SIXTY-THIRD DAY - APRIL 17, 2023

LEGISLATIVE JOURNAL

ONE HUNDRED EIGHTH LEGISLATURE FIRST SESSION

SIXTY-THIRD DAY

Legislative Chamber, Lincoln, Nebraska Monday, April 17, 2023

PRAYER

The prayer was offered by Reverend Doctor Mary Kay Totty, Seward United Methodist Church, Seward.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was offered by Senator Bostelman.

ROLL CALL

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

The roll was called and all members were present except Senators Aguilar, Bostar, Brewer, Briese, Day, Hunt, McDonnell, McKinney, Vargas, Walz, and Wayne who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-second day was approved.

COMMITTEE REPORT

Revenue

LEGISLATIVE BILL 524. Placed on General File with amendment.

1 1. On page 3, line 12, strike "seven hundred fifty thousand".

(Signed) Lou Ann Linehan, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 96. Introduced by Briese, 41.

WHEREAS, the Nebraskans for the Arts annually presents the NebraskARTS Award which recognizes select schools or school districts that make notable and worthwhile contributions to the arts and arts education in the State of Nebraska; and

WHEREAS, St. Paul Public Schools demonstrates a high education standard and provides all its students the opportunity to enjoy, excel, and learn through the arts; and

WHEREAS, St. Paul Public Schools provides numerous opportunities for students to improve their craft and share their talent and hard work with their community and surrounding areas; and

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

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

- 1. That the Legislature congratulates St. Paul Public Schools for their receiving the 2022-23 NebraskARTS Award.
- 2. That a copy of this resolution be sent to the St. Paul Public Schools superintendent on behalf of the students, teachers, staff, and parents of St. Paul Public Schools.

Laid over.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 86 and 87 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 86 and 87.

GENERAL FILE

LEGISLATIVE BILL 227. Committee AM848, found on page 784 and considered on page 1127, was renewed.

The second B. Hansen amendment, <u>FA43</u>, found on page 1127 and considered on page 1128, to the committee amendment, was renewed.

Senator B. Hansen offered MO948, found on page 1128, to bracket until June 9, 2023.

Senator B. Hansen withdrew his motion to bracket.

Senator B. Hansen offered MO947, found on page 1128, to recommit to Health and Human Services Committee.

Senator B. Hansen withdrew his motion to recommit to committee.

The second B. Hansen amendment, to the committee amendment, was adopted with 31 ayes, 0 nays, 8 present and not voting, and 10 excused and not voting.

The third B. Hansen amendment, <u>FA44</u>, found on page 1127, to the committee amendment, was offered.

The third B. Hansen amendment, to the committee amendment, was adopted with 35 ayes, 0 nays, 5 present and not voting, and 9 excused and not voting.

Senator M. Cavanaugh offered the following motion: MO950

Reconsider the vote taken on FA44.

The M. Cavanaugh motion to reconsider failed with 0 ayes, 24 nays, 18 present and not voting, and 7 excused and not voting.

The fourth B. Hansen amendment, <u>FA48</u>, found on page 1127, to the committee amendment, was offered.

Senator B. Hansen moved for a call of the house. The motion prevailed with 14 ayes, 4 nays, and 31 not voting.

The fourth B. Hansen amendment, to the committee amendment, was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator M. Cavanaugh offered the following motion: MO951

Reconsider the vote taken on FA48.

The M. Cavanaugh motion to reconsider failed with 0 ayes, 29 nays, 15 present and not voting, and 5 excused and not voting.

The fifth B. Hansen amendment, <u>FA49</u>, found on page 1127, to the committee amendment, was offered.

The fifth B. Hansen amendment, to the committee amendment, was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

The sixth B. Hansen amendment, <u>FA50</u>, found on page 1127, to the committee amendment, was offered.

The sixth B. Hansen amendment, to the committee amendment, was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

The seventh B. Hansen amendment, <u>FA51</u>, found on page 1127, to the committee amendment, was offered.

Senator B. Hansen offered the following motion: MO952

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator B. Hansen moved for a call of the house. The motion prevailed with 28 ayes, 4 nays, and 17 not voting.

The B. Hansen motion to invoke cloture prevailed with 44 ayes, 0 nays, 1 present and not voting, and 4 excused and not voting.

The seventh B. Hansen amendment <u>FA51</u>, found on page 1127, to the committee amendment, was not further considered

Senator M. Cavanaugh requested a roll call vote on the original undivided B. Hansen amendment, <u>AM1332</u>, to the committee amendment.

Voting in the affirmative, 45:

Aguilar	Brandt	Dover	Ibach	Raybould
Albrecht	Brewer	Dungan	Jacobson	Riepe
Arch	Cavanaugh, J.	Erdman	Kauth	Sanders
Armendariz	Cavanaugh, M.	Fredrickson	Linehan	Slama
Ballard	Clements	Halloran	Lippincott	Vargas
Blood	Conrad	Hansen	Lowe	von Gillern
Bosn	DeBoer	Hardin	McDonnell	Walz
Bostar	DeKay	Holdcroft	Moser	Wayne
Bostelman	Dorn	Hughes	Murman	Wishart

Voting in the negative, 0.

Excused and not voting, 4:

Briese Day Hunt McKinney

The original undivided B. Hansen amendment, <u>AM1332</u>, found on page 1119, to the committee amendment, was adopted with 45 ayes, 0 nays, and 4 excused and not voting.

Senator M. Cavanaugh requested a roll call vote on the committee amendment, as amended.

Voting in the affirmative, 45:

Raybould Aguilar Brandt Ibach Dover Albrecht Dungan Jacobson Riepe Brewer Arch Cavanaugh, J. Kauth Sanders Erdman Armendariz Cavanaugh, M. Fredrickson Linehan Slama Ballard Clements Halloran Lippincott Vargas von Gillern Blood Conrad Hansen Lowe Bosn DeBoer Hardin McDonnell Walz **Bostar** DeKay Holdcroft Moser Wayne Bostelman Dorn Hughes Murman Wishart

Voting in the negative, 0.

Excused and not voting, 4:

Briese Day Hunt McKinney

The committee amendment, as amended, was adopted with 45 ayes, 0 nays, and 4 excused and not voting.

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

Voting in the affirmative, 45:

Aguilar	Brandt	Dover	Ibach	Raybould
Albrecht	Brewer	Dungan	Jacobson	Riepe
Arch	Cavanaugh, J.	Erdman	Kauth	Sanders
Armendariz	Cavanaugh, M.	Fredrickson	Linehan	Slama
Ballard	Clements	Halloran	Lippincott	Vargas
Blood	Conrad	Hansen	Lowe	von Gillern
Bosn	DeBoer	Hardin	McDonnell	Walz
Bostar	DeKay	Holdcroft	Moser	Wayne
Bostelman	Dorn	Hughes	Murman	Wishart

Voting in the negative, 0.

Excused and not voting, 4:

Briese Day Hunt McKinney

Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, and 4 excused and not voting.

The Chair declared the call raised.

AMENDMENT - Print in Journal

Senator Bostelman filed the following amendment to <u>LB565</u>: <u>AM1314</u> is available in the Bill Room.

RESOLUTIONS

LEGISLATIVE RESOLUTION 97. Introduced by Lowe, 37.

PURPOSE: The purpose of this resolution is to propose an interim study to examine revenue and funding options for the Nebraska Tourism Commission.

The State Visitors Promotion Cash Fund is a funding source for the Nebraska Tourism Commission. The State Visitors Promotion Cash Fund receives deposits through an additional hotel occupancy tax of one percent. A hotel occupancy tax is a funding source that relies solely upon the hotel and accommodations sector which hinders the growth of funds available to promote Nebraska's tourism sector, the third largest industry in the state.

The study shall include, but not be limited to, the following:

- (1) Analysis of tourism funding mechanisms;
- (2) Examination of potential revenue sources from related tourism and hospitality industry segments as defined by the North American Industry Classification System sectors 71 and 72; and
 - (3) Recommendations for a new funding mechanism.

In order to carry out the purpose of this resolution, the committee shall seek the assistance of the Nebraska Tourism Commission, the Department of Revenue, and tourism and hospitality industry partners including the Nebraska Travel Association and the Nebraska Hospitality Association.

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

- 1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
- 2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 98. Introduced by Lowe, 37.

PURPOSE: The purpose of this resolution is to propose an interim study to examine any issues within the jurisdiction of the General Affairs Committee of the Legislature.

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

- 1. That the General Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
- 2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 254. Committee AM698, found on page 737 and considered on pages 1103 and 1104, was renewed.

Senator M. Cavanaugh renewed MO408, found on page 942 and considered on pages 1103 and 1104, to bracket until June 1, 2023.

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 17 ayes, 6 nays, and 26 not voting.

The M. Cavanaugh motion to bracket failed with 0 ayes, 36 nays, 3 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENT - Print in Journal

Senator M. Cavanaugh filed the following amendment to <u>LB256</u>: FA52

On page 1, line 4 strike "rate" and replace with "amount".

VISITORS

Visitors to the Chamber were students and teachers from Maywood High School; Rev. Stephen Griffith, Seward; AIM Homeschool Group, Omaha; students from Overton Public School, Overton; Omaha Public School students with Voices for Children in Nebraska.

RECESS

At 11:58 a.m., on a motion by Senator Albrecht, the Legislature recessed until 1:00 p.m.

AFTER RECESS

The Legislature reconvened at 1:00 p.m., President Kelly presiding.

ROLL CALL

The roll was called and all members were present except Senator Walz who was excused; and Senators Bosn, Bostar, Briese, Day, Dover, B. Hansen, Hughes, Hunt, Kauth, Linehan, McKinney, Raybould, Slama, Vargas, and Wayne who were excused until they arrive.

REPORT - First District Congressional Caucus

April 17, 2023

Clerk of the Legislature 1445 K Street Room 2028 Lincoln, NE 68509

Dear Mr. Clerk:

I am writing to inform you that the Congressional District 1 Caucus met to discuss and fill the vacancy on the Executive Board left by the departure of Senator Geist. The CD1 caucus voted for and approved Senator Ballard to fill the vacancy.

Sincerely,
(Signed) Senator Bruce L. Bostelman
Legislative District 23

GENERAL FILE

LEGISLATIVE BILL 254. Committee <u>AM698</u>, found on page 737 and considered on pages 1103, 1104, and in this day's Journal, was renewed.

Senator M. Cavanaugh offered the following motion: MO953

Reconsider the vote taken on MO408.

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 8 ayes, 4 nays, and 37 not voting.

The M. Cavanaugh motion to reconsider failed with 1 aye, 38 nays, 2 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Senator M. Cavanaugh offered MO407, found on page 942, to recommit to Executive Board.

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 15 ayes, 2 nays, and 31 not voting.

The M. Cavanaugh motion to recommit to committee failed with 1 aye, 41 nays, 1 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENTS - Print in Journal

Senator Slama filed the following amendment to LB92: AM1364 is available in the Bill Room.

Senator McDonnell filed the following amendment to <u>LB531</u>: AM1300

(Amendments to AM1222)

- 1 1. On page 9, after line 7 insert the following new subdivision: 2 "(c) Not to exceed thirty million dollars in grants for the
- 3 establishment of a multicultural center located in a qualified census
- 4 tract within the boundaries of a city of the metropolitan class and
- 5 within a preservation district designated by such city, such center
- 6 serving to provide support and resources to foster the growth of local
- 7 businesses and celebrate and preserve the diverse history, arts, and 8 humanities of such preservation district; and"; in line 8 strike "and"; 9 and in line 9 strike "(c)" and insert "(d)".

GENERAL FILE

LEGISLATIVE BILL 254. Committee AM698, found on page 737 and considered on pages 1103, 1104, and in this day's Journal, was renewed.

Senator M. Cavanaugh offered the following motion:

Reconsider the vote taken on MO407.

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 12 ayes, 4 nays, and 33 not voting.

The M. Cavanaugh motion to reconsider failed with 0 ayes, 39 nays, 3 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator M. Cavanaugh offered MO406, found on page 942, to indefinitely postpone.

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

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

The motion to cease debate prevailed with 26 ayes, 2 nays, 5 present and not voting, 10 absent and not voting, and 6 excused and not voting.

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 12 ayes, 8 nays, and 29 not voting.

The M. Cavanaugh motion to indefinitely postpone failed with 0 ayes, 41 nays, 2 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

COMMITTEE REPORT

Natural Resources

LEGISLATIVE BILL 599. Placed on General File with amendment.

- 1 1. Strike original sections 15 and 18 and insert the following new
- 2 section:
- 3 Sec. 16. The owner or operator of an advanced recycling facility
- 4 shall be responsible for the proper disposal of all post-use polymers or
- 5 recovered feedstocks stored on the premises of such advanced recycling
- 6 facility within sixty days after ceasing advanced recycling operations. 7 2. On page 2, line 3, after "5" insert ", 7 to 14, and 16"; in line 8 4 strike the new matter; in lines 11 and 12 strike "for the conversion

- 9 of" and insert "where sorted"; in line 12 after "feedstocks" insert "are 10 purchased and then converted"; in line 25 strike "receives, stores, and";
- 11 and in line 26 after "receives" insert "and stores in an enclosed
- 12 facility".
- 13 3. On page 19, line 25, strike "13-2023,"; and strike beginning with
- 14 "sections" in line 26 through "81-15,160" in line 27 and insert "section
- 15 81-1502"
- 16 4. Renumber the remaining sections accordingly.

(Signed) Bruce Bostelman, Chairperson

GENERAL FILE

LEGISLATIVE BILL 254. Committee AM698, found on page 737 and considered on pages 1103, 1104, and in this day's Journal, was renewed.

Senator M. Cavanaugh offered the following motion:

Reconsider the vote taken on MO406.

SPEAKER ARCH PRESIDING

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

Senator Erdman moved for a call of the house. The motion prevailed with 11 ayes, 1 nay, and 37 not voting.

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

Voting in the affirmative, 30:

Aguilar Brandt Erdman Jacobson Moser Albrecht Brewer Halloran Kauth Murman Armendariz Briese Hardin Linehan Riepe Ballard Clements Holdcroft Lippincott Sanders Bosn DeKay Hughes Lowe Slama Bostelman Dorn Ibach McDonnell von Gillern

Voting in the negative, 4:

Cavanaugh, J. Conrad Hunt Vargas

Present and not voting, 9:

Arch Bostar DeBoer Fredrickson Raybould

Blood Cavanaugh, M. Dungan McKinney

Excused and not voting, 6:

Day Hansen Wayne Dover Walz Wishart

The motion to cease debate prevailed with 30 ayes, 4 nays, 9 present and not voting, and 6 excused and not voting.

The M. Cavanaugh motion to reconsider failed with 0 ayes, 42 nays, 2 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Hunt offered AM1259, found on page 1081, to the committee amendment.

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 9 ayes, 7 nays, and 33 not voting.

Senator M. Cavanaugh requested a roll call vote on the Hunt amendment, to the committee amendment.

Voting in the affirmative, 8:

Bostar Conrad Fredrickson Raybould Brandt Dungan Hunt Vargas

Voting in the negative, 21:

Albrecht DeKay Lippincott Slama Hardin Holdcroft Dorn Lowe Arch McDonnell Armendariz Dover Ibach Ballard Erdman Jacobson Moser Clements Halloran Kauth Murman

Present and not voting, 13:

Blood Cavanaugh, J. Hughes Riepe Wishart Brewer Cavanaugh, M. Linehan Sanders

Briese DeBoer McKinney von Gillern

Excused and not voting, 7:

Aguilar Bostelman Hansen Wayne

Bosn Day Walz

The Hunt amendment, to the committee amendment, lost with 8 ayes, 21 nays, 13 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator M. Cavanaugh offered the following amendment, to the committee amendment:

FA53

Strike Section 1.

Pending.

COMMITTEE REPORTS

Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Scott C Cordes - State Fire Marshal

Aye: 6. Aguilar, Brewer, Conrad, Halloran, Raybould, Sanders. Nay: 0. Absent: 2. Hunt, Lowe. Present and not voting: 0.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Janet Chung - Nebraska Accountability and Disclosure Commission

Aye: 5. Aguilar, Brewer, Conrad, Raybould, Sanders. Nay: 0. Absent: 2. Hunt, Lowe. Present and not voting: 1. Halloran.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Kenny Zoeller Director - Policy Research

Aye: 5. Aguilar, Brewer, Conrad, Halloran, Sanders. Nay: 0. Absent: 2. Hunt, Lowe. Present and not voting: 1. Raybould.

LEGISLATIVE BILL 269. Placed on General File. **LEGISLATIVE BILL 304.** Placed on General File.

LEGISLATIVE BILL 428. Indefinitely postponed.

(Signed) Tom Brewer, Chairperson

Business and Labor

LEGISLATIVE BILL 666. Placed on General File.

LEGISLATIVE BILL 191. Placed on General File with amendment. AM1330 is available in the Bill Room.

(Signed) Merv Riepe, Chairperson

EASE

The Legislature was at ease from 5:30 p.m. until 6:01 p.m.

PRESIDENT KELLY PRESIDING

GENERAL FILE

LEGISLATIVE BILL 254. Committee AM698, found on page 737 and considered on pages 1103, 1104, and in this day's Journal, was renewed.

Senator M. Cavanaugh renewed <u>FA53</u>, found and considered in this day's Journal, to the committee amendment.

Senator M. Cavanaugh moved for a call of the house. The motion failed with 11 ayes, 17 nays, and 21 not voting.

Senator M. Cavanaugh requested a roll call vote on her amendment, to the committee amendment.

The M. Cavanaugh amendment, to the committee amendment, lost with 0 ayes, 32 nays, 5 present and not voting, 7 absent and not voting, and 5 excused and not voting.

Senator M. Cavanaugh offered the following motion: MO956

Reconsider the vote taken on FA53.

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

Senator M. Cavanaugh moved for a call of the house. The motion failed with 8 ayes, 17 nays, and 24 not voting.

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

Senator M. Cavanaugh requested a record vote on the motion to cease debate.

Voting in the affirmative, 28:

Albrecht Briese Hansen Linehan Riepe Hardin Armendariz Clements Lippincott Sanders Ballard DeKay Holdcroft Lowe Slama McDonnell von Gillern Bostelman Dorn Ibach Jacobson Brandt Erdman Moser Halloran Kauth Murman Brewer

Voting in the negative, 4:

Cavanaugh, J. Cavanaugh, M. Conrad Hunt

Present and not voting, 4:

Arch Blood DeBoer Raybould

Absent and not voting, 6:

Bostar Dungan Vargas Dover Fredrickson Wishart

Excused and not voting, 7:

McKinney Aguilar Day Wayne Bosn Hughes Walz

The motion to cease debate prevailed with 28 ayes, 4 nays, 4 present and not voting, 6 absent and not voting, and 7 excused and not voting.

Senator M. Cavanaugh moved for a call of the house. The motion failed with 9 ayes, 14 nays, and 26 not voting.

Senator M. Cavanaugh requested a roll call vote on her motion to reconsider.

The M. Cavanaugh motion to reconsider failed with 1 aye, 37 nays, 1 present and not voting, 4 absent and not voting, and 6 excused and not voting.

Senator M. Cavanaugh offered the following amendment, to the committee amendment:

FA54

Strike Section 2.

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

Senator M. Cavanaugh moved for a call of the house. The motion failed with 6 ayes, 11 nays, and 32 not voting.

The motion to cease debate failed with 23 ayes, 2 nays, and 24 not voting.

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 12 ayes, 11 nays, and 26 not voting.

The M. Cavanaugh amendment, to the committee amendment, lost with 0 ayes, 36 nays, 5 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

AMENDMENTS - Print in Journal

Senator Riepe filed the following amendment to <u>LB191</u>: AM1373

(Amendments to Standing Committee amendments, AM1330)

- 1 1. Insert the following new sections:
- 2 Sec. 7. Section 48-145, Reissue Revised Statutes of Nebraska, is
- 3 amended to read:
- 4 48-145 To secure the payment of compensation under the Nebraska
- 5 Workers' Compensation Act:
- 6 (1) Every employer in the occupations described in section 48-106,
- 7 except the State of Nebraska and any governmental agency created by the
- 8 state, shall either (a) insure and keep insured its liability under such
- 9 act in some corporation, association, or organization authorized and 10 licensed to transact the business of workers' compensation insurance in
- 11 this state, (b) in the case of an employer who is a lessor of one or more
- 11 this state, (b) in the case of an employer who is a lessor of one or more 12 commercial vehicles leased to a self-insured motor carrier, be a party to
- 13 an effective agreement with the self-insured motor carrier under section
- 14 48-115.02, (c) be a member of a risk management pool authorized and
- 15 providing group self-insurance of workers' compensation liability

16 pursuant to the Intergovernmental Risk Management Act, or (d) with 17 approval of the Nebraska Workers' Compensation Court, self-insure its 18 workers' compensation liability. 19 An employer seeking approval to self-insure shall make application 20 to the compensation court in the form and manner as the compensation 21 court may prescribe, meet such minimum standards as the compensation 22 court shall adopt and promulgate by rule and regulation, and furnish to 23 the compensation court satisfactory proof of financial ability to pay 24 direct the compensation in the amount and manner when due as provided for 25 in the Nebraska Workers' Compensation Act. Approval is valid for the 26 period prescribed by the compensation court unless earlier revoked 1 pursuant to this subdivision or subsection (1) of section 48-146.02. 2 Notwithstanding subdivision (1)(d) of this section, a professional 3 employer organization shall not be eligible to self-insure its workers' 4 compensation liability. The compensation court may by rule and regulation 5 require the deposit of an acceptable security, indemnity, trust, or bond 6 to secure the payment of compensation liabilities as they are incurred. 7 The agreement or document creating a trust for use under this section 8 shall contain a provision that the trust may only be terminated upon the 9 consent and approval of the compensation court. Any beneficial interest 10 in the trust principal shall be only for the benefit of the past or 11 present employees of the self-insurer and any persons to whom the self-12 insurer has agreed to pay benefits under subdivision (11) of section 13 48-115 and section 48-115.02. Any limitation on the termination of a 14 trust and all other restrictions on the ownership or transfer of 15 beneficial interest in the trust assets contained in such agreement or 16 document creating the trust shall be enforceable, except that any 17 limitation or restriction shall be enforceable only if authorized and 18 approved by the compensation court and specifically delineated in the 19 agreement or document. The trustee of any trust created to satisfy the 20 requirements of this section may invest the trust assets in the same 21 manner authorized under subdivisions (1)(a) through (i) of section 22 30-3209 for corporate trustees holding retirement or pension funds for 23 the benefit of employees or former employees of cities, villages, school 24 districts, or governmental or political subdivisions, except that the 25 trustee shall not invest trust assets into stocks, bonds, or other 26 obligations of the trustor. If, as a result of such investments, the 27 value of the trust assets is reduced below the acceptable trust amount 28 required by the compensation court, then the trustor shall deposit 29 additional trust assets to account for the shortfall. 30 Notwithstanding any other provision of the Nebraska Workers' 31 Compensation Act, a three-judge panel of the compensation court may, 1 after notice and hearing, revoke approval as a self-insurer if it finds 2 that the financial condition of the self-insurer or the failure of the 3 self-insurer to comply with an obligation under the act poses a serious 4 threat to the public health, safety, or welfare. The Attorney General, 5 when requested by the administrator of the compensation court, may file a

6 motion pursuant to section 48-162.03 for an order directing a self-7 insurer to appear before a three-judge panel of the compensation court 8 and show cause as to why the panel should not revoke approval as a self-9 insurer pursuant to this subdivision. The Attorney General shall be

10 considered a party for purposes of such motion. The Attorney General may 11 appear before the three-judge panel and present evidence that the

12 financial condition of the self-insurer or the failure of the self-13 insurer to comply with an obligation under the act poses a serious threat

14 to the public health, safety, or welfare. The presiding judge shall rule

15 on a motion of the Attorney General pursuant to this subdivision and, if 16 applicable, shall appoint judges of the compensation court to serve on

17 the three-judge panel. The presiding judge shall not serve on such panel.

18 Appeal from a revocation pursuant to this subdivision shall be in

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19 accordance with section 48-185. No such appeal shall operate as a
20 supersedeas unless the self-insurer executes to the compensation court a
21 bond with one or more sureties authorized to do business within the State
22 of Nebraska in an amount determined by the three-judge panel to be
23 sufficient to satisfy the obligations of the self-insurer under the act;
24 (2) An approved self-insurer shall furnish to the State Treasurer an
25 annual amount equal to two and one-half percent of the prospective loss
26 costs for like employment but in no event less than twenty-five dollars.
27 Prospective loss costs is defined in section 48-151. The compensation
28 court is the sole judge as to the prospective loss costs that shall be
29 used. All money which a self-insurer is required to pay to the State
30 Treasurer, under this subdivision, shall be computed and tabulated under
31 oath as of January 1 and paid to the State Treasurer immediately
1 thereafter. The compensation court or designee of the compensation court
2 may audit the payroll of a self-insurer at the compensation court's
3 discretion. All money paid by a self-insurer under this subdivision shall
4 be credited to the Compensation Court Cash General Fund;
5 (3) Every employer who fails, neglects, or refuses to comply with
6 the conditions set forth in subdivision (1) or (2) of this section shall
7 be required to respond in damages to an employee for personal injuries,
8 or when personal injuries result in the death of an employee, then to his
9 or her dependents; and
10 (4) Any security, indemnity, trust, or bond provided by a self-
11 insurer pursuant to subdivision (1) of this section shall be deemed a
12 surety for the purposes of the payment of valid claims of the self-
13 insurer's employees and the persons to whom the self-insurer has agreed
14 to pay benefits under the Nebraska Workers' Compensation Act pursuant to
15 subdivision (11) of section 48-115 and section 48-115.02 as generally
16 provided in the act.
17 Sec. 22. Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 18 16, 17, 18, 19, 20, 21, and 24 of this act become operative three
19 calendar months after the adjournment of this legislative session. The
20 other sections of this act become operative on their effective date.
21 Sec. 23. Original section 48-145, Reissue Revised Statutes of
22 Nebraska, is repealed.
23 Sec. 25. Since an emergency exists, this act takes effect when
24 passed and approved according to law.
25 2. On page 14, lines 5 and 8, strike "effective date of this act"
26 and insert "operative date of this section".
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Senator Riepe filed the following amendment to <u>LB191</u>: AM1363

(Amendments to Standing Committee amendments, AM1330)

1 1. Insert the following new sections:

27 3. Renumber the remaining sections accordingly.

2 Sec. 7. Section 48-145, Reissue Revised Statutes of Nebraska, is

3 amended to read:

4 48-145 To secure the payment of compensation under the Nebraska

5 Workers' Compensation Act:

6 (1) Every employer in the occupations described in section 48-106,

7 except the State of Nebraska and any governmental agency created by the

8 state, shall either (a) insure and keep insured its liability under such 9 act in some corporation, association, or organization authorized and

10 licensed to transact the business of workers' compensation insurance in

11 this state, (b) in the case of an employer who is a lessor of one or more

12 commercial vehicles leased to a self-insured motor carrier, be a party to

13 an effective agreement with the self-insured motor carrier under section

14 48-115.02, (c) be a member of a risk management pool authorized and

15 providing group self-insurance of workers' compensation liability

16 pursuant to the Intergovernmental Risk Management Act, or (d) with

17 approval of the Nebraska Workers' Compensation Court, self-insure its 18 workers' compensation liability. 19 An employer seeking approval to self-insure shall make application 20 to the compensation court in the form and manner as the compensation 21 court may prescribe, meet such minimum standards as the compensation 22 court shall adopt and promulgate by rule and regulation, and furnish to 23 the compensation court satisfactory proof of financial ability to pay 24 direct the compensation in the amount and manner when due as provided for 25 in the Nebraska Workers' Compensation Act. Approval is valid for the 26 period prescribed by the compensation court unless earlier revoked 1 pursuant to this subdivision or subsection (1) of section 48-146.02. 2 Notwithstanding subdivision (1)(d) of this section, a professional 3 employer organization shall not be eligible to self-insure its workers' 4 compensation liability. The compensation court may by rule and regulation 5 require the deposit of an acceptable security, indemnity, trust, or bond 6 to secure the payment of compensation liabilities as they are incurred. 7 The agreement or document creating a trust for use under this section 8 shall contain a provision that the trust may only be terminated upon the 9 consent and approval of the compensation court. Any beneficial interest 10 in the trust principal shall be only for the benefit of the past or 11 present employees of the self-insurer and any persons to whom the self-12 insurer has agreed to pay benefits under subdivision (11) of section 13 48-115 and section 48-115.02. Any limitation on the termination of a 14 trust and all other restrictions on the ownership or transfer of 15 beneficial interest in the trust assets contained in such agreement or 16 document creating the trust shall be enforceable, except that any 17 limitation or restriction shall be enforceable only if authorized and 18 approved by the compensation court and specifically delineated in the 19 agreement or document. The trustee of any trust created to satisfy the 20 requirements of this section may invest the trust assets in the same 21 manner authorized under subdivisions (1)(a) through (i) of section 22 30-3209 for corporate trustees holding retirement or pension funds for 23 the benefit of employees or former employees of cities, villages, school 24 districts, or governmental or political subdivisions, except that the 25 trustee shall not invest trust assets into stocks, bonds, or other 26 obligations of the trustor. If, as a result of such investments, the 27 value of the trust assets is reduced below the acceptable trust amount 28 required by the compensation court, then the trustor shall deposit 29 additional trust assets to account for the shortfall. 30 Notwithstanding any other provision of the Nebraska Workers' 31 Compensation Act, a three-judge panel of the compensation court may, 1 after notice and hearing, revoke approval as a self-insurer if it finds 2 that the financial condition of the self-insurer or the failure of the 3 self-insurer to comply with an obligation under the act poses a serious 4 threat to the public health, safety, or welfare. The Attorney General, 5 when requested by the administrator of the compensation court, may file a 6 motion pursuant to section 48-162.03 for an order directing a self-7 insurer to appear before a three-judge panel of the compensation court 8 and show cause as to why the panel should not revoke approval as a self-9 insurer pursuant to this subdivision. The Attorney General shall be 10 considered a party for purposes of such motion. The Attorney General may 11 appear before the three-judge panel and present evidence that the 12 financial condition of the self-insurer or the failure of the self-13 insurer to comply with an obligation under the act poses a serious threat

14 to the public health, safety, or welfare. The presiding judge shall rule 15 on a motion of the Attorney General pursuant to this subdivision and, if 16 applicable, shall appoint judges of the compensation court to serve on 17 the three-judge panel. The presiding judge shall not serve on such panel. 18 Appeal from a revocation pursuant to this subdivision shall be in 19 accordance with section 48-185. No such appeal shall operate as a

- 20 supersedeas unless the self-insurer executes to the compensation court a
- 21 bond with one or more sureties authorized to do business within the State
- 22 of Nebraska in an amount determined by the three-judge panel to be
- 23 sufficient to satisfy the obligations of the self-insurer under the act;
- 24 (2) An approved self-insurer shall furnish to the State Treasurer an
- 25 annual amount equal to two and one-half percent of the prospective loss
- 26 costs for like employment but in no event less than twenty-five dollars.
- 27 Prospective loss costs is defined in section 48-151. The compensation
- 28 court is the sole judge as to the prospective loss costs that shall be
- 29 used. All money which a self-insurer is required to pay to the State
- 30 Treasurer, under this subdivision, shall be computed and tabulated under
- 31 oath as of January 1 and paid to the State Treasurer immediately
- 1 thereafter. The compensation court or designee of the compensation court
- 2 may audit the payroll of a self-insurer at the compensation court's
- 3 discretion. All money paid by a self-insurer under this subdivision shall
- 4 be credited to the Compensation Court Cash General Fund;
- 5 (3) Every employer who fails, neglects, or refuses to comply with
- 6 the conditions set forth in subdivision (1) or (2) of this section shall
- 7 be required to respond in damages to an employee for personal injuries,
- 8 or when personal injuries result in the death of an employee, then to his
- 9 or her dependents; and
- 10 (4) Any security, indemnity, trust, or bond provided by a self-
- 11 insurer pursuant to subdivision (1) of this section shall be deemed a
- 12 surety for the purposes of the payment of valid claims of the self-
- 13 insurer's employees and the persons to whom the self-insurer has agreed
- 14 to pay benefits under the Nebraska Workers' Compensation Act pursuant to
- 15 subdivision (11) of section 48-115 and section 48-115.02 as generally
- 16 provided in the act.
- 17 Sec. 22. Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15,
- 18 16, 17, 18, 19, 20, 21, and 24 of this act become operative three
- 19 calendar months after the adjournment of this legislative session. The
- 20 other sections of this act become operative on their effective date.
- 21 Sec. 23. Original section 48-145, Reissue Revised Statutes of
- 22 Nebraska, is repealed.
- 23 Sec. 25. Since an emergency exists, this act takes effect when
- 24 passed and approved according to law.
- 25 2. On page 14, lines 5 and 8, strike "effective date of this act"
- 26 and insert "operative date of this section".
- 27 3. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 254. Committee AM698, found on page 737 and considered on pages 1103, 1104, and in this day's Journal, was renewed.

Senator Dorn offered the following amendment, to the committee amendment:

AM1377

(Amendments to Standing Committee amendments, AM698)

- 1 1. Insert the following new section:
- 2 Sec. 4. Section 50-1209, Reissue Revised Statutes of Nebraska, is
- 3 amended to read:
- 4 50-1209 (1) Tax incentive performance audits shall be conducted by
- 5 the office pursuant to this section on the following tax incentive
- 6 programs:
- 7 (a) The Beginning Farmer Tax Credit Act;
- 8 (b) The ImagiNE Nebraska Act;
- 9 (c) The Nebraska Advantage Act;

- 10 (c) (d) The Nebraska Advantage Microenterprise Tax Credit Act;
- 11 (d) (e) The Nebraska Advantage Research and Development Act;
- 12 (e) (f) The Nebraska Advantage Rural Development Act;
- 13 (f) (g) The Nebraska Job Creation and Mainstreet Revitalization Act;
- $14\overline{\text{(g)}}$ The New Markets Job Growth Investment Act;
- 15 (h) (i) The Urban Redevelopment Act; and
- 16 (i) (j) Any other tax incentive program created by the Legislature
- 17 for the purpose of recruitment or retention of businesses in Nebraska. In
- 18 determining whether a future tax incentive program is enacted for the
- 19 purpose of recruitment or retention of businesses, the office shall
- 20 consider legislative intent, including legislative statements of purpose
- 21 and goals, and may also consider whether the tax incentive program is
- 22 promoted as a business incentive by the Department of Economic
- 23 Development or other relevant state agency.
- 24 (2) The office shall develop a schedule for conducting tax incentive
- 25 performance audits and shall update the schedule annually. The schedule
- 26 shall ensure that each tax incentive program is reviewed at least once 1 every five years.
- 2 (3) Each tax incentive performance audit conducted by the office
- 3 pursuant to this section shall include the following:
- 4 (a) An analysis of whether the tax incentive program is meeting the
- 5 following goals:
- 6 (i) Strengthening the state's economy overall by:
- 7 (A) Attracting new business to the state;
- 8 (B) Expanding existing businesses;
- 9 (C) Increasing employment, particularly employment of full-time
- 10 workers. The analysis shall consider whether the job growth in those
- 11 businesses receiving tax incentives is at least ten percent above
- 12 industry averages;
- 13 (D) Creating high-quality jobs; and
- 14 (E) Increasing business investment;
- 15 (ii) Revitalizing rural areas and other distressed areas of the
- 16 state;
- 17 (iii) Diversifying the state's economy and positioning Nebraska for
- 18 the future by stimulating entrepreneurial firms, high-tech firms, and
- 19 renewable energy firms; and
- 20 (iv) Any other program-specific goals found in the statutes for the
- 21 tax incentive program being evaluated;
- 22 (b) An analysis of the economic and fiscal impacts of the tax
- 23 incentive program. The analysis may take into account the following
- 24 considerations in addition to other relevant factors:
- 25 (i) The costs per full-time worker. When practical and applicable,
- 26 such costs shall be considered in at least the following two ways:
- 27 (A) By an estimation including the minimum investment required to
- 28 qualify for benefits; and
- 29 (B) By an estimation including all investment;
- 30 (ii) The extent to which the tax incentive changes business
- 31 behavior;
- 1 (iii) The results of the tax incentive for the economy of Nebraska
- 2 as a whole. This consideration includes both direct and indirect impacts
- 3 generally and any effects on other Nebraska businesses; and
- 4 (iv) A comparison to the results of other economic development
- 5 strategies with similar goals, other policies, or other incentives;
- 6 (c) An assessment of whether adequate protections are in place to
- 7 ensure the fiscal impact of the tax incentive does not increase
- 8 substantially beyond the state's expectations in future years;
- 9 (d) An assessment of the fiscal impact of the tax incentive on the
- 10 budgets of local governments, if applicable; and
- 11 (e) Recommendations for any changes to statutes or rules and
- 12 regulations that would allow the tax incentive program to be more easily

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13 evaluated in the future, including changes to data collection, reporting,
14 sharing of information, and clarification of goals.
15 (4) For purposes of this section:
16 (a) Distressed area means an area of substantial unemployment as
17 determined by the Department of Labor pursuant to the Nebraska Workforce
18 Innovation and Opportunity Act;
19 (b) Full-time worker means an individual (i) who usually works
20 thirty-five hours per week or more, (ii) whose employment is reported to
21 the Department of Labor on two consecutive quarterly wage reports, and
22 (iii) who earns wages equal to or exceeding the state minimum wage;
23 (c) High-quality job means a job that:
24 (i) Averages at least thirty-five hours of employment per week;
25 (ii) Is reported to the Department of Labor on two consecutive
26 quarterly wage reports; and
27 (iii) Earns wages that are at least ten percent higher than the
28 statewide industry sector average and that equal or exceed:
29 (A) One hundred ten percent of the Nebraska average weekly wage if
30 the job is in a county with a population of less than one hundred
31 thousand inhabitants: or
1 (B) One hundred twenty percent of the Nebraska average weekly wage
2 if the job is in a county with a population of one hundred thousand
3 inhabitants or more;
4 (d) High-tech firm means a person or unitary group that has a
5 location with any of the following four-digit code designations under the
6 North American Industry Classification System as assigned by the
7 Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,
8 <del>5173, 5179,</del> 5182, 5191, 5413, 5415, or 5417;
9 (e) Nebraska average weekly wage means the most recent average
10 weekly wage paid by all employers in all counties in Nebraska as reported
11 by the Department of Labor by October 1 of each year;
12 (f) New business means a person or unitary group participating in a
13 tax incentive program that did not pay income taxes or wages in the state
14 more than two years prior to submitting an application under the tax
15 incentive program. For any tax incentive program without an application
16 process, new business means a person or unitary group participating in
17 the program that did not pay income taxes or wages in the state more than
18 two years prior to the first day of the first tax year for which a tax
19 benefit was earned:
20 (g) Renewable energy firm means a person or unitary group that has a
21 location with any of the following six-digit code designations under the
22 North American Industry Classification System as assigned by the
23 Department of Labor: 111110, 111150, 111199, 111930, 111991, 113310,
24 221111, 221113, 221114, 221115, 221116, 221117, 221118, 221121, 221122, 25 221330, 237130, 237990, 325193, 331511, 331512, 331513, 331523, 331524,
26 <u>331529</u>, 332111, 332112, 333511, 333612, 333613, 334519, 423830, 27 <u>482111</u>, 484230, 488510, 541360, 541370, 541620, 541690, 541714, or 541715 28 <u>11110</u>, 111120, 111130, 111140, 111150, 111160, 111191, 111199, 111211,
29 111219, 111310, 111320, 111331, 111332, 111333, 111334, 111335, 111336,
30 111339, 111411, 111419, 111930, 111991, 113310, 221111, 221113, 221114,
31 221115, 221116, 221117, 221118, 221330, 237130, 237210, 237990, 325193,
1 325199, 331512, 331513, 331523, 331524, 331529, 332111, 332112, 333414,
2 333415, 333511, 333611, 333612, 333613, 334519, 485510, 541330, 541360,
3 541370, 541620, 541690, 541713, 541714, 541715, 561730, or 562213;
4 (h) Rural area means any village or city of the second class in this
5 state or any county in this state with fewer than twenty-five thousand
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7 (i) Unitary group has the same meaning as in section 77-2734.04. 8 2. Renumber the remaining sections, correct internal references, and

6 residents; and

9 correct the repealer accordingly.

The Dorn amendment, to the committee amendment, was adopted with 34 ayes, 0 nays, 8 present and not voting, and 7 excused and not voting.

Senator M. Cavanaugh offered the following amendment, to the committee amendment:

FA55

On page 1, line 24, strike "Executive Board of the Legislative Council" and insert "Legislature"

The M. Cavanaugh amendment was withdrawn.

The committee amendment, as amended, was adopted with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

MOTION - Recommit LB376 to Committee

Senator Hunt offered her motion, MO119, found on page 900, recommit to General Affairs Committee.

Senator Hunt withdrew her motion to recommit to committee.

WITHDRAW - Amendments to LB376

Senator Hunt withdrew AM1034, found on page 875, to LB376.

Senator Hunt withdrew AM1035, found on page 890, to LB376.

Senator Lowe withdrew AM851, found on page 890, to LB376.

WITHDRAW - Motions to LB376

Senator Slama withdrew MO106, found on page 875, to indefinitely postpone, to LB376.

Senator Hunt withdrew MO116, found on page 906, to indefinitely postpone, to LB376.

WITHDRAW - Amendments to LB376

Senator M. Cavanaugh withdrew FA33, found on page 906, to LB376.

Senator M. Cavanaugh withdrew AM1056, found on page 906, to LB376.

Senator M. Cavanaugh withdrew AM1055, found on page 906, to LB376.

BILL ON FINAL READING

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB376 with 40 ayes, 2 nays, 1 present and not voting, and 6 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 376. With Emergency Clause.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-103, 53-117.06, 53-123.11, and 53-168, Reissue Revised Statutes of Nebraska, and sections 53-101, 53-123.16, 53-124.11, 53-169, and 53-171, Revised Statutes Cumulative Supplement, 2022; to define terms; to require reports by certain licensees prior to the sale or shipment of any alcoholic liquor into the state; to provide for a fee; to authorize certain licensees to use channel pricing and to enter into sponsorship or advertising agreements; to provide for rules and regulations; to allow farm wineries to obtain additional retail licenses; to allow microdistilleries to engage in direct sales and store products at offsite facilities; to change provisions related to special designated licenses; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Albrecht	Cavanaugh, J.	Erdman	Kauth	Sanders
Arch	Cavanaugh, M.	Fredrickson	Linehan	Slama
Armendariz	Clements	Halloran	Lippincott	Vargas
Bosn	Conrad	Hansen	Lowe	von Gillern
Bostar	DeBoer	Hardin	McDonnell	Wishart
Bostelman	DeKay	Holdcroft	Moser	
Brandt	Dorn	Hughes	Murman	
Brewer	Dover	Ibach	Raybould	
Briese	Dungan	Jacobson	Riepe	

Voting in the negative, 0.

Present and not voting, 2:

Ballard Hunt

Excused and not voting, 6:

Aguilar Day Walz Blood McKinney Wayne

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

UNANIMOUS CONSENT - Add Cointroducers

Unanimous consent to add Senators as cointroducers. No objections. So ordered.

Senator Vargas name added to LB20. Senator Conrad name added to LB588. Senator Vargas name added to LB617. Senator J. Cavanaugh name added to LB775.

VISITORS

Visitors to the Chamber were Jason Mundorf, Kathy Gifford, Drew Blessing, Kearney Public Schools; students from New Hope Christian School, Cairo.

ADJOURNMENT

At 7:58 p.m., on a motion by Senator von Gillern, the Legislature adjourned until 9:00 a.m., Tuesday, April 18, 2023.

Brandon Metzler Clerk of the Legislature