

FORTY-SIXTH DAY - MARCH 14, 2007**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
FIRST SESSION****FORTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 14, 2007

PRAYER

The prayer was offered by Pastor Hughes Morris Jr., Elkhorn Hills United Methodist Church, Elkhorn.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Langemeier presiding.

The roll was called and all members were present except Senator Cornett who was excused until she arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-fifth day was approved.

COMMITTEE REPORTS**Banking, Commerce and Insurance**

LEGISLATIVE BILL 113. Placed on General File - Com AM478.
AM478

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 8-2102, Revised Statutes Cumulative
- 4 Supplement, 2006, is amended to read:
- 5 8-2102 For purposes of the Interstate Branching By Merger
- 6 Act of 1997, unless the context otherwise requires:
- 7 (1) Bank means a bank as defined in 12 U.S.C. 1813, as
- 8 such section existed on the effective date of this act;
- 9 ~~(4)~~(2) Department means the Department of Banking and
- 10 Finance;
- 11 ~~(2)~~(3) Director means the Director of Banking and
- 12 Finance;
- 13 ~~(3)~~(4) Home state means (a) with respect to a state
- 14 chartered bank, the state in which the bank is chartered and (b)
- 15 with respect to a national bank, the state in which the main office

16 of the bank is located;

17 ~~(4)-(5)~~ Home state regulator means, with respect to an
18 out-of-state state chartered bank, the bank supervisory agency of
19 the state in which such bank is chartered;

20 ~~(5)-(6)~~ Host state means a state, other than the home
21 state of a bank, in which the bank maintains, or seeks to establish
22 and maintain, a branch;

23 ~~(6)-(7)~~ Interstate merger transaction means a merger or
1 consolidation of two or more banks, at least one of which is a
2 Nebraska bank and at least one of which is an out-of-state bank,
3 and the conversion of the main office and the branches of any
4 bank involved in such merger or consolidation into branches of the
5 resulting bank;

6 ~~(7)-(8)~~ Nebraska bank means a bank whose home state is
7 Nebraska;

8 ~~(8)-(9)~~ Nebraska state chartered bank means a corporation
9 which is chartered to conduct a bank in this state pursuant to the
10 Nebraska Banking Act;

11 ~~(9)-(10)~~ Out-of-state bank means a bank whose home state
12 is a state other than Nebraska;

13 ~~(10)-(11)~~ Out-of-state state chartered bank means a bank
14 chartered under the laws of any state other than Nebraska;

15 ~~(11)-(12)~~ Resulting bank means a bank that has resulted
16 from an interstate merger transaction under the Interstate
17 Branching By Merger Act of 1997; and

18 ~~(12)-(13)~~ State means any state of the United States, the
19 District of Columbia, any territory of the United States, Puerto
20 Rico, Guam, American Samoa, the Trust Territory of the Pacific
21 Islands, the Virgin Islands, and the Northern Mariana Islands.

22 Sec. 2. Original section 8-2102, Revised Statutes

23 Cumulative Supplement, 2006, is repealed.

LEGISLATIVE BILL 123. Placed on General File - Com AM626.
AM626

1 1. On page 16, line 2, strike "(1)" and insert "(1)(a)";
2 in line 7 after the first occurrence of "the" insert "last
3 business"; and after line 8 insert the following new subdivision:
4 "(b) There shall be no right to cancel under the Nebraska
5 Foreclosure Protection Act with regard to any equity purchase
6 contract executed on or after noon on the last business day before
7 the foreclosure sale of the residence in foreclosure, if the
8 homeowner first agrees to enter into an equity purchase contract
9 with the equity purchaser on or after noon of the last business day
10 before the foreclosure sale.".

11 2. On page 17, after line 6, insert the following new
12 subdivision:

13 "(c) If no right to cancel the equity purchase contract
14 exists under the Nebraska Foreclosure Protection Act as set
15 forth in subdivision (1)(b) of section 21 of this act, the

16 equity purchase contract shall conspicuously state that no such
 17 cancellation right exists."
 18 3. On page 19, line 19, after "foreclosure" insert ",
 19 including repairs and capital improvements, and may include below
 20 market rent discounts. The equity purchaser shall provide the
 21 homeowner with documentation proving such costs and below market
 22 rent discounts prior to the homeowner's exercise of the option to
 23 purchase."

LEGISLATIVE BILL 190. Placed on General File - Com AM694.
 AM694

1 1. Strike the original sections and insert the following
 2 new sections:
 3 Section 1. This act shall be known and may be cited as
 4 the Credit Report Protection Act.
 5 Sec. 2. For purposes of the Credit Report Protection Act:
 6 (1) Consumer reporting agency means any person which,
 7 for monetary fees, for dues, or on a cooperative nonprofit basis,
 8 regularly engages in whole or in part in the practice of assembling
 9 or evaluating consumer credit information or other information on
 10 consumers for the purpose of furnishing consumer reports to third
 11 parties and which uses any means or facility of interstate commerce
 12 for the purpose of preparing or furnishing consumer reports;
 13 (2) File, when used in connection with information on any
 14 consumer, means all of the information on that consumer recorded
 15 and retained by a consumer reporting agency regardless of how the
 16 information is stored;
 17 (3) Security freeze means a notice placed in a consumer's
 18 file as provided in section 3 of this act that prohibits the
 19 consumer reporting agency from releasing a credit report, or any
 20 other information derived from the file, in connection with the
 21 extension of credit or the opening of a new account, without the
 22 express authorization of the consumer; and
 23 (4) Victim of identity theft means a consumer who has a
 1 copy of an official police report evidencing that the consumer has
 2 alleged to be a victim of identity theft.
 3 Sec. 3. A consumer, including a minor at the request of a
 4 parent or custodial parent or guardian if appointed, may elect to
 5 place a security freeze on his or her file by making a request by
 6 certified mail to the consumer reporting agency.
 7 Sec. 4. If a security freeze is in place with respect to
 8 a consumer's file, the consumer reporting agency shall not release
 9 a credit report or any other information derived from the file
 10 to a third party without the prior express authorization of the
 11 consumer. This section does not prevent a consumer reporting agency
 12 from advising a third party that a security freeze is in effect
 13 with respect to a consumer's file.
 14 Sec. 5. (1) A consumer reporting agency shall place a
 15 security freeze on a file no later than three business days after

16 receiving a request by certified mail.

17 (2) Until July 1, 2008, a consumer reporting agency
18 shall, within ten business days after receiving a request, send a
19 written confirmation of the security freeze to the consumer and
20 provide the consumer with a unique personal identification number
21 or password to be used by the consumer when providing authorization
22 for the release of a credit report or any other information derived
23 from his or her file for a specified period of time. Beginning July
24 1, 2008, a consumer reporting agency shall send such confirmation
25 and provide such identification number or password to the consumer
26 within five business days after receiving a request.

27 Sec. 6. (1) When a consumer requests a security freeze,
1 the consumer reporting agency shall disclose the process of placing
2 and temporarily lifting the security freeze, including the process
3 for allowing access to his or her credit report or any other
4 information derived from his or her file for a specified period of
5 time by temporarily lifting the security freeze.

6 (2) If a consumer wishes to allow his or her credit
7 report or any other information derived from his or her file to be
8 accessed for a specified period of time by temporarily lifting the
9 security freeze, the consumer shall contact the consumer reporting
10 agency, request that the freeze be temporarily lifted, and provide
11 the following:

12 (a) Proper identification, which means that information
13 generally deemed sufficient to identify a person. Only if the
14 consumer is unable to provide sufficiently self-identifying
15 information may a consumer reporting agency require additional
16 information concerning the consumer's employment and personal or
17 family history in order to verify the consumer's identity;

18 (b) The unique personal identification number or password
19 provided by the consumer reporting agency under section 5 of this
20 act; and

21 (c) The proper information regarding the specified time
22 period.

23 (3)(a) Until January 1, 2009, a consumer reporting agency
24 that receives a request from a consumer to temporarily lift a
25 security freeze on his or her file shall comply with the request no
26 later than three business days after receiving the request.

27 (b) A consumer reporting agency shall develop procedures
1 involving the use of a telephone, the Internet, or other electronic
2 media to receive and process a request from a consumer to
3 temporarily lift a security freeze on his or her file in an
4 expedited manner. By January 1, 2009, a consumer reporting agency
5 shall comply with a request to temporarily lift a security freeze
6 within fifteen minutes after receiving such request by telephone or
7 through a secure electronic method.

8 (4) A consumer reporting agency is not required to
9 temporarily lift a security freeze within the time provided in
10 subsection (3) of this section if:

- 11 (a) The consumer fails to meet the requirements of
12 subsection (2) of this section; or
- 13 (b) The consumer reporting agency's ability to
14 temporarily lift the security freeze within the time provided in
15 subsection (3) of this section is prevented by:
- 16 (i) An act of God, including fire, earthquake, hurricane,
17 storm, or similar natural disaster or phenomena;
- 18 (ii) An unauthorized or illegal act by a third party,
19 including terrorism, sabotage, riot, vandalism, labor strike or
20 dispute disrupting operations, or similar occurrence;
- 21 (iii) Operational interruption, including electrical
22 failure, unanticipated delay in equipment or replacement part
23 delivery, computer hardware or software failure inhibiting response
24 time, or similar disruption;
- 25 (iv) Governmental action, including an emergency order
26 or regulation, judicial or law enforcement action, or similar
27 directive;
- 1 (v) Regularly scheduled maintenance, during other than
2 normal business hours, of the consumer reporting agency's system or
3 updates to such system;
- 4 (vi) Commercially reasonable maintenance of, or repair
5 to, the consumer reporting agency's system that is unexpected or
6 unscheduled; or
- 7 (vii) Receipt of a removal request outside of normal
8 business hours.
- 9 For purposes of this subsection, normal business hours
10 means Sunday through Saturday, between the hours of 6:00 a.m. and
11 9:30 p.m., in the applicable time zone in this state.
- 12 Sec. 7. (1) A security freeze shall remain in place
13 until the consumer requests that the security freeze be removed
14 or temporarily lifted. A consumer reporting agency shall remove
15 or temporarily lift a security freeze only in the following
16 circumstances:
- 17 (a) Upon request by the consumer under section 6 or 8 of
18 this act; or
- 19 (b) When the file was placed on hold due to a material
20 misrepresentation of fact by the consumer.
- 21 (2) When a consumer reporting agency intends to release
22 a hold on a file under subdivision (1)(b) of this section, the
23 consumer reporting agency shall notify the consumer in writing
24 three business days prior to releasing the hold on the file.
- 25 Sec. 8. A consumer reporting agency shall remove a
26 security freeze within three business days after receiving a
27 request for removal from the consumer who provides both of the
1 following:
- 2 (1) Proper identification as specified in subdivision
3 (2)(a) of section 6 of this act; and
- 4 (2) The unique personal identification number or password
5 referred to in subdivision (2)(b) of section 6 of this act.

6 Sec. 9. (1) A consumer reporting agency may charge a fee
7 of five dollars for placing, temporarily lifting, or removing a
8 security freeze unless:
9 (a) The consumer is a minor; or
10 (b)(i) The consumer is a victim of identity theft; and
11 (ii) The consumer provides the consumer reporting agency
12 with a copy of an official police report documenting the identity
13 theft.
14 (2) A consumer reporting agency shall reissue the same or
15 a new personal identification number required under section 5 of
16 this act one time without charge and may charge a fee of no more
17 than five dollars for subsequent instances of loss of the personal
18 identification number.

19 Sec. 10. If a security freeze is in place, a consumer
20 reporting agency may not change any of the following official
21 information in a file without sending a written confirmation
22 of the change to the consumer within thirty days after the
23 change is made: Name, date of birth, social security number, and
24 address. In the case of an address change, the written confirmation
25 shall be sent to both the new address and the former address.
26 Written confirmation is not required for technical modifications
27 of a consumer's official information, including name and street
1 abbreviations, complete spellings, or transposition of numbers or
2 letters.

3 Sec. 11. (1) A consumer reporting agency may not suggest
4 or otherwise state or imply to a third party that a security freeze
5 on a consumer's file reflects a negative credit score, history,
6 report, or rating.

7 (2) If a third party requests access to a credit report
8 or any other information derived from a file in connection with
9 an application for credit or the opening of an account and the
10 consumer has placed a security freeze on his or her file and does
11 not allow his or her file to be accessed during that specified
12 period of time, the third party may treat the application as
13 incomplete.

14 Sec. 12. The Credit Report Protection Act does not
15 prohibit a consumer reporting agency from furnishing to a
16 governmental agency a consumer's name, address, former address,
17 place of employment, or former place of employment.

18 Sec. 13. The Credit Report Protection Act does not apply
19 to the use of a credit report or any information derived from the
20 file by any of the following:

21 (1) A person or entity, a subsidiary, affiliate, or agent
22 of that person or entity, an assignee of a financial obligation
23 owing by the consumer to that person or entity, or a prospective
24 assignee of a financial obligation owing by the consumer to that
25 person or entity in conjunction with the proposed purchase of the
26 financial obligation, with which the consumer has or had prior
27 to assignment an account or contract, including a demand deposit

1 account, or to whom the consumer issued a negotiable instrument,
2 for the purposes of reviewing the account or collecting the
3 financial obligation owing for the account, contract, or negotiable
4 instrument. For purposes of this subdivision, reviewing the account
5 includes activities related to account maintenance, monitoring,
6 credit line increases, and account upgrades and enhancements;

7 (2) A subsidiary, affiliate, agent, assignee, or
8 prospective assignee of a person to whom access has been granted
9 under section 6 of this act for purposes of facilitating the
10 extension of credit or other permissible use;

11 (3) Any federal, state, or local governmental entity,
12 including, but not limited to, a law enforcement agency, a court,
13 or an agent or assign of a law enforcement agency or court;

14 (4) A private collection agency acting under a court
15 order, warrant, or subpoena;

16 (5) Any person or entity for the purposes of prescreening
17 as provided for by the federal Fair Credit Reporting Act, 15 U.S.C.
18 1681, as such act existed on the effective date of this act;

19 (6) Any person or entity administering a credit
20 file monitoring subscription service to which the consumer has
21 subscribed;

22 (7) Any person or entity for the purpose of providing
23 a consumer with a copy of the consumer's credit report or any
24 other information derived from his or her file upon the consumer's
25 request; and

26 (8) Any person or entity for use in setting or adjusting
27 a rate, adjusting a claim, or underwriting for insurance purposes.

1 Sec. 14. The following entities are not consumer
2 reporting agencies for purposes of the Credit Report Protection Act
3 and are not required to place a security freeze on a file under
4 section 3 of this act:

5 (1) A check services or fraud prevention services company
6 that issues reports on incidents of fraud or authorizations for
7 the purpose of approving or processing negotiable instruments,
8 electronic funds transfers, or similar methods of payment;

9 (2) A deposit account information service company that
10 issues reports regarding account closures due to fraud, substantial
11 overdrafts, automatic teller machine abuse, or similar negative
12 information regarding a consumer, to inquiring banks or other
13 financial institutions for use only in reviewing a consumer
14 request for a deposit account at the inquiring bank or financial
15 institution; and

16 (3) A consumer reporting agency that acts only as
17 a reseller of credit information by assembling and merging
18 information contained in the data base of another consumer
19 reporting agency, or multiple consumer reporting agencies, and
20 does not maintain a permanent data base of credit information
21 from which new credit reports are produced. A consumer reporting
22 agency shall honor any security freeze placed on a file by another

23 consumer reporting agency.

24 Sec. 15. The Attorney General shall enforce the Credit
 25 Report Protection Act. For purposes of the act, the Attorney
 26 General may issue subpoenas, adopt and promulgate rules and
 27 regulations, and seek injunctive relief and a monetary award
 1 for civil penalties, attorney's fees, and costs. Any person who
 2 violates the act shall be subject to a civil penalty of not more
 3 than two thousand dollars for each violation. The Attorney General
 4 may also seek and recover actual damages for each consumer injured
 5 by a violation of the act.

(Signed) Rich Pahls, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 269. Placed on General File - Com AM682.
 (Amendment is printed separately and available in the Bill Room, Room
 1104.)

(Signed) Ray Aguilar, Chairperson

Health and Human Services

LEGISLATIVE BILL 236. Placed on General File - Com AM670.
 AM670

1 1. Strike the original sections and insert the following
 2 new sections:

3 Section 1. For purposes of sections 1 to 5 of this act:

4 (1) Activities of daily living has the definition found
 5 in section 71-6602;

6 (2) Attendant services means hands-on assistance with
 7 activities of daily living, transfer, grooming, medication
 8 reminders, and similar activities;

9 (3) Companion services means the provision of
 10 companionship and assistance with letter writing, escort services,
 11 reading, and similar activities;

12 (4) Homemaker services means assistance with household
 13 tasks, including, but not limited to, housekeeping, personal
 14 laundry, shopping, incidental transportation, and meals;

15 (5) In-home personal services means attendant services,
 16 companion services, and homemaker services provided to a person
 17 in his or her residence to enable the person to remain safe and
 18 comfortable in such residence;

19 (6) In-home personal services agency means an entity
 20 that provides or offers to provide in-home personal services for
 21 compensation by employees of the agency or by persons with whom the
 22 agency has contracted to provide such services. In-home personal
 23 services agency does not include a local public health department,
 1 a health care facility as defined in section 71-413, a health

2 care service as defined in section 71-415, a nurse aide registry,
3 programs supported by the federal Corporation for National and
4 Community Service, or an agency that provides only housecleaning
5 services. A home health agency may be an in-home personal services
6 agency; and

7 (7) In-home personal services worker means a person who
8 meets the requirements of section 2 of this act and provides
9 in-home personal services.

10 Sec. 2. An in-home personal services worker:

11 (1) Shall be at least eighteen years of age;

12 (2) Shall have good moral character;

13 (3) Shall not have been convicted of a crime under the
14 laws of Nebraska or another jurisdiction, the penalty for which is
15 imprisonment for a period of more than one year and which crime is
16 rationally related to the person's fitness or capacity to act as an
17 in-home personal services worker;

18 (4) Shall have no adverse findings on the Adult
19 Protective Services Central Registry, the central register created
20 in section 28-718, the Medication Aide Registry, the Nurse Aide
21 Registry, or the Nebraska State Patrol Sex Offender Registry;

22 (5) Shall be able to speak and understand the English
23 language or the language of the person for whom he or she is
24 providing in-home personal services; and

25 (6) Shall have training sufficient to provide the
26 requisite level of in-home personal services offered.

27 Sec. 3. An in-home personal services agency shall employ
1 only persons who meet the requirements of section 2 of this act
2 to provide in-home personal services. The in-home personal services
3 agency shall perform or cause to be performed a criminal history
4 record information check on each in-home personal services worker
5 and a check of his or her driving record as maintained by the
6 Department of Motor Vehicles or by any other state which has issued
7 an operator's license to the in-home personal services worker, when
8 driving is a service provided by the in-home personal services
9 worker, and shall maintain documentation of such checks in its
10 records for inspection at its place of business.

11 Sec. 4. An in-home personal services worker shall not
12 perform services which require the exercise of nursing judgment or
13 medical judgment. Notwithstanding any provision of the Medication
14 Aide Act to the contrary, an in-home personal services worker
15 may provide reminders to persons to self-administer medications or
16 assistance to persons in the delivery of nontherapeutic topical
17 applications.

18 Sec. 5. Sections 1 to 4 of this act do not apply to
19 or prohibit the performance of health maintenance activities by
20 designated care aides pursuant to section 71-1,132.30 and do not
21 apply to persons who provide personal assistant services, respite
22 care or habilitation services, or aged and disabled services.

23 Sec. 6. Section 71-6615, Reissue Revised Statutes of

24 Nebraska, is amended to read:

25 71-6615 Sections 71-6601 to 71-6612 ~~shall do~~ not apply
26 to

27 (1) Volunteers ~~any volunteers~~ working on behalf of a
28 hospice licensed under the Health Care Facility Licensure Act who,
29 as part of their volunteer duties, provide home health care;

30 (2) In-home personal services agencies as defined in
31 section 1 of this act; and

32 (3) In-home personal services workers as defined in
33 section 1 of this act.

34 Sec. 7. Section 71-6720, Reissue Revised Statutes of
35 Nebraska, is amended to read:

36 71-6720 (1) The purposes of the Medication Aide Act
37 are to ensure the health, safety, and welfare of the public by
38 providing for the accurate, cost-effective, efficient, and safe
39 utilization of medication aides to assist in the administration of
40 medications by ~~(1)-(a)~~ competent individuals, ~~(2)-(b)~~ caretakers
41 who are parents, foster parents, family, friends or legal
42 guardians, and ~~(3)-(c)~~ licensed health care professionals.

43 (2) The act applies to all settings in which medications
44 are administered except the home, unless the in-home administration
45 of medication is. ~~The act does apply to medication administered~~
46 ~~in the home when~~ provided through a licensed home health agency or
47 licensed or certified home and community-based provider.

48 (3) The act does not apply to the provision of reminders
49 to persons to self-administer medication or assistance to persons
50 in the delivery of nontherapeutic topical applications by in-home
51 personal services workers. For purposes of this subsection, in-home
52 personal services worker has the definition found in section 1 of
53 this act.

54 Sec. 8. Original sections 71-6615 and 71-6720, Reissue
55 1 Revised Statutes of Nebraska, are repealed.

(Signed) Joel Johnson, Chairperson

SELECT FILE

LEGISLATIVE BILL 374. ER8031, found on page 703, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 203. ER8033, found on page 703, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 34. ER8035, found on page 735, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 349. Advanced to E & R for engrossment.

LEGISLATIVE BILL 136. ER8037, found on page 739, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 537. ER8038, found on page 739, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 12. ER8029, printed separately and referred to on page 673, was adopted.

Senator Fulton renewed his amendment, AM637, found on page 812.

The Fulton amendment was adopted with 29 ayes, 3 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 12A. Senator Fulton renewed his amendment, AM652, found on page 812.

Senator Fulton withdrew his amendment.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 568. Senator Louden renewed his amendment, AM210, found on page 687.

The Louden amendment was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 299. Senator Hudkins requested to pass over.

LEGISLATIVE BILL 286. ER8034, printed separately and referred to on page 735, was adopted.

Senator Erdman renewed his amendment, AM648, found on page 804.

The Erdman amendment was adopted with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 551A. Introduced by Flood, 19.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 551, One Hundredth Legislature, First Session, 2007.

LEGISLATIVE BILL 396A. Introduced by Johnson, 37.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 396, One Hundredth Legislature, First Session, 2007.

COMMITTEE REPORT**Education**

The Education 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.

Gary Bieganski - Board of Trustees of the Nebraska State Colleges

Floyd Vrtiska - Board of Trustees of the Nebraska State Colleges

VOTE: Aye: Senators Adams, Ashford, Avery, Burling, Howard, Johnson, Kopplin, and Raikes. Nay: None. Absent: None.

(Signed) Ron Raikes, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 56. Introduced by Fischer, 43.

WHEREAS, the Ainsworth Bulldogs won the 2007 Class C-1 Boys' State High School Basketball Championship; and

WHEREAS, the Ainsworth Bulldogs boys' basketball team finished the season with a record of twenty-four wins and one loss; and

WHEREAS, the Ainsworth Bulldogs earned entrance to the State Basketball Championship tournament in Lincoln, Nebraska, by defeating Pierce 60-49 in the district finals held at Bartlett, Nebraska; and

WHEREAS, the Ainsworth Bulldogs began the 2007 Class C-1 district finals with a season record of twenty-two wins and no losses; and

WHEREAS, the Ainsworth boys' basketball team defeated Hastings St. Cecelia with a score of 55-45 on Thursday, March 8, in the first round of the 2007 Class C-1 Boys' State High School Basketball Championship; and

WHEREAS, the Ainsworth boys' basketball team defeated Pierce with a score of 59-54 on Friday, March 9, in the second round of the 2007 Class C-1 Boys' State High School Basketball Championship; and

WHEREAS, the Ainsworth Bulldogs boys' basketball team experienced a fantastic season; and

WHEREAS, the Bulldogs have brought great pride to their school and their community by their display of determination and sportsmanship throughout the basketball season.

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

1. That the Legislature congratulates the Ainsworth Bulldogs for their achievement in winning the 2007 Class C-1 Boys' State High School Basketball Championship and that head coaches Harlan Welch and Brian Delimont and assistant boys' basketball coach Jeff Konkoleski be congratulated for their excellent season and guidance of their team.

2. That a copy of this resolution be sent to Coaches Welch, Delimont, and Konkoleski and the Ainsworth Bulldogs.

Laid over.

COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 562. Placed on General File - Com AM689.
(Amendment is printed separately and available in the Bill Room, Room 1104.)

(Signed) Mike Friend, Chairperson

Judiciary

LEGISLATIVE BILL 218. Placed on General File.

LEGISLATIVE BILL 457. Placed on General File.

LEGISLATIVE BILL 692. Placed on General File.

LEGISLATIVE BILL 81. Indefinitely postponed.

(Signed) Brad Ashford, Chairperson

GENERAL FILE

LEGISLATIVE BILL 292. Title read. Considered.

Committee AM444, found on page 663, was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 389. Title read. Considered.

Committee AM462, found on page 657, was considered.

Senator Aguilar offered the following amendment to the committee amendment:

AM706

(Amendments to Standing Committee amendments, AM462)

- 1 1. On page 1, strike beginning with "who" in line 8
- 2 through "and" in line 11.

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

The committee amendment, as amended, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 304. Title read. Considered.

SPEAKER FLOOD PRESIDING

Committee AM277, found on page 510, was considered.

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 46, 47, 48, 49, 50, and 51 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 46, 47, 48, 49, 50, and 51.

GENERAL FILE

LEGISLATIVE BILL 304. Committee AM277, found on page 510 and considered in this day's Journal, was renewed.

The committee amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 659. Placed on General File.

LEGISLATIVE BILL 142. Placed on General File - Com AM579.
AM579

1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. Section 28-101, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:
5 28-101 Sections 28-101 to 28-1350 and section 3 of this
6 act shall be known and may be cited as the Nebraska Criminal Code.

7 Sec. 2. Section 28-1310, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 28-1310 ~~(4)-(1)(a)~~ A person commits the offense of
10 intimidation by ~~telephone call~~ electronic communication device if,
11 with the intent to terrify, intimidate, threaten, or harass, ~~annoy,~~
12 ~~or offend~~, the person:

13 (a) ~~Telephones~~ (i) Contacts another anonymously, using an
14 electronic communication device, whether or not ~~conversation any~~
15 communication ensues, and disturbs the peace, quiet, and right of
16 privacy of any person at the place where the ~~calls~~ communications
17 are received; ~~or~~

18 (b) ~~Telephones~~ (ii) Contacts another using an electronic
19 communication device and uses or transmits any indecent, lewd,
20 lascivious, or obscene language, writing, or sound, or transmits
21 any visual depiction of sexually explicit conduct as defined in
22 section 28-1463.02, or suggests any indecent, lewd, or lascivious
23 act; ~~or~~

1 (c) ~~Telephones~~ (iii) Contacts another using an electronic
2 communication device and threatens to inflict injury to any person
3 or to the property of any person; ~~or~~

4 (d) ~~(iv)~~ Intentionally fails to disengage ~~the an~~
5 electronic communication device connection; or

6 (e) ~~Telephones~~ (v) Contacts another using an electronic
7 communication device and attempts to extort money or other thing of
8 value from any person.

9 (2) ~~(b)~~ The use of indecent, lewd, or obscene language or
10 the making of a threat or lewd suggestion ~~shall~~ may be prima facie
11 evidence of intent to terrify, intimidate, threaten, or harass, ~~r~~
12 ~~annoy, or offend~~.

13 (2) Intimidation by electronic communication device is a
14 Class I misdemeanor.

15 (3) ~~The offense~~ Intimidation by electronic communication
16 device shall be deemed to have been committed either at the place
17 where the ~~call~~ communication was ~~made~~ initiated or where it was
18 received.

19 (4) ~~Intimidation by telephone call~~ is a Class III

20 ~~misdemeanor.~~

21 (4) For purposes of this section, electronic
 22 communication device means any device which, in its ordinary and
 23 intended use, transmits signs, signals, writings, sounds, visual
 24 images, data, or intelligence of any nature, in whole or in
 25 part, by a wire, radio, or electromagnetic, photoelectric, or
 26 photo-optical system to another electronic communication device.

27 Electronic communication device includes, but is not limited
 1 to: Cellular, wireless, and wire-based telephones, including
 2 text-messaging capabilities on such telephones; computers as
 3 defined in section 28-1343; and personal data assistants that
 4 operate in a manner consistent with this definition.

5 Sec. 3. (1) A person commits the offense of enticement by
 6 electronic communication device if he or she is nineteen years of
 7 age or over and knowingly uses an electronic communication device
 8 to contact a child under sixteen years of age or a peace officer
 9 who is believed by such person to be a child under sixteen years of
 10 age and in so doing:

11 (a) Uses or transmits any indecent, lewd, lascivious, or
 12 obscene language, writing, or sound;

13 (b) Transmits or otherwise disseminates any visual
 14 depiction of sexually explicit conduct as defined in section
 15 28-1463.02; or

16 (c) Suggests any indecent, lewd, or lascivious act.

17 (2) Enticement by electronic communication device is a
 18 Class IV felony.

19 (3) Enticement by electronic communication device is
 20 deemed to have been committed either at the place where the
 21 communication was initiated or where it was received.

22 (4) For purposes of this section, electronic
 23 communication device means any device which, in its ordinary and
 24 intended use, transmits signs, signals, writings, sounds, visual
 25 images, data, or intelligence of any nature, in whole or in
 26 part, by a wire, radio, or electromagnetic, photoelectric, or
 27 photo-optical system to another electronic communication device.

1 Electronic communication device includes, but is not limited
 2 to: Cellular, wireless, and wire-based telephones, including
 3 text-messaging capabilities on such telephones; computers as
 4 defined in section 28-1343; and personal data assistants that
 5 operate in a manner consistent with this definition.

6 Sec. 4. Original sections 28-101 and 28-1310, Revised
 7 Statutes Cumulative Supplement, 2006, are repealed.

LEGISLATIVE BILL 179. Placed on General File - Com AM583.
 AM583

1 1. Strike the original sections and insert the following
 2 new sections:

3 Section 1. The Legislature finds that to electronically
 4 record statements made during a custodial interrogation is

5 an effective way to document a free, knowing, voluntary, and
6 intelligent waiver of a person's right to remain silent, to agree
7 to answer questions, to decide to have an attorney present during
8 such questioning, and to decide to have an attorney provided to
9 such person if he or she cannot afford an attorney, as provided
10 by the Constitution of the United States and the Constitution
11 of Nebraska. Providing a record of the statement made during a
12 custodial interrogation and any waiver of constitutional rights
13 will reduce speculation and claims that may arise as to the
14 content of the statement. Such a record of the content of the
15 statement will aid law enforcement officers in analyzing and
16 rejecting untruthful statements and will aid the factfinder in
17 determining whether a statement was freely, knowingly, voluntarily,
18 and intelligently made.

19 Sec. 2. For purposes of sections 1 to 8 of this act:

20 (1) Custodial interrogation has the meaning prescribed to
21 it under the Fourth and Fifth Amendments to the Constitution of the
22 United States and Article I, sections 3 and 7, of the Constitution
23 of Nebraska, as interpreted by the United States Supreme Court and
1 the Nebraska Supreme Court;

2 (2) Electronically record means to record using an audio
3 recording device, a digital recording device, or a video recording
4 device;

5 (3) Place of detention means a police station, sheriff's
6 office, troop headquarters, courthouse, county attorney's office,
7 juvenile or adult correctional or holding facility, community
8 correctional center, or building under the permanent control of
9 law enforcement at which the person is in custody pursuant to the
10 authority of a law enforcement officer; and

11 (4) Reasonable exception means circumstances in which:

12 (a) A statement was made when it was not practicable to
13 electronically record the statement;

14 (b) Equipment to electronically record the statement
15 could not be reasonably obtained;

16 (c) The person in custody refused to have the statement
17 electronically recorded;

18 (d) The equipment used to electronically record the
19 statement malfunctioned; or

20 (e) The law enforcement officer conducting the statement
21 reasonably believed that the crime for which the person was taken
22 into custody was not a crime described in subsection (2) of section
23 3 of this act.

24 Sec. 3. (1) All statements relating to crimes described
25 in subsection (2) of this section and statements regarding rights
26 described in section 1 of this act or the waiver of such rights
27 made during a custodial interrogation at a place of detention
1 that are described in subsection (2) of this section shall be
2 electronically recorded.

3 (2) Statements subject to subsection (1) of this section

4 are those statements relating to:

5 (a) Crimes resulting in death or felonies involving
6 (i) sexual assault, (ii) kidnapping, (iii) child abuse, or (iv)
7 strangulation; or

8 (b) Offenses being investigated as part of the same
9 course of conduct as the offenses described in subdivision (a) of
10 this subsection.

11 Sec. 4. Except as otherwise provided in sections 5, 6,
12 and 7 of this act, if a law enforcement officer fails to comply
13 with section 3 of this act, a court shall instruct the jury
14 that they may draw an adverse inference for the law enforcement
15 officer's failure to comply with such section.

16 Sec. 5. (1) If a defendant testifies contrary to his
17 or her statement made during a custodial interrogation at a place
18 of detention which was not electronically recorded, such statement
19 may be used for the purpose of impeachment if it is shown that
20 the statement was freely, knowingly, voluntarily, and intelligently
21 made.

22 (2) A jury instruction shall not be required if the
23 prosecution proves, by a preponderance of the evidence, that
24 there is a reasonable exception for there not being an electronic
25 recording.

26 Sec. 6. If a law enforcement officer fails to comply with
27 section 3 of this act, such failure shall not bar the use of any
1 evidence derived from such statement if the court determines that
2 the evidence is otherwise admissible.

3 Sec. 7. Any statement made during a custodial
4 interrogation shall be admissible against such person in a criminal
5 proceeding in this state if:

6 (1) The statement was obtained in another state and was
7 obtained in compliance with the laws of that state; or

8 (2) The statement was obtained by a federal law
9 enforcement officer in this state or another state, was obtained in
10 compliance with the laws of the United States, and was not taken
11 by a federal law enforcement officer in an attempt to circumvent
12 sections 1 to 8 of this act.

13 Sec. 8. The existence of inaudible portions of an
14 electronic recording, which are not the result of bad faith by
15 a law enforcement officer to produce an inaudible result, standing
16 alone, shall not render a statement out of compliance with section
17 3 of this act.

LEGISLATIVE BILL 274. Placed on General File - Com AM490.
AM490

1 1. On page 3, after line 11 insert

2 "The container warning label shall include the statutory
3 reference to this section."; and strike beginning with "resulting"
4 in line 17 through "performed" in line 18 and insert "if the
5 proximate cause of the damage, injury, or death was the negligence

6 of a person or persons other than the liquefied petroleum gas
 7 provider".

(Signed) Brad Ashford, Chairperson

SENATOR LANGEMEIER PRESIDING

GENERAL FILE

LEGISLATIVE BILL 677. Title read. Considered.

Committee AM630, found on page 800, was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 636. Title read. Considered.

Committee AM381, found on page 621, was considered.

Senator Louden moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

The committee amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

SELECT FILE

LEGISLATIVE BILL 192. ER8039, found on page 736, was adopted.

Senator Harms withdrew his amendment, AM643, found on page 804.

Senator Harms offered the following amendment:

AM701

(Amendments to E & R amendments, ER8039)

- 1 1. On page 4, line 16, strike "in Nebraska"; in line 18
- 2 after the semicolon insert the following new subdivision:
- 3 "(4) Qualified postsecondary educational institution
- 4 means a postsecondary educational institution located in Nebraska
- 5 which has agreed, on a form developed and provided by the
- 6 commission, to comply with the requirements of the act."; in
- 7 line 19 strike "(4)" and insert "(5)" and after "student" insert
- 8 "residing in Nebraska and"; in lines 23 and 24 strike "who"

9 through "a" and insert "for courses to be taken for credit from
 10 a qualified"; and in line 26 after "student" insert "who is
 11 applying to take one or more courses for credit from a qualified
 12 postsecondary educational institution".

13 2. On page 5, line 19, strike "fees" and insert
 14 "mandatory fees to be accrued by the student"; and in line 20
 15 after "or" insert "qualified".

16 3. On page 6, strike line 1 and insert "lesser of tuition
 17 and mandatory fees accrued by the student after any discounts
 18 applicable to such student from the qualified postsecondary"; in
 19 line 2 after "institution" insert "or the tuition and mandatory
 20 fees that would have been accrued by the student for the same
 21 number of credit hours if the student were taking the course as
 22 a full-time, resident, undergraduate student from the University
 1 of Nebraska-Lincoln"; in line 3 after "the" insert "qualified"; in
 2 line 4 before "fees" insert "mandatory"; after line 9 insert the
 3 following new subsection:

4 "(5) For any student receiving a scholarship pursuant
 5 to the act for tuition and fees, the qualified postsecondary
 6 educational institution receiving the payment shall report either
 7 the student's grade for the course or the student's failure to
 8 complete the course to the commission within thirty days after
 9 the end of the course or within one hundred eighty days after
 10 receipt of a payment pursuant to the act if the course for which
 11 the scholarship was awarded does not have a specified ending
 12 date. The commission shall keep the identity of students receiving
 13 scholarships confidential, except as necessary to comply with the
 14 requirements of the act."; in line 14 strike "and" and insert an
 15 underscored comma; and in line 15 after "recipients" insert ", and
 16 information regarding the success of scholarship recipients in the
 17 courses for which the scholarships were awarded".

Senator Erdman offered the following amendment to the Harms amendment:
 AM715

(Amendments to AM701)

1 1. On page 1, strike beginning with the second "and"
 2 in line 7 through the semicolon in line 8 and insert "; in line
 3 20 after 'school' insert 'with a reasonable expectation that such
 4 student will meet the residency requirements of section 85-502 upon
 5 graduation from a Nebraska high school';".

The Erdman amendment was adopted with 31 ayes, 2 nays, 13 present and
 not voting, and 3 excused and not voting.

The Harms amendment, as amended, was adopted with 34 ayes, 0 nays, 12
 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

GENERAL FILE**LEGISLATIVE BILL 663.** Title read. Considered.

Pending.

AMENDMENT - Print in JournalSenators Schimek, Avery, and Fulton filed the following amendment to LB 198:

AM705

(Amendments to Standing Committee amendments, AM211)

- 1 1. On page 1, line 13, after the period insert "No more
- 2 than two such messages shall be disseminated to any one residential
- 3 telephone line per calendar day.".
- 4 2. On page 2, line 17, strike "and"; in line 20 strike
- 5 the period and insert "; and"; and after line 20 insert the
- 6 following new subdivision:
- 7 "(3) Transmit no more than two such messages to any one
- 8 residential telephone line per calendar day.".

COMMITTEE REPORTS**Transportation and Telecommunications****LEGISLATIVE BILL 415.** Placed on General File - Com AM624.
AM624

- 1 1. Strike original section 4.
- 2 2. On page 4, strike beginning with "had" in line 8
- 3 through "vehicle" in line 9 and insert "accumulated three or more
- 4 points pursuant to section 60-4,182".
- 5 3. On page 5, line 5, reinstate the stricken matter; in
- 6 line 6 strike "sixty"; and in line 7 after "hours" insert "of".
- 7 4. On page 6, lines 11 and 12, strike the new matter and
- 8 reinstate the stricken matter; and in line 23 strike "twenty-one"
- 9 and insert "nineteen".
- 10 5. On page 8, line 12, after "years" insert "and three
- 11 months".
- 12 6. On page 11, line 23, strike "sections 60-463, and
- 13 60-4,118.05," and insert "section 60-463,".
- 14 7. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 570. Placed on General File - Com AM690.
AM690

- 1 1. On page 2, lines 7 and 20; page 3, lines 2, 8, and 12;
- 2 page 4, lines 1, 11, 21, and 24; page 5, lines 2, 6, 18, and 23;
- 3 and page 11, line 5, after "Star" insert "Family".
- 4 2. On page 2, strike beginning with "(a)" in line 12
- 5 through "(b)" in line 14; and in line 19, strike "2" and insert
- 6 "3".

LEGISLATIVE BILL 297. Indefinitely postponed.

LEGISLATIVE BILL 560. Indefinitely postponed.

LEGISLATIVE RESOLUTION 37. Reported to the Legislature for further consideration.

(Signed) Deb Fischer, Chairperson

Health and Human Services

LEGISLATIVE BILL 461. Placed on General File - Com AM651.
AM651

1 1. Strike the original sections and insert the following
2 new section:

3 Section 1. (1) With respect to the placement of any
4 foster child with a foster parent, if the placement is made
5 directly through the Department of Health and Human Services or
6 through an agency which contracts with the department to place
7 children in foster care, it is the intent of the Legislature that
8 the department:

9 (a) Treat foster parents with dignity, respect, trust,
10 value, and due consideration as the primary provider of foster care
11 and as a member of the team of professionals caring for foster
12 children;

13 (b) Regularly seek and consider input from foster parents
14 relating to resources and services necessary to meet the needs
15 of foster children and foster parent families, without threat of
16 reprisal;

17 (c) Provide necessary and appropriate training and
18 support for foster parents and their families;

19 (d) Encourage and facilitate communication between
20 foster parents and providers of care and services to foster
21 children, including, but not limited to, therapists, physicians,
22 and teachers;

23 (e) When appropriate and in the best interests of the
1 foster child, facilitate communication by foster parents of the
2 child with the child's birth family, other foster parents of the
3 child, and the adoptive parents of the child;

4 (f) Provide timely information on an ongoing basis to
5 foster parents relating to case plan changes or termination of the
6 placement of foster children and the reasons for such change or
7 termination;

8 (g) When appropriate, consider the former foster parents
9 of a child as a preferential foster care placement option when the
10 child reenters the foster care system;

11 (h) Prior to the foster care placement, provide timely
12 and appropriate information to foster parents regarding the foster
13 child's behavior, family background, and health history in order to
14 ensure the health or safety of the foster child and other members

- 15 of the foster family;
 16 (i) Permit foster parents to accept or refuse a foster
 17 care placement in their home or to request, upon reasonable notice
 18 to the department, the removal of a foster child from their home
 19 for good cause, without threat of reprisal;
 20 (j) Encourage, when appropriate and in the best interests
 21 of the foster child, the development of a positive and safe working
 22 relationship between the child's foster family and the child's
 23 birth family; and
 24 (k) Encourage and facilitate respite periods for foster
 25 parents.
 26 (2) The department shall establish and implement policies
 27 and procedures and may adopt and promulgate rules and regulations
 1 consistent with subsection (1) of this section. The department
 2 shall provide a copy of such policies and procedures to each foster
 3 care licensee.
 4 (3) Subsection (1) of this section shall not be construed
 5 to create a private right of action.

(Signed) Joel Johnson, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 404A. Introduced by Janssen, 15.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 404, One Hundredth Legislature, First Session, 2007.

UNANIMOUS CONSENT - Add Cointroducers

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB 255. No objections. So ordered.

Senator Cornett asked unanimous consent to add her name as cointroducer to LB 338. No objections. So ordered.

Senator Pedersen asked unanimous consent to add his name as cointroducer to LBs 470 and 554. No objections. So ordered.

VISITORS

Visitors to the Chamber were Norfolk Youth Leadership Council; Charlie Goodman from Omaha; Maria Hines from Grand Island; members of Girl Scout Troop 105 Homestead Council from Lincoln; 23 fourth-grade students, teacher, and sponsors from Rose Hill, Omaha; and Alan, Clay, and Zach Zavodny from David City.

The Doctor of the Day was Dr. Jay Matzke from Gothenburg.

ADJOURNMENT

At 11:58 a.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, March 15, 2007.

Patrick J. O'Donnell
Clerk of the Legislature