Director of Insurance".
- 27 23. On page 112, line 2, strike "Director of Insurance"
1 and insert "director".
- 2 24. On page 113, line 4, after the semicolon insert
3 "and".

LEGISLATIVE BILL 33. Placed on Select File.

LEGISLATIVE BILL 21. Placed on Select File as amended.

E & R amendment to LB 21:

AM7002

- 1 1. On page 1, line 3, after "on" insert "and provide
2 requirements for"; and in line 4 strike "and" and after "section"

3 insert "; and to declare an emergency".

LEGISLATIVE BILL 261. Placed on Select File.

LEGISLATIVE BILL 169. Placed on Select File as amended.

E & R amendment to LB 169:

AM7003

- 1 1. In the Standing Committee amendment, AM0013, on page
- 2 1, line 19, after "warrants" insert an underscored comma.

LEGISLATIVE BILL 52. Placed on Select File as amended.

E & R amendment to LB 52:

AM7007

- 1 1. On page 1, line 1, after the comma insert
- 2 "75-903.02,"; in line 3 after "88-528" insert ", 88-528.01,"; and
- 3 in line 4 strike "2003" and insert "2004".
- 4 2. On page 5, line 13; and page 6, line 18, strike
- 5 "2003" and insert "2004".
- 6 3. On page 7, line 9, strike the comma, show as
- 7 stricken, and insert "or", strike the first "or", show as stricken,
- 8 and insert an underscored comma, after "lessee" insert an
- 9 underscored comma, and after "employee" insert "thereof"; and in
- 10 line 11 strike the first comma and insert "or" and after the last
- 11 comma insert "or".

LEGISLATIVE BILL 61. Placed on Select File.

LEGISLATIVE BILL 89. Placed on Select File.

LEGISLATIVE BILL 175. Placed on Select File as amended.

E & R amendment to LB 175:

AM7004

- 1 1. In lieu of the Chambers amendment, FA6, on page 3,
- 2 line 15, strike beginning with the first comma through the second
- 3 comma and show as stricken.

LEGISLATIVE BILL 176. Placed on Select File.

LEGISLATIVE BILL 301. Placed on Select File as amended.

E & R amendment to LB 301:

AM7008

- 1 1. Strike original section 67 and insert the following
- 2 new section:
- 3 "Sec. 75. Sections 8, 12 to 20, 30 to 40, 44 to 51, 53
- 4 to 64, 70 to 74, and 77 of this act become operative on July 1,
- 5 2005. Sections 1 to 7, 9 to 11, 21 to 29, 41 to 43, 52, 67 to 69,
- 6 and 76 of this act become operative three calendar months after the
- 7 adjournment of this legislative session. The other sections of
- 8 this act become operative on their effective date."
- 9 2. On page 1, line 8, after the first comma insert

- 10 "71-4737 to 71-4744," and strike "71-5653,"; and in line 11 after
 11 the first comma insert "71-5653,".
 12 3. On page 2, strike beginning with "Women's" in line 1
 13 through the semicolon in line 3 and insert "immunodeficiency
 14 syndrome program, the Women's Health Initiative of Nebraska, the
 15 Infant Hearing Act, the Office of Rural Health, the tobacco-related
 16 public health program, and the Native American public health
 17 program;".
 18 4. On page 23, line 17, before "secure" insert "shall".
 19 5. On page 66, line 22; and page 67, line 14, reinstate
 20 the stricken matter.
 21 6. On page 75, line 26, after the second comma insert
 22 "71-4737 to 71-4744," and strike "71-5653,"; and in line 28 strike
 23 "section" and insert "sections 71-5653 and".

LEGISLATIVE BILL 96. Placed on Select File as amended.

E & R amendment to LB 96:

AM7005

- 1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. Section 85-505, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 85-505. Any member of the Nebraska National Guard who
 6 enrolls in any state-supported university, college, or community
 7 college or any independent, not-for-profit, regionally accredited
 8 college or university in this state shall be entitled to a credit
 9 of ~~seventy-five~~ up to one hundred percent of the resident tuition
 10 charges of such school, except that any member who attends an
 11 independent, not-for-profit, regionally accredited college or
 12 university in this state shall receive a credit in an amount no
 13 higher than that person would receive if he or she attended the
 14 University of Nebraska-Lincoln. Such entitlement shall be for a
 15 period of ten years from the date of the member's initial
 16 membership so long as the member maintains satisfactory performance
 17 with the guard and pursues his or her course of study in such
 18 institution in a manner which satisfies the normal requirements of
 19 the institution. ~~Any member entitled to a credit of seventy-five~~
 20 ~~percent of resident tuition charges and enrolled in the tuition~~
 21 ~~credit program as of October 1, 1992, shall on and after May 27,~~
 22 ~~1999, be entitled to the credit at such rate until completion of~~
 23 ~~the educational program in which he or she is enrolled on October~~
 24 ~~1, 1992, so long as the member maintains satisfactory performance~~
 1 ~~with the guard and pursues his or her course of study in such~~
 2 ~~institution in a manner which satisfies the normal requirements of~~
 3 ~~the institution.~~
 4 The number of individuals granted tuition credit shall
 5 not exceed the number specified in section 85-505.01 during any
 6 fiscal year, ~~and the amount of tuition credits granted shall not~~
 7 ~~exceed nine hundred thousand dollars during any fiscal year.~~ When

8 determining to whom such tuition credit shall be awarded, priority
 9 shall be given to those individuals who have previously received
 10 tuition credits while a National Guard member, and the Nebraska
 11 National Guard shall apply those program qualifications and
 12 limitations consistent with efficient and effective program
 13 management as determined by the Adjutant General.
 14 Sec. 2. Original section 85-505, Reissue Revised
 15 Statutes of Nebraska, is repealed."

(Signed) Michael Flood, Chairperson

STANDING COMMITTEE REPORT
Transportation and Telecommunications

LEGISLATIVE BILL 274. Placed on General File as amended.
 (Standing Committee amendment, AM0244, is printed separately and
 available in the Bill Room, Room 1104.)

(Signed) Tom Baker, Chairperson

NOTICE OF COMMITTEE HEARINGS
Transportation and Telecommunications
 Room 1113

LB 639	Monday, February 14, 2005	1:30 p.m.
LB 202	Monday, February 14, 2005	1:30 p.m.
LB 63	Monday, February 14, 2005	1:30 p.m.
LB 185	Monday, February 14, 2005	1:30 p.m.
LB 106	Monday, February 14, 2005	1:30 p.m.
LB 715	Tuesday, February 15, 2005	1:30 p.m.
LB 343	Tuesday, February 15, 2005	1:30 p.m.

(Signed) Tom Baker, Chairperson

Business and Labor
 Room 1524

LB 166	Monday, February 14, 2005	1:30 p.m.
LB 237	Monday, February 14, 2005	1:30 p.m.
LB 433	Monday, February 14, 2005	1:30 p.m.
LB 524	Monday, February 14, 2005	1:30 p.m.
LB 434	Monday, February 14, 2005	1:30 p.m.
LB 435	Monday, February 14, 2005	1:30 p.m.
LB 554	Monday, February 14, 2005	1:30 p.m.

(Signed) Douglas Cunningham, Chairperson

STANDING COMMITTEE REPORT
Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

James J. Ziebarth - Game and Parks Commission

VOTE: Aye: Senators Hudkins, Kopplin, Kremer, Loudon, McDonald, Schrock, Smith, Stuhr. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

MESSAGE FROM THE GOVERNOR

February 3, 2005

President, Speaker Brashear,
Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

The following individual has been appointed to the Nebraska Accountability and Disclosure Commission in accordance to statute 49-14,112 and the names provided by the Legislature:

Judy Schweikart, 680 North 58th Street, Omaha NE 68132, 402-566-4102 (h) or 402-346-6000 (w)

Sincerely,
(Signed) Dave Heineman
Governor

web/

COMMUNICATION

Received a copy of House Concurrent Resolution No. 36 from the State of Louisiana to urge and request the state legislatures in the United States to oppose legislation to participate in the Interstate Insurance Product Regulation Compact.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 3, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

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

Amack, Angela K.
South Platte United Chambers of Commerce

American Communications Group, Inc.
Yes for Smoke Free Air Committee

Anania, Laura
Great Plains Paralyzed Veterans of America

Bromm, Curt
City of La Vista

Campbell, Mary M./Campbell & Associates
Nurse Executives, Nebraska Organization of (Withdrawn 01/27/2005)

Cavanaugh Law Firm, PC, LLO
National Confectioners Association

Dierks, Merton L.
Livestock Markets Association, Nebraska
Save Boyd County

Goc, John J.
Keno Operators Association, Nebraska
Operational Services, LLC

Hill, Denise A.
Berkshire Hathaway Homestate Companies

Jensen, Ronald L.
National Rifle Association Institute for Legislative Action

Kissel/Erickson & Sederstrom Associates, LLC
WebMD

Kleinschmit, Martin
Center for Rural Affairs

McGuire, Mark D.
Crow Butte Resources, Inc.

Overcash, James A.
Electrical Contractors Association, National

Parker, David R.
Great West Casualty Company

Ruth Mueller Robak LLC
Cingular Wireless LLC

Vickers, Tom
Nurse Executives, Nebraska Organization of

REPORTS

The following reports were received by the Legislature:

Geographic Information Systems (GIS) Steering Committee

Annual Report and Strategic Plan Update of Building a Spatial Data Infrastructure for Nebraska

Health and Human Services System

State Disbursement Unit Report

Investment Finance Authority

2002 Series A, B, C, D, E and F Community Development Loan Notes
(City of Lincoln Program-2002) Quarterly Report

Drinking Water State Revolving Fund Revenue Bonds Series 2004 A

Revenue, Department of

Charitable Gaming Division 2004 Annual Report

GENERAL FILE

LEGISLATIVE BILL 383. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 7 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 216. Title read. Considered.

The Standing Committee amendment, AM0042, found on page 337, was adopted with 28 ayes, 0 nays, 8 present and not voting, and 13 excused and not voting.

Senator Landis renewed his pending amendment, AM0216, found on page 419.

The Landis amendment was adopted with 31 ayes, 0 nays, 7 present and not voting, and 11 excused and not voting.

Senators Landis and Brashear offered the following amendment:

FA11

On page 14, line 2, following "activity" insert "or a membership constituting an admission pursuant to this subdivision"

The Landis-Brashear amendment was adopted with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 334. Title read. Considered.

The Standing Committee amendment, AM0056, found on page 337, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 37. Title read. Considered.

Pending.

NOTICE OF COMMITTEE HEARINGS

Agriculture
Room 2102

LB 517	Tuesday, February 22, 2005	1:30 p.m.
LB 673	Tuesday, February 22, 2005	1:30 p.m.
Tuesday, February 22, 2005		1:30 p.m.
Tamas R. Allan - Nebraska State Fair Board		
LB 131	Tuesday, March 1, 2005	1:30 p.m.
LB 440	Tuesday, March 1, 2005	1:30 p.m.

(Signed) Bob Kremer, Chairperson

Education
Room 1525

LB 270	Monday, February 14, 2005	1:30 p.m.
LB 285	Monday, February 14, 2005	1:30 p.m.
LB 561	Monday, February 14, 2005	1:30 p.m.
LB 627	Monday, February 14, 2005	1:30 p.m.
LB 636	Monday, February 14, 2005	1:30 p.m.
LB 142	Tuesday, February 15, 2005	1:30 p.m.
LB 145	Tuesday, February 15, 2005	1:30 p.m.
LB 304	Tuesday, February 15, 2005	1:30 p.m.
LB 717	Tuesday, February 15, 2005	1:30 p.m.
LB 95	Monday, February 28, 2005	1:30 p.m.
LB 326	Monday, February 28, 2005	1:30 p.m.
LB 327	Monday, February 28, 2005	1:30 p.m.

LB 357	Monday, February 28, 2005	1:30 p.m.
LR 1CA	Monday, February 28, 2005	1:30 p.m.
LR 24CA	Monday, February 28, 2005	1:30 p.m.
Monday, February 28, 2005		1:30 p.m.
M. Jane Keller - Board of Educational Lands and Funds		
LB 314	Tuesday, March 1, 2005	1:30 p.m.
LB 681	Tuesday, March 1, 2005	1:30 p.m.
LB 690	Tuesday, March 1, 2005	1:30 p.m.
LB 380	Tuesday, March 1, 2005	1:30 p.m.
LB 583	Tuesday, March 1, 2005	1:30 p.m.
LB 138	Monday, March 14, 2005	1:30 p.m.
LB 303	Monday, March 14, 2005	1:30 p.m.
LB 449	Monday, March 14, 2005	1:30 p.m.
LB 460	Monday, March 14, 2005	1:30 p.m.
LB 556	Monday, March 14, 2005	1:30 p.m.
LB 624	Monday, March 14, 2005	1:30 p.m.
LB 146	Tuesday, March 15, 2005	1:30 p.m.
LB 239	Tuesday, March 15, 2005	1:30 p.m.
LB 497	Tuesday, March 15, 2005	1:30 p.m.
LB 527	Tuesday, March 15, 2005	1:30 p.m.
LB 596	Tuesday, March 15, 2005	1:30 p.m.
LB 622	Tuesday, March 15, 2005	1:30 p.m.

(Signed) Ron Raikes, Chairperson

STANDING COMMITTEE REPORTS

Education

LEGISLATIVE BILL 114. Placed on General File as amended.
Standing Committee amendment to LB 114:
AM0247

- 1 1. On page 2, line 25, strike "2005-06" and insert
- 2 "2006-07"; and in line 26 strike "or" and insert ", a physician
- 3 assistant, an advanced practice registered nurse, or an".

(Signed) Ron Raikes, Chairperson

Revenue

LEGISLATIVE BILL 44. Placed on General File as amended.
Standing Committee amendment to LB 44:
AM0248

- 1 1. On page 4, lines 27 and 28, strike "six thousand" and
- 2 insert "five thousand five hundred".
- 3 2. On page 15, line 21, strike "2006" and insert "2007".

LEGISLATIVE BILL 90. Placed on General File as amended.
 Standing Committee amendment to LB 90:
 AM0249

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 66-1345.04, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 66-1345.04. (1) The State Treasurer shall transfer from
- 5 the General Fund to the Ethanol Production Incentive Cash Fund, on
- 6 or before the end of each of fiscal years 1995-96 and 1996-97,
- 7 \$8,000,000 per fiscal year.
- 8 (2) It is the intent of the Legislature that the
- 9 following General Fund amounts be appropriated to the Ethanol
- 10 Production Incentive Cash Fund in each of the following years:
- 11 (a) For each of fiscal years 1997-98 and 1998-99,
- 12 \$7,000,000 per fiscal year;
- 13 (b) For fiscal year 1999-2000, \$6,000,000;
- 14 (c) For fiscal year 2000-01, \$5,000,000; ~~and~~
- 15 (d) For fiscal year 2001-02 and for each of fiscal years
- 16 2003-04 through 2007-08, \$1,500,000; ~~and~~
- 17 (e) For fiscal year 2006-07, \$2,500,000 in addition to
- 18 the amount in subdivision (2)(d) of this section.
- 19 It is further the intent of the Legislature that the
- 20 \$1,500,000 General Fund appropriation that was not made in fiscal
- 21 year 2002-03 as a result of changes made by Laws 2002, LB 1,
- 22 Ninety-seventh Legislature, Second Special Session, be reimbursed
- 23 to the Ethanol Production Incentive Cash Fund by June 30, 2008".
- 24 2. On page 3, line 23, after "Original" insert "section
- 1 66-1345.04, Reissue Revised Statutes of Nebraska, and"; and in line
- 2 24 strike "is" and insert "are".
- 3 3. Renumber the remaining section accordingly.

(Signed) David Landis, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 217. Placed on General File as amended.
 Standing Committee amendment to LB 217:
 AM0278

- 1 1. On page 2, line 13; and page 3, lines 17 and 18,
- 2 strike "and storm water drainage".
- 3 2. On page 3, lines 2 and 3, strike "natural resources
- 4 district"; and in line 11 after "aid" insert "Governing body
- 5 does not include a natural resources district".

LEGISLATIVE BILL 227. Placed on General File as amended.
 Standing Committee amendment to LB 227:
 AM0062

- 1 1. On page 3, strike beginning with "Only" in line 15

- 2 through the period in line 17, show as stricken, and insert "No
 3 portion of the principal of the Nebraska Veteran Cemetery System
 4 Endowment Fund shall be expended for any purpose except investment
 5 pursuant to this subdivision."; in line 20 strike the new matter;
 6 and strike beginning with "Except" in line 26 through line 28 and
 7 show the old matter as stricken.
- 8 2. On page 4, strike lines 1 through 4.

(Signed) DiAnna R. Schimek, Chairperson

Health and Human Services

LEGISLATIVE BILL 174. Placed on General File.

LEGISLATIVE BILL 25. Placed on General File as amended.

Standing Committee amendment to LB 25:

AM0221

- 1 1. Strike the original sections and insert the following
 2 new sections:
 3 "Section 1. Section 71-374, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 71-374. (1) ~~Except as provided in subsection (2) of this~~
 6 ~~section~~ Until October 1, 2005, the board shall be composed of
 7 eleven members. On and after October 1, 2005, the board shall be
 8 composed of twelve members. The board shall include ; including
 9 two school owners, one esthetician, one licensed instructor, two
 10 laypersons, one cosmetologist who is a salon owner and who is not a
 11 school owner, one electrologist who is not a licensed
 12 cosmetologist, one nail technician, and two cosmetologists who are
 13 not school owners, and one practitioner of body art as provided in
 14 this section. The professional members shall be licensed in
 15 Nebraska and maintain such license as well as their establishment
 16 licenses in good standing. No members of the board who are school
 17 owners, salon owners, electrologists, nail technicians,
 18 instructors, or cosmetologists, or practitioners of body art may be
 19 affiliated with the same establishment.
 20 (2) ~~By October 1, 1999, the State Board of Health shall~~
 21 ~~appoint one nail technician for a five-year term. The initial nail~~
 22 ~~technician member must be eligible for licensure and obtain a nail~~
 23 ~~technician license by January 1, 2000, to remain eligible to serve~~
 24 ~~on the board.~~
 1 (3) ~~By October 1, 2002~~ 2005, the State Board of Health
 2 shall appoint one ~~esthetician~~ practitioner of body art for a
 3 five-year term.
 4 (4) (3) Members of the board shall be appointed by the
 5 State Board of Health from among nominees submitted by professional
 6 associations and other interested parties. A person may nominate
 7 himself or herself.
 8 (5) (4) The State Board of Health may remove a member of

9 the board for physical or mental incapacity to carry out the duties
10 of a board member, for continued neglect of duty, for incompetency,
11 for acting beyond the individual member's scope of authority, for
12 malfeasance in office, for any cause for which a professional
13 license in the profession involved may be suspended or revoked
14 under the Nebraska Cosmetology Act, or for a lack of licensure in
15 the profession involved.

16 ~~(6)~~ (5) Vacancies on the board shall be filled in the
17 same manner as original appointments for the remainder of the
18 unexpired term only.

19 ~~(7)~~ (6) Members of the board, ~~other than the initial~~
20 ~~members unless otherwise specifically provided~~, shall serve for
21 five-year terms, and no member shall serve for more than two
22 consecutive terms excluding any partial term for which he or she
23 may have been appointed.

24 Sec. 2. Section 71-375, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-375. (1) Until October 1, ~~1999~~ 2005, any ~~five~~ six
27 members of the board shall constitute a quorum for routine
1 business, except that for matters requiring professional judgment
2 of competency or standards of professional conduct, a quorum shall
3 consist of any ~~four~~ five professional members.

4 (2) On and after October 1, ~~1999~~ 2005, any ~~six~~ seven
5 members of the board shall constitute a quorum for routine
6 business, except that for matters requiring professional judgment
7 of competency or standards of professional conduct, a quorum shall
8 consist of any ~~five~~ six professional members.

9 (3) The board shall meet at least twice a year and more
10 often at the call of the chairperson or (a) until October 1, ~~1999~~
11 2005, any ~~four~~ five members or (b) on and after October 1, ~~1999~~
12 2005, any ~~five~~ six members.

13 (4) The board shall select officers from among its
14 members, including a chairperson, vice-chairperson, and secretary.

15 (5) Members of the board shall be paid for their expenses
16 as provided in sections 81-1174 to 81-1177 and shall in addition
17 receive a per diem of fifty dollars.

18 Sec. 3. Section 71-3,177, Revised Statutes Supplement,
19 2004, is amended to read:

20 71-3,177. Each of the following may be considered an act
21 of unprofessional conduct when committed by a person licensed or
22 registered under the Nebraska Cosmetology Act:

23 (1) Performing any of the practices regulated under the
24 Nebraska Cosmetology Act for which an individual is not licensed or
25 registered;

26 (2) Obstructing, interfering, or failing to cooperate
27 with an inspection or investigation conducted by an authorized
1 representative of the department when acting in accordance with the
2 Nebraska Cosmetology Act;

3 (3) Failing to report to the department a suspected

- 4 violation of the Nebraska Cosmetology Act;
- 5 (4) Aiding and abetting an individual to practice any of
6 the practices regulated under the Nebraska Cosmetology Act for
7 which he or she is not licensed or registered;
- 8 (5) Engaging in any of the practices regulated under the
9 Nebraska Cosmetology Act for compensation in an unauthorized
10 location;
- 11 (6) Engaging in the practice of any healing art or
12 profession for which a license is required without holding such a
13 license;
- 14 (7) Enrolling a student or an apprentice without
15 submitting a complete student entrance notification to the
16 department;
- 17 (8) Knowingly falsifying any student or apprentice record
18 or report;
- 19 (9) Initiating or continuing home services to a client
20 who does not meet the criteria established in the Nebraska
21 Cosmetology Act;
- 22 (10) Knowingly issuing a certificate of completion or
23 diploma to a student or an apprentice who has not completed all
24 requirements for the issuance of such document;
- 25 (11) Failing, by a school of cosmetology, a nail
26 technology school, a school of esthetics, or an apprentice salon,
27 to follow its published rules;
- 1 (12) Violating, by a school of cosmetology, nail
2 technology school, or school of esthetics, any federal or state law
3 involving the operation of a vocational school or violating any
4 federal or state law involving participation in any federal or
5 state loan or grant program;
- 6 (13) Knowingly permitting any person under supervision to
7 violate any law, rule, or regulation or knowingly permitting any
8 establishment or facility under supervision to operate in violation
9 of any law, rule, or regulation;
- 10 (14) Receiving two unsatisfactory inspection reports
11 within any sixty-day period;
- 12 (15) Engaging in any of the practices regulated under the
13 Nebraska Cosmetology Act while afflicted with any active case of a
14 serious contagious disease, infection, or infestation, as
15 determined by the department, or in any other circumstances when
16 such practice might be harmful to the health or safety of clients;
- 17 (16) Violating any rule or regulation relating to the
18 practice of body art; and
- 19 (17) ~~Performing body art on or to any person under~~
20 ~~eighteen years of age (a) without the prior written consent of the~~
21 ~~parent or court appointed guardian of such person, (b) without the~~
22 ~~presence of such parent or guardian during the procedure, or (c)~~
23 ~~without retaining a copy of such consent for a period of five years~~
24 Applying a tattoo, brand, or permanent color on or to any person
25 under eighteen years of age or performing body piercing on any

26 person under sixteen years of age.

27 Sec. 4. Section 71-3,236, Revised Statutes Supplement,
 1 2004, is amended to read:

2 71-3,236. No person shall ~~perform body art~~ apply a
 3 tattoo, brand, or permanent color on or to any person under
 4 eighteen years of age. No person shall perform body piercing on
 5 any person under sixteen years of age. Violation of this section
 6 constitutes grounds for immediate suspension of the license to
 7 engage in any of the practices of body art of the person committing
 8 the violation. without the prior written consent of the parent or
 9 court appointed guardian of such person. The person giving such
 10 consent must be present during the procedure. A copy of such
 11 consent shall be retained for a period of five years by the person
 12 performing such body art. Nothing in this section shall be
 13 construed to require the performance of body art on a person under
 14 eighteen years of age. Violation of this section is a Class III
 15 misdemeanor.

16 Sec. 5. Original sections 71-374 and 71-375, Reissue
 17 Revised Statutes of Nebraska, and sections 71-3,177 and 71-3,236,
 18 Revised Statutes Supplement, 2004, are repealed."

LEGISLATIVE BILL 177. Placed on General File as amended.

Standing Committee amendment to LB 177:

AM0242

1 1. On page 2, line 12; and page 3, line 22, reinstate
 2 the stricken matter.

3 2. On page 2, line 13; and page 3, line 23, after
 4 "jurisdiction" insert "and sufficient training as determined by
 5 the Board of Medicine and Surgery for physicians or the Board of
 6 Psychologists for psychologists, in consultation with the Board of
 7 Alcohol and Drug Counseling, and adopted and promulgated by the
 8 department in rules and regulations".

LEGISLATIVE BILL 26. Indefinitely postponed.

LEGISLATIVE BILL 27. Indefinitely postponed.

LEGISLATIVE BILL 338. Indefinitely postponed.

LEGISLATIVE BILL 339. Indefinitely postponed.

(Signed) Jim Jensen, Chairperson

AMENDMENT - Print in Journal

Senator Landis filed the following amendment to LB 298:

(Amendment, AM0250, is printed separately and available in the Bill Room, Room 1104.)

VISITORS

Visitors to the Chamber were Senator Cornett's husband, Mark Stranglen,

from Bellevue.

The Doctor of the Day was Dr. Jon Hinrichs from Lincoln.

MOTION - Adjournment

Senator Wehrbein moved to adjourn until 10:00 a.m., Monday, February 7, 2005.

Senator Chambers requested a roll call vote on the motion to adjourn.

The Wehrbein motion to adjourn prevailed with 26 ayes, 6 nays, 10 present and not voting, and 7 excused and not voting, and at 12:06 p.m., the Legislature adjourned until 10:00 a.m., Monday, February 7, 2005.

Patrick J. O'Donnell
Clerk of the Legislature