

**FIFTY-SEVENTH DAY - APRIL 9, 2013**  
**LEGISLATIVE JOURNAL**  
**ONE HUNDRED THIRD LEGISLATURE**  
**FIRST SESSION**

**FIFTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 9, 2013

**PRAYER**

The prayer was offered by Senator Carlson.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Heidemann presiding.

The roll was called and all members were present except Senators Christensen, Conrad, Harms, Mello, Murante, Price, and Sullivan who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-sixth day was approved.

**COMMITTEE REPORT**

Judiciary

**LEGISLATIVE BILL 390.** Placed on General File with amendment.  
AM507

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 81-829.40, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 81-829.40 (1) The Governor shall be responsible for
- 6 meeting the dangers to the state and people presented by disasters,
- 7 emergencies, and civil defense emergencies, and in the event
- 8 of disaster, emergency, or civil defense emergency beyond local
- 9 control, he or she may assume direct operational control over
- 10 all or any part of the emergency management functions within this
- 11 state. He or she shall have general direction and control of
- 12 emergency management and the Nebraska Emergency Management Agency
- 13 and shall be responsible for carrying out the provisions of the
- 14 Emergency Management Act.
- 15 (2) In order to effect the policy and purposes of the

16 act, the Governor may issue proclamations and make, amend, and  
17 rescind the necessary orders, rules, and regulations to carry out  
18 the act.

19 (3) A state of emergency proclamation shall be issued  
20 by the Governor if he or she finds that a disaster, emergency,  
21 or civil defense emergency has occurred or that the occurrence or  
22 threat thereof is imminent. All proclamations issued under this  
23 subsection shall indicate the nature of the disaster, emergency,  
1 or civil defense emergency, the area or areas threatened, and the  
2 conditions which have brought about the state of emergency. All  
3 proclamations shall be disseminated promptly by means calculated to  
4 bring the contents to the attention of the general public and shall  
5 be promptly filed with the Nebraska Emergency Management Agency,  
6 the Secretary of State, and the clerks of the local governments  
7 in the area to which it applies. The proclamation shall continue  
8 in effect until the Governor finds that the threat or danger has  
9 passed or the disaster, emergency, or civil defense emergency has  
10 been dealt with to the extent that those conditions no longer exist  
11 and terminates the proclamation by letter of notice to such agency,  
12 the Secretary of State, and the clerks of the local governments in  
13 the area to which it applies. The Legislature by resolution may  
14 terminate a state of emergency proclamation at any time, whereupon  
15 the Governor shall terminate the proclamation by letter of notice  
16 to such agency, the Secretary of State, and the clerks of the local  
17 governments in the area to which it applies.

18 (4) A state of emergency proclamation shall activate  
19 state, city, village, county, and interjurisdictional emergency  
20 management organizations and emergency operations plans applicable  
21 to the local government or area in question and shall be the  
22 authority for the deployment and use of any forces to which the  
23 plan or plans apply and for use or distribution of any supplies,  
24 equipment, materials, and facilities assembled, stockpiled, or  
25 arranged to be made available pursuant to the act or any other  
26 provision of law relating to disasters, emergencies, or civil  
27 defense emergencies.

1 (5) During the continuance of any state of emergency  
2 the Governor shall be commander in chief of the organized  
3 and unorganized militia and of all other forces available for  
4 emergency management duty. To the greatest extent practicable,  
5 the Governor shall delegate or assign command authority by prior  
6 arrangement embodied in appropriate proclamations, orders, rules,  
7 and regulations, but nothing shall restrict his or her authority to  
8 do so by orders issued at the time of the disaster, emergency, or  
9 civil defense emergency.

10 (6) In addition to any other powers conferred upon the  
11 Governor by law, he or she may:

12 (a) Suspend the provisions of any regulatory statute  
13 prescribing the procedures for conduct of state business or the  
14 orders, rules, or regulations of any state agency if strict

15 compliance with the provisions of any statute, order, rule, or  
16 regulation would in any way prevent, hinder, or delay necessary  
17 action in coping with the disaster, emergency, or civil defense  
18 emergency;

19 (b) Utilize all available resources of the state  
20 government and of each political subdivision of the state as are  
21 reasonably necessary to cope with the disaster, emergency, or civil  
22 defense emergency;

23 (c) Transfer the direction, personnel, or functions of  
24 state departments and agencies or units thereof for the purpose of  
25 performing or facilitating emergency management;

26 (d) Subject to any applicable requirements for  
27 compensation under section 81-829.57, commandeer or utilize any  
1 private property if he or she finds this necessary to cope with the  
2 disaster, emergency, or civil defense emergency;

3 (e) Direct and compel the evacuation of all or part of  
4 the population from any stricken or threatened area within the  
5 state if he or she deems this action necessary for the preservation  
6 of life or other emergency management;

7 (f) Prescribe routes, modes of transportation, and  
8 destinations in connection with evacuation;

9 (g) Control ingress and egress to and from a disaster  
10 area, the movement of persons within the area, and the occupancy of  
11 premises in the area;

12 (h) Suspend or limit the sale, dispensing, or  
13 transportation of alcoholic beverages, ~~firearms~~, explosives, and  
14 combustibles; and

15 (i) Make provisions for the availability and use of  
16 temporary emergency housing.

17 (7) In the event of a civil defense emergency the  
18 Governor shall assume direct operational control over all or any  
19 part of the emergency management functions within this state.

20 Sec. 2. Original section 81-829.40, Reissue Revised  
21 Statutes of Nebraska, is repealed.

(Signed) Brad Ashford, Chairperson

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 216.** Placed on Select File with amendment.  
ER45 is available in the Bill Room.

**LEGISLATIVE BILL 495.** Placed on Select File with amendment.  
ER46 is available in the Bill Room.

**LEGISLATIVE BILL 55.** Placed on Select File.

**LEGISLATIVE BILL 265.** Placed on Select File with amendment. ER47 is available in the Bill Room.

**LEGISLATIVE BILL 634A.** Placed on Select File.

**LEGISLATIVE BILL 495A.** Placed on Select File.

(Signed) John Murante, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 44.** Senator Schumacher withdrew his amendment, AM950, found on page 943.

Senator McCoy withdrew his amendment, AM951, found on page 943.

Senator McCoy offered the following amendment to the committee amendment:

AM967

(Amendments to Standing Committee amendments, AM151)

- 1 1. On page 1, strike line 11 and insert "mandatory
- 2 minimum sentence of twenty-five years imprisonment".

Pending.

### NOTICE OF COMMITTEE HEARING

Business and Labor

Room 2102

Tuesday, April 16, 2013 1:00 p.m.

Sarah Pillen - Commission of Industrial Relations

(Signed) Steve Lathrop, Chairperson

### RESOLUTION

**LEGISLATIVE RESOLUTION 145.** Introduced by McCoy, 39; Adams, 24; Ashford, 20; Avery, 28; Bloomfield, 17; Bolz, 29; Brasch, 16; Campbell, 25; Carlson, 38; Christensen, 44; Coash, 27; Conrad, 46; Cook, 13; Crawford, 45; Davis, 43; Dubas, 34; Gloor, 35; K. Haar, 21; Hadley, 37; Hansen, 42; Harms, 48; B. Harr, 8; Howard, 9; Janssen, 15; Johnson, 23; Karpisek, 32; Kintner, 2; Kolowski, 31; Krist, 10; Larson, 40; Lathrop, 12; Lautenbaugh, 18; McGill, 26; Mello, 5; Murante, 49; Nelson, 6; Nordquist, 7; Pirsch, 4; Price, 3; Scheer, 19; Schilz, 47; Schumacher, 22; Seiler, 33; Smith, 14; Sullivan, 41; Wallman, 30; Watermeier, 1; Wightman, 36.

WHEREAS, Jack Hoffman is a 7-year-old, life-long Husker football fan from Atkinson, Nebraska, and the inspiration for "Team Jack" with the University of Nebraska Husker football team; and

WHEREAS, for two years Jack has battled brain cancer and epileptic seizures, having undergone two surgeries and endured a 60-week chemotherapy regimen to remove and reduce his brain tumor; and

WHEREAS, Jack has received incredible support from many friends, including from Rex Burkhead and the entire University of Nebraska Husker football team; and

WHEREAS, on April 6, 2013, Jack ran 69 yards for a touchdown in the Husker spring scrimmage before a crowd of over 60,000 fans at Memorial Stadium in Lincoln and was the leading rusher for the game; and

WHEREAS, Jack's inspirational experience has helped raise awareness of pediatric brain cancer.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED THIRD LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Jack Hoffman for his Husker spring football game touchdown and recognizes his courageous personal struggle with brain cancer.

2. That the Legislature extends its support to Jack's parents, Andy and Bri, and to the "Team Jack Legacy Fund" in partnership with CureSearch for Children's Cancer in their efforts to raise funding and find effective cures for pediatric brain cancer.

3. That a copy of this resolution be sent to Jack Hoffman and his family.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 44.** The McCoy amendment, AM967, found in this day's Journal, to the committee amendment, was renewed.

Senator Schumacher moved the previous question. The question is, "Shall the debate now close?"

Senator Schumacher moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Schumacher requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 19:

Avery	Janssen	McCoy	Price	Smith
Bloomfield	Karpisek	Murante	Scheer	Wallman
Brasch	Kintner	Nelson	Schilz	Watermeier
Hansen	Lautenbaugh	Pirsch	Schumacher	

Voting in the negative, 29:

Adams	Christensen	Dubas	Howard	McGill
Ashford	Coash	Gloor	Johnson	Mello
Bolz	Conrad	Haar, K.	Kolowski	Nordquist
Campbell	Cook	Hadley	Krist	Seiler
Carlson	Crawford	Harms	Larson	Sullivan
Chambers	Davis	Harr, B.	Lathrop	

Present and not voting, 1:

Wightman

The motion to cease debate failed with 19 ayes, 29 nays, and 1 present and not voting.

The Chair declared the call raised.

### SENATOR GLOOR PRESIDING

Senator Janssen moved the previous question. The question is, "Shall the debate now close?"

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

Senator Janssen requested a roll call vote, in reverse order, on the motion to cease debate.

Voting in the affirmative, 25:

Bloomfield	Hadley	Karpisek	Murante	Schilz
Brasch	Hansen	Kintner	Nelson	Schumacher
Carlson	Harms	Larson	Pirsch	Seiler
Christensen	Janssen	Lautenbaugh	Price	Smith
Gloor	Johnson	McCoy	Scheer	Watermeier

Voting in the negative, 20:

Adams	Campbell	Cook	Harr, B.	McGill
Ashford	Chambers	Crawford	Howard	Mello
Avery	Coash	Dubas	Kolowski	Nordquist
Bolz	Conrad	Haar, K.	Lathrop	Wallman

Present and not voting, 3:

Davis            Krist            Wightman

Excused and not voting, 1:

Sullivan

The motion to cease debate prevailed with 25 ayes, 20 nays, 3 present and not voting, and 1 excused and not voting.

Senator McCoy requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 23:

Bloomfield	Hansen	Kintner	Nelson	Schumacher
Brasch	Harms	Larson	Pirsch	Smith
Carlson	Janssen	Lautenbaugh	Price	Watermeier
Gloor	Johnson	McCoy	Scheer	
Hadley	Karpisek	Murante	Schilz	

Voting in the negative, 14:

Ashford	Chambers	Cook	Kolowski	Seiler
Avery	Coash	Crawford	McGill	Wallman
Campbell	Conrad	Haar, K.	Nordquist	

Present and not voting, 11:

Adams	Davis	Howard	Mello
Bolz	Dubas	Krist	Wightman
Christensen	Harr, B.	Lathrop	

Excused and not voting, 1:

Sullivan

The McCoy amendment lost with 23 ayes, 14 nays, 11 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Committee AM151, found on page 590 and considered on page 936, was renewed.

Senator Lautenbaugh offered the following motion:

MO41

Bracket until June 5, 2013.

Pending.

**VISITORS**

Visitors to the Chamber were Martha Spangler from Peru; 85 fourth-grade students and teachers from St. Wenceslaus School, Omaha; 45 sophomore students sponsored by the Nebraska Federation of Women's Clubs from across the state; and 31 fourth-grade students and teacher from Cody Elementary, Omaha.

**RECESS**

At 11:56 a.m., on a motion by Speaker Adams, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Coash presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Janssen who was excused; and Senators Bolz, Conrad, Karpisek, Lautenbaugh, Mello, Price, and Sullivan who were excused until they arrive.

**GENERAL FILE**

**LEGISLATIVE BILL 44.** Senator McCoy withdrew the Lautenbaugh motion, MO41, found in this day's Journal, to bracket until June 5, 2013.

Senator Carlson offered the following amendment to the committee amendment:

FA55

Amend AM151

On Page 1, line 11, strike "thirty" and insert "forty"

Senator Lathrop moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 11 nays, and 13 not voting.

The Carlson amendment was adopted with 30 ayes, 3 nays, 13 present and not voting, and 3 excused and not voting.

Senator McCoy offered the following Lautenbaugh amendment to the committee amendment:

FA56

Amend AM151

Strike "thirty" on page 1, line 11, and insert "fifty"

Senator McCoy withdrew the Lautenbaugh amendment.



Committee AM151, found on page 590 and considered on page 936 and in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 31 ayes, 1 nay, 14 present and not voting, and 3 excused and not voting.

Pending.

**LEGISLATIVE BILL 68.** Title read. Considered.

Committee AM333, found on page 561, was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 205.** Title read. Considered.

### **SENATOR MCGILL PRESIDING**

Committee AM431, found on page 648, was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 341.** Title read. Considered.

Committee AM564, found on page 712, was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 269.** Title read. Considered.

Committee AM678, found on page 825, was offered.

Senator Campbell offered her amendment, AM922, found on page 943, to the committee amendment.

### **SPEAKER ADAMS PRESIDING**

The Campbell amendment was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

The committee amendment, as amended, was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 497.** Title read. Considered.

Committee AM694, found on page 865, was offered.

**SENATOR KRIST PRESIDING**

The committee amendment was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 595.** Title read. Considered.

Committee AM695, found on page 803, was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 595A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

**MOTION - Print in Journal**

Senator Chambers filed the following motion to LB44:  
MO42

Indefinitely postpone.

**AMENDMENTS - Print in Journal**

Senator Mello filed the following amendment to LB495:  
AM971

(Amendments to E and R amendments, ER46)

- 1 1. On page 7, line 24, after the semicolon insert "(vii)
- 2 the next ten thousand dollars shall be used to fund the Interstate
- 3 Compact on Educational Opportunity for Military Children;" and
- 4 strike "(vii)" and insert "(viii)".
- 5 2. On page 9, line 10, after the semicolon insert "(vi)
- 6 the next ten thousand dollars shall be used to fund the Interstate
- 7 Compact on Educational Opportunity for Military Children;" and
- 8 strike "(vi)" and insert "(vii)".
- 9 3. On page 10, line 20, strike "and (v)" and insert "(v)
- 10 the next ten thousand dollars shall be used to fund the Interstate

- 11 Compact on Educational Opportunity for Military Children; and  
 12 (vi)".

Senator McCoy filed the following amendment to LB44:  
 AM981

(Amendments to Standing Committee amendments, AM151)

- 1 1. On page 2, line 5, strike "shall" and insert "may" and  
 2 strike "not be" and insert "is not".

Senator McCoy filed the following amendment to LB44:  
 AM983

(Amendments to Standing Committee amendments, AM151)

- 1 1. On page 1, lines 14 and 15; and page 2, line 27,  
 2 strike "mitigating".

### GENERAL FILE

**LEGISLATIVE BILL 585.** Title read. Considered.

Committee AM832, found on page 846, was offered.

Pending.

### AMENDMENT - Print in Journal

Senator Murante filed the following amendment to LB230:  
 AM985

(Amendments to AM355)

- 1 1. On page 7, after line 22 insert the following new  
 2 subsection:  
 3 "(10) By July 1, 2014, the commission shall report to the  
 4 General Affairs Committee of the Legislature the number of shipping  
 5 licenses issued for license years 2013-14 and 2014-15. The report  
 6 shall be made electronically.".

### VISITORS

Visitors to the Chamber were Senator Brasch's husband, Lee, from Bancroft and son Dylan from Lincoln; and 85 fourth-grade students and teachers from Gretna.

### ADJOURNMENT

At 6:21 p.m., on a motion by Senator Brasch, the Legislature adjourned until 9:00 a.m., Wednesday, April 10, 2013.

Patrick J. O'Donnell  
 Clerk of the Legislature

