

FORTY-FOURTH DAY - MARCH 15, 2005**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
FIRST SESSION****FORTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 15, 2005

PRAYER

The prayer was offered by Senator Kruse.

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 Louden, D. Pederson, Raikes, and Thompson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-third day was approved.

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

The following bills were correctly engrossed: LBs 10, 76, 94, 198, 211, 211A, 236, 238, 262, 284, 298, 335, and 355.

ER9009

Enrollment and Review Change to LB 76

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

1. In the Beutler amendment, FA80, "of Motor Vehicles" has been inserted after "Department".

2. In the Baker amendment, AM0699, on page 12, line 20, "of" has been inserted after "issuance".

3. On page 1, lines 2 through 7 have been struck and "60-462.01, 60-465, 60-484, 60-490, 60-4,131, 60-4,132, 60-4,137, 60-4,141, 60-4,143, 60-4,144, 60-4,149.01, 60-4,159, and 60-4,168, Reissue Revised Statutes of

Nebraska, and section 29-3608, Revised Statutes Supplement, 2004; to change provisions relating to commercial driver's licenses; to adopt federal provisions for commercial motor vehicles; to change provisions relating to transporting hazardous materials; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency." inserted.

ER9008

Enrollment and Review Change to LB 335

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

1. On page 1, the matter beginning with "the" in line 1 through line 5 has been struck and "water; to amend sections 31-1015, 33-105, 46-241, 46-677, 46-686, 46-688, 46-690, 54-2429, and 61-210, Reissue Revised Statutes of Nebraska, and section 2-3257, Revised Statutes Supplement, 2004; to adopt the Safety of Dams and Reservoirs Act; to provide and eliminate penalties; to eliminate provisions relating to dam inspections; to provide an exemption as prescribed under the Industrial Ground Water Regulatory Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 46-257, 46-277, and 46-278, Reissue Revised Statutes of Nebraska." inserted.

(Signed) Michael Flood, Chairperson

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 4. Placed on General File.
LEGISLATIVE BILL 57. Placed on General File.
LEGISLATIVE BILL 100. Placed on General File.
LEGISLATIVE BILL 148. Placed on General File.
LEGISLATIVE BILL 409. Placed on General File.
LEGISLATIVE BILL 455. Placed on General File.

LEGISLATIVE BILL 758. Placed on General File as amended.

Standing Committee amendment to LB 758:

AM0320

1 1. Strike the original sections and insert the following
2 new sections:
3 "Section 1. Section 64-108, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 64-108. Every notary public, when notice by a party to
6 any civil suit pending in any court of this state upon any adverse
7 party for the taking of any testimony of witnesses by deposition,
8 or any commission to take testimony of witnesses to be preserved
9 for use in any suit thereafter to be commenced, has been deposited
10 with him or her, or when a special commission issued out of any

11 court of any state or country without this state, together with
 12 notice for the taking of testimony by depositions or commissions,
 13 has been deposited with him or her, is empowered to issue summons
 14 and command the presence before him or her of witnesses, ~~and to~~
 15 ~~punish witnesses for neglect or refusal to obey such summons, or~~
 16 ~~for refusal to testify when present, by commitment to the jail of~~
 17 ~~the county for contempt.~~ All sheriffs and constables in this state
 18 are required to serve and return all process issued by notaries
 19 public in the taking of testimony of witnesses by commission or
 20 deposition.

21 Sec. 2. Original section 64-108, Reissue Revised
 22 Statutes of Nebraska, is repealed."

(Signed) Patrick J. Bourne, Chairperson

GENERAL FILE

LEGISLATIVE BILL 206. Title read. Considered.

The Standing Committee amendment, AM0633, found on page 727, was considered.

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

FA84

Amend AM0633

Page 1, strike lines 21-24 and on page 2 strike lines 1-5 and insert "Strike 33."

The Chambers amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

RESOLUTIONS

LEGISLATIVE RESOLUTION 55. Introduced by Byars, 30.

WHEREAS, school bullying is a major problem in the United States and Nebraska; and

WHEREAS, almost thirty percent of the youth in the United States are estimated to be involved in bullying, either as a bully or as a victim; and

WHEREAS, an estimated one hundred sixty thousand students in kindergarten through twelfth grade miss school every day due to a fear of being bullied; and

WHEREAS, bullying can take many forms, including verbal and physical, and can happen in many places on and off school grounds; and

WHEREAS, the Nebraska Unicameral is addressing bullying in Nebraska through its consideration of a legislative bill requiring schools to adopt anti-bullying policies; and

WHEREAS, it is vitally important for Nebraska students, teachers, and school administrators to be aware of bullying, and to discuss the problem as a school community.

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

1. That the week of September 12-16, 2005, be designated as Nebraska School Bullying Awareness Week, with the intention that the issue of bullying and its prevention be discussed in Nebraska schools during that time.

2. That the Clerk of the Legislature send a copy of this resolution to Trent Steele and his students who are high ability learners in the Beatrice Middle School.

Laid over.

LEGISLATIVE RESOLUTION 56. Introduced by Byars, 30.

WHEREAS, on March 12, 2005, at the Bob Devaney Sports Center, the Beatrice High School Orangemen defeated Mount Michael thereby winning the 2005 Class B Nebraska State High School Boys' Basketball Championship; and

WHEREAS, the Orangemen finished their schedule 24-0 and were ranked number one all season long; and

WHEREAS, the 2004-05 boys' basketball season will always be remembered as the perfect season of play; and

WHEREAS, this achievement is the result of hard work, talent, and dedication by the team members, who were supported in their efforts by the parents, administrators, students, and teachers of Beatrice High School and the community.

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

1. That the Legislature congratulates the members of the 2004-05 Beatrice Orangemen basketball team.

2. That a copy of this resolution be presented to Orangemen Head Coach Jim Weeks.

Laid over.

LEGISLATIVE RESOLUTION 57. Introduced by Stuthman, 22.

WHEREAS, Lindsay Holy Family High School won the Class D-2 Boys' State Basketball championship with a 56-53 victory over Loomis; and

WHEREAS, Lindsay Holy Family compiled a 23-3 season record; and

WHEREAS, this game was the first championship rematch in any class

since 1989; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Lindsay Holy Family High School boys' basketball team be congratulated for their exemplary effort this season and in the Boys' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Head Coach Bob Schnitzler and Holy Family High School.

Laid over.

LEGISLATIVE RESOLUTION 58. Introduced by Heidemann, 1.

WHEREAS, the Syracuse Rockets won the Class C-1 Boys' State Basketball Championship; and

WHEREAS, the Rockets compiled a season record of twenty-four wins and two losses; and

WHEREAS, the Rockets' trip to the state championship game represented their fourth state title and the first since winning the Class B title in 1960; and

WHEREAS, we should continue to recognize the achievements of our young people in all positive areas of endeavor.

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

1. That Tim Reed, Pat Lechner, Brian Copley, Nate Kreifels, Scott Hrabik, Thomas Neemann, Kyle Kreifels, Casey Schrader, Tyler Neels, Chase Busekist, Austin Landwehr, and James Conradi be congratulated for their achievement in claiming the Class C-1 Boys' State Basketball Championship.

2. That coaches Mark Hrabik, Paul Mulcahy, and Trevor Hoegh be applauded for their efforts in teaching and providing guidance to the young men on the Rockets basketball team.

3. That a copy of this resolution be sent to Bradley Buller, Superintendent, Syracuse High School.

Laid over.

STANDING COMMITTEE REPORTS

Health and Human Services

LEGISLATIVE BILL 480. Placed on General File as amended.

Standing Committee amendment to LB 480:

AM0802

1 1. Strike the original sections and insert the following

2 new sections:

3 "Section 1. Section 71-5701, Reissue Revised Statutes of

4 Nebraska, is amended to read:

- 5 71-5701. Sections 71-5701 to 71-5713 shall be known and
6 may be cited as the Nebraska Clean Indoor Air Act.
- 7 Sec. 2. Section 71-5702, Reissue Revised Statutes of
8 Nebraska, is amended to read:
9 71-5702. The purpose of ~~sections 71-5701 to 71-5713~~ the
10 Nebraska Clean Indoor Air Act is to protect the public health,
11 comfort, and environment by prohibiting smoking in public places
12 and at public meetings except ~~in designated smoking areas as~~
13 otherwise provided in the act. Nothing in the act shall be
14 construed to restrict or prohibit a governing body of a county,
15 city, or village from establishing and enforcing ordinances at
16 least as stringent as, or more stringent than, the provisions of
17 the act.
- 18 Sec. 3. Section 71-5703, Reissue Revised Statutes of
19 Nebraska, is amended to read:
20 71-5703. For purposes of ~~sections 71-5701 to 71-5713~~ the
21 Nebraska Clean Indoor Air Act, ~~unless the context otherwise~~
22 ~~requires~~, the definitions found in sections 71-5704 to 71-5706
23 ~~shall be~~ are used.
- 24 Sec. 4. Section 71-5704, Reissue Revised Statutes of
1 Nebraska, is amended to read:
2 71-5704. Public place ~~shall mean~~ means any enclosed,
3 indoor area of an establishment used by the general public or
4 serving as a place of work which is usually frequented by the
5 general public, including, but not limited to, restaurants, retail
6 stores, offices and other commercial establishments, public
7 conveyances, educational facilities, hospitals, nursing homes,
8 auditoriums, arenas, and meeting rooms, but excluding private,
9 enclosed offices occupied exclusively by smokers even though such
10 offices may be visited by nonsmokers.
- 11 Sec. 5. Section 71-5705, Revised Statutes Supplement,
12 2004, is amended to read:
13 71-5705. Public meeting ~~shall mean~~ means all meetings as
14 defined in the Open Meetings Act.
- 15 Sec. 6. Section 71-5706, Reissue Revised Statutes of
16 Nebraska, is amended to read:
17 71-5706. Smoking ~~shall mean~~ means carrying a lighted
18 cigar, cigarette, pipe, or any other lighted smoking equipment.
- 19 Sec. 7. Section 71-5707, Revised Statutes Supplement,
20 2004, is amended to read:
21 71-5707. (1) No person shall smoke in a public place or
22 at a public meeting except in designated smoking areas. ~~This~~
23 ~~subsection does not apply in cases in which an entire room or hall~~
24 ~~is used for a private social function and seating arrangements are~~
25 ~~under the control of the sponsor of the function and not of the~~
26 ~~proprietor or person in charge of such room or hall.~~
- 27 (2) Smoking areas shall not be designated in an enclosed
1 indoor area of a restaurant.
2 (3) With respect to factories, warehouses, and similar

3 places of work not usually frequented by the general public, the
 4 Department of Health and Human Services Regulation and Licensure
 5 shall, in consultation with the Department of Labor, establish
 6 rules to restrict or prohibit smoking in those places of work where
 7 the close proximity of workers or the inadequacy of ventilation
 8 causes smoke pollution detrimental to the health and comfort of
 9 nonsmoking employees.

10 ~~(3)~~ (4) No person shall smoke at a site where child care
 11 programs required to be licensed under section 71-1911 are
 12 provided. This subsection applies to a child care ~~program~~ programs
 13 located in the home of the provider only during times when one or
 14 more client's children are present in any part of the home.

15 ~~(4)~~ (5)(a) Smoking is prohibited in all vehicles owned or
 16 leased by the state and in all buildings, and the area within ten
 17 feet of any entrance of such buildings, which are owned, leased, or
 18 occupied by the state except as provided in ~~subsections (5), (6),~~
 19 ~~and (7)~~ subsection (b) of this section.

20 ~~(5)~~ (b) The following buildings or areas within buildings
 21 in which persons reside or lodge may be exempt from this section:
 22 ~~(a)~~ (i) Nebraska veterans homes established pursuant to section
 23 80-315; ~~(b)~~ (ii) private residences; ~~(c)~~ (iii) facilities and
 24 institutions under the control of the Department of Health and
 25 Human Services; and ~~(d)~~ (iv) overnight lodging facilities and
 26 buildings managed by the Game and Parks Commission, ~~but no~~ except
 27 that smoking shall not be permitted in more than twenty-five
 1 percent of the overnight lodging facilities at each park location,
 2 shall permit smoking.

3 ~~(6)~~ Designated smoking areas not to exceed fifty percent
 4 of the space used by the public may be established in state-owned
 5 buildings at the Nebraska State Fairgrounds that possess a Class C,
 6 I, or M license for the sale of alcoholic liquor for consumption on
 7 the premises under the Nebraska Liquor Control Act.

8 ~~(7)~~ Smoking may be permitted in no more than forty
 9 percent of the residential housing rooms or units owned or leased
 10 on each campus under the control of the Board of Regents of the
 11 University of Nebraska or the Board of Trustees of the Nebraska
 12 State Colleges.

13 Sec. 8. Section 71-5708, Reissue Revised Statutes of
 14 Nebraska, is amended to read:

15 71-5708. (1) Smoking areas may be designated ~~by~~
 16 ~~proprietors or other persons in charge of~~ in public places, except
 17 in such places in which smoking is prohibited by the State Fire
 18 Marshal, by section 71-5707, or by other law, ordinance, or
 19 regulation.

20 (2) Where smoking areas are designated, existing physical
 21 barriers and ventilation systems shall be used to minimize the
 22 toxic effect of smoke in adjacent nonsmoking areas. If a public
 23 place consists of a single room, one side of the room shall be
 24 reserved and posted as a no smoking area. No public place other

25 than a bar or restaurant having a serving area of less than twelve
 26 hundred square feet shall be designated as a smoking area in its
 27 entirety. If a bar or restaurant having a serving area of less
 1 than twelve hundred square feet is designated as a smoking area in
 2 its entirety, such designation shall be posted conspicuously on all
 3 entrances normally used by the public.

4 (3) For purposes of this section, (a) bar means an
 5 establishment that serves alcoholic beverages, may provide limited
 6 food service, and prohibits the presence of minors, and (b) limited
 7 food service means the serving of only snack items or commercially
 8 prepared and wrapped foods that require little or no preparation.

9 Sec. 9. Section 71-5710, Reissue Revised Statutes of
 10 Nebraska, is amended to read:

11 71-5710. The Department of Health and Human Services
 12 Regulation and Licensure shall, ~~not later than January 1, 1980,~~
 13 adopt and promulgate rules and regulations necessary and reasonable
 14 to implement the provisions of sections 71-5701 to 71-5713 Nebraska
 15 Clean Indoor Air Act. The Department of Health and Human Services
 16 Regulation and Licensure shall consult with interested persons and
 17 professional organizations before promulgating such rules and
 18 regulations.

19 Sec. 10. Section 71-5711, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 71-5711. The Department of Health and Human Services
 22 Regulation and Licensure may, upon request, waive ~~the applicable~~
 23 provisions of sections 71-5701 to 71-5713 the Nebraska Clean Indoor
 24 Air Act if it determines that there are compelling reasons to do so
 25 and ~~a~~ that such waiver will not significantly affect the health and
 26 comfort of nonsmokers.

27 Sec. 11. Original sections 71-5701 to 71-5704, 71-5706,
 1 71-5708, 71-5710, and 71-5711, Reissue Revised Statutes of
 2 Nebraska, and sections 71-5705 and 71-5707, Revised Statutes
 3 Supplement, 2004, are repealed."

(Signed) Jim Jensen, Chairperson

Education

LEGISLATIVE BILL 460. Placed on General File.

(Signed) Ron Raikes, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 498. Placed on General File as amended.

Standing Committee amendment to LB 498:

AM0812

1 1. Insert the following new section:

2 "Sec. 10. The Nebraska Venture Capital Forum Act

- 3 terminates on December 31, 2007."
- 4 2. On page 2, line 1, strike "9" and insert "10".
- 5 3. Renumber the remaining section accordingly.

LEGISLATIVE BILL 655. Indefinitely postponed.

(Signed) Mick Mines, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 558. Placed on General File.

LEGISLATIVE BILL 587. Placed on General File.

LEGISLATIVE BILL 82. Placed on General File as amended.

(Standing Committee amendment, AM0666, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 288. Placed on General File as amended.

Standing Committee amendment to LB 288:

AM0769

- 1 1. Strike original section 10.
- 2 2. On page 4, strike beginning with "The" in line 25
- 3 through line 28.
- 4 3. On page 5, line 1, strike "public."; and strike
- 5 beginning with "or" in line 26 through "60-302" in line 27 and
- 6 insert "trailer, motorcycle, or commercial truck".
- 7 4. On page 13, line 22, strike "July 1, 2005" and insert
- 8 "January 1, 2006".

LEGISLATIVE BILL 438. Placed on General File as amended.

Standing Committee amendment to LB 438:

AM0768

- 1 1. On page 3, strike beginning with "or" in line 1
- 2 through "60-302" in line 2 and insert "trailer, motorcycle, or
- 3 commercial truck".

LEGISLATIVE BILL 663. Placed on General File as amended.

Standing Committee amendment to LB 663:

AM0800

- 1 1. Strike original section 4 and insert the following
- 2 new sections:
- 3 "Sec. 4. (1) For purposes of this section, a car club
- 4 means an organization that has members with expertise in authentic
- 5 vehicles and that has members with expertise in the restoration and
- 6 preservation of specific makes and models of vehicles using
- 7 replacement parts that are essentially the same in design and
- 8 material to that originally supplied by the manufacturer for a
- 9 specific year, make, and model of a vehicle.
- 10 (2) To become a recognized car club, a car club shall

11 apply to the Department of Motor Vehicles. A car club that desires
12 to become recognized must be a nonprofit organization with
13 established bylaws and at least twenty members. An applicant shall
14 provide a copy of the bylaws and a membership list to the
15 department. The department shall determine if a car club qualifies
16 as a recognized car club.

17 (3) A member of a recognized car club may apply to the
18 department to become a qualified car club representative to inspect
19 vehicles and replacement parts for purposes of issuing certificates
20 of title under section 3 of this act. Each qualified car club
21 representative shall be designated by the president or director of
22 the local chapter of the recognized car club of which he or she is
23 a member. The department may identify and maintain a list of
24 qualified car club representatives. A qualified car club

1 representative may apply to be placed on the list of qualified car
2 club representatives to inspect such vehicles and parts by
3 providing the department with his or her name, address, and
4 telephone number, the name, address, and telephone number of the
5 recognized car club he or she represents, a copy of the designation
6 of the representative by the president or director of the local
7 chapter of the recognized car club, and such other information as
8 required by the department. The department shall place a qualified
9 a car club representative on the list upon receipt of a complete
10 application and shall provide each representative with information
11 for inspection of such vehicles and parts. The department shall
12 distribute the list to county officials responsible for issuing
13 certificates of title.

14 (4) A qualified car club representative shall inspect
15 vehicles and replacement parts and determine whether all such parts
16 used in the assembly of a vehicle are original or essentially the
17 same in design and material to that originally supplied by the
18 manufacturer for the specific year, make, and model of the vehicle,
19 including the appropriate engine, body material, body shape, and
20 other requirements as prescribed by the department. After such
21 inspection, the representative shall provide the owner with a
22 statement which includes the findings of the inspection in the form
23 prescribed by the department. No qualified car club representative
24 may charge any fee for the inspection or the statement. No
25 qualified car club representative may provide a statement for any
26 vehicle owned by such representative or any member of his or her
27 immediate family.

1 (5) The Director of Motor Vehicles may summarily remove a
2 representative from the list of qualified car club representatives
3 upon written notice and for good cause shown. A representative may
4 reapply for inclusion on the list upon presentation of suitable
5 evidence satisfying the director that the cause for removal from
6 the list has been corrected, eliminated, no longer exists, or will
7 not affect or interfere with the representative's judgment or
8 qualifications for inspection of vehicles to determine whether or

- 9 not any replacement parts are essentially the same in design and
 10 material to that originally supplied by the original manufacturer
 11 for the specific year, make, and model of a vehicle.
 12 (6) The department may adopt and promulgate rules and
 13 regulations to carry out this section.
 14 Sec. 26. Section 60-311.18, Reissue Revised Statutes of
 15 Nebraska, is amended to read:
 16 ~~60-311.18.~~ Subject to land-use regulations of a county
 17 or municipality, a collector may store any vehicles, licensed or
 18 unlicensed, operable or inoperable, on his or her property if such
 19 vehicles and parts cars and any outdoor storage areas are
 20 maintained in such a manner that they do not constitute a health
 21 hazard; and if the vehicles are located away from ordinary public
 22 view or are screened from ordinary public view by means of a fence,
 23 rapidly growing trees, shrubbery, opaque covering, or other
 24 appropriate means."
 25 2. On page 10, line 1, strike "The", show as stricken,
 26 and insert "(a) Except as otherwise provided in subdivision (b) of
 27 this subsection, the"; after line 15 insert the following new
 1 subdivision:
 2 "(b) No vehicle identification number shall be required
 3 for a vehicle which was manufactured prior to 1940 and which does
 4 not have a vehicle identification number attached."; and in line 21
 5 after the period insert "No vehicle identification number shall be
 6 required for a vehicle which was manufactured prior to 1940 and
 7 which does not have a vehicle identification number attached.".
 8 3. On page 23, line 24; page 24, line 21; and page 28,
 9 line 11, strike "27" and insert "28".
 10 4. On page 28, line 18, strike "and 60-117" and insert
 11 "60-117, and 60-311.18"; and in line 21, after "to" insert
 12 "60-311.17 and 60-311.19 to".
 13 5. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 136. Indefinitely postponed.

The Transportation and Telecommunications 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.

Jess Hull - Nebraska Motor Vehicle Industry Licensing Board

VOTE: Aye: Senators Hudkins, Baker, Dw. Pedersen, Smith, Aguilar, Foley, Stuthman. Nay: None. Absent: Senator Brown.

The Transportation and Telecommunications 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.

Susan Heider - Nebraska Information Technology Commission

VOTE: Aye: Senators Baker, Smith, Foley, Stuthman, Aguilar, Dw. Pedersen, Hudkins. Nay: None. Absent: Senator Brown.

(Signed) Tom Baker, Chairperson

AMENDMENTS - Print in Journal

Senator Louden filed the following amendment to LB 739:
AM0813

(Amendments to Standing Committee amendments, AM0747)

- 1 1. On page 38, strike beginning with "primary" in line
2 21 through "(d)" in line 23 and show as stricken; and in line 25
3 strike "(e)", show as stricken, and insert "(d)".
- 4 2. On page 39, line 9, after "11" insert "and primary
5 insurance benefits payable under Title II of the Social Security
6 Act, as amended, or similar payments under any act of Congress".

Senator Kruse filed the following amendment to LB 107:
AM0786

- 1 1. Insert the following new section:
- 2 "Section 1. Section 53-132, Reissue Revised Statutes of
3 Nebraska, is amended to read:
- 4 53-132. (1) If no hearing is required pursuant to
5 subdivision (1)(a) or (b) of section 53-133 and the commission has
6 no objections pursuant to subdivision (1)(c) of such section, the
7 commission may waive the forty-five-day objection period and, if
8 not otherwise prohibited by law, cause a retail license or craft
9 brewery license to be signed by its chairperson, attested by its
10 executive director over the seal of the commission, and issued in
11 the manner provided in subsection (4) of this section as a matter
12 of course.
- 13 (2) A retail license or craft brewery license ~~shall~~ may
14 be issued to any qualified applicant if the commission finds that
15 (a) the applicant is fit, willing, and able to properly provide the
16 service proposed within the city, village, or county where the
17 premises described in the application are located, (b) the
18 applicant can conform to all provisions and requirements of and
19 rules and regulations adopted pursuant to the Nebraska Liquor
20 Control Act, (c) the applicant has demonstrated that the type of
21 management and control to be exercised over the premises described
22 in the application will be sufficient to insure that the licensed
23 business can conform to all provisions and requirements of and
24 rules and regulations adopted pursuant to the act, and (d) the
1 issuance of the license is or will be required by the present or
2 future public convenience and necessity.
- 3 (3) In making its determination pursuant to subsection

- 4 (2) of this section the commission shall consider:
 5 (a) The recommendation of the local governing body;
 6 (b) The existence of a citizens' protest made in
 7 accordance with section 53-133;
 8 (c) The existing population of the city, village, or
 9 county and its projected growth;
 10 (d) The nature of the neighborhood or community of the
 11 location of the proposed licensed premises;
 12 (e) The existence or absence of other retail licenses or
 13 craft brewery licenses with similar privileges within the
 14 neighborhood or community of the location of the proposed licensed
 15 premises;
 16 (f) The existing motor vehicle and pedestrian traffic
 17 flow in the vicinity of the proposed licensed premises;
 18 (g) The adequacy of existing law enforcement;
 19 (h) Zoning restrictions;
 20 (i) The sanitation or sanitary conditions on or about the
 21 proposed licensed premises; and
 22 (j) Whether the type of business or activity proposed to
 23 be operated in conjunction with the proposed license is and will be
 24 consistent with the public interest.
- 25 (4) Retail licenses or craft brewery licenses issued or
 26 renewed by the commission shall be mailed or delivered to the clerk
 27 of the city, village, or county who shall deliver the same to the
 1 licensee upon receipt from the licensee of proof of payment of (a)
 2 the license fee if by the terms of subdivision (5) of section
 3 53-124 the fee is payable to the treasurer of such city, village,
 4 or county, (b) any fee for publication of notice of hearing before
 5 the local governing body upon the application for the license, (c)
 6 the fee for publication of notice of renewal as provided in section
 7 53-135.01, and (d) occupation taxes, if any, imposed by such city,
 8 village, or county. Notwithstanding any ordinance or charter power
 9 to the contrary, no city, village, or county shall impose an
 10 occupation tax on the business of any person, firm, or corporation
 11 licensed under the act and doing business within the corporate
 12 limits of such city or village or within the boundaries of such
 13 county in any sum which exceeds two times the amount of the license
 14 fee required to be paid under the act to obtain such license.
- 15 (5) Each license shall designate the name of the
 16 licensee, the place of business licensed, and the type of license
 17 issued."
- 18 2. On page 5, line 16, strike "53-1,104" and insert
 19 "53-132, 53-1,104,".
- 20 3. Renumber the remaining sections accordingly.

Senator Howard filed the following amendment to LB 177:
 AM0014

- 1 1. Insert the following new section:
- 2 "Sec. 3. A person who is required to obtain a substance

3 dependence evaluation may have the evaluation conducted by a
 4 licensed alcohol and drug abuse counselor in such person's county
 5 of residence."

6 2. Renumber the remaining section accordingly.

ANNOUNCEMENT

Speaker Brashear designates LBs 4, 47, 101, 193, 218, 227, 237, 256, 274, 276, 389, 407, 465, 484, 505, 545, 557, 566, 664, 682, 683, 693, 703, 761, and LR 2CA as Speaker priority bills and resolution.

GENERAL FILE

LEGISLATIVE BILL 268. Title read. Considered.

SENATOR JANSSEN PRESIDING

SENATOR CUDABACK PRESIDING

Advanced to E & R for review with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 439. Title read. Considered.

The Standing Committee amendment, AM0628, found on page 755, was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 66, 66A, 71, 71A, 139, 264, and 441.

ER9011

Enrollment and Review Change to LB 71

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

1. In the Mines amendment, AM0627, on page 11, lines 8, 16, and 24; and page 12, line 7, the new matter has been struck and the stricken matter reinstated.

2. On page 1, the matter beginning with "economic" in line 1 through line

6 has been struck and "agriculture; to amend sections 58-202 and 58-242, Reissue Revised Statutes of Nebraska; to reenact the Agricultural Opportunities and Value-Added Partnerships Act; to provide a termination date; to modify provisions involving agricultural projects under the Nebraska Investment Finance Authority Act; to eliminate an obsolete provision; to repeal the original sections; to outright repeal sections 2-5401 to 2-5412 and 90-527, Revised Statutes Supplement, 2004; and to declare an emergency." inserted.

ER9014

Enrollment and Review Change to LB 139

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

1. On page 30, line 17, "the production, storage, and distribution of hydrogen," has been inserted after "energy".
2. On page 34, line 11, "hydrogen," has been inserted after "energy".

ER9010

Enrollment and Review Change to LB 441

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

1. On page 1, line 1, "section" has been struck and "sections 54-199 and" inserted; in line 2 "to change provisions relating to livestock brands;" has been inserted after the semicolon; and in line 4 "section" has been struck and "sections" inserted.

(Signed) Michael Flood, Chairperson

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 117. Placed on General File as amended.

(Standing Committee amendment, AM0712, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 361. Placed on General File as amended.

(Standing Committee amendment, AM0523, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Patrick J. Bourne, Chairperson

AMENDMENTS - Print in Journal

Senator Jensen filed the following amendment to LB 382:
AM0808

(Amendments to Standing Committee amendments, AM0702)

- 1 1. Insert the following new section:
- 2 "Sec. 14. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."
- 4 2. On page 43, line 17, strike "L".

Senator Chambers filed the following amendments to LB 563:

FA85

Add a new section: "The Legislature finds: To mellow one's mood, consume not food. Though candy is dandy, malt liquor is quicker."

FA86

On page 2, line 22 strike the semicolon and add "which targets young people, including those not old enough to consume alcoholic beverages legally outside of the home;"

FA87

On page 2, line 17 strike and show as stricken the semicolon and place a period. Insert "Wine does not mean an alcoholic beverage obtained by miraculous or supernatural intervention which transmutes some other liquid into alcohol without the benefit of the fermentation of the natural contents of fruits or vegetables;"

FA88

On page 5, line 16 after "a" insert "heavy stick, usually thicker at one end than at the other and suitable for use as a weapon, or".

FA89

On page 2, line 13 after "substances;" insert "supernatural, incorporeal beings, especially those inhabiting a place or object, or having a particular character; for example, evil spirits;"

FA90

On page 8, line 24 after "means" insert "miniature brewery operated by a virus or a bacterium, or any".

FA91

On page 2, line 9 after "means" insert "disembodied life forces, ghosts, sprites, angels, demons, divine influences, goblins, hobgoblins, evanescent forms haunting or wandering among living humans, or"

FA92

On page 2, line 20 after first appearance of "and" insert "hip-".

FA93

On page 8, line 10 after second appearance of "of" insert "Toys"; after first appearance of "R" insert "Us"; after "abandoned" insert "Toys"; after "R" insert "Us".

FA94

On page 8, line 10 after "from" insert "the"; in line 11 strike and show as stricken "streets" and insert "centuries"

FA95

On page 8, line 18 after "means" insert "a license authorizing operation or use of ships in or upon the navigable waters within the state, or".

FA96

On page 6, line 21 after second appearance of "corporation" insert "operated incompetently or inefficiently so as to operate at a loss, or".

FA97

On page 5, line 12 after "accommodations" insert "but where aurants may rest".

FA98

On page 4, line 23 after "who" insert "replaces a tail, or"

FA99

On page 5 after "means" insert "a special disposal of goods, as at a reduced price, or".

FA100

On page 2, line 26 strike and show as stricken "a human being" and insert "any living creature".

FA101

On page 3, add a new subsection: "(6) Beverage means any liquid containing alcohol and intended for human consumption;"

FA102

On page 3, line 8 strike and show as stricken "wine" and insert "alcoholic liquor"; in line 9 strike and show as stricken "church or"; strike and show as stricken "sacramental" and insert "religious or worship".

FA103

On page 3, line 9 strike and show as stricken "church or"; strike and show as stricken "sacramental" and insert "religious or worship".

FA104

On page 3, line 9 strike and show as stricken "sacramental" and insert "religious or worship"

VISITORS

Visitors to the Chamber were 36 fourth-grade students and teachers from Oakdale Elementary School, Omaha.

The Doctor of the Day was Dr. Marlon Weiss from Lincoln.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Cunningham, the Legislature adjourned until 9:00 a.m., Wednesday, March 16, 2005.

Patrick J. O'Donnell
Clerk of the Legislature