

THIRTY-SEVENTH DAY - MARCH 7, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****THIRTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, March 7, 2008

PRAYER

The prayer was offered by Pastor John Nelson, Christ Lutheran Church, Columbus.

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 Engel who was excused; and Senators Avery, Dierks, Erdman, Flood, Fulton, Hansen, Heidemann, Karpisek, Lathrop, Lautenbaugh, Raikes, and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-sixth day was approved.

COMMITTEE REPORTS

Health and Human Services

LEGISLATIVE BILL 883. Placed on General File.

LEGISLATIVE BILL 759. Placed on General File with amendment.
AM2142

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. (1) Prescription drugs or devices which have
- 4 been delivered to a Department of Correctional Services facility,
- 5 a criminal detention facility, a juvenile detention facility, or a
- 6 jail for administration to a patient held at such facility or jail
- 7 pursuant to a valid prescription, but which are not administered to
- 8 such patient, may be delivered to a pharmacist or pharmacy under
- 9 contract with the facility or jail for relabeling and redispensing
- 10 and administration to another patient held at such facility or jail
- 11 pursuant to a valid prescription as provided in this section.
- 12 (2)(a) The decision to accept delivery of a prescription

13 drug or device for relabeling and redispensing under this section
 14 rests solely with the contracting pharmacist or pharmacy.

15 (b) A prescription drug or device shall be in the control
 16 of the facility or jail at all times prior to the delivery of the
 17 drug or device for relabeling and redispensing under this section.
 18 The drug or device shall be delivered in the original and unopened
 19 labeled container with the tamper-evident seal intact, and the
 20 container shall bear the expiration date or calculated expiration
 21 date and lot number of the drug or device.

22 (c) A prescription drug or device shall not be
 23 re-labeled and redispensed under this section if the relabeling and
 1 redispensing is otherwise prohibited by law.

2 (3) For purposes of this section:

3 (a) Administer has the definition found in section
 4 38-2806;

5 (b) Calculated expiration date has the definition found
 6 in section 38-2884;

7 (c) Criminal detention facility has the definition found
 8 in section 83-4,125;

9 (d) Deliver or delivery has the definition found in
 10 section 38-2813;

11 (e) Department of Correctional Services facility has the
 12 definition of facility found in section 83-170;

13 (f) Dispense or dispensing has the definition found in
 14 section 38-2817;

15 (g) Jail has the definition found in section 47-117;

16 (h) Juvenile detention facility has the definition found
 17 in section 83-4,125;

18 (i) Prescription has the definition found in section
 19 38-2840; and

20 (j) Prescription drug or device has the definition found
 21 in section 38-2841.

22 (4) The Jail Standards Board, in consultation with the
 23 Board of Pharmacy, shall adopt and promulgate rules and regulations
 24 to carry out this section, including, but not limited to, rules and
 25 regulations relating to (a) persons authorized to administer the
 26 prescription drug or device to a patient and (b) the proper storage
 27 and protection of the drug or device consistent with the directions
 1 contained on the label or package insert provided by the pharmacist
 2 or pharmacy for the drug or device.

3 Sec. 2. This act becomes operative on December 1, 2008.

LEGISLATIVE BILL 954. Placed on General File with amendment.
 AM2117

1 1. On page 2, line 3, strike "(1)", show as stricken,
 2 and insert "(1)(a)"; in line 7 before "If" insert paragraphing and
 3 "(b)"; in line 11 after the period insert "Such general consent
 4 form shall inform the person that a test for the presence of
 5 the human immunodeficiency virus infection may be performed and

6 that the person may refuse the performance of such test."; in
 7 line 18 after the stricken "(2)" insert "(3)", reinstate the
 8 stricken matter beginning with "The" through "consent", and after
 9 the stricken colon insert "for the performance of an HIV-related
 10 test under subdivision (1)(a) of this section shall include:"; and
 11 in lines 19 through 25, reinstate the stricken matter.
 12 2. On page 3, lines 1 through 6, reinstate the stricken
 13 matter; in line 7 strike "(3)", show as stricken, and insert "(4)";
 14 and in line 11 strike "(4)", show as stricken, and insert "(5)".

LEGISLATIVE BILL 1163. Indefinitely postponed.

(Signed) Joel Johnson, Chairperson

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 6, 2008, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

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

Blankenau, Don, of Blackwell Sanders Peper Martin LLP
 Resources Districts, Nebraska Association of

Dukesherer, James C.
 Rural Electric Association, Nebraska

Gordon Thomas Honeywell Governmental Affairs
 Ammunition Coating Systems
 Applied Biosystems

Gregorich, Joseph
 American Electronics Association (AEA)

McGrain, Jordan
 Gateway Development Corp.

Owens, Daniel
 Center for Rural Affairs

Sedlacek, Ronald J.
 HDM Corp

Shannon, Fred
 Hewlett Packard

REPORTS

The following reports were received by the Legislature:

Auditor of Public Accounts

Statewide Single Audit for the year ended June 30, 2007

Emergency Management Agency, Nebraska

2007 Status of Nebraska Emergency Management/Homeland Security Program

Property Assessment and Taxation, Department of

Development Projects for Cities Using Tax Increment Financing in 2007

Roads, Department of

2007 Annual Report

SELECT FILE

LEGISLATIVE BILL 962. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 914. ER8174, found on page 745, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 768. ER8176, found on page 797, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 939. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1056. ER8177, found on page 803, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 851. ER8165, found on page 670, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 755. ER8164, found on page 671, was adopted.

Senator Fischer renewed her amendment, AM2172, found on page 801.

The Fischer amendment was adopted with 29 ayes, 0 nays, 8 present and not voting, and 12 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 855. ER8167, found on page 708, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 756. ER8168, found on page 709, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 797. ER8169, found on page 738, was adopted.

Senator Johnson renewed the Johnson-Stuthman amendment, AM2133, found on page 788.

The Johnson-Stuthman amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senator Johnson renewed his amendment, AM2143, found on page 788.

The Johnson amendment was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Senator Synowiecki renewed his amendment, AM2203, found on page 823.

SENATOR FISCHER PRESIDING

SENATOR LANGEMEIER PRESIDING

Senator Synowiecki withdrew his amendment.

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 963. Indefinitely postponed.

(Signed) Brad Ashford, Chairperson

AMENDMENTS - Print in Journal

Senator Carlson filed the following amendment to LB1094:
AM2234

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 2-3225, Revised Statutes Supplement,
- 4 2007, is amended to read:
- 5 2-3225 (1)(a) Each district shall have the power and
- 6 authority to levy a tax of not to exceed four and one-half cents

7 on each one hundred dollars of taxable valuation annually on all of
8 the taxable property within such district unless a higher levy is
9 authorized pursuant to section 77-3444.

10 (b) Each district shall also have the power and authority
11 to levy a tax equal to the dollar amount by which its restricted
12 funds budgeted to administer and implement ground water management
13 activities and integrated management activities under the Nebraska
14 Ground Water Management and Protection Act exceed its restricted
15 funds budgeted to administer and implement ground water management
16 activities and integrated management activities for FY2003-04, not
17 to exceed one cent on each one hundred dollars of taxable valuation
18 annually on all of the taxable property within the district.

19 (c) In addition to the power and authority granted in
20 subdivisions (1)(a) and (b) of this section, each district located
21 in a river basin, subbasin, or reach that has been determined
22 to be fully appropriated pursuant to section 46-714 or designated
23 overappropriated pursuant to section 46-713 by the Department of
1 Natural Resources shall also have the power and authority to
2 levy a tax equal to the dollar amount by which its restricted
3 funds budgeted to administer and implement ground water management
4 activities and integrated management activities under the Nebraska
5 Ground Water Management and Protection Act exceed its restricted
6 funds budgeted to administer and implement ground water management
7 activities and integrated management activities for FY2005-06, not
8 to exceed three cents on each one hundred dollars of taxable
9 valuation on all of the taxable property within the district for
10 fiscal year 2006-07 and each fiscal year thereafter through fiscal
11 year 2011-12.

12 (d) In addition to the power and authority granted in
13 subdivisions (a) through (c) of this subsection, a district with
14 jurisdiction that includes a river subject to an interstate compact
15 among three or more states and that also includes one or more
16 irrigation districts within the compact river basin may annually
17 levy a tax not to exceed ten cents per one hundred dollars of
18 taxable valuation of all taxable property in the district. The
19 proceeds of such tax may be used for the payment of principal and
20 interest on bonds and refunding bonds issued pursuant to section
21 2-3226.01 or for the repayment of financial assistance received
22 by the district pursuant to section 5 of this act. Such levy is
23 not includable in the computation of other limitations upon the
24 district's tax levy.

25 (2) The proceeds of the tax levies authorized in
26 subdivisions (1)(a) through (c) of this section shall be used,
27 together with any other funds which the district may receive from
1 any source, for the operation of the district. When adopted by the
2 board, the tax levies authorized in subdivisions (1)(a) through (d)
3 of this section shall be certified by the secretary to the county
4 clerk of each county which in whole or in part is included within
5 the district. Such levy shall be handled by the counties in the

6 same manner as other levies, and proceeds shall be remitted to the
7 district treasurer. Such levy shall not be considered a part of the
8 general county levy and shall not be considered in connection with
9 any limitation on levies of such counties.

10 Sec. 2. Section 2-3226.01, Revised Statutes Supplement,
11 2007, is amended to read:

12 2-3226.01 (1) In order to implement its duties and
13 obligations under the Nebraska Ground Water Management and
14 Protection Act and in addition to other powers authorized by law,
15 the board of a district with jurisdiction that includes a river
16 subject to an interstate compact among three or more states and
17 that also includes one or more irrigation districts within the
18 compact river basin may issue negotiable bonds and refunding bonds
19 of the district and entitled river-flow enhancement bonds, with
20 terms determined appropriate by the board, payable by (a) funds
21 granted to such district by the state or federal government for
22 one or more qualified projects, (b) the occupation tax authorized
23 by section 2-3226.05, or (c) the levy authorized by section 2-3225.
24 The district may issue the bonds or refunding bonds directly,
25 or such bonds may be issued by any joint entity as defined
26 in section 13-803 whose member public agencies consist only of
27 qualified natural resources districts or by any joint public
1 agency as defined in section 13-2503 whose participating public
2 agencies consist only of qualified natural resources districts, in
3 connection with any joint project which is to be owned, operated,
4 or financed by the joint entity or joint public agency for the
5 benefit of its member natural resources districts. For the payment
6 of such bonds or refunding bonds, the district may pledge one or
7 more permitted payment sources.

8 (2) Within forty-five days after receipt of a written
9 request by the Natural Resources Committee of the Legislature, the
10 qualified natural resources districts shall submit a written report
11 to the committee containing an explanation of existing or planned
12 activities for river-flow enhancement, the revenue source for
13 implementing such activities, and a description of the estimated
14 benefit or benefits to the district or districts.

15 (3) Beginning on April 1, 2008, if a district uses the
16 proceeds of a bond issued pursuant to this section for the purposes
17 described in subdivision (1) of section 2-3226.04 or the state uses
18 funds for those same purposes, ~~such district shall restrict the~~
19 ~~use of ground water from water wells used on acres certified for~~
20 ~~both ground water use and surface water use to no greater than~~
21 ~~the total ground water allocation previously permitted by district~~
22 ~~rule or regulation less any surface water purchased, leased, or~~
23 ~~otherwise acquired for implementation of the project entered into~~
24 ~~by the district. the agreement to acquire water rights by purchase~~
25 ~~or lease pursuant to such subdivision shall identify (a) the~~
26 ~~method of payment, (b) the distribution of funds by the party or~~
27 ~~parties receiving payments, (c) the water use or rights subject~~

1 to the agreement, and (d) the water use or rights allowed by the
2 agreement. If any irrigation district is party to the agreement,
3 the irrigation district shall allocate funds received under such
4 agreement among its users or members in a reasonable manner, giving
5 consideration to the benefits received and the value of the rights
6 surrendered.

7 Sec. 3. Section 2-3226.05, Revised Statutes Supplement,
8 2007, is amended to read:

9 2-3226.05 (1) The district may levy an occupation tax
10 upon the activity of irrigation of agricultural lands within
11 such district on an annual basis, not to exceed ten dollars per
12 irrigated acre, the proceeds of which may be used for the purpose
13 of repaying principal and interest on any bonds or refunding bonds
14 issued pursuant to section 2-3226.01 for one or more projects under
15 section 2-3226.04 or for the repayment of financial assistance
16 received by the district pursuant to section 5 of this act.

17 (2) Acres classified by the county assessor as irrigated
18 shall be subject to such district's occupation tax unless, on or
19 before July 1, 2007, and on or before March 1 in each subsequent
20 year, the record owner certifies to the district the nonirrigation
21 status of such acres.

22 (3) Any such occupation tax shall remain in effect so
23 long as the district has bonds outstanding which have been issued
24 stating such occupation tax as an available source for payment.

25 (4) Such occupation taxes shall be certified to,
26 collected by, and accounted for by the county treasurer at the same
27 time as general real estate taxes, and such occupation taxes shall
1 be and remain a perpetual lien against such real estate until paid.
2 Such occupation taxes shall become delinquent at the same time as
3 general real property taxes.

4 (5) Such lien shall be inferior only to general taxes
5 levied by political subdivisions of the state. When such occupation
6 taxes have become delinquent and the real property on which the
7 irrigation took place has not been offered at any tax sale, the
8 district may proceed in district court in the county in which the
9 real estate is situated to foreclose in its own name the lien
10 in the same manner and with like effect as a foreclosure of a
11 real estate mortgage, except that sections 77-1903 to 77-1917 shall
12 govern when applicable.

13 Sec. 4. The Legislature finds that water rights holders
14 who lease and forego water use to assist in the management,
15 protection, and conservation of the water resources of river
16 basins must be paid. It is the intent of the Legislature to
17 provide payment to such water rights holders through the financial
18 assistance provided in section 5 of this act. The Legislature
19 further finds that the financial assistance provided by the state
20 under such section shall be repaid through the authority granted
21 under Laws 2007, LB 701, or such other means as are provided by the
22 Legislature.

23 Sec. 5. (1) The Water Contingency Cash Fund is created.
24 The department shall administer the fund. Any money in the fund
25 available for investment shall be invested by the state investment
26 officer pursuant to the Nebraska Capital Expansion Act and the
27 Nebraska State Funds Investment Act.

1 (2) No later than five days after the effective date
2 of this act, a natural resources district with jurisdiction that
3 includes a river subject to an interstate compact among three or
4 more states and that also includes one or more irrigation districts
5 within the compact river basin, and such natural resources
6 district, using authority granted under Laws 2007, LB 701, enters
7 or has entered into agreements, shall submit a request in writing
8 to the department certifying the amount of financial assistance
9 necessary to meet its obligations under section 2-3226.04. Within
10 fifteen days after the effective date of this act, if such a
11 request has been received by the department, the department shall
12 expend from the Water Contingency Cash Fund the amount requested
13 to provide financial assistance to the submitting natural resources
14 district. The natural resources district shall use the financial
15 assistance provided by the state from the Water Contingency Cash
16 Fund to compensate water rights holders who agree or have agreed
17 to lease and forgo the use of water. Any financial assistance
18 provided under this section not used for such purpose by the
19 natural resources district within sixty days after it is received
20 by such district shall be returned to the department for credit to
21 the Water Contingency Cash Fund.

22 Sec. 6. (1) Any district receiving financial assistance
23 pursuant to section 5 of this act shall remit to the department
24 the proceeds of the property tax authorized pursuant to subdivision
25 (1)(d) of section 2-3225, the proceeds of the occupation tax
26 authorized pursuant to section 2-3226.05, or both, when such
27 proceeds are available for distribution until the amount of such
1 financial assistance has been repaid. Such proceeds shall be
2 remitted within fifteen days after receipt of the proceeds by the
3 district.

4 (2) If the district does not receive proceeds described
5 in subsection (1) of this section, the district shall reimburse the
6 Water Contingency Cash Fund by such means as are provided by the
7 Legislature. Such reimbursement shall be made no later than June
8 30, 2013.

9 Sec. 7. The department shall remit reimbursements
10 received pursuant to section 6 of this act to the State Treasurer
11 for credit to the Water Contingency Cash Fund. The department shall
12 calculate the amount of such reimbursements so remitted. After the
13 initial disbursement of financial assistance by the department as
14 authorized in section 5 of this act, the State Treasurer shall, at
15 the end of each calendar month, transfer the balance of the Water
16 Contingency Cash Fund to the Cash Reserve Fund.

17 Sec. 8. Section 84-612, Revised Statutes Supplement,

18 2007, is amended to read:

19 84-612 (1) There is hereby created within the state
20 treasury a fund known as the Cash Reserve Fund which shall be under
21 the direction of the State Treasurer. The fund shall only be used
22 pursuant to this section.

23 (2) The State Treasurer shall transfer funds from the
24 Cash Reserve Fund to the General Fund upon certification by the
25 Director of Administrative Services that the current cash balance
26 in the General Fund is inadequate to meet current obligations. Such
27 certification shall include the dollar amount to be transferred.

1 Any transfers made pursuant to this subsection shall be reversed
2 upon notification by the Director of Administrative Services that
3 sufficient funds are available.

4 (3) The State Treasurer, at the direction of the
5 budget administrator of the budget division of the Department
6 of Administrative Services, shall transfer such amounts not to
7 exceed seven million seven hundred fifty-three thousand two hundred
8 sixty-three dollars in total from the Cash Reserve Fund to the
9 Nebraska Capital Construction Fund between July 1, 2003, and June
10 30, 2007.

11 (4) The State Treasurer, at the direction of the budget
12 administrator, shall transfer an amount equal to the total amount
13 transferred pursuant to subsection (3) of this section from the
14 General Fund to the Cash Reserve Fund on or before June 30, 2008.

15 (5) In addition to receiving transfers from other funds,
16 the Cash Reserve Fund shall receive federal funds received by the
17 State of Nebraska for undesignated general government purposes,
18 federal revenue sharing, or general fiscal relief of the state.

19 (6) On June 15, 2007, the State Treasurer shall transfer
20 fifteen million six hundred seventy-four thousand one hundred seven
21 dollars from the Cash Reserve Fund to the General Fund.

22 (7) On June 16, 2008, the State Treasurer shall transfer
23 seventeen million nine hundred thirty-one thousand thirty dollars
24 from the Cash Reserve Fund to the General Fund.

25 (8) On June 15, 2009, the State Treasurer shall transfer
26 four million nine hundred ninety thousand five hundred five dollars
27 from the Cash Reserve Fund to the General Fund.

1 (9) On or before June 16, 2008, the State Treasurer, at
2 the direction of the budget administrator, shall transfer fifty
3 million dollars from the Cash Reserve Fund to the General Fund.

4 (10) On or before June 16, 2009, the State Treasurer,
5 at the direction of the budget administrator, shall transfer fifty
6 million dollars from the Cash Reserve Fund to the General Fund.

7 (11) From the effective date of an endowment agreement
8 as defined in subdivision (3)(c) of section 79-1101 until June
9 30, 2007, forty million dollars of the Cash Reserve Fund shall be
10 deemed to constitute the Early Childhood Education Endowment Fund.
11 Such funds shall remain part of the Cash Reserve Fund for all
12 purposes, except that the interest earned on such forty million

13 dollars shall accrue as provided in section 84-613.

14 (12) The State Treasurer, at the direction of the budget
15 administrator, shall transfer such amounts, as certified by the
16 Director of Administrative Services, for employee health insurance
17 claims and expenses, not to exceed twelve million dollars in total
18 from the Cash Reserve Fund to the State Employees Insurance Fund
19 between May 1, 2007, and June 30, 2011.

20 (13) On July 9, 2007, the State Treasurer shall transfer
21 twelve million dollars from the Cash Reserve Fund to the Nebraska
22 Capital Construction Fund.

23 (14) On July 9, 2007, the State Treasurer shall transfer
24 five million dollars from the Cash Reserve Fund to the Job Training
25 Cash Fund. The State Treasurer shall transfer from the Job Training
26 Cash Fund to the Cash Reserve Fund such amounts as directed in
27 section 81-1201.21.

1 (15) On July 7, 2008, the State Treasurer shall transfer
2 five million dollars from the Cash Reserve Fund to the Job Training
3 Cash Fund. The State Treasurer shall transfer from the Job Training
4 Cash Fund to the Cash Reserve Fund such amounts as directed in
5 section 81-1201.21.

6 (16) On or before August 1, 2007, the State Treasurer,
7 at the direction of the budget administrator, shall transfer
8 seventy-five million dollars from the Cash Reserve Fund to the
9 Nebraska Capital Construction Fund.

10 (17) On or before June 30, 2009, the State Treasurer
11 shall transfer nine million five hundred ninety thousand dollars
12 from the Cash Reserve Fund to the Nebraska Capital Construction
13 Fund.

14 (18) The State Treasurer, at the direction of the budget
15 administrator, shall transfer an amount equal to the total amount
16 transferred pursuant to subsection (12) of this section from
17 the appropriate health insurance accounts of the State Employees
18 Insurance Fund in such amounts as certified by the Director of
19 Administrative Services to the Cash Reserve Fund on or before June
20 30, 2011.

21 (19) On July 9, 2007, the State Treasurer shall
22 transfer one million dollars from the Cash Reserve Fund to the
23 Microenterprise Development Cash Fund.

24 (20) On July 9, 2007, the State Treasurer shall transfer
25 two hundred fifty thousand dollars from the Cash Reserve Fund to
26 the Building Entrepreneurial Communities Cash Fund.

27 (21) On July 7, 2008, the State Treasurer shall
1 transfer one million dollars from the Cash Reserve Fund to the
2 Microenterprise Development Cash Fund.

3 (22) On July 7, 2008, the State Treasurer shall transfer
4 two hundred fifty thousand dollars from the Cash Reserve Fund to
5 the Building Entrepreneurial Communities Cash Fund.

6 (23) Within seven days after the effective date of this
7 act, the State Treasurer shall transfer nine million dollars from

8 the Cash Reserve Fund to the Water Contingency Cash Fund.
 9 Sec. 9. Original sections 2-3225, 2-3226.01, 2-3226.05,
 10 and 84-612, Revised Statutes Supplement, 2007, are repealed.
 11 Sec. 10. Since an emergency exists, this act takes effect
 12 when passed and approved according to law.

Senator McDonald filed the following amendment to LB1058:
 AM2122

(Amendments to Standing Committee amendments, AM1866)

- 1 1. On page 1, line 15; and page 3, line 20, strike "and
- 2 Addiction Services" and show as stricken.
- 3 2. On page 2, line 11, after "(b)" insert "the review
- 4 and use of evaluation data, (c)"; and in line 13 strike "(c)" and
- 5 insert "(d)".

Senator Chambers filed the following amendment to LB878:
 FA195

Amend AM2041

In lines 5, 8, 11, 13 strike "dishonesty or false statement" and insert "moral turpitude".

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 844. Placed on Select File with amendment.
 ER8180

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 28-416, Revised Statutes Cumulative
- 4 Supplement, 2006, is amended to read:
- 5 28-416 (1) Except as authorized by the Uniform Controlled
- 6 Substances Act, it shall be unlawful for any person knowingly or
- 7 intentionally: (a) To manufacture, distribute, deliver, dispense,
- 8 or possess with intent to manufacture, distribute, deliver, or
- 9 dispense a controlled substance; or (b) to create, distribute,
- 10 or possess with intent to distribute a counterfeit controlled
- 11 substance.
- 12 (2) Except as provided in subsections (4), (5), (7), (8),
- 13 (9), and (10) of this section, any person who violates subsection
- 14 (1) of this section with respect to: (a) A controlled substance
- 15 classified in Schedule I, II, or III of section 28-405 which is an
- 16 exceptionally hazardous drug shall be guilty of a Class II felony;
- 17 (b) any other controlled substance classified in Schedule I, II, or
- 18 III of section 28-405 shall be guilty of a Class III felony; or (c)
- 19 a controlled substance classified in Schedule IV or V of section
- 20 28-405 shall be guilty of a Class IIIA felony.
- 21 (3) A person knowingly or intentionally possessing a
- 22 controlled substance, except marijuana, unless such substance was
- 23 obtained directly or pursuant to a medical order issued by a

1 practitioner authorized to prescribe while acting in the course of
2 his or her professional practice, or except as otherwise authorized
3 by the act, shall be guilty of a Class IV felony.

4 (4)(a) Except as authorized by the Uniform Controlled
5 Substances Act, any person eighteen years of age or older who
6 knowingly or intentionally manufactures, distributes, delivers,
7 dispenses, or possesses with intent to manufacture, distribute,
8 deliver, or dispense a controlled substance or a counterfeit
9 controlled substance (i) to a person under the age of eighteen
10 years, (ii) in, on, or within one thousand feet of the real
11 property comprising a public or private elementary, vocational, or
12 secondary school, a community college, a public or private college,
13 junior college, or university, or a playground, or (iii) within one
14 hundred feet of a public or private youth center, public swimming
15 pool, or video arcade facility shall be punished by the next higher
16 penalty classification than the penalty prescribed in subsection
17 (2), (7), (8), (9), or (10) of this section, depending upon the
18 controlled substance involved, for the first violation and for a
19 second or subsequent violation shall be punished by the next higher
20 penalty classification than that prescribed for a first violation
21 of this subsection, but in no event shall such person be punished
22 by a penalty greater than a Class IB felony.

23 (b) For purposes of this subsection:

24 (i) Playground shall mean any outdoor facility, including
25 any parking lot appurtenant to the facility, intended for
26 recreation, open to the public, and with any portion containing
27 three or more apparatus intended for the recreation of children,
1 including sliding boards, swingsets, and teeterboards;

2 (ii) Video arcade facility shall mean any facility
3 legally accessible to persons under eighteen years of age, intended
4 primarily for the use of pinball and video machines for amusement,
5 and containing a minimum of ten pinball or video machines; and

6 (iii) Youth center shall mean any recreational facility
7 or gymnasium, including any parking lot appurtenant to the facility
8 or gymnasium, intended primarily for use by persons under eighteen
9 years of age which regularly provides athletic, civic, or cultural
10 activities.

11 (5)(a) Except as authorized by the Uniform Controlled
12 Substances Act, it shall be unlawful for any person eighteen
13 years of age or older to knowingly and intentionally employ, hire,
14 use, cause, persuade, coax, induce, entice, seduce, or coerce any
15 person under the age of eighteen years to manufacture, transport,
16 distribute, carry, deliver, dispense, prepare for delivery, offer
17 for delivery, or possess with intent to do the same a controlled
18 substance or a counterfeit controlled substance.

19 (b) Except as authorized by the Uniform Controlled
20 Substances Act, it shall be unlawful for any person eighteen years
21 of age or older to knowingly and intentionally employ, hire, use,
22 cause, persuade, coax, induce, entice, seduce, or coerce any person

23 under the age of eighteen years to aid and abet any person in
24 the manufacture, transportation, distribution, carrying, delivery,
25 dispensing, preparation for delivery, offering for delivery, or
26 possession with intent to do the same of a controlled substance or
27 a counterfeit controlled substance.

1 (c) Any person who violates subdivision (a) or (b) of
2 this subsection shall be punished by the next higher penalty
3 classification than the penalty prescribed in subsection (2), (7),
4 (8), (9), or (10) of this section, depending upon the controlled
5 substance involved, for the first violation and for a second or
6 subsequent violation shall be punished by the next higher penalty
7 classification than that prescribed for a first violation of this
8 subsection, but in no event shall such person be punished by a
9 penalty greater than a Class IB felony.

10 (6) It shall not be a defense to prosecution for
11 violation of subsection (4) or (5) of this section that the
12 defendant did not know the age of the person through whom the
13 defendant violated such subsection.

14 (7) Any person who violates subsection (1) of this
15 section with respect to cocaine or any mixture or substance
16 containing a detectable amount of cocaine in a quantity of:

17 (a) One hundred forty grams or more shall be guilty of a
18 Class IB felony;

19 (b) At least twenty-eight grams but less than one hundred
20 forty grams shall be guilty of a Class IC felony; or

21 (c) At least ten grams but less than twenty-eight grams
22 shall be guilty of a Class ID felony.

23 (8) Any person who violates subsection (1) of this
24 section with respect to base cocaine (crack) or any mixture or
25 substance containing a detectable amount of base cocaine in a
26 quantity of:

27 (a) One hundred forty grams or more shall be guilty of a
1 Class IB felony;

2 (b) At least twenty-eight grams but less than one hundred
3 forty grams shall be guilty of a Class IC felony; or

4 (c) At least ten grams but less than twenty-eight grams
5 shall be guilty of a Class ID felony.

6 (9) Any person who violates subsection (1) of this
7 section with respect to heroin or any mixture or substance
8 containing a detectable amount of heroin in a quantity of:

9 (a) One hundred forty grams or more shall be guilty of a
10 Class IB felony;

11 (b) At least twenty-eight grams but less than one hundred
12 forty grams shall be guilty of a Class IC felony; or

13 (c) At least ten grams but less than twenty-eight grams
14 shall be guilty of a Class ID felony.

15 (10) Any person who violates subsection (1) of this
16 section with respect to amphetamine, its salts, optical isomers,
17 and salts of its isomers, or with respect to methamphetamine, its

18 salts, optical isomers, and salts of its isomers, in a quantity of:

19 (a) One hundred forty grams or more shall be guilty of a
20 Class IB felony;

21 (b) At least twenty-eight grams but less than one hundred
22 forty grams shall be guilty of a Class IC felony; or

23 (c) At least ten grams but less than twenty-eight grams
24 shall be guilty of a Class ID felony.

25 (11) Any person knowingly or intentionally possessing
26 marijuana weighing more than one ounce but not more than one pound
27 shall be guilty of a Class ~~III~~III misdemeanor.

1 (12) Any person knowingly or intentionally possessing
2 marijuana weighing more than one pound shall be guilty of a Class
3 IV felony.

4 (13) Any person knowingly or intentionally possessing
5 marijuana weighing one ounce or less shall:

6 (a) For the first offense, be guilty of an infraction,
7 receive a citation, be fined ~~one~~three hundred dollars, and be
8 assigned to attend a course as prescribed in section 29-433 if the
9 judge determines that attending such course is in the best interest
10 of the individual defendant;

11 (b) For the second offense, be guilty of a Class IV
12 misdemeanor, receive a citation, and be fined ~~two~~four hundred
13 dollars and may be imprisoned not to exceed five days; and

14 (c) For the third and all subsequent offenses, be guilty
15 of a Class IIIA misdemeanor, receive a citation, be fined ~~three~~
16 five hundred dollars, and be imprisoned not to exceed seven days.

17 (14) Any person convicted of violating this section,
18 if placed on probation, shall, as a condition of probation,
19 satisfactorily attend and complete appropriate treatment and
20 counseling on drug abuse provided by a program authorized under
21 the Nebraska Behavioral Health Services Act or other licensed drug
22 treatment facility.

23 (15) Any person convicted of violating this section, if
24 sentenced to the Department of Correctional Services, shall attend
25 appropriate treatment and counseling on drug abuse.

26 (16) Any person knowingly or intentionally possessing a
27 firearm while in violation of subsection (1) of this section shall
1 be punished by the next higher penalty classification than the
2 penalty prescribed in subsection (2), (7), (8), (9), or (10) of
3 this section, but in no event shall such person be punished by a
4 penalty greater than a Class IB felony.

5 (17) A person knowingly or intentionally in possession
6 of money used or intended to be used to facilitate a violation
7 of subsection (1) of this section shall be guilty of a Class IV
8 felony.

9 Sec. 2. Section 29-433, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 29-433 A person cited for an infraction pursuant to
12 section 28-416 or convicted of a misdemeanor pursuant to sections

13 53-180.01 to 53-180.03 shall be assigned to attend a course of
 14 instruction relating to the effects of the misuse of drugs,
 15 including alcohol and controlled substances. Such instruction shall
 16 include counseling on the legal, medical, psychological, and social
 17 effects of drug use and abuse. Such course shall consist of a
 18 minimum of five hours and a maximum of ten hours of instruction and
 19 counseling. Upon completion of the assigned course, the instructor
 20 shall notify the court in writing of such completion and the
 21 notification shall be made a part of the record of the citation.
 22 Any person failing to complete such course within thirty days after
 23 the assignment shall be guilty of an infraction.

24 Sec. 3. Original section 29-433, Reissue Revised Statutes
 25 of Nebraska, and section 28-416, Revised Statutes Cumulative
 26 Supplement, 2006, are repealed.

27 2. On page 1, strike beginning with "sections" in line 1
 1 through line 7 and insert "section 29-433, Reissue Revised Statutes
 2 of Nebraska, and section 28-416, Revised Statutes Cumulative
 3 Supplement, 2006; to change penalty provisions for marijuana
 4 possession; to require a course of instruction for violating
 5 certain provisions relating to minors in possession of alcohol; and
 6 to repeal the original sections."

(Signed) Amanda McGill, Chairperson

SELECT FILE

LEGISLATIVE BILL 1014. ER8172, found on page 738, was adopted.

Senator Erdman withdrew his motion, MO136, found on page 737, to bracket until April 1, 2008.

Senator Ashford renewed his amendment, AM2196, found on page 812.

The Ashford amendment was adopted with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

Senator Ashford withdrew his amendment, AM2154, found on page 812.

Senator Ashford renewed his amendment, AM2175, found on page 814.

The Ashford amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senator Ashford renewed his amendment, AM2107, found on page 815.

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

Senator McGill asked unanimous consent to withdraw her amendment,

AM2218, found on page 833, and replace it with her substitute amendment, AM2231. No objections. So ordered.
AM2231

(Amendments to AM2006)

1 1. Insert the following sections:

2 Sec. 24. (1) When sentencing a person convicted of a
3 misdemeanor crime of domestic violence as defined in 18 U.S.C.
4 921(a)(33), the court shall provide written or oral notification to
5 the defendant that it may be a violation of federal law for the
6 individual: To ship or transport in interstate or foreign commerce,
7 or possess in or affecting commerce, any firearm or ammunition;
8 or to receive any firearm or ammunition which has been shipped or
9 transported in interstate or foreign commerce.

10 (2) The State Court Administrator's Office shall create a
11 standard notification that provides the information in subsection
12 (1) of this section and shall provide a copy of such notification
13 to all judges in this state.

14 Sec. 32. Section 42-925, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 42-925. ~~Any~~ (1) An order issued under subsection (1)
17 of section 42-924 may be issued ex parte to the respondent if
18 it reasonably appears from the specific facts included in the
19 affidavit that the petitioner will be in immediate danger of abuse
20 before the matter can be heard on notice. If an order is issued ex
21 parte, the court shall immediately schedule an evidentiary hearing
22 to be held within thirty days after service of such order, and
1 the court shall cause notice of the hearing to be given to the
2 petitioner and the respondent. If the respondent appears at the
3 hearing and shows cause why such order should not remain in effect,
4 the court shall rescind the order. If the respondent does not so
5 appear and show cause, the order shall be affirmed.

6 (2) If an order under subsection (1) of section 42-924
7 is not issued ex parte, the court shall immediately schedule an
8 evidentiary hearing to be held within fourteen days after the
9 filing of the petition, and the court shall cause notice of the
10 hearing to be given to the petitioner and the respondent. If the
11 respondent does not appear at the hearing and show cause why such
12 order should not be issued, the court shall issue such order.

13 (3) The court may by rule or order refer or assign all
14 matters regarding orders issued under subsection (1) of section
15 42-924 to a referee for findings and recommendations.

16 (4) An order issued under subsection (1) of section
17 42-924 shall remain in effect for a period of one year from
18 the date of issuance, unless vacated by the court prior to such
19 date. If the order grants temporary custody, such custody shall
20 not exceed the number of days specified by the court unless the
21 respondent shows cause why the order should not remain in effect.

22 (5) The court shall also cause the notice created under
23 section 24 of this act to be served upon the respondent notifying

24 the respondent that it may be unlawful under federal law for a
 25 person who is subject to a protection order to possess or receive
 26 any firearm or ammunition.(1) ~~If the specific facts included in~~
 27 ~~the affidavit do not show that the petitioner will be in immediate~~
 1 ~~danger of abuse or (2) if the court does not issue an ex parte~~
 2 ~~order or grants only part of the relief sought, the court or~~
 3 ~~judge may forthwith cause notice of the petition to be given to~~
 4 ~~the respondent stating that he or she may show cause, not more~~
 5 ~~than fourteen days after service upon him or her, why such order~~
 6 ~~should not be entered. If such ex parte order is issued to the~~
 7 ~~respondent, the court shall forthwith cause notice of the petition~~
 8 ~~and order to be given the respondent stating that, upon service~~
 9 ~~on the respondent, the order shall remain in effect for a period~~
 10 ~~of one year and, if the order grants temporary custody, that~~
 11 ~~such custody shall not exceed the number of days specified by the~~
 12 ~~court unless the respondent shows cause why the order should not~~
 13 ~~remain in effect. The court shall also cause to be served upon the~~
 14 ~~respondent a form with which to request a show cause hearing. If~~
 15 ~~the respondent wishes to appear and show cause why the order should~~
 16 ~~not remain in effect, he or she shall affix his or her current~~
 17 ~~address, telephone number, and signature to the form and return it~~
 18 ~~to the clerk of the district court within five days after service~~
 19 ~~upon him or her. Upon receipt of the request for a show cause~~
 20 ~~hearing, the court shall immediately schedule a show cause hearing~~
 21 ~~to be held within thirty days after the receipt of the request for~~
 22 ~~a show cause hearing and shall notify the petitioner and respondent~~
 23 ~~of the hearing date.~~

24 2. On page 54, line 22, after "support" insert "and
 25 orders issued under subsection (1) of section 42-924".

26 3. On page 56, line 5, strike the last "and" and show
 27 as stricken and insert an underscored comma; and in line 6 after
 1 "matters" insert ", and orders issued under subsection (1) of
 2 section 42-924".

3 4. Amend the operative date and repealer so that the
 4 sections added by this amendment become operative three calendar
 5 months after adjournment of this legislative session.

6 5. Renumber the remaining sections and correct the
 7 internal references accordingly.

The McGill amendment was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Senator Synowiecki offered the following amendment:
 AM2212

(Amendments to Standing Committee amendments, AM2006)

1 1. Insert the following new section:

2 Sec. 24. Section 29-2246, Revised Statutes Cumulative
 3 Supplement, 2006, is amended to read:

4 29-2246 For purposes of the Nebraska Probation

- 5 Administration Act and sections 43-2,123.01 and 83-1,102 to
6 83-1,104, unless the context otherwise requires:
- 7 (1) Association means the Nebraska District Court Judges
8 Association;
- 9 (2) Court means a district court, county court, or
10 juvenile court as defined in section 43-245;
- 11 (3) Office means the Office of Probation Administration;
- 12 (4) Probation means a sentence under which a person found
13 guilty of a crime upon verdict or plea or adjudicated delinquent or
14 in need of special supervision is released by a court subject to
15 conditions imposed by the court and subject to supervision;
- 16 (5) Probationer means a person sentenced to probation;
- 17 (6) Probation officer means an employee of the system who
18 supervises probationers and conducts presentence, predisposition,
19 or other investigations as may be required by law or directed by a
20 court in which he or she is serving or performs such other duties
21 as authorized pursuant to section 29-2258, except unpaid volunteers
22 from the community;
- 1 (7) Juvenile probation officer means any probation
2 officer who supervises probationers of a separate juvenile court;
- 3 (8) Juvenile intake probation officer means an employee
4 of the system who is called upon by a law enforcement officer in
5 accordance with section 43-250 to make a decision regarding the
6 furtherance of a juvenile's detention;
- 7 (9) Chief probation officer means the probation officer
8 in charge of a probation district;
- 9 (10) System means the Nebraska Probation System;
- 10 (11) Administrator means the probation administrator; and
- 11 (12) Non-probation-based program or service means a
12 program or service established within the district, county, or
13 juvenile courts and provided to individuals not sentenced to
14 probation who have been charged with or convicted of a crime
15 for the purpose of diverting the individual from incarceration
16 or to provide treatment for issues related to the individual's
17 criminogenic needs. Non-probation-based programs or services
18 include, but are not limited to, drug court programs and problem
19 solving court programs established pursuant to section 24-1302
20 and the treatment of problems relating to substance abuse, mental
21 health, sex offenses, or domestic violence.
- 22 2. Renumber the remaining sections and correct internal
23 references accordingly.
- 24 3. Correct the operative date and repealer sections so
25 that the section added by this amendment becomes operative three
26 calendar months after the adjournment of this legislative session.

The Synowiecki amendment was adopted with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

Senator Pirsch offered the following amendment:

FA196

Amend AM2175

Page 2, line 3 after "support" insert ", or (iii) the incarceration is a result of a conviction for a crime in which the child who is the subject of the child support order was victimized; or"

Senator Pirsch moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Senator Pirsch requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Carlson	Hansen	Janssen	Lautenbaugh	Pirsch
Erdman	Harms	Johnson	Louden	Wallman
Fischer	Heidemann	Karpisek	Nelson	White
Friend	Howard	Kopplin	Pankonin	Wightman
Gay	Hudkins	Kruse	Pedersen	

Voting in the negative, 3:

Ashford	Avery	Cornett
---------	-------	---------

Present and not voting, 20:

Adams	Dierks	Langemeier	Nantkes	Rogert
Aguiar	Dubas	Lathrop	Pahls	Schimek
Burling	Flood	McDonald	Preister	Stuthman
Chambers	Fulton	McGill	Raikes	Synowiecki

Excused and not voting, 2:

Christensen	Engel
-------------	-------

The Pirsch amendment lost with 24 ayes, 3 nays, 20 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Ashford offered the following amendment:

FA197

Amend AM2231

Line 4 after the first comma, insert "as such section existed on the operative date of this section."

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

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1096. ER8171, found on page 740, was adopted.

Senator Friend renewed his amendment, AM2147, found on page 791.

SENATOR ERDMAN PRESIDING

The Friend amendment was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Senator Karpisek offered the following amendment:

AM2236

(Amendments to E & R amendments, ER8171)

- 1 1. Insert the following new sections:
- 2 Sec. 5. Sections 5 to 12 of this act shall be known and
- 3 may be cited as the Volunteer Emergency Responders Job Protection
- 4 Act.
- 5 Sec. 6. No employer shall terminate or take any other
- 6 disciplinary action against any employee who is a volunteer
- 7 emergency responder if such employee, when acting as a volunteer
- 8 emergency responder, is absent from or reports late to his or
- 9 her place of employment in order to respond to an emergency prior
- 10 to the time such employee is to report to his or her place of
- 11 employment.
- 12 Sec. 7. An employer may subtract from an employee's
- 13 earned wages any time such employee, acting as a volunteer
- 14 emergency responder, is away from his or her place of employment
- 15 because of such employee's response to an emergency.
- 16 Sec. 8. An employee acting as a volunteer emergency
- 17 responder shall make a reasonable effort to notify his or her
- 18 employer that he or she may be absent from or report late to his or
- 19 her place of employment in order to respond to an emergency.
- 20 Sec. 9. At an employer's request, an employee, acting
- 21 as a volunteer emergency responder, who is absent from or reports
- 22 late to his or her place of employment in order to respond to
- 1 an emergency shall provide his or her employer, within seven days
- 2 of such request, a written statement signed by the individual in
- 3 charge of the volunteer department or another individual authorized
- 4 to act for such individual that includes the following: The fact
- 5 that the employee responded to an emergency; the date and time of
- 6 the emergency; and the date and time such employee completed his or
- 7 her volunteer emergency activities.
- 8 Sec. 10. Prior to seeking protection pursuant to the
- 9 Volunteer Emergency Responders Job Protection Act, an employee
- 10 acting as a volunteer emergency responder shall provide his or
- 11 her employer with a written statement signed by the individual in
- 12 charge of the volunteer department or another individual authorized
- 13 to act for such individual notifying such employer that the

14 employee serves as a volunteer emergency responder. An employee
 15 who is or who has served as a volunteer emergency responder
 16 shall notify his or her employer when such employee's status as
 17 a volunteer emergency responder changes, including termination of
 18 such status.

19 Sec. 11. An employee who is terminated or against whom
 20 any disciplinary action is taken in violation of the Volunteer
 21 Emergency Responders Job Protection Act shall be immediately
 22 reinstated to his or her former position, if wrongfully terminated,
 23 without reduction of wages, seniority, or other benefits and shall
 24 receive any lost wages or other benefits, if applicable, during
 25 any period for which such termination or other disciplinary action
 26 was in effect. An action to enforce the act may be brought by the
 27 employee to recover any lost wages or other benefits, including
 1 court costs and reasonable attorney's fees. An action to enforce
 2 the act shall be commenced within one year after the date of
 3 violation and shall be brought in the district court of the county
 4 in which the place of employment is located.

5 Sec. 12. For purposes of the Volunteer Emergency
 6 Responders Job Protection Act:

7 (1) Employee does not include a career firefighter or
 8 law enforcement officer who is acting as a volunteer emergency
 9 responder;

10 (2) Employer means any person employing ten or more
 11 employees; and

12 (3) Volunteer emergency responder means a person who
 13 has been approved by a governing body in Nebraska to serve
 14 any volunteer fire department or volunteer first-aid, rescue,
 15 ambulance, or emergency squad, or volunteer fire company,
 16 association, or organization serving any city, village, or rural
 17 or suburban fire protection district by providing fire protection
 18 or emergency response services for the purpose of protecting life,
 19 health, or property.

20 2. Renumber the remaining section accordingly.

The Karpisek amendment was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 822. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 766. ER8166, found on page 708, was adopted.

Senator Cornett offered the following amendment:

AM2009

(Amendments to Standing Committee amendments, AM1865)

- 1 1. On page 1, strike lines 4 through 8; in line 9 strike
 2 "(2)" and insert "(1)"; in line 10 strike "and" and insert "or";
 3 in line 12 strike "(3)" and insert "(2)"; strike beginning with
 4 line 15 through the comma in line 16 and insert "regulated metals
 5 property"; in line 16 strike "have" and insert "has" and strike
 6 "their" and insert "its"; and strike beginning with "nonferrous" in
 7 line 19 through the last comma in line 20 and insert "regulated
 8 metals property".
 9 2. On page 2, line 24; page 3, line 1; and page 4, line
 10 10, before "operator's" insert "motor vehicle".
 11 3. On page 4, line 2, strike "with the same seller" and
 12 insert "from the same person"; and in line 20 after "metals" insert
 13 "property".

The Cornett amendment was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

Senator Cornett offered the following amendment:
 AM2243

- 1 1. Insert the following new section:
 2 Sec. 10. This act becomes operative on September 1, 2008.
 3 2. On page 3, line 9, after "A" insert "date and
 4 time-stamped" and after "or" insert "a date and".

The Cornett amendment was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

Senator Stuthman withdrew his amendment, AM2167, found on page 827.

Senator Stuthman offered the following amendment:
 AM2245

(Amendments to Standing Committee amendments, AM1865)

- 1 1. On page 1, line 9, after "means" insert "catalytic
 2 converters," and strike the last comma.
 3 2. On page 3, strike beginning with "delivering" in line
 4 5 through "property" in line 6 and insert ", but only if the person
 5 is delivering copper or catalytic converters".
 6 3. On page 4, line 5, after the period insert "Payment
 7 for copper and catalytic converters shall be by check and shall be
 8 mailed to the seller to the address provided by the seller.".

SENATOR SCHIMEK PRESIDING

The Stuthman amendment was adopted with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 912. Senator Avery renewed his amendment, AM2059, found on page 734.

The Avery amendment was adopted with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 606. ER8170, found on page 740, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 606A. Advanced to Enrollment and Review for Engrossment.

BILL ON FIRST READING

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

LEGISLATIVE BILL 689A. Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 689, One Hundredth Legislature, Second Session, 2008.

AMENDMENTS - Print in Journal

Senator Janssen filed the following amendment to LB916:
AM2241

(Amendments to Standing Committee amendments, AM1932)

- 1 1. On page 14, strike beginning with "products" in line
- 2 17 through "include" in line 20; and in line 21 after "books"
- 3 insert "delivered electronically if the products are taxable when
- 4 delivered on tangible storage media".
- 5 2. On page 18, lines 9 and 10, strike "to another person
- 6 or persons" and insert "for use in a place where an admission is
- 7 charged that is subject to sales tax under the Nebraska Revenue Act
- 8 of 1967".
- 9 3. On page 40, strike lines 5 through 8, show
- 10 the old matter as stricken, and insert "means any tangible
- 11 personal property incorporated into the manufacture, installation,
- 12 construction, repair, or replacement of a device, such as a wind
- 13 charger, windmill, or wind turbine, which is used to convert wind
- 14 energy to electrical energy or for the transmission of electricity
- 15 to the purchaser; and".
- 16 4. On page 41, line 12, strike "purchase power" and
- 17 insert "power purchase"; in line 25 strike "prepared by a court

18 reporter"; and in line 26 before the period insert "prepared and
19 sold by a court reporter".

Senator Ashford filed the following amendment to LB958:
AM2235

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 Section 1. (1) The Nebraska Commission on Law Enforcement
4 and Criminal Justice shall examine firearm-related violence in
5 Nebraska. The examination shall include, but not be limited to, the
6 following issues:

7 (a) Firearm-related injuries and deaths;

8 (b) Illegal firearm sales;

9 (c) Illegal firearm trafficking;

10 (d) The types of firearms used during the commission of
11 violent crimes;

12 (e) Providing access to a person's mental health records,
13 if any, pursuant to section 69-2409.01;

14 (f) Firearm safety;

15 (g) Firearm training;

16 (h) Obstacles related to the sharing of information by
17 local, state, and federal agencies about violent offenses involving
18 firearms;

19 (i) Enforcement of firearm laws;

20 (j) Sentencing for felonies committed with a firearm; and

21 (k) Referral of felonies committed with a firearm to

22 federal authorities for prosecution.

23 (2) Based upon its examination, the commission shall
1 issue a written report to the Legislature recommending specific
2 administrative, enforcement, and statutory changes designed to
3 reduce firearm-related violence, firearm-related injuries, and
4 illegal firearm trafficking and sales and whether there is also any
5 need to address the types of firearms used during the commission
6 of crime. The commission shall issue the written report to the
7 Legislature no later than January 1, 2009, and an updated written
8 report every two years thereafter.

9 Sec. 2. The Nebraska State Patrol shall implement a
10 telephone hotline for individuals to report the loss or theft of
11 a firearm. An individual reporting the loss or theft of a firearm
12 that was not registered or that was improperly registered shall
13 not, as a result of such reporting, be charged with a crime
14 involving not registering or improperly registering the firearm.

15 Sec. 3. Section 28-608, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 28-608 (1) A person commits the crime of criminal
18 impersonation if he or she:

19 (a) Assumes a false identity and does an act in his or
20 her assumed character with intent to gain a pecuniary benefit for
21 himself, herself, or another or to deceive or harm another;

22 (b) Pretends to be a representative of some person or
23 organization and does an act in his or her pretended capacity with
24 the intent to gain a pecuniary benefit for himself, herself, or
25 another and to deceive or harm another;

26 (c) Carries on any profession, business, or any other
27 occupation without a license, certificate, or other authorization
1 required by law; or

2 (d) Without the authorization or permission of another
3 and with the intent to deceive or harm another:

4 (i) Obtains or records personal identification documents
5 or personal identifying information; and

6 (ii) Accesses or attempts to access the financial
7 resources of another through the use of a personal identification
8 document or personal identifying information for the purpose of
9 obtaining credit, money, goods, services, or any other thing of
10 value.

11 (2)(a) Criminal impersonation is a Class III felony if
12 the credit, money, goods, services, or other thing of value that
13 was gained or was attempted to be gained was one thousand five
14 hundred dollars or more.

15 (b) Criminal impersonation is a Class IV felony if the
16 credit, money, goods, services, or other thing of value that was
17 gained or was attempted to be gained was five hundred dollars or
18 more but less than one thousand five hundred dollars.

19 (c) Criminal impersonation is a Class I misdemeanor if
20 the credit, money, goods, services, or other thing of value that
21 was gained or was attempted to be gained was two hundred dollars or
22 more but less than five hundred dollars. Any second or subsequent
23 conviction under this subdivision is a Class IV felony.

24 (d) Criminal impersonation is a Class II misdemeanor if
25 no credit, money, goods, services, or other thing of value was
26 gained or was attempted to be gained, or if the credit, money,
27 goods, services, or other thing of value that was gained or was
1 attempted to be gained was less than two hundred dollars. Any
2 second conviction under this subdivision is a Class I misdemeanor,
3 and any third or subsequent conviction under this subdivision is a
4 Class IV felony.

5 (e) A person found guilty of violating this section may,
6 in addition to the penalties under this subsection, be ordered to
7 make restitution pursuant to sections 29-2280 to 29-2289.

8 (3) Criminal impersonation does not mean:

9 (a) The lawful obtaining of credit information in the
10 course of a bona fide consumer or commercial transaction;

11 (b) The lawful, good faith exercise of a security
12 interest or a right of setoff by a creditor or a financial
13 institution; or

14 (c) The lawful, good faith compliance by any person
15 when required by any warrant, levy, garnishment, attachment, court
16 order, or other judicial or administrative order, decree, or

17 directive.

18 (4) For purposes of this section:

19 (a) Personal identification document means a birth
20 certificate, motor vehicle operator's license, state identification
21 card, public, government, or private employment identification
22 card, social security card, visa work permit, firearm owner's
23 identification card, ~~certificate issued under section 69-2404,~~ or
24 passport or any document made or altered in a manner that it
25 purports to have been made on behalf of or issued to another person
26 or by the authority of a person who did not give that authority.

27 Personal identification document does not include a financial
1 transaction device as defined in section 28-618;

2 (b) Personal identifying information means any name or
3 number that may be used, alone or in conjunction with any other
4 information, to identify a specific person including a person's:
5 (i) Name; (ii) date of birth; (iii) address; (iv) motor vehicle
6 operator's license number or state identification card number
7 as assigned by the State of Nebraska or another state; (v)
8 social security number or visa work permit number; (vi) public,
9 private, or government employer, place of employment, or employment
10 identification number; (vii) maiden name of a person's mother;
11 (viii) number assigned to a person's credit card, charge card, or
12 debit card, whether issued by a financial institution, corporation,
13 or other business entity; (ix) number assigned to a person's
14 depository account, savings account, or brokerage account; (x)
15 personal identification number as defined in section 8-157.01; (xi)
16 electronic identification number, address, or routing code used
17 to access financial information; (xii) digital signature; (xiii)
18 telecommunications identifying information or access device; (xiv)
19 unique biometric data, such as fingerprint, voice print, retina
20 or iris image, or other unique physical representation; and (xv)
21 other number or information which can be used to access a person's
22 financial resources; and

23 (c) Telecommunications identifying information or access
24 device means a card, plate, code, account number, mobile
25 identification number, or other telecommunications service,
26 equipment, or instrument identifier or means of account access that
27 alone or in conjunction with other telecommunications identifying
1 information or another telecommunications access device may be
2 used to: (i) Obtain money, goods, services, or any other thing of
3 value; or (ii) initiate a transfer of funds other than a transfer
4 originated solely by a paper instrument.

5 Sec. 4. Section 69-2409.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~69-2409.01 (1) For purposes of sections 69-2401 to~~
8 ~~69-2425, the~~ The Nebraska State Patrol shall be furnished upon
9 the patrol's request with ~~only~~ such information as may be necessary
10 for the sole purpose of determining whether an individual is
11 disqualified from purchasing or possessing a handgun pursuant to

12 state or federal law. Such information shall be furnished by
 13 the Department of Health and Human Services. The clerks of the
 14 various courts shall furnish to the Department of Health and
 15 Human Services, within thirty days after the order of commitment
 16 or finding and the discharge, all information necessary to set
 17 up and maintain the data base required by this section. This
 18 information shall include (a) information regarding those persons
 19 who are currently receiving mental health treatment pursuant to
 20 a commitment order of a mental health board or who have been
 21 discharged and (b) information regarding those persons who have
 22 been committed to treatment pursuant to section 29-3702. The
 23 Department of Health and Human Services shall also maintain in
 24 the data base a listing of persons committed to treatment pursuant
 25 to section 29-3702. Information regarding mental health board
 26 commitments and commitments pursuant to section 29-3702 shall
 27 not be retained in the data base maintained by the department
 1 on persons who have been discharged from those commitments more
 2 than ~~five-ten~~ years previously. Any such information maintained
 3 or disclosed under this subsection shall remain privileged and
 4 confidential and shall not be redisclosed or utilized for any
 5 other purpose. The procedures for furnishing such information shall
 6 guarantee that no information is released beyond what is necessary
 7 for purposes of this section.

8 ~~(2) In order to comply with sections 69-2401 and 69-2403~~
 9 ~~to 69-2408 and this section, the Nebraska State Patrol shall~~
 10 ~~provide to the chief of police or sheriff of an applicant's place~~
 11 ~~of residence or a licensee in the process of a criminal history~~
 12 ~~record check pursuant to section 69-2411 only the information~~
 13 ~~regarding whether or not the applicant is disqualified from~~
 14 ~~purchasing or possessing a handgun.~~

15 ~~(3)-(2)~~ Any person, agency, or mental health board
 16 participating in good faith in the reporting or disclosure of
 17 records and communications under this section is immune from any
 18 liability, civil, criminal, or otherwise, that might result by
 19 reason of the action.

20 ~~(4) Any person who intentionally causes the Nebraska~~
 21 ~~State Patrol to request information pursuant to this section~~
 22 ~~without reasonable belief that the named individual has submitted~~
 23 ~~a written application under section 69-2404 or has completed a~~
 24 ~~consent form under section 69-2410 shall be guilty of a Class II~~
 25 ~~misdemeanor in addition to other civil or criminal liability under~~
 26 ~~state or federal law.~~

27 Sec. 5. Original section 69-2409.01, Reissue Revised
 1 Statutes of Nebraska, and section 28-608, Revised Statutes
 2 Cumulative Supplement, 2006, are repealed.

3 Sec. 6. The following sections are outright repealed:
 4 Sections 69-2401, 69-2403, 69-2407, 69-2708, 69-2409, 69-2412,
 5 69-2413, 69-2414, 69-2415, 69-2416, 69-2417, 69-2420, 69-2421,
 6 69-2422, 69-2423, 69-2424, and 69-2425, Reissue Revised Statutes

7 of Nebraska, and sections 69-2402, 69-2404, 69-2405, 69-2406,
8 69-2410, 69-2411, 69-2418, and 69-2419, Revised Statutes Cumulative
9 Supplement, 2006.

Senator White filed the following amendment to LB1001:
AM2244

(Amendments to Standing Committee amendments, AM2001)

1 1. Strike section 14 and insert the following new
2 section:

3 Sec. 14. Sections 1 to 8 and 14 of this act become
4 operative on October 1, 2008. The other sections of this act become
5 operative on January 1, 2009.

6 2. On page 7, strike lines 22 through 27 and insert
7 "(3)(a) Every contractor who is maintaining an office
8 or transacting business within this state and making a payment
9 or payments related to such business in excess of six hundred
10 dollars, and such payment or payments are for construction services
11 performed within this state, to any contractor or any person that
12 is not an employee shall deduct and withhold five percent of such
13 payments.

14 (b) The withholding required by this subsection shall
15 not apply to any payment made to (i) a person that provides the
16 payor with a statement that the income earned is not subject to
17 tax because of a treaty obligation of the United States or (ii)
18 a contractor when the payor contractor determines that the payee
19 contractor is in the database required by this subsection.

20 (c) The Department of Revenue shall create a database of
21 contractors who are licensed, granted a permit, or registered under
22 the Nebraska Revenue Act of 1967 or under section 77-3102. The
1 database shall be accessible on the website of the department.

2 (d) Any contractor who determines that a contractor is
3 in the database is relieved from liability for withholding under
4 either this subsection or section 77-3106 for any future payments
5 on a contract in existence at the time the determination is made.

6 (e) Withholding required by this subsection shall be
7 considered to be withholding of income tax for the purposes of the
8 Nebraska Revenue Act of 1967.

9 (f) For purposes of this subsection:

10 (i) Construction services means services that are
11 provided as a contractor; and

12 (ii) Contractor has the same meaning as in section
13 77-3101."

14 3. On page 8, strike lines 1 through 12.

15 4. On page 12, lines 22 and 23, strike the new matter
16 and insert "or to obtain a clearance from the Department of Revenue
17 prior to releasing such withholding to the subcontractor".

18 5. On page 13, strike lines 4 through 9 and insert the
19 following new subsection:

20 "(2) The withholding required by this section shall not

21 apply to any payment made to (a) a person that provides the payor
 22 with a statement that the income earned is not subject to income
 23 tax because of a treaty obligation of the United States, (b) a
 24 contractor when the payor contractor determines that the payee
 25 contractor is in the database required by subsection (3) of section
 26 77-2753, or (c) a contractor when the payor contractor has withheld
 27 from the payment under subsection (3) of section 77-2753."

RESOLUTION

LEGISLATIVE RESOLUTION 266. Introduced by Flood, 19.

WHEREAS, Justin Schroeder of Battle Creek, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement of rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot; Second Class; First Class; Star; Life; and finally, Eagle. Throughout his scouting experience, Justin has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and Justin earned 24 merit badges. He is also required to complete a community service project approved by the troop and the scout council. Justin's Eagle Scout project consisted of obtaining and painting irrigation tires to set around water fountains to control mud and water puddles in Battle Creek City Park, and he also built a stairway and handrails to make the Straka home in Heritage Park more accessible; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Justin Schroeder will receive the rank of Eagle Scout and, through his hard work and perseverance, will join other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Justin Schroeder on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Justin Schroeder.

Laid over.

VISITORS

Visitors to the Chamber were Will Nelson from Columbus and Vicar Brian McQuiggin from Platte Center; Senator Johnson's granddaughters, daughter, and son-in-law, Jacki, Sarah, Beth, and Dave Westesen, from Kearney; Stan and Brian Sparks from Louisville; Senator Burling's granddaughter, Trina Knight, from Hastings; 75 fourth-grade students from Fairview Elementary, Bellevue; Doris Cook from Lincoln; members of the Attorney General's Youth Advisory Council from across the state; Judy Glassburner and Bill Donovan from Geneva; Justin Pribyl from Wilbur; Joni Kaylor from Malcolm, Kate Burianek from Pleasant Dale, and Rachel Johnson from Raymond; and Dennis Sturek, Bill Yates, Chris Miller, Mike Becker, and Carla Becker from Hartington and Barbara Burbach from Lincoln.

The Doctor of the Day was Dr. Audrey Paulman from Omaha.

ADJOURNMENT

At 1:14 p.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Monday, March 10, 2008.

Patrick J. O'Donnell
Clerk of the Legislature

