

**CARRYOVER
LEGISLATION**

**Bill Titles, Resolutions, and
Subject and Section Indexes
Introduced in the
Ninety-Eighth Legislature, First Session, 2003,
and Pending Before the
Ninety-Eighth Legislature, Second Session, 2004**

January 7, 2004

STATUS OF CARRYOVER

BILLS

AND

RESOLUTIONS

**Introduced in the
Ninety-Eighth Legislature, First Session, 2003
and pending before the
Ninety-Eighth Legislature, Second Session, 2004**

General File (104): 303A LR16CA 479 32 172 602 78 86 215 99 LR18CA 13
226 689 LR4CA 270 227 353 532 560 560A 609 740 644 110 236 762 75 452
452A 155 279 37 37A 382 470 LR3CA 559 559A 529 755 LR14CA 449 449A
484 323 511 248 656 189 546 473 539 301 212 374 392 496 714 549 348 437
784 616 16 237 523 745 447 525 253 296 117 499 719 485 618 232 352 503
565 678 174 304 542 625 483 558 198 650 512 271 315 566 593 747 613 269
316 732 139 662 761 278

Enrollment & Review Initial (0).

Select File (19): 303 208 20 47 21 22 49 50 355 692 265 265A 743 743A 454
435 379 287 LR11CA

Enrollment & Review Final (0).

Final Reading (3): 439e 439Ae 598

BILLS HELD BY COMMITTEES:

Agriculture (5): 63 64 159 230 275

Appropriations (12): 151 409 468 469 557 569 570 627 639 640 780 802

Banking, Commerce & Insurance (6): 334 386 630 652 687 737

Business & Labor (5): 196 251 308 441 631

Education (17): 147 152 264 335 340 341 356 389 466 482 658 660 680 686
698 771 LR17CA

Executive Board (1): LR8CA

General Affairs (5): 309 426 538 606 787

Government, Military & Veterans Affairs (10): 154 312 317 465 477 492 568
583 727 763

Health & Human Services (15): 173 202 239 297 351 380 450 594 599 671 709
710 711 764 767

Judiciary (71): 18 24 25 36 38 58 87 104 129 132 184 190 203 206 211 225 231
240 268 314 336 346 347 350 361 366 377 378 384 391 395 421 422 423 428
456 457 458 459 460 474 491 493 515 526 528 535 547 589 591 604 614 617
664 670 674 675 681 694 695 722 746 751 768 772 781 788 789 791 LR10CA
LR20CA

Natural Resources (10): 26 27 28 183 363 527 624 633 638 738

Nebraska Retirement Systems (7): 120 442 514 544 679 773 LR21CA

Revenue (30): 223 322 368 369 375 376 397 400 420 448 453 475 505 506 507
516 579 581 587 595 651 657 691 696 697 736 744 776 783 794

Transportation & Telecommunications (14): 81 100 113 188 204 401 497 501
502 612 741 757 765 793

Urban Affairs (9): 339 432 518 654 716 717 718 792 LR24CA

Resolutions Reported for Further Consideration (1): LR52

(Totals in parentheses include bills, A bills, and resolutions of each section.)

TITLES TO BILLS

LEGISLATIVE BILL 13. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to state government; to amend sections 84-120 to 84-122, Reissue Revised Statutes of Nebraska; to change provisions relating to succession to the office of Governor; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 16. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to business entities; to amend sections 21-2204, 21-2209, 21-2607, 21-2631, and 21-2639, Reissue Revised Statutes of Nebraska, and sections 67-454, 67-456, and 67-458, Revised Statutes Supplement, 2002; to change filing requirements for businesses engaged in professional services as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 18. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-507, Reissue Revised Statutes of Nebraska; to change provisions relating to burglary; and to repeal the original section.

LEGISLATIVE BILL 20. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to county court; to amend section 24-517, Revised Statutes Supplement, 2002; to change jurisdictional provisions; and to repeal the original section.

LEGISLATIVE BILL 21. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-504, Reissue Revised Statutes of Nebraska; to change procedures relating to felony complaints; and to repeal the original section.

LEGISLATIVE BILL 22. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-201, Revised Statutes Supplement, 2002; to change penalty provisions for criminal attempt; and to repeal the original section.

LEGISLATIVE BILL 24. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to the State Tort Claims Act; to amend sections 81-8,213 and 81-8,227, Reissue Revised Statutes of Nebraska; to change tort claim procedures and limitations; and to repeal the original sections.

LEGISLATIVE BILL 25. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to inheritance tax; to limit access to certain court records and information; to provide for confidentiality; and to provide a duty for the Revisor of Statutes.

LEGISLATIVE BILL 26. Introduced by Preister, 5.

A BILL FOR AN ACT relating to the Environmental Quality Council; to amend section 81-1503, Reissue Revised Statutes of Nebraska, and section 81-1505, Revised Statutes Supplement, 2002; to change provisions relating to membership and adoption of standards; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 27. Introduced by Preister, 5.

A BILL FOR AN ACT relating to electricity; to amend section 79-1035.01, Revised Statutes Supplement, 2002; to provide for a renewable portfolio standard; to provide for renewable energy credits; to provide duties for the Nebraska Power Review Board; to provide for penalties and civil actions; to change provisions relating to the permanent school fund; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 28. Introduced by Preister, 5.

A BILL FOR AN ACT relating to energy resources; to amend section 70-1012, Reissue Revised Statutes of Nebraska; to state intent; to define terms; to provide powers and duties for electric utilities; to provide for a net-metering system; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 32. Introduced by Schrock, 38; Thompson, 14.

A BILL FOR AN ACT relating to storm water drainage; to amend sections 18-501 to 18-505 and sections 18-507 to 18-510, Reissue Revised Statutes of Nebraska; to change provisions relating to sewer system charges and fees; to authorize storm water management programs for cities, counties, and natural resources districts as prescribed; to provide powers and duties; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 36. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-913, Reissue Revised Statutes of Nebraska; to create the offense of introducing contraband into a detention facility; to change provisions relating to implements of escape; to define a term; to provide penalties; and to repeal the original section.

LEGISLATIVE BILL 37. Introduced by Price, 26; Combs, 32.

A BILL FOR AN ACT relating to labor; to amend section 77-2716, Revised Statutes Supplement, 2002; to adopt the Wage Replacement Savings Plan Act; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 37A. Introduced by Price, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 37, Ninety-eighth Legislature, First Session, 2003.

LEGISLATIVE BILL 38. Introduced by Price, 26.

A BILL FOR AN ACT relating to firearms; to amend section 28-101, Revised Statutes Supplement, 2002; to provide restrictions on firearms to prevent unauthorized access by a minor; to define a term; to provide a penalty; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 47. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to courts; to amend section 24-101, Reissue Revised Statutes of Nebraska; to harmonize statutory impeachment provisions with constitutional provisions; and to repeal the original section.

LEGISLATIVE BILL 49. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to criminal law; to amend section 28-813, Reissue Revised Statutes of Nebraska; to correct a grammatical error; and to repeal the original section.

LEGISLATIVE BILL 50. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-4205, Revised Statutes Supplement, 2002; to correct subdivision numbering; and to repeal the original section.

LEGISLATIVE BILL 58. Introduced by Byars, 30; Synowiecki, 7.

A BILL FOR AN ACT relating to sovereign immunity; to waive immunity to suit for certain actions under the federal Americans with Disabilities Act of 1990.

LEGISLATIVE BILL 63. Introduced by Preister, 5.

A BILL FOR AN ACT relating to pesticides; to adopt the School Pesticide Notification Act; and to provide severability.

LEGISLATIVE BILL 64. Introduced by Preister, 5.

A BILL FOR AN ACT relating to pesticides; to adopt the School Integrated Pest Management Act; and to provide severability.

LEGISLATIVE BILL 75. Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to sheriffs; to amend section 23-1701.01, Reissue Revised Statutes of Nebraska; to change eligibility requirements for office; and to repeal the original section.

LEGISLATIVE BILL 78. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to cities and villages; to amend sections 19-4801 and 29-424, Revised Statutes Supplement, 2002; to change provisions relating to the issuance of citations for code violations; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 81. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to motor vehicles; to amend section 75-304, Reissue Revised Statutes of Nebraska, and section 60-6,211.08, Revised Statutes Supplement, 2002; to change provisions relating to consumption of alcoholic beverages and open containers as prescribed; to establish carrier services classifications; to provide powers and duties; and to repeal the original sections.

LEGISLATIVE BILL 86. Introduced by Dw. Pedersen, 39; Synowiecki, 7.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,157, Reissue Revised Statutes of Nebraska; to permit municipalities to allow pedestrians to solicit contributions on roadways as prescribed; to harmonize provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 87. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to the Secure Youth Confinement Facility; to amend sections 43-251.01, 43-258, 43-404, and 83-905, Reissue Revised Statutes of Nebraska, and section 43-2411, Revised Statutes Supplement, 2002; to provide for closing of the facility; to provide an operative date; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 99. Introduced by Hartnett, 45; Aguilar, 35.

A BILL FOR AN ACT relating to the Nebraska Visitors Development Act; to amend sections 81-1254, 81-1255, and 81-1258, Reissue Revised Statutes of

Nebraska; to change provisions relating to a tax, tax proceeds, and funds; and to repeal the original sections.

LEGISLATIVE BILL 100. Introduced by Baker, 44.

A BILL FOR AN ACT relating to state government; to amend sections 81-5,151 and 81-5,157, Reissue Revised Statutes of Nebraska, and sections 60-310, 60-311.02, 60-311.11, and 60-315, Revised Statutes Supplement, 2002; to provide for specialty license plates; to change provisions for exempt plates and message plates; to create a fund; to provide duties for the State Fire Marshal; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 104. Introduced by Hudkins, 21; Bromm, 23.

A BILL FOR AN ACT relating to vehicular pursuit; to amend sections 13-911 and 81-8,215.01, Reissue Revised Statutes of Nebraska; to change provisions relating to innocent third parties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 110. Introduced by Cunningham, 40; Burling, 33; Friend, 10; Janssen, 15; Louden, 49; Mines, 18; Stuhr, 24.

A BILL FOR AN ACT relating to employment; to amend sections 81-113, 81-117, and 84-1001, Reissue Revised Statutes of Nebraska; to eliminate recognition of holiday proclamations by the President of the United States; and to repeal the original sections.

LEGISLATIVE BILL 113. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to the Telemarketing and Prize Promotions Act; to amend section 86-224, Revised Statutes Supplement, 2002; to change requirements for consumer's authorization of payment; and to repeal the original section.

LEGISLATIVE BILL 117. Introduced by Brown, 6; Aguilar, 35; Baker, 44; Combs, 32; Connealy, 16; Cunningham, 40; Friend, 10; Jensen, 20; Johnson, 37; Kruse, 13; Mines, 18; Redfield, 12; Smith, 48; Tyson, 19; Wehrbein, 2; Engel, 17; Kremer, 34.

A BILL FOR AN ACT relating to state government; to amend sections 81-1111 and 84-602, Reissue Revised Statutes of Nebraska, and section 72-1249.02, Revised Statutes Supplement, 2002; to provide for a centralized system for receipt and deposit of funds; to create a fund; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 120. Introduced by Brown, 6.

A BILL FOR AN ACT relating to state government; to amend sections 84-1504 and 84-1613, Revised Statutes Supplement, 2002; to authorize additional deferred compensation contributions as prescribed; to provide health insurance coverage for certain employees; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 129. Introduced by Schimek, 27; Aguilar, 35; Byars, 30; Dw. Pedersen, 39; Preister, 5; Thompson, 14.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2002; to provide a penalty for leaving a child unattended in a motor vehicle as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 132. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to juveniles; to adopt the Interstate Compact for Juveniles.

LEGISLATIVE BILL 139. Introduced by Johnson, 37.

A BILL FOR AN ACT relating to DNA testing; to amend sections 29-4104, 29-4105, and 29-4108, Revised Statutes Supplement, 2002; to change provisions relating to the State DNA Data Base and uses for DNA samples and records; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 147. Introduced by D. Pederson, 42; Schrock, 38.

A BILL FOR AN ACT relating to the Nebraska educational savings plan trust; to amend sections 85-1808 and 85-1809, Revised Statutes Supplement, 2002; to change provisions relating to cancellation and ownership rights; and to repeal the original sections.

LEGISLATIVE BILL 151. Introduced by Cunningham, 40; Engel, 17; Kremer, 34; Vrtiska, 1.

A BILL FOR AN ACT relating to public buildings; to amend sections 82-319, 85-106.01, and 85-304.01, Reissue Revised Statutes of Nebraska; to change the portion of appropriations to be used for the acquisition of art work; and to repeal the original sections.

LEGISLATIVE BILL 152. Introduced by Schimek, 27; Aguilar, 35; Byars, 30; Connealy, 16; Kruse, 13; Dw. Pedersen, 39; Preister, 5; Synowiecki, 7.

A BILL FOR AN ACT relating to postsecondary educational institutions; to amend section 85-502, Reissue Revised Statutes of Nebraska; to change

provisions relating to determination of residency; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 154. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to initiative and referendum measures; to amend sections 32-1405 and 32-1412, Reissue Revised Statutes of Nebraska; to provide powers and duties for the Secretary of State and to authorize certain actions regarding petition filings; and to repeal the original sections.

LEGISLATIVE BILL 155. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to real property; to amend section 76-238, Reissue Revised Statutes of Nebraska; to change provisions relating to leases; and to repeal the original section.

LEGISLATIVE BILL 159. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to livestock; to amend sections 54-2238, 54-2244, 54-2254, 54-2277, 54-2280, 54-2287, 54-2289, 54-2290, 54-2296, and 54-2299, Reissue Revised Statutes of Nebraska; to change and eliminate certain pseudorabies control and eradication provisions; to repeal the original sections; to outright repeal sections 54-2261, 54-2282, 54-2284, and 54-2285, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 172. Introduced by Foley, 29; Erdman, 47; Combs, 32; Redfield, 12.

A BILL FOR AN ACT relating to school districts; to eliminate provisions requiring school districts to provide written information regarding abortion; and to outright repeal section 71-6909, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 173. Introduced by Foley, 29.

A BILL FOR AN ACT relating to medical assistance; to provide continued medical assistance for certain children after adoption.

LEGISLATIVE BILL 174. Introduced by Byars, 30.

A BILL FOR AN ACT relating to schools; to amend section 79-220, Reissue Revised Statutes of Nebraska, and section 79-214, Revised Statutes Supplement, 2002; to change provisions relating to entrance requirements; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 183. Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Friend, 10; Hudkins, 21; Jones, 43; Kremer, 34; Preister, 5; Stuhr, 24; and Baker, 44; Cudaback, 36; Wehrbein, 2.

A BILL FOR AN ACT relating to ground water; to state intent; to provide for a transfer fee as prescribed; to provide for permits, reports, and metering as prescribed; to create and provide for a fund; and to provide duties.

LEGISLATIVE BILL 184. Introduced by Baker, 44.

A BILL FOR AN ACT relating to juveniles; to amend sections 43-292, 43-292.02, and 43-1312, Reissue Revised Statutes of Nebraska, and section 43-2,129, Revised Statutes Supplement, 2002; to require parents to attend hearings; to change provisions relating to termination of parental rights; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 188. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to state government; to amend sections 60-115 and 84-220, Reissue Revised Statutes of Nebraska; to increase fees for motor vehicle certificates of title; to provide for use of the fees by the Department of Justice; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 189. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to gambling; to amend section 9-701, Reissue Revised Statutes of Nebraska; to change provisions relating to gift enterprises; to redefine a term; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 190. Introduced by Redfield, 12; Friend, 10; Mossey, 3; Quandahl, 31.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-905, Reissue Revised Statutes of Nebraska; to change provisions relating to operating a motor vehicle to avoid arrest; to change penalty provisions; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 196. Introduced by Business and Labor Committee: Vrtiska, 1, Chairperson; Burling, 33; Combs, 32; Hartnett, 45; Kremer, 34; Preister, 5.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-1,110, Reissue Revised Statutes of Nebraska; to provide requirements for compensation coverage by employee services entities for client entities; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 198. Introduced by Business and Labor Committee: Vrtiska, 1, Chairperson; Burling, 33; Combs, 32; Hartnett, 45; Kremer, 34; Preister, 5.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-121.02, 48-144, 48-144.01, 48-144.03, 48-145.02, 48-146.03, 48-152, 48-155.01, 48-157, 48-158, 48-159, 48-162, 48-165, and 48-188, Reissue Revised Statutes of Nebraska, and sections 48-106, 48-115, 48-118, 48-120, 48-120.02, 48-125, 48-145, 48-145.01, 48-145.04, 48-146, 48-146.02, 48-155, 48-162.01, 48-162.02, and 48-163, Revised Statutes Supplement, 2002; to provide for an administrator of the compensation court; to change provisions relating to coverage exclusions, duties of the court and the administrator and the clerk, managed care, interest, reports, notices, motions, hearings, surety liability, jurisdiction, substitute judges, salary and expenses, vocational rehabilitation, forms, and judgments; to harmonize provisions; to repeal the original sections; and to outright repeal section 48-181, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 202. Introduced by Cunningham, 40; Byars, 30.

A BILL FOR AN ACT relating to health and human services; to provide for a prescription drug survey.

LEGISLATIVE BILL 203. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the Nebraska State Patrol; to amend sections 29-213 and 29-214, Reissue Revised Statutes of Nebraska; to establish the Missing Persons Information Clearinghouse; to provide powers and duties for the patrol and local law enforcement agencies; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 204. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-682.01, Reissue Revised Statutes of Nebraska; to provide double fines for speeding in a residential district as prescribed; and to repeal the original section.

LEGISLATIVE BILL 206. Introduced by Kruse, 13; Burling, 33; Engel, 17; Friend, 10; Louden, 49; Mossey, 3.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-518, Reissue Revised Statutes of Nebraska; to change provisions relating to theft; to change penalties; and to repeal the original section.

LEGISLATIVE BILL 208. Introduced by Kruse, 13; Aguilar, 35; Burling, 33; Hudkins, 21; Jones, 43; Redfield, 12.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-4,110, 60-6,210, 60-6,211.04, and 83-1,129, Reissue Revised Statutes of Nebraska, and sections 28-306, 28-394, 60-462, 60-479, 60-484, 60-4,144, 60-601, 60-6,196, 60-6,197, 60-6,205, 60-6,209, and 60-6,211.05, Revised Statutes Supplement,

2002; to change provisions relating to driving under the influence and implied consent; to provide penalties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 211. Introduced by Stuhr, 24; Combs, 32; Foley, 29; Hudkins, 21; Schimek, 27; Smith, 48; Thompson, 14.

A BILL FOR AN ACT relating to public health and welfare; to amend section 28-101, Revised Statutes Supplement, 2002; to define terms; to prohibit body piercing, tattooing, and branding of minors without parental consent; to provide a penalty; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 212. Introduced by Kremer, 34; Baker, 44; Burling, 33; Cunningham, 40; Schrock, 38; Smith, 48.

A BILL FOR AN ACT relating to tractor tests; to amend sections 2-2701.01, 2-2702, 2-2703, 2-2705, and 2-2707 to 2-2709, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to the testing, review, and sale of current tractor models; to change a permit fee; to eliminate a fund; to repeal the original sections; and to outright repeal sections 2-2701, 2-2701.02, 2-2703.01, 2-2705.01, 2-2706, 2-2710, and 2-2711, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 215. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to installment sales and loans; to amend section 45-341, Reissue Revised Statutes of Nebraska, and section 45-1024, Revised Statutes Supplement, 2002; to authorize certain fees as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 223. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1502, Revised Statutes Supplement, 2002; to change tax protest provisions; and to repeal the original section.

LEGISLATIVE BILL 225. Introduced by Synowiecki, 7; Aguilar, 35; Beutler, 28; Bourne, 8; Brown, 6; Connealy, 16; Cunningham, 40; Erdman, 47; Foley, 29; Friend, 10; Hartnett, 45; Janssen, 15; McDonald, 41; Mossey, 3; Dw. Pedersen, 39; Preister, 5; Quandahl, 31; Schrock, 38; Smith, 48; Vrtiska, 1.

A BILL FOR AN ACT relating to probation; to amend sections 29-2263 and 29-2269, Reissue Revised Statutes of Nebraska, and section 29-2262, Revised Statutes Supplement, 2002; to provide additional conditions of probation for sex offenders; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 226. Introduced by Redfield, 12; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to labor; to amend section 48-217, Reissue Revised Statutes of Nebraska; to change provisions relating to labor organizations; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original section.

LEGISLATIVE BILL 227. Introduced by Aguilar, 35; Byars, 30; Price, 26; Thompson, 14.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-4,182 and 60-601, Revised Statutes Supplement, 2002; to prohibit transporting minors on vehicles as prescribed; to provide a penalty; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 230. Introduced by Smith, 48; Burling, 33; Erdman, 47; Kremer, 34; Loudon, 49; Mossey, 3.

A BILL FOR AN ACT relating to tractor tests; to amend section 2-2701.01, Reissue Revised Statutes of Nebraska; to redefine a term; and to repeal the original section.

LEGISLATIVE BILL 231. Introduced by Smith, 48.

A BILL FOR AN ACT relating to the Nebraska Police Standards Advisory Council; to amend section 81-1407, Reissue Revised Statutes of Nebraska, and section 81-1417, Revised Statutes Supplement, 2002; to change membership provisions; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 232. Introduced by Smith, 48; Hartnett, 45; Quandahl, 31; Wehrbein, 2; Thompson, 14; Aguilar, 35; Kruse, 13; Redfield, 12; Bromm, 23; Stuthman, 22; Mossey, 3.

A BILL FOR AN ACT relating to county records; to amend sections 23-1503.01, 33-109, and 33-130, Reissue Revised Statutes of Nebraska, and section 67-406, Revised Statutes Supplement, 2002; to provide funding for record keeping and preservation; to establish a filing fee; to create a fund and committee; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 236. Introduced by Maxwell, 9; Combs, 32.

A BILL FOR AN ACT relating to public records; to amend section 84-712.05, Revised Statutes Supplement, 2002; to eliminate provisions for routine directory information; and to repeal the original section.

LEGISLATIVE BILL 237. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to liquefied petroleum gas; to require notice of installation and changes to gas systems; and to provide for immunity from damages for retailers, handlers, and transporters.

LEGISLATIVE BILL 239. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to medical assistance; to amend section 68-1020, Revised Statutes Supplement, 2002; to change provisions relating to recipients' resources; and to repeal the original section.

LEGISLATIVE BILL 240. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to medical assistance; to amend section 30-2201, Revised Statutes Supplement, 2002; to provide for notice of appointment of a personal representative under the Nebraska Probate Code as prescribed; to provide a lien against third parties for payment of medical assistance; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 248. Introduced by Redfield, 12; Baker, 44; Burling, 33; Erdman, 47; Wehrbein, 2.

A BILL FOR AN ACT relating to the Nebraska Capital Expansion Act; to amend sections 72-1261, 72-1265, 72-1267, 72-1268.01, 72-1268.02, 72-1268.04, and 72-1268.07, Reissue Revised Statutes of Nebraska, and sections 72-1262 to 72-1264, 72-1266, 72-1268, and 72-1268.03, Revised Statutes Supplement, 2002; to provide for investment of state funds using competitive bidding on the Internet; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 251. Introduced by Cunningham, 40; Burling, 33; Erdman, 47; Kremer, 34; Vrtiska, 1.

A BILL FOR AN ACT relating to unemployment compensation; to amend sections 48-602 and 48-628, Revised Statutes Supplement, 2002; to redefine a term; to change conditions for disqualification for benefits; and to repeal the original sections.

LEGISLATIVE BILL 253. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to presidential electors; to amend sections 32-710, 32-714, and 32-1038, Reissue Revised Statutes of Nebraska; to change provisions relating to selection and obligations of presidential electors; and to repeal the original sections.

LEGISLATIVE BILL 264. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to education; to amend sections 79-717, 79-801, 79-806, 79-807, 79-811, 79-827, 79-829, 79-871, 79-1239, and 79-1324, Reissue Revised Statutes of Nebraska, and sections 23-3302, 79-808, 79-809, 79-810, 79-812, 79-814, 79-816, and 79-1605, Revised Statutes Supplement, 2002; to change, transfer, and eliminate provisions relating to certificates,

permits, and criminal history record information checks; to define and redefine terms; to rename and eliminate funds; to eliminate the Interstate Agreement on Qualification of Educational Personnel and related provisions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 79-893 to 79-895 and 79-8,111 to 79-8,117, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 265. Introduced by Tyson, 19; Aguilar, 35; Baker, 44; Byars, 30; Combs, 32; Cudaback, 36; Cunningham, 40; Engel, 17; Erdman, 47; Hudkins, 21; Janssen, 15; Jensen, 20; Jones, 43; McDonald, 41; Mossey, 3; Dw. Pedersen, 39; D. Pederson, 42; Quandahl, 31; Redfield, 12; Schrock, 38; Smith, 48; Stuhr, 24; Synowiecki, 7; Vrtiska, 1; Wehrbein, 2.

A BILL FOR AN ACT relating to concealed weapons; to amend section 28-1202, Reissue Revised Statutes of Nebraska, and section 60-4,119, Revised Statutes Supplement, 2002; to adopt the Concealed Handgun Permit Act; to provide penalties; to change and harmonize provisions relating to concealed weapons; to provide for distinct operator's licenses; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 265A. Introduced by Tyson, 19.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 265, Ninety-eighth Legislature, First Session, 2003; and to declare an emergency.

LEGISLATIVE BILL 268. Introduced by Tyson, 19; Kremer, 34; Burling, 33.

A BILL FOR AN ACT relating to courts; to amend sections 23-1705 and 24-514, Reissue Revised Statutes of Nebraska; to require the Supreme Court to pay security costs as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 269. Introduced by Tyson, 19; Connealy, 16.

A BILL FOR AN ACT relating to public service attorneys; to amend section 29-3927, Revised Statutes Supplement, 2002; to adopt the Legal Education for Public Service Loan Repayment Act; to create a fund; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 270. Introduced by Brashear, 4; Chambers, 11.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-112, Revised Statutes Supplement, 2002; to change provisions relating to allegations set forth in the indictment or information; and to repeal the original section.

LEGISLATIVE BILL 271. Introduced by Brashear, 4; Engel, 17.

A BILL FOR AN ACT relating to crimes; to amend sections 81-1423, 81-1841, 81-1844, 81-1845, 81-1848, and 81-1850, Reissue Revised Statutes of Nebraska, and sections 29-119 and 81-1849, Revised Statutes Supplement, 2002; to change provisions relating to victim's rights; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 275. Introduced by Chambers, 11; Price, 26.

A BILL FOR AN ACT relating to the sale or manufacture of engine coolant or antifreeze; to require inclusion of a bittering agent as prescribed; and to provide a penalty.

LEGISLATIVE BILL 278. Introduced by Synowiecki, 7; Vrtiska, 1.

A BILL FOR AN ACT relating to elevator safety; to amend sections 48-418 to 48-418.03 and 48-418.05 to 48-418.11, Reissue Revised Statutes of Nebraska; to adopt the Elevator Safety Act; to transfer and eliminate provisions relating to elevators; to provide an operative date; to repeal the original sections; and to outright repeal sections 48-418.04, 48-418.12 and 48-418.14, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 279. Introduced by Jones, 43; Baker, 44; Cudaback, 36; Cunningham, 40; Janssen, 15; Quandahl, 31; Smith, 48; Stuhr, 24; Vrtiska, 1; Hudkins, 21; Dw. Pedersen, 39; Redfield, 12; Aguilar, 35; Thompson, 14; Erdman, 47.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-320, Reissue Revised Statutes of Nebraska, and sections 60-305.09, 60-308, and 60-311, Revised Statutes Supplement, 2002; to provide for five-year issuance of license plates; to change provisions relating to record keeping; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 287. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.13, Reissue Revised Statutes of Nebraska, and section 77-2702.07, Revised Statutes Supplement, 2002; to change sales and use tax provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 296. Introduced by Baker, 44.

A BILL FOR AN ACT relating to railroads; to amend section 74-1334, Revised Statutes Supplement, 2002; to change provisions relating to railroad crossing safety; to provide for the closing of certain railroad crossings as prescribed; and to repeal the original section.

LEGISLATIVE BILL 297. Introduced by Hartnett, 45; Byars, 30.

A BILL FOR AN ACT relating to the Developmental Disabilities Services Act; to amend sections 83-1201, 83-1203, and 83-1216, Reissue Revised Statutes of Nebraska; to define a term; to change provisions relating to receipt of services; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 301. Introduced by Preister, 5.

A BILL FOR AN ACT relating to recycling; to amend sections 81-15,167 and 81-15,173, Revised Statutes Supplement, 2002; to adopt the Electronic Equipment Recycling Act; to provide duties under the Nebraska Environmental Trust Act; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 303. Introduced by Smith, 48; Aguilar, 35; Baker, 44; Bourne, 8; Burling, 33; Connealy, 16; Cudaback, 36; Cunningham, 40; Erdman, 47; Jones, 43; Mines, 18; McDonald, 41; Mossey, 3; Quandahl, 31; Redfield, 12; Schrock, 38; Stuthman, 22; Tyson, 19; Vrtiska, 1; Combs, 32.

A BILL FOR AN ACT relating to motorcycles and mopeds; to amend sections 60-4,128, 60-6,279, 60-2125, 60-2126, 60-2129, 60-2130, and 60-2139, Reissue Revised Statutes of Nebraska, and sections 39-2215, 60-4,115, 60-4,127, 60-4,182, and 60-2131, Revised Statutes Supplement, 2002; to adopt the Motorcycle Safety and Training Act; to change and eliminate provisions relating to motorcycle safety and helmets; to terminate a fund; to provide a penalty; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 60-2120 to 60-2124, 60-2127, 60-2128, and 60-2132 to 60-2138, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 303A. Introduced by Smith, 48.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 303, Ninety-eighth Legislature, First Session, 2003; and to declare an emergency.

LEGISLATIVE BILL 304. Introduced by Synowiecki, 7; Connealy, 16; Friend, 10; Landis, 46; Mossey, 3; Dw. Pedersen, 39; Preister, 5; Quandahl, 31; Brown, 6; Hartnett, 45.

A BILL FOR AN ACT relating to peace officers; to adopt the Peace Officer Employer-Employee Relations Act.

LEGISLATIVE BILL 308. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to labor; to amend sections 48-2201 to 48-2206, Reissue Revised Statutes of Nebraska, and sections 48-1702 and 81-404, Revised Statutes Supplement, 2002; to name the Non-English-Speaking

Workers Protection Act; to define terms; to eliminate a termination date; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 309. Introduced by Bourne, 8; Mossey, 3; Synowiecki, 7.

A BILL FOR AN ACT relating to gambling; to amend sections 9-303, 9-307, 9-313, 9-317, 9-332 to 9-334, 9-336, 9-337, 9-340, 9-345.02, 9-348, 9-350 to 9-352, 9-607, 9-651, and 28-1101, Reissue Revised Statutes of Nebraska, and sections 9-301, 9-315, 9-322, 9-329.02, 9-331, 9-338, 9-340.02, 9-345.01, 9-345.03, 9-346, and 9-349, Revised Statutes Supplement, 2002; to change provisions relating to the Nebraska Pickle Card Lottery Act and the Nebraska County and City Lottery Act; to authorize the use of electronic pickle card devices and lottery equipment as prescribed; to change provisions relating to keno; to define and redefine terms; to provide and change powers and duties; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 312. Introduced by Chambers, 11; Bromm, 23; Schimek, 27.

A BILL FOR AN ACT relating to lobbying; to amend section 49-1492, Reissue Revised Statutes of Nebraska; to prohibit certain lobbying activities by former state officers as prescribed; and to repeal the original section.

LEGISLATIVE BILL 314. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to the Political Subdivisions Tort Claims Act; to amend sections 13-919 and 13-920, Reissue Revised Statutes of Nebraska; to change provisions relating to the limitation of actions for certain political subdivisions; and to repeal the original sections.

LEGISLATIVE BILL 315. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to notaries public; to amend sections 33-133, 64-101, 64-102, 64-113, and 64-210, Reissue Revised Statutes of Nebraska; to provide for and change provisions relating to appointments, examinations, notarial acts, and removal; to define terms; to provide powers and duties; to provide penalties; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

LEGISLATIVE BILL 316. Introduced by Brashear, 4; Beutler, 28; Brown, 6; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to divorce; to amend sections 42-364, 43-1214.01, and 43-2911, Reissue Revised Statutes of Nebraska; to change child

custody determination, parenting plan, and mediation and remediation costs provisions; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 317. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to the Attorney General; to amend section 32-507, Reissue Revised Statutes of Nebraska, and section 32-609, Revised Statutes Supplement, 2002; to provide for the election of the Attorney General on the nonpartisan ballot; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 322. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to property taxation; to amend section 32-519, Reissue Revised Statutes of Nebraska, and section 77-1340, Revised Statutes Supplement, 2002; to authorize the resumption of assessment duties in certain counties; to restrict the assumption of assessment duties to certain counties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 323. Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to counties; to amend section 23-272, Reissue Revised Statutes of Nebraska; to change provisions relating to regular meetings of certain county boards; and to repeal the original section.

LEGISLATIVE BILL 334. Introduced by Kremer, 34; Jensen, 20; Tyson, 19.

A BILL FOR AN ACT relating to health care; to adopt the Health Care Prompt Payment Act.

LEGISLATIVE BILL 335. Introduced by Kremer, 34; Burling, 33; Byars, 30; Hudkins, 21; McDonald, 41; Stuhr, 24; Stuthman, 22.

A BILL FOR AN ACT relating to schools; to amend sections 79-234 and 79-475, Reissue Revised Statutes of Nebraska, and section 79-473, Revised Statutes Supplement, 2002; to change provisions relating to annexed territory; and to repeal the original sections.

LEGISLATIVE BILL 336. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to juveniles; to amend section 43-408, Revised Statutes Supplement, 2002; to change provisions relating to placement for treatment; and to repeal the original section.

LEGISLATIVE BILL 339. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to natural gas; to prohibit the payment of money for installation rights as prescribed.

LEGISLATIVE BILL 340. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to teachers; to amend sections 9-812, 79-8,136, 79-1018.01, and 79-1108, Revised Statutes Supplement, 2002; to provide for extended contract days; to provide duties for the State Department of Education; to change and eliminate provisions relating to allocations from the Education Innovation Fund; to eliminate quality education incentive payments, mentor teacher programs, the Attracting Excellence to Teaching Program Act and a fund, and funding related to programs for accelerated or differentiated curricula; to provide an operative date; to harmonize provisions; to repeal the original sections; and to outright repeal sections 79-758, 79-761, 79-8,132 to 79-8,135, 79-8,137 to 79-8,140, 79-1108.02, and 79-1328, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 341. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to teachers; to adopt the Teacher Tuition Reimbursement Program Act.

LEGISLATIVE BILL 346. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to children; to amend section 43-292, Reissue Revised Statutes of Nebraska; to provide additional grounds for termination of parental rights; and to repeal the original section.

LEGISLATIVE BILL 347. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to the Political Subdivisions Tort Claims Act; to amend sections 13-919 and 13-920, Reissue Revised Statutes of Nebraska; to change limitation of action provisions; and to repeal the original sections.

LEGISLATIVE BILL 348. Introduced by Erdman, 47; Byars, 30; Foley, 29; Jensen, 20; Stuhr, 24.

A BILL FOR AN ACT relating to the State Boat Act; to amend sections 37-324, 37-1211, 37-1216, 37-1220, and 37-1273, Reissue Revised Statutes of Nebraska, and sections 37-1214, 37-1224, 37-1241.04, 37-1241.06, 37-1241.07, and 37-1256, Revised Statutes Supplement, 2002; to require liability insurance as prescribed; to change provisions relating to motorboat registration, the operation of motorboats and personal watercraft and funding; to create the State Watercraft Fund; to provide powers and duties; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 350. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to husband and wife; to provide for revocation of a legal separation decree; to provide a duty for the Revisor of Statutes; and to state intent.

LEGISLATIVE BILL 351. Introduced by Price, 26.

A BILL FOR AN ACT relating to nursing; to adopt the Nursing Faculty Student Loan Act.

LEGISLATIVE BILL 352. Introduced by Vrtiska, 1; Baker, 44; Cunningham, 40; Hudkins, 21; Janssen, 15; Kremer, 34; Quandahl, 31; Smith, 48.

A BILL FOR AN ACT relating to elections; to amend section 32-610, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to political parties and filing for office; to repeal the original section; and to outright repeal section 32-718, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 353. Introduced by Vrtiska, 1; Cunningham, 40; Erdman, 47; Quandahl, 31; Schimek, 27; Smith, 48.

A BILL FOR AN ACT relating to motor vehicle operators' licenses; to amend section 60-4,125, Revised Statutes Supplement, 2002; to provide for suspension of learner's permits as prescribed; and to repeal the original section.

LEGISLATIVE BILL 355. Introduced by Revenue Committee: Landis, 46, Chairperson; Baker, 44; Bourne, 8; Connealy, 16; Hartnett, 45; Janssen, 15; Redfield, 12.

A BILL FOR AN ACT relating to income tax; to amend section 77-2733, Reissue Revised Statutes of Nebraska; to change nonresident income provisions; and to repeal the original section.

LEGISLATIVE BILL 356. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to schools; to amend section 79-458, Revised Statutes Supplement, 2002; to change provisions relating to freeholder petitions; and to repeal the original section.

LEGISLATIVE BILL 361. Introduced by Mossey, 3; Friend, 10; Smith, 48.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-2262.01, Reissue Revised Statutes of Nebraska; to allow a probationer, an inmate, or a parolee to act as an undercover agent or employee as prescribed; to define terms; and to repeal the original section.

LEGISLATIVE BILL 363. Introduced by Smith, 48; Baker, 44; Burling, 33; Combs, 32; Cudaback, 36; Engel, 17; Erdman, 47; Hudkins, 21; Janssen, 15;

Jones, 43; Kremer, 34; Louden, 49; McDonald, 41; Stuhr, 24; Stuthman, 22; Vrtiska, 1; Wehrbein, 2.

A BILL FOR AN ACT relating to animals; to adopt the Prairie Protection Act.

LEGISLATIVE BILL 366. Introduced by Mines, 18.

A BILL FOR AN ACT relating to theft; to amend sections 28-516 and 28-517, Reissue Revised Statutes of Nebraska; to change provisions relating to unauthorized use of a propelled vehicle; to restrict affirmative defenses of certain thefts; to change penalties; and to repeal the original sections.

LEGISLATIVE BILL 368. Introduced by Baker, 44; Burling, 33; Jones, 43.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.24, Reissue Revised Statutes of Nebraska; to eliminate the sales and use tax exemption on food; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 369. Introduced by Baker, 44.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2101, Revised Statutes Supplement, 2002; to redefine terms relating to estate taxes and generation-skipping transfer taxes; and to repeal the original section.

LEGISLATIVE BILL 374. Introduced by Connealy, 16; Cunningham, 40.

A BILL FOR AN ACT relating to motor fuel; to amend section 89-186, Reissue Revised Statutes of Nebraska; to eliminate labeling and disclosure requirements; to repeal the original section; and to outright repeal section 66-1214, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 375. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to ethanol; to amend section 66-1333, Reissue Revised Statutes of Nebraska, and sections 66-1330, 66-1344 to 66-1345.01, 66-1345.04, and 84-612, Revised Statutes Supplement, 2002; to change provisions relating to funding for ethanol production tax credits; to change an excise tax rate; to eliminate a tax credit and task force that have expired; to harmonize provisions; to repeal the original sections; to outright repeal section 66-1346, Reissue Revised Statutes of Nebraska, and section 66-1350, Revised Statutes Supplement, 2002; and to declare an emergency.

LEGISLATIVE BILL 376. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to ethanol; to amend sections 66-489, 66-489.01, 66-4,105, 66-668, 66-672, 66-6,107, 66-6,109.01, 66-6,111, and

66-1333, Reissue Revised Statutes of Nebraska, and sections 66-674, 66-1330, 66-1344 to 66-1345.01, 66-1345.04, and 84-612, Revised Statutes Supplement, 2002; to change and eliminate provisions relating to funding for ethanol production tax credits; to change fuel tax rate provisions; to change an excise tax rate; to eliminate a tax credit and task force that have expired; to harmonize provisions; to repeal the original sections; to outright repeal section 66-1346, Reissue Revised Statutes of Nebraska, and sections 66-4,142 and 66-1350, Revised Statutes Supplement, 2002; and to declare an emergency.

LEGISLATIVE BILL 377. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to jails; to amend section 47-703, Revised Statutes Supplement, 2002; to change provisions relating to medical costs; and to repeal the original section.

LEGISLATIVE BILL 378. Introduced by Bromm, 23; Jensen, 20.

A BILL FOR AN ACT relating to employment; to provide immunity in actions relating to job references; and to define terms.

LEGISLATIVE BILL 379. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.02, Revised Statutes Supplement, 2002; to change income tax rates; and to repeal the original section.

LEGISLATIVE BILL 380. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to health care facilities; to amend sections 71-401 and 71-403, Revised Statutes Supplement, 2002; to define terms; to provide requirements related to emergency services for hospitals and ambulatory surgical centers; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 382. Introduced by Synowiecki, 7; Combs, 32.

A BILL FOR AN ACT relating to labor; to amend section 48-212, Reissue Revised Statutes of Nebraska; to change lunch period requirements; and to repeal the original section.

LEGISLATIVE BILL 384. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to civil liability; to eliminate motor vehicle and aircraft guest statutes; to harmonize provisions; and to outright repeal sections 3-129.01, 25-21,237, and 25-21,238, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 386. Introduced by Hudkins, 21; Wehrbein, 2.

A BILL FOR AN ACT relating to risk management pools; to amend section 44-4309, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Supplement, 2002; to change provisions relating to terminating membership; to exclude payments to the pool from levy limits; and to repeal the original sections.

LEGISLATIVE BILL 389. Introduced by Johnson, 37; Bromm, 23.

A BILL FOR AN ACT relating to postsecondary education; to amend sections 85-103, 85-301, 85-966, and 85-1403, Reissue Revised Statutes of Nebraska; to create the Nebraska Higher Education Board of Regents; to provide for termination of the Coordinating Commission for Postsecondary Education, the Board of Regents of the University of Nebraska, and the Board of Trustees of the Nebraska State Colleges; to provide intent; to provide a duty for the Education Committee of the Legislature; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 32-510 and 85-103.01, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 391. Introduced by Erdman, 47; Byars, 30; Janssen, 15; Quandahl, 31; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to minors; to amend sections 43-289 and 43-2101, Reissue Revised Statutes of Nebraska, and section 43-245, Revised Statutes Supplement, 2002; to change the age of majority and the definition of a minor to eighteen years of age as prescribed; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 392. Introduced by Erdman, 47; Byars, 30; Janssen, 15; Quandahl, 31.

A BILL FOR AN ACT relating to minors; to provide for judicial emancipation of minors.

LEGISLATIVE BILL 395. Introduced by Brown, 6.

A BILL FOR AN ACT relating to recreational lands; to amend section 37-729, Reissue Revised Statutes of Nebraska; to change owner liability provisions; and to repeal the original section.

LEGISLATIVE BILL 397. Introduced by Redfield, 12; Mines, 18.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2702.18 and 77-2704.29, Reissue Revised Statutes of Nebraska, and sections 77-2701, 77-2701.02, 77-2702.07, 77-2702.09, 77-2702.13, 77-2702.14, 77-2702.17, 77-2703, 77-2704.26, and 77-2704.30, Revised Statutes Supplement, 2002; to change the sales tax rate; to tax certain services; to eliminate certain exemptions; to harmonize provisions; to provide an operative

date; to repeal the original sections; and to outright repeal sections 77-2704.03, 77-2704.04, 77-2704.07, 77-2704.10, 77-2704.13, 77-2704.14, 77-2704.17, 77-2704.19, 77-2704.20, 77-2704.23, 77-2704.25, 77-2704.36 to 77-2704.38, and 77-2704.40, Reissue Revised Statutes of Nebraska, and sections 77-2704.12, 77-2704.15, 77-2704.16, 77-2704.18, and 77-2704.27, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 400. Introduced by Connealy, 16; Cunningham, 40.

A BILL FOR AN ACT relating to motor fuel tax; to amend section 66-4,134, Reissue Revised Statutes of Nebraska, and section 66-4,124, Revised Statutes Supplement, 2002; to change provisions relating to tax credit gasoline; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 401. Introduced by Jones, 43; Burling, 33; Cudaback, 36; Dw. Pedersen, 39; Price, 26; Schrock, 38; Stuthman, 22; Schimek, 27.

A BILL FOR AN ACT relating to speed limits; to amend section 60-6,186, Reissue Revised Statutes of Nebraska; to reduce the interstate speed limit as prescribed; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 409. Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to the Department of Administrative Services; to amend sections 81-1120 and 81-1376, Reissue Revised Statutes of Nebraska; to create revolving funds and provide for their use; to authorize assessments; to change provisions relating to existing funds; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 420. Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2602, 77-2608, and 77-4008, Revised Statutes Supplement, 2002; to change provisions relating to taxes on tobacco and cigarette tax stamps; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 421. Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Court; to amend sections 48-152, 48-159, and 48-1,110, Reissue Revised Statutes of Nebraska, and sections 48-162.02 and 48-1,116, Revised Statutes Supplement, 2002; to transfer the compensation court, judges, and employees to the Supreme Court for administrative and budgetary purposes; to change provisions relating

to salaries and funds; to eliminate obsolete provisions; to state intent; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 422. Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-2261, Revised Statutes Supplement, 2002, as amended by section 9, Legislative Bill 1, Ninety-seventh Legislature, Third Special Session, 2002; to change provisions relating to presentence investigations; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 423. Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to the Nebraska Probation Administration Act; to amend section 29-2269, Reissue Revised Statutes of Nebraska; to provide for fees; to create a fund; to harmonize provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 426. Introduced by Preister, 5.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-101, Revised Statutes Supplement, 2002; to state intent; to prohibit certain sales of alcoholic liquor as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 428. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to the Nebraska Probate Code; to amend sections 30-2352 and 30-24,101, Reissue Revised Statutes of Nebraska; to change provisions relating to renunciation of succession and the right of retainer; and to repeal the original sections.

LEGISLATIVE BILL 432. Introduced by Stuhr, 24; Combs, 32.

A BILL FOR AN ACT relating to cities and villages; to amend sections 16-230 and 17-563, Reissue Revised Statutes of Nebraska; to change provisions relating to the abatement of nuisances; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 435. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to labor; to amend section 48-1203, Reissue Revised Statutes of Nebraska; to change the minimum wage; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 437. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1480.01 and 49-1482, Reissue Revised Statutes of Nebraska; to change lobbyist registration fees; to provide for distribution of the fees; and to repeal the original sections.

LEGISLATIVE BILL 439. Introduced by Hudkins, 21; Friend, 10.

A BILL FOR AN ACT relating to state property; to amend sections 81-1101, 81-1102, 81-1107, 81-1108.17, 81-1108.18, 81-1108.20, 81-1108.22, 81-1108.23, 81-1108.32, 81-1108.38, 81-1108.50 to 81-1108.54, 81-1109, 81-2004, and 90-304, Reissue Revised Statutes of Nebraska, and sections 81-188.01, 81-188.02, 81-1108, and 81-1108.15, Revised Statutes Supplement, 2002; to define terms; to create the Office of the Nebraska Capitol Commission and the position of State Capitol Administrator; to provide, change, and transfer powers and duties; to create funds; to change the membership of the Nebraska Capitol Commission; to transfer responsibility for security for certain state buildings and grounds to the Nebraska State Patrol; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 81-1108.21, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 439A. Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 439, Ninety-eighth Legislature, First Session, 2003; to reduce an appropriation; and to declare an emergency.

LEGISLATIVE BILL 441. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to employment; to amend sections 13-1102, 20-113, 20-131, 23-2525, 23-2531, 25-2541, 48-1101 to 48-1107, 48-1107.02, 48-1108, 48-1110 to 48-1126, 79-2,123, 81-1355, 81-1356, and 85-9,175, Reissue Revised Statutes of Nebraska, and sections 20-139 and 25-2602.01, Revised Statutes Supplement, 2002; to rename the Nebraska Fair Employment Practice Act; to define terms; to prohibit employment discrimination based upon sexual orientation; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal section 48-1109, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 442. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to the School Employees Retirement Act; to amend section 79-956, Revised Statutes Supplement, 2002; to change a death benefit as prescribed; and to repeal the original section.

LEGISLATIVE BILL 447. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to sales and use tax; to amend section 77-2704.15, Revised Statutes Supplement, 2002; to change provisions relating to exemptions; and to repeal the original section.

LEGISLATIVE BILL 448. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1502, Revised Statutes Supplement, 2002; to change the protest filing date; and to repeal the original section.

LEGISLATIVE BILL 449. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Environmental Protection Act; to amend sections 81-1505 and 81-1532, Revised Statutes Supplement, 2002; to change provisions relating to air pollution fees; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 449A. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 449, Ninety-eighth Legislature, First Session, 2003.

LEGISLATIVE BILL 450. Introduced by Byars, 30.

A BILL FOR AN ACT relating to medical assistance; to adopt the Medicaid Patients Open Access for Mental Health Treatments Act; and to declare an emergency.

LEGISLATIVE BILL 452. Introduced by Smith, 48; McDonald, 41.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-302.03 and 60-305.01, Reissue Revised Statutes of Nebraska, and section 60-302, Revised Statutes Supplement, 2002; to change penalties for failure to register a vehicle; to provide late fees; to define a term; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 452A. Introduced by Smith, 48.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 452, Ninety-eighth Legislature, First Session, 2003.

LEGISLATIVE BILL 453. Introduced by Aguilar, 35.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2702.07, Revised Statutes Supplement, 2002; to impose sales tax on engineering, architectural, legal, and accounting services; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 454. Introduced by Aguilar, 35; Baker, 44; Bourne, 8; Burling, 33; Byars, 30; Combs, 32; Connealy, 16; Cunningham, 40; Foley, 29; Janssen, 15; Jensen, 20; Kremer, 34; Kruse, 13; Maxwell, 9; McDonald, 41; Mines, 18; Mossey, 3; Price, 26; Quandahl, 31; Redfield, 12; Schimek, 27; Smith, 48; Thompson, 14; Tyson, 19; Vrtiska, 1.

A BILL FOR AN ACT relating to courts; to amend section 29-901, Revised Statutes Supplement, 2002; to authorize drug court programs; to change bail bond provisions; and to repeal the original section.

LEGISLATIVE BILL 456. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to real property; to amend sections 76-1410, 76-1412, 76-1423, 76-1424, 76-1432, 76-1435, and 76-1438, Reissue Revised Statutes of Nebraska, and sections 76-1415, 76-1416, and 76-1419, Revised Statutes Supplement, 2002; to change provisions relating to the Uniform Residential Landlord and Tenant Act; and to repeal the original sections.

LEGISLATIVE BILL 457. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to juveniles; to amend section 43-290, Reissue Revised Statutes of Nebraska, and section 43-3342.05, Revised Statutes Supplement, 2002; to provide for guidelines for juvenile support orders under the Nebraska Juvenile Code; to provide powers and duties; and to repeal the original sections.

LEGISLATIVE BILL 458. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act; to amend section 83-1.135, Reissue Revised Statutes of Nebraska; to state intent; to provide for electronic surveillance as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 459. Introduced by Synowiecki, 7; Cunningham, 40; Mossey, 3; Schrock, 38.

A BILL FOR AN ACT relating to criminal procedure; to provide for detaining a minor attempting to purchase alcoholic liquor.

LEGISLATIVE BILL 460. Introduced by Synowiecki, 7; Aguilar, 35; Erdman, 47; McDonald, 41; Mossey, 3; Smith, 48; Combs, 32.

A BILL FOR AN ACT relating to correctional services; to amend section 83-181, Reissue Revised Statutes of Nebraska; to define a term; to provide for copayments for health care services as prescribed; and to repeal the original section.

LEGISLATIVE BILL 465. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to sheriffs' fees; to amend sections 33-117 and 83-424, Reissue Revised Statutes of Nebraska; to change provisions relating to sheriffs' fees; and to repeal the original sections.

LEGISLATIVE BILL 466. Introduced by D. Pederson, 42.

A BILL FOR AN ACT relating to educational savings plans; to amend sections 85-1804, 85-1806, and 85-1807, Revised Statutes Supplement, 2002; to change provisions relating to investment of funds; to provide for review of contracts; to provide immunity as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 468. Introduced by Jensen, 20; Byars, 30.

A BILL FOR AN ACT relating to appropriations; to provide for appropriations from the Nebraska Health Care Cash Fund.

LEGISLATIVE BILL 469. Introduced by Jensen, 20; Byars, 30.

A BILL FOR AN ACT relating to the Nebraska Health Care Funding Act; to amend sections 71-1628.07, 71-1628.08, 71-7606, 71-7607, and 71-7608, Revised Statutes Supplement, 2002; to change and eliminate provisions relating to health care funding; to eliminate the Nursing Facility Conversion Cash Fund and the Children's Health Insurance Cash Fund; to harmonize provisions; to repeal the original sections; and to outright repeal sections 71-1628.02, 71-7609, and 71-7611.01 to 71-7611.08, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 470. Introduced by Chambers, 11; Beutler, 28; Bromm, 23; Cudaback, 36; Engel, 17; Janssen, 15; Jones, 43; Mines, 18; Schimek, 27; Thompson, 14; Tyson, 19.

A BILL FOR AN ACT relating to state buildings; to amend section 81-1108.21, Reissue Revised Statutes of Nebraska; to change provisions relating to allocation of space; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 473. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-3305, Reissue Revised Statutes of Nebraska; to change provisions relating to fluoridation of drinking water; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 474. Introduced by Kruse, 13; Burling, 33; Combs, 32; Johnson, 37; Kremer, 34; Louden, 49; Dw. Pedersen, 39; Redfield, 12; Schimek, 27.

A BILL FOR AN ACT relating to child abuse; to amend sections 28-201 and 28-707, Revised Statutes Supplement, 2002; to provide a penalty for driving under the influence with a minor child passenger; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 475. Introduced by Connealy, 16; Tyson, 19.

A BILL FOR AN ACT relating to sales tax; to amend section 77-2702.13, Revised Statutes Supplement, 2002; to exclude certain materials used in the manufacture of steel or cement from the definition of retail sale; and to repeal the original section.

LEGISLATIVE BILL 477. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to government contracts; to provide duties for sheriffs, the Director of Correctional Services, and the Director of Health and Human Services with respect to contracting with private persons for the transportation of persons under their respective control.

LEGISLATIVE BILL 479. Introduced by Baker, 44.

A BILL FOR AN ACT relating to ethanol; to amend section 66-1345.01, Revised Statutes Supplement, 2002; to change an excise tax on corn and grain sorghum; and to repeal the original section.

LEGISLATIVE BILL 482. Introduced by Redfield, 12; Aguilar, 35; Baker, 44; Byars, 30; Combs, 32; Connealy, 16; Cudaback, 36; Cunningham, 40; Engel, 17; Erdman, 47; Friend, 10; Hartnett, 45; Hudkins, 21; Jensen, 20; Johnson, 37; Jones, 43; Kremer, 34; Kruse, 13; Louden, 49; McDonald, 41; Mines, 18; Mossey, 3; Dw. Pedersen, 39; Price, 26; Quandahl, 31; Schimek, 27; Schrock, 38; Smith, 48; Stuhr, 24; Stuthman, 22; Synowiecki, 7; Thompson, 14; Tyson, 19.

A BILL FOR AN ACT relating to postsecondary education; to adopt the In the Line of Duty Dependent Education Act; and to provide severability.

LEGISLATIVE BILL 483. Introduced by D. Pederson, 42.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-146.02, Revised Statutes Supplement, 2002; to provide requirements for insurance providers, risk management pools, and self-insurers; and to repeal the original section.

LEGISLATIVE BILL 484. Introduced by Legislative Program Evaluation Committee: Beutler, 28, Chairperson; Engel, 17; Price, 26; Wehrbein, 2.

A BILL FOR AN ACT relating to the Legislative Program Evaluation Act; to amend sections 50-1201 to 50-1215, Reissue Revised Statutes of Nebraska, and section 50-1303, Revised Statutes Supplement, 2002; to rename the act; to authorize performance audits; to define and redefine terms; to change request procedures, notice requirements, and report provisions; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 485. Introduced by General Affairs Committee: Janssen, 15, Chairperson; Connealy, 16; Cunningham, 40; Erdman, 47; Friend, 10; Mossey, 3; Schimek, 27.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 9-329.03, 53-116.01, 53-119.01, 53-123, 53-123.13, 53-134.04, 53-135, 53-138.03, 53-168, and 53-179, Reissue Revised Statutes of Nebraska, and sections 53-101, 53-103, 53-116.02, 53-117, 53-122, 53-123.04, 53-123.15, 53-124, 53-124.12, 53-124.14, 53-129, 53-131, 53-132, 53-133, 53-134, 53-134.03, and 53-1,115, Revised Statutes Supplement, 2002; to change and eliminate provisions relating to licenses to sell alcoholic liquor; to change provisions relating to fees; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 53-123.08 and 53-124.01, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 491. Introduced by Tyson, 19; Cunningham, 40; Friend, 10; Hartnett, 45; Mines, 18; Mossey, 3; Redfield, 12.

A BILL FOR AN ACT relating to firearm ranges; to define terms; to provide for liability and immunity as prescribed; and to provide restrictions on local governments.

LEGISLATIVE BILL 492. Introduced by Tyson, 19; Janssen, 15; Jensen, 20; D. Pederson, 42; Thompson, 14; Wehrbein, 2.

A BILL FOR AN ACT relating to the Nebraska Schools Construction Alternatives Act; to amend sections 79-2001 to 79-2015, Revised Statutes Supplement, 2002; to rename the act; to define terms; to provide for applicability of the act to community colleges and state colleges; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 493. Introduced by Tyson, 19; Connealy, 16; Janssen, 15; Jensen, 20; Mines, 18.

A BILL FOR AN ACT relating to recreation liability; to amend section 37-729, Reissue Revised Statutes of Nebraska; to redefine recreational purposes; and to repeal the original section.

LEGISLATIVE BILL 496. Introduced by Raikes, 25; at the request of the Governor.

A BILL FOR AN ACT relating to taxation; to amend section 77-1704.01, Revised Statutes Supplement, 2002; to change provisions for property assessment; and to repeal the original section.

LEGISLATIVE BILL 497. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to motor vehicle size, weight, and load; to amend section 60-6,298, Revised Statutes Supplement, 2002; to change provisions relating to the issuance of special, continuing, or continuous permits; and to repeal the original section.

LEGISLATIVE BILL 499. Introduced by Hartnett, 45; Mines, 18.

A BILL FOR AN ACT relating to cities of the first class; to amend section 16-309, Reissue Revised Statutes of Nebraska; to change provisions relating to terms of appointed officers; and to repeal the original section.

LEGISLATIVE BILL 501. Introduced by Cudaback, 36; Byars, 30; Janssen, 15; Jones, 43; Kruse, 13.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-601, Revised Statutes Supplement, 2002; to prohibit use of a mobile telephone as prescribed; to provide a penalty; to provide for enforcement; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 502. Introduced by Schrock, 38; Burling, 33; Cudaback, 36; Engel, 17; Jones, 43; Kruse, 13.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-682.01, Reissue Revised Statutes of Nebraska; to provide double fines for speeding on the interstate; and to repeal the original section.

LEGISLATIVE BILL 503. Introduced by Schimek, 27; Kruse, 13.

A BILL FOR AN ACT relating to voting rights; to amend sections 32-312 and 32-1530, Reissue Revised Statutes of Nebraska, and sections 29-112, 29-2264, 32-313, and 83-1,118, Revised Statutes Supplement, 2002; to provide for the restoration of voting rights upon completion of a felony sentence or probation for a felony; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 505. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.02, Revised Statutes Supplement, 2002; to change the income tax rates; and to repeal the original section.

LEGISLATIVE BILL 506. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2715.02 and 77-2715.07, Revised Statutes Supplement, 2002; to change the income tax rates; to provide a tax credit for long-term care insurance premiums; and to repeal the original sections.

LEGISLATIVE BILL 507. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to inheritance taxes; to amend sections 77-2003, 77-2008.01, 77-2014, 77-2017, 77-2018, 77-2018.02, 77-2018.07, and 77-2032, Reissue Revised Statutes of Nebraska; to change payment and distribution of tax revenue; to create a fund; to provide duties for the Tax Commissioner; to provide for applicability; and to repeal the original sections.

LEGISLATIVE BILL 511. Introduced by Bromm, 23.

A BILL FOR AN ACT relating to the Political Subdivisions Self-Funding Benefits Act; to amend sections 13-1601, 13-1603, 13-1618, and 13-1622, Reissue Revised Statutes of Nebraska; to authorize joint agreements relating to excess insurance; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 512. Introduced by Dw. Pedersen, 39; Mossey, 3; Erdman, 47.

A BILL FOR AN ACT relating to relating to abortion; to amend section 28-101, Revised Statutes Supplement, 2002; to restrict or prohibit the use of human fetal tissue as prescribed; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 514. Introduced by Stuhr, 24; Erdman, 47; Hartnett, 45; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to the Nebraska State Patrol Retirement Act; to amend section 81-2017, Revised Statutes Supplement, 2002; to change contributions as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 515. Introduced by Synowiecki, 7; Combs, 32; Cunningham, 40; Stuthman, 22.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-2280, 29-2281, and 29-2286, Reissue Revised Statutes of Nebraska; to change provisions relating to restitution orders and enforcement as prescribed; to provide duties for the Supreme Court Administrator; and to repeal the original sections.

LEGISLATIVE BILL 516. Introduced by Synowiecki, 7; Aguilar, 35; Baker, 44; Bourne, 8; Brown, 6; Burling, 33; Byars, 30; Combs, 32; Foley, 29; Hartnett, 45; Hudkins, 21; Janssen, 15; Jensen, 20; Johnson, 37; Kruse, 13; Loudon, 49; McDonald, 41; Preister, 5; Price, 26; Schimek, 27; Smith, 48; Stuthman, 22; Tyson, 19; Vrtiska, 1.

A BILL FOR AN ACT relating to homesteads; to amend sections 77-3501.01, 77-3506.03, 77-3509.01 to 77-3509.03, 77-3511, 77-3521, 77-3522, and 77-3529, Reissue Revised Statutes of Nebraska, and sections 77-3501, 77-3510, 77-3512 to 77-3514, 77-3516, and 77-3523, Revised Statutes Supplement, 2002; to create a homestead exemption; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 518. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to air quality; to amend sections 81-15,135 and 81-15,136, Reissue Revised Statutes of Nebraska; to adopt the Citizen Oversight Committee Act; to change provisions relating to permits; and to repeal the original sections.

LEGISLATIVE BILL 523. Introduced by Connealy, 16; Cunningham, 40; Erdman, 47.

A BILL FOR AN ACT relating to the State-Tribal Cooperative Agreements Act; to amend sections 13-1501 and 13-1502, Reissue Revised Statutes of Nebraska; to redefine a term; to eliminate a provision relating to preexisting agreements; to harmonize provisions; to repeal the original sections; to outright repeal section 13-1509, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 525. Introduced by Kruse, 13; Burling, 33; Cudaback, 36; Foley, 29; Jones, 43; McDonald, 41; Dw. Pedersen, 39; Stuthman, 22; Vrtiska, 1.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-180.05, Revised Statutes Supplement, 2002; to provide and change penalties; to provide for license suspension for minors' violations; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 526. Introduced by Erdman, 47; Baker, 44; Bromm, 23; Burling, 33; Byars, 30; Combs, 32; Connealy, 16; Cudaback, 36; Cunningham, 40; Engel, 17; Friend, 10; Hudkins, 21; Jensen, 20; Jones, 43; Kremer, 34;

Louden, 49; Mines, 18; Mossey, 3; Quandahl, 31; Redfield, 12; Schrock, 38; Smith, 48; Stuhr, 24; Stuthman, 22; Tyson, 19; Vrtiska, 1; at the request of the Governor.

A BILL FOR AN ACT relating to the death penalty; to amend sections 29-2532, 29-2533, 29-2542, 29-2543, and 29-2544, Reissue Revised Statutes of Nebraska, and section 29-2524, Reissue Revised Statutes of Nebraska, as amended by section 16, Legislative Bill 1, Ninety-seventh Legislature, Third Special Session, 2002; to change the mode of inflicting the death penalty; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 527. Introduced by Loudon, 49; Baker, 44; Combs, 32; Cudaback, 36; Cunningham, 40; Engel, 17; Erdman, 47; Jones, 43; Dw. Pedersen, 39; Price, 26; Redfield, 12; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to ground water; to state intent; to provide for a transfer fee as prescribed; to provide for permits, reports, and metering as prescribed; to create and provide for a fund; and to provide duties.

LEGISLATIVE BILL 528. Introduced by Baker, 44; Burling, 33; Cunningham, 40; Erdman, 47; Foley, 29; Kremer, 34; Mines, 18; Mossey, 3; Quandahl, 31; Smith, 48; Tyson, 19; Vrtiska, 1; Redfield, 12; at the request of the Governor.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-3001, Reissue Revised Statutes of Nebraska, and sections 29-2101 and 29-2103, Revised Statutes Supplement, 2002; to change provisions relating to postconviction proceedings; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 529. Introduced by Baker, 44; Bromm, 23.

A BILL FOR AN ACT relating to elections; to amend sections 23-150 and 32-602, Reissue Revised Statutes of Nebraska; to change residency requirements for nomination for county commissioners; to change provisions relating to filing for office; and to repeal the original sections.

LEGISLATIVE BILL 532. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor carriers; to amend sections 75-304 to 75-306, 75-307.01, 75-309, and 75-311, Reissue Revised Statutes of Nebraska, and sections 75-109.01, 75-128, 75-156, 75-302, and 75-303, Revised Statutes Supplement, 2002; to require a passenger carrier license for motor vehicle operators transporting passengers; to provide for fees and penalties; to provide a duty for the Revisor of Statutes; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 535. Introduced by Thompson, 14; Mossey, 3.

A BILL FOR AN ACT relating to pretrial diversion; to amend section 29-3606, Revised Statutes Supplement, 2002; to establish driver's safety training program requirements; and to repeal the original section.

LEGISLATIVE BILL 538. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to gambling; to amend section 9-1,106, Reissue Revised Statutes of Nebraska; to change provisions relating to tribal-state compacts; to state intent; to provide for legislative approval; to provide powers and duties; and to repeal the original section.

LEGISLATIVE BILL 539. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to assessment of property; to amend section 77-1359, Revised Statutes Supplement, 2002; to change provisions relating to the definition of agricultural and horticultural land; and to repeal the original section.

LEGISLATIVE BILL 542. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to inmate discipline; to amend section 83-4,122, Reissue Revised Statutes of Nebraska; to change provisions relating to classification; and to repeal the original section.

LEGISLATIVE BILL 544. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to the School Employees Retirement Act; to amend section 79-958, Revised Statutes Supplement, 2002; to change the employee contribution rate; and to repeal the original section.

LEGISLATIVE BILL 546. Introduced by Thompson, 14; Aguilar, 35; Brown, 6; Byars, 30; Foley, 29; Jensen, 20; Johnson, 37; Kruse, 13; Preister, 5; Price, 26; Raikes, 25; Redfield, 12; Schimek, 27; Schrock, 38; Vrtiska, 1.

A BILL FOR AN ACT relating to the Nebraska Clean Indoor Air Act; to amend sections 71-5702, 71-5704, and 71-5708, Reissue Revised Statutes of Nebraska, and section 71-5707, Revised Statutes Supplement, 2002; to state intent; to redefine a term; to change designated smoking area provisions; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 547. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-2281 and 29-2284, Reissue Revised Statutes of Nebraska; to change

enforcement and sanctions relating to restitution orders; and to repeal the original sections.

LEGISLATIVE BILL 549. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to cities and villages; to amend section 18-1718, Reissue Revised Statutes of Nebraska; to change provisions relating to actions to contest annexation; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 557. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to state government; to amend section 84-613, Reissue Revised Statutes of Nebraska, and section 81-179, Revised Statutes Supplement, 2002; to change provisions relating to the Building Renewal Allocation Fund and the Cash Reserve Fund; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 558. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-1,110, Reissue Revised Statutes of Nebraska; to provide for coordination of claims and benefits under laws of different jurisdictions; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 559. Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-482, 60-4,118.04, 60-4,123.01, 60-4,130.05, 60-4,155, and 60-4,173 to 60-4,175, Reissue Revised Statutes of Nebraska, and sections 60-462, 60-479, 60-484, 60-486, 60-495, 60-4,115, 60-4,118, 60-4,127, 60-4,146.01, 60-4,158, and 60-4,181, Revised Statutes Supplement, 2002; to change provisions relating to rules and regulations; to change provisions relating to means of identification for operator's license and state identification card issuance; to provide for cancellation of a license or card due to invalid social security numbers; to change distribution of fees; to provide for confiscation of canceled licenses or cards as prescribed; to change provisions relating to Class M licenses; to change provisions relating to driver training schools; to provide penalties; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 559A. Introduced by Baker, 44.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 559, Ninety-eighth Legislature, First Session, 2003.

LEGISLATIVE BILL 560. Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Department of Motor Vehicles; to amend sections 37-1201, 60-6,324, and 60-1805, Reissue Revised Statutes of Nebraska, and sections 13-910, 30-24,125, 37-1291, 60-106, 60-108, 60-110, 60-111.01, 60-301, 60-302.05, 60-308, 60-311.01, 60-311.02, 60-483, and 81-8,219, Revised Statutes Supplement, 2002; to provide for transfer of certificates of title for motorboats in certain decedents' estates; to provide for salvage and nontransferable certificates of title for motorboats; to provide for disposition of abandoned motorboats; to change provisions relating to the State Boat Act, motor vehicle certificates of title and registration, and registration of snowmobiles and camper units; to change fees for motor vehicle record requests; to provide penalties; to provide an operative date; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 560A. Introduced by Baker, 44.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 560, Ninety-eighth Legislature, First Session, 2003.

LEGISLATIVE BILL 565. Introduced by Brown, 6.

A BILL FOR AN ACT relating to county officials; to amend sections 23-1701, 23-1901, 23-3201, 32-518 to 32-523, 32-525, and 32-526, Reissue Revised Statutes of Nebraska; to authorize interlocal agreements relating to the powers and duties of county officials; to change election provisions; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 566. Introduced by Foley, 29; Erdman, 47.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2002; to create the offense of destructive research on a human embryo; to provide a penalty; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 568. Introduced by Hartnett, 45; Louden, 49; Mossey, 3; Thompson, 14.

A BILL FOR AN ACT relating to cemeteries; to amend section 12-1301, Revised Statutes Supplement, 2002; to change provisions relating to the state veteran cemetery system; and to repeal the original section.

LEGISLATIVE BILL 569. Introduced by Schrock, 38; Burling, 33; Kremer, 34; Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the Research and Extension Center at Clay Center; and to declare an emergency.

LEGISLATIVE BILL 570. Introduced by Schrock, 38; Burling, 33; Connealy, 16; Kremer, 34; Stuhr, 24; McDonald, 41.

A BILL FOR AN ACT relating to appropriations; to amend section 85-942, Reissue Revised Statutes of Nebraska; to state intent relating to the University of Nebraska Institute of Agriculture and Natural Resources; and to repeal the original section.

LEGISLATIVE BILL 579. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701, Revised Statutes Supplement, 2002; to impose a surcharge on depreciation; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 581. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701, 77-2702.03, 77-2702.07, 77-2702.09, 77-2702.11, 77-2702.13 to 77-2702.17, 77-2703, 77-2704.11, 77-2704.26, 77-2704.27, 77-2704.30, and 77-2704.31, Revised Statutes Supplement, 2002; to eliminate sales tax on certain services; to exempt certain manufacturing components and subscriptions from sales tax; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 583. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to administrative rules and regulations; to amend sections 50-1201, 50-1203, 84-907.06, 84-907.07, and 84-920, Reissue Revised Statutes of Nebraska; to redefine a term and provide duties under the Legislative Program Evaluation Act; to provide for and change provisions relating to notice and objections to proposed rules and regulations under the Administrative Procedure Act as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 587. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2702.07, 77-2702.09, 77-2702.11, 77-2702.13 to 77-2702.17, 77-2703, 77-2704.11, 77-2704.26, 77-2704.27, 77-2704.30, and 77-2704.31, Revised Statutes Supplement, 2002; to eliminate sales tax on certain services; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 589. Introduced by Landis, 46.

A BILL FOR AN ACT relating to real property; to authorize award of costs and attorney's fees for certain residential real property actions.

LEGISLATIVE BILL 591. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to civil procedure; to provide an attorney's fee in contract actions; and to provide a duty for the Revisor of Statutes.

LEGISLATIVE BILL 593. Introduced by Jensen, 20; Engel, 17.

A BILL FOR AN ACT relating to medical liens; to amend section 52-401, Reissue Revised Statutes of Nebraska; to provide for liens for chiropractors; to except certain liens; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 594. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to health care facilities; to amend sections 71-516.01, 71-516.04, and 71-6014, Reissue Revised Statutes of Nebraska, and sections 71-401, 71-448, 71-460, 71-461, 71-516.03, and 71-6038, Revised Statutes Supplement, 2002; to define and redefine terms; to name and rename acts; to provide requirements for admission; to provide for training of certain personnel; to change provisions relating to licensure of assisted-living facilities and Alzheimer's special care units; to change provisions relating to nursing assistants; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 71-463 and 71-516.02, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 595. Introduced by Janssen, 15; Jones, 43; Landis, 46; Synowiecki, 7.

A BILL FOR AN ACT relating to revenue and taxation; to authorize a county income tax; and to provide duties for the Department of Revenue.

LEGISLATIVE BILL 598. Introduced by Tyson, 19; Baker, 44; Bromm, 23; Chambers, 11; Combs, 32; Connealy, 16; Cudaback, 36; Cunningham, 40; Foley, 29; Hartnett, 45; Janssen, 15; Jensen, 20; Jones, 43; Kremer, 34; Kruse, 13; McDonald, 41; Mines, 18; Preister, 5; Price, 26; Quandahl, 31; Schrock, 38; Stuthman, 22; Synowiecki, 7; Vrtiska, 1.

A BILL FOR AN ACT relating to the Legislature; to provide for submission to the electors of an amendment to the Constitution of Nebraska to repeal Article III, section 12, to eliminate term limits for state legislators; and to provide for the time and manner of submission and form of ballot.

LEGISLATIVE BILL 599. Introduced by Tyson, 19; Jensen, 20.

A BILL FOR AN ACT relating to engineers and architects; to amend section 81-3445, Reissue Revised Statutes of Nebraska, and sections 2-3256, 81-3449, and 81-3453, Revised Statutes Supplement, 2002; to change and eliminate requirements for use of engineering and architectural services; to repeal the

original sections; to outright repeal section 81-3447, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 602. Introduced by Smith, 48; Aguilar, 35; Baker, 44; Bourne, 8; Bromm, 23; Burling, 33; Combs, 32; Cudaback, 36; Cunningham, 40; Engel, 17; Erdman, 47; Foley, 29; Friend, 10; Hartnett, 45; Hudkins, 21; Jensen, 20; Jones, 43; Kremer, 34; Louden, 49; Maxwell, 9; McDonald, 41; Mines, 18; Mossey, 3; Dw. Pedersen, 39; Preister, 5; Price, 26; Quandahl, 31; Redfield, 12; Schrock, 38; Stuhr, 24; Stuthman, 22; Synowiecki, 7; Tyson, 19; Wehrbein, 2; Byars, 30; Vrtiska, 1.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2002; to adopt the Human Cloning Prohibition Act; to harmonize provisions; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 604. Introduced by Friend, 10; Mossey, 3; Quandahl, 31; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to alcoholic liquor; to amend section 53-180.02, Revised Statutes Supplement, 2002; to change provisions relating to possession by minors; and to repeal the original section.

LEGISLATIVE BILL 606. Introduced by Friend, 10.

A BILL FOR AN ACT relating to alcoholic liquor; to amend section 53-1,106, Reissue Revised Statutes of Nebraska, and section 53-1,104, Revised Statutes Supplement, 2002; to change provisions relating to retail license suspension; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 609. Introduced by Transportation and Telecommunications Committee: Baker, 44, Chairperson; Aguilar, 35; Brown, 6; Hudkins, 21; Jones, 43; Dw. Pedersen, 39; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-480.01, Reissue Revised Statutes of Nebraska, and section 60-304, Revised Statutes Supplement, 2002; to authorize issuance of undercover license plates and operator's licenses to federal law enforcement agencies; and to repeal the original sections.

LEGISLATIVE BILL 612. Introduced by Bourne, 8; Johnson, 37; Kremer, 34.

A BILL FOR AN ACT relating to roads; to amend section 39-1365.01, Reissue Revised Statutes of Nebraska; to change factors considered for the state highway plan; and to repeal the original section.

LEGISLATIVE BILL 613. Introduced by Bourne, 8; Synowiecki, 7.

A BILL FOR AN ACT relating to court procedures; to provide for confidential communications in cases of domestic violence and sexual assault as prescribed.

LEGISLATIVE BILL 614. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to criminal procedure; to state intent; to require electronic recording of custodial interrogations or questioning at a place of detention; and to define terms.

LEGISLATIVE BILL 616. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to insurance; to amend sections 44-371 and 44-1089, Reissue Revised Statutes of Nebraska; to change provisions relating to claims of creditors; and to repeal the original sections.

LEGISLATIVE BILL 617. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-901, Revised Statutes Supplement, 2002; to hold the appearance bond as possible restitution for the victim as prescribed; and to repeal the original section.

LEGISLATIVE BILL 618. Introduced by Jones, 43; Kremer, 34; Loudon, 49; Stuhr, 24.

A BILL FOR AN ACT relating to electrical service; to provide requirements relating to net metering systems.

LEGISLATIVE BILL 624. Introduced by Brown, 6.

A BILL FOR AN ACT relating to solid waste; to amend section 13-2036, Reissue Revised Statutes of Nebraska; to prohibit issuance or renewal of permits for waste facilities as prescribed; and to repeal the original section.

LEGISLATIVE BILL 625. Introduced by Brown, 6.

A BILL FOR AN ACT relating to civil rights; to amend sections 20-326 and 20-330, Reissue Revised Statutes of Nebraska; to change provisions relating to discriminatory housing practice complaint procedure and information; and to repeal the original sections.

LEGISLATIVE BILL 627. Introduced by Thompson, 14; Janssen, 15; D. Pederson, 42; Tyson, 19; Wehrbein, 2.

A BILL FOR AN ACT relating to state government; to amend sections 81-188.01, 81-188.03, and 81-188.05, Revised Statutes Supplement, 2002; to change provisions relating to allocation of revenue from depreciation charges; to

provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 630. Introduced by Brown, 6; Bourne, 8; Jensen, 20.

A BILL FOR AN ACT relating to insurance; to amend sections 44-5302 and 44-5305 to 44-5307, Reissue Revised Statutes of Nebraska; to change provisions relating to uninsured access coverage policies and contracts; and to repeal the original sections.

LEGISLATIVE BILL 631. Introduced by Maxwell, 9.

A BILL FOR AN ACT relating to professional employer organizations; to adopt the Professional Employer Organization Registration Act; and to provide an operative date.

LEGISLATIVE BILL 633. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Livestock Waste Management Act; to amend sections 54-2406 to 54-2408, Revised Statutes Supplement, 2002; to change provisions relating to fees; and to repeal the original sections.

LEGISLATIVE BILL 638. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to water; to amend section 46-656.50, Revised Statutes Supplement, 2002; to provide intent relating to funding for studies; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 639. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to state funds; to amend sections 39-2215 and 81-15,174, Revised Statutes Supplement, 2002; to transfer money from the Highway Trust Fund to the Nebraska Environmental Trust Fund; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 640. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to state funds; to amend sections 2-1587 and 39-2215, Revised Statutes Supplement, 2002; to transfer money from the Highway Trust Fund to the Nebraska Resources Development Fund; and to repeal the original sections.

LEGISLATIVE BILL 644. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to property tax; to require reports by county assessors.

LEGISLATIVE BILL 650. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to natural gas; to amend sections 19-4617 and 57-705, Revised Statutes Supplement, 2002; to change provisions relating to the Municipal Natural Gas Regulation Revolving Loan Fund; to provide and change powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 651. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to the Employment and Investment Growth Act; to amend section 77-4106, Revised Statutes Supplement, 2002; to disallow refunds of certain sales and use taxes; and to repeal the original section.

LEGISLATIVE BILL 652. Introduced by Combs, 32; Bromm, 23; Byars, 30; Connealy, 16; Hartnett, 45; Janssen, 15; Dw. Pedersen, 39; D. Pederson, 42; Preister, 5; Price, 26; Schimek, 27; Schrock, 38; Stuhr, 24; Thompson, 14; Tyson, 19.

A BILL FOR AN ACT relating to insurance; to require coverage of colorectal cancer screenings as prescribed.

LEGISLATIVE BILL 654. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to villages; to authorize the incorporation of villages within the boundaries of Native American tribal reservations as prescribed.

LEGISLATIVE BILL 656. Introduced by Aguilar, 35; Kremer, 34.

A BILL FOR AN ACT relating to county corrections; to amend section 23-2809, Revised Statutes Supplement, 2002; to change provisions relating to contracts; and to repeal the original section.

LEGISLATIVE BILL 657. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to electricity suppliers; to define terms; to provide for a surcharge and a termination date; and to create and provide for uses of a fund.

LEGISLATIVE BILL 658. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to postsecondary education; to adopt the Community Scholarship Foundation Program Act.

LEGISLATIVE BILL 660. Introduced by Maxwell, 9; Byars, 30; Erdman, 47.

A BILL FOR AN ACT relating to education; to prohibit unfunded mandates as prescribed.

LEGISLATIVE BILL 662. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-4102, 29-4103, and 29-4106, Revised Statutes Supplement, 2002; to obtain personal identifiers, including fingerprints and DNA, from felony offenders; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 664. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to tort claims; to amend sections 13-926 and 81-8,235, Reissue Revised Statutes of Nebraska; to change and provide limits on the amount recoverable from the state and political subdivisions; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 670. Introduced by Thompson, 14; Mossey, 3; Redfield, 12.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-101 and 29-4003, Revised Statutes Supplement, 2002; to prohibit the use of a computer as prescribed; to provide penalties; to apply the provisions of the Sex Offender Registration Act to such offender; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 671. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to domestic partners; to amend sections 71-4801, 71-4802, and 71-4807, Reissue Revised Statutes of Nebraska, and sections 71-1301 and 71-1339, Revised Statutes Supplement, 2002; to provide powers and duties for domestic partners regarding anatomical gifts and other disposition of remains of deceased persons; to define a term; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 674. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2002; to create the offense of child endangerment; to provide penalties; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 675. Introduced by Erdman, 47; Jones, 43; Redfield, 12; Smith, 48.

A BILL FOR AN ACT relating to railroads; to amend section 74-308, Reissue Revised Statutes of Nebraska; to change provisions relating to eminent domain; and to repeal the original section.

LEGISLATIVE BILL 678. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to state government; to create the Office of Homeland Security.

LEGISLATIVE BILL 679. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to the Judges Retirement Act; to amend sections 24-701.01, 24-707, 24-708, and 24-710, Revised Statutes Supplement, 2002; to change provisions relating to retirement age and benefits; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 680. Introduced by Wehrbein, 2; Baker, 44.

A BILL FOR AN ACT relating to schools; to state intent; to create a commission; to provide duties for the commission; and to declare an emergency.

LEGISLATIVE BILL 681. Introduced by Aguilar, 35; Stuhr, 24.

A BILL FOR AN ACT relating to security services; to amend section 81-1423, Reissue Revised Statutes of Nebraska, and section 81-1425, Revised Statutes Supplement, 2002; to adopt the Security Services Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 686. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to state government; to amend sections 1-111, 2-10,103.02, 2-2651, 8-1,134, 8-1726, 9-226.02, 9-322.01, 9-418.02, 9-621, 9-701, 9-832, 18-1911, 21-19,147, 21-20,169, 29-2708, 33-140.01, 33-140.02, 33-140.03, 44-3,127, 45-716, 45-921, 45-927, 48-1232, 48-2306, 49-1446.04, 57-1105, 60-6,345, 60-1415, 70-604.05, 71-155.03, 71-6314, 71-7426, 72-201.01, 72-222.01, 72-250, 72-251, 72-259, 72-266, 72-267, 72-268, 72-301, 72-502, 72-502.01, 75-158, 75-309.01, 75-369.06, 76-2325, 79-1062, 81-3444, 81-3537, 84-212, 84-616, 85-123, 85-317, and 87-607, Reissue Revised Statutes of Nebraska, and sections 2-1203, 8-1108.01, 19-4617, 28-1204.04, 29-820, 44-322, 44-5814, 45-191.09, 45-351, 45-1017, 46-1239, 46-1240, 48-145.01, 53-138.01, 53-1,104, 54-415, 54-2606, 57-705, 59-1725.01, 66-528, 66-529, 66-530, 68-1037.04, 69-1317, 69-2117, 69-2703, 71-1,147.45, 71-449, 71-1333.01, 71-3517, 71-5304.01, 71-6331, 71-8006, 76-1523, 77-2387, 79-101, 79-1018.01, 79-1035, 79-1035.01, 79-1035.02, 79-1035.03, 79-10,101, 81-5,162, 81-1403, and 86-209, Revised Statutes Supplement, 2002; to change provisions relating to administrative fines; and to repeal the original sections.

LEGISLATIVE BILL 687. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to title insurance; to amend section 44-19,116, Revised Statutes Supplement, 2002; to provide requirements for certain escrow arrangements; to provide a penalty; and to repeal the original section.

LEGISLATIVE BILL 689. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-202.01, 77-202.03, and 77-202.05, Revised Statutes Supplement, 2002; to require valuation of property by tax-exempt organizations; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 691. Introduced by Preister, 5.

A BILL FOR AN ACT relating to Native Americans; to amend sections 13-1501, 13-1502, and 77-27,132, Reissue Revised Statutes of Nebraska; to change provisions relating to the State-Tribal Cooperative Agreements Act; to redefine a term; to eliminate a provision relating to preexisting agreements; to change the distribution of a portion of the sales tax revenue; to create a fund; to provide funding for law enforcement in certain unincorporated areas; to provide an operative date; to harmonize provisions; to repeal the original sections; and to outright repeal section 13-1509, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 692. Introduced by Preister, 5.

A BILL FOR AN ACT relating to energy; to amend section 66-1701, Revised Statutes Supplement, 2002; to change a termination date for the Biopower Steering Committee; and to repeal the original section.

LEGISLATIVE BILL 694. Introduced by Preister, 5.

A BILL FOR AN ACT relating to crimes and punishments; to amend sections 28-1429.01 and 28-1429.02, Reissue Revised Statutes of Nebraska; to change provisions relating to the dispensing of cigarettes or other tobacco products; to define a term; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 695. Introduced by Preister, 5.

A BILL FOR AN ACT relating to crimes and punishments; to amend sections 28-1429.01 and 28-1429.02, Reissue Revised Statutes of Nebraska; to change provisions relating to the dispensing of cigarettes or other tobacco products; to define a term; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 696. Introduced by Thompson, 14; Hartnett, 45.

A BILL FOR AN ACT relating to motor fuel tax; to amend sections 66-486, 66-678, and 66-6,113, Revised Statutes Supplement, 2002; to change the collection commission allowed for collecting motor fuel taxes; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 697. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Public Service Commission; to amend sections 75-106, 75-150, 75-305, 75-307.01, 75-384, 75-401, 75-402, 75-405, 88-527, 88-545.01, 88-551, 89-1,104, and 89-1,104.01, Reissue Revised Statutes of Nebraska, and sections 71-1559, 71-4604.01, 75-109.01, 75-128, 75-903, 86-101, 86-250, 86-312, 86-324, 86-463, and 86-579, Revised Statutes Supplement, 2002; to state intent regarding agency funding; to create a fund; to change provisions relating to the establishment and disbursement of fees; to provide duties; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 698. Introduced by Education Committee: Raikes, 25, Chairperson; Bourne, 8; Byars, 30; Schrock, 38; Stuhr, 24.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1001 to 79-1003, 79-1007.01, 79-1007.02, 79-1008.01, 79-1008.02, 79-1009, 79-1010, 79-1015.01, 79-1016, 79-1028, and 79-1083.03, Revised Statutes Supplement, 2002; to add, change, and eliminate provisions and dates relating to the state aid formula; to state intent; to define and redefine terms; to provide for additional allowances for calculation of state aid as prescribed; to change provisions relating to excess budget authority for Class I districts; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 709. Introduced by Maxwell, 9; Erdman, 47.

A BILL FOR AN ACT relating to health care; to amend section 81-3001, Reissue Revised Statutes of Nebraska; to provide duties relating to mandates; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 710. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to the Nebraska Mental Health Commitment Act; to amend sections 29-3705, 43-248, 43-254.01, 53-1,120, 71-5016, 71-5021 to 71-5024, 71-5028, 71-5030, 71-5031, 71-5034, 71-5037, 71-5038, 71-5039, 71-5040, 83-227.01, 83-363, 83-364, 83-367, 83-370, 83-371, 83-375, 83-377, 83-379, 83-1002, 83-1004, 83-1007, 83-1007.01, 83-1009, 83-1010, 83-1011, 83-1014, 83-1017, 83-1020, 83-1027, 83-1035, 83-1038, 83-1039, 83-1041 to 83-1046, 83-1052 to 83-1054, 83-1056, 83-1057, 83-1060, 83-1065, 83-1067, 83-1068, 83-1070, 83-1071, 83-1073, 83-1078, 83-1079, and 83-1080, Reissue Revised Statutes of Nebraska, and sections 43-245, 43-247, 43-250, 71-5027, 71-5033, 71-7611.01, 83-1019, 83-1023, 83-1024, 83-1026, 83-1047

to 83-1049, 83-1055, 83-1058, 83-1061, 83-1062, 83-1064, 83-1066, and 83-1069, Revised Statutes Supplement, 2002; to change and eliminate provisions relating to mental health commitments; to harmonize provisions; to repeal the original sections; and to outright repeal sections 83-312, 83-318, 83-321, 83-324, 83-336, 83-337, 83-349, 83-350, 83-351, 83-1001, 83-1005, 83-1006, 83-1009.01, 83-1009.02, 83-1012, 83-1018, 83-1021, 83-1022, 83-1028, 83-1029, 83-1036, 83-1037, and 83-1040, Reissue Revised Statutes of Nebraska, and sections 83-1003, 83-1008, 83-1013, 83-1015, 83-1016, and 83-1025, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 711. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to liens; to amend section 52-401, Reissue Revised Statutes of Nebraska; to change provisions relating to medical liens; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 714. Introduced by Bromm, 23.

A BILL FOR AN ACT relating to diseases; to amend section 71-519, Revised Statutes Supplement, 2002; to provide for infant metabolic disease screening test refusal; and to repeal the original section.

LEGISLATIVE BILL 716. Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; Combs, 32; Connealy, 16; Friend, 10; Janssen, 15; Landis, 46.

A BILL FOR AN ACT relating to sanitary and improvement districts; to amend section 31-727, Reissue Revised Statutes of Nebraska; to change provisions relating to ownership interests; to provide powers and duties; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 717. Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; Combs, 32; Connealy, 16; Friend, 10; Janssen, 15; Landis, 46; Schimek, 27.

A BILL FOR AN ACT relating to villages; to provide procedures for loss of status due to a population decrease; and to provide powers and duties.

LEGISLATIVE BILL 718. Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; Combs, 32; Connealy, 16; Friend, 10; Janssen, 15; Landis, 46; Schimek, 27.

A BILL FOR AN ACT relating to villages; to amend sections 17-201 and 17-201.01, Reissue Revised Statutes of Nebraska; to change provisions relating to incorporation; to provide and change powers and duties; and to repeal the original sections.

LEGISLATIVE BILL 719. Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; Combs, 32; Connealy, 16; Friend, 10; Janssen, 15; Landis, 46; Schimek, 27.

A BILL FOR AN ACT relating to handicapped parking; to amend section 18-1741.02, Reissue Revised Statutes of Nebraska, and sections 18-1738 and 18-1741, Revised Statutes Supplement, 2002; to change provisions for application for parking permits for handicapped or disabled persons; to increase fines for violations; and to repeal the original sections.

LEGISLATIVE BILL 722. Introduced by Landis, 46; D. Pederson, 42; Wehrbein, 2.

A BILL FOR AN ACT relating to courts; to amend sections 33-103, 33-106, 33-106.02, 33-123, and 33-124, Reissue Revised Statutes of Nebraska, and section 25-2804, Revised Statutes Supplement, 2002; to change provisions relating to court fees; and to repeal the original sections.

LEGISLATIVE BILL 727. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to elections; to amend section 32-939, Reissue Revised Statutes of Nebraska, and section 32-101, Revised Statutes Supplement, 2002; to provide eligibility to register to vote and vote for certain overseas citizens; to provide for absentee voting in certain emergency situations; to provide for acceptance and treatment of certain absentee ballots; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 732. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to construction contracts; to amend section 76-239.01, Reissue Revised Statutes of Nebraska; to provide restrictions and requirements as prescribed; and to repeal the original section.

LEGISLATIVE BILL 736. Introduced by Kremer, 34; Baker, 44; Bromm, 23; Erdman, 47; Schrock, 38.

A BILL FOR AN ACT relating to the Employment and Investment Growth Act; to amend sections 77-4107 and 77-4108, Reissue Revised Statutes of Nebraska, and sections 77-4103 and 77-4112, Revised Statutes Supplement, 2002; to extend benefits to certain cooperatives; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 737. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to insurance; to require coverage for certain foods for the treatment of inherited metabolic diseases.

LEGISLATIVE BILL 738. Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Wellhead Protection Area Act; to amend section 46-1505, Reissue Revised Statutes of Nebraska; to provide for an abstract of title and notice as prescribed; and to repeal the original section.

LEGISLATIVE BILL 740. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-110, Revised Statutes Supplement, 2002; to change provisions relating to security interests; and to repeal the original section.

LEGISLATIVE BILL 741. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-115 and 60-3009, Reissue Revised Statutes of Nebraska, and sections 60-302, 60-310, and 77-2703, Revised Statutes Supplement, 2002; to authorize the charging of fees for insufficient funds or no-account financial transactions as prescribed by governmental entities; to provide for cancellation of motor vehicle certificates of title and registration certificates for issuance of such financial transactions; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 743. Introduced by Smith, 48; Baker, 44; Combs, 32; Erdman, 47; McDonald, 41; Schimek, 27; Cudaback, 36; Foley, 29; Preister, 5.

A BILL FOR AN ACT relating to telephone solicitation; to amend section 75-156, Revised Statutes Supplement, 2002; to adopt the Telephone Solicitation Regulation Act; to provide civil penalties and actions; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 743A. Introduced by Smith, 48.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 743, Ninety-eighth Legislature, First Session, 2003.

LEGISLATIVE BILL 744. Introduced by Bromm, 23.

A BILL FOR AN ACT relating to sales and use tax; to amend section 77-2702.13, Revised Statutes Supplement, 2002; to change provisions for retail sale of property annexed to real estate; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 745. Introduced by Connealy, 16; Aguilar, 35; Synowiecki, 7.

A BILL FOR AN ACT relating to state government; to adopt a policy toward newcomers to the state.

LEGISLATIVE BILL 746. Introduced by Landis, 46; Aguilar, 35; Byars, 30; Chambers, 11; Connealy, 16; Kruse, 13; Price, 26; Raikes, 25; Schimek, 27; Synowiecki, 7; Thompson, 14.

A BILL FOR AN ACT relating to housing; to amend sections 20-301, 20-303, 20-317, 20-318, 20-320, 20-321, and 20-322, Reissue Revised Statutes of Nebraska; to define terms; to change provisions relating to housing discrimination; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 747. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to real property; to amend section 44-1998, Reissue Revised Statutes of Nebraska, and sections 44-1981 and 44-19,116, Revised Statutes Supplement, 2002; to redefine a term; to prohibit an exception to title insurance policies; to eliminate provisions relating to mortgages, deeds, and other instruments affecting real estate; to change escrow and other audit requirements; to repeal the original sections; and to outright repeal sections 76-261 to 76-263 and 76-265, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 751. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to courts; to amend sections 7-111, 22-417, 23-2504, 24-345, 24-507 to 24-509, 24-519, 24-520, 24-709, 24-1002, 29-103, 29-403, 29-812, 29-3901, 30-2218, 33-106, 33-106.02, 33-123 to 33-125, 42-108, 43-2,123, 49-502, 49-801, 72-240.14, 76-706, and 77-2019, Reissue Revised Statutes of Nebraska, and sections 11-119, 11-125, 11-126, 23-120, 23-121, 23-1114.03 to 23-1114.06, 23-2518, 24-228, 24-513, 24-701, 24-703, 24-706, 24-709.02, 30-2402, and 76-723, Revised Statutes Supplement, 2002; to transition the office of the clerk of the district court from a county-reimbursed to a state-reimbursed position; to create the position of clerk of the courts; to eliminate the position of clerk magistrate and election of clerks of the district courts; to change court costs; to require a study; to provide intent; to provide duties; to eliminate obsolete requirements; to harmonize provisions; to repeal the original sections; and to outright repeal section 32-524, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 755. Introduced by Beutler, 28; Landis, 46; Schimek, 27; Wehrbein, 2; Chambers, 11.

A BILL FOR AN ACT relating to the Nebraska Capitol Commission; to amend sections 81-1107, 81-1108.17, 81-1108.18, 81-1108.20, 81-1108.23, 81-1108.26, 81-1108.32, 81-1108.38, and 81-1108.50 to 81-1108.54, Reissue Revised Statutes of Nebraska, and sections 72-2101, 72-2102, 81-188.01, 81-188.02, and 81-1108.15, Revised Statutes Supplement, 2002; to create the

office of the Nebraska Capitol Commission and the position of State Capitol Administrator; to provide and change powers and duties; to create a fund; to define terms; to harmonize provisions; to repeal the original sections; to outright repeal section 81-1108.21, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 757. Introduced by Brown, 6.

A BILL FOR AN ACT relating to the Nebraska Telecommunications Universal Service Fund Act; to amend section 86-322, Revised Statutes Supplement, 2002; to redefine telecommunications company; and to repeal the original section.

LEGISLATIVE BILL 761. Introduced by Brashear, 4; Quandahl, 31.

A BILL FOR AN ACT relating to the courts; to amend section 24-201.01, Revised Statutes Supplement, 2002; to change judges' salary provisions; to eliminate obsolete provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 762. Introduced by Brashear, 4; Baker, 44; Brown, 6; Byars, 30; Combs, 32; Cudaback, 36; Engel, 17; Erdman, 47; Friend, 10; Jensen, 20; Johnson, 37; Jones, 43; Mines, 18; Mossey, 3; D. Pederson, 42; Quandahl, 31; Schrock, 38; Vrtiska, 1.

A BILL FOR AN ACT relating to political accountability and disclosure; to amend sections 49-1446, 49-14,122, 49-14,129, and 49-14,140, Reissue Revised Statutes of Nebraska, and sections 49-1447, 49-1455, 49-1463.01, 49-14,123, and 49-14,124 to 49-14,126, Revised Statutes Supplement, 2002; to repeal the Campaign Finance Limitation Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 32-1601, 32-1602, 32-1605 to 32-1607, 32-1608.01 to 32-1610, 32-1612 to 32-1614, and 77-27,119.04, Reissue Revised Statutes of Nebraska, and sections 32-1603 to 32-1604.01, 32-1608, and 32-1611, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 763. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to bids and bidding; to amend section 81-161, Revised Statutes Supplement, 2002; to provide a preference for Nebraska products, Nebraska-based businesses, and businesses paying Nebraska property taxes; and to repeal the original section.

LEGISLATIVE BILL 764. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to pharmacy; to amend section 71-1,147.36, Revised Statutes Supplement, 2002; to provide for confidentiality for prescribing physicians as prescribed; to provide for enforcement; and to repeal the original section.

LEGISLATIVE BILL 765. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to roads; to amend section 39-1348, Reissue Revised Statutes of Nebraska; to require legislative approval of certain road projects; and to repeal the original section.

LEGISLATIVE BILL 767. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to home inspections; to require licensing of home inspectors; to define terms; to provide powers and duties; and to provide an operative date.

LEGISLATIVE BILL 768. Introduced by Aguilar, 35.

A BILL FOR AN ACT relating to jails; to state findings and intent; and to provide for medical services copayments for jail inmates as prescribed.

LEGISLATIVE BILL 771. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to schools; to amend sections 77-3442, 79-102, 79-1001, 79-1002, 79-1003, 79-1007.02, 79-1008.01, 79-1009, 79-1022, 79-1026, 79-1028, and 79-1083.03, Revised Statutes Supplement, 2002; to change calculations of state aid under the Tax Equity and Educational Opportunities Support Act; to define and redefine terms; to provide for calculation of certain costs per student; to create and provide duties for a panel; to eliminate the Local Option Tax Control Act; to harmonize provisions; to repeal the original sections; to outright repeal sections 77-3401, 77-3402, and 77-3404 to 77-3411, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 772. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to civil actions; to authorize recovery of costs, interest, and attorney's fees as part of a settlement.

LEGISLATIVE BILL 773. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the Nebraska Investment Council; to amend section 72-1239.01, Revised Statutes Supplement, 2002; to authorize the use of Nebraska-based investment advisers as prescribed; and to repeal the original section.

LEGISLATIVE BILL 776. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to economic development; to amend sections 76-901 and 77-4107, Reissue Revised Statutes of Nebraska, and sections 2-5401, 76-903, 77-908, 77-2701, 77-2715.07, 77-2717, 77-2734.03, 77-3806,

77-4104, and 77-4112, Revised Statutes Supplement, 2002; to adopt the Main Street Business Development Law; to eliminate the termination date for the Agricultural Opportunities and Value-Added Partnerships Act; to increase and change distribution of the documentary stamp tax; to provide a small business investment tax credit; to change application fees and recapture provisions; to eliminate a fund; to harmonize provisions; to repeal the original sections; to outright repeal section 2-5412, Revised Statutes Supplement, 2002; and to declare an emergency.

LEGISLATIVE BILL 780. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Highway Cash Fund; to amend section 66-4,100, Reissue Revised Statutes of Nebraska; to transfer funds to the General Fund; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 781. Introduced by Kruse, 13.

A BILL FOR AN ACT relating to the death penalty; to amend sections 28-303, 29-2027, 29-2519, and 29-2524, Reissue Revised Statutes of Nebraska, as amended by sections 3, 7, 10, and 16, Legislative Bill 1, Ninety-seventh Legislature, Third Special Session, 2002, and section 29-2523, Revised Statutes Supplement, 2002, as amended by section 15, Legislative Bill 1, Ninety-seventh Legislature, Third Special Session, 2002; to prohibit the application of the death penalty on the basis of race; to provide for a hearing; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 783. Introduced by Janssen, 15.

A BILL FOR AN ACT relating to cigarettes; to amend section 69-2702, Revised Statutes Supplement, 2002; to adopt the Master Settlement Agreement Protection Act; to provide powers and duties; to harmonize provisions; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 784. Introduced by Janssen, 15.

A BILL FOR AN ACT relating to public financing; to amend sections 13-808, 13-2530, and 13-2531, Revised Statutes Supplement, 2002; to adopt the Public Facilities Construction and Finance Act; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 787. Introduced by Janssen, 15.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-179, Reissue Revised Statutes of Nebraska, and section 53-124, Revised Statutes Supplement, 2002; to change provisions relating to retail licenses and hours of sale; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 788. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1565, Reissue Revised Statutes of Nebraska; to change provisions relating to execution of judgments; and to repeal the original section.

LEGISLATIVE BILL 789. Introduced by Synowiecki, 7; Bourne, 8; Connealy, 16; Janssen, 15; Dw. Pedersen, 39; Preister, 5.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-2257, Revised Statutes Supplement, 2002; to change provisions relating to probation officers' salaries; and to repeal the original section.

LEGISLATIVE BILL 791. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to the death penalty; to amend sections 23-3406, 24-1106, 25-1140.09, 27-609, 28-104, 29-1822, 29-2005, 29-2006, 29-2020, 29-2282, 29-2407, 29-2801, 29-3205, 29-3928, and 55-480, Reissue Revised Statutes of Nebraska, sections 27-803, 29-3920, 29-3922, 29-3929, 29-3930, 29-3931, and 83-4,143, Revised Statutes Supplement, 2002, sections 28-303, 29-1602, 29-1603, 29-2027, and 83-1,105.01, Reissue Revised Statutes of Nebraska, as amended by sections 3, 4, 5, 7, and 17, respectively, Legislative Bill 1, Ninety-seventh Legislature, Third Special Session, and sections 28-105, 29-2004, 29-2204, and 29-2261, Revised Statutes Supplement, 2002, as amended by sections 1, 6, 8, and 9, respectively, Legislative Bill 1, Ninety-seventh Legislature, Third Special Session, 2002; to change a penalty from death to maximum of life imprisonment without possibility of parole; to provide for restitution and standards for sentencing; to harmonize provisions; to eliminate capital punishment provisions; to repeal the original sections; and to outright repeal sections 24-1105, 29-2521.01, 29-2521.03, 29-2521.04, 29-2524.01, 29-2524.02, 29-2527, 29-2528, 29-2532 to 29-2546, 29-2811, and 83-1,132, Reissue Revised Statutes of Nebraska, sections 29-2521.02 and 29-2525, Revised Statutes Supplement, 2002, sections 29-2519, 29-2520, 29-2521, 29-2522, and 29-2524, Reissue Revised Statutes of Nebraska, as amended by sections 10, 11, 12, 14, and 16, respectively, Legislative Bill 1, Ninety-seventh Legislature, Third Special Session, 2002, sections 28-105.01 and 29-2523, Revised Statutes Supplement, 2002, as amended by sections 2 and 15, respectively, Legislative Bill 1, Ninety-seventh Legislature, Third Special Session, 2002, and section 13, Legislative Bill 1, Ninety-seventh Legislature, Third Special Session, 2002.

LEGISLATIVE BILL 792. Introduced by Landis, 46.

A BILL FOR AN ACT relating to natural gas; to amend sections 75-102, 75-110.01, 75-112, 75-118, 75-129, 75-131, and 75-132, Reissue Revised Statutes of Nebraska, and sections 57-705, 59-1617, 75-101, 75-109, 75-109.01, 75-122.01, 75-128, 75-130.01, 75-139.01, and 84-612, Revised Statutes

Supplement, 2002; to adopt the Nebraska Natural Gas Regulation Act; to repeal the Municipal Natural Gas Regulation Act; to create a fund; to harmonize provisions; to provide an operative date; to provide severability; to repeal the original sections; and to outright repeal sections 19-4601 to 19-4616 and 19-4618 to 19-4623, Reissue Revised Statutes of Nebraska, and section 19-4617, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 793. Introduced by Bromm, 23; Baker, 44.

A BILL FOR AN ACT relating to telecommunications; to amend sections 86-101 and 86-102, Revised Statutes Supplement, 2002; to restate intent; to authorize political subdivisions to provide telecommunications service as prescribed; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 794. Introduced by Appropriations Committee: Wehrbein, 2, Chairperson; Beutler, 28; Cudaback, 36; Engel, 17; Kruse, 13; D. Pederson, 42; Price, 26; Synowiecki, 7; Thompson, 14.

A BILL FOR AN ACT relating to corporations; to amend sections 21-302, 21-303, 21-305, 21-311, 21-314, 21-321, 21-323.01, 21-325.01, 21-330, 21-20,182, 21-20,188, 21-2216, and 21-2217, Reissue Revised Statutes of Nebraska, and sections 21-301, 21-304, 21-306, 21-313, 21-323, and 21-325, Revised Statutes Supplement, 2002; to change reporting, occupation tax, and fee provisions; to eliminate obsolete provisions; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 802. Introduced by Appropriations Committee: Wehrbein, 2, Chairperson; Beutler, 28; Cudaback, 36; Engel, 17; Kruse, 13; D. Pederson, 42; Price, 26; Synowiecki, 7; Thompson, 14.

A BILL FOR AN ACT relating to the Job Training Cash Fund; to amend section 81-1201.21, Revised Statutes Supplement, 2002; to authorize transfers to the General Fund; to repeal the original section; and to declare an emergency.

CARRYOVER RESOLUTIONS

LEGISLATIVE RESOLUTION 3CA. Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, sections 7 and 19, and add a new section 31 to Article III:

III-7 "At the general election to be held in November 1964, one-half the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall ~~when~~ ~~where~~ necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he or she is affiliated with or endorsed by any political party or organization. Each member of the Legislature shall receive a salary of ~~not to exceed~~ one thousand dollars per month during the term of his or her office until his or her compensation is changed in the manner provided by Article III, section 31, of this Constitution. In addition to his or her ~~salary~~ compensation, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than ~~his or her salary~~ the compensation provided by this section and Article III, section 31, of this Constitution and expenses, ~~and employees of the Legislature shall receive no compensation other than their salary or per diem."~~

III-19 "The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

The compensation of any public officer, including any officer whose compensation is fixed by the Legislature, shall not be increased or diminished during his or her term of office, except that when there are members elected or appointed to ~~the Legislature or~~ the judiciary, or officers elected or appointed to a board or commission having more than one member, and the terms of such members commence and end at different times, the compensation of all members ~~of the Legislature~~, of the judiciary, or of such board or commission may be increased or diminished at the beginning of the full term of any member thereof and except as provided in Article III, section 31, of this Constitution.

Nothing in this section shall prevent local governing bodies from reviewing and adjusting vested pension benefits periodically as prescribed by ordinance.

The surviving spouse of any retired public officer, agent, or servant, who has retired under a pension plan or system, shall be considered as having pensionable status and shall be entitled to the same benefits which may, at any time, be provided for or available to spouses of other public officers, agents, or servants who have retired under such pension plan or system at a later date, and such benefits shall not be prohibited by the restrictions of this section or of Article XIII, section 3, of ~~the this Constitution, of Nebraska.~~"

III-31 "(1) There is hereby created the Ethics and Compensation Review Commission. The members of the commission shall be appointed by the Governor. There shall be two members appointed from each congressional district and three members from the state at large. Members of the commission shall serve for terms of six years, except that of the members initially appointed, one from each of the congressional districts and one of the at-large members shall be appointed for terms of two years. No more than five members of the commission may belong to the same political party at any one time, and no elected official or employee of the state or any political subdivision or registered lobbyist may serve as a member. The term of an existing member shall terminate on the date a new member is appointed. A member may serve no more than two terms on the commission and shall receive no compensation for the performance of his or her duties but may be reimbursed for actual and necessary expenses.

(2) The Ethics and Compensation Review Commission shall prepare and present to the Legislature prior to November 1, 2005, a recommended legislative code of ethics which may be adopted by the Legislature. The code of ethics shall include procedures for implementing such code. Beginning three years after the initial adoption of the recommended code of ethics, the Legislature may modify the code of ethics as it deems necessary or advisable to effectuate Article III, sections 10 and 16, of this Constitution. The Legislature shall maintain a code of ethics in its permanent rules.

(3) After the Ethics and Compensation Review Commission has presented a code of ethics to the Legislature and a code of ethics has been adopted as recommended as part of the Legislature's permanent rules, the commission shall review compensation for members of the Legislature and submit a report to the Governor and the Legislature recommending any adjustment to such compensation the commission deems appropriate. The Legislature may by legislative bill approve, disapprove, or reduce the recommended adjustment but may not increase the recommended adjustment. Adjustments shall not become effective until so approved by the Legislature, and when so approved shall become effective three calendar months following the end of the legislative session in which the adjustments were approved. The commission shall review and submit a report recommending any adjustment to compensation every fourth year and shall review and submit a recommendation with respect to changes in the legislative code of ethics every fourth year after the submission of the original recommendation."

Sec. 2. The proposed amendment shall be submitted to the electors in the

manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to create the Ethics and Compensation Review Commission, to change provisions relating to compensation for members of the Legislature, and to provide for the adoption of a legislative code of ethics.

For

Against".

LEGISLATIVE RESOLUTION 4CA. Introduced by Schrock, 38; Aguilar, 35; Baker, 44; Combs, 32; Connealy, 16; Cudaback, 36; Cunningham, 40; Engel, 17; Erdman, 47; Hudkins, 21; Janssen, 15; Jensen, 20; Johnson, 37; Jones, 43; Kruse, 13; Loudon, 49; Mines, 18; McDonald, 41; Dw. Pedersen, 39; Smith, 48; Stuhr, 24; Stuthman, 22; Tyson, 19; Vrtiska, 1; Synowiecki, 7; Mossey, 3.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To add a new section 25 to Article XV:

"Fishing, trapping, and hunting are a valued part of the heritage of the people and will be a right forever preserved for the people subject to reasonable restrictions as prescribed by law."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to preserve the right to fish, trap, and hunt subject to reasonable restrictions as prescribed by law.

For

Against".

LEGISLATIVE RESOLUTION 8CA. Introduced by Schimek, 27; Quandahl, 31.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 7:

III-7 "At the general election to be held in November 1964, one-half the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in

office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he or she is affiliated with or endorsed by any political party or organization.

Each member of the Legislature shall receive ~~a~~ an annual salary of ~~not to exceed one twenty~~ thousand dollars ~~per month~~ during the term of his or her office. In addition to his or her salary, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than his or her salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to change the annual salary of members of the Legislature to twenty thousand dollars.

For

Against".

LEGISLATIVE RESOLUTION 10CA. Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article IV, section 13:

IV-13 "(1) The Legislature shall provide by law for the establishment of a Board of Parole and the qualifications of its members. ~~Said~~ The board, or a majority thereof, shall have power to grant paroles after conviction and judgment, under such conditions as may be prescribed by law, for any offenses committed against the criminal laws of this state except treason and cases of impeachment.

(2) The Governor, Attorney General, and Secretary of State, sitting as a board, shall have power to remit fines and forfeitures and to grant respites, reprieves, pardons, or commutations in all cases of conviction for offenses against the laws of the state, except treason and cases of impeachment. The board shall not pardon or commute the sentence of an offender sentenced to life imprisonment without parole unless the board is unanimous in its decision to pardon or commute and either (a) the offender is elderly, permanently infirm, or permanently disabled and the offender poses no threat to the public safety or (b) based on newly discovered evidence presented to the board, a reasonable doubt as to the offender's guilt is created.

(3) The Board of Parole may advise the Governor, Attorney General, and Secretary of State on the merits of any application for remission, respite,

reprieve, pardon, or commutation, but such advice shall not be binding on them.

(4) The Governor shall have power to suspend the execution of the sentence imposed for treason until the case can be reported to the Legislature at its next session, when the Legislature shall either grant a pardon, or commute the sentence or direct the execution, or grant a further reprieve."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to place restrictions on the power of the board of pardons in commuting a sentence of life imprisonment without parole or pardoning an offender sentenced to life imprisonment without parole.

For

Against".

LEGISLATIVE RESOLUTION 11CA. Introduced by Janssen, 15; Byars, 30; Connealy, 16; Cunningham, 40; Schrock, 38; Synowiecki, 7; Bourne, 8; Schimek, 27.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 24:

III-24 "(1) Except as provided in this section, the Legislature shall not authorize any game of chance or any lottery or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for other purposes as directed by the Legislature. No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure or (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for

license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.

(5)(a) For purposes of this subsection, gaming means any game of chance played with cards, dice, equipment, a player-activated electronic gaming device, or a player-activated mechanical gaming device for money, credit, or any representative of value.

(b) Nothing in the Constitution of Nebraska shall be construed to prohibit or restrict gaming operated by a federally recognized Indian tribe in Nebraska when such gaming is conducted in accordance with federal law.

(c) The Legislature may authorize gaming at up to eight facilities in the State of Nebraska regardless of whether any activity authorized by this section is conducted at such facilities. The Legislature shall provide for the operation, regulation, and taxation of gaming at such facilities. The revenue generated by state regulation and taxation of gaming authorized under this subdivision shall be used for such purposes as are determined by the Legislature."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to define gaming, to permit gaming operated by Indian tribes, to provide authority for the Legislature to authorize gaming at up to eight facilities in the State of Nebraska, and to require the Legislature to provide for the operation, regulation, and taxation of gaming at such facilities.

For
Against".

LEGISLATIVE RESOLUTION 14CA. Introduced by Schimek, 27; Beutler, 28; Cunningham, 40; Janssen, 15.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 24:

III-24 "(1) Except as provided in this section, the Legislature shall not authorize any game of chance or any lottery or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for other

purposes as directed by the Legislature. No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure or (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.

(5) For purposes of this section:

(a) Gaming means any game of chance played with cards, dice, equipment, or a machine for money, credit, or any representative of value if the game is not included within the definition of Class I or Class II gaming under the federal Indian Gaming Regulatory Act as of January 1, 2003; and

(b) Interdiction gaming zone means an area of the state that lies within two miles of an adjoining state which allows gaming, except that no such zone may contain lands within the limits of an Indian reservation in Nebraska of a federally recognized Indian tribe recognized as of October 1988, or real property in Knox County and Boyd County held by the Secretary of the Interior in trust for the benefit of the Ponca Tribe.

(6) Nothing in the statutes or Constitution of Nebraska shall be construed to prohibit or restrict gaming operated by a federally recognized Indian tribe in Nebraska on lands within the limits of the tribe's Indian reservation recognized as of October 1988, or on real property in Knox County and Boyd County held by the Secretary of the Interior in trust for the benefit of the Ponca Tribe, and over which the tribe has jurisdiction when such gaming is conducted in accordance with federal law and a tribal-state gaming compact entered into in accordance with federal law.

(7) Nothing in the Constitution of Nebraska shall be construed to prohibit or restrict gaming as authorized in this section in an interdiction gaming zone created by the Legislature pursuant to this subsection. The Legislature shall make laws creating one interdiction gaming zone and may authorize up to five gaming facilities within the zone. The Legislature shall provide for the operation, regulation, and taxation of gaming in the interdiction gaming zone.

(8) The Legislature shall allocate portions of the revenue from gaming under subsection (7) of this section to counties or other political subdivisions, except that such revenue shall not be allocated within any county in which gaming is conducted under subsection (7) of this section. Each tribe that has its administrative headquarters in Nebraska as of January 1, 2003, and that agrees not to conduct gaming under subsection (6) of this section shall receive five percent of such revenue without having to close or otherwise limit the type or scope of gaming permissible at any tribal facility on Indian lands and in operation on January 1, 2003."

Sec. 2. The proposed amendment shall be submitted to the electors in the

manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to define gaming, to authorize creation of an interdiction gaming zone, to permit gaming on Indian lands and in the interdiction gaming zone, and to provide for the distribution of revenue from gaming.

For

Against".

LEGISLATIVE RESOLUTION 16CA. Introduced by McDonald, 41; Schimek, 27.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article IV, section 1:

IV-1 "The executive officers of the state shall be the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, and the heads of such other executive departments as set forth herein or as may be established by law. The Legislature may provide for the placing of the above named officers as heads over such departments of government as it may by law establish. An employee of a political subdivision of the state who is not holding elective office shall not be considered an executive officer or a member of the executive branch for purposes of this section.

The Governor, Lieutenant Governor, Attorney General, Secretary of State, Auditor of Public Accounts, and State Treasurer shall be chosen at the general election held in November 1974, and in each alternate even-numbered year thereafter, for a term of four years and until their successors shall be elected and qualified.

Each candidate for Governor shall select a person to be the candidate for Lieutenant Governor on the general election ballot. In the general election one vote shall be cast jointly for the candidates for Governor and Lieutenant Governor. The Governor shall be ineligible to the office of Governor for four years next after the expiration of two consecutive terms for which he or she was elected.

The records, books, and papers of all executive officers shall be kept at the seat of government. Executive officers shall reside within the State of Nebraska during their respective terms of office. Officers in the executive department of the state shall perform such duties as may be provided by law.

The heads of all executive departments established by law, other than those to be elected as provided herein, shall be appointed by the Governor, with the consent of a majority of all members elected to the Legislature, but officers so appointed may be removed by the Governor. Subject to the provisions of this Constitution, the heads of the various executive or civil departments shall have

power to appoint and remove all subordinate employees in their respective departments."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to provide that an employee of a political subdivision who is not holding elective office is not an executive officer or a member of the executive branch of the state.

For

Against".

LEGISLATIVE RESOLUTION 17CA. Introduced by Schrock, 38.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VII, sections 7 and 8:

VII-7 "The following are hereby declared to be perpetual funds for common school purposes of which the annual interest or income only can be appropriated except as otherwise provided in this section, to wit:

First. Such ~~per cent~~ percent as has been, or may hereafter be, granted by Congress on the sale of lands in this state.

Second. All money arising from the sale or leasing of sections number sixteen and thirty-six in each township in this state, and the lands selected, or that may be selected, in lieu thereof.

Third. The proceeds of all lands that have been, or may hereafter be, granted to this state, where by the terms and conditions of such grant the same are not to be otherwise appropriated.

Fourth. The net proceeds of lands and other property and effects that may come to this state, by escheat or forfeiture, or from unclaimed dividends, or distributive shares of the estates of deceased persons.

Fifth. All other property of any kind now belonging to the perpetual fund.

The Legislature may, by a three-fifths majority vote, annually appropriate not more than ten percent of the principal of the perpetual fund described in this section for such purposes as the Legislature determines."

VII-8 "All funds belonging to the state for educational purposes, the interest and income whereof only are to be used except as provided in Article VII, section 7, of this Constitution, shall be deemed trust funds. Such funds with the interest and income thereof are hereby solemnly pledged to the purposes for which they are granted and set apart and shall not be transferred to any other fund for other uses except as provided in such section. The state shall supply any net aggregate losses thereof realized at the close of each calendar year that may in any manner accrue. Notwithstanding any other provisions in the Constitution, such funds shall be invested as the Legislature may by statute provide."

Sec. 2. The proposed amendment shall be submitted to the electors in the

manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to permit the Legislature to annually appropriate not more than ten percent of the principal of the perpetual school funds.

For

Against".

LEGISLATIVE RESOLUTION 18CA. Introduced by Redfield, 12; Connealy, 16; Hartnett, 45; Janssen, 15; Raikes, 25.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VIII, section 2:

VIII-2 "Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 1 or 4, of this Constitution or any other provision of this Constitution to the contrary: (1) The property of the state and its governmental subdivisions shall constitute a separate class of property and shall be exempt from taxation to the extent such property is used by the state or governmental subdivision for public purposes authorized to the state or governmental subdivision by this Constitution or the Legislature. To the extent such property is not used for the authorized public purposes, the Legislature may classify such property, exempt such classes, and impose or authorize some or all of such property to be subject to property taxes or payments in lieu of property taxes except as provided by law; (2) the Legislature by general law may classify and exempt from taxation property owned by and used exclusively for agricultural and horticultural societies and property owned and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit to either the owner or user; (3) household goods and personal effects, as defined by law, may be exempted from taxation in whole or in part, as may be provided by general law, and the Legislature may prescribe a formula for the determination of value of household goods and personal effects; (4) the Legislature by general law may provide that the increased value of land by reason of shade or ornamental trees planted along the highway shall not be taken into account in the assessment of such land; (5) the Legislature, by general law and upon any terms, conditions, and restrictions it prescribes, may provide that the increased value of real property resulting from improvements designed primarily for energy conservation may be exempt from taxation; (6) the value of a home substantially contributed by the United States Department of Veterans Affairs for a paraplegic veteran or multiple amputee shall be exempt from taxation during the life of such veteran or until the death or remarriage of his or her surviving spouse; (7) the Legislature may exempt from an intangible property tax life insurance and life insurance annuity contracts and any payment connected therewith and any right to pension or retirement payments; (8) the Legislature may exempt inventory from taxation;

(9) the Legislature may define and classify personal property in such manner as it sees fit, whether by type, use, user, or owner, and may exempt any such class or classes of property from taxation if such exemption is reasonable or may exempt all personal property from taxation; (10) no property shall be exempt from taxation except as permitted by or as provided in this Constitution; and (11) the Legislature may by general law provide that a portion of the value of any residence actually occupied as a homestead by any classification of owners as determined by the Legislature shall be exempt from taxation or provide that any such residence actually occupied as a homestead is exempt from all or any part of the levy assessed on such portion of the value by one or more political subdivisions as determined by the Legislature."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to authorize the Legislature to exempt a levy or part of a levy on homesteads.

For

Against".

LEGISLATIVE RESOLUTION 20CA. Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article V, section 1:

V-1 "The judicial power of the state shall be vested in a Supreme Court, an appellate court, district courts, county courts, ~~in and for each county,~~ with one or more judges for each county or with one judge for two or more counties, as the Legislature shall provide, and such other courts inferior to the Supreme Court as may be created by law. In accordance with rules established by the Supreme Court and not in conflict with other provisions of this Constitution and laws governing such matters, general administrative authority over all courts in this state shall be vested in the Supreme Court and shall be exercised by the Chief Justice. The Chief Justice shall be the executive head of the courts and may appoint an administrative director thereof."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to remove the requirement that each county have a county court in and for each county.

For

Against".

LEGISLATIVE RESOLUTION 21CA. Introduced by Stuhr, 24.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 18:

III-18 "(1) The Legislature shall not pass local or special laws in any of the following cases; ~~that is to say:~~

- (a) ~~Granting For granting~~ divorces; -
 - (b) Changing the names of persons or places; -
 - (c) Laying out, opening, altering, and working roads or highways; -
 - (d) Vacating roads, ~~Town town~~ plats, streets, alleys, and public grounds; -
 - (e) Locating or changing ~~County county~~ county seats; -
 - (f) Regulating ~~County county and Township township~~ offices; -
 - (g) Regulating the practice of ~~Courts of Justice. courts;~~
 - (h) Regulating the jurisdiction and duties of ~~Justices of the Peace, Police Magistrates and Constables. justices of the peace, police magistrates, and constables;~~
 - (i) Providing for changes of venue in civil and criminal cases; -
 - (j) Incorporating ~~Cities, Towns and Villages cities, towns, and villages,~~ or changing or amending the charter of any ~~Town, City, or Village. town, city, or village;~~
 - (k) Providing for the election of ~~Officers officers in Townships townships,~~ incorporated ~~Towns towns,~~ or ~~Cities. cities;~~
 - (l) Summoning or empaneling ~~Grand or Petit Juries. grand or petit juries;~~
 - (m) Providing for the bonding of cities, towns, precincts, school districts, or other municipalities; -
 - (n) Providing for the management of ~~Public Schools. public schools;~~
 - (o) The opening and conducting of any election, or designating the place of voting; -
 - (p) The sale or mortgage of real estate belonging to minors, or others under disability; -
 - (q) The protection of game or fish; -
 - (r) Chartering or licensing ferries; or toll bridges, remitting fines, penalties, or forfeitures, creating, increasing, and decreasing fees, percentage, or allowances of public officers, during the term for which said officers are elected or appointed; -
 - (s) Changing the law of descent; -
 - (t) Granting to any corporation, association, or individual, the right to lay down railroad tracks, or amending existing charters for such purpose; and -
 - (u) Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever; ~~÷ PROVIDED, that notwithstanding~~
- (2) Notwithstanding any other ~~provisions provision~~ of this Constitution, the Legislature ~~may shall have authority to~~ separately define and classify loans and

installment sales, ~~to~~ establish maximum rates within classifications of loans or installment sales which it establishes, and ~~to~~ regulate with respect thereto.

(3) Notwithstanding any other provision of this Constitution, the Legislature may define and classify certain groups of persons pertaining to retirement benefits that may be made available at some future time under retirement plans administered by the State of Nebraska.

(4) In all other cases where a general law can be made applicable, no special law shall be enacted."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment authorizing the Legislature to define and classify persons pertaining to future retirement benefits under plans administered by the State of Nebraska.

For

Against".

LEGISLATIVE RESOLUTION 24CA. Introduced by Smith, 48; Combs, 32; Erdman, 47; Landis, 46.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To add a new section 6 to Article XI, and repeal Article XI, sections 2 to 5:

XI-6 "Municipalities and counties are granted the power and authority, not inconsistent with the laws of this state, to determine their own local affairs and government. The Legislature shall determine which matters are those of statewide concern.

The Legislature may by law delegate its power so that matters of local concern are handled by municipalities and counties without the necessity of further action by the Legislature. The rule or proposition of law that a municipality or county possesses and can exercise only those powers granted in express words is not part of the law of this state."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to authorize municipalities and counties to exercise greater powers in matters of local concern, with the Legislature to determine which matters are of statewide concern, and to eliminate home rule charters.

For

Against".

LEGISLATIVE RESOLUTION 52. Introduced by Cunningham, 40; Wehrbein, 2; D. Pederson, 42; Engel, 17; Kremer, 34; Byars, 30; Jensen, 20; Smith, 48.

WHEREAS, good health is important to every citizen of the world and access to the highest standards of health information and services is necessary to improve public health; and

WHEREAS, direct and unobstructed participation in international health cooperation forums and programs is beneficial for the cross-border world, especially with today's greater potential for the cross-border spread of various infectious diseases, such as the human immunodeficiency virus, tuberculosis, and malaria; and

WHEREAS, Taiwan's population of 23,500,000 people is larger than that of three-fourths of the member states in the World Health Organization; and

WHEREAS, Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia; maternal and infant mortality rates comparable to those of western countries; the eradication of such infectious diseases as cholera, smallpox, the plagues, and polio; and providing hepatitis B vaccinations to children; and

WHEREAS, the United States Centers for Disease Control and Prevention and its Taiwan counterpart agencies have enjoyed close collaboration on a wide range of public health issues; and

WHEREAS, in recent years, Taiwan has expressed a willingness to assist financially and technically in international aid and health activities supported by the World Health Organization; and

WHEREAS, the World Health Organization has allowed observers to participate in the activities of the organization, including the Palestine Liberation Organization in 1974 and the Order of Malta and the Holy See in the early 1950's; and

WHEREAS, the United States, in the 1994 Taiwan Policy Review, declared its intention to support Taiwan's participation in appropriate international organization.

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

1. That, in light of all the benefits that Taiwan's participation in the World Health Organization can bring to the state of health not only in Taiwan, but also regionally and globally, the members of the Nebraska Legislature endorse observer status for Taiwan to join the World Health Organization.

2. That copies of this resolution be sent to President George W. Bush, Secretary of State Colin Powell, Secretary of Health and Human Services Tommy Thompson, United States Senator Chuck Hagel, United States Senator Ben Nelson, United States Congressman Doug Bereuter, United States Congressman Lee Terry, United States Congressman Tom Osborne, and the Taipei Economic and Cultural Office in Kansas City, Missouri.

FIRST DAY - JANUARY 7, 2004

LEGISLATIVE JOURNAL

NINETY-EIGHTH LEGISLATURE

SECOND SESSION

FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 7, 2004

PRAYER

The prayer was offered by Senator Kruse.

PRESENTATION OF COLORS

Presentation of Colors by the 155th Air Refueling Wing of the Nebraska Air National Guard and the State Area Command of the Nebraska Army National Guard.

ROLL CALL

Pursuant to the provisions of Article III, Section 10 of the Constitution of Nebraska, the Ninety-Eighth Legislature, Second Session of the Legislature of Nebraska, assembled in the George W. Norris Legislative Chamber of the State Capitol at the hour of 10:00 a.m., on Wednesday, January 7, 2004, and was called to order by President Heineman.

The roll was called and the following members were present:

Aguilar, Raymond	Friend, Mike	Preister, Don
Baker, Thomas C.	Hartnett, D. Paul	Price, Marian L.
Beutler, Chris	Hudkins, Carol L.	Quandahl, Mark
Bourne, Patrick J.	Janssen, Ray	Raikes, Ronald E.
Brashear, Kermit	Johnson, Joel T.	Redfield, Pam
Bromm, Curt	Jones, James E.	Schimek, DiAnna R.
Brown, Pam	Kremer, Bob	Schrock, Ed
Burling, Carroll	Kruse, Lowen	Smith, Adrian
Byars, Dennis M.	Louden, LeRoy J.	Stuhr, Elaine
Chambers, Ernie	Maxwell, Chip	Stuthman, Arnie
Combs, Jeanne M.	McDonald, Vickie D.	Synowiecki, John F.
Connealy, Matt	Mines, Mick	Thompson, Nancy
Cudaback, Jim D.	Mossey, Raymond	Tyson, Gene
Cunningham, Douglas D.	Pedersen, Dwite	Vrtiska, Floyd P.
Engel, L. Patrick	Pederson, Don	Wehrbein, Roger R.
Erdman, Philip		
Foley, Mike		

The following members were excused:

Jensen, Jim	Landis, David M.
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I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct copy of the Official Roster of members of the Nebraska Unicameral Legislature elected or appointed to serve in the Ninety-Eighth Legislature, Second Session, 2004.

Further, I hereby certify that the members so listed on the Official Roster attached hereto are the duly elected or appointed members of the Unicameral Legislature in the State of Nebraska for the Ninety-Eighth Legislature, Second Session, 2004.

Finally, I hereby certify that all election returns, abstracts, canvass and appointment records with reference to said members are on file in the office of the Secretary of State and are a matter of public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Fifth day of January in the year of our Lord, two thousand and four.

(SEAL)

John A. Gale, Secretary of State

DISTRICT/NAME	ELECTED
1 Floyd P. Vrtiska	November 7, 2000
2 Roger R. Wehrbein	November 5, 2002
3 Raymond Mossey	Appointed November 15, 2002
4 Kermit Brashear	November 5, 2002
5 Don Preister	November 7, 2000
6 Pam Brown	November 5, 2002
7 John F. Synowiecki	November 5, 2002
8 Patrick J. Bourne	November 5, 2002
9 Chip Maxwell	November 7, 2000
10 Mike Friend	November 5, 2002
11 Ernie Chambers	November 7, 2000
12 Pam Redfield	November 5, 2002
13 Lowen Kruse	November 7, 2000
14 Nancy Thompson	November 5, 2002
15 Ray Janssen	November 7, 2000
16 Matt Connealy	November 5, 2002
17 L. Patrick Engel	November 7, 2000
18 Mick Mines	November 5, 2002
19 Gene Tyson	November 7, 2000
20 Jim Jensen	November 5, 2002
21 Carol L. Hudkins	November 7, 2000
22 Arnie Stuthman	November 5, 2002
23 Curt Bromm	November 7, 2000
24 Elaine Stuhr	November 5, 2002
25 Ronald E. Raikes	November 7, 2000
26 Marian L. Price	November 5, 2002
27 DiAnna R. Schimek	November 7, 2000

28	Chris Beutler	November 5, 2002
29	Mike Foley	November 7, 2000
30	Dennis M. Byars	November 5, 2002
31	Mark Quandahl	November 7, 2000
32	Jeanne M. Combs	November 5, 2002
33	Carroll Burling	November 7, 2000
34	Bob Kremer	November 5, 2002
35	Raymond Aguilar	November 7, 2000
36	Jim D. Cudaback	November 5, 2002
37	Joel T. Johnson	November 5, 2002
38	Ed Schrock	November 5, 2002
39	Dwite Pedersen	November 7, 2000
40	Douglas D. Cunningham	November 5, 2002
41	Vickie D. McDonald	November 5, 2002
42	Don Pederson	November 5, 2002
43	James E. Jones	November 7, 2000
44	Thomas C. Baker	November 5, 2002
45	D. Paul Hartnett	November 7, 2000
46	David M. Landis	November 5, 2002
47	Philip Erdman	November 7, 2000
48	Adrian Smith	November 5, 2002
49	LeRoy J. Loudon	November 5, 2002

RESIGNATION

December 2, 2003

Governor Mike Johanns
State Capitol
Lincoln, Nebraska 68509

Dear Governor:

After careful consideration I wanted to let you know that I resign my position as State Treasurer effective January 6, 2004 at 5:00 p.m.

As I explained to you earlier this week I feel it is necessary to provide time for a smooth transition. Current staff can be interviewed and informed of their status. This will provide them adequate time to pursue other opportunities if necessary. New staff can be brought on board and fully trained before January 6, 2004.

As the end of the year approaches several key areas of the office are affected. Namely child support and alimony payments tend to increase, enrollment increases in the College Savings Plan and Unclaimed Property processes incoming holder reports. Treasury Management staff are responsible for processing important payments to political subdivisions at the end of December. We remain committed to providing the highest level of service possible to the taxpayers during the transition.

It has been a pleasure to work in state government and serve my fellow Nebraskans. We have so much to be proud of and I am thankful that I had an opportunity to serve as State Treasurer and accomplish so much. Assets in the College Savings Plan were \$20 million when I became State Treasurer---I worked hard to improve and strengthen our College Savings Plan and assets now total approximately \$500 million. Unclaimed Property was returned at new record levels. Technology increased our efficiencies in every area and we worked with you to transition the entire child support collection and disbursement system.

God bless you and your family as you prepare to celebrate Christ's birth.

Sincerely,
(Signed) Lorelee Byrd
State Treasurer

MESSAGES FROM THE GOVERNOR

December 3, 2003

Ms. Lorelee Byrd
Office of the State Treasurer
State Capitol Building
Lincoln, Nebraska 68509

Dear Lorelee:

I have received your letter of resignation as State Treasurer. I hereby accept your resignation to be effective January 6, 2004. Thank you.

Sincerely,
(Signed) Mike Johanns
Governor

cjc

cc: Jon Bruning
Patrick O'Donnell

January 6, 2004

Mr. Ron Ross
6649 Flint Ridge Road
Lincoln, Nebraska 68506

Dear Ron:

You have been appointed to serve out the current term of the Nebraska State Treasurer, effective January 6, 2004 at 5:00 pm.

I appreciate your commitment to serving the citizens of the State of Nebraska and wish you the best as you fulfill the responsibilities of the Office of State Treasurer.

Sincerely,
(Signed) Mike Johanns
Governor

cjc

June 23, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals have been appointed to the Nebraska Motor Vehicle Industry Licensing Board.

APPOINTEES:

Toby J. Miller, 538 Eleanor Dr, Valentine NE
Jack D. Henry, 1207 Birch Ct, Aurora NE 68818
Kelly B. Smith, 120 Mill Park Dr, North Platte NE 69101

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

June 25, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual has been reappointed to the Nebraska Liquor Control Commission.

APPOINTEE:

Rhonda R. Flower, 730 18th St, Gering NE 69341

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

June 25, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual has been
reappointed to the Accountability and Disclosure Commission.

APPOINTEE:

Marilee A. Fredrickson, 2302 S 184th Circle, Omaha NE 68136

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

June 26, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals have been
appointed to the Commission for the Deaf and Hard of Hearing.

APPOINTEES:

Kenya S. Taylor, 1613 8th Avenue, Kearney NE 68845
Cecelia J. Bevard, 906 Jefferson, Gothenberg NE 69138
Margaret Coleman*, PO Box 80173, Lincoln NE 68512
James P. Devaney, 1704 N 85th St, Omaha NE 68114

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

*Reappointment

July 8, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals have been appointed to the Public Employees Retirement Board.

APPOINTEES:

Roger Rea, 12914 Pacific St, Omaha NE 68154
Daniel Contonis*, 907 Cheyenne, Alliance NE 69301

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

*Reappointment

July 21, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual has been appointed to the Nebraska Power Review Board.

APPOINTEE:

Eugene Bade, # 13 Village Dr - Lochland, Hastings NE 68901

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

November 6, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Community Corrections Council.

APPOINTEES:

Julie Hippen, 722 N 13th St, Beatrice NE 68310
William Burgess, 430 S 9th St., Geneva NE 68361
Catherine Cook, 10827 Blondo St, Omaha NE 68164
Scot Adams, 3116 S 58th St, Omaha NE 68106
Aileen Gruendel, 1920 Barbara, Grand Island NE 68803
Joe Kelly, 5822 Fieldcrest Way, Lincoln NE 68512
Robert Lindemeier, 219 N Bryan, North Platte NE 69101

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

November 24, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to

the Nebraska Arts Council.

APPOINTEES:

*Janet Korell, 602 Norris Ave, McCook NE

*Nancy Schwertley, 1214 Fieldcrest Dr, Norfolk NE 68701

*Fred Simon, 442 S 82nd Ave, Omaha NE 68114

Steven Bloch, 9966 Hascall, Omaha NE 68124

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

*Reappointment

November 24, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Environmental Trust Board.

APPOINTEES:

*Robert Krohn, 1427 S 85th Ave, Omaha NE 68124

John Campbell, 710 N 38th St, Omaha NE 68132

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

*Reappointment

November 24, 2003

President, Speaker Bromm
and Members of the Legislature

State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska Educational Telecommunications Commission.

APPOINTEE:

Stan Carpenter, 6731 Crooked Creek Dr, Lincoln NE 68516

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

November 24, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the State Highway Commission.

APPOINTEE:

Donna Wanitschke, 1611 Stagecoach Dr, Grand Island NE 68801

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

November 24, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was reappointed to the Board of Educational Lands and Funds.

APPOINTEE:

Demarus Carlson, 310 W Harold St, Crofton NE 68730

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

December 5, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska Motor Vehicle Licensing Board.

APPOINTEE:

Darlene J. Noah, 900 S Myrtle, Kimball NE 69145

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

December 15, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Environmental Quality Council.

APPOINTEES:

*Janet Bernard, 301 N Bryan Ave, North Platte NE 69101

Tom Miller, 2400 Hardison Dr, Norfolk NE 68701
*Steve Oltmans, 8901 S 154th St, Omaha NE 68138
Debra McDowell, 793 Worms Rd, Grand Island NE 68801
*Jodi Thompson, Box 427 Hwy 61, Imperial NE 69033
Donald Williams, PO Box 245, Orchard NE 68764

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment
Enclosure

December 15, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was reappointed to the Environmental Quality Council.

APPOINTEE:
John T. Baker, 2213 4th Ave, Scottsbluff NE 69361

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

December 15, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was reappointed to the Nebraska Investment Council.

APPOINTEE:

Gail Werner-Robertson, 1215 N 136th St, Omaha NE 68154

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

December 15, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Rural Health Advisory Commission.

APPOINTEES:

*Michael Sitorius, MD, 8115 Jackson St, Omaha NE 68114

Rebecca Schroeder, Box 4 212 W 9th St, Curtis NE 69025

*Donald Fry, MD, 22412 Schram Road, Gretna NE 68028

Roger Wells, 1518 Jay St, St Paul NE 68873

*William Welch, 905 5th Ave #206, Fairbury NE 68352

Angela Brennan, 12650 Holmes St, Omaha NE 68137

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment
Enclosure

December 15, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the State Personnel Board.

APPOINTEE:

Jeanne V. Ross, 3215 5th Ave, Kearney NE 68845

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

December 17, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska State Fair Board.

APPOINTEE:

Francis Partsch, 3122 S 104th St, Omaha NE 68124

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment
Enclosure

December 18, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Board of Public Roads Classifications and Standards.

APPOINTEES:

- *Rich Ruby, 3121 Williamsburg Dr, Lincoln NE 68516
- *Henry Vieregger, 10628 Decatur, Omaha NE 68114
- *James Bauer, 309 Morton Dr, Beatrice NE 68310
- *Henry Thieman, PO Box 84 2nd St, Petersburg NE 68652
- *Ed Wooten, 304 W Mission Ave, Bellevue NE 68005
- *Tim Schram, 14602 S 234th St, Gretna NE 68028
- *Darold Tagge, 204 W 15th, Holdrege NE 68949

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment
Enclosure

December 18, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Beginning Farmer Board.

APPOINTEES:

- *Timothy Schram, 14602 S 234th St, Gretna NE 68028
- Dr. Mark Darrell, 3041 Meridian Dr # 428, Lincoln NE 68504
- *Dale Pohlmann, 301 W Sherman, Poole NE 68869
- Bert Garvin, RR 2 Box 218-A, Pierce NE 68767
- Donald Anthony, 43970 Road 758, Lexington NE 68850

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment
Enclosure

December 22, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Tax Equalization and Review Commission.

APPOINTEE:

*Robert L. Hans, 7200 Old Post Rd Unit 10, Lincoln NE 68506

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment
Enclosure

December 22, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Board of Emergency Medical Services.

APPOINTEE:

George Tom Surber, MD, 1202 Norfolk Ave, Norfolk NE 68701

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

December 22, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Ethanol Board.

APPOINTEES:

Tim L. Else, RR 1 Box 27, Belvidere NE 68135

*Dave Hilferty, 512 Mitchem Ave, Grant NE 69140

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment

Enclosure

December 24, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was reappointed to

the Environmental Quality Council.

APPOINTEE:

James Whitaker, 211 West 3rd St, North Platte NE 69101

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

December 24, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were reappointed to the Board of Emergency Medical Services.

APPOINTEES:

David T. Engler, 7320 Country Hill Circle, Lincoln NE 68516

*Val D. Snyder, 25 Toluca Lane, Gering NE 69341

*Dan L. Hakel, 760 East Willow St, West Point NE 68788

*Joel E. Cerny, 2411 Road 45, Linwood NE 68036

*Ronald F. Balthazor, 1502 N Monroe, Lexington NE 68850

*Robert K. Olson, 409 Crest Dr, Papillion NE 68046

*Earl Rudolph, 15423 South 99th, Papillion NE 68046

*Bruce A. Beins, RR 1 Box 60A, Republican City NE 68971

*Diane L. Yetter, 909 N 150th St, Omaha NE 68154

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment
Enclosure

December 29, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were reappointed to the State Board of Health.

APPOINTEES:

*Dr. Kent H. Forney, 5720 Old Cheney Rd, Lincoln NE 68516
*Dr. Jerry Vaughan, 1345 Memorial Dr, Broken Bow NE 68822
Dr. Gwen Weber, 8309 Jackson St, Omaha NE 68114
Timothy Crockett, 13529 Taylor St, Omaha NE 68164
Clinton Schafer, 2329 North Game Trail Rd, North Platte NE 69101

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment
Enclosure

December 31, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Commission for the Blind and Visually Impaired.

APPOINTEES:

*William Orester, 5416 South 31st St, Lincoln NE 68516
*Barbara Loos, 2224 S 35th St, Lincoln NE 68506
*Robert Burns, 15356 Page St, Omaha NE 68154

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment
Enclosure

December 31, 2003

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Crime Victim's Reparations Committee.

APPOINTEES:

Scott Arnold, 412 N Custer Ave, Grand Island NE 68803

*Scot Ford, PO Box 861, South Sioux City NE 68776

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointment
Enclosure

January 2, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Child Abuse Prevention Fund Board.

APPOINTEES:

Jennie Cole-Mossman, 2710 Sewell St, Lincoln NE 68502
 Debra Phelps, 902 Wynnwood Ln, Papillion NE 68046
 *Dale Baker, 4710 Tara Court, Grand Island NE 68801

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
 (Signed) Mike Johanns
 Governor

web/

*Reappointments
 Enclosure

December 24, 2003

President, Speaker Bromm,
 Members of the Legislature
 State Capitol Building
 Lincoln NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Please withdraw Daniel Contonis' name from confirmation to the Public Employees Retirement Board effective 12/31/03, due to his resignation.

Thank you.

Sincerely,
 (Signed) Mike Johanns
 Governor

vfp/

ATTORNEY GENERAL'S OPINIONS

Opinion # 03026

DATE: December 5, 2003

SUBJECT: Authority of an "Acquisition Agency" Established Pursuant to the Nebraska Public Safety Wireless Communication System Act to Exercise Eminent Domain Power.

REQUESTED BY: Senator Gene Tyson
 Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General

L. Jay Bartel, Assistant Attorney General

You have requested our opinion concerning the authority of an "acquisition agency" established under the Nebraska Public Safety Wireless Communication System Act, Neb. Rev. Stat. §§ 86-401 to 86-419 (Cum. Supp. 2002) [the "Act"], to exercise eminent domain power to acquire real or personal property. The Act provides a mechanism for the establishment of a statewide public safety communication system. To establish such a system, the Act permits the creation of two separate joint entities. The first joint entity is an "acquisition agency" established pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. §§ 86-404 and 86-410(1) (Cum. Supp. 2002).¹ The "acquisition agency" is empowered "to acquire real and personal property for use in connection with such system and shall construct any facilities necessary to implement such system. . . ." Neb. Rev. Stat. § 86-410(1) (Cum. Supp. 2002). "An acquisition agency may acquire real and personal property and may construct facilities based upon (a) the implementation plan, (b) the ongoing advice and assistance of the board and the division, and (c) the determinations made by the members of the governing body of the acquisition agency." Neb. Rev. Stat. § 86-414(1) (Cum. Supp. 2002).² The second joint entity is an "alliance" formed under the Interlocal Cooperation Act, Neb. Rev. Stat. §§ 86-405 and 86-410(2) (Cum. Supp. 2002). The "alliance" is authorized "to operate, maintain, and manage the system." Neb. Rev. Stat. § 86-410(2) (Cum. Supp. 2002). "An alliance may have all powers authorized under the Nebraska Public Safety Wireless Communication System Act and the Interlocal Cooperation Act and may operate, maintain, and manage the system pursuant to an operating agreement entered into by the acquisition agency and the alliance." Neb. Rev. Stat. § 86-414(2) (Cum. Supp. 2002). Your specific question concerns whether an "acquisition agency" has the authority to use the power of eminent domain to acquire real or personal property. You indicate you are considering amendatory legislation if we conclude an "acquisition agency" lacks eminent domain power under existing law.

"Eminent domain is defined generally as the power of the nation or a state, or authorized public agency, to take or to authorize the taking of private property for a public use without the owner's consent, conditioned upon the payment of just compensation." *Krambeck v. City of Gretna*, 198 Neb. 608, 614, 254 N.W.2d 691, 694 (1977) (citing 26 Am. Jur. 2d Eminent Domain § 1). Eminent domain power "belongs to the state and may be exercised either directly by the Legislature or through the medium of corporate bodies, which includes municipalities, or of individual enterprises to whom it sees fit to delegate such power in the public's interest." In re Condemnation of Blocks 13, 14, 15, *Koehler's Subdivision, City of Grand Island*, 144 Neb. 67, 69, 12 N.W.2d 540, 541 (1943). "[T]he power of eminent domain may be exercised only on the occasion and in the mode or manner prescribed by the Legislature." *Sanitary and Improvement Dist. No. 1 v. Nebraska Public Power Dist.*, 253 Neb. 917, 922, 573 N.W.2d 460, 465 (1998); accord *Engelhaupt v. Village of Butte*, 248 Neb. 827, 539 N.W.2d 430 (1995); *Krauter v. Lower Big Blue Natural Resources Dist.*, 199 Neb.

431, 259 N.W.2d 472 (1977). "Statutes conferring and circumscribing the power of eminent domain must be strictly construed." *Sanitary and Improvement Dist. No. 1 v. Nebraska Public Power Dist.*, 253 Neb. at 922, 573 N.W.2d at 465.

Recently, in Op. Att'y Gen. No. 03008 (April 9, 2003), we addressed whether joint entities organized under the Act were required to engage in competitive bidding in performing their duties regarding creation of a statewide public safety communication system. Addressing this issue, we observed that nothing in the Act or the Interlocal Cooperation Act "specifically require[d] competitive bidding with respect to the duties of either the Acquisition Agency or the Alliance." *Id.* at 3. While noting that § 13-804(5) of the Interlocal Cooperation Act provided that no agreement under that Act relieved any public agency of an obligation or responsibility imposed upon it by law, except to the extent that such an obligation was performed by the joint agency created under the Interlocal Cooperation Act, we concluded "that § 13-804(5) [was] inapplicable to the circumstances surrounding your question because the authority of the Alliance to engage in its activities grows out of the Nebraska Public Safety Wireless Communication System Act itself, and not out of the particular statutes pertinent to each of the individual participants in the Alliance." *Id.* We thus concluded the Alliance was not required to engage in competitive bidding under the Act. *Id.* at 3-4.

A review of the Act reveals no specific grant of eminent domain power to an "acquisition agency." The Act provides that an "acquisition agency" may "acquire any real and personal property and construct facilities to be made available for use in connection with the system." Neb. Rev. Stat. § 86-404 (Cum. Supp. 2002); see also Neb. Rev. Stat. § 86-410(1) (Cum. Supp. 2002) ("An acquisition agency shall acquire real and personal property for use in connection with such system and shall construct any facilities necessary to implement such system."). The Act allows an "acquisition agency" to acquire real and personal property to be used as part of the system, but contains no specific language granting eminent domain power to an "acquisition agency." In the absence of a clear delegation of the power of eminent domain to an "acquisition agency," it appears that the Act does not presently authorize an "acquisition agency" to exercise eminent domain power.

It could be argued that, since an "acquisition agency" is a joint entity created under the Interlocal Cooperation Act, it is empowered to exercise eminent domain power under § 13-804 of the Interlocal Cooperation Act. Subsection 1 of § 13-804 provides, in part: "Any power or powers, privileges, or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state. . . ." Neb. Rev. Stat. § 13-804(1) (Cum. Supp. 2002). As various entities which can form an "acquisition agency" as a "joint entity" under the Interlocal Cooperation Act may individually possess eminent domain power for particular purposes, this broad language could perhaps be

construed to allow an "acquisition agency" to exercise eminent domain power.

We do not believe any eminent domain power possessed by individual political subdivisions which form an "acquisition agency" warrants concluding that an "acquisition agency" may exercise the power of eminent domain in connection with creating or establishing a system under the Act. Consistent with the reasoning in our earlier opinion, we conclude that the powers which may be exercised by an "acquisition agency" are those set forth in the Act, and not those which individual members of an "acquisition agency" may exercise independent of the Act. See Op. Att'y Gen. No. 03008 at 3.³

This result is supported by the Supreme Court of Oklahoma's decision in *Rollow v. West*, 479 P.2d 962 (Okla. 1971). The question presented in *Rollow* was whether the Southern Oklahoma Development Association ["SODA"], a voluntary association organized under Oklahoma's Interlocal Cooperation Act consisting of seven counties and some cities and towns within the counties, had authority to exercise the power of eminent domain to condemn buildings to be used for a parking lot. The owners of the land SODA sought to condemn asserted the Interlocal Cooperation Act did not authorize SODA to exercise eminent domain power. *Id.* at 963. Agreeing with the landowners' contention that SODA lacked such power, the Oklahoma court stated:

Our inquiry need extend no further than to determine whether SODA is granted the power of eminent domain under the Interlocal Cooperation Act. We hold that a separate legal or administrative entity, created by agreement of the signatory local governmental units or public agencies, is not vested with the power of eminent domain by the Interlocal Cooperation Act.

The Act by its terms contemplates cooperation or joint exercise between the various governmental entities of activities permitted of the individual entities. The Act does not create new powers to be exercised independently by the legal or administrative agency. We find no clear legislative authority in the Interlocal Cooperation Act to justify the taking of property in derogation of the rights of citizens.

It follows that the power of eminent domain is not granted to SODA by the Act. The mere statutory authorization for voluntary associations of public agencies created by written agreement is not a specific enactment by the Legislature designating the occasions, the modes, and the agencies by and through which the fundamental power to exercise the right of eminent domain may be placed in operation.

Id. (emphasis in original).

The provisions of the Oklahoma Interlocal Cooperation Act outlining the powers of public agencies entering into agreements for the joint exercise of powers are virtually identical to those contained in Nebraska's Interlocal Cooperation Act. Compare 74 Okla. Stat. Ann. § 1004 (2002) with Neb. Rev. Stat. § 13-804 (Cum. Supp. 2002). Based on the reasoning in Rollow, we believe that the authority for public agencies to enter into agreements under the Interlocal Cooperation Act does not constitute a specific enactment delegating the exercise of the power of "eminent domain" to a "joint entity" created pursuant to the Interlocal Cooperation Act.

In sum, we conclude that, under existing law, an "acquisition agency" created under the Act is not authorized to exercise the power of eminent domain to acquire real or personal property to create a statewide public safety wireless communication system. Accordingly, amendatory legislation specifically granting eminent domain power to an "acquisition agency" for this purpose, which outlines the mode or manner in which such power may be exercised, is required before an "acquisition agency" may use the power of eminent domain to acquire real or personal property to establish a system under the Act.

¹ The Interlocal Cooperation Act is found at Neb. Rev. Stat. §§ 13-801 to 13-827 (1997 and Cum. Supp. 2002).

² The "board" referred to in § 86-414(1) is the Public Safety Wireless Communication Advisory Board created by Neb. Rev. Stat. 86-419 (Cum. Supp. 2002), and the "division" referenced in § 86-414(1) is "the division of communications of the Nebraska Department of Administrative Services." Neb. Rev. Stat. §§ 86-406 and 86-407 (Cum. Supp. 2002).

³ It is our understanding that, at present, the "acquisition agency" agreement establishing the "Public Safety Communications Agency of Nebraska" ["PSCAN"] has been executed by the following member municipalities, counties, power districts, and/or fire districts: Nebraska City, Norfolk, Hadar Fire District, and Richardson County. The history of the Act indicates the State is precluded from participating as a party to any agreement to form an "acquisition agency" because an "acquisition agency" may engage in debt financing through the issuance of bonds. Committee Records on LB 1211, 97th Leg., 2nd Sess. 11-13, 16-18 (February 4, 2002); Floor Debate on LB 1211, 97th Leg., 2nd Sess., 11000, 11010 (March 6, 2002). The intent to exclude the State or its agencies from being parties to an "acquisition agency" agreement stems from the constitutional limit on the State incurring indebtedness. Neb. Const. art. XIII, § 1. Depending on the nature of the particular public agencies or political subdivisions which may enter into an agreement to form an "acquisition agency", the limits on the use of the power of eminent domain imposed by statute on various agencies or subdivisions further demonstrates these specific powers cannot be exercised by an "acquisition agency" to obtain property for a public safety communications system. See, e.g., Neb. Rev. Stat. § 3-203 (1997) (Granting municipality eminent domain power to acquire property for airport purposes); Neb. Rev. Stat. § 14-366 (1997) (Granting metropolitan class city eminent domain power to acquire property for, inter alia, streets, parks,

recreational uses, as well as for waterworks, gas plants or other municipal utility purposes); Neb. Rev. Stat. § 15-229 (1997) (Authorizing primary class cities to use eminent domain power to acquire real or personal property for "public purpose".); Neb. Rev. Stat. § 23-108 (1997) (Granting county eminent domain power to acquire land for road purposes); Neb. Rev. Stat. § 70-301 (1996) (Authorizing public power districts, corporations, or municipalities power to obtain right-of-way for construction of pole lines or underground lines necessary for the conduct of electric business); Neb. Rev. Stat. § 86-591 (Cum. Supp. 2002) (Authorizing counties to use eminent domain power to establish public telephone systems).

Sincerely,
JON BRUNING
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

pc: Patrick O'Donnell
Clerk of the Legislature
07-43-21

Opinion # 03028

DATE: December 22, 2003
SUBJECT: Salaries of Probation Officers, LB 789
REQUESTED BY: John Synowiecki, Senator
Nebraska State Legislature
WRITTEN BY: Jon Bruning, Attorney General
Lynn A. Melson, Assistant Attorney General

You have requested the opinion of this office regarding LB 789. This bill was introduced on January 22, 2003 with the "intent to ensure that probation officers receive equal pay raises and cost of living adjustments when other state employees with similar responsibilities receive them." Specifically, LB 789 would amend Neb. Rev. Stat. § 29-2257 to provide that "[P]robation officers shall be compensated with salaries and cost of living increases equal to the salary increases for members of the state employees' collective bargaining units." You have posed four questions concerning § 29-2257 and the proposed amendment as follows:

1. LB 789 seeks to change provisions under Neb. Rev. Stat. § 29-2257. Whether current statutory language under § 29-2257, specifically "probation officers shall be compensated with salaries substantially equal to other state employees who have similar responsibilities", compels the Supreme Court, specifically Probation Administration, to afford probation officers substantially similar salaries.

2. Whether the Nebraska Supreme Court can be statutorily required to provide salary and cost of living increases substantially equal to the salary increases and cost of living increases of members of the state employees' collective bargaining unit as provided for in LB 789.
3. Whether the Probation Administration can be statutorily required to provide salary and cost of living increases substantially equal to the salary increases and cost of living increases of members of the state employees' collective bargaining unit as provided for in LB 789.
4. Whether cost of living adjustments are already included in the interpretation of the word "salaries" as it exists in § 29-2257.

We will first address the constitutional issues presented by questions 2 and 3. As you have indicated in your request letter, the fact that the probation officers are employees of the judicial branch requires us to examine the separation of powers doctrine.¹ The principle of separation of powers is embodied in Article II, Section 1 of the Nebraska Constitution which provides that:

The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial, and no person or collection of persons being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

We have previously discussed the importance of this constitutional provision in a number of opinions, including Op. Att'y Gen. No. 02012. In that opinion we discussed the history and importance of the principle of separation of powers, the purpose of which "is to establish the permanent framework of our system of government and to assign to the three departments their respective powers and duties, and to establish certain fixed principles upon which our government is to be conducted." *State v Philipps*, 246 Neb. 610, 614, 521 N.W.2d 913, 916 (1994). We noted that our state constitution specifically prohibits the exercise of any power belonging to one sphere by either of the others and that Nebraska's separation of powers provision is more rigorous than other jurisdictions' and has been strictly construed by the Nebraska Supreme Court.

The question presented by LB 789 is whether this proposed law would unduly encroach on the duties and prerogatives of the judicial branch. We start with the proposition that the Nebraska Legislature has extensive authority. "The Nebraska Constitution is not a grant, but, rather, is a restriction on legislative power, and the Legislature may legislate upon any subject not inhibited by the Constitution." *State ex rel. Stenberg v. Moore*, 249 Neb. 589, 595, 544 N.W.2d 344, 349 (1996).

We must also look at the nature of judicial power. "Generally judicial

power is the authority to hear and determine a controversy as to rights and upon such determination to render a judgment binding upon the disputants." *Laverty v. Cochran*, 132 Neb. 118, 122, 271 N.W. 354, 357 (1937). In addition to the authority to adjudicate controversies between adverse parties, the judicial branch has additional powers or duties necessary for the court to conduct the administration of justice such as regulating the practice of law or regulating matters of court procedures. A number of Nebraska cases have involved a question of whether the Legislature may regulate the practice of law. In *State ex rel. Ralston V. Turner*, 141 Neb. 556, 4 N.W.2d 302 (1942), the issue was whether the Court must acquiesce in the qualifications for admission to the bar prescribed by the Legislature. The Court held that the "power to admit applicants to practice law is judicial, not legislative, and invested in courts only...." *Id.* at 568 (quoting *In Re Cate*, 273 P. 617). "A court has certain inherent powers within the scope of its jurisdiction that exist apart from any constitutional or statutory authority. They allow the court to take such actions reasonably necessary to administer justice efficiently, fairly, and economically and are essential to the court's existence, dignity, and functions." 20 Am. Jur. 2d § 43. "Accordingly, the Legislature cannot limit the exercise of inherent judicial power, such being essential to the existence of the court and the orderly and efficient exercise of the administration of justice. Inherent judicial power exists in addition to the express grants of judicial power to each court and originates in the mandate of the Nebraska Constitution of the separation of powers between three coequal branches, or departments, of government." *State v. Joubert*, 248 Neb. 287, 294-5, 518 N.W.2d 887, 893 (1994).

You have asked whether the Nebraska Supreme Court, or the Probation Administration which by statute is responsible to the Court, can be statutorily required to provide salary and cost of living increases² substantially equal to the salary increases and cost of living increases of members of the state employees' collective bargaining units. The proposed legislative enactment must be examined to determine whether it would unduly influence or serve to control the operation of the Court in violation of the separation of powers provision.

We have previously discussed whether court employees can become members of a union and, in so doing, be represented in collective bargaining negotiations. *Op. Att'y Gen. No. 00012*. Based on the principle of Supreme Court supremacy and the separation of powers doctrine, we opined that it was unlikely that the Supreme Court would allow itself to be subjected to the jurisdiction of the Commission of Industrial Relations. Those doctrines, therefore, raised serious questions as to whether unionization of supreme court employees would be permissible.

In an earlier opinion of this office, we examined the constitutionality of a statutory ban on smoking in state facilities. *Op. Att'y Gen. No. 94014*. The question was whether the regulation of smoking, by the Legislative branch, constituted "the exercise of a power properly belonging to either the Executive or the Judicial branches within the context of buildings or

facilities occupied or controlled by those respective branches of state government." We there concluded that the regulation of smoking in state buildings, facilities and vehicles did not present a separation of powers conflict as "[T]he regulation of smoking, even in those facilities controlled or occupied by the Executive and Judicial branches would not appear to prevent the affected branch from accomplishing its constitutionally assigned functions, nor would such regulation encroach on the duties and prerogatives of the Executive or Judicial branches."

We are unable to determine with certainty how the Nebraska Supreme Court would rule as to the constitutionality of LB 789, but the mandating of certain salary increases for employees in the Judicial branch could well be viewed as the Legislature unduly controlling the management and administration of the judicial branch through legislation relating to compensation. In our view, the more specific or detailed the legislative enactment and the less flexibility or discretion afforded the Court and probation administrator in determining salaries, the more likely the statute would be found to violate Article II, Section 1. The Nebraska Supreme Court has dealt with a similar question in *Board of Regents of University of Nebraska v. Exon*, 199 Neb. 146, 256 N.W.2d 330 (1977). While this case did not concern the judicial branch, it did concern an independent body, the Board of Regents, created by our state constitution. The Court held that the Legislature encroached on the authority of the Board of Regents in attempting to determine the manner in which raises were to be given to its employees. "The determination of salary schedules and the compensation to be paid to the employees of the Board of Regents is an integral part of the general government of the University." *Id.* at 152, 256 N.W.2d at 335. Based upon the authorities discussed above, we conclude that the separation of powers doctrine raises serious questions whether the language of LB 789 would be permissible.

Returning to your first question, you ask whether the current statutory language of § 29-2257 compels the Supreme Court, and specifically the Probation Administration, to afford probation officers salaries substantially equal to other state employees who have similar responsibilities. The statute, on its face, does purport to require the Supreme Court (and Probation Administration) to pay probation officers substantially similar salaries. Reading the first question in the content of your opinion request letter, it appears that you are inquiring whether the current statute is constitutionally suspect. We must respectfully decline to answer. Our long-standing policy is that we will not issue legal opinions to state legislators concerning the constitutionality of existing statutes. *Op. Att'y Gen. No. 157* (December 24, 1985). That policy is based, in part, upon the practical consideration that we may be called upon to defend the constitutionality of existing laws.

Your fourth question is whether cost of living adjustments are already included in the interpretation of the word "salaries" as it exists in § 29-2257. As previously discussed in footnote 2, state employees do not currently receive automatic cost of living increases as that term is generally defined.

In any event, the term salary is a general one meaning "fixed compensation paid regularly for services". Webster's New Collegiate Dictionary (1979). In our view it would not necessarily include the cost of living increases which you propose.

¹ Neb. Rev. Stat. § 29-2249 creates the Office of Probation Administration within the judicial branch, which office is directly responsible to the Supreme Court. The probation administrator, appointed by the Supreme Court, hires probation officers and employees for each probation district. Neb. Rev. Stat. §§ 29-2251, 29-2253(2).

² We note that, as defined in Black's Law Dictionary 312 (5th ed. 1979), a cost of living clause is a provision "giving an automatic wage or benefit increase tied in some way to cost of living rises in the economy. Cost of living is usually measured by the Consumer Price Index (CPI)." To our knowledge, state employees included in collective bargaining units do not receive automatic increases of this nature. You may be referring to a step pay plan that has afforded increases for certain state employees on January 1 of the past few years.

Sincerely,
 JON BRUNING
 Attorney General
 (Signed) Lynn A. Melson
 Assistant Attorney General

pc: Patrick O'Donnell, Clerk of the Legislature
 9-62-24

REPORTS

The following reports were received by the Legislature:

Administrative Services, Department of

Information Technology Commission Project Status Summary as of June 30, 2003

Risk Management/State Claims Board, report indicating all claims and judgments decided under the provisions of the State Tort Claims Act and the State Miscellaneous Claims Act for period July 1, 2002 to June 30, 2003

Agriculture, Department of

Beginning Farmer Tax Credit Act Annual Report

Arts Council

Nebraska Arts and Humanities Cash Fund Report

Auditor of Public Accounts

Advisory letter for the following:

Health and Human Services System, Tobacco Settlement Funds

Health and Human Services System, Nursing Facilities

Intergovernmental Transfers, 1/1/01-12/31/02

Purchasing/Contracting Procedures and Controls for the State of Nebraska dated December 11, 2002, supplement to the advisory letter Attestation examination report for the following:

Environmental Quality, Department of, as of 6/19/03

Environmental Quality, Department of, as of 6/30/03

Treasurer, State, as of 1/8/03

Audit reports for the following:

Administrative Services, Department of, Distribution of Aid to Community Colleges

Agriculture, Department of

Corn Development, Utilization, and Marketing Board

Correctional Services, Department of, Cornhusker State Industries

Environmental Quality, Department of, Clean Water State Revolving Fund Program

Environmental Quality, Department of, Drinking Water State Revolving Fund Program

Ethanol Board

Grain Sorghum Development, Utilization, and Marketing Board

Health and Human Services, Department of, Child Support Enforcement and the State Treasurer State Disbursement Unit Agency Funds

Health and Human Services System, Department of, Program 30 - Tobacco Prevention and Control

Health and Human Services Finance and Support, Program 175 - Medical Student Assistance

Health and Human Services System, Program 342 - Nursing Facility Conversions

Health and Human Services System, Program 343 - Excellence in Health Care Grants

Lottery

Natural Resources, Department of

Property Assessment and Taxation, Department of

Treasurer, State

Wheat Development, Utilization, and Marketing Board

Management letter for the following:

Environmental Quality, Department of, Clean Water State Revolving Fund Program

Environmental Quality, Department of, Drinking Water State Revolving Fund Program

State of Nebraska Statewide Single Audit Performed by KPMG

Correctional Services, Department of

Work Ethic Camp Annual Report

Economic Development, Department of

2002-03 Annual Report

Local Civic, Cultural, and Convention Center Financing Fund Annual Report

Nebraska Community and Rural Development Consolidated Plan Proposed 2002 Annual Performance Report

Environmental Quality, Department of

Annual Report

Ethanol Board

Ethanol Production Incentive Cash Fund (EPIC) Report

Fire Marshal, State

Volunteer Emergency Responders Recruitment and Retention Act

Fiscal Office, Legislative

Biennial Budget Report for FY2003-04 and FY2004-05

Monthly Consensus Estimates of General Fund Receipts, FY Beginning July 1, 2003

Re-certification of General Fund net receipts for fiscal year beginning July 1, 2003. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced October 31, 2003.

Game and Parks Commission

2003 Recreation Road Report

Game Law Investigation Cash Fund Report for FY 2003

Governor's Policy Research Office (See Policy Research Office, Governor's)**Health and Human Services System**

2003 LB 692 Report

Child Welfare Staffing Report for 2002

Community Service Program Employable General Assistance Recipients Report

Cost Sharing in the Medicaid Program Annual Report

Medicaid Eligibility, Annual Report on the LB 8 Changes

Medicaid Eligibility, Fourth Quarterly Report on the LB 8 Changes

Office of the System Advocate Quarterly Report, April-June 2003

Office of the System Advocate Quarterly Report, July-September 2003

Office of Women's Health Annual Report

Insurance, Department of

Interstate Insurance Receivership Commission, 2002 Annual Report

Investment Council

Northern Ireland Investment Requirements under LB 1066

Investment Finance Authority

2002 Series A, B, C, D, E, and F Community Development Loan Notes (City of Lincoln Program-2002) Quarterly Reports

2003 Series A, B & C Single Family Housing Revenue Bonds

2003 Series G.O. 15

Agricultural Division, individual reports of loans for FY July 1, 2002, through June 30, 2003

Clean Water State Revolving Fund Revenue Bonds Series 2002 C Quarterly Reports

Drinking Water State Revolving Fund Program

Drinking Water State Revolving Fund Revenue Bonds Series 2002 A Quarterly Reports

Drinking Water State Revolving Fund Revenue Bonds Series 2003 A Quarterly Reports

Single Family Bonds Notice

Single Family Housing Revenue Bonds Series 2000 EFG and General Obligation Bonds Series 2000 G.O.-11 Quarterly Reports
 Single Family Housing Revenue Bonds Series 2003 ABC and General Obligation Bonds Series 2003 G.O.-15 Quarterly Reports
 Single Family Housing Revenue Bonds Series 2003 D & E Notice
 Wastewater Treatment Facilities (Clean Water) State Revolving Fund Program

Labor, Department of

Meatpacking Industry Worker's Bill of Rights Report
 Workforce Investment Board recommended modification to the Nebraska Strategic Five Year Plan for the provision of services under Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act

Legislative Research Division

Boards and Commissions in Nebraska Report, 2003

Liquor Control Commission

Report concerning effectiveness of keg registration legislation

Motor Vehicles, Department of

2002 Annual Report

Natural Resources, Department of

State Water Planning and Review Process Annual Report and Plan of Work

Performance Audit Committee, Legislative

Committee Report, Nebraska Board of Parole

Policy Research Office, Governor's

Municipal Natural Gas Regulation Revolving Loan Fund for the period ending May 30, 2003

Postsecondary Education, Coordinating Commission for

Revenue Bond Project Evaluation Forms

Public Counsel/Ombudsman

2003 Thirty-Second Annual Report

Public Service Commission

2003 Annual Report on Telecommunications

Retirement Systems, Public Employees

County Employees' Actuarial Report, January 1, 2003 - June 30, 2005

Judges' Retirement System Actuarial Report, July 1, 2003 - June 30, 2005

School Retirement System Actuarial Report, July 1, 2003 - June 30, 2005

State Employees' Actuarial Report, January 1, 2003 - June 30, 2005

State Equal Retirement Benefit Fund Actuarial Report, January 1, 2003 - June 30, 2004

State Patrol Retirement System Actuarial Report, July 1, 2003 - June 30, 2005

Revenue, Department of

2000 Annual Report

2001 Annual Report

2002 Annual Report

Ethanol Production Incentive Cash Fund (EPIC) Report

Nebraska Lottery Annual Report, July 1, 2002 through June 30, 2003

Re-certification of General Fund net receipts for fiscal year beginning July 1, 2003. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced

October 31, 2003.

Roads, Department of

2003 Annual Report

2003 State Highway Needs Assessment Report

Board of Examiners for County Highway and City Street Superintendents Annual Report

Board of Public Roads Classifications and Standards Minutes for April, May, June, July, September, October 2003

Recreation Roads One-Year and Five-Year Programs

State Highway Commission Quarterly Reports for periods ending June 30, 2003 and September 30, 2003

Traffic Crash Facts Annual Report, 2002

Southeast Community College

Annual report on the financial condition of the center

Transit and Rail Advisory Council

Transit Corridors Study

Workers' Compensation Court

Fiscal Year 2003 Annual Report

Workforce Development

Workforce Investment Act Annual Report

BILLS ON FIRST READING

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

LEGISLATIVE BILL 810. Introduced by Executive Board: Engel, 17, Chairperson.

A BILL FOR AN ACT relating to the Ethanol Pricing Task Force; to eliminate provisions governing the task force which terminated on December 31, 2000; and to outright repeal section 66-1350, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 811. Introduced by Executive Board: Engel, 17, Chairperson.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3901, Reissue Revised Statutes of Nebraska; to eliminate obsolete provisions; to harmonize provisions; to repeal the original section; and to outright repeal sections 77-27,138.01, 77-3530, and 77-3909, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 812. Introduced by Executive Board: Engel, 17, Chairperson.

A BILL FOR AN ACT relating to minibikes; to amend section 60-6,347, Reissue Revised Statutes of Nebraska; to harmonize provisions with Laws 2003, LB 333; and to repeal the original section.

LEGISLATIVE BILL 813. Introduced by Executive Board: Engel, 17, Chairperson.

A BILL FOR AN ACT relating to statutory forms; to amend sections 10-505, 12-522, 15-813, 19-3005, 19-3006, 19-3007.01, 19-3037, 23-1802, 23-1809, 30-2329, 30-3408, 31-324, 31-331, 31-333, 32-812, 32-934, 32-1040, 32-1401, 32-1402, 49-218, 49-1522, 49-1559, 53-135.01, 53-1,108, 54-403, 57-202, 58-525, 76-1004, 76-1007, 76-1008, 76-1012, 77-1819, 77-1839, and 77-3204, Reissue Revised Statutes of Nebraska; to change certain forms for the twenty-first century; and to repeal the original sections.

LEGISLATIVE BILL 814. Introduced by Smith, 48.

A BILL FOR AN ACT relating to public meetings; to amend section 84-1411, Revised Statutes Supplement, 2002; to change provisions relating to videoconferencing and telephone conferencing; and to repeal the original section.

LEGISLATIVE BILL 815. Introduced by Smith, 48.

A BILL FOR AN ACT relating to schools; to amend section 79-2,103, Reissue Revised Statutes of Nebraska; to provide for military recruiting on school and postsecondary campuses as prescribed; and to repeal the original section.

LEGISLATIVE BILL 816. Introduced by Smith, 48.

A BILL FOR AN ACT relating to enterprise zones; to amend section 13-2103, Reissue Revised Statutes of Nebraska; to change the designation period; to harmonize provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 817. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-322, Revised Statutes Supplement, 2002; to change provisions relating to sexual abuse of an inmate or parolee; and to repeal the original section.

LEGISLATIVE BILL 818. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to the Women's Health Initiative Advisory Council; to amend section 71-702, Reissue Revised Statutes of Nebraska; to clarify provisions; to eliminate a termination date; and to repeal the original section.

LEGISLATIVE BILL 819. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to capital construction; to amend section

81-1114.02, Revised Statutes Supplement, 2002; to change provisions relating to construction documents; to provide duties; and to repeal the original section.

LEGISLATIVE BILL 820. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to recall elections; to amend section 32-1306, Reissue Revised Statutes of Nebraska, and section 32-1303, Revised Statutes Supplement, 2003; to change provisions relating to providing notice; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 821. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to the Open Meetings Act; to amend sections 2-261, 28-731, 58-230, 66-1619, 71-121, 71-3406, 71-5176, 71-5705, 71-6224, 72-1704, 74-1308, 77-5005, 79-317, 79-554, 79-560, 79-561, 79-814.01, 79-832, 79-1239, 81-1505.03, 81-15,217, 81-1712, 84-1408 to 84-1410, 84-1414, 84-1502, 85-104, and 85-1502, Reissue Revised Statutes of Nebraska, sections 2-101, 2-238, 13-2515, 13-2517, 13-2801, 13-2812, 16-1037, 46-2,120, 50-307, 84-1411, 84-1412, 86-327, and 86-413, Revised Statutes Supplement, 2002, and sections 25-2937 and 39-1108, Revised Statutes Supplement, 2003; to name the act; to provide for applicability of the act; to redefine terms; to change penalty provisions; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 822. Introduced by Preister, 5.

A BILL FOR AN ACT relating to the Environmental Quality Council; to amend section 81-1505, Revised Statutes Supplement, 2002; to change provisions relating to the adoption of standards and classifications; and to repeal the original section.

LEGISLATIVE BILL 823. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to police animals; to amend section 28-906, Reissue Revised Statutes of Nebraska, and section 28-1008, Revised Statutes Supplement, 2003; to provide penalties for obstructing or harassing a police animal owned or controlled by a law enforcement agency; to redefine terms; and to repeal the original sections.

LEGISLATIVE BILL 824. Introduced by Erdman, 47; Aguilar, 35; Smith, 48.

A BILL FOR AN ACT relating to aeronautics; to amend section 3-104, Reissue Revised Statutes of Nebraska; to provide for allocation of funds for promotion of aviation; and to repeal the original section.

LEGISLATIVE BILL 825. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to motor vehicles; to amend section

60-6,151, Reissue Revised Statutes of Nebraska; to require motor vehicle drivers to use caution near parked authorized emergency vehicles; and to repeal the original section.

LEGISLATIVE BILL 826. Introduced by Erdman, 47; Schrock, 38; Smith, 48.

A BILL FOR AN ACT relating to the state game refuges; to amend sections 37-707 and 61-206, Reissue Revised Statutes of Nebraska, section 37-706, Revised Statutes Supplement, 2002, and section 37-201, Revised Statutes Supplement, 2003; to state intent; to define a term; to provide duties for the Department of Natural Resources; to harmonize provisions; to provide duties for the Revisor of Statutes; and to repeal the original sections.

LEGISLATIVE BILL 827. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to the Game and Parks Commission; to amend section 37-101, Revised Statutes Supplement, 2002; to change provisions limiting service on the commission; and to repeal the original section.

LEGISLATIVE BILL 828. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 18-2451 and 70-623, Reissue Revised Statutes of Nebraska; to change provisions relating to filing audits by public power and irrigation districts and municipal cooperative financing agencies; and to repeal the original sections.

LEGISLATIVE BILL 829. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Department of Natural Resources; to amend section 61-201, Reissue Revised Statutes of Nebraska; to change and provide qualifications for certain personnel as prescribed; and to repeal the original section.

LEGISLATIVE BILL 830. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to water wells; to amend sections 46-1207.01, 46-1207.02, 46-1212, and 46-1228, Reissue Revised Statutes of Nebraska, section 46-601.01, Revised Statutes Supplement, 2002, and section 46-602, Revised Statutes Supplement, 2003; to redefine terms; to change provisions relating to registration; to provide for inspection of decommissioned water wells; and to repeal the original sections.

LEGISLATIVE BILL 831. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to irrigation; to amend section 46-241, Revised Statutes Supplement, 2003; to change provisions relating to

reservoir withdrawals; and to repeal the original section.

LEGISLATIVE BILL 832. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Nebraska Environmental Trust Act; to amend section 81-15,172, Reissue Revised Statutes of Nebraska, and sections 81-15,173, 81-15,175, and 81-15,176, Revised Statutes Supplement, 2002; to provide powers and duties for the board; to change and eliminate provisions relating to funding priorities; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 833. Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Friend, 10; Hudkins, 21; Jones, 43; Kremer, 34; Loudon, 49; Preister, 5; Stuhr, 24.

A BILL FOR AN ACT relating to the Water Policy Task Force; to amend sections 46-2,132 and 46-2,135, Revised Statutes Supplement, 2002; to change provisions relating to membership and meetings; and to repeal the original sections.

LEGISLATIVE BILL 834. Introduced by Vrtiska, 1; Baker, 44; Cudaback, 36; Cunningham, 40; Hartnett, 45; Janssen, 15; Jones, 43; Loudon, 49; McDonald, 41; Price, 26; Schrock, 38; Tyson, 19; Wehrbein, 2.

A BILL FOR AN ACT relating to the Military Code; to amend section 55-157, Reissue Revised Statutes of Nebraska; to provide for a health insurance reimbursement allowance as prescribed; and to repeal the original section.

LEGISLATIVE BILL 835. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to amend sections 81-2,165, 81-2,166, 81-2,167, 81-2,170, 81-2,171, 81-2,173, and 81-2,174, Reissue Revised Statutes of Nebraska; to change and eliminate provisions of the Nebraska Apiary Act; to repeal the original sections; and to outright repeal section 81-2,172, Reissue Revised Statutes of Nebraska, and section 81-2,177.01, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 836. Introduced by Kremer, 34; Wehrbein, 2.

A BILL FOR AN ACT relating to the Dairy Industry Development Act; to amend section 2-3951, Reissue Revised Statutes of Nebraska, and section 2-3948, Revised Statutes Supplement, 2002; to change provisions relating to board members; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; to outright repeal section 2-3964, Reissue Revised Statutes of Nebraska, and sections 2-3952, 2-3952.01, 2-3953, and 2-3954, Revised Statutes Supplement, 2002; and to declare an emergency.

LEGISLATIVE BILL 837. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to amend section 54-2280, Revised Statutes Supplement, 2003; to change provisions relating to pseudorabies control and eradication; to eliminate provisions relating to livestock auction markets; to repeal the original sections; and to outright repeal section 54-1179, Reissue Revised Statutes of Nebraska, and sections 54-1175 and 54-1176, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 838. Introduced by Louden, 49; Aguilar, 35; Hartnett, 45; Jones, 43.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-311.11 and 60-315, Revised Statutes Supplement, 2002, and sections 60-310 and 60-311.02, Revised Statutes Supplement, 2003; to provide for Military Plates; to change provisions for exempt plates and message plates; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 839. Introduced by Louden, 49; Jones, 43.

A BILL FOR AN ACT relating to insurance; to require the Director of Insurance to study issues relating to certain liability insurance availability and affordability.

LEGISLATIVE BILL 840. Introduced by Louden, 49; Erdman, 47; Jones, 43; Kremer, 34; Smith, 48.

A BILL FOR AN ACT relating to livestock; to amend section 54-199, Revised Statutes Supplement, 2002; to change provisions relating to livestock brands; and to repeal the original section.

LEGISLATIVE BILL 841. Introduced by Byars, 30.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.12, Reissue Revised Statutes of Nebraska; to change provisions relating to sales and use tax exemptions; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 842. Introduced by Byars, 30.

A BILL FOR AN ACT relating to cities of the first class; to amend section 16-611, Revised Statutes Supplement, 2002; to change provisions relating to the vacation of streets and alleys; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 843. Introduced by Byars, 30.

A BILL FOR AN ACT relating to livestock; to amend section 54-199, Revised Statutes Supplement, 2002; to change provisions relating to branding; and to repeal the original section.

LEGISLATIVE BILL 844. Introduced by Byars, 30.

A BILL FOR AN ACT relating to state personnel; to amend section 81-1316, Revised Statutes Supplement, 2003; to exempt the chief executive officer of facilities operated by the Department of Correctional Services and the medical director of the department from the State Personnel System; and to repeal the original section.

LEGISLATIVE BILL 845. Introduced by Byars, 30.

A BILL FOR AN ACT relating to real estate; to amend sections 76-1708, 76-1711, 76-1734, and 81-885.55, Reissue Revised Statutes of Nebraska; to change time-share instrument provisions and association duties as prescribed; to change fee provisions; to change provisions relating to errors and omissions insurance; and to repeal the original sections.

LEGISLATIVE BILL 846. Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-311.14, Revised Statutes Supplement, 2002; to provide for issuance of license plates designated for handicapped or disabled persons to certain trusts; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 847. Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to the Delayed Deposit Services Licensing Act; to amend section 45-902, Revised Statutes Supplement, 2003; to define collection to authorize electronic automated clearinghouse transactions; and to repeal the original section.

LEGISLATIVE BILL 848. Introduced by Aguilar, 35; Quandahl, 31.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1801, Reissue Revised Statutes of Nebraska; to change provisions relating to claims, expenses, and attorney's fees; and to repeal the original section.

LEGISLATIVE BILL 849. Introduced by Aguilar, 35.

A BILL FOR AN ACT relating to insurance; to provide requirements and duties relating to motor vehicle repairs.

LEGISLATIVE BILL 850. Introduced by Mossey, 3; Aguilar, 35; Combs, 32; Erdman, 47; Friend, 10; Kruse, 13; Mines, 18; Quandahl, 31; Synowiecki, 7.

A BILL FOR AN ACT relating to criminal law; to amend sections 29-404.02, 29-901.01, and 42-903, Reissue Revised Statutes of Nebraska, section 86-291, Revised Statutes Supplement, 2002, and section 28-101,

Revised Statutes Supplement, 2003; to create the offense of domestic assault; to provide penalties; to change provisions relating to arrest and bail; to provide duties for law enforcement; to redefine terms; to authorize interception of communications; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 851. Introduced by Mossey, 3; Combs, 32; Erdman, 47; Friend, 10; Kruse, 13; Quandahl, 31; Smith, 48; Synowiecki, 7.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-901.01, Reissue Revised Statutes of Nebraska; to change provisions relating to bail; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 852. Introduced by Burling, 33; Stuthman, 22.

A BILL FOR AN ACT relating to public assistance; to amend section 68-115, Reissue Revised Statutes of Nebraska; to change provisions relating to legal settlement; and to repeal the original section.

LEGISLATIVE BILL 853. Introduced by Vrtiska, 1; Foley, 29; Mossey, 3; Quandahl, 31.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-1,121, Reissue Revised Statutes of Nebraska; to change provisions relating to civil protective custody; and to repeal the original section.

LEGISLATIVE BILL 854. Introduced by Vrtiska, 1.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1315, Reissue Revised Statutes of Nebraska; to change a notice requirement relating to assessment of real property; and to repeal the original section.

LEGISLATIVE BILL 855. Introduced by Hudkins, 21; Brown, 6; Foley, 29; Kruse, 13; Dw. Pedersen, 39; Thompson, 14.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2003; to create the offense of interference with child visitation; to provide penalties; to harmonize provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 856. Introduced by Vrtiska, 1.

A BILL FOR AN ACT relating to highways; to provide for mowing and hay harvesting permits for right-of-ways; to create a fund; and to provide duties for the Department of Roads.

LEGISLATIVE BILL 857. Introduced by Vrtiska, 1.

A BILL FOR AN ACT relating to property tax; to amend sections 77-1822 and 77-1823, Reissue Revised Statutes of Nebraska; to change tax sale certificate assignment fee and issuance fee for deed or certificate; and to repeal the original sections.

LEGISLATIVE BILL 858. Introduced by Vrtiska, 1.

A BILL FOR AN ACT relating to the Military Code; to amend sections 55-121, 55-125, and 55-126, Reissue Revised Statutes of Nebraska; to change provisions relating to the Adjutant General; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 859. Introduced by Vrtiska, 1; Janssen, 15.

A BILL FOR AN ACT relating to motor vehicles; to provide for Shriner's license plates.

LEGISLATIVE BILL 860. Introduced by Baker, 44.

A BILL FOR AN ACT relating to transportation; to amend sections 30-24,125, 60-484.02, and 60-1901, Revised Statutes Supplement, 2002, and sections 60-139 and 60-301, Revised Statutes Supplement, 2003; to provide for transfer of certificates of title upon death; to define and redefine terms; to provide for limited release of digital images and signatures; to provide for abandoned all-terrain vehicles and minibikes; and to repeal the original sections.

LEGISLATIVE BILL 861. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-364 and 60-462.01, Revised Statutes Supplement, 2003; to require the return of motor vehicle registration certificates and license plates; to provide for enforcement; to adopt portions of the federal Motor Carrier Safety Regulations; and to repeal the original sections.

LEGISLATIVE BILL 862. Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-682.01, Reissue Revised Statutes of Nebraska; to increase fines for speeding; to eliminate double fines in maintenance, repair, and construction zones and school zones; and to repeal the original section.

LEGISLATIVE BILL 863. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicle operators' licenses; to amend sections 60-465 and 60-4,143, Reissue Revised Statutes of Nebraska, sections 60-484.02, 60-490, 60-493, 60-4,113, 60-4,115, 60-4,117, 60-4,119, 60-4,120, 60-4,120.01, 60-4,122, 60-4,126, 60-4,130,

60-4,130.02, 60-4,141, 60-4,150, 60-4,151, 60-4,153, 60-4,180, 60-1515, and 60-2904, Revised Statutes Supplement, 2002, and sections 60-462, 60-462.01, 60-484, 60-4,131, 60-4,132, 60-4,144, and 60-4,168, Revised Statutes Supplement, 2003; to define and redefine terms; to provide fees; to change provisions relating to commercial driver's licenses; to provide for sharing certain information; to provide for cancellation of commercial driver's licenses; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; to outright repeal section 60-484.01, Revised Statutes Supplement, 2002; and to declare an emergency.

LEGISLATIVE BILL 864. Introduced by Mines, 18.

A BILL FOR AN ACT relating to the Nebraska Uniform Trust Code; to amend section 30-3867, Revised Statutes Supplement, 2003; to change provisions relating to trustee duties; and to repeal the original section.

LEGISLATIVE BILL 865. Introduced by Thompson, 14; Aguilar, 35; Brown, 6; Stuthman, 22.

A BILL FOR AN ACT relating to motor vehicles; to amend section 43-1904, Reissue Revised Statutes of Nebraska, sections 43-1906 and 60-315, Revised Statutes Supplement, 2002, and section 60-310, Revised Statutes Supplement, 2003; to provide for child abuse prevention plates; to provide for the distribution of fees; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 866. Introduced by Byars, 30; Brown, 6; Johnson, 37; Price, 26; Schimek, 27; Schrock, 38; Stuhr, 24; Thompson, 14.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,270, Reissue Revised Statutes of Nebraska; to require all occupants in motor vehicles to wear occupant protection systems; and to repeal the original section.

LEGISLATIVE BILL 867. Introduced by Byars, 30; Kremer, 34.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-311.03, Reissue Revised Statutes of Nebraska; to change requirements for Pearl Harbor survivor plates; and to repeal the original section.

LEGISLATIVE BILL 868. Introduced by Redfield, 12; Aguilar, 35; Erdman, 47; Foley, 29; Friend, 10; Hudkins, 21; Quandahl, 31; Smith, 48; Stuhr, 24.

A BILL FOR AN ACT relating to education; to amend sections 79-201 and 79-202, Reissue Revised Statutes of Nebraska; to change provisions relating to truancy; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 869. Introduced by Agriculture Committee: Kremer, 34, Chairperson; Burling, 33; Chambers, 11; Cunningham, 40; Erdman, 47; Mossey, 3; Preister, 5; Vrtiska, 1.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-945.01, 2-953, 2-954, 81-201, and 81-201.05, Reissue Revised Statutes of Nebraska, and section 2-958, Revised Statutes Supplement, 2002; to change noxious weed control provisions; to create a fund; to authorize fund transfers; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 870. Introduced by Brown, 6; Bourne, 8; Mines, 18; Schimek, 27.

A BILL FOR AN ACT relating to merger of governments; to amend section 13-2810, Revised Statutes Supplement, 2002; to change voting requirements; and to repeal the original section.

LEGISLATIVE BILL 871. Introduced by Kruse, 13; Aguilar, 35; Brown, 6; Burling, 33; Combs, 32; Engel, 17; Hudkins, 21; Jones, 43; Kremer, 34; Louden, 49; Mossey, 3; Quandahl, 31; Redfield, 12.

A BILL FOR AN ACT relating to driving under the influence; to amend sections 28-106, 28-306, 60-601, and 60-6,197.01, Revised Statutes Supplement, 2002, and sections 60-4,110 and 60-4,118.06, Revised Statutes Supplement, 2003; to change penalty provisions for Class W misdemeanors and motor vehicle homicide; to require seizure of motor vehicles as prescribed; to change provisions relating to use of an operator's license with an ignition interlock device; to create the offense of aggravated driving under the influence; to provide penalties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 872. Introduced by Kruse, 13; Brown, 6; Burling, 33; Combs, 32; Engel, 17; Foley, 29; Friend, 10; Hudkins, 21; Louden, 49; McDonald, 41; Mines, 18; Mossey, 3; Quandahl, 31; Redfield, 12; Schimek, 27; Smith, 48.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-308, Reissue Revised Statutes of Nebraska; to redefine assault in the first degree; to prohibit assault by AIDS or HIV as prescribed; to provide a penalty; to define terms; and to repeal the original section.

LEGISLATIVE BILL 873. Introduced by Combs, 32.

A BILL FOR AN ACT relating to revenue; to amend sections 77-3501.01, 77-3505.02, and 77-3506.02, Reissue Revised Statutes of Nebraska; to change provisions relating to homestead exemptions; and to repeal the original sections.

LEGISLATIVE BILL 874. Introduced by Mossey, 3; Tyson, 19.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-318, Reissue Revised Statutes of Nebraska; to redefine the term sexual contact for purposes of sexual assault of a child; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 875. Introduced by Mossey, 3; Combs, 32; Cunningham, 40; Erdman, 47.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-4003, Revised Statutes Supplement, 2002; to change provisions relating to the Sex Offender Registration Act; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 876. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to courts; to amend section 24-301.02, Revised Statutes Supplement, 2002; to change the number of district court judges; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 877. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to courts; to amend section 24-301.02, Revised Statutes Supplement, 2002; to change district court judicial districts; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 878. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor carriers; to amend sections 75-363 and 75-364, Reissue Revised Statutes of Nebraska; to adopt updated federal Motor Carrier Safety Regulations and federal Hazardous Material Regulations; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 879. Introduced by Connealy, 16; Baker, 44; Bourne, 8; Hartnett, 45; Janssen, 15.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701, Reissue Revised Statutes of Nebraska; to provide an income tax credit for certain charitable contributions; to provide a termination date; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 880. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Reissue Revised Statutes of Nebraska; to exclude military retirement benefits from income taxation; and to repeal the original section.

LEGISLATIVE BILL 881. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,123, Reissue Revised Statutes of Nebraska; to exempt certain members of the armed forces from income tax; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 882. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to courts; to amend section 25-21,223, Revised Statutes Supplement, 2003; to change service of process provisions in forcible entry and detainer actions; and to repeal the original section.

LEGISLATIVE BILL 883. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to vehicular pursuit; to amend sections 13-911 and 81-8,215.01, Reissue Revised Statutes of Nebraska; to eliminate subrogation and contribution rights for property damages; and to repeal the original sections.

LEGISLATIVE BILL 884. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to bonds; to amend sections 2-1201, 3-103, 8-104, 8-1,101, 9-807, 11-121, 11-201.01, 11-202, 25-2101, 25-21,207, 25-21,218, 32-561, 32-602, 48-158, 48-609, 48-804.03, 53-109, 55-123, 55-126, 55-127, 55-150, 57-917, 60-1502, 71-222.01, 72-1241, 77-366, 77-703, 80-401.02, 81-111, 81-151, 81-8,128, 81-8,141, 81-1108.14, 81-2002, 83-128, 83-139, 84-106, 84-206, 84-314, 84-505, 84-718, and 84-801, Reissue Revised Statutes of Nebraska, sections 8-197, 11-119, 37-110, 37-431, 48-618, 48-721, and 54-191, Revised Statutes Supplement, 2002, and sections 8-105, 11-201, 60-1303, and 84-502, Revised Statutes Supplement, 2003; to authorize the purchase of commercial insurance in lieu of blanket corporate surety bonds for certain state officers and employees; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 885. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to trusts; to amend sections 30-3811, 30-3837, 30-3854, 30-3855, 30-3867, 30-3897, and 30-38,110, Revised Statutes Supplement, 2003; to change provisions relating to the Nebraska Uniform Trust Code; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 886. Introduced by Redfield, 12; Foley, 29; Quandahl, 31.

A BILL FOR AN ACT relating to public funds; to amend section 77-2365.01, Reissue Revised Statutes of Nebraska; to change provisions relating to deposits with certain credit unions; and to repeal the original

section.

LEGISLATIVE BILL 887. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1916, Revised Statutes Supplement, 2002; to change supersedeas appeal bonds to the Court of Appeals or Supreme Court; and to repeal the original section.

LEGISLATIVE BILL 888. Introduced by Friend, 10; Brown, 6; Combs, 32; Connealy, 16; Hartnett, 45; Janssen, 15; Schimek, 27.

A BILL FOR AN ACT relating to energy codes; to amend sections 71-6406, 72-804 to 72-806, 81-1608, 81-1613 to 81-1615, 81-1617, 81-1618, 81-1620, 81-1622, and 81-1625, Reissue Revised Statutes of Nebraska, and sections 81-1609, 81-1611, and 81-1616, Revised Statutes Supplement, 2002; to change and harmonize provisions relating to state and local energy codes and standards; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 889. Introduced by Friend, 10.

A BILL FOR AN ACT relating to animals; to amend sections 54-617 and 71-4406, Reissue Revised Statutes of Nebraska; to exempt police dogs from the definitions of dangerous dog and potentially dangerous dog as prescribed; to define and redefine terms; to change rabies confinement provisions relating to a vaccinated animal owned by a law enforcement or governmental military agency; and to repeal the original sections.

LEGISLATIVE BILL 890. Introduced by Friend, 10.

A BILL FOR AN ACT relating to the Geologists Regulation Act; to amend sections 81-3501, 81-3503, 81-3527, 81-3529, 81-3539, and 81-3540, Reissue Revised Statutes of Nebraska; to provide for enrollment of geologist-interns; to harmonize provisions; to provide an operative date; and to repeal the original sections.

RESOLUTIONS

LEGISLATIVE RESOLUTION 199. Introduced by Byars, 30.

WHEREAS, on October 17, 2003, Beatrice's Lady Orange softball team defeated Ralston 4-0 to win the title of 2003 Class B Nebraska State Softball Champions; and

WHEREAS, this victory is the third state championship title for the Lady O's in the last 4 years; and

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

School.

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

1. That the Legislature congratulates the members of the 2003 Beatrice Lady Orange softball team.
2. That a copy of this resolution be presented to the Lady Orange head coach Jodi DeBoer.

Laid over.

LEGISLATIVE RESOLUTION 200. Introduced by Byars, 30.

WHEREAS, Bob Hohn was diagnosed in 1999 with Amyotrophic Lateral Sclerosis, also known as Lou Gehrig's Disease (ALS), and died on November 27, 2003; and

WHEREAS, Bob was an outstanding football player at Beatrice High School where he earned eleven varsity letters and earned the high school male athlete of the year honors from both the Lincoln Journal Star and the Omaha World-Herald; and

WHEREAS, Bob attended the University of Nebraska-Lincoln where he played football and competed in track. Bob was on the Cornhusker football team from 1962 to 1964, lettering two years, and served as a team captain in his senior year; and

WHEREAS, in 1964 Bob was drafted by the Los Angeles Rams professional football team, but finally went to the Pittsburgh Steelers where he played for five years as a starting cornerback. Bob played in the 1968 Pro Bowl and also played for the Denver Broncos; and

WHEREAS, Bob Hohn was inducted into the Nebraska High School Hall of Fame in 2001, inducted into the Beatrice Educational Foundation Hall of Fame, and, in 2002, was honored at the Beatrice High School homecoming where he was presented with a plaque in recognition of his athletic achievements; and

WHEREAS, in the last few years of his life, Bob worked to educate people about ALS, established the Bob Hohn Foundation to raise funds to help other ALS patients.

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

1. That the Legislature extends its sympathies to Bob Hohn's wife Sandy, his daughter Jenny McMann, and son Jeff Hohn.
2. That a copy of this resolution to sent to the family of Bob Hohn.

Laid over.

LEGISLATIVE RESOLUTION 201. Introduced by Jones, 43.

WHEREAS, Mullen High School won the 2003 Class D-2 eight-man football state championship on November 20, 2003; and

WHEREAS, second-ranked Mullen defeated sixth-ranked Lindsay Holy Family High School to win the 2003 championship; and

WHEREAS, Mullen won the 2003 championship game by a score of 30-12; and

WHEREAS, the 2003 championship is the result of hard work and dedication on the part of players and coaches of the Mullen High School football team.

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

1. That the Legislature congratulates the Mullen High School football team on winning the 2003 Class D-2 eight-man football state championship.

2. That a copy of this resolution be sent to the Mullen High School football team and Coach Mike Brown.

Laid over.

LEGISLATIVE RESOLUTION 202. Introduced by Smith, 48; Baker, 44; Brown, 6.

WHEREAS, the motoring public in this state pays a federal fuel tax of 18.4 cents per gallon, and Congress has recently considered raising that tax by 5.4 cents per gallon, an increase of almost one-third, with ongoing increases by indexation thereafter; and

WHEREAS, for nearly half a century the federal fuel tax has supported the Federal Highway Administration, which was formed in 1956 to build the interstate highway system and had successfully completed that mission by the mid-1980's; and

WHEREAS, most of the transportation problems that confront travelers today are local or regional, and state and local governments can respond to them more effectively than distant bureaucracies; and

WHEREAS, a growing share of the federal fuel tax is diverted to purposes other than highways and roads, including urban mass transit, ferry boats, commuter rail, historic renovation, hiking trails, landscaping, covered bridges, scenic byways, and Appalachian redevelopment, which benefit narrow yet influential constituencies at the expense of the motoring public; and

WHEREAS, the federal government often threatens to withhold a state's share of federal highway money in order to force the state to comply with a variety of federal mandates, including clean air and safety standards, law enforcement, and union contracts; and

WHEREAS, the federal management of highway funding results in a subsidy to wealthier states and slower growing states at the expense of less affluent states and fast growing states with greater transportation needs; and

WHEREAS, "turnback" legislation giving each state full control of the federal fuel tax revenue collected in that state has been proposed in several past sessions of Congress, and has now again been introduced as HR-3113,

the Transportation Empowerment Act.

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

1. That the Congress of the United States enact legislation that would return to the states full responsibility to formulate and implement their own surface transportation priorities by allowing each state to retain the revenue from the 18.4 cents per gallon federal fuel tax that is collected within its borders.

2. That a copy of this resolution be sent to the President of the United States, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, the Speaker of the House and the President of the Senate of each state's legislature, and each member of the Nebraska Congressional delegation.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR 202 was referred to the Reference Committee.

PROPOSED RULES CHANGES

The Rules Committee offered the following proposed rules changes:

Rule 3, Sec. 5. Special Committees. (a) Special committees shall include all authorized committees other than standing and select committees. Unless otherwise specifically provided, special committees shall not have jurisdiction over legislative bills, but shall be subject to the same procedural rules as standing committees, insofar as they are applicable.

(b) The special committees authorized by statute as of January 1, 1980 are as follows:

Building Maintenance. RRS 81-185	6 members
Education Commission of the States. RRS 79-1504	3 members
Executive Board of the Legislative Council. RRS 50-401.01	9 members
Intergovernmental Cooperation. RRS 81-816	5 members
Legislative Program Evaluation. RRS 50-1204	5 members
<u>Legislative Performance Audit. RRS 50-1204</u>	<u>7 members</u>

(c) The following special provisions shall be in force with regard to the following special committees:

(i) Intergovernmental Cooperation Committee.

In addition to the members of the Intergovernmental Cooperation Committee chosen in accordance with Section 81-816, the Executive Board may appoint temporary members to serve on such assignments as the chairperson shall direct.

(ii) The Executive Board is authorized to exercise jurisdiction over legislative bills and resolutions and hold hearings regarding such legislation when the issue presented by the legislative bill or resolution is one of general import to the Legislature and its operations as a whole. Such legislative hearings shall comply with the provisions in Rule 3, Sec. 13.

(iii) The Legislative ~~Program Evaluation~~ Performance Audit Committee is authorized to hold hearings, at the committee's discretion, to receive testimony regarding topics it has selected for review. Such hearings shall comply with the provisions in Rule 3, Sec. 13.

Rule 5, Sec. 5. Scheduling of Bills, Priority Bills. (a) Each senator may designate one bill as a priority bill. Such priority bill need not be the designator's bill, but the principal introducer must concur with the designation as a priority bill and with the withdrawal of the designation once made.

(b) Each chairperson of those committees which are authorized to hold public hearings on bills may designate as priority bills two of the bills referenced to that committee and on which the committee has held a public hearing, but the principal introducer must concur with the designation as a priority bill and with the withdrawal of the designation once made.

(c) The Legislative Performance Audit Committee may designate as priority bills two bills introduced by the committee or any senator as a result of a performance audit, but the principal introducer must concur with the designation as a priority bill and with the withdrawal of the designation once made.

(e) (d) The Speaker may designate up to 25 additional priority bills.

~~(d)~~ (e) Priority bill designations may be made at any time prior to the annual designation deadline which shall be set each year by the Speaker. The designation deadline shall be prior to the 45th legislative day in the ninety day session and prior to the 30th legislative day in the sixty day session.

~~(e)~~ (f) A senator or committee may withdraw a priority designation at any time, but will not be allowed to designate another bill as a priority bill in its place. The Speaker may withdraw a priority designation made by the Speaker.

~~(f)~~ (g) All committees shall schedule priority bills for public hearing ahead of all unscheduled, nonpriority bills unless the person or committee making the priority designation shall otherwise agree.

~~(g)~~ (h) All bills not designated as priority bills shall be heard on General File in the order in which they are reported to the floor by the committees, unless the introducer of the bill and the Speaker agree to delay the hearing of a particular bill. This provision shall not be construed to prevent the Speaker from placing bills reported out of committee with no dissenting votes on a consent calendar.

~~(h)~~ (i) Priority bills shall generally be considered ahead of all other bills at each stage of debate, except as provided for in Rule 1, Section 17. Priority bills requiring the expenditure of appropriated funds shall be held on Final Reading until such time as the annual appropriations bills have been passed. A priority bill which fails to advance after two votes on General File, or after one vote on Select File, shall return to nonpriority status.

~~(i)~~ (j) No priority bill designated under this rule shall have priority over appropriations bills.

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 439:
AM2131

(Amendments to Second Final Reading copy)

- 1 1. Strike sections 15 and 16 and insert the following
- 2 new sections:
- 3 "Sec. 15. Section 81-188.01, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 81-188.01. (1) The State Building Renewal Assessment
- 6 Fund is created. The fund shall be under the control of the
- 7 Governor for allocation to building renewal projects of the various
- 8 agencies and shall be administered in a manner consistent with the
- 9 administration of the Building Renewal Allocation Fund pursuant to
- 10 the Deferred Building Renewal Act. No amounts accruing to the
- 11 State Building Renewal Assessment Fund shall be expended in any
- 12 manner for purposes other than as provided in this section or as
- 13 appropriated by the Legislature to meet the cost of administering
- 14 the act.
- 15 (2) Revenue credited to the fund shall include amounts
- 16 derived from charges assessed pursuant to subdivision ~~(6)(b)~~ (4)(b)
- 17 of section 81-1108.17, depreciation charges remitted pursuant to
- 18 section 81-188.02, and such other revenue as may be incident to the
- 19 administration of the fund.
- 20 (3) Amounts appropriated from the fund shall be expended
- 21 to conduct renewal work as defined in section 81-173 and to
- 22 complete other improvements incident to such renewal work as deemed
- 23 necessary or appropriate by the task force. From amounts accruing
- 1 to the fund as the result of depreciation charges assessed pursuant
- 2 to subdivision ~~(6)(b)~~ (4)(b) of section 81-1108.17, expenditures
- 3 for capital improvements shall be limited to improvements to only

4 those facilities for which such charges have been assessed and
5 remitted. From amounts accruing to the fund as the result of
6 depreciation charges assessed pursuant to section 81-188.02,
7 expenditures for capital improvement projects shall be limited to
8 exclude (a) capital improvement projects relating to facilities,
9 structures, or buildings owned, leased, or operated by the (i)
10 University of Nebraska, (ii) Nebraska state colleges, (iii)
11 Department of Aeronautics, (iv) Department of Roads, (v) Game and
12 Parks Commission, or (vi) Board of Educational Lands and Funds and
13 (b) capital improvement projects relating to facilities,
14 structures, or buildings for which depreciation charges are
15 assessed pursuant to subdivision ~~(6)(b)~~ (4)(b) of section
16 81-1108.17. For each fiscal year, task force allocations from
17 amounts accruing to the fund pursuant to section 81-188.02 shall
18 not exceed the total of such revenue credited to the fund in the
19 preceding fiscal year, except that if no revenue from depreciation
20 charge assessments was credited to the fund in the preceding fiscal
21 year, allocations shall not exceed fifty percent of revenue
22 credited to the fund in the last preceding fiscal year in which
23 depreciation charge assessments were credited to the fund.
24 (4) Any money in the fund available for investment shall
25 be invested by the state investment officer pursuant to the
26 Nebraska Capital Expansion Act and the Nebraska State Funds
27 Investment Act.

1 (5) The State Treasurer shall transfer one million nine
2 hundred forty-seven thousand one hundred dollars from the State
3 Building Renewal Assessment Fund to the Nebraska Capital
4 Construction Fund within five days after January 1, 2003.

5 (6) The State Treasurer shall transfer one million nine
6 hundred forty-seven thousand one hundred dollars from the State
7 Building Renewal Assessment Fund to the Nebraska Capital
8 Construction Fund within five days after May 1, 2003.

9 Sec. 16. Section 81-188.02, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 81-188.02. (1) For purposes of this section, capital
12 improvement project means (a) construction of a new facility,
13 structure, or building, (b) construction of additions to an
14 existing facility, structure, or building, (c) renovation of an
15 existing facility, structure, or building if the total project cost
16 of such renovation represents not less than fifteen percent of the
17 value of the existing facility, structure, or building as
18 determined by the Department of Administrative Services, (d)
19 purchase of an existing facility, structure, or building, and (e)
20 acquisition of a facility, structure, or building through means of
21 conveyance other than sale and purchase.

22 (2) Beginning with the fiscal year that commences
23 subsequent to the calendar year in which has occurred substantial
24 completion of a capital improvement project as defined in
25 subdivisions (1)(a) through (1)(c) of this section or acquisition

26 of a capital improvement project as defined in subdivisions (1)(d)
27 and (1)(e) of this section, the department shall assess a capital
1 improvement depreciation charge to the agency maintaining ownership
2 or control of the related facility, structure, or building and
3 shall assess such charge for each fiscal year thereafter, except
4 that no depreciation charges shall be assessed or paid pursuant to
5 this section for the period beginning July 1, 2003, and ending June
6 30, 2004, and depreciation charges in the amount of one-half of the
7 amount otherwise assessed pursuant to this section shall be
8 assessed and paid for the period beginning July 1, 2004, and ending
9 June 30, 2005.

10 (3) The annual depreciation charge for a capital
11 improvement project as defined in subdivisions (1)(a) through
12 (1)(c) of this section shall be computed as two percent of the
13 total project cost of the capital improvement project. The annual
14 depreciation charge for a capital improvement project as defined in
15 subdivision (1)(d) of this section shall be computed as two percent
16 of the greater of the purchase price or the value, as determined by
17 the department, of the capital improvement project at the time of
18 acquisition. The annual depreciation charge for a capital
19 improvement project as defined in subdivision (1)(e) of this
20 section shall be computed as two percent of the value, as
21 determined by the department, of the capital improvement project at
22 the time of acquisition. The department may assess the charge
23 annually or in monthly, quarterly, or semiannual installments.

24 (4) Depreciation charges shall not be assessed pursuant
25 to this section for capital improvement projects relating to
26 facilities, structures, or buildings owned, leased, or operated by
27 the: (i) University of Nebraska; (ii) Nebraska state colleges;
1 (iii) Department of Aeronautics; (iv) Department of Roads; (v) Game
2 and Parks Commission; or (vi) Board of Educational Lands and Funds
3 or to other buildings or grounds owned, leased, or operated by the
4 State of Nebraska which are specifically exempted by the Department
5 of Administrative Services because the assessment of such
6 depreciation charges would result in the ineligibility for federal
7 funding or would result in hardship on an agency, board, or
8 commission due to other exceptional or unusual circumstances.
9 Depreciation charges shall not be assessed pursuant to this section
10 for capital improvement projects relating to facilities,
11 structures, or buildings of which the department is custodian
12 pursuant to section 81-1108.17 and for which charges are assessed
13 pursuant to subdivision ~~(6)(b)~~ (4)(b) of such section.

14 (5) Payment of depreciation charges assessed pursuant to
15 this section shall be remitted to the State Treasurer for credit to
16 the State Building Renewal Assessment Fund or the Capitol
17 Restoration Cash Fund."

18 2. On page 1, line 1, after "sections" insert
19 "81-188.01, 81-188.02,"; and in line 6 strike "81-188.01,
20 81-188.02, 81-1108," and insert "81-1108".

- 21 3. On page 12, line 1, strike "2003" and insert "2004".
 22 4. On page 38, line 1, strike "2004" and insert "2005";
 23 in line 3 strike "2005" and insert "2006"; and in line 4 strike
 24 "2006" and insert "2007".
 25 5. On page 45, line 27, strike "2003" and insert "2004".
 26 6. On page 46, line 1, after "sections" insert
 27 "81-188.01, 81-188.02,"; and in line 4 strike "sections 81-188.01,
 1 81-188.02, and" and insert "section".

Senator Beutler filed the following amendment to LB 439A:
 AM2133

(Amendments to Final Reading copy)

- 1 1. Strike the original sections and insert the following
 2 new sections:
 3 "Section 1. There is hereby appropriated (1) \$359,255
 4 from the General Fund and \$698,023 from the Nebraska State Patrol
 5 Cash Fund for FY2004-05 and (2) \$359,255 from the General Fund and
 6 \$698,023 from the Nebraska State Patrol Cash Fund for FY2005-06 to
 7 the Nebraska State Patrol, for Program 630, to aid in carrying out
 8 the provisions of Legislative Bill 439, Ninety-eighth Legislature,
 9 Second Session, 2004.
 10 Total expenditures for permanent and temporary salaries
 11 and per diems from funds appropriated in this section shall not
 12 exceed \$578,649 for FY2004-05 or \$592,168 for FY2005-06.
 13 Sec. 2. There is hereby appropriated (1) \$3,208,330 from
 14 the General Fund and \$17,250 from the Capitol Restoration Cash Fund
 15 for FY2004-05 and (2) \$3,326,183 from the General Fund and \$17,250
 16 from the Capitol Restoration Cash Fund for FY2005-06 to the Office
 17 of the Nebraska Capitol Commission, for Program 685, to aid in
 18 carrying out the provisions of Legislative Bill 439, Ninety-eighth
 19 Legislature, Second Session, 2004.
 20 Total expenditures for permanent and temporary salaries
 21 and per diems from funds appropriated in this section shall not
 22 exceed \$978,668 for FY2004-05 or \$999,724 for FY2005-06.
 23 Sec. 3. The General Fund appropriation to the Department
 1 of Administrative Services, for Program 560, is reduced by
 2 \$3,567,585 and the Revolving Fund appropriation to the Department
 3 of Administrative Services, for Program 560, is reduced by \$646,689
 4 for FY2004-05, to aid in carrying out the provisions of Legislative
 5 Bill 439, Ninety-eighth Legislature, Second Session, 2004. The
 6 General Fund appropriation to the Department of Administrative
 7 Services, for Program 560, is reduced by \$3,685,438 and the
 8 Revolving Fund appropriation to the Department of Administrative
 9 Services, for Program 560, is reduced by \$646,689 for FY2005-06, to
 10 aid in carrying out the provisions of Legislative Bill 439,
 11 Ninety-eighth Legislature, Second Session, 2004.
 12 The limitation on total expenditures for permanent and
 13 temporary salaries and per diems for FY2004-05 for the Department
 14 of Administrative Services, for Program 560, is hereby reduced by

15 \$1,497,317. The limitation on total expenditures for permanent and
16 temporary salaries and per diems for FY2005-06 for the Department
17 of Administrative Services, for Program 560, is hereby reduced by
18 \$1,530,692.

19 Sec. 4. Since an emergency exists, this act takes effect
20 when passed and approved according to law."

Senator Landis filed the following amendment to LB 355:
AM2162

1 1. Strike the original sections and all amendments
2 thereto and insert the following sections:
3 "Section 1. Section 77-2716.01, Reissue Revised Statutes
4 of Nebraska, is amended to read:
5 77-2716.01. (1) Every individual shall be allowed to
6 subtract from his or her income tax liability an amount for
7 personal exemptions. The amount allowed to be subtracted shall be
8 the credit amount for the year as provided in this section
9 multiplied by the number of exemptions allowed on the federal
10 return. For tax year 1993, the credit amount shall be sixty-five
11 dollars; for tax year 1994, the credit amount shall be sixty-nine
12 dollars; for tax year 1995, the credit amount shall be sixty-nine
13 dollars; for tax year 1996, the credit amount shall be seventy-two
14 dollars; for tax year 1997, the credit amount shall be eighty-six
15 dollars; for tax year 1998, the credit amount shall be eighty-eight
16 dollars; for tax year 1999, and each year thereafter, the credit
17 amount shall be adjusted for inflation by the method provided in
18 section 151 of the Internal Revenue Code of 1986, as amended. The
19 eighty-eight-dollar credit amount shall be adjusted for cumulative
20 inflation since 1998. If any credit amount is not an even dollar
21 amount, the amount shall be rounded to the nearest dollar. The
22 amount allowed for each personal exemption shall be reduced, but
23 not below zero, by five dollars for each five thousand dollars, or
24 portion thereof, that federal adjusted gross income exceeds ninety
1 thousand dollars for married filing joint returns, fifty-four
2 thousand dollars for single returns, seventy-five thousand dollars
3 for head-of-household returns, and for married filing separate
4 returns, one-half the amount stated in this subsection for married
5 filing joint returns. For nonresident individuals and partial-year
6 resident individuals, the personal exemption credit shall be
7 subtracted as specified in subsection (3) of section 77-2715. For
8 tax year 1994 and each tax year thereafter, the income levels
9 stated in this subsection shall be adjusted for inflation by the
10 method provided in section 151 of the Internal Revenue Code of
11 1986, as amended. If any income level in this subsection is not a
12 multiple of one thousand dollars, the amount shall be rounded to
13 the next highest multiple of one thousand dollars.
14 (2)(a) For tax years beginning or deemed to begin before
15 January 1, 2003, under the Internal Revenue Code of 1986, as
16 amended, every individual who did not itemize deductions on his or

17 her federal return shall be allowed to subtract from federal
18 adjusted gross income a standard deduction equal to the federal
19 standard deduction for the filing status used on the federal return
20 except as the amount is adjusted under section 77-2716.03.

21 (b) For tax years beginning or deemed to begin on or
22 after January 1, 2003, and before January 1, 2004, under the
23 Internal Revenue Code of 1986, as amended, every individual who did
24 not itemize deductions on his or her federal return shall be
25 allowed to subtract from federal adjusted gross income a standard
26 deduction based on the filing status used on the federal return
27 except as the amount is adjusted under section 77-2716.03. The

1 standard deduction shall be the smaller of the federal standard
2 deduction actually allowed or (i) for single taxpayers four
3 thousand seven hundred fifty dollars, (ii) for head of household
4 taxpayers seven thousand dollars, (iii) for married filing jointly
5 taxpayers seven thousand nine hundred fifty dollars, and (iv) for
6 married filing separately taxpayers three thousand nine hundred
7 seventy-five dollars. Taxpayers who are allowed additional federal
8 standard deduction amounts because of age or blindness shall be
9 allowed an increase in the Nebraska standard deduction for each
10 additional amount allowed on the federal return. The additional
11 amounts shall be for married taxpayers, nine hundred fifty dollars,
12 and for single or head of household taxpayers, one thousand one
13 hundred fifty dollars.

14 (c) For tax years beginning or deemed to begin on or
15 after January 1, 2004, the standard deduction amounts, including
16 the additional standard deduction amounts, in subdivision (2)(b) of
17 this section shall be adjusted for inflation by the method provided
18 in section 151 of the Internal Revenue Code of 1986, as amended.
19 If any amount is not a multiple of ten dollars, the amount shall be
20 rounded to the next highest multiple of ten dollars except that the
21 standard deduction for the married filing separately taxpayers may
22 be a multiple of five dollars.

23 (3) Every individual who itemized deductions on his or
24 her federal return shall be allowed to subtract from federal
25 adjusted gross income the greater of either the standard deduction
26 allowed in subsection (2) of this section or the amount before the
27 federal disallowance of his or her federal itemized deductions,
1 except for the amount deducted on the federal return for state or
2 local income taxes paid and the amount of any adjustment required
3 under section 77-2716.03.

4 Sec. 2. This act is operative for all taxable years
5 beginning or deemed to begin on or after January 1, 2003, under the
6 Internal Revenue Code of 1986, as amended.

7 Sec. 3. Original section 77-2716.01, Reissue Revised
8 Statutes of Nebraska, is repealed.

9 Sec. 4. Since an emergency exists, this act takes effect
10 when passed and approved according to law."

Senator Kruse filed the following amendment to LB 208:
(Amendment, AM2144, is printed separately and available in the Bill Room,
Room 1104.)

ANNOUNCEMENT

Senator Baker announced the Transportation and Telecommunications
Committee will hold an executive session Thursday, January 8, 2004, at
9:00 a.m., in Room 1113.

WITHDRAW - Cointroducer

Senator Price withdrew her name as cointroducer to LB 602.

VISITORS

The Doctor of the Day was Dr. Ronald Klutman from Columbus.

ADJOURNMENT

At 11:42 a.m., on a motion by Speaker Bromm, the Legislature adjourned
until 10:00 a.m., Thursday, January 8, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

SECOND DAY - JANUARY 8, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, January 8, 2004

PRAYER

The prayer was offered by Pastor Christopher Lake, Prince of Peace Lutheran Church, Geneva.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Heineman presiding.

The roll was called and all members were present except Senators Bourne, Hartnett, Jensen, and Landis who were excused; and Senators Beutler and Preister who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the first day was approved.

MOTION - Adopt Temporary Rules

Senator Hudkins moved that the rules, as now in our possession, be adopted for today only, Thursday, January 8, 2004.

The motion prevailed.

RESOLUTION

LEGISLATIVE RESOLUTION 203. Introduced by Bromm, 23.

WHEREAS, the Nebraska Legislature is coordinating Nebraska's participation in the Teaching Democracy Appreciation project, an effort to develop a civic education curriculum that will assist teachers in providing instruction about the importance and relevance of representative democracy; and

WHEREAS, Nebraska is one of just three states, along with New Jersey and Ohio, chosen to participate in the initial phases of the Teaching Democracy Appreciation project; and

WHEREAS, the following teachers have been selected to participate in the Teaching Democracy Appreciation project: Chad Bailey of Holdrege High School, Michael Barrett of Weeping Water High School, Tim Bayne of Lincoln East High School, Audrey Blaser of Columbus Lakeview High School, Gene Dorn of Bellevue West High School, Roy Ferris of Valentine Rural High School, N. Dennis Fornander of North Platte High School, Mary Gould-Traphagan of Crawford High School, Dave Haar of Millard West High School, H. L. "Jack" Hanger of Fremont High School, Fred Kluck of Bruning-Davenport High School, Nancy Knapp of Westside High School, Keith Kucera of Elm Creek High School, Andy Long of South Platte High School, Chad Mattox of Crete High School, Sue McNeil of Loup County High School, Ken Meyers of Wilcox/Hildreth Public School, Mark Mueller of Columbus High School, Patricia O'Malley of Sutherland High School, Bernie Peters of Lincoln Northeast High School, Dave Rosenbaum of Tri-County Junior-Senior High School, John Schwartz of Bellevue West High School, and Lynn Sill of West Point High School; and

WHEREAS, this group of distinguished and motivated teachers will assist Dr. Alan Rosenthal, a professor at the Eagleton Institute of Politics at Rutgers University, in developing a new civic education curriculum for high school students; and

WHEREAS, the Nebraska Legislature is committed to helping teachers and students improve the level of civic education and engagement in our state.

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

1. That the Legislature congratulates these outstanding educators for their selection to this program and commends them for their dedication to the students of Nebraska and civic education.

2. That a copy of this resolution be provided to each participating teacher.

Laid over.

ANNOUNCEMENT

The Chair announced today is Senator Kremer's birthday.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 891. Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to civil procedure; to amend sections 25-1301.01 and 25-2719, Revised Statutes Supplement, 2002; to change notice of judgment procedures; and to repeal the original sections.

LEGISLATIVE BILL 892. Introduced by Stuthman, 22; Aguilar, 35; Bourne, 8; Burling, 33; Combs, 32; Cunningham, 40; Erdman, 47; Foley,

29; Friend, 10; Jones, 43; Kremer, 34; Louden, 49; Maxwell, 9; McDonald, 41; Dw. Pedersen, 39; Smith, 48; Synowiecki, 7; Tyson, 19.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.16 and 77-2704.55, Reissue Revised Statutes of Nebraska; to exempt construction labor and services from sales taxation; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 893. Introduced by Vrtiska, 1.

A BILL FOR AN ACT relating to employment security law; to amend section 48-602, Revised Statutes Supplement, 2002; to change the maximum taxable wage base as prescribed; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 894. Introduced by Byars, 30.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend sections 60-6,265 and 60-6,272, Reissue Revised Statutes of Nebraska, and section 60-4,182, Revised Statutes Supplement, 2002; to authorize enforcement of occupant protection system requirements as a primary action; to eliminate an evidentiary provision; to provide for court costs; to prohibit searches as prescribed; to harmonize provisions; to repeal the original sections; and to outright repeal sections 60-6,271 and 60-6,273, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 895. Introduced by Schrock, 38; Stuhr, 24.

A BILL FOR AN ACT relating to natural resources districts; to amend sections 2-3225 and 77-3442, Reissue Revised Statutes of Nebraska, and section 13-520, Revised Statutes Supplement, 2002; to change provisions relating to taxation and budget limitations as prescribed; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 896. Introduced by Erdman, 47; Synowiecki, 7.

A BILL FOR AN ACT relating to education; to amend sections 43-2007, 77-2704.12, and 79-1603 to 79-1607, Reissue Revised Statutes of Nebraska; to provide for part-time enrollment and for participation by exempt students in public school courses and activities; to provide duties for school boards; to provide penalties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 897. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to the Legislature; to create the State-Tribal Relations Committee.

LEGISLATIVE BILL 898. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1409, 49-1419, 49-1420, 49-1446, 49-1446.02 to 49-1446.04, 49-1469.01 to 49-1469.03, 49-1480.01, 49-1481, 49-1486, 49-1497, 49-14,102, 49-14,103, 49-14,103.03, 49-14,103.04, 49-14,104, 49-14,112, 49-14,115, 49-14,120, 49-14,127, 49-14,132, 49-14,135 to 49-14,139, and 50-114.05, Reissue Revised Statutes of Nebraska, and sections 32-1603, 49-1401, 49-1413, 49-1445, 49-1446.01, 49-1446.06, 49-1447, 49-1453, 49-1458, 49-1461.01, 49-1463.01, 49-1467, 49-1469, 49-1469.04, 49-1479.01, 49-1483, 49-1488.01, 49-1494, 49-1496, 49-1499 to 49-1499.04, 49-14,101.01, 49-14,101.02, 49-14,103.01, 49-14,103.02, 49-14,123, 49-14,124, and 49-14,125, Revised Statutes Supplement, 2002; to change, transfer, and repeal provisions relating to political accountability and disclosure; to repeal obsolete provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 49-1483.01, 49-14,123.02, and 49-14,130, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 899. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to bridge and road construction; to amend section 39-810, Reissue Revised Statutes of Nebraska; to change bidding requirements; and to repeal the original section.

LEGISLATIVE BILL 900. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to motor vehicle fuel tax; to amend sections 66-4,124 and 66-4,128, Reissue Revised Statutes of Nebraska; to change provisions relating to motor vehicle fuel tax; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 901. Introduced by Brown, 6.

A BILL FOR AN ACT relating to computers; to amend sections 28-1341 to 28-1343, Reissue Revised Statutes of Nebraska; to change provisions relating to computer crimes; to prohibit acts relating to computer fraud and commercial electronic mail messages; to authorize civil actions; to provide for seizure and forfeiture of property; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 902. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to the Auditor of Public Accounts; to amend section 84-311, Reissue Revised Statutes of Nebraska; to change provisions relating to disclosure of working papers and audit files; and to repeal the original section.

LEGISLATIVE BILL 903. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to cities of the second class and villages; to amend section 17-414, Reissue Revised Statutes of Nebraska; to change provisions relating to detachment of territory within city or village limits; and to repeal the original section.

LEGISLATIVE BILL 904. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to education funding; to amend sections 79-761, 79-8,136, 79-1018.01, and 79-1108, Reissue Revised Statutes of Nebraska, and section 9-812, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to allocation of state lottery funds; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 905. Introduced by Stuhr, 24; Vrtiska, 1; Wehrbein, 2.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-1315, 77-1315.01, 77-1338, 77-1344, 77-1355, 77-1514, 77-5024.01, and 77-5028, Reissue Revised Statutes of Nebraska, and section 13-509, Revised Statutes Supplement, 2002; to eliminate agricultural and horticultural land valuation boards and land manual areas; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 77-1378 to 77-1384, 77-5024, and 77-5025, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 906. Introduced by Stuhr, 24; Combs, 32; Foley, 29; Hudkins, 21; Kruse, 13; McDonald, 41; Price, 26; Schimek, 27.

A BILL FOR AN ACT relating to body art; to amend sections 71-110.01, 71-162, 71-340 to 71-343, 71-364, 71-376, 71-377, 71-386, 71-396, 71-397, 71-398, 71-3,100, 71-3,104, 71-3,105, 71-3,106, 71-3,169, 71-3,170, 71-3,174, 71-3,177, and 71-3,179, Reissue Revised Statutes of Nebraska; to provide for licensure and regulation of body branding, body piercing, permanent color technology, and tattooing; to provide a penalty; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 907. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-311.10, Reissue Revised Statutes of Nebraska, and section 60-311.23, Revised Statutes Supplement, 2002; to authorize personalized message license plates and Nebraska Cornhusker Spirit Plates for certain trucks; and to repeal the original sections.

LEGISLATIVE BILL 908. Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to

amend section 60-6,187, Reissue Revised Statutes of Nebraska; to eliminate special speed limits for school buses; and to repeal the original section.

LEGISLATIVE BILL 909. Introduced by Baker, 44.

A BILL FOR AN ACT relating to health and human services; to amend section 75-304.01, Reissue Revised Statutes of Nebraska; to provide exemptions from rate setting procedures of the Public Service Commission; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 910. Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Nebraska Railway Council; to amend section 74-1413, Reissue Revised Statutes of Nebraska; to provide for payment of per diems and expenses through the Department of Roads; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 911. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-529, Revised Statutes Supplement, 2002; to change provisions relating to proof of financial responsibility; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 912. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 39-2401, 77-1342, and 79-1018.01, Reissue Revised Statutes of Nebraska, and sections 13-518 and 60-360, Revised Statutes Supplement, 2003; to change distribution and allocation of certain motor vehicle registration fees; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 913. Introduced by Cudaback, 36; Janssen, 15; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to state government; to amend sections 81-1316 and 81-1373, Revised Statutes Supplement, 2003; to exempt the State Electrical Division from the State Personnel System; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 914. Introduced by Cudaback, 36; Bourne, 8; Janssen, 15; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to the State Electrical Act; to amend sections 81-2109, 81-2121, and 81-2124, Reissue Revised Statutes of Nebraska, and sections 81-2102, 81-2108, 81-2113, and 81-2118, Revised Statutes Supplement, 2003; to change provisions relating to residential

journeyman electricians and electrical installations; to provide fees; to define and redefine terms; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 915. Introduced by Aguilar, 35.

A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend section 84-902, Reissue Revised Statutes of Nebraska; to change provisions relating to filings by state agencies; and to repeal the original section.

LEGISLATIVE BILL 916. Introduced by Schrock, 38; Friend, 10; Hudkins, 21; Jones, 43; Kremer, 34; Louden, 49; Stuhr, 24.

A BILL FOR AN ACT relating to environmental protection; to amend sections 54-2414 and 81-1506, Reissue Revised Statutes of Nebraska, sections 54-744.01, 54-2402, 54-2404, 54-2404.02, 54-2406, 54-2408, 54-2411, 54-2413, and 81-15,149, Revised Statutes Supplement, 2002, and sections 54-2401, 54-2412, and 54-2415, Revised Statutes Supplement, 2003; to change and eliminate provisions of the Livestock Waste Management Act; to harmonize provisions; to repeal the original sections; to provide an operative date; and to outright repeal sections 54-2405 and 54-2410, Reissue Revised Statutes of Nebraska, and sections 54-2403, 54-2407, and 54-2409, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 917. Introduced by Wehrbein, 2; Louden, 49.

A BILL FOR AN ACT relating to the Nebraska Forest Service; to provide for acknowledgement, administration, and core programs; and to provide intent relating to appropriations.

LEGISLATIVE BILL 918. Introduced by Cunningham, 40; Connealy, 16; Cudaback, 36; Jones, 43; Kremer, 34; McDonald, 41; Schrock, 38; Stuhr, 24; Stuthman, 22; Vrtiska, 1; Wehrbein, 2.

A BILL FOR AN ACT relating to motor fuel; to prohibit certain acts relating to biodiesel fuel.

LEGISLATIVE BILL 919. Introduced by Janssen, 15; Vrtiska, 1.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-6,288 to 60-6,290, and 60-6,294, Revised Statutes Supplement, 2002; to provide an exception from width, height, length, weight, and load restrictions for authorized emergency vehicles and similar vehicles; to repeal the original sections; and to declare an emergency.

EASE

The Legislature was at ease from 10:36 a.m. until 11:09 a.m.

SENATOR CUDABACK PRESIDING**BILLS ON FIRST READING**

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

LEGISLATIVE BILL 920. Introduced by Combs, 32; Byars, 30; Kruse, 13; Dw. Pedersen, 39; Price, 26; Schimek, 27; Schrock, 38; Stuhr, 24; Synowiecki, 7; Thompson, 14.

A BILL FOR AN ACT relating to insurance; to amend sections 44-791 to 44-795, Revised Statutes Supplement, 2002; to change provisions relating to coverage for mental health conditions; to provide a penalty; to provide duties for the Director of Insurance; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 921. Introduced by Burling, 33.

A BILL FOR AN ACT relating to adoption; to amend section 43-146.17, Revised Statutes Supplement, 2002; to change provisions relating to access to information; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 922. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-201, 77-202, 77-1343, and 79-1016, Reissue Revised Statutes of Nebraska; to exempt agricultural personal property from property taxation; to change valuation of agricultural and horticultural land; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 923. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to environmental protection; to amend sections 81-15,181 to 81-15,186, Reissue Revised Statutes of Nebraska; to change provisions of the Remedial Action Plan Monitoring Act; and to repeal the original sections.

LEGISLATIVE BILL 924. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-110, Revised Statutes Supplement, 2002; to change provisions relating to liens; and to repeal the original section.

LEGISLATIVE BILL 925. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-2404 and 60-2410, Reissue Revised Statutes of Nebraska; to change provisions relating to towing; and to repeal the original sections.

LEGISLATIVE BILL 926. Introduced by Mossey, 3; Combs, 32; Price, 26; Quandahl, 31.

A BILL FOR AN ACT relating to law enforcement; to amend section 18-1723, Reissue Revised Statutes of Nebraska; to provide a rebuttable presumption for certain deaths and disabilities as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 927. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to municipal elections; to amend section 32-404, Reissue Revised Statutes of Nebraska; to eliminate municipal election laws applicable to certain municipalities; to harmonize provisions; to repeal the original section; and to outright repeal sections 19-3001 to 19-3003, 19-3005, 19-3006, 19-3007.01, 19-3011 to 19-3032, 19-3034, 19-3037, and 19-3040 to 19-3050, Reissue Revised Statutes of Nebraska, and section 19-3051, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 928. Introduced by Friend, 10.

A BILL FOR AN ACT relating to law enforcement; to amend section 81-1403, Reissue Revised Statutes of Nebraska; to change revocation and suspension procedures for law enforcement certificates; and to repeal the original section.

LEGISLATIVE BILL 929. Introduced by Cunningham, 40.

A BILL FOR AN ACT relating to pharmacy; to amend sections 71-1,142, 71-1,143.01, 71-1,146, and 71-1,147.33, Reissue Revised Statutes of Nebraska, and section 28-414, Revised Statutes Supplement, 2002; to change provisions relating to destruction of controlled substances, pharmacy internships, and scope of practice of pharmacy-related personnel; to harmonize provisions relating to internship requirements and pharmacist licensure; to change a council name relating to accreditation; and to repeal the original sections.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB 810	General File
LB 811	General File

LB 812	General File
LB 813	General File
LB 814	Government, Military and Veterans Affairs
LB 815	Education
LB 816	Revenue
LB 817	Judiciary
LB 818	Health and Human Services
LB 819	Government, Military and Veterans Affairs
LB 820	Government, Military and Veterans Affairs
LB 821	Government, Military and Veterans Affairs
LB 822	Natural Resources
LB 823	Judiciary
LB 824	Government, Military and Veterans Affairs
LB 825	Transportation and Telecommunications
LB 826	Natural Resources
LB 827	Natural Resources
LB 828	Natural Resources
LB 829	Natural Resources
LB 830	Natural Resources
LB 831	Natural Resources
LB 832	Natural Resources
LB 833	Natural Resources
LB 834	Government, Military and Veterans Affairs
LB 835	Agriculture
LB 836	Agriculture
LB 837	Agriculture
LB 838	Transportation and Telecommunications
LB 839	Banking, Commerce and Insurance
LB 840	Agriculture
LB 841	Revenue
LB 842	Urban Affairs
LB 843	Agriculture
LB 844	Government, Military and Veterans Affairs
LB 845	Banking, Commerce and Insurance
LB 846	Transportation and Telecommunications
LB 847	Banking, Commerce and Insurance
LB 848	Judiciary
LB 849	Banking, Commerce and Insurance
LB 850	Judiciary
LB 851	Judiciary
LB 852	Health and Human Services
LB 853	Judiciary
LB 854	Revenue
LB 855	Judiciary
LB 856	Transportation and Telecommunications
LB 857	Revenue
LB 858	Government, Military and Veterans Affairs
LB 859	Transportation and Telecommunications
LB 860	Transportation and Telecommunications

LB 861 Transportation and Telecommunications
 LB 862 Transportation and Telecommunications
 LB 863 Transportation and Telecommunications
 LB 864 Banking, Commerce and Insurance
 LB 865 Transportation and Telecommunications
 LB 866 Transportation and Telecommunications
 LB 867 Transportation and Telecommunications
 LB 868 Education
 LB 869 Agriculture
 LB 870 Government, Military and Veterans Affairs
 LB 871 Transportation and Telecommunications
 LB 872 Judiciary
 LB 873 Revenue
 LB 874 Judiciary
 LB 875 Judiciary
 LB 876 Judiciary
 LB 877 Judiciary
 LB 878 Transportation and Telecommunications
 LB 879 Revenue
 LB 880 Revenue
 LB 881 Revenue
 LB 882 Judiciary
 LB 883 Judiciary
 LB 884 Banking, Commerce and Insurance
 LB 885 Banking, Commerce and Insurance
 LB 886 Banking, Commerce and Insurance
 LB 887 Judiciary
 LB 888 Urban Affairs
 LB 889 Judiciary
 LB 890 Natural Resources

LR 202 Transportation and Telecommunications

Adams, Scot - Community Corrections Council - Judiciary

Anthony, Donald - Beginning Farmer Board - Agriculture

Arnold, Scott - Crime Victim's Reparations Committee - Judiciary

Bade, Eugene - Nebraska Power Review Board - Natural Resources

Baker, Dale - Child Abuse Prevention Fund Board - Health and Human Services

Baker, John T. - Environmental Quality Council - Natural Resources

Balthazor, Ronald F. - Board of Emergency Medical Services - Health and Human Services

Bauer, James - Board of Public Roads Classifications and Standards - Transportation and Telecommunications

Beins, Bruce A. - Board of Emergency Medical Services - Health and Human Services

Bernard, Janet - Environmental Quality Council - Natural Resources

Bevard, Cecelia J. - Commission for the Deaf and Hard of Hearing - Health and Human Services

Bloch, Steven - Nebraska Arts Council - General Affairs

Brennan, Angela - Rural Health Advisory Commission - Health and Human Services

Burgess, William - Community Corrections Council - Judiciary

Burns, Robert - Commission for the Blind and Visually Impaired - Health and Human Services

Campbell, John - Nebraska Environmental Trust Board - Natural Resources

Carlson, Demarus - Board of Educational Lands and Funds - Education

Carpenter, Stan - Nebraska Educational Telecommunications Commission - Education

Cerny, Joel E. - Board of Emergency Medical Services - Health and Human Services

Cole-Mossman, Jennie - Child Abuse Prevention Fund Board - Health and Human Services

Coleman, Margaret - Commission for the Deaf and Hard of Hearing - Health and Human Services

Cook, Catherine - Community Corrections Council - Judiciary

Crockett, Timothy - State Board of Health - Health and Human Services

Darrell, Dr. Mark - Beginning Farmer Board - Agriculture

Devaney, James P. - Commission for the Deaf and Hard of Hearing - Health and Human Services

Else, Tim L. - Nebraska Ethanol Board - Natural Resources

Engler, David T. - Board of Emergency Medical Services - Health and

Human Services

Flower, Rhonda R. - Nebraska Liquor Control Commission - General Affairs

Ford, Scot - Crime Victim's Reparations Committee - Judiciary

Forney, Dr. Kent H. - State Board of Health - Health and Human Services

Fredrickson, Marilee A. - Accountability and Disclosure Commission - Government, Military and Veterans Affairs

Fry, Donald, M.D. - Rural Health Advisory Commission - Health and Human Services

Garvin, Bert - Beginning Farmer Board - Agriculture

Gruendel, Aileen - Community Corrections Council - Judiciary

Hakel, Dan L. - Board of Emergency Medical Services - Health and Human Services

Hans, Robert L. - Tax Equalization and Review Commission - Revenue

Henry, Jack D. - Nebraska Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Hilferty, Dave - Nebraska Ethanol Board - Natural Resources

Hippen, Julie - Community Corrections Council - Judiciary

Kelly, Joe - Community Corrections Council - Judiciary

Korell, Janet - Nebraska Arts Council - General Affairs

Krohn, Robert - Nebraska Environmental Trust Board - Natural Resources

Lindemeier, Robert - Community Corrections Council - Judiciary

Loos, Barbara - Commission for the Blind and Visually Impaired - Health and Human Services

McDowell, Debra - Environmental Quality Council - Natural Resources

Miller, Toby J. - Nebraska Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Miller, Tom - Environmental Quality Council - Natural Resources

Noah, Darlene J. - Nebraska Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Olson, Robert K. - Board of Emergency Medical Services - Health and Human Services

Oltmans, Steve - Environmental Quality Council - Natural Resources

Orester, William - Commission for the Blind and Visually Impaired - Health and Human Services

Partsch, Francis - Nebraska State Fair Board - Agriculture

Phelps, Debra - Child Abuse Prevention Fund Board - Health and Human Services

Pohlmann, Dale - Beginning Farmer Board - Agriculture

Rea, Roger - Public Employees Retirement Board - Nebraska Retirement Systems

Ross, Jeanne V. - State Personnel Board - Government, Military and Veterans Affairs

Ruby, Rich - Board of Public Roads Classifications and Standards - Transportation and Telecommunications

Rudolph, Earl - Board of Emergency Medical Services - Health and Human Services

Schafer, Clinton - State Board of Health - Health and Human Services

Schram, Tim - Board of Public Roads Classifications and Standards - Transportation and Telecommunications

Schram, Timothy - Beginning Farmer Board - Agriculture

Schroeder, Rebecca - Rural Health Advisory Commission - Health and Human Services

Schwertley, Nancy - Nebraska Arts Council - General Affairs

Simon, Fred - Nebraska Arts Council - General Affairs

Sitorius, Michael M.D. - Rural Health Advisory Commission - Health and Human Services

Smith, Kelly B. - Nebraska Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Snyder, Val D. - Board of Emergency Medical Services - Health and Human Services

Surber, George Tom, M.D. - Board of Emergency Medical Services - Health and Human Services

Tagge, Darold - Board of Public Roads Classifications and Standards - Transportation and Telecommunications

Taylor, Kenya S. - Commission for the Deaf and Hard of Hearing - Health and Human Services

Thieman, Henry - Board of Public Roads Classifications and Standards - Transportation and Telecommunications

Thompson, Jodi - Environmental Quality Council - Natural Resources

Vaughan, Dr. Jerry - State Board of Health - Health and Human Services

Vieregger, Henry - Board of Public Roads Classifications and Standards - Transportation and Telecommunications

Wanitschke, Donna - State Highway Commission - Transportation and Telecommunications

Weber, Dr. Gwen - State Board of Health - Health and Human Services

Welch, William - Rural Health Advisory Commission - Health and Human Services

Wells, Roger - Rural Health Advisory Commission - Health and Human Services

Werner-Robertson, Gail - Nebraska Investment Council - Nebraska Retirement Systems

Whitaker, James - Environmental Quality Council - Natural Resources

Williams, Donald - Environmental Quality Council - Natural Resources

Wootton, Ed - Board of Public Roads Classifications and Standards - Transportation and Telecommunications

Yetter, Diane L. - Board of Emergency Medical Services - Health and Human Services

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

BILLS ON FIRST READING

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

LEGISLATIVE BILL 930. Introduced by Vrtiska, 1.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-177 and 48-1,110, Reissue Revised Statutes of Nebraska, and section 48-118, Revised Statutes Supplement, 2002; to change provisions relating to third-party claims and dismissal of a cause of action; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 931. Introduced by Redfield, 12; at the request of the Governor.

A BILL FOR AN ACT relating to the Affordable Housing Trust Fund; to amend section 58-706, Reissue Revised Statutes of Nebraska; to authorize use of the fund for rental assistance; to repeal the original section; and to declare an emergency.

AMENDMENT - Print in Journal

Senator Baker filed the following amendment to LB 479:
AM2150

(Amendments to Standing Committee amendments, AM0852)

- 1 1. Strike sections 7 and 8.
- 2 2. On page 9, strike beginning with "To" in line 7
- 3 through "(9)" in line 25.
- 4 3. On page 10, line 15, strike "(10)" and insert "(9)".
- 5 4. Renumber the remaining sections and correct the
- 6 repealer accordingly.

MOTION - Print in Journal

Senator Bourne filed the following motion to LB 208:
Unbracket LB 208.

UNANIMOUS CONSENT - Add Cointroducers

Senator Synowiecki asked unanimous consent to have his name added as cointroducer to LB 816. No objections. So ordered.

Senator Burling asked unanimous consent to have his name added as cointroducer to LB 862. No objections. So ordered.

VISITORS

The Doctor of the Day was Dr. Randy Kohl from Firth.

ADJOURNMENT

At 11:12 a.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Friday, January 9, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

THIRD DAY - JANUARY 9, 2004
LEGISLATIVE JOURNAL
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Friday, January 9, 2004

PRAYER

The prayer was offered by Pastor Paul Witt, St. Mary's Catholic Church, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senators Hartnett, Hudkins, and Mossey who were excused; and Senators Brashear and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 90, line 14, strike "Wooten" and insert "Wootton".
The Journal for the first day was approved as corrected.

The Journal for the second day was approved.

MOTION - Adopt Temporary Rules

Senator Vrtiska moved that the rules, as now in our possession, be adopted for today only, Friday, January 9, 2004.

The motion prevailed.

REPORTS

The following reports were received by the Legislature:

Educational Lands and Funds, Board of

Annual Report for July 1, 2002 through June 30, 2003

Economic Development, Department of

Annual Report for the Venture Capital Forum Corporation

Legislative Task Force

Final Report for the LB 407 Task Force

Motor Vehicles, Department of

Motor Vehicle Insurance Database Task Force Report

Retirement Systems Committee, Nebraska, Legislative

Early Retirement for Long-term State Employees, LR 135, 2003

Retirement Benefits for Certain Retired School Employees, LR 129, 2003

Revenue, Department of

2003 Charitable Gaming Division Annual Report

**2003 INTERIM REPORT
ON THE DISPOSITION OF
INTERIM STUDY RESOLUTIONS**

Agriculture

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
87	Examine expanding protections of Grain Dealer Act		X	
93	Examine protections for participants in livestock transactions		X	
88	Review implications of federal court decisions on legality of state checkoff programs			X
89	Examine funding options for noxious weed programs		X	
95	Review tractor permit law and alternatives for tractor testing lab		X	
105	Industrial waste recycling for use in fertilizers		X	
137	Financial assurance in DEQ and Dept. of Ag. administered programs		X	
106	Study pest management practices in schools	X		
149	Examine regulatory requirements for confined feeding operations		X	

Appropriations

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
96	Interim study to examine a second round of deferred maintenance projects by the University of Nebraska and state colleges that could be completed			X

124	Interim study to determine what would be the administrative costs to the state of taking over the administration of the federal Head Start Program		X	
141	Interim study to examine the impact of eliminating the Nebraska Forest Service	X		
153	Interim study to determine if there are cost savings by outsourcing purchase and maintenance of state-owned computers, network equipment, and computer peripherals			X
183	Interim study to provide information on patterns of spending by government agencies			X

Banking, Commerce and Insurance

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
63	Prompt payment of health claims		X	
83	File and use of personal lines P&C Insurance			X
82	Interstate review of life insurance, annuities, and disability income			X
93	Livestock sales transactions		X	
84	Modify Uniform Trust Code		X	
187	Regulation of health provider networks			X

Business and Labor

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
101	Study hours of work relating to mandatory overtime		X	
107	Study workers' compensation update needs	X		
108	Study unemployment insurance benefits eligibility changes		X	
109	Study Workers' Compensation Court administrative function	X		
110	Study Professional Employer Organizations	X		
111	Study collective bargaining			X

	statutes			
112	Study programs and funds administered by Dept. of Labor		X	
138	Study collective bargaining process in schools			X
158	Study creating a workers' compensation uninsured employer fund		X	
175	Study employment discrimination based on sexual orientation			X
177	Study Workers' Compensation Court vocational rehabilitation specialists role		X	
178	Study laws regarding independent contractor status	X		

Education

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
138	Interim study of the collective-bargaining process used by teachers' unions and school boards.			X
144	Interim study to examine the area of need-based aid to students attending postsecondary educational institutions.			X
180	Interim study to review the organizational structure of elementary and secondary education.	X		
184	Interim study to examine the state's obligation to provide for free instruction for persons between the ages of five and twenty-one years with respect to cocurricular and extracurricular activities.			X
194	Interim study to examine methods for determining amounts to be paid by the Dept. of Health and Human Services as education costs for wards of the state.			X

Executive Board

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
133	Interim study to convene an Economic Summit to discuss state priorities and to recommend changes to our revenue system Executive Board		X	

General Affairs

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
150	Interim study to examine issues related to the high volume of liquor sales from Whiteclay, Nebraska, to the Oglala Sioux Tribe		X	
151	Interim study of charitable gaming in Nebraska		X	
152	Interim study of the current system for tracking cemetery locations in the state		X	

Government, Military and Veterans Affairs

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
90	Interim study to examine residency requirements for elected county officials.		X	
91	Interim study to examine granting statutory authority to counties to enact ordinances, bylaws, rules, regulations, or resolutions.		X	
127	Interim study to examine issues under the jurisdiction of the Government, Military & Veterans Affairs Committee.		X	
134	Interim study to examine information available on county assessors', registers of deeds', and county clerks' websites.		X	
143	Interim study to examine ways to ensure that candidates for the office of county sheriff are qualified to assume office		X	

	immediately upon election.			
147	Interim study to examine the structure and mission of the Mexican-American Commission and the Commission on Indian Affairs.		X	
165	Interim study to review the implementation of LB 626, regarding services contracts by agencies and the Department of Administrative Services.		X	
198	Interim study to examine the efficiency of local government, particularly county, city and township government.	X		

Health and Human Services

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
42	Interim study to examine the quality of services coordination provided by the Department of Health and Human Services to persons in Nebraska's developmental disabilities system		X	
85	Interim study to determine whether the prior authorization systems for Medicaid recipients who receive prescription drugs have adequate safeguards		X	
145	Interim study to examine the need for mental health advance directives in Nebraska		X	
148	Interim study to review application of the law allowing temporary placement of certain juveniles with the Department of Health and Human Services		X	
155	Interim study to examine how child abuse and neglect and sexual abuse reports are being responded to by child protective services at the Department of Health and law enforcement		X	
159	Interim study to review policies and procedures necessary in establishing a comprehensive		X	

	organ donor registry			
160	Interim study of the overall structure of the medicaid program		X	
164	Interim study to examine alternative funding mechanisms for the superfund site in Omaha		X	
179	Interim study to convene a task force to examine the role and mission of licensed assisted-living facilities serving Nebraska's elderly		X	
182	Interim study to examine the administrative and personnel structure of the Health and Human Services System		X	
186	Interim study to examine the causes and effects of obesity on young people		X	
188	Interim study to examine issues under the jurisdiction of the Health and Human Services Committee		X	

Judiciary

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
86	Digitized Law Enforcement Identification		X	
115	Fiscal Impact of Inmate Telephone Calls		X	
125	Crime Victims' Reparations		X	
130	Correctional System	X		
136	Manual Strangulation		X	
139	Lincoln Correctional Center Closing	X		
146	Statutes of Limitation for Sexual Offenses Against Children		X	
154	Permanency for Foster Care Children		X	
155	Protection and Safety System		X	
168	Drug Court Programs		X	
169	State DNA Database		X	
170	Lowering the Age of Majority		X	
171	Community Corrections		X	

172	Methamphetamine		X	
176	Discrimination Based on Sexual Orientation in Buying or Renting Real Estate		X	
185	Domestic Violence		X	

Natural Resources

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
98	Examine issues facing the Environmental Trust		X	
99	Examine problems surrounding the disposal of electronic equipment			X
100	Examine barriers to renewable energy development			X
102	Examine the Department of Natural Resources since its creation by the merging of the Department of Water Resources and the Natural Resources Commission		X	
103	Examine the Petroleum Release Remedial Action Act		X	
104	Review the scrap tire program		X	
105	Examine the issues surrounding the use of hazardous waste as fertilizer		X	
113	Examine the revenue possibilities for the Game and Parks Commission for roads as well as boating activities		X	
121	Examine the issues surrounding the Livestock Waste Management Act, including funding and recently enacted federal legislation		X	
137	Examine financial assurance requirements in all of the programs in the Department of Environmental Quality and the Department of Agriculture (Joint with the Agriculture Committee)		X	
149	Review and analyze the effects of the state's general permit rules for open-area livestock yards and of the proposed federal general		X	

	permit rules for all confined area feedlot areas (Joint with the Agriculture Committee and the Government, Military and Veterans Affairs Committee)			
164	Examine alternative funding mechanisms for the superfund site in Omaha (Joint with the Health and Human Services Committee)			X
173	Examine any steps that could be taken to enhance, support and develop the recreational value of Nebraska's lakes and rivers		X	

Nebraska Retirement Systems

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
81	Study to Examine Firefighter Pension Plans of Cities of the First Class			X
128	Study to Examine the Transfer of State Service Annuities from the School Retirement System to the System Created under the Class V School Employees Retirement Act		X	
129	Study to Examine Issues Raised in LR 21CA Concerning Retirement Benefits for Certain Retired School Employees	X		
135	Study to Examine Alternatives to Provide a Program for Early Retirement for Long-term State Employees	X		

Revenue

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
LB 407 & LR 167	LB 407 Task Force and LR 167 Revenue Committee All major tax programs, exemptions and credits, relative reliance and incidence/relative burden	X		
140	Corporate occupation tax	X		
156	Small business tax credits (LB			X

	776)			
162	Effectiveness of TERC	X		
166	Taxing all media advertising	X		
92	Special value or special class for agricultural land			X
122	Predatory pricing of motor vehicle fuel			X
123	Master Settlement Agreement Protection Act			X
157	Income tax based charitable giving incentives		X	

Transportation and Telecommunications

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
116	State common carrier laws, rules and regulations			X
117	Speed limits, fine schedule and enforcement of speed limits		X	
118	Unsolicited electronic mail			X
119	Issues that come under the jurisdiction of the Transportation and Telecommunications Committee Young Drivers/Provisional Operators' Permits Older Drivers/License Renewals		X	
120	State and federal common carrier laws, rules and regulations		X	
161	Support and develop the vehicle service and towing industry			X
163	Level and type of use, governance, financing, and promotion of airport facilities			X
181	Application of motor carriers' rates to transportation services purchased by the Health and Human services system			X

Urban Affairs

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
114	Upgrading Nebraska's Building Energy Conservation Standard			X
193	Issues Under the Jurisdiction of the Urban Affairs Committee		X	

Select Committee

LR	Subject	Completed: Report Issued	Completed: No Report Issued	Deferred
92	Interim study to examine Nebraska's plan for the continuity of government in periods of emergency.	X		

BILLS ON FIRST READING

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

LEGISLATIVE BILL 932. Introduced by Vrtiska, 1.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-179, Revised Statutes Supplement, 2002; to change provisions relating to compensation court review procedure; and to repeal the original section.

LEGISLATIVE BILL 933. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to infants; to provide for safe havens where newborns may be taken without liability.

LEGISLATIVE BILL 934. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to schools; to amend section 79-214, Reissue Revised Statutes of Nebraska; to change provisions relating to kindergarten entrance age; and to repeal the original section.

LEGISLATIVE BILL 935. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1363, Reissue Revised Statutes of Nebraska; to change provisions relating to valuation of irrigated cropland; and to repeal the original section.

LEGISLATIVE BILL 936. Introduced by Landis, 46.

A BILL FOR AN ACT relating to libraries; to amend section 51-213, Reissue Revised Statutes of Nebraska; to change annual report

requirements; and to repeal the original section.

LEGISLATIVE BILL 937. Introduced by Landis, 46.

A BILL FOR AN ACT relating to cities of the first class; to amend section 16-696, Reissue Revised Statutes of Nebraska; to change voting provisions for the board of park commissioners; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 938. Introduced by Government, Military and Veterans Affairs Committee: Schimek, 27, Chairperson; Aguilar, 35; Brown, 6; Burling, 33; Combs, 32; McDonald, 41; Smith, 48; Vrtiska, 1.

A BILL FOR AN ACT relating to the Address Confidentiality Act; to amend section 42-1206, Revised Statutes Supplement, 2003; to change provisions relating to address and name use; and to repeal the original section.

MOTION - Unbracket LB 208

Senator Bourne renewed his pending motion, found on page 150, to unbracket LB 208.

Senator Bourne asked unanimous consent to unbracket LB 208. No objections. So ordered.

MOTION - Adopt Permanent Rules

Senator Baker moved to adopt the permanent rules for the Ninety-Eighth Legislature, Second Session.

The Rules Committee renewed their proposed rules changes found on pages 125 through 127.

The Rules Committee's proposed rules changes were adopted with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Senator Chambers requested a record vote on the adoption of the permanent rules, as amended.

Voting in the affirmative, 38:

Aguilar	Connealy	Jensen	Pedersen, Dw.	Stuhr
Baker	Cudaback	Jones	Preister	Stuthman
Beutler	Cunningham	Kremer	Price	Thompson
Bromm	Engel	Kruse	Raikes	Tyson
Brown	Erdman	Louden	Redfield	Vrtiska
Burling	Foley	Maxwell	Schimek	Wehrbein
Byars	Friend	McDonald	Schrock	
Combs	Janssen	Mines	Smith	

Voting in the negative, 1:

Chambers

Present and not voting, 6:

Bourne	Landis	Quandahl
Johnson	Pederson, D.	Synowiecki

Excused and not voting, 4:

Brashear	Hartnett	Hudkins	Mossey
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The Baker motion to adopt permanent rules, as amended, prevailed with 38 ayes, 1 nay, 6 present and not voting, and 4 excused and not voting.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 939. Introduced by Government, Military and Veterans Affairs Committee: Schimek, 27, Chairperson; Aguilar, 35; Brown, 6; Burling, 33; Combs, 32; Smith, 48.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 13-501, 13-804, and 13-2504, Revised Statutes Supplement, 2002; to require certain political subdivisions to provide the Auditor of Public Accounts with information regarding interlocal and joint public agency agreements; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 940. Introduced by Government, Military and Veterans Affairs Committee: Schimek, 27, Chairperson; Aguilar, 35; Brown, 6; Burling, 33; Combs, 32; McDonald, 41.

A BILL FOR AN ACT relating to state government; to amend sections 81-8,271.01, 81-1201.01, 81-1201.02, 81-1201.03, and 81-1201.08, Reissue Revised Statutes of Nebraska, and section 43-260, Revised Statutes

Supplement, 2002; to eliminate certain task forces, commissions, an implementation team, an advisory committee, a board, a center, and a fund and related provisions; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; to outright repeal sections 51-602, 51-605 to 51-607, 66-1350, 68-1725.01, 74-922 to 74-925, 81-1201.04 to 81-1201.06, and 83-4,148 to 83-4,152, Reissue Revised Statutes of Nebraska, and sections 2-5201, 32-121, 43-3601 to 43-3603, 46-1302, 46-1303, 48-2401, 48-2402, 50-301 to 50-309, 51-601, 51-603, 51-604, and 81-2013.01 to 81-2013.04, Revised Statutes Supplement, 2002; and to declare an emergency.

LEGISLATIVE BILL 941. Introduced by Byars, 30.

A BILL FOR AN ACT relating to occupational therapy; to amend sections 71-6101, 71-6103, 71-6104, 71-6113, and 71-6115, Reissue Revised Statutes of Nebraska; to redefine terms; to provide for scope of practice and referrals; to require education and training for certain activities; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 942. Introduced by Byars, 30.

A BILL FOR AN ACT relating to local public health departments; to amend sections 71-501, 71-1628.08, and 71-1636, Reissue Revised Statutes of Nebraska; to change provisions relating to funding and applicability of law; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 943. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-110, Reissue Revised Statutes of Nebraska; to change provisions relating to statutes of limitations; to eliminate obsolete provisions; and to repeal the original section.

LEGISLATIVE BILL 944. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to tobacco; to amend section 69-2703, Reissue Revised Statutes of Nebraska; to change provisions relating to the Master Settlement Agreement and requirements of tobacco product manufacturers; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 945. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to the Employment and Investment Growth Act; to amend sections 66-1349, 77-202, 77-1229, 77-2734.05, 77-27,119, 77-5405, and 77-5536, Reissue Revised Statutes of Nebraska, and section 49-801.01, Revised Statutes Supplement, 2003; to repeal the Employment and Investment Growth Act; to harmonize provisions; to repeal the original

sections; and to outright repeal sections 77-4101 to 77-4113, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 946. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to amend sections 75-903, 75-905, and 89-1,105, Reissue Revised Statutes of Nebraska, and sections 88-528 and 88-530.01, Revised Statutes Supplement, 2003; to change provisions relating to grain dealers, grain warehouses, and measuring devices; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 947. Introduced by Business and Labor Committee: Vrtiska, 1, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5.

A BILL FOR AN ACT relating to amusement ride permits; to amend section 48-1805, Reissue Revised Statutes of Nebraska; to change time provisions for permit; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 948. Introduced by Business and Labor Committee: Vrtiska, 1, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5.

A BILL FOR AN ACT relating to boiler inspection; to amend sections 48-719, 48-720, 48-723 to 48-725, 48-728 to 48-733, 48-735.01 to 48-741, and 48-743, Reissue Revised Statutes of Nebraska, and sections 48-721, 48-722, 48-726, 48-727, and 81-401, Revised Statutes Supplement, 2002; to rename an act, a fund, and a board; to redefine terms; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 949. Introduced by Business and Labor Committee: Vrtiska, 1, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5.

A BILL FOR AN ACT relating to elevator safety; to amend section 48-418.09, Reissue Revised Statutes of Nebraska; to change provisions relating to elevator inspections; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 950. Introduced by Business and Labor Committee: Vrtiska, 1, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5.

A BILL FOR AN ACT relating to the New Hire Reporting Act; to amend section 48-2303, Reissue Revised Statutes of Nebraska; to change report requirements; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 951. Introduced by Business and Labor Committee: Vrtiska, 1, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5.

A BILL FOR AN ACT relating to employment security law; to amend

section 48-627, Reissue Revised Statutes of Nebraska; to change provisions relating to availability for work; and to repeal the original section.

LEGISLATIVE BILL 952. Introduced by Business and Labor Committee: Vrtiska, 1, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5.

A BILL FOR AN ACT relating to employment security law; to amend sections 48-648.01 and 48-649, Reissue Revised Statutes of Nebraska, and section 48-648, Revised Statutes Supplement, 2002; to provide for electronic payments, reports, and reimbursements by employers as prescribed; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 953. Introduced by Business and Labor Committee: Vrtiska, 1, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5.

A BILL FOR AN ACT relating to employment security law; to amend section 48-602, Revised Statutes Supplement, 2002; to redefine a term; and to repeal the original section.

LEGISLATIVE BILL 954. Introduced by Business and Labor Committee: Vrtiska, 1, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5.

A BILL FOR AN ACT relating to employment security law; to amend section 48-628, Revised Statutes Supplement, 2002; to provide a benefit disqualification provision; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 955. Introduced by Landis, 46.

A BILL FOR AN ACT relating to income tax; to amend sections 77-2786, 77-2793, and 77-2794, Reissue Revised Statutes of Nebraska; to change provisions relating to deficiency determinations, claims for credit or refund, and income tax overpayment; and to repeal the original sections.

LEGISLATIVE BILL 956. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue; to amend section 77-1784, Reissue Revised Statutes of Nebraska; to change provisions relating to electronic filing; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 957. Introduced by Landis, 46.

A BILL FOR AN ACT relating to taxation; to amend sections 77-2704.25, 77-2704.36, 77-2716, 77-2734.01, 77-2753, and 77-2775, Reissue Revised Statutes of Nebraska, and section 85-1808, Revised Statutes Supplement, 2003; to change provisions relating to exemptions, tax adjustments, income determinations, withholding, and tax liability; to harmonize provisions; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 958. Introduced by Foley, 29; Erdman, 47; Schrock, 38.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2003; to adopt the Assault of an Unborn Child Act; to create the offense of assault of an unborn child; to define a term; to provide penalties; to harmonize provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 959. Introduced by Foley, 29; Erdman, 47; Schrock, 38.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-307, Reissue Revised Statutes of Nebraska; to provide for a civil action for damages on behalf of an unborn child as prescribed; and to repeal the original section.

LEGISLATIVE BILL 960. Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; Price, 26; Snowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to the Public Employees Retirement Board; to amend section 84-1501, Reissue Revised Statutes of Nebraska; to change provisions relating to membership; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 961. Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; Price, 26; Snowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to the School Employees Retirement Act; to amend section 79-907, Reissue Revised Statutes of Nebraska; to change a mailing requirement for statements of information; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 962. Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Friend, 10; Jones, 43; Kremer, 34; Loudon, 49; Preister, 5; Stuhr, 24; and Aguilar, 35; Baker, 44; Beutler, 28; Bromm, 23; Brown, 6; Burling, 33; Combs, 32; Cudaback, 36; Erdman, 47; Jensen, 20; Johnson, 37; Landis, 46; D. Pederson, 42; Price, 26; Raikes, 25; Schimek, 27; Stuthman, 22; Wehrbein, 2.

A BILL FOR AN ACT relating to water management; to amend sections 2-1586, 46-229.02, 46-229.03, 46-2,127, 46-609, 46-651, 46-656.03, 46-656.04, 46-656.08, 46-656.11, 46-656.13, 46-656.21, 46-656.32, 46-656.35, 46-656.36, 46-656.37, 46-656.39, 46-656.41, 46-656.42, 46-656.43, 46-656.44, 46-656.45, 46-656.46, 46-656.47, 46-656.48, 46-656.64, 46-680, 46-1207.01, 61-206, and 77-27,137.02, Reissue Revised

Statutes of Nebraska, sections 2-1588, 46-229, 46-229.04, 46-230, 46-235.04, 46-237, 46-261, 46-290, 46-291, 46-292, 46-293, 46-294, 46-295, 46-296, 46-2,112, 46-2,119, 46-613.02, 46-653, 46-656.05, 46-656.14, 46-656.19, 46-656.25, 46-656.26, 46-656.27, 46-656.31, 46-656.33, 46-656.38, 46-656.40, 46-656.62, 46-656.63, 46-656.65, 46-656.66, 46-656.67, 46-676, 46-678.01, and 81-15,176, Revised Statutes Supplement, 2002, and sections 46-602, 46-656.01, 46-656.02, 46-656.07, 46-656.10, 46-656.12, 46-656.24, 46-656.29, and 46-656.30, Revised Statutes Supplement, 2003; to change provisions relating to appropriations; to change, transfer, and eliminate provisions relating to the Nebraska Ground Water Management and Protection Act and the Department of Natural Resources; to harmonize provisions; to provide severability; to repeal the original sections; and to outright repeal sections 46-656.06, 46-656.09, 46-656.17, 46-656.18, 46-656.20, 46-656.22, 46-656.23, and 46-656.49, Reissue Revised Statutes of Nebraska, and sections 46-656.15, 46-656.16, 46-656.28, and 46-656.50 to 46-656.61, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 963. Introduced by Vrtiska, 1.

A BILL FOR AN ACT relating to the military service; to amend section 55-101, Revised Statutes Supplement, 2003; to adopt portions of the federal Servicemembers Civil Relief Act; and to repeal the original section.

LEGISLATIVE BILL 964. Introduced by Smith, 48.

A BILL FOR AN ACT relating to political accountability and disclosure; to amend sections 49-1446, 49-14,122, 49-14,129, and 49-14,140, Reissue Revised Statutes of Nebraska, and sections 49-1401, 49-1447, 49-1455, 49-1463.01, 49-14,123, and 49-14,124 to 49-14,126, Revised Statutes Supplement, 2002; to provide limitations on campaign contributions; to repeal the Campaign Finance Limitation Act; to harmonize provisions; to repeal the original sections; to outright repeal sections 32-1601, 32-1602, 32-1605 to 32-1607, 32-1608.01 to 32-1610, and 32-1612 to 32-1614, Reissue Revised Statutes of Nebraska, sections 32-1603 to 32-1604.01, 32-1608, and 32-1611, Revised Statutes Supplement, 2002, and section 77-27,119.04, Revised Statutes Supplement, 2003; and to declare an emergency.

LEGISLATIVE BILL 965. Introduced by Price, 26.

A BILL FOR AN ACT relating to revenue and taxation; to adopt the Successful Schools Foundation Act.

LEGISLATIVE BILL 966. Introduced by Baker, 44; Kremer, 34.

A BILL FOR AN ACT relating to trade practices; to amend section 87-703, Reissue Revised Statutes of Nebraska; to redefine equipment business terms; and to repeal the original section.

LEGISLATIVE BILL 967. Introduced by Baker, 44.

A BILL FOR AN ACT relating to oil and gas; to amend section 57-909, Reissue Revised Statutes of Nebraska; to change provisions relating to recovery of expenses relating to wells as prescribed; and to repeal the original section.

LEGISLATIVE BILL 968. Introduced by Baker, 44.

A BILL FOR AN ACT relating to courts; to amend sections 24-507 and 24-508, Reissue Revised Statutes of Nebraska; to change provisions relating to clerk magistrates; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 969. Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Friend, 10; Hudkins, 21; Jones, 43; Kremer, 34; Louden, 49; Preister, 5; Stuhr, 24.

A BILL FOR AN ACT relating to electricity; to amend sections 18-412.06 and 70-601, Reissue Revised Statutes of Nebraska; to authorize public entities to enter into electrical service purchase agreements as prescribed; to define and redefine terms; to provide powers and duties; to state intent; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 970. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-201, 77-1343, 77-1344, 77-1363, 77-5023, and 79-1016, Reissue Revised Statutes of Nebraska; to change provisions relating to valuation of agricultural land and horticultural land; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 971. Introduced by Landis, 46.

A BILL FOR AN ACT relating to the county board of equalization; to amend section 77-1502, Reissue Revised Statutes of Nebraska; to change protest procedures as prescribed; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 972. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-123, 77-1301, 77-1303, 77-1315, 77-1315.01, 77-1317, 77-1318, 77-1380, 77-1514, and 77-5027, Reissue Revised Statutes of Nebraska; to change provisions relating to property assessment abstracts and property assessments; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 973. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-202.04, 77-1234, 77-1345.01, 77-1380, 77-1384, 77-1504.01, 77-1510, 77-1510.01, 77-1606, 77-1608, 77-1610, 77-1623, 77-3519, 77-3520, 77-5001, 77-5007, 77-5013, 77-5015, 77-5016, 77-5017, 77-5020, 77-5022, 77-5023, and 84-912.03, Reissue Revised Statutes of Nebraska; to change and eliminate appeal provisions relating to property taxation; to harmonize provisions; to repeal the original sections; and to outright repeal sections 77-1607 and 77-1609, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 974. Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Internal Revenue Code; to amend section 49-801.01, Reissue Revised Statutes of Nebraska; to change provisions relating to references to the code; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 975. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.01 and 77-2701.02, Reissue Revised Statutes of Nebraska; to change income tax and sales tax rates as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 976. Introduced by Combs, 32; Burling, 33; Cunningham, 40; Kremer, 34; Redfield, 12; Vrtiska, 1.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-1,110, Reissue Revised Statutes of Nebraska; to provide for confidential records as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 977. Introduced by Combs, 32; Chambers, 11; Kremer, 34; Preister, 5; Price, 26; Vrtiska, 1.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-121, Revised Statutes Supplement, 2002; to provide for compensation for permanent disfigurement and scarring; and to repeal the original section.

LEGISLATIVE BILL 978. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to loans; to amend sections 45-1024 and 45-1025, Revised Statutes Supplement, 2003; to change provisions relating to the Nebraska Installment Loan Act; and to repeal the original sections.

LEGISLATIVE BILL 979. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to finance; to amend sections 25-1530,

30-2734, 43-3334, 72-1262, 76-1006, 76-1009, 76-1010, 76-1012, 77-2365.01, 77-2366, and 77-2387, Reissue Revised Statutes of Nebraska; to change provisions relating to foreclosure, uniform transfer on death security registration, bank match system, trust deeds, and public funds; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 980. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to insurance; to amend section 44-704, Reissue Revised Statutes of Nebraska; to change provisions relating to ownership of life insurance and annuities; and to repeal the original section.

LEGISLATIVE BILL 981. Introduced by Mines, 18.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-138, 48-140, and 48-141, Reissue Revised Statutes of Nebraska, and section 48-139, Revised Statutes Supplement, 2002; to change provisions relating to lump-sum settlements; and to repeal the original sections.

LEGISLATIVE BILL 982. Introduced by Preister, 5; Brown, 6.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-120 and 48-120.02, Revised Statutes Supplement, 2002; to change provisions relating to nonparticipating physicians and managed care plans; and to repeal the original sections.

LEGISLATIVE BILL 983. Introduced by Revenue Committee: Landis, 46, Chairperson; Baker, 44; Hartnett, 45; Raikes, 25; Redfield, 12.

A BILL FOR AN ACT relating to motor fuels; to amend sections 60-1307, 66-482 to 66-489.01, 66-496, 66-498, 66-499, 66-4,105, 66-4,106, 66-4,114, 66-4,116, 66-4,140, 66-4,141, 66-4,143 to 66-4,147, 66-4,149, 66-502, 66-525, 66-685 to 66-687, 66-698, 66-6,100, 66-6,106, 66-6,107, 66-6,109.01 to 66-6,111, 66-712, 66-713, 66-717, 66-718, 66-720, 66-722, 66-726, 66-727, 66-733 to 66-737, 66-1334, 66-1345, 66-1401, 66-1510, 66-1521, 77-2704.05, and 77-2734.03, Reissue Revised Statutes of Nebraska, and sections 39-2215, 60-1303, and 60-1306, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to motor fuels taxation; to impose taxes; to eliminate provisions relating to tax credit gasoline and the Diesel Fuel Tax Act; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 66-490 to 66-492, 66-494, 66-4,118 to 66-4,121, 66-4,124 to 66-4,134, 66-4,142, and 66-650 to 66-683, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 984. Introduced by Revenue Committee: Landis, 46, Chairperson; Baker, 44; Hartnett, 45; Raikes, 25; Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-202.03, 77-422, 77-603, 77-612, 77-684, 77-801, 77-802, 77-802.02, 77-1249, 77-1330, 77-1775, 77-3506.02, and 79-1016, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to tax-exempt status; to change and eliminate appeal procedures; to change filing requirements; to change a provision relating to homesteads; to harmonize provisions; to repeal the original sections; and to outright repeal section 77-202.06, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 985. Introduced by Preister, 5.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-121, Revised Statutes Supplement, 2002; to change disability compensation provisions; and to repeal the original section.

LEGISLATIVE BILL 986. Introduced by Bourne, 8; Aguilar, 35; Baker, 44; Beutler, 28; Bromm, 23; Byars, 30; Chambers, 11; Connealy, 16; Cudaback, 36; Engel, 17; Janssen, 15; Jensen, 20; Johnson, 37; Jones, 43; Mines, 18; Preister, 5; Raikes, 25; Schimek, 27; Schrock, 38; Stuthman, 22; Synowiecki, 7; Thompson, 14; Tyson, 19; Vrtiska, 1; Wehrbein, 2; at the request of the Governor.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3526 and 77-3527, Reissue Revised Statutes of Nebraska; to redefine a term; to change provisions for a veteran homestead exemption; and to repeal the original sections.

LEGISLATIVE BILL 987. Introduced by Bourne, 8; Connealy, 16; Synowiecki, 7.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2003; to create the offense of strangulation; to provide penalties; and to repeal the original section.

LEGISLATIVE BILL 988. Introduced by Bourne, 8; Schimek, 27.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,144, Reissue Revised Statutes of Nebraska; to change local option sales tax distribution; and to repeal the original section.

LEGISLATIVE BILL 989. Introduced by Landis, 46; Quandahl, 31.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-321, Reissue Revised Statutes of Nebraska; to change provisions relating to financial responsibility; and to repeal the original section.

LEGISLATIVE BILL 990. Introduced by Landis, 46.

A BILL FOR AN ACT relating to insurance; to amend section 44-1540,

Revised Statutes Supplement, 2002; to prohibit actions relating to repair and replacement of personal property; and to repeal the original section.

LEGISLATIVE BILL 991. Introduced by Landis, 46.

A BILL FOR AN ACT relating to labor; to amend section 48-1220, Reissue Revised Statutes of Nebraska; to redefine a term relating to discriminatory wage practices based on sex; and to repeal the original section.

LEGISLATIVE BILL 992. Introduced by Agriculture Committee: Kremer, 34, Chairperson; Burling, 33; Chambers, 11; Cunningham, 40; Erdman, 47; Vrtiska, 1.

A BILL FOR AN ACT relating to agriculture; to amend section 88-525, Revised Statutes Supplement, 2003; to change the Grain Warehouse Act; and to repeal the original section.

STANDING COMMITTEE REPORT **Transportation and Telecommunications**

LEGISLATIVE BILL 100. Placed on General File as amended.

Standing Committee amendment to LB 100:

AM2178

- 1 1. Strike original sections 10, 11, 16, and 17 and
- 2 insert the following new sections:
- 3 "Sec. 10. Section 60-310, Revised Statutes Supplement,
- 4 2003, is amended to read:
- 5 60-310. (1) Registration may be renewed annually in the
- 6 same manner and upon payment of the same fee as provided for the
- 7 original registration. On making an application for renewal, the
- 8 registration certificate for the preceding registration period
- 9 shall be presented with the application.
- 10 (2) The certificate of registration and license plates
- 11 furnished by the department shall be valid during the registration
- 12 period for which they are issued, and when renewal tabs furnished
- 13 pursuant to section 60-311 have been affixed to the license plates,
- 14 the plates shall also be valid for the registration period
- 15 designated by such renewal tabs.
- 16 (3) The registration period for motor vehicles, trailers,
- 17 semitrailers, and cabin trailers required to be registered as
- 18 provided in section 60-302 shall expire on the first day of the
- 19 month one year from the month of issuance, and renewal shall become
- 20 due on such day and shall become delinquent on the first day of the
- 21 following month.
- 22 (4) Subsections (1) through (3) of this section do not
- 23 apply to dealer's license plates, repossession plates, and
- 24 transporter plates as provided in section 60-320, which plates
- 1 shall be issued for a calendar year. The registration period for
- 2 vehicles licensed as apportioned vehicles as provided in section

3 60-356 shall expire December 31 of each year and shall become
4 delinquent February 1 of the following year.

5 (5) Any owner who has two or more vehicles required to be
6 registered under Chapter 60, article 3, may register all such
7 vehicles on a calendar-year basis or on an annual basis for the
8 same registration period beginning in a month chosen by the owner.
9 When electing to establish the same registration period for all
10 such vehicles, the owner shall pay the registration fee, the motor
11 vehicle tax imposed in section 60-3002, and the motor vehicle fee
12 imposed in section 60-3007 on each vehicle for the number of months
13 necessary to extend its current registration period to the
14 registration period under which all such vehicles will be
15 registered. Credit shall be given for registration paid on each
16 vehicle when the vehicle has a later expiration date than that
17 chosen by the owner except as otherwise provided in sections
18 60-311.23 and 60-315.01 and sections 3, 5, 7, and 9 of this act.
19 Thereafter all such vehicles shall be registered on an annual basis
20 starting in the month chosen by the owner.

21 Sec. 11. Section 60-311.02, Revised Statutes Supplement,
22 2003, is amended to read:

23 60-311.02. The letters and numerals for motorcycle and
24 trailer plates may be one-half the size of those required for motor
25 vehicles.

26 On license plates issued to a manufacturer or dealer,
27 there shall be displayed, in addition to the registration number,
1 the letters DLR.

2 On license plates issued for use on motor vehicles which
3 are exempt pursuant to subdivision (6) of section 60-3002, there
4 shall be ~~embossed~~ printed, in addition to the registration number,
5 the word exempt which shall appear at the bottom of the license
6 plates issued after January 1, 1999. The Department of Motor
7 Vehicles may provide distinctive plates for the exempt vehicles.

8 On commercial trucks and truck-tractors with a gross
9 weight of five tons or over and on farm trucks with a gross weight
10 of over sixteen tons there shall be displayed, in addition to the
11 registration number, the weight that such vehicle is licensed for,
12 using a sticker or tab on the registration plates of such trucks in
13 letters and figures of such size and design as shall be determined
14 and furnished by the department.

15 When two registration plates are issued, one shall be
16 prominently displayed at all times on the front and one on the rear
17 of the registered vehicle. When only one plate is issued for
18 dealers, motorcycles, semitrailers, trailers, cabin trailers, and
19 buses, it shall be prominently displayed on the rear of the
20 registered vehicle. When only one plate is issued for motor
21 vehicles registered pursuant to section 60-356 and truck-tractors,
22 it shall be prominently displayed on the front of the apportioned
23 vehicle.

24 Any violation of this section shall be subject to a

25 penalty or penalties as provided in section 60-348.
 26 Sec. 16. This act becomes operative on July 1, 2005.
 27 Sec. 17. Original sections 81-5,151 and 81-5,157,
 1 Reissue Revised Statutes of Nebraska, sections 60-311.11 and
 2 60-315, Revised Statutes Supplement, 2002, and sections 60-310 and
 3 60-311.02, Revised Statutes Supplement, 2003, are repealed."
 4 2. On page 2, strike beginning with "The" in line 6
 5 through the period in line 10; and in line 20 strike "2004" and
 6 insert "2005".

(Signed) Tom Baker, Chairperson

AMENDMENTS - Print in Journal

Senator Foley filed the following amendment to LB 172:
 AM2182

- 1 1. Insert the following new section:
- 2 "Sec. 2. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

Senator Schimek filed the following amendment to LB 75:
 AM2176

(Amendments to Standing Committee amendments, AM0425)

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 23-1701.01, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 23-1701.01. (1) Each candidate for the office of sheriff
- 6 shall submit with the candidate filing form required by section
- 7 32-607 proof that, at least thirty days prior to the filing
- 8 deadline, he or she has:
- 9 (a) Successfully passed a background investigation
- 10 performed by the Nebraska Law Enforcement Training Center based on
- 11 a check of his or her criminal history record information
- 12 maintained by the Federal Bureau of Investigation through the
- 13 Nebraska State Patrol; and
- 14 (b) Received a minimum combined score on the reading
- 15 comprehension and English language portions of an adult basic
- 16 education examination designated by the Nebraska Law Enforcement
- 17 Training Center.
- 18 (2) Each sheriff shall attend the Nebraska Law
- 19 Enforcement Training Center and receive a certificate attesting to
- 20 satisfactory completion of the Sheriff's Certification Course
- 21 within eight months of taking office unless such sheriff has
- 22 already been awarded a certificate by the Nebraska Commission on
- 23 Law Enforcement and Criminal Justice attesting to satisfactory
- 1 completion of such course or unless such sheriff can demonstrate to
- 2 the Nebraska Police Standards Advisory Council that his or her
- 3 previous training and education is such that he or she will

4 professionally discharge the duties of the office. Any sheriff in
 5 office prior to July 19, 1980, shall not be required to obtain a
 6 certificate attesting to satisfactory completion of the Sheriff's
 7 Certification Course but shall otherwise be subject to this
 8 section. Each sheriff shall attend twenty hours of continuing
 9 education in criminal justice and law enforcement courses approved
 10 by the council each year following the first year of such sheriff's
 11 term of office. Such continuing education shall be offered through
 12 seminars, advanced education which may include college or
 13 university classes, or conferences and shall be of a type which has
 14 application to and seeks to maintain and improve the skills of the
 15 sheriffs in carrying out the responsibilities of their office.
 16 ~~(2)~~ (3) Unless a sheriff is able to show good cause for
 17 not complying with subsection ~~(1)~~ (2) of this section or obtains a
 18 waiver of the training requirements from the council, any sheriff
 19 who violates subsection ~~(1)~~ (2) of this section shall be punished
 20 by a fine equal to such sheriff's monthly salary. Each month in
 21 which such violation occurs shall constitute a separate offense.
 22 Sec. 2. Original section 23-1701.01, Reissue Revised
 23 Statutes of Nebraska, is repealed."

Senator Kremer filed the following amendment to LB 212:
 AM2171

1 1. Strike the original sections and insert the following
 2 new sections:
 3 "Section 1. Section 2-2701.01, Reissue Revised Statutes
 4 of Nebraska, is amended to read:
 5 2-2701.01. For purposes of sections 2-2701 to 2-2711,
 6 unless the context otherwise requires:
 7 (1) Board shall mean the University of Nebraska Board of
 8 Tractor Test Engineers which shall consist of three engineers under
 9 the control of the university;
 10 (2) Current tractor model shall mean any model included
 11 in the manufacturer's annual price list of tractors being offered
 12 for sale by its dealers or distributors;
 13 (3) Department shall mean the Department of Agriculture;
 14 (4) Director shall mean the Director of Agriculture or
 15 his or her authorized representative;
 16 (5) Person shall mean bodies politic and corporate,
 17 societies, communities, the public generally, individuals,
 18 partnerships, limited liability companies, joint-stock companies,
 19 and associations; and
 20 (6) Tractor shall mean an agricultural tractor of ~~forty~~
 21 seventy or more horsepower which is a traction machine designed and
 22 advertised primarily to supply power to agricultural implements and
 23 farmstead equipment. An agricultural tractor propels itself and
 1 provides a force in the direction of travel to enable attached
 2 soil-engaging and other agricultural implements to perform their
 3 intended function.

- 3 Sec. 2. Sections 2 to 9 of this act shall be known and
4 may be cited as the Tractor Testing Act.
- 5 Sec. 3. For purposes of the Tractor Testing Act:
- 6 (1) Board means the University of Nebraska Board of
7 Tractor Test Engineers which consists of three engineers under the
8 control of the university;
- 9 (2) Current tractor model means any tractor model
10 included in the manufacturer's annual price list of tractors being
11 offered for sale by its dealers or distributors;
- 12 (3) Person means bodies politic and corporate, societies,
13 communities, the public generally, individuals, partnerships,
14 limited liability companies, joint-stock companies, and
15 associations; and
- 16 (4) Tractor means an agricultural tractor of seventy or
17 more horsepower which is a traction machine designed and advertised
18 primarily to supply power to agricultural implements and farmstead
19 equipment. An agricultural tractor propels itself and provides a
20 force in the direction of travel to enable attached soil-engaging
21 and other agricultural implements to perform their intended
22 function.
- 23 Sec. 4. (1)(a) The Board of Regents of the University of
24 Nebraska shall adopt and promulgate rules and regulations setting
25 forth codes for the official testing of tractors.
- 26 (b) The Board of Regents of the University of Nebraska
27 shall adopt procedures for the official testing of agricultural
1 tractors as prescribed by the Organization for Economic Cooperation
2 and Development.
- 3 (c) The Board of Regents of the University of Nebraska
4 shall also adopt and promulgate rules and regulations for the
5 testing of tractors as published by the Society of Automotive
6 Engineers International and the American Society of Agricultural
7 Engineers.
- 8 (2) In addition to the powers and duties prescribed in
9 the Tractor Testing Act, the University of Nebraska shall have the
10 power to:
- 11 (a) Authorize the use of the Nebraska Tractor Testing
12 Laboratory facilities to conduct Organization for Economic
13 Cooperation and Development testing and other official tests;
- 14 (b) Cooperate with the United States Department of
15 Commerce when planning and conducting Organization for Economic
16 Cooperation and Development testing;
- 17 (c) Conduct offsite tractor tests; and
- 18 (d) Submit and certify tractor test results to the
19 federal government.
- 20 Sec. 5. Whenever a current tractor model has been tested
21 by the University of Nebraska or an official test result has been
22 submitted from any Organization for Economic Cooperation and
23 Development test station for review, the board shall prepare a
24 report of the results of such official test or review.

25 Sec. 6. (1) An application to test a current tractor
26 model by the University of Nebraska shall be submitted to the Board
27 of Regents of the University of Nebraska with an application fee
1 prescribed by the board. The application fee shall defray the
2 expenses of processing the application.

3 (2) The Board of Regents of the University of Nebraska
4 may establish and change from time to time as it determines
5 advisable a schedule of fees for testing current tractor models by
6 the Nebraska Tractor Testing Laboratory and a schedule of fees for
7 reviewing an official test of a current tractor model performed at
8 any Organization for Economic Cooperation and Development test
9 station other than the Nebraska Tractor Testing Laboratory. Fees
10 charged and collected for such testing or review shall be remitted
11 to the State Treasurer for credit to the University of Nebraska
12 Tractor Test Cash Fund, which fund is hereby created. The fund
13 shall be used by the Nebraska Tractor Testing Laboratory to defray
14 the expenses of testing current tractor models and reviewing
15 official test results. Any accrued interest shall also be credited
16 to the fund. Any money in the fund available for investment shall
17 be invested by the state investment officer pursuant to the
18 Nebraska Capital Expansion Act and the Nebraska State Funds
19 Investment Act.

20 Sec. 7. The report of an official current tractor model
21 test or review performed pursuant to section 2-2703 shall be
22 published by the board and made available in the Biological Systems
23 Engineering Department of the University of Nebraska and in such
24 other places as may be designated by the board. All information
25 pertaining to the official testing of a current tractor model shall
26 be public record and available for inspection during normal
27 business hours.

1 Sec. 8. No person shall use the results of official
2 current tractor model tests or reviews performed pursuant to
3 section 5 of this act in such manner as would cause it to appear
4 that the University of Nebraska intended to recommend the use of
5 any given current tractor model in preference to any other model.

6 Sec. 9. Current tractor models shall be tested or
7 reviewed in the order in which the applications are submitted for
8 such tests or reviews, and no discrimination shall be made for or
9 against any person in any manner whatsoever. Complaints alleging a
10 violation of this section shall be heard by the vice chancellor for
11 the University of Nebraska Institute of Agriculture and Natural
12 Resources.

13 Sec. 10. Sections 1 and 11 of this act become operative
14 on their effective date. The other sections of this act become
15 operative on July 1, 2007.

16 Sec. 11. Original section 2-2701.01, Reissue Revised
17 Statutes of Nebraska, is repealed.

18 Sec. 12. The following sections are outright repealed:

19 Sections 2-2701 to 2-2703 and 2-2705 to 2-2711, Reissue Revised

20 Statutes of Nebraska."

Senator Schrock filed the following amendment to LB 237:
AM2180

(Amendments to Standing Committee amendments, AM0570)

- 1 1. On page 1, line 20, after "mailing" insert "or
- 2 otherwise providing to the customer or leaving at the customer's
- 3 residence"; and in lines 21 and 22 strike "to the liquefied
- 4 petroleum gas customer".

RESOLUTIONS

LEGISLATIVE RESOLUTION 204. Introduced by Burling, 33.

WHEREAS, Rob Quirk of Troop 200, Hastings, Nebraska, has completed the requirements for and been awarded the highest honor and rank in the Boy Scouts of Eagle Scout; and

WHEREAS, Rob Quirk was recognized by the Boy Scouts for his years of hard work, commitment to his scouting duties, and service to his community which included his Eagle Scout project. His project consisted of renovating the playground equipment at Adams County School District 15; and

WHEREAS, fewer than two percent of all boys who join Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Rob Quirk has achieved great success as an exemplary member of the scouting program; thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes, and has represented his troop and community with excellence.

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

1. That the Legislature congratulates Rob Quirk on his achievement of the elite rank of Eagle Scout in the Boy Scouts and recognizes his outstanding community service efforts in Hastings.

2. That a copy of this resolution be sent to Rob Quirk and his family.

Laid over.

LEGISLATIVE RESOLUTION 205. Introduced by Burling, 33.

WHEREAS, Aaron Blaine Prior of Hastings, Nebraska, has completed the requirements for and been awarded the highest honor and rank in the Boy Scouts of America, the rank of Eagle Scout; and

WHEREAS, Aaron Prior was recognized by the Boy Scouts for his years of hard work, commitment to his scouting duties, and service to his community which included his Eagle Scout project; and

WHEREAS, fewer than two percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Aaron Prior has achieved great success as an exemplary member of the scouting program; thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes, and has represented his troop and community with excellence.

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

1. That the Legislature congratulates Aaron Prior on his achievement of the elite rank of Eagle Scout in the Boy Scouts and recognizes his outstanding community service efforts in Hastings.

2. That a copy of this resolution be sent to Aaron Prior and his family.

Laid over.

LEGISLATIVE RESOLUTION 206. Introduced by Burling, 33.

WHEREAS, Jared Thompson of Hastings, Nebraska, has completed the requirements for and been awarded the highest honor and rank in the Boy Scouts of America, the rank of Eagle Scout; and

WHEREAS, Jared Thompson was recognized by the Boy Scouts for his years of hard work, commitment to his scouting duties, and service to his community which included his Eagle Scout project; and

WHEREAS, fewer than two percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Jared Thompson has achieved great success as an exemplary member of the scouting program; thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes, and has represented his troop and community with excellence.

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

1. That the Legislature congratulates Jared Thompson on his achievement of the elite rank of Eagle Scout in the Boy Scouts and recognizes his outstanding community service efforts in Hastings.

2. That a copy of this resolution be sent to Jared Thompson and his family.

Laid over.

LEGISLATIVE RESOLUTION 207. Introduced by Thompson, 14.

WHEREAS, the Papillion-La Vista High School Monarchs' softball team entered the 2003 season as the eight-time defending Class A state champions; and

WHEREAS, on October 17, 2003, the team won its ninth consecutive Class A state softball championship; and

WHEREAS, Head Coach Kristi Renner and the members of the Papillion-La Vista High School Monarchs' softball team achieved this outstanding accomplishment through their dedication, hard work, and a continued commitment to excellence.

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

1. That the Legislature recognizes and congratulates the Papillion-La Vista High School Monarchs' softball team for its outstanding accomplishment.

2. That a copy of this resolution be sent to the Papillion-La Vista High School Monarchs' softball team and Head Coach Kristi Renner.

Laid over.

LEGISLATIVE RESOLUTION 208CA. Introduced by Schimek, 27; Brown, 6; Burling, 33; Combs, 32; Mines, 18.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 18, Article VIII, sections 4 and 6, Article IX, section 4, Article XI, section 1, and Article XVII, section 4, and repeal Article IX, section 5:

III-18 "The Legislature shall not pass local or special laws in any of the following cases, that is to say:

For granting divorces.

Changing the names of persons or places.

Laying out, opening altering and working roads or highways.

Vacating roads, ~~Town~~ plats, streets, alleys, and public grounds.

Locating or changing County seats.

Regulating County ~~and Township~~ offices.

Regulating the practice of Courts of Justice.

Regulating the jurisdiction and duties of Justices of the Peace, Police Magistrates and Constables.

Providing for changes of venue in civil and criminal cases.

Incorporating Cities; ~~Towns~~ and Villages; or changing or amending the charter of any ~~Town~~, City, or Village.

Providing for the election of Officers in ~~Townships~~, incorporated ~~Towns~~ Villages or Cities.

Summoning or empaneling Grand or Petit Juries.

Providing for the bonding of cities, ~~towns~~ villages, precincts, school districts, or other municipalities.

Providing for the management of Public Schools.

The opening and conducting of any election; or designating the place of voting.

The sale or mortgage of real estate belonging to minors; or others under

disability.

The protection of game or fish.

Chartering or licensing ferries; or toll bridges, remitting fines, penalties, or forfeitures, creating, increasing, and decreasing fees, percentage, or allowances of public officers, during the term for which ~~said~~ the officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association, or individual; the right to lay down railroad tracks; or amending existing charters for such purpose.

Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever; **PROVIDED, except** that notwithstanding any other provisions of this Constitution, the Legislature shall have authority to separately define and classify loans and installment sales, to establish maximum rates within classifications of loans or installment sales which it establishes, and to regulate with respect thereto. In all other cases where a general law can be made applicable, no special law shall be enacted."

VIII-4 "Except as to tax and assessment charges against real property remaining delinquent and unpaid for a period of fifteen years or longer, the Legislature shall have no power to release or discharge any county, city, ~~township, town~~ village, or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever; **PROVIDED, except** that the Legislature may provide by law for the payment or cancellation of taxes or assessments against real estate remaining unpaid against real estate owned or acquired by the state or its governmental subdivisions."

VIII-6 "The Legislature may vest the corporate authorities of cities, ~~towns~~ and villages; with power to make local improvements, including facilities for providing off-street parking for vehicles, by special assessments or by special taxation of property benefited, and to redetermine and reallocate from time to time the benefits arising from the acquisition of such off-street parking facilities, and the Legislature may vest the corporate authorities of cities and villages with power to levy special assessments for the maintenance, repair, and reconstruction of such off-street parking facilities. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same, except that cities and villages may be empowered by the Legislature to assess and collect separate and additional taxes within off-street parking districts created by and within any city or village on such terms as the Legislature may prescribe."

IX-4 "The Legislature shall provide by law for the election of such county ~~and township~~ officers as may be necessary and for the consolidation of county offices for two or more counties; **PROVIDED, except** that each of the counties affected may disapprove such consolidation by a majority vote in each of such counties."

XI-1 "No village, city, county, ~~town~~, precinct, municipality, or other ~~sub~~

~~division~~ subdivision of the state, shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein of any railroad, ~~or~~ private corporation, or association."

XVII-4 "The general election of this state shall be held on the Tuesday succeeding the first Monday of November in the year 1914 and every two years thereafter. All state, district, county, precinct, ~~township~~ and other officers, by the constitution or laws made elective by the people, except school district officers, and municipal officers in cities, and ~~villages, and towns,~~ shall be elected at a general election to be held as ~~aforsaid~~ provided in this section. An incumbent of any office shall hold over until ~~his~~ a successor is duly elected and qualified."

"Article IX, section 5, of the Constitution of Nebraska is repealed."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to eliminate references to towns and townships and repeal provisions authorizing township organization.

For

Against".

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 209CA. Introduced by Landis, 46; Cudaback, 36.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 24:

III-24 "(1) Except as provided in this section, the Legislature shall not authorize any game of chance or any lottery or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3)(a) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for ~~other~~ the following purposes, as directed by the Legislature:

(i) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Education Innovation Fund;

(ii) Forty-four and one-half percent of the money remaining after the

payment of prizes and operating expenses shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act;

(iii) Ten percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Nebraska State Fair Board; and

(iv) One percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Compulsive Gamblers Assistance Fund.

(b) No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure or (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to require the proceeds of a lottery operated and regulated by the State of Nebraska to be distributed for the costs of the lottery, the environment, education, the Nebraska State Fair, and the treatment of compulsive gambling.

For

Against".

Referred to the Reference Committee.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB 891	Judiciary
LB 892	Revenue
LB 893	Business and Labor
LB 894	Transportation and Telecommunications
LB 895	Natural Resources
LB 896	Education
LB 897	Executive Board
LB 898	Government, Military and Veterans Affairs
LB 899	Transportation and Telecommunications
LB 900	Revenue

LB 901	Judiciary
LB 902	Government, Military and Veterans Affairs
LB 903	Urban Affairs
LB 904	Education
LB 905	Revenue
LB 906	Health and Human Services
LB 907	Transportation and Telecommunications
LB 908	Transportation and Telecommunications
LB 909	Transportation and Telecommunications
LB 910	Transportation and Telecommunications
LB 911	Transportation and Telecommunications
LB 912	Transportation and Telecommunications
LB 913	Government, Military and Veterans Affairs
LB 914	General Affairs
LB 915	Government, Military and Veterans Affairs
LB 916	Natural Resources
LB 917	Education
LB 918	Agriculture
LB 919	Transportation and Telecommunications
LB 920	Banking, Commerce and Insurance
LB 921	Health and Human Services
LB 922	Revenue
LB 923	Natural Resources
LB 924	Transportation and Telecommunications
LB 925	Transportation and Telecommunications
LB 926	Judiciary
LB 927	Government, Military and Veterans Affairs
LB 928	Judiciary
LB 929	Health and Human Services
LB 930	Business and Labor
LB 931	Health and Human Services

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

UNANIMOUS CONSENT - Add Cointroducers

Senator Kremer asked unanimous consent to have his name added as cointroducer to LB 816. No objections. So ordered.

Senators Foley, Schimek, Synowiecki, and Thompson asked unanimous consent to have their names added as cointroducers to LB 879. No objections. So ordered.

Senators Erdman and Thompson asked unanimous consent to have their names added as cointroducers to LB 880. No objections. So ordered.

Senators Erdman and Thompson asked unanimous consent to have their names added as cointroducers to LB 881. No objections. So ordered.

Senators Jensen, Preister, and Redfield asked unanimous consent to have their names added as cointroducers to LB 892. No objections. So ordered.

Senator Vrtiska asked unanimous consent to have his name added as cointroducer to LR 209CA. No objections. So ordered.

VISITORS

Visitor to the Chamber as Daniel Wallenas from Sweden.

ADJOURNMENT

At 10:42 a.m., on a motion by Senator Redfield, the Legislature adjourned until 9:00 a.m., Monday, January 12, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FOURTH DAY - JANUARY 12, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, January 12, 2004

PRAYER

The prayer was offered by Pastor Cindy Sickler, Christ Unity Church, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Beutler, Brown, Connealy, Hartnett, Mossey, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the third day was approved.

RESOLUTION

LEGISLATIVE RESOLUTION 210. Introduced by Erdman, 47.

WHEREAS, the Paxton Tigers Volleyball team won the Nebraska Class D-1 State Volleyball Championship with a 15-12, 16-14 win over Republican Valley; and

WHEREAS, the Paxton Tigers went undefeated in their district throughout the regular season under Coach Jody Rhodes; and

WHEREAS, the Lincoln-Journal Star named Paxton Tigers senior Kelsey Perlinger to their All-State team for the second straight year and Paxton senior Jena McFadden was named to the D-1 second team; and

WHEREAS, the Paxton Tigers volleyball team represented their community with excellence and sportsmanship.

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

1. That the Legislature congratulates the Paxton Tigers volleyball team on their successful season.

2. That a copy of this resolution be sent to the team and Coach Jody Rhodes.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 172. Considered.

Senator Foley renewed his pending amendment, AM2025, found on page 1991, First Session, 2003.

Senator Foley withdrew his amendment.

Senator Schimek offered the following amendment:

AM2066

1 1. Strike original section 1 and all amendments thereto
 2 and insert the following new sections:
 3 "Section 1. Section 71-6909, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 71-6909. On or before October 1 of each school year,
 6 each school district shall provide written information to all
 7 students in grades seven through twelve explaining the provisions
 8 of section 71-6902 with regard to the requirements for parental
 9 notification as a condition for obtaining an abortion. The
 10 information shall also explain the provisions of sections 71-6903
 11 and 71-6904 with regard to seeking a judicial waiver of the
 12 parental notification requirements. The provisions of this section
 13 shall be narrowly construed to require a school district to provide
 14 only the information specified in this section. The provisions of
 15 this section shall not be construed to require a school district to
 16 provide specific information regarding how students may implement
 17 the judicial ~~bypass~~ waiver provisions of section 71-6903. The
 18 State Department of Education shall develop and distribute to all
 19 public schools a standardized information form which may be used to
 20 comply with this section. The standardized information form shall
 21 be approved by the State Board of Education following opportunity
 22 for public testimony at a public hearing of the board.
 23 Sec. 2. Original section 71-6909, Reissue Revised
 24 Statutes of Nebraska, is repealed."

SENATOR CUDABACK PRESIDING

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 993. Introduced by Building Maintenance Committee: Thompson, 14, Chairperson; Janssen, 15; Jensen, 20; D. Pederson, 42; Tyson, 19; Wehrbein, 2.

A BILL FOR AN ACT relating to state government; to amend section 81-1108.22, Reissue Revised Statutes of Nebraska, and section 81-1108.15, Revised Statutes Supplement, 2002; to require an annual report by the state building division; to change provisions for rental of office space; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 994. Introduced by Mines, 18; Combs, 32; Cudaback, 36; Redfield, 12.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-311.03 to 60-311.05, 60-311.07 to 60-311.10, 60-311.13, 60-311.17, 60-311.21, 60-311.25, 60-323, 60-324, 60-331.03, 60-334, 60-345, 60-347, and 60-683, Reissue Revised Statutes of Nebraska, sections 18-1736, 18-1737, 60-108, 60-117, 60-304, 60-311.11, 60-311.12, 60-311.14, 60-311.23, 60-315, 60-315.01, 60-335, 60-6,197.01, 60-1901 to 60-1903, 60-1908, and 81-2005, Revised Statutes Supplement, 2002, and sections 60-301, 60-305.03, 60-305.04, 60-310, 60-311, 60-311.02, 60-311.16, 60-320, 60-321, 60-331, 60-361, and 60-1306, Revised Statutes Supplement, 2003; to provide for one license plate and In Transit decal per vehicle; to change provisions relating to license plates; to eliminate obsolete language; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 995. Introduced by Preister, 5.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-101 and 53-124.14, Revised Statutes Supplement, 2002; to state intent; to prohibit the sale of alcoholic liquor in unincorporated villages as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 996. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to automated external defibrillators; to amend section 71-51,102, Reissue Revised Statutes of Nebraska; to eliminate restrictions on users; to change liability provisions; to provide duties for owners; and to repeal the original section.

LEGISLATIVE BILL 997. Introduced by Baker, 44.

A BILL FOR AN ACT relating to cities and villages; to amend sections 16-230 and 17-563, Reissue Revised Statutes of Nebraska; to change notice provisions relating to the abatement and removal of nuisances; and to repeal the original sections.

LEGISLATIVE BILL 998. Introduced by D. Pederson, 42; Brown, 6;

Combs, 32; Engel, 17; Johnson, 37.

A BILL FOR AN ACT relating to the Nebraska Hospital-Medical Liability Act; to amend section 44-2824, Reissue Revised Statutes of Nebraska, and sections 44-2827, 44-2829, and 44-2831, Revised Statutes Supplement, 2003; to change financial responsibility requirements as prescribed; to change surcharge provisions; and to repeal the original sections.

LEGISLATIVE BILL 999. Introduced by Banking, Commerce and Insurance Committee: Quandahl, 31, Chairperson; Foley, 29; Jensen, 20; Johnson, 37; Louden, 49; Mines, 18; Redfield, 12; Tyson, 19.

A BILL FOR AN ACT relating to banking and finance; to amend sections 8-1009, 8-1512, 8-1513, 45-206, 45-342, 45-346, and 45-921, Reissue Revised Statutes of Nebraska, sections 8-113, 8-208, 8-910, 8-1006, 8-1008, 8-1010, 8-1511, 45-205, 45-351, 45-1017, and 45-1065, Revised Statutes Supplement, 2002, and sections 8-157.01, 8-1,140, 8-355, 8-602, 8-1001, 8-1003, 8-1012.01, 21-17,115, 45-101.04, 45-1018, 45-1024, and 45-1025, Revised Statutes Supplement, 2003; to change provisions relating to bank names, executive officers, electronic terminals, trust companies, fees, the Nebraska Sale of Checks and Funds Transmission Act, interest and loans, revolving charge agreements, the Nebraska Installment Sales Act, the Delayed Deposit Services Licensing Act, and the Nebraska Installment Loan Act; to revise powers of state-chartered banks, building and loan associations, and credit unions; to provide for credit card banks; to define and redefine terms; to eliminate obsolete language; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1000. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to the Nebraska Correctional Health Care Services Act; to amend sections 83-4,153, 83-4,154, and 83-4,157, Revised Statutes Supplement, 2002; to provide for a mental health treatment program; to define a term; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1001. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to the Department of Correctional Services; to prohibit recording certain telephone conversations as prescribed.

LEGISLATIVE BILL 1002. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to the Commercial Dog and Cat Operator Inspection Act; to amend sections 54-626 and 54-627, Revised Statutes Supplement, 2003; to define and redefine terms; to change pet shop provisions; and to repeal the original sections.

LEGISLATIVE BILL 1003. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to state constitutional officers; to amend section 75-104, Reissue Revised Statutes of Nebraska, and sections 84-101.01, 84-201.01, and 84-721, Revised Statutes Supplement, 2002; to change the salaries of the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, and members of the Public Service Commission; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1004. Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Public Service Commission; to amend section 75-112, Reissue Revised Statutes of Nebraska, and section 86-329, Revised Statutes Supplement, 2002; to change provisions relating to commissioners and examiners of the commission; to rename the Nebraska Lifeline Service Program; and to repeal the original sections.

LEGISLATIVE BILL 1005. Introduced by Health and Human Services Committee: Jensen, 20, Chairperson; Byars, 30; Cunningham, 40; Erdman, 47; Johnson, 37; Maxwell, 9; Stuthman, 22.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 68-1036.02, 71-110.01, 71-1,155, 71-341, 71-342, 71-356.04, 71-365.01, 71-368, 71-371, 71-385.01, 71-387, 71-389, 71-3,102, 71-3,105, 71-3,106.01, 71-3,137, 71-3,139 to 71-3,141, 71-3,145, 71-3,147, 71-3,150, 71-3,169, 71-3,177, 71-3,179, 71-409, 71-428, 71-542, 71-604.05, 71-612, 71-617.05, 71-617.15, 71-627, 71-628, 71-634, 71-1903, 71-1908 to 71-1912, 71-1914 to 71-1917, 71-3601 to 71-3603, 71-3608 to 71-3614, 71-5301, 71-5652, 71-5654, 71-5662, 71-5663, 71-5665, 71-5668, 71-6721, and 71-6735, Reissue Revised Statutes of Nebraska, sections 43-107, 43-3344, and 43-3346, Revised Statutes Supplement, 2002, and section 29-2264, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to adoption, child support, medical assistance, veterinary technician students, electrology, critical access hospitals, respite care services, birth and death certificates, foster care, child care programs, tuberculosis, drinking water, and rural health practice incentives; to create a fund; to delete obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 71-3,138.01, 71-616.05, and 71-617.14, Reissue Revised Statutes of Nebraska, and sections 43-3342.07 and 43-3343, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 1006. Introduced by Byars, 30.

A BILL FOR AN ACT relating to postsecondary education; to amend section 85-1412, Revised Statutes Supplement, 2003; to define terms; to provide for a tuition waiver for dependents of certain deceased public safety officers as prescribed; to harmonize provisions; and to repeal the original section.

RESOLUTION

LEGISLATIVE RESOLUTION 211CA. Introduced by Chambers, 11.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, sections 10 and 14:

III-10 "Beginning with the year 1975, regular sessions of the Legislature shall be held annually, commencing at 10 a.m. on the first Wednesday after the first Monday in January of each year. The duration of regular sessions held shall not exceed ninety legislative days in odd-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature, and shall not exceed sixty legislative days in even-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature. Bills and resolutions under consideration by the Legislature upon adjournment of a regular session held in an odd-numbered year may be considered at the next regular session, as if there had been no such adjournment. ~~The Lieutenant Governor shall preside, but shall vote only when the Legislature is equally divided.~~

A majority of the members elected to the Legislature shall constitute a quorum. ~~The~~ ~~;~~ ~~the~~ Legislature shall determine the rules of its proceedings, shall ~~and~~ be the judge of the election, returns, and qualifications of its members, ~~and~~ shall choose its own officers, including a Speaker to preside, ~~when the Lieutenant Governor shall be absent, incapacitated, or shall act as Governor.~~

No member shall be expelled except by a vote of two-thirds of all members elected to the Legislature, and no member shall be twice expelled for the same offense. The Legislature may punish by imprisonment any person not a member thereof who shall be guilty of disrespect to the Legislature by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior."

III-14 "Every bill and resolution shall be read by title when introduced, and a printed copy thereof provided for the use of each member. The bill and all amendments thereto shall be printed and presented before the vote is taken upon its final passage and shall be read at large unless three-fifths of all the members elected to the Legislature vote not to read the bill and all amendments at large. No vote upon the final passage of any bill shall be taken until five legislative days after its introduction nor until it has been on file for final reading and passage for at least one legislative day. No bill shall contain more than one subject, and the subject shall be clearly expressed in the title. No law shall be amended unless the new act contains the section or sections as amended and the section or sections so amended shall be repealed. ~~The Lieutenant Governor, or the Speaker if acting as presiding officer,~~ shall sign, in the presence of the Legislature while it is in session and capable of transacting business, all bills and resolutions passed by the Legislature."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to remove the Lieutenant Governor and designate the Speaker as presiding officer of the Legislature.

For

Against".

Referred to the Reference Committee.

GENERAL FILE

LEGISLATIVE BILL 172. Senator Chambers offered the following motion:

Recommit to the Education Committee.

SPEAKER BROMM PRESIDING

Senator Friend moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

Senator Chambers requested a roll call vote on his motion to recommit to committee.

Voting in the affirmative, 0.

Voting in the negative, 32:

Baker	Engel	Landis	Quandahl	Synowiecki
Brashear	Erdman	Maxwell	Raikes	Tyson
Bromm	Foley	McDonald	Redfield	Vrtiska
Burling	Friend	Mines	Schrock	Wehrbein
Byars	Jensen	Mossey	Smith	
Combs	Jones	Pedersen, Dw.	Stuhr	
Cunningham	Kremer	Price	Stuthman	

Present and not voting, 11:

Bourne	Connealy	Kruse	Schimek
Brown	Janssen	Louden	Thompson
Chambers	Johnson	Pederson, D.	

Excused and not voting, 6:

Aguilar	Cudaback	Hudkins
Beutler	Hartnett	Preister

The Chambers motion to recommit to committee failed with 0 ayes, 32 nays, 11 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
Reconsider vote to recommit to a committee.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1007. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to cities of the second class and villages; to amend section 17-522, Reissue Revised Statutes of Nebraska; to change provisions relating to sidewalk construction, repair, and maintenance; to provide for owner liability in certain cases; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 1008. Introduced by Landis, 46.

A BILL FOR AN ACT relating to zoning; to amend sections 19-910 and 19-929, Reissue Revised Statutes of Nebraska; to change appeal provisions relating to conditional uses and special exceptions; and to repeal the original sections.

LEGISLATIVE BILL 1009. Introduced by Mines, 18.

A BILL FOR AN ACT relating to real property; to amend section 76-250, Reissue Revised Statutes of Nebraska; to provide for certificates of dissolution of marriage to be filed with the register of deeds as prescribed; to provide a duty for the Revisor of Statutes; to harmonize provisions; to provide operative dates; and to repeal the original section.

LEGISLATIVE BILL 1010. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.15, Reissue Revised Statutes of Nebraska; to exempt railroad transportation safety districts from sales taxation; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 1011. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.10, 77-2701.16, 77-2701.32, 77-2701.34, 77-2701.42, 77-2704.12, 77-2704.15, 77-2704.32, and 77-2704.55, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to sales taxation of contractors, repairpersons, and labor; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal section 77-27,119.03, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1012. Introduced by Vrtiska, 1; Baker, 44; Burling, 33; Combs, 32; Connealy, 16; Cudaback, 36; Cunningham, 40; Erdman, 47; Jones, 43; Kremer, 34; Raikes, 25; Stuhr, 24; Stuthman, 22; Tyson, 19; Wehrbein, 2.

A BILL FOR AN ACT relating to civil procedure; to provide for immunity from liability for owners of anhydrous ammonia as prescribed.

EXECUTIVE BOARD ANNOUNCEMENT

The Executive Board made the following appointments to the Select Committee on Minority and Gender Equity: Senators Chambers, Beutler, Hudkins, Raikes, Schimek, Wehrbein, Combs, Stuhr, and Redfield.

The Executive Board also appointed Senator Dwite Pedersen to the State Council for Interstate Adult Offender Supervision.

VISITORS

Visitors to the Chamber were 16 juniors, seniors, and sponsor from the Lincoln area Stand Firm Debate Club.

RECESS

At 11:59 a.m., on a motion by Senator Brown, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Beutler, Bromm, Byars, Engel, Landis, and Price who were excused until they arrive.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB 895	Revenue (rereferred)
LB 932	Business and Labor
LB 933	Judiciary
LB 934	Education
LB 935	Revenue
LB 936	General Affairs
LB 937	Urban Affairs
LB 938	Government, Military and Veterans Affairs
LB 939	Government, Military and Veterans Affairs
LB 940	Government, Military and Veterans Affairs
LB 941	Health and Human Services
LB 942	Health and Human Services
LB 943	Judiciary
LB 944	Health and Human Services
LB 945	Revenue
LB 946	Agriculture
LB 947	Business and Labor
LB 948	Business and Labor
LB 949	Business and Labor
LB 950	Business and Labor
LB 951	Business and Labor
LB 952	Business and Labor
LB 953	Business and Labor
LB 954	Business and Labor
LB 955	Revenue
LB 956	Revenue
LB 957	Revenue
LB 958	Judiciary
LB 959	Judiciary
LB 960	Nebraska Retirement Systems
LB 961	Nebraska Retirement Systems
LB 962	Natural Resources
LB 963	Government, Military and Veterans Affairs
LB 964	Government, Military and Veterans Affairs
LB 965	Revenue
LB 966	Banking, Commerce and Insurance
LB 967	Natural Resources
LB 968	Judiciary
LB 969	Natural Resources
LB 970	Revenue
LB 971	Revenue
LB 972	Revenue
LB 973	Revenue
LB 974	Revenue
LB 975	Revenue
LB 976	Business and Labor
LB 977	Business and Labor

LB 978	Banking, Commerce and Insurance
LB 979	Banking, Commerce and Insurance
LB 980	Banking, Commerce and Insurance
LB 981	Business and Labor
LB 982	Business and Labor
LB 983	Revenue
LB 984	Revenue
LB 985	Business and Labor
LB 986	Revenue
LB 987	Judiciary
LB 988	Revenue
LB 989	Transportation and Telecommunications
LB 990	Banking, Commerce and Insurance
LB 991	Business and Labor
LB 992	Agriculture
LR 208CA	Government, Military and Veterans Affairs
LR 209CA	General Affairs

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

RESOLUTIONS

LEGISLATIVE RESOLUTION 212. Introduced by Stuthman, 22.

WHEREAS, the Howells High School boys' football team won the Class D-1 Boys' State High School Football Championship which is their fourth straight state title; and

WHEREAS, Howells defeated Overton 36-15 in the championship game which capped an outstanding 13-0 season; and

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

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

1. That the Howells High School boys' football team be congratulated for their exemplary effort this season.

2. That a copy of this resolution be sent to Coach Michael Speirs and the Howells High School boys' football team.

Laid over.

LEGISLATIVE RESOLUTION 213. Introduced by Stuthman, 22.

WHEREAS, Jared Charles Sharman, son of Gary and Jean Sharman, of Troop 276 of Columbus, 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 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, Jared Sharman 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 complete a community service project approved by the troop and the scout council. Jared earned thirty-four merit badges, along with the "God and Me" and "God and Family" Religious awards, the Paul Bunyan award, two snorkeling certifications, three Mile Swim badges, and the BSA Life Guard certification. For his Eagle Scout community service project, Jared designed and supervised the landscaping of six planting beds on the remaining unlandscaped corners of Frankfort Square; and

WHEREAS, only two percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, on Sunday, November 30, 2003, Jared Sharman received the rank of Eagle Scout, thereby, through his hard work and perseverance, joining 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 NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature congratulates Jared Sharman on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Jared Sharman.

Laid over.

LEGISLATIVE RESOLUTION 214. Introduced by Stuthman, 22.

WHEREAS, the Columbus Scotus High School girls' volleyball team won their third consecutive Class C-1 Girls State High School Volleyball Championship. This is their eighth championship in the last nine years; and

WHEREAS, the championship was the final victory of an outstanding 29-0 season and extended the team's winning streak to eighty-seven games; and

WHEREAS, the team and Coach John Petersen deserve special recognition for the teamwork, discipline, and spirit which they displayed throughout the season.

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

1. That the Legislature congratulates the Columbus Scotus High School girls' volleyball team and Coach John Petersen.
2. That a copy of this resolution be sent to the Columbus Scotus High School girls' volleyball team.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 172. The Chambers pending motion, found in this day's Journal, to reconsider the vote to recommit to a committee, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 16 ayes, 3 nays, and 30 not voting.

Senator Chambers requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 32:

Aguilar	Engel	Landis	Quandahl	Synowiecki
Baker	Erdman	Maxwell	Raikes	Tyson
Brashear	Foley	McDonald	Redfield	Vrtiska
Burling	Friend	Mossey	Schrock	Wehrbein
Combs	Jensen	Pedersen, Dw.	Smith	
Connealy	Jones	Preister	Stuhr	
Cunningham	Kremer	Price	Stuthman	

Present and not voting, 11:

Bourne	Hartnett	Kruse	Schimek
Brown	Janssen	Louden	Thompson
Cudaback	Johnson	Pederson, D.	

Excused and not voting, 5:

Beutler	Bromm	Byars	Hudkins	Mines
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The Chambers motion to reconsider failed with 1 aye, 32 nays, 11 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

The Schimek pending amendment, AM2066, found in this day's Journal, was renewed.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1013. Introduced by Stuhr, 24; Thompson, 14.

A BILL FOR AN ACT relating to cities of the first class; to amend section 16-1036, Reissue Revised Statutes of Nebraska; to change provisions relating to firefighter retirement accounts; and to repeal the original section.

LEGISLATIVE BILL 1014. Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to state identification cards; to amend sections 60-490 and 60-4,115, Revised Statutes Supplement, 2002; to provide for permanent issue of cards to persons seventy years of age or older; to change fees; and to repeal the original sections.

LEGISLATIVE BILL 1015. Introduced by Redfield, 12; Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3101, 77-3102, and 77-3104 to 77-3106, Reissue Revised Statutes of Nebraska; to change provisions relating to contractors and subcontractors; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 1016. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.27, 77-2703.01, and 77-2704.49, Reissue Revised Statutes of Nebraska; to redefine the term property; to change sales tax sourcing provisions; to change an exemption; and to repeal the original sections.

LEGISLATIVE BILL 1017. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701.34, Reissue Revised Statutes of Nebraska; to change provisions relating to sales tax on construction labor; and to repeal the original section.

LEGISLATIVE BILL 1018. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to eliminate the Greenbelt Advisory Committee; and to outright repeal section 77-1355, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1019. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to provide a tax amnesty program; to create funds; and to provide powers and duties for the Department of Revenue.

LEGISLATIVE BILL 1020. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701 and 77-2734.04, Reissue Revised Statutes of Nebraska; to impose a minimum corporate tax; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1021. Introduced by Janssen, 15.

A BILL FOR AN ACT relating to building renewal; to amend sections 81-181, 81-188.03, and 81-188.05, Reissue Revised Statutes of Nebraska; to change and add provisions relating to university and state college projects; to harmonize provisions; and to repeal the original sections.

GENERAL FILE

LEGISLATIVE BILL 172. Senator Chambers offered the following amendment to the Schimek pending amendment:

FA1400

Amend AM2066

In line 5, strike "October 1" and insert "November 1".

SPEAKER BROMM PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 2 nays, and 24 not voting.

Senator Chambers requested a record vote on his amendment.

Voting in the affirmative, 2:

Chambers	Schimek
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Voting in the negative, 26:

Baker	Erdman	Maxwell	Schrock	Tyson
Burling	Foley	McDonald	Smith	Vrtiska
Byars	Friend	Mossey	Stuhr	
Combs	Jensen	Pedersen, Dw.	Stuthman	
Cunningham	Johnson	Quandahl	Synowiecki	
Engel	Jones	Redfield	Thompson	

Present and not voting, 14:

Aguilar	Bromm	Janssen	Pederson, D.	Raikes
Bourne	Brown	Kruse	Preister	Wehrbein
Brashear	Hartnett	Louden	Price	

Excused and not voting, 7:

Beutler	Cudaback	Kremer	Mines
Connealy	Hudkins	Landis	

The Chambers amendment lost with 2 ayes, 26 nays, 14 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1022. Introduced by Jones, 43.

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-4,120.01 and 60-4,120.02, Revised Statutes Supplement, 2002, and sections 60-462 and 60-4,112, Revised Statutes Supplement, 2003; to change provisional operator's permit restrictions; to prohibit the use of a mobile telephone for holders of provisional operator's, LPD-learner's, and school permits as prescribed; to provide a penalty; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1023. Introduced by Jones, 43; Baker, 44; Cudaback, 36; Cunningham, 40; Erdman, 47; Janssen, 15; Kremer, 34; Loudon, 49; Stuthman, 22; Vrtiska, 1.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1628, Revised Statutes Supplement, 2003; to change provisions relating to jurors; and to repeal the original section.

LEGISLATIVE BILL 1024. Introduced by Jones, 43; Aguilar, 35; Baker, 44; Brown, 6; Hudkins, 21; Dw. Pedersen, 39; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend sections 60-6,219, 60-6,225, 60-6,227, 60-6,229, and 60-6,230, Reissue Revised Statutes of Nebraska; to change provisions relating to motor vehicle lighting equipment requirements; to eliminate provisions relating to acetylene headlights; to repeal the original sections; and to outright repeal section 60-6,223, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1025. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.02, 77-2701.16, 77-2701.34, and 77-2703.01, Reissue Revised Statutes of Nebraska; to change the sales tax rate; to change services subject to sales tax; to eliminate exemptions; to redefine terms; to change sourcing provisions; to harmonize provisions; to provide an operative date; to repeal

the original sections; and to outright repeal section 77-2704.55, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1026. Introduced by Cunningham, 40; Raikes, 25; Synowiecki, 7; Tyson, 19.

A BILL FOR AN ACT relating to the Game Law; to amend sections 37-420 and 37-421, Reissue Revised Statutes of Nebraska; to change provisions relating to hunting and fishing permits for veterans and persons over the age of seventy; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1027. Introduced by Price, 26; Combs, 32.

A BILL FOR AN ACT relating to nursing; to amend sections 44-2803, 44-2824, 71-168, 71-168.02, 71-1,103, 71-1,132.05, 71-1,132.07, 71-1,132.08, 71-1,132.11, 71-1,132.18, 71-1,142, 71-1,143, 71-1,198, 71-1,339, 71-541, 71-1405, 71-1704, 71-1706 to 71-1708, 71-1709.02, 71-1714, 71-1716, 71-1716.02, 71-1716.03, 71-1716.05, 71-1717, 71-1718.02, 71-1721, 71-1721.07 to 71-1726.02, 71-1729 to 1731, 71-1735, 71-1737, 71-1738, 71-1743, 71-1747, 71-1749, 71-1750, 71-1753 to 71-1755, 71-1757, 71-1913.01, 71-2610.01, 71-5191, 77-2704.09, 79-214, and 79-221, Reissue Revised Statutes of Nebraska, sections 18-1738 and 83-4,159, Revised Statutes Supplement, 2002, and sections 28-401 and 44-2827, Revised Statutes Supplement, 2003; to adopt the Clinical Nurse Specialist Practice Act and the Advanced Practice Registered Nurse Licensure Act; to rename the Advanced Practice Registered Nurse Act; to define, redefine, and eliminate terms relating to the Nurse Practice Act; to change and provide duties for the Board of Nursing; to provide for the Advanced Practice Nursing Advisory Council; to change provisions relating to licensure of advanced practice registered nurses; to provide for certification of nurse practitioners; to name the Certified Registered Nurse Anesthetist Act; to change provisions relating to regulation of certified nurse midwives, certified registered nurse anesthetists, and clinical nurse specialists; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 71-1705, 71-1709.01, 71-1718.01, and 71-1736, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1028. Introduced by Price, 26.

A BILL FOR AN ACT relating to child support enforcement; to require a report as prescribed.

LEGISLATIVE BILL 1029. Introduced by Baker, 44; Erdman, 47; Kremer, 34; Wehrbein, 2.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.41, Reissue Revised Statutes of Nebraska; to change sales and use tax exemption; and to repeal the original section.

LEGISLATIVE BILL 1030. Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; Price, 26; Synowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2310.05 and 84-1311.03, Revised Statutes Supplement, 2002; to provide additional investment options for certain state plans and county plans as prescribed; to harmonize provisions; and to repeal the original sections.

GENERAL FILE

LEGISLATIVE BILL 172. Senator Chambers offered the following amendment to the Schimek pending amendment:

FA1401

Amend AM2066

In line 9, strike "for" and insert "to."

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 2 nays, and 24 not voting.

The Chambers amendment lost with 10 ayes, 21 nays, 10 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1031. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to trade practices; to amend sections 87-303, 87-303.01 to 87-303.06, 87-304, 87-305, and 87-306, Reissue Revised Statutes of Nebraska, and section 87-302, Revised Statutes Supplement, 2003; to change provisions relating to the Uniform Deceptive Trade Practices Act; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 1032. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to consumer protection; to adopt the Home Improvement Practices Act; to provide penalties; and to provide severability.

AMENDMENTS - Print in Journal

Senator Smith filed the following amendment to LB 452:

AM2197

(Amendments to Standing Committee amendments, AM0404)

- 1 1. Strike the original amendments and insert the
 2 following new amendment:
 3 "1. Strike the original sections and insert the
 4 following new sections:
 5 'Section 1. Section 60-302, Revised Statutes Supplement,
 6 2002, is amended to read:
 7 60-302. (1)(a) No motor vehicle, trailer, semitrailer,
 8 or cabin trailer, unless otherwise expressly provided, shall be
 9 operated or parked on the highways of this state unless the vehicle
 10 is registered in accordance with Chapter 60, article 3.
 11 (b)(i) There shall be a rebuttable presumption that any
 12 vehicle stored and kept more than thirty days in the state is being
 13 operated or parked on the highways of this state except for a
 14 vehicle brought into this state from another state, country, or
 15 place.
 16 (ii) For a vehicle brought into this state from another
 17 state, country, or place, there shall be a rebuttable presumption
 18 that any vehicle stored and kept more than sixty days is being
 19 operated or parked on the highways of this state if the vehicle is
 20 owned by a person who owns or operates a business in this state, is
 21 gainfully employed in this state, or resides in this state for
 22 ninety consecutive days.
 23 (c) Any vehicle operated or parked on the highways of
 1 this state and shall be registered in accordance with Chapter 60,
 2 article 3;
 3 (i) Within thirty days after ; ~~from~~ the date of title of
 4 the motor vehicle; or; ~~if~~
 5 (ii) If no transfer in ownership of the motor vehicle has
 6 occurred, from within thirty days after the expiration of the last
 7 registration period for which the motor vehicle was registered or
 8 within sixty days after first being brought to this state and
 9 required to be registered.
 10 (d) Every owner of a vehicle required to be registered
 11 shall make application for registration to the county treasurer of
 12 the county in which the vehicle has situs as defined in section
 13 60-3001. The application shall be a copy of a certificate of title
 14 or, in the case of a renewal of a registration, the application
 15 shall be the previous registration period's certificate. A salvage
 16 branded certificate of title and a nontransferable certificate of
 17 title provided for in section 60-131 shall not be valid for
 18 registration purposes.
 19 (2) An application for registration of a motor vehicle
 20 shall be accompanied by proof of financial responsibility or
 21 evidence of insurance covering the motor vehicle. Proof of
 22 financial responsibility shall be evidenced by a copy of proof of
 23 financial responsibility filed pursuant to subdivision (2), (3), or
 24 (4) of section 60-528 bearing the seal of the Department of Motor

25 Vehicles. Evidence of insurance shall give the effective dates of
26 the automobile liability policy, which dates shall be evidence that
27 the coverage is in effect on and following the date of
1 registration, and shall designate, by explicit description or by
2 appropriate reference, all motor vehicles covered. Evidence of
3 insurance in the form of a certificate of insurance for fleet
4 vehicles may include, as an appropriate reference, a designation
5 that the insurance coverage is applicable to all vehicles owned by
6 the named insured, or wording of similar effect, in lieu of an
7 explicit description. Proof of financial responsibility also may
8 be evidenced by (a) a check by the department or its agents of the
9 motor vehicle insurance data base created under section 60-302.05
10 or (b) any other automated or electronic means as prescribed or
11 developed by the department.

12 (3) Any nonresident owner who desires to register a
13 vehicle or vehicles in this state shall register in the county
14 where the vehicle is domiciled or where the owner conducts a bona
15 fide business.

16 (4) Each new application shall contain, in addition to
17 other information as may be required by the department, the name
18 and post office address of the applicant and a description of the
19 vehicle, including the color, the manufacturer, the identification
20 number, and the weight of the vehicle required by Chapter 60,
21 article 3. With the application the applicant shall pay the proper
22 registration fee as provided in sections 60-305.08 to 60-339 and
23 shall state whether the vehicle is propelled by alternative fuel as
24 defined in section 66-686 and, if alternative fuel, the type of
25 fuel. The form shall also contain a notice that bulk fuel
26 purchasers may be subject to federal excise tax liability. The
27 department shall prescribe a form, containing the notice, for
1 supplying the information for vehicles to be registered. The
2 county treasurer shall include the form in each mailing made
3 pursuant to section 60-3003. The county treasurer or his or her
4 agent shall notify the Motor Fuel Tax Enforcement and Collection
5 Division of the Department of Revenue whenever a vehicle powered by
6 an alternative fuel as defined in section 66-686 is registered.
7 The notification shall include the name and address of the
8 registrant, the date of registration, the type of motor vehicle
9 registered, and the type of alternative fuel used to propel the
10 vehicle as indicated on the registration application.

11 (5) The county treasurer or his or her agent shall
12 collect, in addition to the registration fees, one dollar and fifty
13 cents for each certificate issued and shall remit one dollar and
14 fifty cents of each additional fee collected to the State Treasurer
15 for credit to the Department of Motor Vehicles Cash Fund.

16 (6) The county treasurer or his or her agent shall
17 collect, in addition to other registration fees, fifty cents for
18 each certificate issued and shall remit the fee to the State
19 Treasurer for credit to the Nebraska Emergency Medical System

20 Operations Fund.

21 (7) The county treasurer or his or her agent shall
 22 collect, in addition to other registration fees, one dollar and
 23 fifty cents for each certificate issued and shall remit the fee to
 24 the State Treasurer for credit to the State Recreation Road Fund.

25 ~~(8) If a citation is issued to an owner or operator of a
 26 vehicle for a violation of this section and the owner properly
 27 registers and licenses the vehicle not in compliance and pays all
 1 taxes and fees due and the owner or operator provides proof of such
 2 registration to the prosecuting attorney within ten days after the
 3 issuance of the citation, no prosecution for the offense cited
 4 shall occur.~~

5 ~~(9)~~ If a county board consolidates services under the
 6 office of a designated county official other than the county
 7 treasurer pursuant to section 23-186, the powers and duties of the
 8 county treasurer relating to registration under sections 60-301 to
 9 60-347 shall be performed by the designated county official.

10 ~~(40)~~ (9) A county treasurer or county official or his or
 11 her agent may accept credit cards, charge cards, debit cards, or
 12 electronic funds transfers as a means of payment for registration
 13 pursuant to section 13-609.

14 ~~(44)~~ (10) For the period January 1, 2003, through
 15 December 31, 2005, the county treasurer or his or her agent shall
 16 collect, in addition to the other registration fees, twenty-five
 17 cents for each certificate issued to pay for the costs of the motor
 18 vehicle insurance data base created under section 60-302.05 and
 19 shall remit such additional fee to the State Treasurer for credit
 20 to the Department of Motor Vehicles Cash Fund.

21 Sec. 2. Section 60-302.03, Reissue Revised Statutes of
 22 Nebraska, is amended to read:

23 60-302.03. Any person who operates or parks a motor
 24 vehicle, semitrailer, or cabin trailer on any highway, which
 25 vehicle has not been registered as required by section 60-302 or
 26 60-305.01, shall be subject to the penalty provided in section
 27 60-348, except that the court shall impose a five-hundred-dollar
 1 fine for any violation involving a vehicle brought into this state
 2 from another state, country, or place. In addition, the
 3 prosecuting attorney may bring an action to recover a civil penalty
 4 of five hundred dollars for any violation involving a vehicle
 5 brought into this state from another state, country, or place. All
 6 penalties shall be remitted to the State Treasurer for use
 7 consistent with Article VII, section 5, of the Constitution of
 8 Nebraska.

9 A person who parks a motor vehicle on any highway, which
 10 vehicle has been properly registered in this state but such
 11 registration has expired, shall not be in violation of this section
 12 or section 60-302 or subject to the penalty provided in section
 13 60-348, unless thirty days have passed from the expiration of the
 14 prior registration.

15 Sec. 3. Section 60-305.01, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 60-305.01. (1) A nonresident owner, except as provided
18 in subsection (2) of this section, owning any foreign vehicle which
19 has been properly registered in the state, country, or other place
20 of which the owner is a resident, and which at all times, when
21 operated in this state, has displayed upon it the number plate or
22 plates issued for such vehicle in the place of residence of such
23 owner, may operate or permit the operation of such vehicle within
24 the state without registering such vehicle or paying any fees to
25 this state.

26 (2) Any nonresident owner gainfully employed or present
27 in the State of Nebraska, operating a passenger car in this state,
1 shall register such car in the same manner as a Nebraska resident,
2 after ~~thirty days of continuous employment or presence in this~~
3 ~~state as required by section 60-302~~, unless the state of his or her
4 legal residence grants immunity from such requirements to residents
5 of this state operating a passenger car in that state. Any
6 nonresident owner whose passenger car is operated in this state ~~for~~
7 ~~thirty or more continuous days~~ shall register such car in the same
8 manner as a Nebraska resident, as required by section 60-302 unless
9 the state of his or her legal residence grants immunity from such
10 requirements to residents of this state operating a passenger car
11 in that state.

12 Sec. 4. Original sections 60-302.03 and 60-305.01,
13 Reissue Revised Statutes of Nebraska, and section 60-302, Revised
14 Statutes Supplement, 2002, are repealed.'".

Senator Baker filed the following amendment to LB 559:
AM2192

- 1 1. On page 6, lines 8 through 12, strike the new matter
- 2 and reinstate the stricken matter.

Senator Baker filed the following amendment to LB 560:
(Amendment, AM2177, is printed separately and available in the Bill Room,
Room 1104.)

Senator Baker filed the following amendment to LB 532:
(Amendment, AM2186, is printed separately and available in the Bill Room,
Room 1104.)

Senator Baker filed the following amendment to LB 609:
AM2189

- 1 1. Insert the following new section:
- 2 "Sec. 4. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

Senator Baker filed the following amendment to LB 279:
AM2206

1 1. On page 12, line 6, strike "two dollars and fifty
2 cents", show as stricken, and insert "three dollars and fifty
3 cents".

Senator Schimek filed the following amendment to LB 172:
AM2200

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 "Section 1. Section 71-6909, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 71-6909. On or before ~~October 4~~ December 15 of each
6 school year, each school district shall provide written information
7 to all students in grades seven through twelve explaining the
8 provisions of section 71-6902 with regard to the requirements for
9 parental notification as a condition for obtaining an abortion.
10 The information shall also explain the provisions of sections
11 71-6903 and 71-6904 with regard to seeking a judicial waiver of the
12 parental notification requirements. The provisions of this section
13 shall be narrowly construed to require a school district to provide
14 only the information specified in this section. The provisions of
15 this section shall not be construed to require a school district to
16 provide specific information regarding how students may implement
17 the judicial bypass provisions of section 71-6903. The State
18 Department of Education shall develop and distribute to all public
19 schools a standardized information form which may be used to comply
20 with this section. The standardized information form shall be
21 approved by the State Board of Education following opportunity for
22 public testimony at a public hearing of the board.
23 Sec. 2. Original section 71-6909, Reissue Revised
24 Statutes of Nebraska, is repealed."

Senator Baker filed the following amendment to LB 452:
AM2205

(Amendments to AM0796)

1 1. On page 4, line 4, strike "two dollars and fifty
2 cents", show as stricken, and insert "three dollars and fifty
3 cents".

Senator Schimek filed the following amendment to LB 172:
AM2209

1 1. Strike the original section and all amendments
2 thereto and insert the following new sections:
3 "Section 1. Each school district shall post and leave
4 posted throughout the year in a prominent location, available to
5 all students in grades seven through twelve, a toll-free telephone
6 number to the Department of Health and Human Services for the
7 exclusive purpose of providing information explaining the
8 provisions of section 71-6902 with regard to the requirements for
9 parental notification as a condition for obtaining an abortion.

10 The information shall explain the provisions of sections 71-6903
 11 and 71-6904 with regard to seeking a judicial waiver of the
 12 parental notification requirements. The provisions of this section
 13 shall be narrowly construed to authorize and require the department
 14 to provide only the information specified in this section. The
 15 provisions of this section do not authorize the department to
 16 provide specific information regarding how students may implement
 17 the judicial waiver provisions of section 71-6903.

18 The Director of Health and Human Services in conjunction
 19 with the Commissioner of Education shall develop and approve the
 20 information to be provided. The Department of Health and Human
 21 Services shall establish a statewide toll-free number in order to
 22 comply with this section.

23 Sec. 2. The following section is outright repealed:

24 Section 71-6909, Reissue Revised Statutes of Nebraska."

MOTION - Print in Journal

Senator Chambers filed the following motion to LB 172:

Reconsider the vote on FA1401.

RESOLUTIONS

LEGISLATIVE RESOLUTION 215. Introduced by Foley, 29.

WHEREAS, Dan Ernst has earned the rank of Eagle Scout in the Boy Scouts of America, that organization's highest rank; and

WHEREAS, Dan Ernst is a member of the Boy Scout Troop 54 of Cathedral of the Risen Christ Church in Lincoln, Nebraska; and

WHEREAS, in achieving this rank, Dan Ernst advanced through five ranks and earned 23 merit badges when only 21 are required; and

WHEREAS, for his Eagle Scout project, Dan designed and built blue bird nest houses for the Izaak Walton League in Bennet, Nebraska; and

WHEREAS, fewer than two percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Dan Ernst has achieved great success as an exemplary member of the Scouting program and has represented his troop and community with excellence; and

WHEREAS, a Court of Honor will be held for Dan Ernst on Sunday, January 18, 2004, at Cathedral of the Risen Christ Catholic Church at which time Dan will be presented with the Eagle Scout Badge.

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

1. That the Legislature commends Dan Ernst for his dedication, perseverance, and hard work in obtaining this distinguished rank.

2. That a copy of this resolution be sent to Dan Ernst and his family.

Laid over.

LEGISLATIVE RESOLUTION 216. Introduced by Foley, 29.

WHEREAS, Nick Vollertsen has earned the rank of Eagle Scout in the Boy Scouts of America, that organization's highest rank; and

WHEREAS, Nick Vollertsen is a member of the Boy Scout Troop 54 of Cathedral of the Risen Christ Church in Lincoln, Nebraska; and

WHEREAS, in achieving this rank, Nick Vollertsen advanced through five ranks and earned 30 merit badges when only 21 are required; and

WHEREAS, for his Eagle Scout project, Nick designed and built drinking-straw holders for the elderly and disabled in two nursing homes; and

WHEREAS, fewer than two percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Nick Vollertsen has achieved great success as an exemplary member of the Scouting program and has represented his troop and community with excellence; and

WHEREAS, a Court of Honor was held for Nick Vollertsen on Sunday, October 26, 2003, at Cathedral of the Risen Christ Catholic Church at which time Nick was presented with the Eagle Scout Badge.

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

1. That the Legislature commends Nick Vollertsen for his dedication, perseverance, and hard work in obtaining this distinguished rank.

2. That a copy of this resolution be sent to Nick Vollertsen and his family.

Laid over.

LEGISLATIVE RESOLUTION 217. Introduced by Foley, 29.

WHEREAS, John Vogel has earned the rank of Eagle Scout in the Boy Scouts of America, that organization's highest rank; and

WHEREAS, John Vogel is a member of Boy Scout Troop 54 of the Cathedral of the Risen Christ; and

WHEREAS, in achieving this rank, John Vogel advanced through five ranks and earned thirty-eight merit badges when only twenty-one are required; and

WHEREAS, for his Eagle Scout project, John Vogel built and installed park benches at Tierra Park in Lincoln; and

WHEREAS, fewer than four percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, John Vogel has achieved great success as an exemplary member of the Scouting program and has represented his troop and community with excellence; and

WHEREAS, a Court of Honor will be held for John Vogel on Sunday, August 10, 2003, at the Cathedral of the Risen Christ Catholic Church at which time John will be presented with the Eagle Scout badge.

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

1. That the Legislature commends John Vogel for his dedication, perseverance, and hard work in obtaining this distinguished rank.
2. That a copy of this resolution be sent to John Vogel.

Laid over.

LEGISLATIVE RESOLUTION 218. Introduced by Foley, 29.

WHEREAS, Aaron Stubbendieck has earned the rank of Eagle Scout in the Boy Scouts of America, that organization's highest rank; and

WHEREAS, Aaron Stubbendieck is a member of Boy Scout Troop 54 of Cathedral of the Risen Christ Catholic Church; and

WHEREAS, in achieving this rank, Aaron Stubbendieck advanced through five ranks and earned 27 merit badges when only 21 are required; and

WHEREAS, for his Eagle Scout project, Aaron updated the computer locator maps for the Nebraska Statewide Arboretum website; and

WHEREAS, fewer than four percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Aaron Stubbendieck has achieved great success as an exemplary member of the Scouting program and has represented his troop and community with excellence; and

WHEREAS, a Court of Honor will be held for Aaron Stubbendieck on Sunday, November 9, 2003, at Cathedral of the Risen Christ Catholic Church at which time Aaron will be presented with the Eagle Scout badge.

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

1. That the Legislature commends Aaron Stubbendieck for his dedication, perseverance, and hard work in obtaining this distinguished rank.
2. That a copy of this resolution be sent to Aaron Stubbendieck.

Laid over.

NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications
 Room 1113

LB 860	Tuesday, January 20, 2004	1:30 p.m.
LB 861	Tuesday, January 20, 2004	1:30 p.m.
LB 863	Tuesday, January 20, 2004	1:30 p.m.
LB 878	Tuesday, January 20, 2004	1:30 p.m.
LB 908	Tuesday, January 20, 2004	1:30 p.m.
LB 910	Tuesday, January 20, 2004	1:30 p.m.
LB 911	Tuesday, January 20, 2004	1:30 p.m.

(Signed) Tom Baker, Chairperson

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of January 9, 2004, 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

Abboud, Chris, Public Affairs Group
Credit Union League, Nebraska
Las Vegas Sands, Inc.
Metro Area Transit
Monsanto
Omaha Police Union, Local 101

Adair, Peggy
League of Women Voters of Nebraska

Adams, John H.
International Gamco, Inc.

Adams Jr., Donald D.
Nebraskans First, Inc.

American Communications Group, Inc.
Behavioral Health Organizations, Nebraska Association of
Center for Rural Affairs
Citizens for a Healthy Nebraska
Counseling Association, Nebraska
Emergency Medical Service Association, Nebraska
Engineers and Architects, Nebraska Board of
Fire Fighters Association, Nebraska Professional
Girl Scout Legislative Monitoring Network, Nebraska
Land Title Association, Nebraska
Nebraskans for Research
Papio-Missouri Natural Resources District
Physical Therapy Association, Nebraska Chapter of American
Physician Assistants, Nebraska Academy of
Psychological Association, Nebraska
Public Employees, AFSCME Local 61, Nebraska Association of
Respiratory Care, Nebraska Society for
Retired School Personnel, Nebraska Association of
Speech, Language, & Hearing Association, Nebraska
Teamsters Local Union 554

- Andersen, Robert C.
Cooperative Council, Nebraska
- Anderson, Robert L.
Agri-Business Association, Nebraska
Anderson Management Services, Inc.
- Anderson, Shannon M.
Alegent Health
- Anderson, Tim W.
Central Nebraska Public Power & Irrigation District
- Apel, Justin
Resources Districts, Nebraska Association of
- Baack, Dennis G.
Community College Association, Nebraska
- Bailey, Jon M.
Center for Rural Affairs
- Barrett, John
Aquila
- Barrette, John Barger
Tax Research Council, Inc., Nebraska
- Bateman, Joseph R.
Union Pacific Railroad
- Beattie, George
Bankers Association, Nebraska
- Beermann, Allen J.
Press Association, Nebraska
- Belcher, Barbara N.
Merck & Company
Merck/Schering Plough Pharmaceuticals
- Bell, David
Loup River Public Power District
- Belschner, Shanna
Children and Family Coalition of Nebraska
- Benjamin, Connie
AARP

- Bernadt, Kevin
Nebraskans Against the Death Penalty
- Berryman, Scott
AT&T Corporation
- Boehm, John M.
Mortgage Association, Nebraska
- Bohrer, Bruce J.
Lincoln Chamber of Commerce
- Bonaiuto, John A.
School Boards, Nebraska Association of
- Boryca, Kelly J.
Pfizer, Inc.
- Boucher, Richard
Sheriffs Association, Nebraska
- Brady, Justin J.
Radcliffe, Walter H. of Radcliffe & Associates
- Broer, Walter L.
General Contractors, Nebraska Building Chapter, Associated
- Bruning, Deonne L.
Cox Nebraska Telcom, LLC
- Buntain, David R.
Housing Authority of Lincoln
Medical Association, Nebraska
- Butz, Timothy C.
ACLU Nebraska
- Bydalek, Dave
Family First
- Campbell, Mary M./Campbell & Associates
Beer Wholesalers Association, Nebraska
Cable Communications Association, Nebraska
Educational Service Units, Consortium of
Friends of Nebraska Nonprofit Hospitals
Lincoln Public Schools
Nature Conservancy Action Fund, The

Region II and V Services
State Troopers Association of Nebraska, Inc.
University of Nebraska
Wholesale Liquor Distributors Association, Nebraska

Carstenson, Eric B.
Telecommunications Association, Nebraska

Cavanaugh Law Firm, PC, LLO
Creighton University
District Court Judges Association, Nebraska
Explore Information Services, LLC
Fraternal Order of Police, Nebraska
Independent Insurance Agents of Nebraska
Tenet Health System

Cavanaugh, James P.
Cavanaugh Law Firm PC, LLO

Cavanaugh, Patrick B.
Cavanaugh Law Firm PC, LLO

Cheloha, John A. 'Jack'
City of Omaha

Clark, Douglas R.
Metropolitan Utilities District

Clayburn, Neal
Lincoln Education Association

Cover, Joni R.
Pharmacists Association, Nebraska

Craig, Robert B.
American Legion of Nebraska

Cunningham, James R.
Catholic Conference, Nebraska

Cutshall & Associates
Area Agencies on Aging, Nebraska Association of
BryanLGH Health System
Builders & Suppliers Coalition
College Systems, Board of Trustees of Nebraska State
Community Lottery System, Inc.
County Attorneys Association, Nebraska
Dietetic Association, Nebraska
Family Physicians, Nebraska Academy of

Financial Services Coalition, Nebraska
Funeral Directors Association, Nebraska
Lincoln Medical Education Foundation
Manufactured Housing Association, Nebraska
Metropolitan Utilities District
Multi States Associates, Inc. on behalf of North American Insulation
Manufacturers
Nebraska Public Power District
Organ Retrieval System, Inc., Nebraska
Pfizer, Inc.
Poultry Industries, Inc., Nebraska
Public Television, Inc., Nebraskans for
Resources Districts, Nebraska Association of
Rural Community Schools Association, Nebraska
Ruth & Mueller, LLC
Southern Nebraska Rural Public Power District
Union Pacific Railroad
Water Coalition, Nebraska
Work Ethic Camp Coalition

Cutshall, Bruce A.
Cutshall & Associates

Davies, Ronald H.
Progressive Insurance

DeCamp, John W.
Chiropractic Physicians Association, Nebraska
Veterans of Foreign Wars

Deppe, Jonah May
League of Women Voters of Nebraska

Dibbern, Chris M.
Nebraska Municipal Power Pool

Dix, Larry
County Officials, Nebraska Association of

Dobler, James B.
Farmers Mutual of Nebraska

Dubas, Annette
Friends of the Constitution

Dudley, William H.
AFLAC

Dulaney, Michael S.

School Administrators, Nebraska Council of

Edson, Dean E.

Resources Districts, Nebraska Association of

Elliott, Joseph W.

Professional Insurance Agents of Nebraska

Eret, Don

Tractor Testing Laboratory, Supporters of Nebraska

Erickson, Julie S.

American Communications Group, Inc.

Evans, Eric A.

Advocacy Services, Inc., Nebraska

Eynon-Kokrda, Elizabeth

Omaha Public Schools

Fahleson, Mark A.

Abengoa Bioenergy Corporation

Ferdinand, L. Rene'

ARC of Nebraska

Ferrell, Beth Bazyn

County Officials, Nebraska Association of

Flannery, John S.

Verizon

Fraizer, T. J.

AFLAC

Insurance Association, American

Mutual of Omaha Insurance Companies

Fram Jr., A. James

Lincoln Chamber of Commerce

Funk, Christine

Planned Parenthood of Omaha-Council Bluffs

Gigstad, Carolyn D.

Engineering Companies/Nebraska, American Council of
Engineers, Nebraska Society of Professional

Gilbertson, Korby M.

Radcliffe, Walter H. of Radcliffe & Associates

Wildlife Protectors Association, Inc./Operation Game Thief, Nebraska

Goc, John J.

Metropolitan Utilities District

Telephone Association, Nebraska Independent

Golden, Jeffery S.

Boys and Girls Home of NE, Inc.

Gordon, James E.

DeHart & Darr Associates

Gottschalk, Kristen

Rural Electric Association, Nebraska

Gould, John 'Jack'

Common Cause

Common Cause Nebraska

Grieser, Mary Taylor

Certified Public Accountants, Nebraska Society of

Griess, James R.

Education Association, Nebraska State

Hale, Brian R.

School Boards, Nebraska Association of

Hall, Kimberle M.

Home & Community Health Agencies, Nebraska Association of

Hallstrom, Robert J.

Bankers Association, Nebraska

Friends of Nebraska Nonprofit Hospitals

National Federation of Independent Business

Nebraskans For Workers Compensation Equity

NETWORKS, Inc.

Pharmacists Association, Nebraska

Hansen, John K.

Farmers Union, Nebraska

Harding, William A.

Eli Lilly and Company

Harris, Nance

Trucking Association, Nebraska

Hartmann, William

One-Call Notification Center, Nebraska Statewide

Harvey, William F.
Big Red Lottery Services, Ltd.

Hatfield, Scott S.
CITMA

Head, Craig J.
Farm Bureau Federation, Nebraska

Hedman, Gary
Southern Nebraska Rural Public Power District

Hogrefe, Raymond H.
National Association of Retired Federal Employees, NE Federation

Holmquist, David W.
American Cancer Society
Center For People In Need

Holmquist, Jay
Rural Electric Association, Nebraska

Hood, Jane Renner
Humanities Council, Nebraska

Horne, Virgil L.
Lincoln Public Schools

Hybl, Michael G.
Trucking Association, Nebraska

Jaeschke, Ronda
Kinder Morgan, Inc.

Jenkins, Thomas J.
Blue Cross & Blue Shield of Nebraska

Jensen, Ronald L.
Dental Hygienists Association, Nebraska
Homes & Services for the Aging, Nebraska Association of
Kraft Foods North America, Inc. - Altria Corporate Services, Inc.
Magellan Health Services, Inc.
Nurse Anesthetists, Nebraska Association of
Optometric Association, Nebraska
Philip Morris USA, Inc. - Altria Corporate Services, Inc.
Podiatric Medical Association, Nebraska

Private Resources, Nebraska Association of
Radiologic Technologists, Nebraska Society of

Jensen, S. Michael

Great Plains Communications

Johnson, DeMaris

Cable Communications Association, Nebraska
County Attorneys Association, Nebraska
Water Resources Association, Nebraska

Johnson, Dick

Builders and Contractors, Inc., Associated

Johnson, Mary A.

Ruth & Mueller, LLC

Johnson, Rod E.

Pork Producers Association, Nebraska

Johnson, Sandra A.

Medical Association, Nebraska

Jordison, John C.

Great Plains Communications

Kamm, Richard D.

Class VI Association of Schools
School Finance Coalition, Nebraska

Keetle, Roger S.

Hospitals & Health Systems, Nebraska Association of

Keigher, Timothy P.

Petroleum Marketers & Convenience Store Assn., Nebraska
Rasmussen Legislative Consultants, Inc.

Kelley, Michael of Kelley & Lehan, PC

Beverage Operators of Nebraska, Responsible
Criminal Defense Attorneys Association, Nebraska
Douglas County, Nebraska
Eastern Nebraska Human Services Agency
Elevator Industry Work Preservation
Horsemen's Benevolent & Protective Association
Ignition Interlock Systems of IA, Inc.
Kelley & Lehan, PC
Omaha Airport Authority
Omaha Exposition & Racing, Inc.
Radcliffe, Walter H. of Radcliffe & Associates

Kennedy, Barry L.

Chamber of Commerce & Industry, Nebraska

Kenny, Timothy R.

Investment Finance Authority, Nebraska

Kerr, Karren

League of Women Voters of Nebraska

Kevil, G. Bruce

Home Builders Association, Nebraska State

Kierstead, Roberta

Planned Parenthood of Omaha-Council Bluffs

Kilgarin, Karen

Education Association, Nebraska State

King, Terry L.

General Contractors of America, NE Chapter, Associated

Kissel, Gordon

Kissel/E&S Associates, LLC

Kissel/Erickson & Sederstrom Associates, LLC

AIA Nebraska

Alegent Health

American Petroleum Institute

Ameristar Casinos, Inc.

Anheuser-Busch Companies

CASA Association, Nebraska

Cooperative Council, Nebraska

Erickson & Sederstrom, PC

Goodwill Industries, Nebraska

Greater Omaha Packing Co.

Hearing Society, Nebraska

Historical Society, Nebraska State

Investment Finance Authority, Nebraska

Lancaster County Board of Commissioners

Lincoln Electric System

Midlands Choice

Nebraska Municipal Power Pool

Network Association, Nebraska

Pork Producers Association, Nebraska

Professional Engineers Coalition

Telecommunications Business Users Coalition, Nebraska

West Corporation

- Kramer, David J.
Republican Party, Nebraska
- Krannawitter, Brian
Health Education Incorporated
- Kratz, Dean G.
General Contractors, Nebraska Building Chapter, Associated
- Krebsbach, Laura
Sierra Club, Nebraska
- Krumland, Gary G.
League of Nebraska Municipalities
- Kruse, Larry D.
Glaxo Smith Kline
- Kulesher, Kate M.
Wyeth
- Lamb, Amy
Occupational Therapy Association, Nebraska
- Lange, Robert G.
Ameritas Life Insurance Corporation
- Lehmann, Lynn
Kinder Morgan, Inc.
- Lengel, Patricia
Kinder Morgan, Inc.
- Licht, Alice L.
Agri-Business Association, Nebraska
Anderson Management Services, Inc.
Auctioneers Association, Nebraska
Automotive Recycling Industry of Nebraska
Aviation Trade Association, Nebraska
Hotel & Motel Association, Inc., Nebraska
Interior Design, Nebraska Coalition for
Pest Control Association, Nebraska State
- Lindsay, John
O'Hara, Lindsay & Associates, Inc.
- Lineweber, Ray L.
United Transportation Union

Loeffler, Michael T.

Northern Natural Gas aka Enron Transportation and Storage

Logsdon, Robert R.

Cox Nebraska Telcom, LLC

Lombardi, Richard A.

American Communications Group, Inc.

Lowrey, Lon

Novartis Pharmaceuticals Corporation

Marcus, Joan K.

ARC of Nebraska

Mass, Ken E.

AFL-CIO, Nebraska State

Mauk, Daniel S.

Norfolk Area Chamber of Commerce

McBride, David S.

Health Underwriters, National Association of
Insurance and Financial Advisors, National Association of
Optometric Association, Nebraska

McClure, John

Nebraska Public Power District

McGuire, Mark D.

Education Association, Nebraska State

McKenzie, Janis M.

Gifted, Nebraska Association For The
Independent Colleges & Universities of Nebraska (AICUN), Association of
Insurance Federation, Nebraska

Meek, Randy D.

Brotherhood of Locomotive Engineers, Nebraska State Legislative Board

Meerkatz, Marilyn

Class I's United

Menzel, Elaine

County Officials, Nebraska Association of

Meurrens, Bradley A.

Advocacy Services, Inc., Nebraska

- Meyer, Les
Kinder Morgan, Inc.
- Mihovk, Donald J.
Chamber of Commerce & Industry, Nebraska
- Mikkelsen, Brian
Education Association, Nebraska State
- Miller, Amy
ACLU Nebraska
- Mills, Jack D.
Risk Management Association, Nebraska Intergovernmental
- Minor, Timothy H.
CF Industries, Inc.
- Mischo, Craig
Bayer Health Care
- Moore, Scott D.
Union Pacific Railroad
- Moors, H. Jack
3M Traffic Control Materials Division
Cargill/Excel
City of Hastings
City of Lincoln
City of Norfolk
Corn Growers Association, Nebraska
Crow Butte Resources, Inc.
Johnson & Johnson
R.L. Polk & Co.
Syngenta
Tobacco & Candy Distributors, Nebraska Association of
- Moul, Maxine
Endow Nebraska
- Moylan, James H.
Beverage Association, Nebraska Licensed
R.J. Reynolds Tobacco
- Mueller, William J.
Airport Officials, Nebraska Association of
American Express Travel Related Services, Inc.

Ash Grove Cement Co.
Bankers Association, Heartland Community
Better Nebraska Association
Big Red Lottery Services, Ltd.
Chief Industries, Inc.
Citizens for a Healthy Nebraska
Collectors Association, Nebraska
Commercial Property Owners, Nebraska Association of
Court Reporters Association, Nebraska
Cutshall & Associates
Dental Association, Nebraska
Duncan Aviation
eBay, Inc.
Electrical Contractors Association, National
Eye Physicians and Surgeons, Nebraska Academy of
First Data Corporation
General Contractors of America, NE Chapter, Associated
Harras Operating Company, Inc.
Independent Accountants, Nebraska Society of
Kearney Area Chamber of Commerce
Kellogg Company
Lamar Advertising Company
Lincoln Airport Authority
Lincoln Electric System
Lyman-Richey Corporation
M/A-COM Private Radio Systems
Machinery Company, Nebraska
MDS Pharma Services (US), Inc.
Methodist Health Systems, Nebraska
Millard Public Schools
Nebraska Interactive
Nebraska State Bar Association
Pharmaceutical Research and Manufacturers of America
Press Association, Nebraska
S.I.D.s, Nebraska Association For
Western Wireless Corporation

Mumgaard, D. Milo
Appleseed Center for Law in the Public Interest, Nebraska

Nabb, Douglas
Fremont Public Schools

Nantkes, Danielle
Appleseed Center for Law in the Public Interest, Nebraska

Neilan, Perre S.
Realtors Association, Nebraska

- Nelson, Craig L.
County Officials, Nebraska Association of
- Nielsen, Coleen J.
Insurance Information Service, Nebraska
Medco Health Solutions, Inc.
Merck & Company
State Farm Insurance Companies
- Nolan, Michael
City of Norfolk
- Nowka, Trent P.
Cutshall & Associates
- Obermier, Duane
Education Association, Nebraska State
- Obst, Robert E.
Qwest Communications
- O'Hara, Lindsay & Associates, Inc.
Ambulatory Centers, Nebraska Association of Independent
Aquila
Automobile Manufacturers, Alliance of
Blue Cross & Blue Shield of Nebraska
County Judges Association, Nebraska
Endow Nebraska
Finocchiaro Wine Company, Inc.
First National of Nebraska, Inc.
Hall County Livestock Improvement Association
Housing & Redevelopment Officials, Nebraska Chapter of the National
Association of
Humanities Council, Nebraska
Kinder Morgan, Inc.
MCI, Inc.
Motorola, Inc.
Northern Natural Gas aka Enron Transportation and Storage
Nucor Corporation
Omaha Public Power District
Omaha Public Schools
Peru State College Foundation
Pioneer Hi-Bred International
Public Accountancy, Nebraska State Board of
Soft Drink Association, Nebraska
Trial Attorneys, Nebraska Association of
Winnebago Tribe of Nebraska

O'Hara, Paul V.

O'Hara, Lindsay & Associates, Inc.

Olhausen, Vaun C.

Schering-Plough External Affairs, Inc.

Olsen, Keith R.

Farm Bureau Federation, Nebraska

O'Neal II, John R.

Advocacy Services, Inc., Nebraska

O'Neill Jr., Thomas J.

Independent Colleges & Universities of Nebraska (AICUN), Association of

Orton, Leroy

Irrigation Association, Nebraska State

Waste Water Assn., Nebraska On-Site

Well Drillers Association, Nebraska

Othmer, Mark F.

Iowa/Nebraska Equipment Dealers Association

Otto, James A.

Restaurant Association, Nebraska

Retail Federation, Nebraska

Otto, Richard J.

Restaurant Association, Nebraska

Retail Federation, Nebraska

Owen, Rose Marie

Medco Health Solutions, Inc.

Pack, Mary M.

Radcliffe, Walter H. of Radcliffe & Associates

Pallesen Jr., Charles M.

Medical Association, Nebraska

Pappas, James E.

Bellevue Public Schools

NorthWestern Energy

UNO Faculty

Partington, James W.

Restaurant Association, Nebraska

Peetz, Natalie

Omaha Chamber of Commerce, Greater

Pereira, Paul C.

TAP Pharmaceuticals

Perkins, Gary A.

Childrens Healthcare Services

Peters, William E.

Burlington Northern Santa Fe

Golden Rule Insurance Company

Petersen, Daphne

Optometric Association, Nebraska

Social Workers, Nebraska Chapter, National Association of

Peterson, Alan E.

Media of Nebraska, Inc.

Property Owners Association

Peterson, Chris

Republican Party, Nebraska

Peterson, Patricia Schuett

Investment Finance Authority, Nebraska

Pierson, Darwin R.

Oil & Gas Association, Nebraska Independent

Plucker, Julia

Coast Casinos, Inc.

Community Alliance, Inc.

Popken, Kent T.

Qwest Communications

Potter, Cara E.

National Association of Chain Drug Stores

Prenda, Amy

Kissel/E&S Associates, LLC

Preston, James N.

Trucking Association, Nebraska

Ptacek, Patrick J.

Grain and Feed Association, Nebraska

Radcliffe, Walter H. of Radcliffe & Associates

ALLTEL Communications
 Broadcasters Association, Nebraska
 Cable Communications Association, Nebraska
 Cemetery Association, Nebraska State
 Certified Public Accountants, Nebraska Society of
 Coalition for Constitutional Change
 Fair Board, Nebraska State
 Father Flanagans Boys Home aka Girls and Boys Town
 Father Flanagans Boys Home d/b/a Boys Town National Research
 Hospital
 Financial Services Coalition, Nebraska
 Health Care Association, Nebraska
 IMS Health
 INTRALOT USA
 Kelley & Lehan, PC
 Lincoln Public Schools
 Media of Nebraska, Inc.
 Medical Center, Nebraska
 Motion Picture Association of America
 Optometric Association, Nebraska
 Property Casualty Insurers Association of America
 Public Health Funding, Nebraskans for
 Pyrotechnics Association, Nebraska
 RACOM Corporation
 Realtors Association, Nebraska
 State Troopers Association of Nebraska, Inc.
 Tyson Foods, Inc..
 University of Nebraska
 UST Public Affairs, Inc.
 Waste Connections, Inc.
 Wholesale Liquor Distributors Association, Nebraska

Rasmussen, Dennis

AirBoat Association, Nebraska
 Auto Dealers Association, Nebraska Independent
 Catrala of Nebraska
 Class I's United
 Friends of Rural Education
 Iowa/Nebraska Equipment Dealers Association
 Kraft Foods North America, Inc. - Altria Corporate Services, Inc.
 Land Improvement Contractors Association, Nebraska
 LensCrafters
 Miller Brewing Company
 Petroleum Marketers & Convenience Store Assn., Nebraska
 Philip Morris USA, Inc. - Altria Corporate Services, Inc.

Redoutey, Laura J.

Hospitals & Health Systems, Nebraska Association of

- Reid, William S.
Eli Lilly and Company
- Reiman, Charlene
Kinder Morgan, Inc.
- Rempe, Jay E.
Farm Bureau Federation, Nebraska
- Renner, Shawn D.
Media of Nebraska, Inc.
- Rex, L. Lynn
League of Nebraska Municipalities
- Reynolds, Simera
Mothers Against Drunk Driving, Nebraska
- Richards, Thomas
Omaha Public Power District
- Riibe, Diane
Project Extra Mile
- Riskowski, Alvin
Family Council, Nebraska
- Robertson, Rob J.
Farm Bureau Federation, Nebraska
- Roland, Gene
Kinder Morgan, Inc.
- Roof, Dale
Takeda Pharmaceuticals America
- Rowley, Mitch
Catholic Conference, Nebraska
- Ruth, Larry L.
Airport Officials, Nebraska Association of
American Express Travel Related Services, Inc.
Ash Grove Cement Co.
Bankers Association, Heartland Community
Better Nebraska Association
Big Red Lottery Services, Ltd.
Chief Industries, Inc.
Citizens for a Healthy Nebraska
Collectors Association, Nebraska

Commercial Property Owners, Nebraska Association of
 Court Reporters Association, Nebraska
 Cutshall & Associates
 Dental Association, Nebraska
 Duncan Aviation
 eBay, Inc.
 Electrical Contractors Association, National
 Eye Physicians and Surgeons, Nebraska Academy of
 First Data Corporation
 General Contractors of America, NE Chapter, Associated
 Harrahs Operating Company, Inc.
 Independent Accountants, Nebraska Society of
 Kearney Area Chamber of Commerce
 Kellogg Company
 Lamar Advertising Company
 Lincoln Airport Authority
 Lincoln Electric System
 Lyman-Richey Corporation
 M/A-COM Private Radio Systems
 Machinery Company, Nebraska
 MDS Pharma Services (US), Inc.
 Methodist Health Systems, Nebraska
 Millard Public Schools
 Nebraska Interactive
 Nebraska State Bar Association
 Pharmaceutical Research and Manufacturers of America
 Press Association, Nebraska
 S.I.D.s, Nebraska Association For
 Western Wireless Corporation

Ryan, Beth
 Union Pacific Railroad

Sahling-Zart, Shelley R.
 Lincoln Electric System

Scanlan, Jeffrey L.
 Cornhusker Casualty Company

Scarpello, Sam M.
 Electrical Workers, Nebraska State Council of
 Omaha Building & Construction Trades Council
 Utility Workers Conference, Nebraska State

Schimek, Herbert H.
 Education Association, Nebraska State

Schleppenbach, Greg
 Catholic Conference, Nebraska

Schmit Industries, Inc.
Ag Processing, Inc.
Charitable Gaming and Legislation, Nebraskans for
Chiropractic Physicians Association, Nebraska
Husker Ag, LLC
KAPPA Ethanol, LLC

Schmit-Albin, Julie
Nebraska Right to Life

Sedlacek, Ronald J.
Bankers Association, Nebraska
Chamber of Commerce & Industry, Nebraska
Travelers Express Company, Inc.

Sellentini, Jerry L.
School Administrators, Nebraska Council of

Setzepfandt, Scott
HLR Service Corporation

Sher, Bradley L.
BryanLGH Health System

Shultz, Jack L.
Eli Lilly and Company
Motorcycle Industry Council, Inc.

Siefken, Kathy
Grocery Industry Association, Nebraska

Simino, Charles G.
Sprint

Skochdopole, Robert A.
Radcliffe, Walter H. of Radcliffe & Associates

Snyder, Patricia
Health Care Association, Nebraska

Sommermeier, Mary E.
League of Nebraska Municipalities

Spatz, John
School Boards, Nebraska Association of

Stading, Donald R.
Ameritas Life Insurance Corporation

- Stepanek, Chuck
Nurses Association, Nebraska
- Stilmock, Gerald M.
Firefighters Association, Nebraska State Volunteer
National Federation of Independent Business
Pharmacists Association, Nebraska
- Stilwell, CJ Constance
American Legion Post 374
- Stremming, Troy A.
Ameristar Casinos, Inc.
- Sullivan, J. Scott
Credit Union League, Nebraska
- Swertzic, Michelle
Propane Gas Association, Nebraska
- Todd Jr., A. Loy
Car & Truck Dealers Association, Nebraska New
- Uhe, Fred J.
Sarpy County Board of Commissioners
- Ulbrich, Barbara
State Farm Insurance Companies
- Ullstrom, Galen F.
Mutual of Omaha Insurance Companies
- Urdahl, Michael B.
Great Plains Communications
- Varney, Michael
Farmers Insurance Group
- Vasina, Mark A.
Stop Big Business Subsidies - Repeal LB 775
- Veak, Becky
Health Care Association, Nebraska
- Vickers, Tom
Community College Association, Nebraska
Coors Brewing Company
Educational Lands and Funds, Board of

Nurses Association, Nebraska
Postsecondary Career Schools, Nebraska Council of Private
Propane Gas Association, Nebraska
Westside Community Schools

Vodvarka, Dan
Certified Public Accountants, Nebraska Society of

Wagner, Connie
Licensed Practical Nurse Association of Nebraska

Walker, Steven H.
Norris Public Power District

Warth, Terry
Nebraska Public Power District

Watson, James S.
United HealthCare Corporation

Watson, Robert W.
Fathers Rights Advocacy
LULAC, Omaha Chapter

Weber, Dale
Veterans & Social Societies, Inc., Nebraska Council of Fraternal

Weber, Rocky
Cooperative Council, Nebraska

Wesely, Don
City of Hastings
City of Norfolk

Wickman, Barbara J.
Metro Omaha Builders Association

Wightman, Anna Castner
First National of Nebraska, Inc.

Williams, David M.
Ameritas Life Insurance Corporation

Wininger, Dwight
Rural Telecommunications Coalition, Nebraska

Winston, Ken
Library Association, Nebraska
Nebraskans Against the Death Penalty

Sierra Club, Nebraska

Withem, Ron
University of Nebraska

Wood, Angela K.
Credit Management
Grand Island Area Economic Development Corporation

Wood, Keith
National Rifle Association Institute for Legislative Action

Yontz, Randall G.
American Heart Association

Yost, Kurt T.
Bankers Association, Nebraska Independent Community
Central Nebraska Public Power & Irrigation District
Midwest Check Cashiers, Inc.
Sowers Club of Lincoln, Inc.

Young, Philip M.
Philip Morris U.S.A.

Zoucha, Terry E.
ProCare 3

UNANIMOUS CONSENT - Add Cointroducers

Senators Erdman and Quandahl asked unanimous consent to have their names added as cointroducers to LB 110. No objections. So ordered.

Senator Quandahl asked unanimous consent to have his name added as cointroducer to LB 172. No objections. So ordered.

Senators Maxwell and Thompson asked unanimous consent to have their names added as cointroducers to LB 304. No objections. So ordered.

Senator Tyson asked unanimous consent to have his name added as cointroducer to LB 816. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 825. No objections. So ordered.

Senator Stuhr asked unanimous consent to have her name added as cointroducer to LB 850. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 852. No objections. So ordered.

Senator Mossey asked unanimous consent to have his name added as cointroducer to LB 880 and LB 881. No objections. So ordered.

Senator Quandahl asked unanimous consent to have his name added as cointroducer to LB 892. No objections. So ordered.

Senators Synowiecki and Vrtiska asked unanimous consent to have their names added as cointroducers to LB 933. No objections. So ordered.

Senators Connealy and Janssen asked unanimous consent to have their names added as cointroducers to LB 934. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 943. No objections. So ordered.

Senator Hartnett asked unanimous consent to have his name added as cointroducer to LB 976 and 977. No objections. So ordered.

VISITORS

Visitors to the Chamber were Ralph Thomas from Ashesville, North Carolina, and Julie Thomas from Gordon.

MOTION - Adjournment

Senator Brown moved to adjourn. The motion prevailed with 27 ayes, 4 nays, 10 present and not voting, and 8 excused and not voting, and at 4:12 p.m., the Legislature adjourned until 10:15 a.m., Tuesday, January 13, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTH DAY - JANUARY 13, 2004
LEGISLATIVE JOURNAL
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
 Tuesday, January 13, 2004

PRAYER

The prayer was offered by Pastor Gerry Sickler, Christ Unity Church, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:15 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Beutler, Bromm, Jensen, Jones, Loudon, McDonald, Mines, D. Pederson, Price, Stuhr, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fourth day was approved.

NOTICE OF COMMITTEE HEARING
Nebraska Retirement Systems
 Room 1525

Tuesday, January 20, 2004	12:15 p.m.
Gail Werner-Robertson - Nebraska Investment Council	
Roger Rea - Public Employees Retirement Board	

LB 961	Tuesday, January 20, 2004	12:15 p.m.
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(Signed) Elaine Stuhr, Chairperson

GENERAL FILE

LEGISLATIVE BILL 810. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 8 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 811. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 9 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 812. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 813. Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 172. Senator Chambers withdrew his pending motion, found on page 212, to reconsider the vote on AM1401.

Senator Chambers offered the following motion:
Bracket until April 14, 2004.

SPEAKER BROMM PRESIDING

Senator Foley offered the following motion:
Invoke cloture on LB 172.

Senator Foley moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Foley requested a roll call vote on his motion to invoke cloture.

Voting in the affirmative, 38:

Aguilar	Connealy	Johnson	Mossey	Stuhr
Baker	Cudaback	Jones	Pedersen, Dw.	Stuthman
Beutler	Cunningham	Kremer	Preister	Synowiecki
Brashear	Engel	Kruse	Quandahl	Tyson
Bromm	Erdman	Louden	Raikes	Vrtiska
Burling	Foley	Maxwell	Redfield	Wehrbein
Byars	Friend	McDonald	Schrock	
Combs	Hartnett	Mines	Smith	

Voting in the negative, 8:

Bourne	Chambers	Pederson, D.	Schimek
Brown	Landis	Price	Thompson

Excused and not voting, 3:

Hudkins	Janssen	Jensen
---------	---------	--------

The Foley motion to invoke cloture prevailed with 38 ayes, 8 nays, and 3 excused and not voting.

Senator Chambers requested a roll call vote on his motion to bracket.

Voting in the affirmative, 2:

Chambers Schimek

Voting in the negative, 40:

Aguilar	Combs	Hartnett	Mossey	Smith
Baker	Connealy	Jones	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Kremer	Preister	Stuthman
Brashear	Cunningham	Landis	Price	Synowiecki
Bromm	Engel	Louden	Quandahl	Thompson
Brown	Erdman	Maxwell	Raikes	Tyson
Burling	Foley	McDonald	Redfield	Vrtiska
Byars	Friend	Mines	Schrock	Wehrbein

Present and not voting, 4:

Bourne Johnson Kruse Pederson, D.

Excused and not voting, 3:

Hudkins Janssen Jensen

The Chambers motion to bracket failed with 2 ayes, 40 nays, 4 present and not voting, and 3 excused and not voting.

Senator Chambers requested a roll call vote on the Schimek amendment, AM2066, found on page 190.

Voting in the affirmative, 4:

Chambers Landis Price Schimek

Voting in the negative, 32:

Aguilar	Cudaback	Jones	Quandahl	Synowiecki
Baker	Cunningham	Kremer	Raikes	Tyson
Brashear	Engel	Maxwell	Redfield	Vrtiska
Bromm	Erdman	Mines	Schrock	Wehrbein
Burling	Foley	Mossey	Smith	
Byars	Friend	Pedersen, Dw.	Stuhr	
Combs	Jensen	Preister	Stuthman	

Present and not voting, 11:

Beutler	Connealy	Kruse	Pederson, D.
Bourne	Hartnett	Louden	Thompson
Brown	Johnson	McDonald	

Excused and not voting, 2:

Hudkins	Janssen
---------	---------

The Schimek amendment lost with 4 ayes, 32 nays, 11 present and not voting, and 2 excused and not voting.

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

Voting in the affirmative, 38:

Aguilar	Connealy	Jensen	Mossey	Stuhr
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Brashear	Engel	Kremer	Quandahl	Tyson
Bromm	Erdman	Louden	Raikes	Vrtiska
Burling	Foley	Maxwell	Redfield	Wehrbein
Byars	Friend	McDonald	Schrock	
Combs	Hartnett	Mines	Smith	

Voting in the negative, 4:

Chambers	Landis	Price	Schimek
----------	--------	-------	---------

Present and not voting, 5:

Bourne	Brown	Kruse	Pederson, D.	Thompson
--------	-------	-------	--------------	----------

Excused and not voting, 2:

Hudkins	Janssen
---------	---------

Advanced to E & R for review with 38 ayes, 4 nays, 5 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1033. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to the Athletic Advisory Committee; to amend section 81-8,139.01, Reissue Revised Statutes of Nebraska; to change membership; and to repeal the original section.

LEGISLATIVE BILL 1034. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2101.03, Reissue Revised Statutes of Nebraska; to change the estate tax rate; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1035. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to court procedure; to amend section 25-2301.02, Revised Statutes Supplement, 2002; to change in forma pauperis proceedings provisions; and to repeal the original section.

LEGISLATIVE BILL 1036. Introduced by Thompson, 14; Engel, 17; Jensen, 20; Schrock, 38.

A BILL FOR AN ACT relating to organ and tissue donation; to amend sections 60-493, 60-494, and 60-2907, Revised Statutes Supplement, 2002, and sections 60-484, 60-4,144, and 60-4,181, Revised Statutes Supplement, 2003; to provide for a Nebraska Organ and Tissue Donor Registry; to authorize the Department of Motor Vehicles to transfer certain motor vehicle operator's license and state identification card information; to change provisions relating to donor notations on licenses and cards; to create an advisory board; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1037. Introduced by Cunningham, 40; Connealy, 16; Stuthman, 22; Vrtiska, 1.

A BILL FOR AN ACT relating to biodiesel; to provide funds to school districts using biodiesel blend; and to provide duties for the Department of Agriculture.

LEGISLATIVE BILL 1038. Introduced by McDonald, 41.

A BILL FOR AN ACT relating to state identification cards; to amend sections 60-490, 60-4,115, 60-4,122, and 60-4,180, Revised Statutes Supplement, 2002, and section 60-4,181, Revised Statutes Supplement, 2003; to provide for state identification cards identifying persons with disabilities; to change fees; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 1039. Introduced by Cudaback, 36; Johnson, 37; Schrock, 38; Vrtiska, 1.

A BILL FOR AN ACT relating to motor vehicle registration; to amend

section 60-311.15, Reissue Revised Statutes of Nebraska; to change provisions relating to historical vehicles; and to repeal the original section.

LEGISLATIVE BILL 1040. Introduced by Bromm, 23; Baker, 44.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,132, Reissue Revised Statutes of Nebraska; to change distribution of certain sales tax proceeds; and to repeal the original section.

RESOLUTION

LEGISLATIVE RESOLUTION 219CA. Introduced by Beutler, 28; Hartnett, 45; Preister, 5.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To add a new section 31 to Article III and repeal Article III, section 12:

III-31 "(1) Members of the Legislature may be removed from office by recall pursuant to this section.

(2) A petition demanding that the question of removing a member of the Legislature be submitted to the registered voters of that legislative district shall be signed by registered voters equal in number to at least twenty-five percent of the total vote cast for that office in the last general election at which that office was filled. Only registered voters of such member's legislative district as it exists when the petitions are circulated may sign a recall petition. The Secretary of State shall notify the principal circulator that the necessary signatures must be gathered within ninety days after the date of issuing the petition papers.

(3) A recall petition may be filed against a member of the Legislature who has served more than two consecutive terms of office but not within one hundred twenty days after the beginning of any third or subsequent consecutive term of office or within two hundred days prior to the end of any third or subsequent consecutive term of office. No recall petition shall be filed against a member of the Legislature during the same term of office in which a recall election has failed to remove him or her from office.

(4) If the recall petition is found to be sufficient, the Secretary of State shall notify the member and the Clerk of the Legislature that sufficient signatures have been gathered. If the member does not resign within five days after receiving the notice, the Secretary of State shall order an election to be held not less than thirty nor more than forty-five days after the expiration of the five-day period, except that if any other election is to be held in that district within ninety days after the expiration of the five-day period, the Secretary of State may provide for the holding of the removal election on the same day. After the Secretary of State sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held.

(5) If a majority of the votes cast at a recall election are against the removal of the member or the election results in a tie, the member shall continue in office for the remainder of his or her term and shall not be subject to further recall attempts during such term. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the vacancy shall be filled as provided by law.

(6) No member who is removed from office as a result of a recall election or who resigns after the initiation of the recall process shall be appointed to fill a vacancy resulting from his or her resignation or the resignation or removal of any other member of the Legislature or be eligible for election to the Legislature during the remainder of the term of the office from which the member was removed."

"Article III, section 12, of the Constitution of Nebraska is repealed."

Sec. 2. The proposed amendments shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to provide for recall of state legislators and to repeal term limits for state legislators.

For

Against".

Referred to the Reference Committee.

GENERAL FILE

LEGISLATIVE RESOLUTION 4CA. Senator Chambers renewed his pending amendment, FA1167, found on page 643, First Session, 2003.

SENATOR WEHRBEIN PRESIDING

Pending.

NOTICE OF COMMITTEE HEARING

Agriculture

Room 1524

Tuesday, January 20, 2004

1:30 p.m.

Francis Partsch - Nebraska State Fair Board

Donald Anthony - Beginning Farmer Board

Bert Garvin - Beginning Farmer Board

LB 835 Tuesday, January 20, 2004

1:30 p.m.

LB 836 Tuesday, January 20, 2004

1:30 p.m.

LB 837 Tuesday, January 20, 2004

1:30 p.m.

(Signed) Bob Kremer, Chairperson

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1041. Introduced by Bourne, 8; Cunningham, 40; Preister, 5; Stuthman, 22.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.16 and 77-2704.14, Reissue Revised Statutes of Nebraska; to redefine terms; to change provisions relating to sales and use tax exemption; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 1042. Introduced by Jones, 43; Baker, 44; Bromm, 23; Burling, 33; Cunningham, 40; Erdman, 47; Friend, 10; Kremer, 34; Loudon, 49; Stuhr, 24; Stuthman, 22; Vrtiska, 1; Wehrbein, 2.

A BILL FOR AN ACT relating to cities of the second class and villages; to amend section 17-537, Reissue Revised Statutes of Nebraska; to provide duties relating to the extension of jurisdiction for purposes of protecting the water supply; and to repeal the original section.

LEGISLATIVE BILL 1043. Introduced by Baker, 44.

A BILL FOR AN ACT relating to cities and villages; to amend sections 13-608, 17-208, 17-213, and 81-1407, Reissue Revised Statutes of Nebraska, and sections 19-3801 and 81-1401, Revised Statutes Supplement, 2002; to require county sheriffs to provide police services in villages; to redefine terms; to provide and change powers and duties; to harmonize provisions; to repeal the original sections; and to outright repeal section 19-3802, Reissue Revised Statutes of Nebraska.

VISITORS

Visitors to the Chamber were 12 fourth-grade students, teacher, and sponsors from St. Joseph's Elementary School, York.

MOTION - Recess

Senator Jones moved to recess. The motion prevailed with 11 ayes, 2 nays, 24 present and not voting, and 12 excused and not voting, and at 11:51 a.m., the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Brown, Hartnett, Landis, Maxwell, Dw. Pedersen, Stuthman, Tyson, and Wehrbein who were excused until they arrive.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB 993	Appropriations
LB 994	Transportation and Telecommunications
LB 995	General Affairs
LB 996	Health and Human Services
LB 997	Urban Affairs
LB 998	Judiciary
LB 999	Banking, Commerce and Insurance
LB 1000	Judiciary
LB 1001	Judiciary
LB 1002	Agriculture
LB 1003	Government, Military and Veterans Affairs
LB 1004	Transportation and Telecommunications
LB 1005	Health and Human Services
LB 1006	Education
LB 1007	Urban Affairs
LB 1008	Urban Affairs
LB 1009	Judiciary
LB 1010	Revenue
LB 1011	Revenue
LB 1012	Judiciary
LB 1013	Nebraska Retirement Systems
LB 1014	Transportation and Telecommunications
LB 1015	Revenue
LB 1016	Revenue
LB 1017	Revenue
LB 1018	Revenue
LB 1019	Revenue
LB 1020	Revenue
LB 1021	Appropriations
LB 1022	Transportation and Telecommunications
LB 1023	Judiciary
LB 1024	Transportation and Telecommunications
LB 1025	Revenue
LB 1026	Natural Resources
LB 1027	Health and Human Services
LB 1028	Judiciary

LB 1029 Revenue
 LB 1030 Nebraska Retirement Systems
 LB 1031 Judiciary
 LB 1032 Judiciary
 LR 211CA Executive Board

(Signed) Pat Engel, Chairperson
 Legislative Council, Executive Board

AMENDMENT - Print in Journal

Senator Schimek filed the following amendment to LB 75:
 AM2202

(Amendments to Standing Committee amendments, AM0425)

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. Section 23-1701.01, Reissue Revised Statutes
 4 of Nebraska, is amended to read:
 5 23-1701.01. (1) Each candidate for the office of sheriff
 6 shall submit with the candidate filing form required by section
 7 32-607 proof that he or she has:
 8 (a) Successfully passed a background investigation
 9 performed by the Nebraska Law Enforcement Training Center based on
 10 a check of his or her criminal history record information
 11 maintained by the Federal Bureau of Investigation through the
 12 Nebraska State Patrol. The candidate shall apply for the
 13 background investigation at least thirty days prior to the filing
 14 deadline; and
 15 (b) Received a minimum combined score on the reading
 16 comprehension and English language portions of an adult basic
 17 education examination designated by the Nebraska Law Enforcement
 18 Training Center.
 19 (2) Each sheriff shall attend the Nebraska Law
 20 Enforcement Training Center and receive a certificate attesting to
 21 satisfactory completion of the Sheriff's Certification Course
 22 within eight months of taking office unless such sheriff has
 23 already been awarded a certificate by the Nebraska Commission on
 1 Law Enforcement and Criminal Justice attesting to satisfactory
 2 completion of such course or unless such sheriff can demonstrate to
 3 the Nebraska Police Standards Advisory Council that his or her
 4 previous training and education is such that he or she will
 5 professionally discharge the duties of the office. Any sheriff in
 6 office prior to July 19, 1980, shall not be required to obtain a
 7 certificate attesting to satisfactory completion of the Sheriff's
 8 Certification Course but shall otherwise be subject to this
 9 section. Each sheriff shall attend twenty hours of continuing
 10 education in criminal justice and law enforcement courses approved
 11 by the council each year following the first year of such sheriff's
 12 term of office. Such continuing education shall be offered through

13 seminars, advanced education which may include college or
 14 university classes, or conferences and shall be of a type which has
 15 application to and seeks to maintain and improve the skills of the
 16 sheriffs in carrying out the responsibilities of their office.

17 ~~(2)~~ (3) Unless a sheriff is able to show good cause for
 18 not complying with subsection ~~(4)~~ (2) of this section or obtains a
 19 waiver of the training requirements from the council, any sheriff
 20 who violates subsection ~~(4)~~ (2) of this section shall be punished
 21 by a fine equal to such sheriff's monthly salary. Each month in
 22 which such violation occurs shall constitute a separate offense.

23 Sec. 2. Original section 23-1701.01, Reissue Revised
 24 Statutes of Nebraska, is repealed."

GENERAL FILE

LEGISLATIVE RESOLUTION 4CA. The Chambers pending
 amendment, FA1167, found on page 643, First Session, 2003, and
 considered in this day's Journal, was renewed.

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

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 2:

Chambers Hartnett

Voting in the negative, 23:

Baker	Erdman	Jones	Quandahl	Thompson
Burling	Friend	Kremer	Schrock	Tyson
Combs	Janssen	Landis	Smith	Wehrbein
Connealy	Jensen	Mossey	Stuhr	
Cunningham	Johnson	Pedersen, Dw.	Synowiecki	

Present and not voting, 20:

Aguilar	Bromm	Foley	McDonald	Price
Beutler	Brown	Kruse	Mines	Raikes
Bourne	Byars	Louden	Pederson, D.	Schimek
Brashear	Cudaback	Maxwell	Preister	Vrtiska

Absent and not voting, 1:

Redfield

Excused and not voting, 3:

Engel Hudkins Stuthman

The Chambers amendment lost with 2 ayes, 23 nays, 20 present and not voting, 1 absent and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1044. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to condemnation; to amend section 76-701, Reissue Revised Statutes of Nebraska; to authorize a notice and provide duties for landowners and tenants; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original section.

LEGISLATIVE BILL 1045. Introduced by Smith, 48.

A BILL FOR AN ACT relating to the Nebraska Pure Food Act; to amend sections 81-2,239, 81-2,240, 81-2,245.01, 81-2,267, 81-2,270, 81-2,272, 81-2,272.28, and 81-2,272.31, Reissue Revised Statutes of Nebraska; to define and redefine terms; to provide for single event food vendors; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1046. Introduced by Combs, 32; Baker, 44; Burling, 33; Cudaback, 36; Engel, 17; Erdman, 47; Foley, 29; Janssen, 15; Jones, 43; Kruse, 13; Dw. Pedersen, 39; D. Pederson, 42; Price, 26; Quandahl, 31; Redfield, 12; Schrock, 38; Smith, 48; Stuhr, 24; Synowiecki, 7; Vrtiska, 1.

A BILL FOR AN ACT relating to civil procedure; to provide a limitation of liability for certain food claims.

LEGISLATIVE BILL 1047. Introduced by Banking, Commerce and Insurance Committee: Quandahl, 31, Chairperson; Foley, 29; Jensen, 20; Johnson, 37; Louden, 49; Mines, 18; Redfield, 12; Tyson, 19.

A BILL FOR AN ACT relating to insurance; to amend sections 44-407.11, 44-407.13, 44-407.16, 44-407.23, 44-2403, and 44-4809, Reissue Revised Statutes of Nebraska, sections 44-4201, 44-4203, 44-4221, and 44-4228, Revised Statutes Supplement, 2002, and section 44-407.14, Revised Statutes Supplement, 2003; to change provisions relating to annuity contracts, reserves, definitions, the Comprehensive Health Insurance Pool, rehabilitation, and liquidation; to eliminate a provision dealing with minimum nonforfeiture amounts; to repeal the original sections; and to outright repeal section 44-407.15, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1048. Introduced by Raikes, 25; Baker, 44; Beutler, 28; Bourne, 8; Brown, 6; Engel, 17; Hartnett, 45; Janssen, 15; Jensen, 20; Mines, 18; Price, 26; Redfield, 12; Stuhr, 24; Synowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to schools; to amend sections 32-542, 79-102, 79-401, 79-402, 79-403, 79-405, 79-407, 79-408, 79-409, 79-410, 79-413, 79-415, 76-416, 79-418, 79-419, 79-422, 79-433, 79-434, 79-443, 79-447, 79-449, 79-452, 79-454, 79-455, 79-470, 79-473, 79-479, 79-499, 79-4,101, 79-4,111, 79-556, 79-611, 79-850, 79-1003, 79-1016, 79-1022, 79-1026, 79-1027, 79-1028, 79-1031.01, and 79-1083.02, Reissue Revised Statutes of Nebraska; to provide for reorganization of certain school districts as prescribed; to change and eliminate provisions relating to school district reorganization; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 79-404, 79-406, 79-411, 79-417, 79-424 to 79-427, 79-431, 79-472, 79-477, 79-478, 79-492 to 79-495, 79-4,109, and 79-4,110, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1049. Introduced by Cunningham, 40; Baker, 44; Bromm, 23; Brown, 6; Burling, 33; Byars, 30; Combs, 32; Cudaback, 36; Engel, 17; Erdman, 47; Friend, 10; Jensen, 20; Jones, 43; Kremer, 34; Kruse, 13; Louden, 49; McDonald, 41; Mines, 18; Mossey, 3; D. Pederson, 42; Price, 26; Quandahl, 31; Redfield, 12; Schrock, 38; Smith, 48; Stuhr, 24; Tyson, 19; Vrtiska, 1; Wehrbein, 2.

A BILL FOR AN ACT relating to employment security law; to amend section 48-628, Revised Statutes Supplement, 2002; to change provisions relating to benefit disqualification; and to repeal the original section.

LEGISLATIVE BILL 1050. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to criminal law; to amend sections 28-929, 28-930, and 28-933, Reissue Revised Statutes of Nebraska, and sections 28-309, 28-931, 28-931.01, and 28-932, Revised Statutes Supplement, 2002; to change provisions relating to assault and related crimes; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1051. Introduced by Wehrbein, 2; Jones, 43; Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to state legislative intent to fund a statewide livestock market and pricing data service.

GENERAL FILE

LEGISLATIVE RESOLUTION 4CA. Senator Chambers renewed his pending amendment, FA1169, found on page 643, First Session, 2003.

Senator Chambers offered the following amendment to his pending

amendment:

FA1402

Amend FA1169

After "frivolous" insert "and silly"

SENATOR HARTNETT PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 1 nay, and 30 not voting.

The Chambers amendment lost with 1 aye, 22 nays, 18 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1052. Introduced by Price, 26.

A BILL FOR AN ACT relating to fire protection districts; to amend section 35-514, Reissue Revised Statutes of Nebraska; to change provisions relating to the payment of the outstanding obligations of annexed rural or suburban fire protection districts; and to repeal the original section.

LEGISLATIVE BILL 1053. Introduced by Quandahl, 31; Brown, 6; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to natural gas; to amend sections 14-2113, 14-2117, 14-2122, 18-409, 18-411, 66-1804, 66-1852, and 75-109.01, Reissue Revised Statutes of Nebraska, sections 13-2802 and 18-419, Revised Statutes Supplement, 2002, and section 16-6,109, Revised Statutes Supplement, 2003; to adopt the State Natural Gas Service Territory Act; to state intent; to change and eliminate provisions relating to the extension and enlargement of natural gas service areas; to provide powers and duties; to harmonize provisions; to repeal the original sections; and to outright repeal sections 57-1301 to 57-1307, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 1054. Introduced by Cunningham, 40; Byars, 30; Erdman, 47; Jensen, 20; Maxwell, 9.

A BILL FOR AN ACT relating to the Rural Health Systems and Professional Incentive Act; to amend sections 71-5651 to 71-5653, 71-5662, 71-5663, and 71-5666, Reissue Revised Statutes of Nebraska; to provide for student loans for certain mental health students; to restate intent; to define terms; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1055. Introduced by Brown, 6.

A BILL FOR AN ACT relating to the Uniform Controlled Substances Act; to amend section 28-401.01, Revised Statutes Supplement, 2002, and section 28-101, Revised Statutes Supplement, 2003; to require a chemical analysis fee from a convicted person as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 1056. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to motor vehicle registration; to provide for Legion of Merit license plates.

LEGISLATIVE BILL 1057. Introduced by Aguilar, 35.

A BILL FOR AN ACT relating to municipalities; to amend sections 16-669, 16-670, 19-2404, and 19-2405, Reissue Revised Statutes of Nebraska; to change provisions relating to assessments and bonds; and to repeal the original sections.

LEGISLATIVE BILL 1058. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-2404, 60-2406, and 60-2410, Reissue Revised Statutes of Nebraska; to change provisions relating to liens on and charges and liability for towing vehicles; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1059. Introduced by Price, 26.

A BILL FOR AN ACT relating to support enforcement; to amend section 43-512.08, Reissue Revised Statutes of Nebraska; to change provisions relating to intervention in certain proceedings; and to repeal the original section.

LEGISLATIVE BILL 1060. Introduced by Cudaback, 36; Cunningham, 40; Mossey, 3; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2003; to prohibit the distribution, possession, or use of a theft detection shielding, deactivating, or removing device; to prohibit the removal of a theft detection device; to provide a penalty; to provide reasonable cause for the detention of a patron; to provide immunity as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 1061. Introduced by Cudaback, 36; Mossey, 3.

A BILL FOR AN ACT relating to shoplifting; to amend section 25-21,194,

Reissue Revised Statutes of Nebraska; to provide liability for costs of recovering merchandise; to eliminate obsolete language; and to repeal the original section.

NOTICE OF COMMITTEE HEARINGS

Banking, Commerce and Insurance

Room 1507

LB 864	Tuesday, January 20, 2004	1:30 p.m.
LB 885	Tuesday, January 20, 2004	1:30 p.m.
LB 978	Tuesday, January 20, 2004	1:30 p.m.
LB 979	Tuesday, January 20, 2004	1:30 p.m.
LB 999	Tuesday, January 20, 2004	1:30 p.m.

(Signed) Mark Quandahl, Chairperson

Education

Room 1525

LB 815	Tuesday, January 20, 2004	1:30 p.m.
LB 868	Tuesday, January 20, 2004	1:30 p.m.
LB 917	Tuesday, January 20, 2004	1:30 p.m.
LB 934	Tuesday, January 20, 2004	1:30 p.m.

(Signed) Ron Raikes, Chairperson

Urban Affairs

Room 1510

LB 842	Tuesday, January 20, 2004	1:30 p.m.
LB 903	Tuesday, January 20, 2004	1:30 p.m.
LB 937	Tuesday, January 20, 2004	1:30 p.m.
LB 997	Tuesday, January 20, 2004	1:30 p.m.
LB 1007	Tuesday, January 20, 2004	1:30 p.m.
LB 1008	Tuesday, January 20, 2004	1:30 p.m.

(Signed) D. Paul Hartnett, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 220. Introduced by Synowiecki, 7.

WHEREAS, Mr. William "Bill" Skarda, former state legislator from 1958-1976, passed away on June 24, 2003, survived by two daughters, Cheryl and Christine, four grandchildren, seven great-grandchildren, and wife, Dorothy, to whom he had been married for sixty years; and

WHEREAS, Mr. Skarda was born in Omaha, graduated from Omaha South High School, and was heavily involved in local community groups; and

WHEREAS, Mr. Skarda was honored by the Omaha Public Schools and the University of Nebraska for his contribution in the area of education; and

WHEREAS, Mr. Skarda was among a small group of key lawmakers in his seventeen years in the Nebraska Legislature and will be greatly missed.

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

1. That the Legislature expresses its condolences to the Skarda family.
2. That a copy of this resolution be sent to the family of William Skarda.

Laid over.

UNANIMOUS CONSENT - Add Cointroducers

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 37. No objections. So ordered.

Senator Mossey asked unanimous consent to have his name added as cointroducer to LB 172. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 382. No objections. So ordered.

Senator Preister asked unanimous consent to have his name added as cointroducer to LB 816. No objections. So ordered.

Senator McDonald asked unanimous consent to have her name added as cointroducer to LB 879. No objections. So ordered.

Senator Hartnett asked unanimous consent to have his name added as cointroducer to LB 934. No objections. So ordered.

Senator Foley asked unanimous consent to have his name added as cointroducer to LB 989. No objections. So ordered.

Senator Schimek asked unanimous consent to have her name added as cointroducer to LB 1026. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LR 209CA. No objections. So ordered.

ADJOURNMENT

At 3:56 p.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Wednesday, January 14, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTH DAY - JANUARY 14, 2004
LEGISLATIVE JOURNAL
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 14, 2004

PRAYER

The prayer was offered by Senator Jones.

ROLL CALL

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

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Byars, Landis, Maxwell, Dw. Pedersen, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifth day was approved.

GENERAL FILE

LEGISLATIVE RESOLUTION 4CA. The Chambers pending amendment, FA1169, found on page 643, First Session, 2003, and considered on page 253, was renewed.

Senator Schrock asked unanimous consent to bracket LR 4CA until February 3, 2004.

Senator Chambers objected.

Senator Schrock offered the following motion:
Bracket LR 4CA until February 3, 2004.

Senator Chambers withdrew his objection.

Senator Schrock asked unanimous consent to bracket LR 4CA until February 3, 2004. No objections. So ordered.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1062. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-137, Reissue Revised Statutes of Nebraska, and section 48-139, Revised Statutes Supplement, 2002; to change provisions relating to limitations of actions and discharge of liability; and to repeal the original sections.

LEGISLATIVE BILL 1063. Introduced by Stuhr, 24; Aguilar, 35.

A BILL FOR AN ACT relating to security services; to adopt the Security Personnel Licensing Act; to provide duties for the Secretary of State; to create a fund; and to provide civil penalties.

LEGISLATIVE BILL 1064. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-6,298, Revised Statutes Supplement, 2003; to change provisions and provide duties relating to the issuance of special, continuing, or continuous permits; and to repeal the original section.

LEGISLATIVE BILL 1065. Introduced by Baker, 44; Kremer, 34; Wehrbein, 2.

A BILL FOR AN ACT relating to ethanol; to amend sections 66-489, 66-489.01, 66-4,105, 66-4,124, 66-4,134, 66-668, 66-672, 66-6,107, 66-6,109.01, 66-6,111, 66-1345, 66-1345.01, and 66-1521, Reissue Revised Statutes of Nebraska; to provide funding for ethanol production incentives; to change tax credits, tax rates, and fee rates and distribution as prescribed; to eliminate a fuel tax provision; to harmonize provisions; to repeal the original sections; to outright repeal section 66-4,142, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 1066. Introduced by Baker, 44; Kremer, 34.

A BILL FOR AN ACT relating to the Ethanol Development Act; to amend sections 66-1333, 66-1344, and 66-1344.01, Reissue Revised Statutes of Nebraska; to redefine a term; to create a production credit; to change provisions relating to such credits; to require agreements; to harmonize provisions; to repeal the original sections; and to declare an emergency.

RESOLUTION**LEGISLATIVE RESOLUTION 221CA.** Introduced by Brown, 6.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 19:

III-19 "(1) The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that (a) retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement and (b) the Legislature may grant extra compensation after the services have been rendered as inducements for state employees to terminate employment with the state.

(2) The compensation of any public officer, including any officer whose compensation is fixed by the Legislature, shall not be increased or diminished during his or her term of office, except that when there are members elected or appointed to the Legislature or the judiciary, or officers elected or appointed to a board or commission having more than one member, and the terms of such members commence and end at different times, the compensation of all members of the Legislature, of the judiciary, or of such board or commission may be increased or diminished at the beginning of the full term of any member thereof.

(3) Nothing in this section shall prevent local governing bodies from reviewing and adjusting vested pension benefits periodically as prescribed by ordinance.

(4) The surviving spouse of any retired public officer, agent, or servant, who has retired under a pension plan or system, shall be considered as having pensionable status and shall be entitled to the same benefits which may, at any time, be provided for or available to spouses of other public officers, agents, or servants who have retired under such pension plan or system at a later date, and such benefits shall not be prohibited by the restrictions of this section or of Article XIII, section 3 of the Constitution of Nebraska."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to authorize state employee buyout programs.

For

Against".

Referred to the Reference Committee.

NOTICE OF COMMITTEE HEARINGS
Natural Resources
 Room 1525

Wednesday, January 21, 2004		1:30 p.m.
John Campbell - Nebraska Environmental Trust Board		
LB 833	Wednesday, January 21, 2004	1:30 p.m.
LB 962	Wednesday, January 21, 2004	1:30 p.m.
Thursday, January 22, 2004		1:30 p.m.
Dave Hilferty - Nebraska Ethanol Board		
Tim L. Else - Nebraska Ethanol Board		
LB 923	Thursday, January 22, 2004	1:30 p.m.
LB 916	Thursday, January 22, 2004	1:30 p.m.
LB 828	Friday, January 23, 2004	1:30 p.m.
LB 890	Friday, January 23, 2004	1:30 p.m.
LB 969	Friday, January 23, 2004	1:30 p.m.
Wednesday, January 28, 2004		1:30 p.m.
Eugene Bade - Nebraska Power Review Board		
LB 832	Wednesday, January 28, 2004	1:30 p.m.
LB 831	Wednesday, January 28, 2004	1:30 p.m.
LB 829	Wednesday, January 28, 2004	1:30 p.m.
LB 822	Thursday, January 29, 2004	1:30 p.m.
LB 830	Thursday, January 29, 2004	1:30 p.m.

(Signed) Ed Schrock, Chairperson

GENERAL FILE

LEGISLATIVE BILL 270. Senator Foley offered the following motion:
 Return LB 270 to committee.

Senator Foley withdrew his motion.

Senator Brashear renewed his pending amendment, AM2019, printed separately and referred to on page 1991, First Session, 2003.

Senator Foley offered the following amendment to the Brashear pending amendment:

FA1403

Amend AM2019

In page 1 line 18 after the word person insert the following:
 including unborn persons

Senator Foley withdrew his amendment.

Senator Foley offered the following amendment to the Brashear pending amendment:

AM2082

(Amendments to AM2019)

- 1 1. Insert the following new sections:
- 2 "Sec. 2. Section 28-110, Revised Statutes Supplement,
- 3 2002, is amended to read:
- 4 28-110. A person in the State of Nebraska has the right
- 5 to live free from violence, or intimidation by threat of violence,
- 6 committed against his or her person or the destruction or vandalism
- 7 of, or intimidation by threat of destruction or vandalism of, his
- 8 or her property regardless of his or her race, color, religion,
- 9 ancestry, national origin, gender, sexual orientation, age, ~~or~~
- 10 disability, or status as an unborn child.
- 11 Sec. 3. Section 28-111, Revised Statutes Supplement,
- 12 2002, is amended to read:
- 13 28-111. Any person who commits one or more of the
- 14 following criminal offenses against a person or a person's property
- 15 because of the person's race, color, religion, ancestry, national
- 16 origin, gender, sexual orientation, age, ~~or~~ disability, or status
- 17 as an unborn child or because of the person's association with a
- 18 person of a certain race, color, religion, ancestry, national
- 19 origin, gender, sexual orientation, age, ~~or~~ disability, or status
- 20 as an unborn child shall be punished by the imposition of the next
- 21 higher penalty classification than the penalty classification
- 22 prescribed for the criminal offense, unless such criminal offense
- 23 is already punishable as a Class IB felony or higher
- 1 classification: Manslaughter, section 28-305; assault in the first
- 2 degree, section 28-308; assault in the second degree, section
- 3 28-309; assault in the third degree, section 28-310; terroristic
- 4 threats, section 28-311.01; stalking, section 28-311.03;
- 5 kidnapping, section 28-313; false imprisonment in the first degree,
- 6 section 28-314; false imprisonment in the second degree, section
- 7 28-315; sexual assault in the first degree, section 28-319; sexual
- 8 assault in the second or third degree, section 28-320; arson in the
- 9 first degree, section 28-502; arson in the second degree, section
- 10 28-503; arson in the third degree, section 28-504; criminal
- 11 mischief, section 28-519; criminal trespass in the first degree,
- 12 section 28-520; or criminal trespass in the second degree, section
- 13 28-521.
- 14 Sec. 4. Section 28-112, Revised Statutes Supplement,
- 15 2002, is amended to read:
- 16 28-112. The allegations stating that the underlying
- 17 offense was committed because of the person's race, color,
- 18 religion, ancestry, national origin, gender, sexual orientation,
- 19 age, ~~or~~ disability, or status as an unborn child or because of the

20 person's association with a person of a certain race, color,
 21 religion, ancestry, national origin, gender, sexual orientation,
 22 age, ~~or~~ disability, or status as an unborn child shall be set forth
 23 in the indictment or information, ~~but the allegations shall not~~
 24 ~~be disclosed to the jury trying the case.~~ It is the burden of the
 25 county prosecuting attorney to prove such allegations beyond a
 26 reasonable doubt to the judge or jury after a guilty verdict on the
 27 underlying offense and prior to sentencing. ~~If the case is tried~~
 1 ~~to the judge without a jury, all allegations may be proved~~ in the
 2 state's case in chief.

3 Sec. 5. Section 28-113, Revised Statutes Supplement,

4 2002, is amended to read:

5 28-113. (1) A person against whom a violation of section
 6 28-111 has been committed may bring a civil action for equitable
 7 relief, general and special damages, reasonable attorney's fees,
 8 and costs.

9 (2) A civil action brought pursuant to this section must
 10 be brought within four years after the date of the violation of
 11 section 28-111.

12 (3) In a civil action brought pursuant to this section,
 13 the plaintiff shall establish by a preponderance of the evidence
 14 that the defendant committed the criminal offense against the
 15 plaintiff or the plaintiff's property because of the plaintiff's
 16 race, color, religion, ancestry, national origin, gender, sexual
 17 orientation, age, ~~or~~ disability, or status as an unborn child or
 18 because of the plaintiff's association with a person of a certain
 19 race, color, religion, ancestry, national origin, gender, sexual
 20 orientation, age, ~~or~~ disability, or status as an unborn child.

21 Sec. 6. Section 28-114, Revised Statutes Supplement,

22 2002, is amended to read:

23 28-114. The Nebraska Commission on Law Enforcement and
 24 Criminal Justice shall establish and maintain a central repository
 25 for the collection and analysis of information regarding criminal
 26 offenses committed against a person because of the person's race,
 27 color, religion, ancestry, national origin, gender, sexual

1 orientation, age, ~~or~~ disability, or status as an unborn child or
 2 because of the person's association with a person of a certain
 3 race, color, religion, ancestry, national origin, gender, sexual
 4 orientation, age, ~~or~~ disability, or status as an unborn child.

5 Upon establishing such a repository, the commission shall develop a
 6 procedure to monitor, record, classify, and analyze information
 7 relating to criminal offenses apparently directed against
 8 individuals or groups, or their property, because of their race,
 9 color, religion, ancestry, national origin, gender, sexual
 10 orientation, age, ~~or~~ disability, or status as an unborn child or
 11 because of their association with a person of a certain race,
 12 color, religion, ancestry, national origin, gender, sexual
 13 orientation, age, ~~or~~ disability, or status as an unborn child."

14 2. Renumber the remaining sections and correct internal

15 references and the repealer section accordingly.

Senator Brashear requested a ruling of the Chair on whether the Foley amendment is germane to the Brashear amendment.

The Chair ruled the Foley amendment is germane to the Brashear amendment.

Senator Foley withdrew his amendment.

Senator Foley offered the following motion:
Bracket until January 23, 2004.

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

Senator Brashear moved for a call of the house. The motion prevailed with 23 ayes, 1 nay, and 25 not voting.

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

Voting in the affirmative, 33:

Aguilar	Burling	Hartnett	Mossey	Stuhr
Baker	Byars	Janssen	Pederson, D.	Stuthman
Beutler	Combs	Johnson	Quandahl	Thompson
Bourne	Connealy	Jones	Raikes	Vrtiska
Brashear	Cunningham	Kruse	Redfield	Wehrbein
Bromm	Engel	Louden	Schrock	
Brown	Erdman	Mines	Smith	

Voting in the negative, 3:

Chambers	Foley	Landis
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Present and not voting, 5:

Cudaback	Friend	Jensen	McDonald	Schimek
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Excused and not voting, 8:

Hudkins	Maxwell	Preister	Synowiecki
Kremer	Pedersen, Dw.	Price	Tyson

The motion to cease debate prevailed with 33 ayes, 3 nays, 5 present and not voting, and 8 excused and not voting.

The Foley motion to bracket failed with 5 ayes, 28 nays, 8 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1067. Introduced by Synowiecki, 7; Bourne, 8; Combs, 32; Connealy, 16.

A BILL FOR AN ACT relating to the Contractor Registration Act; to amend sections 48-2102 and 48-2104, Reissue Revised Statutes of Nebraska, and section 48-2114, Revised Statutes Supplement, 2002; to change provisions relating to applicability and penalties; and to repeal the original sections.

LEGISLATIVE BILL 1068. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to presentence reports or psychiatric examinations; to amend section 29-2261, Revised Statutes Supplement, 2003; to authorize disclosure to the Nebraska Supreme Court or its agent as prescribed; and to repeal the original section.

LEGISLATIVE BILL 1069. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to licensing of professions; to amend section 81-3451, Reissue Revised Statutes of Nebraska; to change provisions relating to engineers; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1070. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to the Welfare Reform Act; to amend sections 68-1020, 68-1709, 68-1710, 68-1713, 68-1716, 68-1718, 68-1721, 68-1722, 68-1723, and 68-1724, Reissue Revised Statutes of Nebraska; to change provisions relating to time limits as prescribed; to eliminate certain reports as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1071. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to nonprofit corporations; to amend section 21-1928, Reissue Revised Statutes of Nebraska; to provide exceptions to certain powers relating to governing boards involving certain public postsecondary educational institutions; and to repeal the original section.

LEGISLATIVE BILL 1072. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to educational service units; to amend section 79-1217, Reissue Revised Statutes of Nebraska, and sections 32-567 and 32-570, Revised Statutes Supplement, 2002; to change provisions relating to vacancies in educational service unit boards; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1073. Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-311.01, Revised Statutes Supplement, 2002; to authorize a joint alphanumeric system and county number system for license plates; and to repeal the original section.

LEGISLATIVE BILL 1074. Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to elections; to amend section 32-608, Revised Statutes Supplement, 2003; to change provisions relating to filing fees; to provide an operative date; and to repeal the original section.

AMENDMENTS - Print in Journal

Senator Schrock filed the following amendment to LB 449A:
AM2199

- 1 1. Strike the original section and insert the following
- 2 new section:
- 3 "Section 1. There is hereby appropriated (1) \$82,560
- 4 from the Air Quality Permit Cash Fund for FY2004-05 and (2)
- 5 \$195,583 from the Air Quality Permit Cash Fund for FY2005-06 to the
- 6 Department of Environmental Quality, for Program 513, to aid in
- 7 carrying out the provisions of Legislative Bill 449, Ninety-eighth
- 8 Legislature, Second Session, 2004.
- 9 Total expenditures for permanent and temporary salaries
- 10 and per diems from funds appropriated in this section shall not
- 11 exceed \$35,224 for FY2004-05 or \$92,136 for FY2005-06."

Senator Schrock filed the following amendment to LB 449:
AM2218

- 1 1. On page 19, line 18, strike "2004" and insert "2005".

NOTICE OF COMMITTEE HEARINGS

Revenue
Room 1524

LB 974	Wednesday, January 21, 2004	1:30 p.m.
LB 955	Wednesday, January 21, 2004	1:30 p.m.
LB 956	Wednesday, January 21, 2004	1:30 p.m.
LB 957	Wednesday, January 21, 2004	1:30 p.m.
LB 1016	Wednesday, January 21, 2004	1:30 p.m.

LB 854	Thursday, January 22, 2004	1:30 p.m.
LB 857	Thursday, January 22, 2004	1:30 p.m.
LB 970	Thursday, January 22, 2004	1:30 p.m.
LB 971	Thursday, January 22, 2004	1:30 p.m.
LB 972	Thursday, January 22, 2004	1:30 p.m.
LB 973	Thursday, January 22, 2004	1:30 p.m.
LB 984	Thursday, January 22, 2004	1:30 p.m.
LB 983	Friday, January 23, 2004	1:30 p.m.
LB 900	Friday, January 23, 2004	1:30 p.m.
LB 841	Friday, January 23, 2004	1:30 p.m.
LB 1010	Friday, January 23, 2004	1:30 p.m.
LB 1029	Friday, January 23, 2004	1:30 p.m.
LB 1019	Friday, January 23, 2004	1:30 p.m.

(Signed) David Landis, Chairperson

Health and Human Services

Room 1510

LB 818	Wednesday, January 21, 2004	1:30 p.m.
LB 852	Wednesday, January 21, 2004	1:30 p.m.
LB 921	Wednesday, January 21, 2004	1:30 p.m.
LB 1005	Wednesday, January 21, 2004	1:30 p.m.

(Signed) Jim Jensen, Chairperson

EXECUTIVE BOARD ANNOUNCEMENT

The Executive Board announces the following committee assignments made over the interim:

Senator McDonald has been appointed as the additional member to the Legislative Performance Audit Committee. In addition, pursuant to LB 607, 2003, the Speaker was added to the Committee.

VISITORS

Visitors to the Chamber were 50 ninth- and tenth-grade students and teachers from Millard South High School, Omaha; and Michael McCabe and Tim Anderson from Lombard, Illinois.

RECESS

At 11:57 a.m., on a motion by Senator Jones, the Legislature recessed until 2:00 p.m.

AFTER RECESS

The Legislature reconvened at 2:00 p.m., Senator Cudaback presiding.

ROLL CALL

The roll was called and all members were present except Senators Hudkins, Dw. Pedersen, and Stuthman who were excused; and Senators Brashear, Bromm, Cunningham, Erdman, Foley, Landis, Loudon, Price, Synowiecki, and Tyson who were excused until they arrive.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB 1033	Government, Military and Veterans Affairs
LB 1034	Revenue
LB 1035	Judiciary
LB 1036	Health and Human Services
LB 1037	Agriculture
LB 1038	Transportation and Telecommunications
LB 1039	Transportation and Telecommunications
LB 1040	Revenue
LB 1041	Revenue
LB 1042	Natural Resources
LB 1043	Urban Affairs
LB 1044	Judiciary
LB 1045	Agriculture
LB 1046	Judiciary
LB 1047	Banking, Commerce and Insurance
LB 1048	Education
LB 1049	Business and Labor
LB 1050	Judiciary
LB 1051	Appropriations
LB 1052	Urban Affairs
LB 1053	Urban Affairs
LB 1054	Health and Human Services
LB 1055	Judiciary
LB 1056	Transportation and Telecommunications
LB 1057	Urban Affairs
LB 1058	Judiciary
LB 1059	Judiciary
LB 1060	Judiciary
LB 1061	Judiciary
LR 219CA	Executive Board

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARINGS

Judiciary
Room 1113

LB 848	Wednesday, January 21, 2004	1:30 p.m.
LB 853	Wednesday, January 21, 2004	1:30 p.m.
LB 882	Wednesday, January 21, 2004	1:30 p.m.
LB 891	Wednesday, January 21, 2004	1:30 p.m.
LB 823	Thursday, January 22, 2004	1:30 p.m.
LB 889	Thursday, January 22, 2004	1:30 p.m.
LB 926	Thursday, January 22, 2004	1:30 p.m.
LB 928	Thursday, January 22, 2004	1:30 p.m.
LB 877	Friday, January 23, 2004	1:30 p.m.
LB 887	Friday, January 23, 2004	1:30 p.m.
LB 968	Friday, January 23, 2004	1:30 p.m.
LB 1023	Friday, January 23, 2004	1:30 p.m.

(Signed) Kermit A. Brashear, Chairperson

GENERAL FILE

LEGISLATIVE BILL 227. Title read. Considered.

Senator Chambers offered the following amendment:

FA1404

Page 5, in line 14, strike 2002 and insert "2004"

The Chambers amendment was adopted with 30 ayes, 0 nays, 6 present and not voting, and 13 excused and not voting.

SPEAKER BROMM PRESIDING

Senator Aguilar moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Advanced to E & R for review with 26 ayes, 1 nay, 9 present and not voting, and 13 excused and not voting.

The Chair declared the call raised.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1075. Introduced by Stuthman, 22; Aguilar, 35; Baker, 44; Bourne, 8; Cunningham, 40; Jones, 43; Kremer, 34; McDonald, 41; Raikes, 25; Vrtiska, 1; Wehrbein, 2; at the request of the Governor.

A BILL FOR AN ACT relating to juveniles; to amend section 43-274, Revised Statutes Supplement, 2003; to provide the Attorney General the power to file juvenile court petitions as prescribed; and to repeal the original section.

LEGISLATIVE BILL 1076. Introduced by Redfield, 12; Jensen, 20.

A BILL FOR AN ACT relating to children; to amend section 43-1407, Reissue Revised Statutes of Nebraska; to change provisions relating to birth expense liability; and to repeal the original section.

LEGISLATIVE BILL 1077. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to law enforcement; to amend section 69-2404, Reissue Revised Statutes of Nebraska, and section 60-106, Revised Statutes Supplement, 2003; to change inspection and application fees as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 1078. Introduced by Johnson, 37; Baker, 44; Byars, 30; Combs, 32; Connealy, 16; Cunningham, 40; Erdman, 47; Jones, 43; McDonald, 41; Schrock, 38; Smith, 48; Stuthman, 22; Vrtiska, 1.

A BILL FOR AN ACT relating to counties; to authorize the issuance of county employee identification cards; and to provide powers and duties for the Department of Motor Vehicles.

LEGISLATIVE BILL 1079. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to state aid to schools; to amend sections 77-3442, 77-3446, 79-1005.01, 79-1005.02, 79-1007.02, 79-1008.01, 79-1009, 79-1022, 79-1022.02, 79-1025, 79-1026, and 79-1083.03, Reissue Revised Statutes of Nebraska; to change provisions relating to dates; to harmonize provisions; to repeal the original sections; and to declare an emergency.

NOTICE OF COMMITTEE HEARINGS
Government, Military and Veterans Affairs
Room 1507

LB 814	Wednesday, January 21, 2004	1:30 p.m.
LB 821	Wednesday, January 21, 2004	1:30 p.m.
LB 824	Wednesday, January 21, 2004	1:30 p.m.
LB 938	Wednesday, January 21, 2004	1:30 p.m.

LB 844	Thursday, January 22, 2004	1:30 p.m.
LB 913	Thursday, January 22, 2004	1:30 p.m.
LB 834	Thursday, January 22, 2004	1:30 p.m.
LB 858	Thursday, January 22, 2004	1:30 p.m.
LB 963	Thursday, January 22, 2004	1:30 p.m.
LB 820	Friday, January 23, 2004	1:30 p.m.
LB 927	Friday, January 23, 2004	1:30 p.m.
LB 870	Friday, January 23, 2004	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

GENERAL FILE

LEGISLATIVE BILL 353. Title read. Considered.

The Standing Committee amendment, AM0239, found on page 500, was adopted with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

Senator Synowiecki offered the following amendment:

FA1409

Page 2 line 6 strike "shall" insert "may"

Senator Synowiecki withdrew his amendment.

Advanced to E & R for review with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 532. Title read. Considered.

The Standing Committee amendment, AM0276, found on page 501, lost with 0 ayes, 26 nays, 16 present and not voting, and 7 excused and not voting.

Senator Baker offered the following amendment:

(Amendment, AM2186, is printed separately and available in the Bill Room, Room 1104.)

Senator Baker asked unanimous consent to bracket LB 532 until January 28, 2004. No objections. So ordered.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1080. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to schools; to amend section 79-514,

Reissue Revised Statutes of Nebraska; to prohibit the purchase of certain annuity plans; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 1081. Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; Price, 26; Synowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to the School Employees Retirement Act; to amend sections 79-904.01 and 79-949, Reissue Revised Statutes of Nebraska; to change provisions relating to false or fraudulent actions; to define terms; to provide penalties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1082. Introduced by Engel, 17; Baker, 44; Beutler, 28; Erdman, 47; Hartnett, 45; Janssen, 15; Jensen, 20; Johnson, 37; Kremer, 34; D. Pederson, 42; Raikes, 25; Redfield, 12; Schrock, 38; Smith, 48; Wehrbein, 2.

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-462, 60-479, and 60-484, Revised Statutes Supplement, 2003; to provide for Selective Service registration with applications as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1083. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to behavioral health services; to amend sections 42-917, 44-773, 44-774, 81-2213, 83-305, 83-321, 83-336, 83-338, 83-340, 83-340.01, 83-350, 83-4,148, 83-1006, 83-1007, and 83-1040, Reissue Revised Statutes of Nebraska, section 83-162.04, Revised Statutes Supplement, 2002, and sections 9-812, 28-416, and 83-1079, Revised Statutes Supplement, 2003; to adopt the Nebraska Behavioral Health Services Act; to change and eliminate provisions relating to state hospitals; to eliminate the Nebraska Comprehensive Community Mental Health Services Act, the Rehabilitation and Support Mental Health Services Incentive Act, the Alcoholism, Drug Abuse, and Addiction Services Act, the Nebraska Behavioral Health Reform Act, and provisions relating to behavioral health; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 71-5001 to 71-5010, 71-5012 to 71-5053, 71-5055 to 71-5066, 83-158.01, 83-159, 83-160, 83-161.02, 83-162.01 to 83-162.03, 83-163 to 83-169, 83-305.05, 83-306, 83-307, 83-307.01, 83-308, 83-311, 83-339, 83-352.02, and 83-356, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 1084. Introduced by Erdman, 47; Aguilar, 35; Baker, 44; Byars, 30; Cunningham, 40; Engel, 17; Friend, 10; Jensen, 20; Johnson, 37; Jones, 43; Kremer, 34; Mossey, 3; Quandahl, 31; Redfield, 12; Schrock, 38; Smith, 48; Vrtiska, 1.

A BILL FOR AN ACT relating to medicaid; to amend sections 68-1037.01

to 68-1037.05, Reissue Revised Statutes of Nebraska; to change the False Medicaid Claims Act as prescribed; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 1085. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-2101 to 29-2103, 29-4117, 29-4119, and 29-4123, Revised Statutes Supplement, 2002; to change provisions relating to motions for new trial and the DNA Testing Act; to harmonize provisions; and to repeal the original sections.

AMENDMENTS - Print in Journal

Senator Smith filed the following amendment to LB 452:
AM2222

(Amendments to Standing Committee amendments, AM0404)

- 1 1. Strike the original amendments and insert the
- 2 following new amendment:
- 3 "1. Strike the original sections and insert the
- 4 following new sections:
- 5 'Section 1. Section 60-302, Revised Statutes Supplement,
- 6 2002, is amended to read:
- 7 60-302. (1)(a) No motor vehicle, trailer, semitrailer,
- 8 or cabin trailer, unless otherwise expressly provided, shall be
- 9 operated or parked on the highways of this state unless the vehicle
- 10 is registered in accordance with Chapter 60, article 3.
- 11 (b)(i) There shall be a rebuttable presumption that any
- 12 vehicle stored and kept more than thirty days in the state is being
- 13 operated or parked on the highways of this state ~~except for a~~
- 14 vehicle brought into this state from another state, country, or
- 15 place.
- 16 (ii) For a vehicle brought into this state from another
- 17 state, country, or place, there shall be a rebuttable presumption
- 18 that any vehicle stored and kept in this state is being operated or
- 19 parked on the highways of this state if the vehicle is owned by a
- 20 person who:
- 21 (A) Owns or operates a business in this state;
- 22 (B) Is gainfully employed in this state; or
- 23 (C) Resides in this state for ninety consecutive days,
- 1 whichever happens first.
- 2 (c) Any vehicle operated or parked on the highways of
- 3 this state ~~and~~ shall be registered in accordance with Chapter 60,
- 4 article 3:
- 5 (i) Within thirty days after , ~~from~~ the date of title of
- 6 the motor vehicle; ~~or, if~~
- 7 (ii) If no transfer in ownership of the motor vehicle has
- 8 occurred, ~~from~~ within thirty days after the expiration of the last
- 9 registration period for which the motor vehicle was registered; or

10 (iii) Within sixty days after the time the motor vehicle
11 is determined to be required to be registered pursuant to
12 subdivision (1)(b)(ii) of this section.

13 (d) Every owner of a vehicle required to be registered
14 shall make application for registration to the county treasurer of
15 the county in which the vehicle has situs as defined in section
16 60-3001. The application shall be a copy of a certificate of title
17 or, in the case of a renewal of a registration, the application
18 shall be the previous registration period's certificate. A salvage
19 branded certificate of title and a nontransferable certificate of
20 title provided for in section 60-131 shall not be valid for
21 registration purposes.

22 (2) An application for registration of a motor vehicle
23 shall be accompanied by proof of financial responsibility or
24 evidence of insurance covering the motor vehicle. Proof of
25 financial responsibility shall be evidenced by a copy of proof of
26 financial responsibility filed pursuant to subdivision (2), (3), or
27 (4) of section 60-528 bearing the seal of the Department of Motor
1 Vehicles. Evidence of insurance shall give the effective dates of
2 the automobile liability policy, which dates shall be evidence that
3 the coverage is in effect on and following the date of
4 registration, and shall designate, by explicit description or by
5 appropriate reference, all motor vehicles covered. Evidence of
6 insurance in the form of a certificate of insurance for fleet
7 vehicles may include, as an appropriate reference, a designation
8 that the insurance coverage is applicable to all vehicles owned by
9 the named insured, or wording of similar effect, in lieu of an
10 explicit description. Proof of financial responsibility also may
11 be evidenced by (a) a check by the department or its agents of the
12 motor vehicle insurance data base created under section 60-302.05
13 or (b) any other automated or electronic means as prescribed or
14 developed by the department.

15 (3) Any nonresident owner who desires to register a
16 vehicle or vehicles in this state shall register in the county
17 where the vehicle is domiciled or where the owner conducts a bona
18 fide business.

19 (4) Each new application shall contain, in addition to
20 other information as may be required by the department, the name
21 and post office address of the applicant and a description of the
22 vehicle, including the color, the manufacturer, the identification
23 number, and the weight of the vehicle required by Chapter 60,
24 article 3. With the application the applicant shall pay the proper
25 registration fee as provided in sections 60-305.08 to 60-339 and
26 shall state whether the vehicle is propelled by alternative fuel as
27 defined in section 66-686 and, if alternative fuel, the type of
1 fuel. The form shall also contain a notice that bulk fuel
2 purchasers may be subject to federal excise tax liability. The
3 department shall prescribe a form, containing the notice, for
4 supplying the information for vehicles to be registered. The

5 county treasurer shall include the form in each mailing made
 6 pursuant to section 60-3003. The county treasurer or his or her
 7 agent shall notify the Motor Fuel Tax Enforcement and Collection
 8 Division of the Department of Revenue whenever a vehicle powered by
 9 an alternative fuel as defined in section 66-686 is registered.

10 The notification shall include the name and address of the
 11 registrant, the date of registration, the type of motor vehicle
 12 registered, and the type of alternative fuel used to propel the
 13 vehicle as indicated on the registration application.

14 (5) The county treasurer or his or her agent shall
 15 collect, in addition to the registration fees, one dollar and fifty
 16 cents for each certificate issued and shall remit one dollar and
 17 fifty cents of each additional fee collected to the State Treasurer
 18 for credit to the Department of Motor Vehicles Cash Fund.

19 (6) The county treasurer or his or her agent shall
 20 collect, in addition to other registration fees, fifty cents for
 21 each certificate issued and shall remit the fee to the State
 22 Treasurer for credit to the Nebraska Emergency Medical System
 23 Operations Fund.

24 (7) The county treasurer or his or her agent shall
 25 collect, in addition to other registration fees, one dollar and
 26 fifty cents for each certificate issued and shall remit the fee to
 27 the State Treasurer for credit to the State Recreation Road Fund.

1 ~~(8) If a citation is issued to an owner or operator of a
 2 vehicle for a violation of this section and the owner properly
 3 registers and licenses the vehicle not in compliance and pays all
 4 taxes and fees due and the owner or operator provides proof of such
 5 registration to the prosecuting attorney within ten days after the
 6 issuance of the citation, no prosecution for the offense cited
 7 shall occur.~~

8 ~~(9) If a county board consolidates services under the
 9 office of a designated county official other than the county
 10 treasurer pursuant to section 23-186, the powers and duties of the
 11 county treasurer relating to registration under sections 60-301 to
 12 60-347 shall be performed by the designated county official.~~

13 ~~(10) (9) A county treasurer or county official or his or
 14 her agent may accept credit cards, charge cards, debit cards, or
 15 electronic funds transfers as a means of payment for registration
 16 pursuant to section 13-609.~~

17 ~~(11) (10) For the period January 1, 2003, through
 18 December 31, 2005, the county treasurer or his or her agent shall
 19 collect, in addition to the other registration fees, twenty-five
 20 cents for each certificate issued to pay for the costs of the motor
 21 vehicle insurance data base created under section 60-302.05 and
 22 shall remit such additional fee to the State Treasurer for credit
 23 to the Department of Motor Vehicles Cash Fund.~~

24 Sec. 2. Section 60-302.03, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

26 60-302.03. Any person who operates or parks a motor

27 vehicle, semitrailer, or cabin trailer on any highway, which
 1 vehicle has not been registered as required by section 60-302 or
 2 60-305.01, shall be subject to the penalty provided in section
 3 60-348, except that the court shall impose a five-hundred-dollar
 4 fine for any violation involving a vehicle brought into this state
 5 from another state, country, or place. In addition, the
 6 prosecuting attorney may bring an action to recover a civil penalty
 7 of five hundred dollars for any violation involving a vehicle
 8 brought into this state from another state, country, or place. All
 9 penalties shall be remitted to the State Treasurer for use
 10 consistent with Article VII, section 5, of the Constitution of
 11 Nebraska.

12 A person who parks a motor vehicle on any highway, which
 13 vehicle has been properly registered in this state but such
 14 registration has expired, shall not be in violation of this section
 15 or section 60-302 or subject to the penalty provided in section
 16 60-348, unless thirty days have passed from the expiration of the
 17 prior registration.

18 Sec. 3. Section 60-305.01, Reissue Revised Statutes of
 19 Nebraska, is amended to read:

20 60-305.01. (1) A nonresident owner, except as provided
 21 in subsection (2) of this section, owning any foreign vehicle which
 22 has been properly registered in the state, country, or other place
 23 of which the owner is a resident, and which at all times, when
 24 operated in this state, has displayed upon it the number plate or
 25 plates issued for such vehicle in the place of residence of such
 26 owner, may operate or permit the operation of such vehicle within
 27 the state without registering such vehicle or paying any fees to
 1 this state.

2 (2) Any nonresident owner gainfully employed or present
 3 in the State of Nebraska, operating a passenger car in this state,
 4 shall register such car in the same manner as a Nebraska resident,
 5 after thirty days of continuous employment or presence in this
 6 state as required by section 60-302, unless the state of his or her
 7 legal residence grants immunity from such requirements to residents
 8 of this state operating a passenger car in that state. Any
 9 nonresident owner whose passenger car is operated in this state ~~for~~
 10 ~~thirty or more continuous days~~ shall register such car in the same
 11 manner as a Nebraska resident, as required by section 60-302 unless
 12 the state of his or her legal residence grants immunity from such
 13 requirements to residents of this state operating a passenger car
 14 in that state.

15 Sec. 4. Original sections 60-302.03 and 60-305.01,
 16 Reissue Revised Statutes of Nebraska, and section 60-302, Revised
 17 Statutes Supplement, 2002, are repealed.'".

Senator Chambers filed the following amendments to LB 609:
 FA1405

P. 2 in line 4, strike "village."

FA1406

P. 2 in line 7, strike "the Game and Parks Commission".

FA1407

P. 2 in line 8, strike beginning with "deputy" through the comma.

FA1408

P. 2 in line 9, strike beginning with "persons" through the comma in line 11.

FA1410

P. 2 in line 11, strike beginning with the first "the" through the comma in line 14.

FA1411

P. 2 in line 14, strike beginning with "the" through the comma in line 16.

FA1412

P. 2 in line 16, strike beginning with "the" through the comma in line 17.

FA1413

P. 2 in line 17, strike beginning with "and" through "purposes" in line 18.

FA1414

P. 2 in line 8, strike beginning with "and" through the comma in page 9.

FA1415

P. 2 in line 21, after "form" insert "a copy of which shall be filed with the Clerk of the Legislature,"

FA1416

P. 3 in line 8, add "If the investigation requires a greater length of time than designated on the form, the agency shall notify the Director of Motor Vehicles as soon as such requirement is known by the agency."

UNANIMOUS CONSENT - Add Cointroducers

Senator Stuthman asked unanimous consent to have his name added as cointroducer to LB 304. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 879. No objections. So ordered.

Senator Aguilar asked unanimous consent to have his name added as cointroducer to LB 934. No objections. So ordered.

Senator Stuthman asked unanimous consent to have his name added as cointroducer to LB 1049. No objections. So ordered.

Senator Mossey asked unanimous consent to have his name added as cointroducer to LB 1056. No objections. So ordered.

ADJOURNMENT

At 4:15 p.m., on a motion by Senator Redfield, the Legislature adjourned until 9:00 a.m., Thursday, January 15, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTH DAY - JANUARY 15, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, January 15, 2004

PRAYER

The prayer was offered by Pastor Lyle Martin, St. Mary's Episcopal Church, Blair.

ROLL CALL

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

The roll was called and all members were present except Senators Brashear and Hudkins who were excused; and Senators Baker, Maxwell, Mossey, Schimek, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 272, line 13, after "500," insert "First Session, 2003,".

Page 272, line 23, after "501," insert "First Session, 2003,".

Page 272, strike lines 26, 27, and 28 and insert:

"Senator Baker renewed his pending amendment, AM2186, printed separately and referred to on page 210."

The Journal for the sixth day was approved as corrected.

MESSAGES FROM THE GOVERNOR

January 14, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Coordinating Commission for Postsecondary Education.

APPOINTEES:

Colleen Adam, 4900 Osborne Dr East, Hastings NE 68901
 James O'Rourke, 61 Country Club Road, Chadron NE 69337
 Louis Pofahl, 111 S 1st St, Norfolk NE 68701
 *Eric Seacrest, PO Box 654, North Platte NE 69103

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
 (Signed) Mike Johanns
 Governor

web/

*Reappointments
 Enclosure

January 14, 2004

President, Speaker Bromm
 and Members of the Legislature
 State Capitol Building
 Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Board of Parole.

APPOINTEES:

Kenneth J. Vampola, 740 N 8th St, Arlington NE 68002
 *James Pearson, PO Box 94754, Lincoln NE 68509

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
 (Signed) Mike Johanns
 Governor

web/

*Reappointments
 Enclosure

January 12, 2004

President, Speaker Bromm
 and Members of the Legislature
 State Capitol Building

Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Advisory Commission on Compulsive Gambling.

APPOINTEES:

*Thomas Nutt, 1418 8th Ave, Holdrege NE 68949

*John Atherton, 3423 S 102, Omaha NE 68124

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointments
Enclosure

SELECT FILE

LEGISLATIVE BILL 355. Senator Brashear withdrew his pending motion, found on page 685, First Session, 2003, to bracket to March 6, 2003.

Senator Landis renewed his pending amendment, AM2162, found on page 131.

The Landis amendment was adopted with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 208. Senator Kruse renewed his pending amendment, AM1774, printed separately and referred to on page 1675 and considered on page 1877, First Session, 2003, as amended.

The Kruse amendment, as amended, lost with 0 ayes, 33 nays, 11 present and not voting, and 5 excused and not voting.

Senator Kruse renewed his pending amendment, AM2144, printed separately and referred to on page 133.

The Kruse amendment was adopted with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 203 was adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR 203.

GENERAL FILE

LEGISLATIVE BILL 560. Title read. Considered.

The Standing Committee amendment, AM0329, found on page 502, First Session, 2003, was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1086. Introduced by Kremer, 34; Baker, 44; Jones, 43; Raikes, 25; Schrock, 38; Vrtiska, 1.

A BILL FOR AN ACT relating to agriculture; to amend section 2-3812, Reissue Revised Statutes of Nebraska; to provide for an agricultural task force; to transfer funds; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1087. Introduced by Legislative Performance Audit Committee: Beutler, 28, Chairperson; Bromm, 23; Brown, 6; Engel, 17; McDonald, 41; Price, 26; Wehrbein, 2.

A BILL FOR AN ACT relating to the Legislative Performance Audit Act; to amend section 50-1213, Revised Statutes Supplement, 2003; to change provisions relating to confidentiality; and to repeal the original section.

LEGISLATIVE BILL 1088. Introduced by Byars, 30.

A BILL FOR AN ACT relating to county roads; to amend sections 39-1811 to 39-1813, Reissue Revised Statutes of Nebraska; to change provisions relating to weeds and vegetation along public roads; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

NOTICE OF COMMITTEE HEARINGS
Health and Human Services
 Room 1510

LB 942	Thursday, January 22, 2004	2:00 p.m.
LB 941	Thursday, January 22, 2004	2:00 p.m.
LB 906	Thursday, January 22, 2004	2:00 p.m.
LB 929	Thursday, January 22, 2004	2:00 p.m.
LB 996	Friday, January 23, 2004	1:30 p.m.
LB 944	Friday, January 23, 2004	1:30 p.m.
LB 1027	Friday, January 23, 2004	1:30 p.m.

(Signed) Jim Jensen, Chairperson

MOTION - Escort Governor

Senator Aguilar moved that a committee of five be appointed to escort the Governor of the State of Nebraska to the Legislative Chamber to deliver his State of the State Address.

The motion prevailed.

The Chair appointed Senators Jensen, Landis, Raikes, Schimek, and Wehrbein to serve on said committee.

STATE OF THE STATE ADDRESS

"We have a historic opportunity to effect substantial and necessary change."

Mr. President, Mr. Speaker, Members of the Legislature, Chairmen of the Omaha, Winnebago and Ponca Tribes, Distinguished Guests, friends and fellow Nebraskans:

Five years ago I stood before you as your newly elected Governor. Whether we had years of state service under our belts or just hours, we never could have predicted the events that would unfold in such a short period of time.

We now collectively look back. We've seen terrorist attacks on our land and we've mourned together as a nation.

Today we pause in gratitude to the soldiers who have bravely answered the call to defend our country. More than 1,200 of Nebraska's sons and daughters have accepted that duty since 9-11, eight of whom have given their lives to protect our freedom. We are forever grateful for their commitment and sacrifice. We pledge never to forget.

Our reflection on recent years also reveals an economic bubble that burst.

The economic "perfect storm" struck and devastated state budgets from California to Connecticut. The recession was not only as bad as we've seen since World War II, it was stubborn, and month after month it would not loosen its grip.

As I traveled the state the past two years I've been asked, "Are people giving up?" I'm proud to say my answer has been, "Not only are Nebraskans not giving up, they are fighting to keep going - like our ancestors who were pioneers and like our citizens who fought back from the Great Depression."

So today, in order to discharge my duty to report the state of the state, I report that Nebraska has never been stronger - not so much by the revenues flowing into our state coffers, but by the character of our people who refuse, in the face of adversity, to give up or to give in. In our state's history, we have seen over and over again that in order to survive our citizens have had to change how they lived and worked and did business. So must state government examine itself and change.

We begin with a budget deficit that must be addressed. The budget I submit to you provides balance with no tax increases. It includes funding for several priorities that demand our attention and resources. I am pleased to present my budget proposal for your consideration.

I also report to you that in the next 60 days we have a historic opportunity to set the stage for our future, to do what's right for our entire state. So where do we begin? I respectfully offer to you that you have already begun this important task.

With firm resolution, your Speaker, Curt Bromm, called on the state and his fellow senators to embrace long overdue reforms. The LB 407 Task Force was created by this body to examine Nebraska's tax structure and overall government and education structure. Your leadership identified the goal of the task force was to, and I quote: "...take a long-range look at state and local governmental infrastructure and spending commitments with an eye toward balancing and prioritizing the cost of state government with a revenue system reflective of the current society."

We all recognize that legislation like this sometimes receives lip service but compels no action. That has not been the case. Examine the work that has already been done as a result of the task force and in separate significant legislation.

With the leadership of Senators Brashear and Dwite Pedersen, real reform came to the criminal justice system with last year's enactment of LB 46; the community corrections bill. LB 46 will better serve our citizens and provide reprieve from the cost of forever expanding and adding very expensive prison capacity necessary in the traditional brick and bars approach to crime.

Senators Preister and Schimek, the Government Committee, and others asked for greater accountability in state contracts. They demanded the registration of contracts and an accounting system of checks and balances. LB 626 was passed. About two months ago, state departments reported to the Legislature about the success achieved in both areas. We are not yet finished, but solid progress has occurred.

Senator Wehrbein and the Appropriations Committee have worked as hard as any committee could. Much has been made of our past areas of disagreement on budget issues. Recently, however, I compared budgets now versus three years ago, before the recession set in. Virtually every state agency and many aid programs are spending less than anyone would have ever anticipated five years ago.

I believe we would all agree that in 2003 our choices could have been phrased as, "Pick your poison: cut programs or raise taxes." Neither is popular. The check and balance in the budget process between the Governor and Legislature can be painful, but in the end decisions are made.

Senator Raikes and the Education Committee fashioned a proposal last session that addressed state aid to schools. Examining the results of this legislation since it was passed has led me to the conclusion that this reform approach is on target and it is a part of my budget proposal this year.

Senator Landis skillfully restructured the regulation of our state's natural gas industry. It was a monumentally divisive issue that required two years of negotiation.

Senators Schrock and Stuhr took on an issue that has historically been regarded as one of the most controversial - water policy. Legislation will be in front of you that embodies unprecedented compromise and necessary stewardship.

Senators Kremer and Jones and the Agriculture Committee propose that the time has arrived to revisit the Initiative 300 provision of our state constitution. They could not have picked a tougher issue to address. The simple mention of this constitutional provision stirs aggressive debate. Committee members, however, recognize that young farmers and family farmers are being hampered, not helped, by this 20-year provision.

Every legislative session creates its own personality, and a mood is established early. I ask you in this legislative session to first recognize and applaud the reform initiatives undertaken by your fellow senators as I have laid out. Then, I ask you to help this process of reform continue; there are more issues that need your help. I need your help. We have a historic opportunity to effect substantial and necessary change.

In times of economic plenty, affecting change seems nearly impossible. Change will be difficult even today, but I believe we must act now.

I propose five goals for our future. They are mental health reform, education reform, reform of I-300, reform of water policy, and reform in the way we protect our children.

First, I implore you to reform our mental health system. Senator Jensen and I have worked on mental health reform virtually every day since the last day of the last session. He has courageously put forth LB 1083 to achieve this reform.

We have worked directly with citizens who have mental illnesses and they have moved and impressed me. They are not weak people; they are not troubled people; they are people who have an illness. They merely seek understanding as they work daily toward their recovery. With treatment, many are undaunted by the burden of their illness only to be held back by a stigma that has no rightful place in our society today, yet sadly continues. It is time to open the doors and shine light on the dramatic advances in treatment.

In our state, it is estimated that more than 67,000 adults have a treatable mental illness. Yet 37 of our counties are without any - or have only one - mental health professional. We currently ignore those gaps in service and devote enormous state resources, \$54.2 million last year, to three regional centers.

The Norfolk Regional Center, with a general fund budget of \$14.8 million annually, is so dilapidated that eight buildings are boarded-up with only one still used to provide mental health services.

We studied the population at the Norfolk Regional Center last August and discovered that the majority of residents are from other communities and have no ties to Norfolk. I was taken aback when I learned that 111 out of 170 patients were classified as intermediate or transitional. That means, by our own admission, they are no longer dangerous to themselves or others.

The Hastings Regional Center, with a general fund budget of \$11 million annually, tells much the same story. On the day we studied, we found 61 patients in residence, 42 of whom were either intermediate or transitional. Again, they were no longer dangerous to themselves or others.

We have a compelling moral responsibility to see that these individuals are cared for in the least restrictive environment.

We must also be mindful of the law of the land in this regard. In 1975, the U.S. Supreme Court, in the case of O'Conner vs. Donaldson, set the standard to deprive citizens of their liberty because of mental illness.

The court set forth two key holdings; First, and I quote, "A finding of 'mental illness' alone cannot justify a State's locking a person up against his

will and keeping him indefinitely...". The court also held that, quote, "There is ... no constitutional basis for confining such persons involuntarily if they are dangerous to no one and can live safely in freedom."

Yet our state's own 1999 study reached this conclusion: "Over half of the persons being served at the three regional centers could be served at a less restrictive, lower cost in the community." In other words, many people at the regional centers are ready for less restrictive care but continue to be held in our institutions simply due to a lack of community-based services throughout our state.

The financial aspects are as disconcerting. Federal Medicaid rules preclude regional centers from receiving federal funding even if the patients otherwise qualify. Approximately \$9 million dollars in federal funds are left on the table each year. If these citizens were in community-based services we could access those funds and finally acknowledge the life-changing advances in treatment.

We would, in effect, extend a long overdue invitation to many deserving citizens who share a common desire to contribute to their communities.

The legislation before you is the right thing to do. It commits us to a course of recovery for these citizens in their communities, near their support systems - whether that's a church, AA meetings, medical professionals, friends or family. It draws on our medical centers to create a statewide system of excellence. And it accesses federal Medicaid dollars that we have left behind year after year.

I realize that there are few things more concerning to a community than knowing the government jobs they've come to rely upon must be retooled. But I've also come to realize what this initiative means to citizens with mental illnesses. When Senator Jensen and I met with consumers from across the state, they applauded him for his courage and declared that this proposed reform gives them their first real hope for a better system and more productive lives. With that in mind, I have never been more committed to an initiative.

I fear if we lose this opportunity to reform mental health services, it will be lost for years to come. I ask for your help. Pass LB 1083 and I will sign it into law.

The second reform that I hope we can accomplish together pertains to the way we finance K through 12 education. Education is deeply valued in this state. A 2003 ranking shows we are sixth in the nation in the percentage of our total state and local budgets spent on education. Importantly, spending on elementary and secondary education comprises nearly 30 percent of our current state general fund budget.

Despite this commitment, however, we find ourselves facing major litigation

that challenges the way in which we distribute funding to all of our public school districts.

Senator Raikes and the Education Committee offer our state a way to improve our funding formula through LB 698. Proposed adjustments address important concerns that have been raised about the costs of educating students stricken by poverty and those with limited English proficiency. The bill also tackles concerns that districts have raised about the grade weighting, cost allowance, and adjusted valuation aspects of our current finance formula.

I applaud Senator Raikes for reaching out to all sides to find a solution to one of the most significant issues that Nebraska faces. I encourage our school districts to come to the table and offer insight as to how we might best address and finance today's classroom needs. Please send LB 698 to my desk and I will sign it into law.

A third area of needed reform requires a reexamination of Initiative 300. Twenty years ago, I-300 became a part of our constitution. It was touted as an effort to keep big corporations out of farming, thereby saving the family farm. Its provisions were broad and far reaching. It limited the ability of farmers and ranchers to sell their land, but in return it was to protect our state from big corporate operations.

A similar constitutional approach was enacted in South Dakota. Very recently, the United States Court of Appeals for the Eighth Circuit ruled that the South Dakota constitutional provision violated the commerce clause of the United States Constitution and was therefore invalid. We take note of the ruling knowing Nebraska falls within the Eighth Circuit jurisdictional boundaries.

In the last 20 years we have also learned I-300 has had unintended consequences. Neighbors can't pool resources in a corporate structure to farm together, raise livestock together, or bring their children into a farming corporation. I-300 prohibits this activity.

The solution to this dilemma is not immediately obvious. The legal decision in South Dakota is complex and its impact on Nebraska is not readily clear. For this reason, I support Senator Kremer's approach to bring Nebraskans together in the task force, put all issues on the table, and find solutions. Therefore, I ask you to pass legislation to create a task force and I will sign it into law.

Another area in vital need of reform is our state's water policy. We have struggled to achieve balance in our stewardship of water. Irrigation is our lifeblood, fueled by a finite resource. Poor water management in this generation will come at an enormous cost for the next generation. That's why the work of the Water Policy Task Force, sponsored by Senator Schrock, was so critical.

I thank Senators Schrock and Stuhr for leading this effort. This task force brought all water interests to the table. The bill before you may not be the last legislative word on water policy, but it represents commendable work and deserves to become Nebraska law. Pass LB 962 and I will sign it into law.

I have reserved my final comments for our children.

Approximately 90 days ago, I appointed a Children's Task Force and gave its members a direct charge - to turn our child protective system upside down and make recommendations to fix it. And turn it upside down they did.

Ladies and gentlemen, these hard working task force members deserve our sincere appreciation, as do Senators Aguilar and Stuthman for their commitment to this reform effort and to our children.

After hours of sad and painstaking work, the task force members have laid their recommendations in our hands. They ask us to adopt recommendations that I believe constitute the most comprehensive effort to reform the way we protect children in our state's history.

Summarized, the key recommendations ask us to do the following five things: increase the number of caseworkers, improve accountability, enhance the collaboration between all entities responsible for protecting our children, expand the role of child advocacy centers across the state, and authorize the Attorney General's Office to prosecute abuse and neglect cases in jurisdictions lacking a separate Juvenile Court.

I am grateful for the work of the task force members and I embrace their key recommendations. These recommendations are embodied in my budget proposal and in LB 1075. On behalf of our children and the task force, I ask you to pass this legislation so I can sign it into law.

Each one of these five major areas of reform represents tough issues that require difficult decisions. I ask you to join me in supporting each of them.

Five years ago, we gathered in this chamber, seasoned veterans and rookies. In the years since, we've faced tough decisions - sometimes agreeing, sometimes not. The agenda I outlined today addresses some of our state's most critical and complicated issues. It represents many hours of thoughtful research and collaboration between the executive and legislative branches, and I now ask you to tackle these reforms. I have great faith in your ability and great hope for our state's bright future.

God bless you in your work and God bless our great state of Nebraska.

The committee escorted Governor Mike Johanns from the Chamber.

EASE

The Legislature was at ease from 10:23 a.m. until 10:32 a.m.

SPEAKER BROMM PRESIDING**BILLS ON FIRST READING**

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

LEGISLATIVE BILL 1089. Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2003, LB 46A, section 3; Laws 2003, LB 285A, sections 1 and 2; Laws 2003, LB 403A, section 3; Laws 2003, LB 404, sections 6, 7, 9 to 18, and 20; Laws 2003, LB 406, section 30; Laws 2003, LB 407, sections 8, 16, 17, 19 to 34, 37 to 42, 44 to 48, 50 to 53, 55, 56, 58 to 61, 63 to 66, 68 to 76, 78 to 88, 90 to 93, 95 to 103, 108, 109, 111 to 113, 115, 117, 120, 123 to 126, 128 to 130, 132, 133, 135 to 137, 139 to 143, 145 to 152, 154 to 168, 170 to 173, 175 to 179, 181, 182, 184 to 194, 196 to 201, 204 to 207, 212 to 216, 218 to 222, 225 to 235, 237, 239, 240, 242, 243, 246, 247, 249, 250, 251, 253 to 258, 260 to 262, 267; Laws 2003, LB 574A, sections 1 and 2; Laws 2003, LB 626A, section 2; and Laws 2003, LB 760A, section 3; to define terms; to change certain appropriations as prescribed; to provide for transfers; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1090. Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend section 84-612, Revised Statutes Supplement, 2003; to transfer funds and eliminate transfers as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1091. Introduced by Speaker Bromm, 23; at the request of the Governor.

A BILL FOR AN ACT relating to funds; to amend sections 71-7611, 81-509, 81-523, 81-528, 81-550, and 81-5,153, Reissue Revised Statutes of Nebraska, sections 28-1249 and 48-162.02, Revised Statutes Supplement, 2002, and section 9-812, Revised Statutes Supplement, 2003; to change and eliminate funds; to provide for transfers; to eliminate obsolete language; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1092. Introduced by Speaker Bromm, 23; at the

request of the Governor.

A BILL FOR AN ACT relating to the Deferred Building Renewal Act; to amend sections 81-188.01, 81-188.02, 81-188.04, and 81-188.06, Reissue Revised Statutes of Nebraska; to change funding provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1093. Introduced by Raikes, 25; at the request of the Governor.

A BILL FOR AN ACT relating to state aid to schools; to amend sections 77-3442, 79-1003, 79-1005.02, 79-1007.01, 79-1007.02, 79-1008.01, 79-1008.02, 79-1009, and 79-1017.01, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to dates; to harmonize provisions; to repeal the original sections; and to outright repeal section 79-1005.01, Reissue Revised Statutes of Nebraska.

GENERAL FILE

LEGISLATIVE BILL 560. Senator Baker renewed his pending amendment, AM0328, found on page 564, First Session, 2003.

Senator Chambers offered the following amendment to the Baker pending amendment:

FA1417

Amend AM0328

Strike "thirty-six" and insert "fifty"

The Chambers amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

The Baker amendment, as amended, was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Senator Baker withdrew his pending amendment, AM0192, found on page 564, First Session, 2003.

Senator Baker renewed his pending amendment, AM2177, printed separately and referred to on page 210.

SENATOR CUDABACK PRESIDING

Senator Baker moved for a call of the house. The motion prevailed with 20 ayes, 1 nay, and 28 not voting.

The Baker amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Baker offered the following amendment:

FA1418

On page 39, lines 3 and 4, strike the new matter and reinstate the stricken matter.

The Baker amendment was adopted with 37 ayes, 0 nays, 6 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.

LEGISLATIVE BILL 560A. Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1094. Introduced by Landis, 46; at the request of the Governor.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2753, 77-3101, 77-3102, and 77-3104 to 77-3106, Reissue Revised Statutes of Nebraska; to change income tax withholding provisions and provisions relating to contractors and subcontractors; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 1095. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.37, Reissue Revised Statutes of Nebraska; to change requirements for a sales tax exemption; and to repeal the original section.

LEGISLATIVE BILL 1096. Introduced by Schimek, 27; Combs, 32.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-4110, Reissue Revised Statutes of Nebraska; to change provisions for the Employment and Investment Growth Act report; and to repeal the original section.

LEGISLATIVE BILL 1097. Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; Price, 26; Synowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to retirement; to amend sections 79-921, 79-942, 79-946, 79-947.01, 79-951, 84-1325, and 84-1511.01, Reissue

Revised Statutes of Nebraska, sections 23-2306, 24-710.07, 81-2027.03, and 84-1307, Revised Statutes Supplement, 2002, and sections 23-2301, 23-2320, 23-2321, 84-1301, 84-1322, and 84-1323, Revised Statutes Supplement, 2003; to change provisions relating to cost-of-living, supplementary, death, and termination benefits and medical examinations; to redefine terms; to provide powers and duties; to terminate a fund; to eliminate obsolete provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1098. Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; Price, 26; Synowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to the Nebraska State Patrol Retirement Act; to amend section 81-2026, Reissue Revised Statutes of Nebraska; to change provisions relating to disability and death benefits; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 1099. Introduced by Johnson, 37.

A BILL FOR AN ACT relating to security interests; to amend section 52-1316, Reissue Revised Statutes of Nebraska, section 52-1313, Revised Statutes Supplement, 2003, and section 9-525, Uniform Commercial Code; to change provisions relating to filing fees; to harmonize provisions; and to repeal the original sections.

VISITORS

Visitors to the Chamber were 24 high school government and civics teachers from across the state selected to take part in the Teaching Democracy Appreciation Project; Kacie Clarke from Lincoln; Pat Mallett from Blair; and Steve Andrews and Dave Wilken from Omaha.

RECESS

At 11:58 a.m., on a motion by Senator Janssen, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Brashear and Hudkins who were excused; and Senators Brown, Byars, Engel, Kremer, Kruse, Dw. Pedersen, Raikes, and Tyson who were excused until they arrive.

REFERENCE COMMITTEE REPORTS

The Legislative Council Executive Board submits the following reports:

LB/LR	Committee
LB 1062	Business and Labor
LB 1063	Government, Military and Veterans Affairs
LB 1064	Transportation and Telecommunications
LB 1065	Revenue
LB 1066	Revenue
LB 1067	Business and Labor
LB 1068	Judiciary
LB 1069	Health and Human Services
LB 1070	Health and Human Services
LB 1071	Appropriations
LB 1072	Education
LB 1073	Transportation and Telecommunications
LB 1074	Government, Military and Veterans Affairs
LB 1075	Judiciary
LB 1076	Judiciary
LB 1077	Government, Military and Veterans Affairs
LB 1078	Government, Military and Veterans Affairs
LB 1079	Education
LB 1080	Nebraska Retirement Systems
LB 1081	Nebraska Retirement Systems
LB 1082	Government, Military and Veterans Affairs
LB 1083	Health and Human Services
LB 1084	Health and Human Services
LB 1085	Judiciary
LR 221CA	Government, Military and Veterans Affairs

Adam, Colleen - Coordinating Commission for Postsecondary Education - Education

Atherton, John - Nebraska Advisory Commission on Compulsive Gambling - General Affairs

Nutt, Thomas - Nebraska Advisory Commission on Compulsive Gambling - General Affairs

O'Rourke, James - Coordinating Commission for Postsecondary Education - Education

Pearson, James - Board of Parole - Judiciary

Pofahl, Louis - Coordinating Commission for Postsecondary Education - Education

Seacrest, Eric - Coordinating Commission for Postsecondary Education -

Education

Vampola, Kenneth J. - Board of Parole - Judiciary

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

GENERAL FILE

LEGISLATIVE BILL 740. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 644. Title read. Considered.

The Standing Committee amendment, AM0402, found on page 560, First Session, 2003, was considered.

Senator Hartnett renewed his pending amendment, AM0873, found on page 945, First Session, 2003, to the Standing Committee amendments.

The Hartnett amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 236. Title read. Considered.

The Standing Committee amendment, AM0300, found on page 561, First Session, 2003, was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 75. Title read. Considered.

The Standing Committee amendment, AM0425, found on page 572, First Session, 2003, was considered.

Senator Schimek withdrew her pending amendments, AM2176 and AM2202, found on pages 177 and 250.

Senator Schimek offered the following amendment to the Standing

Committee amendment:

AM2221

(Amendments to Standing Committee amendments, AM0425)

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 23-1701.01, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 23-1701.01. (1) Each candidate for the office of sheriff
- 6 shall submit with the candidate filing form required by section
- 7 32-607 a standardized letter issued by the director of the Nebraska
- 8 Law Enforcement Training Center certifying that the candidate has:
- 9 (a) Successfully passed a background investigation
- 10 performed by the Nebraska Law Enforcement Training Center based on
- 11 a check of his or her criminal history record information
- 12 maintained by the Federal Bureau of Investigation through the
- 13 Nebraska State Patrol. The candidate shall apply for the
- 14 background investigation at least thirty days prior to the filing
- 15 deadline; and
- 16 (b) Received a minimum combined score on the reading
- 17 comprehension and English language portions of an adult basic
- 18 education examination designated by the Nebraska Law Enforcement
- 19 Training Center.
- 20 (2) Each sheriff shall attend the Nebraska Law
- 21 Enforcement Training Center and receive a certificate attesting to
- 22 satisfactory completion of the Sheriff's Certification Course
- 23 within eight months of taking office unless such sheriff has
- 1 already been awarded a certificate by the Nebraska Commission on
- 2 Law Enforcement and Criminal Justice attesting to satisfactory
- 3 completion of such course or unless such sheriff can demonstrate to
- 4 the Nebraska Police Standards Advisory Council that his or her
- 5 previous training and education is such that he or she will
- 6 professionally discharge the duties of the office. Any sheriff in
- 7 office prior to July 19, 1980, shall not be required to obtain a
- 8 certificate attesting to satisfactory completion of the Sheriff's
- 9 Certification Course but shall otherwise be subject to this
- 10 section. Each sheriff shall attend twenty hours of continuing
- 11 education in criminal justice and law enforcement courses approved
- 12 by the council each year following the first year of such sheriff's
- 13 term of office. Such continuing education shall be offered through
- 14 seminars, advanced education which may include college or
- 15 university classes, or conferences and shall be of a type which has
- 16 application to and seeks to maintain and improve the skills of the
- 17 sheriffs in carrying out the responsibilities of their office.
- 18 ~~(2)~~ (3) Unless a sheriff is able to show good cause for
- 19 not complying with subsection ~~(1)~~ (2) of this section or obtains a
- 20 waiver of the training requirements from the council, any sheriff
- 21 who violates subsection ~~(1)~~ (2) of this section shall be punished
- 22 by a fine equal to such sheriff's monthly salary. Each month in
- 23 which such violation occurs shall constitute a separate offense.

24 Sec. 2. Original section 23-1701.01, Reissue Revised
25 Statutes of Nebraska, is repealed."

The Schimek amendment was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 33 ayes, 0 nays, 10 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.

LEGISLATIVE BILL 452. Title read. Considered.

The Standing Committee amendment, AM0404, found on page 574, First Session, 2003, was considered.

Senator Smith withdrew his pending amendment, AM2197, found on page 206.

Senator Smith renewed his pending amendment, AM2222, found on page 274, to the Standing Committee amendment.

Senator Smith asked unanimous consent to bracket LB 452 until January 26, 2004. No objections. So ordered.

LEGISLATIVE BILL 155. Title read. Considered.

The Standing Committee amendment, AM0322, found on page 577, First Session, 2003, was adopted with 29 ayes, 0 nays, 10 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 279. Title read. Considered.

The Standing Committee amendment, AM0451, found on page 584, First Session, 2003, was considered.

Pending.

SELECT COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 810. Placed on Select File.

LEGISLATIVE BILL 811. Placed on Select File.

LEGISLATIVE BILL 812. Placed on Select File.

LEGISLATIVE BILL 813. Placed on Select File.

(Signed) Ray Mossey, Chairperson

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1100. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to health and human services; to amend sections 83-1201, 83-1209, 83-1216, 83-1217, and 83-1219, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to developmental disabilities services; to harmonize provisions; to repeal the original sections; to outright repeal sections 83-1213 and 83-1220 to 83-1224, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 1101. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to law enforcement; to amend section 81-1438, Reissue Revised Statutes of Nebraska; to limit the establishment of reserve forces as prescribed; and to repeal the original section.

LEGISLATIVE BILL 1102. Introduced by Dw. Pedersen, 39; Kremer, 34.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1347, Reissue Revised Statutes of Nebraska; to change provisions relating to disqualification from special valuation for agricultural or horticultural lands; and to repeal the original section.

LEGISLATIVE BILL 1103. Introduced by Kremer, 34; Burling, 33; Cunningham, 40; Erdman, 47; Jones, 43; Mossey, 3; Schrock, 38; Vrtiska, 1; Wehrbein, 2.

A BILL FOR AN ACT relating to agriculture; to adopt the Nebraska Beef Industry Development Act; to provide a penalty; to create a fund; and to provide an operative date.

LEGISLATIVE BILL 1104. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend sections 79-4,108 and 79-1010, Reissue Revised Statutes of Nebraska; to change provisions relating to unified systems; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1105. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1001 and 79-1028, Reissue Revised Statutes of Nebraska; to provide for incentives; to

harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1106. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend sections 43-2007, 60-658, 79-215, 79-237, 79-528, 79-598, 79-611, 79-1003, 79-10,110, 79-1601, 79-1606, and 85-607, Reissue Revised Statutes of Nebraska; to change provisions relating to home schools, student transportation vehicles, the option enrollment program, reports, contracts for instruction between school districts, and mileage allowances; to redefine a term for purposes of the Tax Equity and Educational Opportunities Support Act; to eliminate a hearing relating to health and safety modifications and provisions relating to a report; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1107. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to the Nebraska Scholarship Act; to amend section 85-1912, Revised Statutes Supplement, 2003; to change provisions relating to computation of the target level of funds; and to repeal the original section.

LEGISLATIVE BILL 1108. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend sections 79-413, 79-419 to 79-422, 79-426, 79-431 to 79-433, 79-435, 79-436, 79-439, 79-441 to 79-455, 79-479, 79-499, 79-4,101, 79-556, 79-598, and 79-850, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to school district reorganization; to harmonize provisions; to repeal the original sections; and to outright repeal sections 79-414 to 79-418, 79-424, 79-425, 79-427, 79-434, 79-472, and 79-478, Reissue Revised Statutes of Nebraska.

UNANIMOUS CONSENT - Add Cointroducers

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 593. No objections. So ordered.

Senator Johnson asked unanimous consent to have his name added as cointroducer to LB 879. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 880. No objections. So ordered.

Senator Hartnett asked unanimous consent to have his name added as cointroducer to LB 880 and LB 881. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 881. No objections. So ordered.

Senator Redfield asked unanimous consent to have her name added as cointroducer to LB 896 and LB 906. No objections. So ordered.

VISITORS

Visitor to the Chamber was Dr. Allan Rosenthal of the Eagleton Institute of Politics, Rutgers University.

The Doctor of the Day was Dr. Dale Michels from Lincoln.

ADJOURNMENT

At 4:05 p.m., on a motion by Senator Jones, the Legislature adjourned until 9:00 a.m., Friday, January 16, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTH DAY - JANUARY 16, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, January 16, 2004

PRAYER

The prayer was offered by Pastor Irwin Edwards, Church of the Nazarene, Cozad.

ROLL CALL

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

The roll was called and all members were present except Senators Brashear, Friend, Hudkins, Redfield, Schrock, and Tyson who were excused; and Senators Byars, Landis, Maxwell, and D. Pederson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 302, line 5, correct spelling of "Dr. Alan Rosenthal".
The Journal for the seventh day was approved as corrected.

**NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications
Room 1113**

LB 825	Monday, January 26, 2004	1:30 p.m.
LB 912	Monday, January 26, 2004	1:30 p.m.
LB 919	Monday, January 26, 2004	1:30 p.m.
LB 924	Monday, January 26, 2004	1:30 p.m.
LB 925	Monday, January 26, 2004	1:30 p.m.
LB 1024	Monday, January 26, 2004	1:30 p.m.

(Signed) Tom Baker, Chairperson

AMENDMENTS - Print in Journal

Senator Connealy filed the following amendments to LB 1083:
AM2235

- 1 1. Strike section 37 and renumber the remaining
- 2 sections.

AM2234

- 1 1. Strike the enacting clause.

AM2225

- 1 1. Strike section 40.

AM2229

- 1 1. On page 9, line 6, strike "administration and".

AM2224

- 1 1. On page 9, line 25, strike "forty" and insert
- 2 "thirty".

AM2223

- 1 1. On page 9, line 23, strike "three" and insert "six".

AM2226

- 1 1. On page 9, line 23, strike "three" and insert "four".

Senator Kremer filed the following amendment to LB 212:

AM2210

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 2-2701.01, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 2-2701.01. For purposes of sections 2-2701 to 2-2711,
- 6 unless the context otherwise requires:
- 7 (1) Board shall mean the University of Nebraska Board of
- 8 Tractor Test Engineers which shall consist of three engineers under
- 9 the control of the university;
- 10 (2) Current tractor model shall mean any model included
- 11 in the manufacturer's annual price list of tractors being offered
- 12 for sale by its dealers or distributors;
- 13 (3) Department shall mean the Department of Agriculture;
- 14 (4) Director shall mean the Director of Agriculture or
- 15 his or her authorized representative;
- 16 (5) Person shall mean bodies politic and corporate,
- 17 societies, communities, the public generally, individuals,
- 18 partnerships, limited liability companies, joint-stock companies,
- 19 and associations; and
- 20 (6) Tractor shall mean an agricultural tractor of ~~forty~~
- 21 sixty or more horsepower which is a traction machine designed and
- 22 advertised primarily to supply power to agricultural implements and
- 23 farmstead equipment. An agricultural tractor propels itself and
- 24 provides a force in the direction of travel to enable attached
- 1 soil-engaging and other agricultural implements to perform their

2 intended function.

3 Sec. 2. Sections 2 to 9 of this act shall be known and
4 may be cited as the Tractor Testing Act.

5 Sec. 3. For purposes of the Tractor Testing Act:

6 (1) Board means the University of Nebraska Board of
7 Tractor Test Engineers which consists of three engineers under the
8 control of the university;

9 (2) Current tractor model means any tractor model
10 included in the manufacturer's annual price list of tractors being
11 offered for sale by its dealers or distributors;

12 (3) Person means bodies politic and corporate, societies,
13 communities, the public generally, individuals, partnerships,
14 limited liability companies, joint-stock companies, and
15 associations; and

16 (4) Tractor means an agricultural tractor of sixty or
17 more horsepower which is a traction machine designed and advertised
18 primarily to supply power to agricultural implements and farmstead
19 equipment. An agricultural tractor propels itself and provides a
20 force in the direction of travel to enable attached soil-engaging
21 and other agricultural implements to perform their intended
22 function.

23 Sec. 4. (1)(a) The Board of Regents of the University of
24 Nebraska shall adopt and promulgate rules and regulations setting
25 forth codes for the official testing of tractors.

26 (b) The Board of Regents of the University of Nebraska
27 shall adopt procedures for the official testing of agricultural
1 tractors as prescribed by the Organization for Economic Cooperation
2 and Development.

3 (c) The Board of Regents of the University of Nebraska
4 shall also adopt and promulgate rules and regulations for the
5 testing of tractors as published by the Society of Automotive
6 Engineers International and the American Society of Agricultural
7 Engineers.

8 (2) In addition to the powers and duties prescribed in
9 the Tractor Testing Act, the University of Nebraska shall have the
10 power to:

11 (a) Authorize the use of the Nebraska Tractor Testing
12 Laboratory facilities to conduct Organization for Economic
13 Cooperation and Development testing and other official tests;

14 (b) Cooperate with the United States Department of
15 Commerce when planning and conducting Organization for Economic
16 Cooperation and Development testing;

17 (c) Conduct offsite tractor tests; and

18 (d) Submit and certify tractor test results to the
19 federal government.

20 Sec. 5. Whenever a current tractor model has been tested
21 by the University of Nebraska or an official test result has been
22 submitted from any Organization for Economic Cooperation and
23 Development test station for review, the board shall prepare a

24 report of the results of such official test or review.

25 Sec. 6. (1) An application to test a current tractor

26 model by the University of Nebraska shall be submitted to the Board

27 of Regents of the University of Nebraska with an application fee

1 prescribed by the board. The application fee shall defray the

2 expenses of processing the application.

3 (2) The Board of Regents of the University of Nebraska

4 may establish and change from time to time as it determines

5 advisable a schedule of fees for testing current tractor models by

6 the Nebraska Tractor Testing Laboratory and a schedule of fees for

7 reviewing an official test of a current tractor model performed at

8 any Organization for Economic Cooperation and Development test

9 station other than the Nebraska Tractor Testing Laboratory. Fees

10 charged and collected for such testing or review shall be remitted

11 to the State Treasurer for credit to the University of Nebraska

12 Tractor Test Cash Fund, which fund is hereby created. The fund

13 shall be used by the Nebraska Tractor Testing Laboratory to defray

14 the expenses of testing current tractor models and reviewing

15 official test results. Any accrued interest shall also be credited

16 to the fund. Any money in the fund available for investment shall

17 be invested by the state investment officer pursuant to the

18 Nebraska Capital Expansion Act and the Nebraska State Funds

19 Investment Act.

20 Sec. 7. The report of an official current tractor model

21 test or review performed pursuant to section 2-2703 shall be

22 published by the board and made available in the Biological Systems

23 Engineering Department of the University of Nebraska and in such

24 other places as may be designated by the board. All information

25 pertaining to the official testing of a current tractor model shall

26 be public record and available for inspection during normal

27 business hours.

1 Sec. 8. No person shall use the results of official

2 current tractor model tests or reviews performed pursuant to

3 section 5 of this act in such manner as would cause it to appear

4 that the University of Nebraska intended to recommend the use of

5 any given current tractor model in preference to any other model.

6 Sec. 9. Current tractor models shall be tested or

7 reviewed in the order in which the applications are submitted for

8 such tests or reviews, and no discrimination shall be made for or

9 against any person in any manner whatsoever. Complaints alleging a

10 violation of this section shall be heard by the vice chancellor for

11 the University of Nebraska Institute of Agriculture and Natural

12 Resources.

13 Sec. 10. Sections 1 and 11 of this act become operative

14 on their effective date. The other sections of this act become

15 operative on July 1, 2008.

16 Sec. 11. Original section 2-2701.01, Reissue Revised

17 Statutes of Nebraska, is repealed.

18 Sec. 12. The following sections are outright repealed:

19 Sections 2-2701 to 2-2703 and 2-2705 to 2-2711, Reissue Revised
20 Statutes of Nebraska."

REPORTS

The following reports were received by the Legislature:

Motor Vehicles, Department of

Operator's Licenses Suspended Annual Report

University of Nebraska

Increasing Minority and Women Faculty Progress Report

GENERAL FILE

LEGISLATIVE BILL 279. The Standing Committee amendment, AM0451, found on page 584, First Session, 2003, and considered on page 299, was renewed.

The Standing Committee amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Senator Baker renewed his pending amendment, AM2206, found on page 210.

The Baker amendment was adopted with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

MOTION - Suspend Rules

Senator Raikes offered the following motion:

Suspend Rule 3, Section 13 to permit cancellation of the public hearing on LB 917 set for Tuesday, January 20.

The Raikes motion to suspend the rules prevailed with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

NOTICE OF COMMITTEE HEARINGS

Education
Room 1525

LB 917 Tuesday, January 20, 2004 (cancel)

1:30 p.m.

(Signed) Ron Raikes, Chairperson

Business and Labor

Room 1524

LB 947	Monday, January 26, 2004	1:30 p.m.
LB 948	Monday, January 26, 2004	1:30 p.m.
LB 949	Monday, January 26, 2004	1:30 p.m.
LB 950	Monday, January 26, 2004	1:30 p.m.
LB 991	Monday, January 26, 2004	1:30 p.m.
LB 1067	Monday, January 26, 2004	1:30 p.m.
LB 1049	Monday, January 26, 2004	1:30 p.m.

(Signed) Floyd P. Vrtiska, Chairperson

General Affairs

Room 1510

LB 914	Monday, January 26, 2004	1:30 p.m.
LB 936	Monday, January 26, 2004	1:30 p.m.
LR 209CA	Monday, January 26, 2004	1:30 p.m.

(Signed) Ray Janssen, Chairperson

Agriculture

Room 1524

LB 840	Tuesday, January 27, 2004	1:30 p.m.
LB 843	Tuesday, January 27, 2004	1:30 p.m.
LB 918	Tuesday, January 27, 2004	1:30 p.m.
LB 1037	Tuesday, January 27, 2004	1:30 p.m.

(Signed) Bob Kremer, Chairperson

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1109. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to cemeteries; to amend sections 12-402, 16-242, and 17-946, Reissue Revised Statutes of Nebraska; to authorize certain cities and villages to use funds for the purchase and development of land as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1110. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to food stamps; to provide duties for the Department of Health and Human Services relating to options and waivers.

LEGISLATIVE BILL 1111. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-4,120.01, 60-4,124, and 60-601, Revised Statutes Supplement, 2002; to change provisions relating to holders of provisional operator's permits; to prohibit mobile telephone use as prescribed; to provide a penalty; and to repeal the original sections.

LEGISLATIVE BILL 1112. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to finance; to authorize the state and political subdivisions to charge a fee for dishonored checks and drafts.

LEGISLATIVE BILL 1113. Introduced by Landis, 46.

A BILL FOR AN ACT relating to court procedure; to amend section 33-139.01, Reissue Revised Statutes of Nebraska; to change provisions relating to witness fees for certain employees; and to repeal the original section.

LEGISLATIVE BILL 1114. Introduced by Landis, 46.

A BILL FOR AN ACT relating to securities; to amend sections 8-1723, 8-1726, 21-2116, 29-110, 58-703, 58-711, 59-1715, 59-1724, 69-2117, 70-734, 76-882, 76-1304, 76-1717, 76-2120, and 81-1270, Reissue Revised Statutes of Nebraska, sections 23-35,116, 45-191.09, 45-1004, 59-1722, 59-1725.01, and 87-301, Revised Statutes Supplement, 2002, and section 45-101.04, Revised Statutes Supplement, 2003; to adopt the Uniform Securities Act; to provide penalties; to rename and create a fund; to eliminate the Securities Act of Nebraska; to eliminate obsolete language; to harmonize provisions; to provide severability; to provide an operative date; to repeal the original sections; and to outright repeal sections 8-1102, 8-1104, 8-1106, 8-1107, 8-1108, 8-1108.02, 8-1108.03, 8-1109, 8-1112, 8-1114, 8-1115, 8-1118, and 8-1119, Reissue Revised Statutes of Nebraska, sections 8-1101, 8-1105, 8-1108.01, 8-1109.01, 8-1109.02, 8-1111, 8-1113, 8-1116, 8-1117, 8-1121, 8-1122, 8-1122.01, and 8-1123, Revised Statutes Supplement, 2002, and sections 8-1103, 8-1110, and 8-1120, Revised Statutes Supplement, 2003.

LEGISLATIVE BILL 1115. Introduced by Bourne, 8; Synowiecki, 7.

A BILL FOR AN ACT relating to the Public Employees Retirement Board; to amend section 84-1501, Reissue Revised Statutes of Nebraska; to change board membership; to provide duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1116. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to correctional services; to amend section 83-922, Reissue Revised Statutes of Nebraska; to adopt the Correctional and Rehabilitative Services Act; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 1117. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to correctional services; to provide for community furloughs; and to provide a penalty.

LEGISLATIVE BILL 1118. Introduced by Legislative Performance Audit Committee: Beutler, 28, Chairperson; Bromm, 23; Brown, 6; Engel, 17; McDonald, 41; Price, 26; Wehrbein, 2.

A BILL FOR AN ACT relating to audits; to amend sections 50-1203, 50-1205.01, and 84-304, Revised Statutes Supplement, 2003; to redefine a term; to change references to auditing standards; to change powers and duties of the Auditor of Public Accounts; and to repeal the original sections.

RESOLUTION

LEGISLATIVE RESOLUTION 222CA. Introduced by Quandahl, 31.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 7:

III-7 "At the general election to be held in November 1964, one-half the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected ~~in a nonpartisan manner and without any~~ with an indication on the ballot that he or she is affiliated with or endorsed by ~~any~~ a political party or organization. Each member of the Legislature shall receive a salary of not to exceed one thousand dollars per month during the term of his or her office. In addition to his or her salary, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than his or her salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem."

Sec. 2. The proposed amendment shall be submitted to the electors in the

manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to require the election of members of the Legislature in a partisan manner.

For

Against".

Referred to the Reference Committee.

SELECT COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 172. Placed on Select File.

LEGISLATIVE BILL 227. Placed on Select File.

LEGISLATIVE BILL 353. Placed on Select File as amended.

E & R amendment to LB 353:

AM7155

- 1 1. On page 1, line 3, strike "suspension" and insert
- 2 "impoundment".

(Signed) Ray Mossey, Chairperson

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of January 15, 2004, 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

Goc, John J.
Belle of Sioux City (BOSC LP)

Karavas, Julie M.
Cattlemen, Inc., Nebraska

Kelley, Michael of Kelley & Lehan, PC
Nebraskans for Change

Kohout, Joseph D.
Kelley & Lehan, PC

Larsen, Carlin L.
Qwest Communications

Lightner, James
Public Employees, AFSCME Local 61, Nebraska Association of

Mix, Mark A.

National Right to Work Committee

Mourad, Greg W.

National Right to Work Committee

O'Hara, Lindsay & Associates, Inc.

Cavanaugh Law Firm PC, LLO

Ozanne, Colleen K.

State Farm Insurance Companies (NE)

Ruehle, Greg

Cattlemen, Inc., Nebraska

Skochdopole, Robert A.

LaVista Keno

Tweedley, Terri

Planned Parenthood of Nebraska & Council Bluffs

Zumwinkle, Mike

Cargill/Excel

GENERAL FILE

LEGISLATIVE BILL 37. Title read. Considered.

Senator Price moved for a call of the house. The motion prevailed with 17 ayes, 1 nay, and 31 not voting.

Advanced to E & R for review with 25 ayes, 2 nays, 13 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 37A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 2 nays, 13 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 382. Title read. Considered.

Senator Synowiecki offered the following amendment:

AM2242

- 1 1. On page 2, line 12, after the period insert "This
- 2 section does not apply to employment that is covered by a valid
- 3 collective bargaining agreement or other written agreement between

4 an employer and employee.".

The Synowiecki amendment was adopted with 28 ayes, 0 nays, 10 present and not voting, and 11 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 8 present and not voting, and 11 excused and not voting.

LEGISLATIVE RESOLUTION 3CA. Read. Considered.

The Standing Committee amendment, AM0491, found on page 603, First Session, 2003, was considered.

Senator Beutler moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Senator Beutler requested a roll call vote on the Standing Committee amendment.

Voting in the affirmative, 32:

Aguilar	Chambers	Janssen	Mossey	Stuthman
Baker	Combs	Johnson	Preister	Synowiecki
Beutler	Connealy	Jones	Price	Thompson
Bourne	Cunningham	Kruse	Raikes	Wehrbein
Brown	Engel	Landis	Schimek	
Burling	Erdman	Louden	Smith	
Byars	Hartnett	McDonald	Stuhr	

Voting in the negative, 0.

Present and not voting, 2:

Cudaback Quandahl

Excused and not voting, 15:

Brashear	Friend	Kremer	Pedersen, Dw.	Schrock
Bromm	Hudkins	Maxwell	Pederson, D.	Tyson
Foley	Jensen	Mines	Redfield	Vrtiska

The Standing Committee amendment was adopted with 32 ayes, 0 nays, 2 present and not voting, and 15 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
Bracket LR 3CA

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

Senator Chambers requested a roll call vote on his motion to bracket.

Voting in the affirmative, 3:

Burling	Erdman	Landis
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Voting in the negative, 30:

Aguilar	Chambers	Janssen	Mines	Smith
Baker	Combs	Johnson	Preister	Stuhr
Beutler	Connealy	Jones	Price	Stuthman
Bourne	Cunningham	Kruse	Quandahl	Synowiecki
Brown	Engel	Louden	Raikes	Thompson
Byars	Hartnett	McDonald	Schimek	Wehrbein

Present and not voting, 2:

Cudaback	Mossey
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Excused and not voting, 14:

Brashear	Friend	Kremer	Pederson, D.	Tyson
Bromm	Hudkins	Maxwell	Redfield	Vrtiska
Foley	Jensen	Pedersen, Dw.	Schrock	

The Chambers motion to bracket failed with 3 ayes, 30 nays, 2 present and not voting, and 14 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for review with 29 ayes, 0 nays, 8 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 559. Title read. Considered.

The Standing Committee amendment, AM0496, found on page 609, First Session, 2003, was considered.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1119. Introduced by McDonald, 41; Combs, 32; Jones, 43; Loudon, 49; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to schools; to amend section 79-402, Reissue Revised Statutes of Nebraska; to change provisions relating to reorganization of Class I school districts; and to repeal the original section.

LEGISLATIVE BILL 1120. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to financial institutions; to eliminate currency transaction reporting provisions; and to outright repeal sections 8-1801 to 8-1807, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1121. Introduced by Burling, 33.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-105, 60-106, 60-311.16, and 60-3001, Revised Statutes Supplement, 2003; to provide for the titling, registration, and taxation of continuation motor vehicles; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1122. Introduced by Landis, 46.

A BILL FOR AN ACT relating to environmental covenants; to amend section 76-288, Reissue Revised Statutes of Nebraska; to adopt the Uniform Environmental Covenants Act; to harmonize provisions; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 1123. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to education; to adopt the New Nebraskan Nonresident Scholars Program Act.

LEGISLATIVE BILL 1124. Introduced by Price, 26.

A BILL FOR AN ACT relating to schools; to amend section 79-215, Reissue Revised Statutes of Nebraska; to change provisions relating to tuition; and to repeal the original section.

LEGISLATIVE BILL 1125. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the Nebraska Scholarship Act; to amend section 85-1906, Revised Statutes Supplement, 2003; to redefine a term; and to repeal the original section.

LEGISLATIVE BILL 1126. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the Nebraska Scholarship Act; to amend section 85-1903, Revised Statutes Supplement, 2003; to redefine a term; and to repeal the original section.

LEGISLATIVE BILL 1127. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-151, Revised Statutes Supplement, 2002; to redefine terms; and to repeal the original section.

LEGISLATIVE BILL 1128. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to revenue and taxation; to adopt the Nursing Facility Quality Assurance Tax Act; to provide a penalty; and to declare an emergency.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB 917	Appropriations (rereferred)
LB 1086	Agriculture
LB 1087	Government, Military and Veterans Affairs
LB 1088	Transportation and Telecommunications
LB 1089	Appropriations
LB 1090	Appropriations
LB 1091	Appropriations
LB 1092	Appropriations
LB 1093	Education
LB 1094	Revenue
LB 1095	Revenue
LB 1096	Revenue
LB 1097	Nebraska Retirement Systems
LB 1098	Nebraska Retirement Systems
LB 1099	Banking, Commerce and Insurance
LB 1100	Health and Human Services
LB 1101	Judiciary
LB 1102	Revenue
LB 1103	Agriculture
LB 1104	Education
LB 1105	Education
LB 1106	Education
LB 1107	Education
LB 1108	Education

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARING
Banking, Commerce and Insurance
 Room 1507

LB 845	Monday, January 26, 2004	1:30 p.m.
LB 884	Monday, January 26, 2004	1:30 p.m.
LB 886	Monday, January 26, 2004	1:30 p.m.
LB 1047	Monday, January 26, 2004	1:30 p.m.

(Signed) Mark Quandahl, Chairperson

AMENDMENT - Print in Journal

Senator Baker filed the following amendment to LB 559:
 AM2241

- 1 1. On page 6, lines 8 through 18, strike the new matter
- 2 and reinstate the stricken matter; in line 27 strike "two forms"
- 3 and insert "one form"; and in line 28 strike "shall include" and
- 4 insert "may be".
- 5 2. On page 7, line 3, strike "two other reliable forms"
- 6 and insert "one other reliable form".
- 7 3. On page 30, line 15, strike "2004" and insert "2005".

UNANIMOUS CONSENT - Add Cointroducers

Senator Stuhr asked unanimous consent to have her name added as cointroducer to LB 879. No objections. So ordered.

Senator Mines asked unanimous consent to have his name added as cointroducer to LB 1046. No objections. So ordered.

Senator Erdman asked unanimous consent to have his name added as cointroducer to LR 202. No objections. So ordered.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1129. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the State Electrical Act; to amend sections 81-2109, 81-2121, and 81-2124, Reissue Revised Statutes of Nebraska, and sections 81-2102, 81-2108, 81-2113, and 81-2118, Revised Statutes Supplement, 2003; to change provisions relating to residential journeyman electricians and electrical installations; to provide fees; to define and redefine terms; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1130. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to state government; to amend section 81-2701, Reissue Revised Statutes of Nebraska; to require a written notice under the State Government Effectiveness Act; to harmonize provisions; and to repeal the original section.

NOTICE OF COMMITTEE HEARING

Education
Room 1525

Monday, January 26, 2004		1:30 p.m.
Demarus Carlson - Board of Educational Lands and Funds		
LB 1104	Monday, January 26, 2004	1:30 p.m.
LB 1105	Monday, January 26, 2004	1:30 p.m.
LB 1106	Monday, January 26, 2004	1:30 p.m.
LB 1108	Monday, January 26, 2004	1:30 p.m.

(Signed) Ron Raikes, Chairperson

VISITORS

Visitors to the Chamber were 35 scouts and sponsors from Pack 380 and Den 5 and 6, Omaha.

The Doctor of the Day was Dr. Rob Rhodes.

ADJOURNMENT

At 11:58 a.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Tuesday, January 20, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

NINTH DAY - JANUARY 20, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, January 20, 2004

PRAYER

The prayer was offered by Pastor Dan Inman, Plains Baptist Church, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senator Vrtiska who was excused; and Senators Landis, Mines, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighth day was approved.

NOTICE OF COMMITTEE HEARINGS**Banking, Commerce and Insurance**

Room 1507

LB 839	Tuesday, January 27, 2004	1:30 p.m.
LB 966	Tuesday, January 27, 2004	1:30 p.m.
LB 980	Tuesday, January 27, 2004	1:30 p.m.
LB 1099	Tuesday, January 27, 2004	1:30 p.m.

(Signed) Mark Quandahl, Chairperson

Transportation and Telecommunications

Room 1113

LB 856	Tuesday, January 27, 2004	1:30 p.m.
LB 899	Tuesday, January 27, 2004	1:30 p.m.
LB 909	Tuesday, January 27, 2004	1:30 p.m.
LB 989	Tuesday, January 27, 2004	1:30 p.m.
LB 1004	Tuesday, January 27, 2004	1:30 p.m.

LB 1088 Tuesday, January 27, 2004

1:30 p.m.

(Signed) Tom Baker, Chairperson

SELECT FILE**LEGISLATIVE BILL 810.** Advanced to E & R for engrossment.**LEGISLATIVE BILL 811.** Advanced to E & R for engrossment.**LEGISLATIVE BILL 812.** Advanced to E & R for engrossment.**LEGISLATIVE BILL 813.** Advanced to E & R for engrossment.**GENERAL FILE****LEGISLATIVE BILL 479.** The Standing Committee amendment, AM0852, printed separately and referred to on page 959, First Session, 2003, was considered.

Senator Schrock withdrew his pending amendment, AM1018, found on page 1047, First Session, 2003.

Senator Baker asked unanimous consent to withdraw his pending amendment, AM1382, found on page 1408, First Session, 2003, and replace it with his substitute pending amendment, AM2150, found on page 150, to the Standing Committee amendment. No objections. So ordered.

SENATOR CUDABACK PRESIDING

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1131. Introduced by Legislative Performance Audit Committee: Beutler, 28, Chairperson; Bromm, 23; Brown, 6; Engel, 17; McDonald, 41; Price, 26; Wehrbein, 2.

A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act; to amend sections 83-192, 83-196, 83-1,114, and 83-1,115, Reissue Revised Statutes of Nebraska, and section 83-1,111, Revised Statutes Supplement, 2003; to change provisions relating to parole; and to repeal the original sections.

LEGISLATIVE BILL 1132. Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; Price, 26; Synowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to the School Employees Retirement Act; to amend sections 79-916 and 79-966, Reissue Revised Statutes of Nebraska;

to change funding provisions relating to the service annuity benefit; to create a fund; to provide duties; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1133. Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to revenue and taxation; to provide for payment of delinquent taxes and assessments on exempt property.

LEGISLATIVE BILL 1134. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to water resources; to amend section 77-27,132, Reissue Revised Statutes of Nebraska; to create a fund and provide for expenditure; to change provisions relating to distribution of sales and use tax; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 1135. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to water resources; to amend section 77-27,132, Reissue Revised Statutes of Nebraska, and sections 2-1503.01, 2-1577, and 2-1587, Revised Statutes Supplement, 2002; to create a fund and provide for allocation; to change provisions relating to distribution of sales and use tax; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1136. Introduced by Janssen, 15; Bourne, 8; Byars, 30; Combs, 32; Hartnett, 45; Johnson, 37; Kruse, 13; Mossey, 3; Preister, 5; Schimek, 27; Synowiecki, 7.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3442 and 77-3446, Reissue Revised Statutes of Nebraska; to change levy and budget restrictions as prescribed; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1137. Introduced by Tyson, 19.

A BILL FOR AN ACT relating to cities of the first class; to provide duties relating to grants for low-income housing.

LEGISLATIVE BILL 1138. Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to off-road vehicles; to amend section 60-6,356, Reissue Revised Statutes of Nebraska, and section 60-678, Revised Statutes Supplement, 2002; to clarify authorization to regulate operation of off-road vehicles; to change permissible highway operating conditions for all-terrain vehicles; and to repeal the original sections.

LEGISLATIVE BILL 1139. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to nursing homes; to amend sections 71-162 and 71-6038 to 71-6042, Reissue Revised Statutes of Nebraska, and section 81-3201, Revised Statutes Supplement, 2003; to change provisions relating to nursing assistants; to provide requirements for paid dining assistants; to eliminate references to nurses' aides and orderlies; to provide powers and duties; to harmonize provisions; to repeal the original sections; to outright repeal sections 71-6014 and 71-6015, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 1140. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to the Nebraska Tobacco Settlement Trust Fund; to amend section 71-7608, Reissue Revised Statutes of Nebraska; to change the distribution of revenue from tobacco-related litigation; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1141. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2003, LB 407, section 116; to change provisions relating to public health services for minority populations; and to repeal the original section.

LEGISLATIVE BILL 1142. Introduced by Schimek, 27; Aguilar, 35.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3442 and 79-1028, Reissue Revised Statutes of Nebraska; to exempt before-and-after-school services from levy and budget limits; and to repeal the original sections.

LEGISLATIVE BILL 1143. Introduced by Mines, 18.

A BILL FOR AN ACT relating to insurance; to provide for priorities of coverage on rental cars.

LEGISLATIVE BILL 1144. Introduced by Kruse, 13; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to public transportation; to amend sections 13-1210 and 66-4,100, Reissue Revised Statutes of Nebraska, and section 39-2215, Revised Statutes Supplement, 2003; to change funding provisions for the public transportation assistance and intercity bus system assistance programs; to change and provide duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1145. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to health and human services; to amend sections 71-101, 71-102, 71-107, 71-110, 71-112, 71-113, 71-114, 71-116, 71-131, 71-139.02, 71-162, 71-1,312, and 83-164, Reissue Revised Statutes

of Nebraska, section 83-4,157, Revised Statutes Supplement, 2002, and section 60-6,209, Revised Statutes Supplement, 2003; to provide for licensure of alcohol and drug abuse counselors; to create a board; to provide for fees; to provide and change powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1146. Introduced by Bromm, 23.

A BILL FOR AN ACT relating to petroleum release remedial action; to amend sections 66-1519, 66-1523, 66-1525, and 66-1529.02, Reissue Revised Statutes of Nebraska; to change reimbursement applicability; and to repeal the original sections.

LEGISLATIVE BILL 1147. Introduced by Bromm, 23.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-480 and 60-4,124, Revised Statutes Supplement, 2002; to change provisions relating to school permits; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1148. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to business improvement districts; to amend sections 19-4026, 19-4030, and 19-4034, Reissue Revised Statutes of Nebraska; to change provisions relating to formation of districts, taxes, and assessments; and to repeal the original sections.

NOTICE OF COMMITTEE HEARINGS

Agriculture
Room 1524

Tuesday, January 27, 2004

1:15 p.m.

Timothy Schram - Beginning Farmer Board

(Signed) Bob Kremer, Chairperson

Revenue
Room 1524

Wednesday, January 28, 2004

1:30 p.m.

Robert L. Hans - Tax Equalization and Review Commission

(Signed) David Landis, Chairperson

Urban Affairs
Room 1510

LB 1043 Tuesday, January 27, 2004

1:30 p.m.

LB 1057	Tuesday, January 27, 2004	1:30 p.m.
LB 888	Tuesday, January 27, 2004	1:30 p.m.

(Signed) D. Paul Hartnett, Chairperson

AMENDMENT - Print in Journal

Senator Synowiecki filed the following amendment to LB 382:
AM2244

1. On page 2, line 5, before "shall" insert "at such
2. assembling plant, workshop, or mechanical establishment".

RESOLUTION

LEGISLATIVE RESOLUTION 223. Introduced by Schimek, 27.

WHEREAS, Elizabeth Nicole Osterman of Lincoln, Nebraska, has completed the requirements for the Gold Award in the Girl Scouts of America; and

WHEREAS, to earn the Gold Award, the highest honor in Girl Scouts, a Girl Scout must fulfill requirements in the areas of leadership and service. Throughout her scouting experience, Elizabeth Nicole Osterman has learned, been tested on, and been recognized for various skills; and

WHEREAS, only three percent of the girls who join the Girl Scouts of America are presented the Gold Award.

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

1. That the Legislature congratulates Elizabeth Nicole Osterman on her achievement.
2. That a copy of this resolution be sent to Elizabeth Nicole Osterman.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 479. The Baker pending amendment, AM2150, found on page 150 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

SPEAKER BROMM PRESIDING

Senator Chambers offered the following motion:
Recommit to Revenue Committee.

Senator Chambers withdrew his motion.

Senator Baker moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

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

Voting in the affirmative, 22:

Baker	Erdman	Johnson	Pederson, D.	Tyson
Burling	Foley	Jones	Schrock	Wehrbein
Combs	Friend	Kremer	Smith	
Cudaback	Hudkins	Kruse	Stuhr	
Engel	Jensen	Mines	Stuthman	

Voting in the negative, 13:

Aguilar	Connealy	Janssen	Pedersen, Dw.	Thompson
Bourne	Cunningham	McDonald	Schimek	
Chambers	Hartnett	Mossey	Synowiecki	

Present and not voting, 9:

Beutler	Brown	Louden	Price	Redfield
Bromm	Landis	Maxwell	Raikes	

Excused and not voting, 5:

Brashear	Byars	Preister	Quandahl	Vrtiska
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The Baker amendment lost with 22 ayes, 13 nays, 9 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1149. Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Game Law; to amend section 37-530, Reissue Revised Statutes of Nebraska, section 37-528, Revised Statutes Supplement, 2002, and section 37-455, Revised Statutes Supplement, 2003; to change provisions relating to limited wild turkey permits; to provide powers and duties for the commission relating to wildlife killed on public highways and authorized weapons during hunting seasons; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1150. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to state property; to prohibit the sale of certain property as prescribed.

LEGISLATIVE BILL 1151. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to amend sections 75-902, 88-535, and 88-543, Reissue Revised Statutes of Nebraska, and section 88-526, Revised Statutes Supplement, 2003; to change provisions of the Grain Dealer Act and the Grain Warehouse Act; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1152. Introduced by Kremer, 34; Schrock, 38.

A BILL FOR AN ACT relating to agriculture; to adopt the Feedlot Statutory Trust Act.

LEGISLATIVE BILL 1153. Introduced by Byars, 30.

A BILL FOR AN ACT relating to the Education Innovation Fund; to amend sections 79-761, 79-8,136, 79-1018.01, and 79-1108, Reissue Revised Statutes of Nebraska, and section 9-812, Revised Statutes Supplement, 2003; to change provisions relating to distribution of lottery funds; to eliminate a council; to provide and change powers and duties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1154. Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to utilities; to amend sections 70-311 to 70-313, Reissue Revised Statutes of Nebraska, and sections 86-708 to 86-710, Revised Statutes Supplement, 2002; to provide a fee for failure to relocate line, poles, or anchors as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1155. Introduced by Foley, 29.

A BILL FOR AN ACT relating to blind and visually impaired persons; to amend section 71-8611, Reissue Revised Statutes of Nebraska; to require priority status for vending facilities on state property; to provide exceptions; and to repeal the original section.

LEGISLATIVE BILL 1156. Introduced by Cunningham, 40; Connealy, 16; Engel, 17; Tyson, 19.

A BILL FOR AN ACT relating to community colleges; to amend sections 77-3442 and 85-1517, Reissue Revised Statutes of Nebraska, and section 13-519, Revised Statutes Supplement, 2003; to change property tax levy provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1157. Introduced by Landis, 46.

A BILL FOR AN ACT relating to civil procedure; to provide an exemption from execution for earned income tax credit refunds; and to provide a duty for the Revisor of Statutes.

LEGISLATIVE BILL 1158. Introduced by Landis, 46.

A BILL FOR AN ACT relating to immunizations; to prohibit certain ingredients as prescribed; to provide for insurance reimbursement; and to provide an operative date.

LEGISLATIVE BILL 1159. Introduced by Synowiecki, 7; Byars, 30; Johnson, 37.

A BILL FOR AN ACT relating to dentistry; to amend section 71-190, Reissue Revised Statutes of Nebraska; to prohibit certain acts by licensed and unlicensed persons as prescribed; to provide for a cause of action; to provide a penalty; and to repeal the original section.

LEGISLATIVE BILL 1160. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-1315.01, 77-1502, 77-1504, 77-1507, 77-1510, and 77-1613.04, Reissue Revised Statutes of Nebraska; to change provisions relating to property equalization timeframes; and to repeal the original sections.

LEGISLATIVE BILL 1161. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend sections 79-475, 79-1008.01, 79-1018.01, and 79-1022, Reissue Revised Statutes of Nebraska; to provide for payment adjustments to reflect transfers of property as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1162. Introduced by Mines, 18; Smith, 48.

A BILL FOR AN ACT relating to the Law Enforcement Improvement Fund; to amend section 81-1429, Revised Statutes Supplement, 2002; to change a termination provision; and to repeal the original section.

LEGISLATIVE BILL 1163. Introduced by Preister, 5.

A BILL FOR AN ACT relating to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act; to amend section 81-15,248, Revised Statutes Supplement, 2003; to redefine a term; to change provisions relating to system construction and registration; and to repeal the original section.

LEGISLATIVE BILL 1164. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to insurance; to amend section 44-4110, Reissue Revised Statutes of Nebraska; to change provisions relating to preferred provider organizations; and to repeal the original section.

LEGISLATIVE BILL 1165. Introduced by Price, 26.

A BILL FOR AN ACT relating to education; to amend section 77-3442, Reissue Revised Statutes of Nebraska; to adopt the Education Facilities Review Commission Act; to change provisions relating to a levy limitation; to provide for school bond state aid; to provide severability; and to repeal the original section.

NOTICE OF COMMITTEE HEARING

Education
Room 1525

LB 896	Tuesday, January 27, 2004	1:30 p.m.
LB 1079	Tuesday, January 27, 2004	1:30 p.m.
LB 1093	Tuesday, January 27, 2004	1:30 p.m.

(Signed) Ron Raikes, Chairperson

AMENDMENTS - Print in Journal

Senator Bourne filed the following amendment to LB 479:
AM2251

(Amendments to Standing Committee amendments, AM0852)

- 1 1. Strike sections 7 and 8.
- 2 2. Renumber the remaining sections and correct the
- 3 repealer accordingly.

Senator Chambers filed the following amendment to LB 479:
AM2253

(Amendments to Standing Committee amendments, AM0852)

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 66-1345.01, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 66-1345.01. An excise tax is levied upon all corn and
- 5 grain sorghum sold through commercial channels in Nebraska or
- 6 delivered in Nebraska. For any sale or delivery of corn or grain
- 7 sorghum occurring on or after July 1, 1995, and before January 1,
- 8 2000, the tax is three-fourths cent per bushel for corn and
- 9 three-fourths cent per hundredweight for grain sorghum. For any
- 10 sale or delivery of corn or grain sorghum occurring on or after
- 11 January 1, 2000, and before January 1, 2001, the tax is one-half
- 12 cent per bushel for corn and one-half cent per hundredweight for
- 13 grain sorghum. For any sale or delivery of corn or grain sorghum
- 14 occurring on or after October 1, 2001, and before October 1, 2009,

15 the tax is one-half cent per bushel for corn and one-half cent per
 16 hundredweight for grain sorghum. The tax shall be in addition to
 17 any fee imposed pursuant to sections 2-3623 and 2-4012. ~~The~~
 18 ~~Legislature finds and declares that those in production agriculture~~
 19 ~~have contributed sufficiently to support the Ethanol Production~~
 20 ~~Incentive Cash Fund by the imposition of the excise tax. If~~
 21 ~~additional funds are needed in the future to meet the Legislature's~~
 22 ~~obligation to fully fund the Ethanol Production Incentive Cash~~
 23 ~~Fund, those funds should come from sources other than production~~
 1 ~~agriculture.~~

2 The excise tax shall be imposed at the time of sale or
 3 delivery and shall be collected by the first purchaser. The tax
 4 shall be collected, administered, and enforced in conjunction with
 5 the fees imposed pursuant to sections 2-3623 and 2-4012. The tax
 6 shall be collected, administered, and enforced by the Department of
 7 Agriculture. No corn or grain sorghum shall be subject to the tax
 8 imposed by this section more than once.

9 In the case of a pledge or mortgage of corn or grain
 10 sorghum as security for a loan under the federal price support
 11 program, the excise tax shall be deducted from the proceeds of such
 12 loan at the time the loan is made. If, within the life of the loan
 13 plus thirty days after the collection of the excise tax for corn or
 14 grain sorghum that is mortgaged as security for a loan under the
 15 federal price support program, the grower of the corn or grain
 16 sorghum so mortgaged decides to purchase the corn or grain sorghum
 17 and use it as feed, the grower shall be entitled to a refund of the
 18 excise tax previously paid. The refund shall be payable by the
 19 department upon the grower's written application for a refund. The
 20 application shall have attached proof of the tax deducted.

21 The excise tax shall be deducted whether the corn or
 22 grain sorghum is stored in this or any other state. The excise tax
 23 shall not apply to the sale of corn or grain sorghum to the federal
 24 government for ultimate use or consumption by the people of the
 25 United States when the State of Nebraska is prohibited from
 26 imposing such tax by the Constitution of the United States and laws
 27 enacted pursuant thereto."

1 2. Renumber the remaining sections and correct internal
 2 references and the repealer accordingly.

Senator Chambers filed the following amendment to LB 479:
 AM2254

(Amendments to Standing Committee amendments, AM0852)

1 1. Insert the following new section:

2 "Sec. 7. Section 66-1345.04, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 66-1345.04. (1) The State Treasurer shall transfer from
 5 the General Fund to the Ethanol Production Incentive Cash Fund, on
 6 or before the end of each of fiscal years 1995-96 and 1996-97,
 7 \$8,000,000 per fiscal year.

8 (2) It is the intent of the Legislature that the
 9 following General Fund amounts be appropriated to the Ethanol
 10 Production Incentive Cash Fund in each of the following years:
 11 (a) For each of fiscal years 1997-98 and 1998-99,
 12 \$7,000,000 per fiscal year;
 13 (b) For fiscal year 1999-2000, \$6,000,000;
 14 (c) For fiscal year 2000-01, \$5,000,000; and
 15 (d) For fiscal year 2001-02 and for each of fiscal years
 16 2003-04 through 2007-08, \$1,500,000.
 17 ~~It is further the intent of the Legislature that the~~
 18 ~~\$1,500,000 General Fund appropriation that was not made in fiscal~~
 19 ~~year 2002-03 as a result of changes made by Laws 2002, LB 1,~~
 20 ~~Ninety-seventh Legislature, Second Special Session, be reimbursed~~
 21 ~~to the Ethanol Production Incentive Cash Fund by June 30, 2008."~~
 22 2. Renumber the remaining sections and correct internal
 23 references and the repealer accordingly.

UNANIMOUS CONSENT - Add Cointroducers

Senator Tyson asked unanimous consent to have his name added as cointroducer to LB 304. No objections. So ordered.

Senator Bromm asked unanimous consent to have his name added as cointroducer to LB 847. No objections. So ordered.

Senator Synowiecki asked unanimous consent to have his name added as cointroducer to LB 855. No objections. So ordered.

Senator Burling asked unanimous consent to have his name added as cointroducer to LB 879. No objections. So ordered.

Senator Hudkins asked unanimous consent to have her name added as cointroducer to LB 892. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 1014. No objections. So ordered.

Senator Hartnett asked unanimous consent to have his name added as cointroducer to LB 1096. No objections. So ordered.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 199, 200, 201, 204, 205, 206, 207, 210, 212, 213, 214, 215, 216, 217, and 218 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the

Speaker signed the following: LRs 199, 200, 201, 204, 205, 206, 207, 210, 212, 213, 214, 215, 216, 217, and 218.

ADJOURNMENT

At 12:07 p.m., on a motion by Senator Cudaback, the Legislature adjourned until 9:00 a.m., Wednesday, January 21, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TENTH DAY - JANUARY 21, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 21, 2004

PRAYER

The prayer was offered by Senator Janssen.

ROLL CALL

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

The roll was called and all members were present except Senators Byars, Hudkins, Landis, Maxwell, Dw. Pedersen, and D. Pederson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the ninth day was approved.

**STANDING COMMITTEE REPORT
Transportation and Telecommunications**

LEGISLATIVE BILL 878. Placed on General File.

(Signed) Tom Baker, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB 1072	Government, Military and Veterans Affairs (rereferred)
LB 1109	General Affairs
LB 1110	Health and Human Services
LB 1111	Transportation and Telecommunications
LB 1112	Judiciary
LB 1113	Judiciary
LB 1114	Banking, Commerce and Insurance
LB 1115	Nebraska Retirement Systems

LB 1116	Judiciary
LB 1117	Judiciary
LB 1118	Government, Military and Veterans Affairs
LB 1119	Education
LB 1120	Banking, Commerce and Insurance
LB 1121	Transportation and Telecommunications
LB 1122	Natural Resources
LB 1123	Education
LB 1124	Education
LB 1125	Education
LB 1126	Education
LB 1127	Business and Labor
LB 1128	Revenue
LB 1129	General Affairs
LB 1130	Government, Military and Veterans Affairs
LR 222CA	Executive Board

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARINGS
Government, Military and Veterans Affairs
Room 1507

LB 902	Wednesday, January 28, 2004	1:30 p.m.
LB 915	Wednesday, January 28, 2004	1:30 p.m.
LB 939	Wednesday, January 28, 2004	1:30 p.m.
LB 1003	Wednesday, January 28, 2004	1:30 p.m.
LB 1130	Wednesday, January 28, 2004	1:30 p.m.
LB 1074	Thursday, January 29, 2004	1:30 p.m.
LB 1077	Thursday, January 29, 2004	1:30 p.m.
LB 1078	Thursday, January 29, 2004	1:30 p.m.
LR 208CA	Thursday, January 29, 2004	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

Health and Human Services
Room 1510

LB 1036	Wednesday, January 28, 2004	1:30 p.m.
LB 1084	Wednesday, January 28, 2004	1:30 p.m.
LB 1100	Wednesday, January 28, 2004	1:30 p.m.

(Signed) Jim Jensen, Chairperson

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1166. Introduced by Janssen, 15; Hartnett, 45; Tyson, 19.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3442, Reissue Revised Statutes of Nebraska; to change levy limitations for cities of the second class and villages; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1167. Introduced by Combs, 32; Janssen, 15; D. Pederson, 42; Schimek, 27.

A BILL FOR AN ACT relating to railroads; to require a train crew of at least two railroad employees; to provide civil penalties; to provide duties for the Public Service Commission; and to provide severability.

LEGISLATIVE BILL 1168. Introduced by Combs, 32.

A BILL FOR AN ACT relating to elections; to amend section 32-1119, Revised Statutes Supplement, 2002; to change provisions relating to recounts; and to repeal the original section.

LEGISLATIVE BILL 1169. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to real estate records; to amend sections 33-109, 33-130, 76-901, 76-903, and 77-1327, Reissue Revised Statutes of Nebraska; to adopt the Nebraska Land Information Systems Program Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1170. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to state government; to provide requirements for contracts for goods or services.

GENERAL FILE

LEGISLATIVE BILL 479. The Standing Committee amendment, AM0852, printed separately and referred to on page 959, First Session, 2003, and considered on page 320, was renewed.

Senator Schrock withdrew his pending amendment, AM1503, found on page 1412, First Session, 2003.

Senator Bourne asked unanimous consent to withdraw his pending amendment, AM1611, found on page 1525, First Session, 2003, and replace it with his substitute pending amendment, AM2251, found on page 328, to the Standing Committee amendment. No objections. So ordered.

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

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1171. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to annexation; to provide duties relating to services provided for certain territories if annexed by a city of the first or second class or a village.

LEGISLATIVE BILL 1172. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Nebraska Ground Water Management and Protection Act; to amend section 46-656.24, Revised Statutes Supplement, 2003; to change provisions relating to withdrawal and transport of ground water as prescribed; and to repeal the original section.

LEGISLATIVE BILL 1173. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to public water suppliers; to provide for a notice of intent to consider a wellfield.

LEGISLATIVE BILL 1174. Introduced by Tyson, 19.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-101, Revised Statutes Supplement, 2002; to prohibit certain sales of beer as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 1175. Introduced by Tyson, 19.

A BILL FOR AN ACT relating to cities of the first class; to amend section 16-117, Reissue Revised Statutes of Nebraska; to change provisions relating to annexation; to provide powers and duties; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 1176. Introduced by Mines, 18; Bromm, 23; Combs, 32; Jones, 43; Tyson, 19.

A BILL FOR AN ACT relating to the Nebraska Public Safety Wireless Communication System Act; to amend section 77-2701, Reissue Revised Statutes of Nebraska, and sections 13-808, 13-903, 13-2530, 58-202, 58-219, 58-239.03, 86-401, 86-403, 86-405, 86-406, 86-410 to 86-416, 86-516, 86-543, and 86-572, Revised Statutes Supplement, 2002; to establish the Statewide Communications Authority of Nebraska; to provide powers and duties; to authorize the imposition of a public safety communications charge on electric utility bills; to authorize the issuance of bonds or financing agreements with the Nebraska Investment Finance

Authority; to abolish the Public Safety Wireless Communication Advisory Board; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; to outright repeal sections 86-404 and 86-419, Revised Statutes Supplement, 2002; and to declare an emergency.

LEGISLATIVE BILL 1177. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend sections 32-203, 32-314, 32-315, 32-318, 32-321, 32-324, 32-908, 32-939, 32-948, 32-949, 32-951, 32-1032, and 32-1544, Reissue Revised Statutes of Nebraska, sections 32-326, 32-328, 32-914.01, 32-938, 32-941 to 32-943, 32-950, and 32-1027, Revised Statutes Supplement, 2002, and sections 32-319, 32-320, 32-329, 32-914, 32-914.02, 32-916, 32-947, and 32-1002, Revised Statutes Supplement, 2003; to provide powers and duties and change and eliminate provisions relating to registration of voters and the conduct of elections; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 32-304 and 32-325, Reissue Revised Statutes of Nebraska, and section 32-915.02, Revised Statutes Supplement, 2003.

LEGISLATIVE BILL 1178. Introduced by Erdman, 47; Smith, 48.

A BILL FOR AN ACT relating to ethanol; to amend section 66-1344, Reissue Revised Statutes of Nebraska; to change provisions relating to production credits; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1179. Introduced by Smith, 48.

A BILL FOR AN ACT relating to public meetings; to amend section 84-1410, Reissue Revised Statutes of Nebraska, and section 84-1411, Revised Statutes Supplement, 2002; to change provisions relating to electronic communications; and to repeal the original sections.

LEGISLATIVE BILL 1180. Introduced by Smith, 48.

A BILL FOR AN ACT relating to political subdivisions; to amend section 49-1499.03, Revised Statutes Supplement, 2002; to provide procedures for potential conflicts of interest for certain officials; and to repeal the original section.

LEGISLATIVE BILL 1181. Introduced by Beutler, 28; Baker, 44; Foley, 29; Jones, 43; Landis, 46; Price, 26; Raikes, 25; Schimek, 27; Wehrbein, 2.

A BILL FOR AN ACT relating to fuel taxes; to amend sections 66-4,145, 66-4,146, 66-670, and 66-6,109, Reissue Revised Statutes of Nebraska; to increase excise taxes; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 1182. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to courts; to amend section 24-809.05, Reissue Revised Statutes of Nebraska; to provide for relocating judges within a judicial district; and to repeal the original section.

LEGISLATIVE BILL 1183. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to political accountability and disclosure; to amend sections 32-1601 and 32-1606, Reissue Revised Statutes of Nebraska, and sections 32-1603, 32-1604, 32-1604.01, 32-1608, 49-1463.01, 49-14,124, and 49-14,125, Revised Statutes Supplement, 2002; to redefine a term; to change provisions regarding campaign expenditures and public funds; to provide for late fees; to change powers and duties of the Nebraska Accountability and Disclosure Commission; to eliminate unconstitutional provisions; to harmonize provisions; to repeal the original sections; and to outright repeal section 32-1614, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1184. Introduced by Preister, 5; Beutler, 28; Connealy, 16; Thompson, 14.

A BILL FOR AN ACT relating to veterans; to amend sections 23-1309, 23-1310, 37-420, 71-605, 77-3509, 80-102, 80-104, 80-105, 80-107, 80-316, 80-325, 80-401.01, 80-401.02, 80-401.03, 80-401.06, 80-410, and 80-412, Reissue Revised Statutes of Nebraska; to change definitions and provisions relating to veterans; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1185. Introduced by Louden, 49; Cunningham, 40; Schrock, 38; Stuthman, 22.

A BILL FOR AN ACT relating to insurance; to amend sections 44-7506, 44-7511, 44-7516, and 44-7524, Revised Statutes Supplement, 2002, and sections 44-7508.01, 44-7513, and 44-7515, Revised Statutes Supplement, 2003; to change provisions relating to workers' compensation insurance; and to repeal the original sections.

LEGISLATIVE BILL 1186. Introduced by Louden, 49; Cunningham, 40; Schrock, 38; Stuthman, 22.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-146.01, Revised Statutes Supplement, 2002; to change provisions relating to the assigned risk system; and to repeal the original section.

LEGISLATIVE BILL 1187. Introduced by McDonald, 41; Jones, 43; Kremer, 34; Vrtiska, 1.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-115, Revised Statutes Supplement, 2003; to allow coverage for members of county fair boards and county agricultural societies; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1188. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Employment and Investment Growth Act; to amend sections 77-4103 and 77-4104, Reissue Revised Statutes of Nebraska; to provide requirements for qualifying for tax incentives; to define terms; and to repeal the original sections.

LEGISLATIVE BILL 1189. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Employment Expansion and Investment Incentive Act; to amend sections 77-27,187.01 and 77-27,188, Reissue Revised Statutes of Nebraska; to provide requirements for qualifying for tax incentives; to define terms; and to repeal the original sections.

LEGISLATIVE BILL 1190. Introduced by Bromm, 23.

A BILL FOR AN ACT relating to economic development; to adopt the Hometown Entrepreneur Scholarship Act; to state intent; to create a fund; and to provide powers and duties.

LEGISLATIVE BILL 1191. Introduced by Bromm, 23.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend section 48-106, Revised Statutes Supplement, 2003; to change provisions relating to coverage of the act; to change a notice requirement for exempt employers; and to repeal the original section.

LEGISLATIVE BILL 1192. Introduced by Bromm, 23.

A BILL FOR AN ACT relating to zoning; to amend section 19-4401, Reissue Revised Statutes of Nebraska; to authorize cities and villages to regulate planned unit developments as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 1193. Introduced by Hartnett, 45; Connealy, 16; Janssen, 15.

A BILL FOR AN ACT relating to workforce development; to amend section 77-2701, Reissue Revised Statutes of Nebraska; to provide a tax credit for job creation; to adopt the Nebraska High Hopes Scholars Program Act; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 1194. Introduced by Smith, 48.

A BILL FOR AN ACT relating to audits; to amend section 84-304, Revised Statutes Supplement, 2003; to change powers and duties of the Auditor of Public Accounts; and to repeal the original section.

LEGISLATIVE BILL 1195. Introduced by Landis, 46.

A BILL FOR AN ACT relating to county zoning; to amend section 23-174.03, Reissue Revised Statutes of Nebraska; to change provisions relating to subdivision plats; and to repeal the original section.

LEGISLATIVE BILL 1196. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-124, Revised Statutes Supplement, 2002; to authorize the payment of license fees and occupation taxes as prescribed; and to repeal the original section.

LEGISLATIVE BILL 1197. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to economic development; to create a fund for tourism development purposes.

LEGISLATIVE BILL 1198. Introduced by Byars, 30.

A BILL FOR AN ACT relating to health care facilities; to amend section 71-409, Reissue Revised Statutes of Nebraska; to change the definition of critical access hospital; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1199. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to insurance; to adopt the Market Conduct Surveillance Act.

LEGISLATIVE BILL 1200. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to construction contractors; to adopt the Residential Construction Defects Act; and to provide a penalty.

LEGISLATIVE BILL 1201. Introduced by Janssen, 15; Vrtiska, 1.

A BILL FOR AN ACT relating to cemeteries; to create the Statewide Cemetery Registry; and to provide powers and duties.

LEGISLATIVE BILL 1202. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to public records; to amend section 84-712.05, Revised Statutes Supplement, 2002; to change provisions

relating to records which may be withheld from the public; and to repeal the original section.

LEGISLATIVE BILL 1203. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to public assets; to create a commission; and to provide powers and duties.

LEGISLATIVE BILL 1204. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.01, Reissue Revised Statutes of Nebraska; to change provisions relating to sales and income tax; and to repeal the original section.

LEGISLATIVE BILL 1205. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to highways; to amend sections 39-2222 and 66-4,100, Reissue Revised Statutes of Nebraska; to provide for the issuance of highway construction bonds; to change fund distribution; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1206. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to schools; to amend sections 77-3442, 79-1007.01, and 79-1028, Reissue Revised Statutes of Nebraska; to change tax levy and state aid provisions relating to full-day kindergarten; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1207. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to civil procedure; to amend sections 25-21,232, 25-21,233, 42-349, 42-350, 42-352, 42-353, 42-355, 42-361, 42-364, 42-364.11, 42-364.13, 42-365, 42-373, 42-376, 42-380, 42-501 to 42-503, 43-512.01, 43-512.03, 43-512.04, 43-512.15, 43-1411.01, 43-1412, and 43-2917, Reissue Revised Statutes of Nebraska, and sections 25-1144.01, 25-1315.02, 25-1329, 25-21,230, 25-21,234, 25-2740, 42-357, and 42-371, Revised Statutes Supplement, 2002; to change and eliminate provisions relating to post-trial motions, forcible entry and detainer actions, marriage validity, and pleading nomenclature for certain actions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 42-119, 42-120, and 42-354, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1208. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to the Judges Retirement Act; to amend sections 24-714, 42-1102, and 48-155.01, Reissue Revised Statutes of Nebraska, sections 24-701.01, 24-704.01, 24-710, 24-710.02, 24-710.09, and 24-713.01, Revised Statutes Supplement, 2002, and sections 24-703, 24-707, and 24-708, Revised Statutes Supplement, 2003; to change

provisions relating to retirement age, benefits, and contributions; to change a fee; to provide duties; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1209. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to the Nebraska Capitol Commission; to amend section 81-1108.32, Reissue Revised Statutes of Nebraska; to change membership of the commission; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1210. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to the Nebraska Supreme Court; to amend section 44-3311, Reissue Revised Statutes of Nebraska, and section 43-3318, Revised Statutes Supplement, 2003; to change references to the Counsel for Discipline; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1211. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.10, 77-2701.16, 77-2701.32, 77-2701.34, and 77-2704.55, Reissue Revised Statutes of Nebraska; to change provisions relating to sales taxation of contractors, repairpersons, and labor; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 1212. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to insurance; to amend section 44-513.02, Reissue Revised Statutes of Nebraska; to change provisions relating to reimbursement for prescription drugs; and to repeal the original section.

LEGISLATIVE BILL 1213. Introduced by Brashear, 4; Connealy, 16.

A BILL FOR AN ACT relating to racial profiling; to amend section 20-504, Revised Statutes Supplement, 2002; to extend reporting duties for the Nebraska State Patrol, other law enforcement agencies, and the Nebraska Commission on Law Enforcement and Criminal Justice as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1214. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to the Legislature; to amend section 50-401.05, Reissue Revised Statutes of Nebraska, and section 49-14,101.01, Revised Statutes Supplement, 2002; to authorize policies regarding personal computers and networking; and to repeal the original sections.

LEGISLATIVE BILL 1215. Introduced by Baker, 44; Mines, 18.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,132, Reissue Revised Statutes of Nebraska; to change distribution of sales tax from leased motor vehicles; and to repeal the original section.

LEGISLATIVE BILL 1216. Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Employment and Investment Growth Act; to amend section 77-4101, Reissue Revised Statutes of Nebraska; to provide for assessment of costs; and to repeal the original section.

LEGISLATIVE BILL 1217. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to social services; to amend sections 68-1207 and 68-1207.01, Reissue Revised Statutes of Nebraska; to state intent; to appropriate funds; and to repeal the original sections.

LEGISLATIVE BILL 1218. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to courts; to amend section 24-301.02, Revised Statutes Supplement, 2002; to change the number of district court judicial districts and number of judges as prescribed; and to repeal the original section.

LEGISLATIVE BILL 1219. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701, 77-2717, 77-2727, and 77-2734.01, Reissue Revised Statutes of Nebraska; to change income tax and withholding provisions relating to nonresident entities; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1220. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend sections 79-101, 79-215, 79-1116, and 79-1140, Reissue Revised Statutes of Nebraska; to define terms; to change provisions relating to calculation of costs for wards' education; to provide for calculation of costs under the Special Education Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1221. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to education funding; to amend sections 79-1018.01 and 79-1108, Reissue Revised Statutes of Nebraska, and section 9-812, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to allocation of state lottery funds; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1222. Introduced by Hudkins, 21; Bourne, 8;

Connealy, 16.

A BILL FOR AN ACT relating to consumer protection; to change provisions relating to gift certificates.

LEGISLATIVE BILL 1223. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to state contracts for services; to amend section 73-506, Reissue Revised Statutes of Nebraska; to provide restrictions on the terms and conditions of such contracts; and to repeal the original section.

LEGISLATIVE BILL 1224. Introduced by Byars, 30.

A BILL FOR AN ACT relating to revenue and taxation; to adopt the ICF/MR Reimbursement Protection Act; to provide a penalty; and to declare an emergency.

LEGISLATIVE BILL 1225. Introduced by Landis, 46.

A BILL FOR AN ACT relating to real property; to provide for purchaser dwelling actions.

LEGISLATIVE BILL 1226. Introduced by Redfield, 12; Jensen, 20.

A BILL FOR AN ACT relating to drugs; to amend section 71-2421, Reissue Revised Statutes of Nebraska; to change provisions relating to return of dispensed drugs or devices; and to repeal the original section.

GENERAL FILE

LEGISLATIVE BILL 479. Senator Bourne withdrew his pending amendments, AM1612, AM1621, AM1620, AM1622, AM1619, AM1618, and AM1613, found on pages 1525, 1526, and 1527, First Session, 2003.

Senator Chambers renewed his pending amendment, AM2253, found on page 328, to the Standing Committee amendment.

SENATOR JANSSEN PRESIDING

SENATOR CUDABACK PRESIDING

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

The Chambers amendment was adopted with 31 ayes, 4 nays, 9 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers withdrew his pending amendment, AM2254, found on page 329.

The Standing Committee amendment, as amended, was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1227. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 81-1201.21, Revised Statutes Supplement, 2002; to adopt the Nebraska Worker Productivity Investment Act; to state appropriations intent for the Job Training Cash Fund; and to repeal the original section.

LEGISLATIVE BILL 1228. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to the Property and Casualty Insurance Rate and Form Act; to amend sections 44-7506 and 44-7509, Revised Statutes Supplement, 2002, and section 44-7508.01, Revised Statutes Supplement, 2003; to change provisions relating to personal lines of insurance; and to repeal the original sections.

LEGISLATIVE BILL 1229. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to public records; to amend sections 84-1202, 84-1203, 84-1206, and 84-1208, Reissue Revised Statutes of Nebraska; to change provisions relating to the medium used for records under the Records Management Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1230. Introduced by Quandahl, 31.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1502, Reissue Revised Statutes of Nebraska; to impose a filing fee for property valuation protests; and to repeal the original section.

LEGISLATIVE BILL 1231. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to cemeteries; to amend section 12-1301, Revised Statutes Supplement, 2002; to change provisions relating to the state veteran cemetery system; to create the Nebraska Veterans Cemetery Advisory Board; to provide powers and duties; to harmonize provisions; and

to repeal the original section.

LEGISLATIVE BILL 1232. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to natural resources districts; to amend section 2-3235, Revised Statutes Supplement, 2002; to provide powers relating to agreements as prescribed; and to repeal the original section.

LEGISLATIVE BILL 1233. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to cities and villages; to amend sections 17-405.01, 18-2107, 18-2142.01, and 18-2144, Reissue Revised Statutes of Nebraska, and sections 18-2113, 18-2117.01, 18-2147, and 18-2153, Revised Statutes Supplement, 2002; to change provisions relating to the Community Development Law; to change and eliminate provisions relating to cost-benefit analysis; to change provisions relating to ad valorem taxes; to harmonize provisions; to repeal the original sections; and to outright repeal section 18-2147.01, Revised Statutes Supplement, 2002.

LEGISLATIVE BILL 1234. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to rules and regulations; to adopt the Regulatory Flexibility Act.

LEGISLATIVE BILL 1235. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to certificates of title; to amend sections 37-1287 and 60-115, Reissue Revised Statutes of Nebraska, and sections 60-106 and 60-152, Revised Statutes Supplement, 2003; to increase fees; to provide for fee adjustments; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 1236. Introduced by Landis, 46.

A BILL FOR AN ACT relating to computers; to amend sections 28-1341 and 28-1343, Reissue Revised Statutes of Nebraska; to change provisions relating to computer crimes; to prohibit acts relating to computer fraud and unsolicited bulk electronic mail messages; to provide for seizure and forfeiture of property; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1237. Introduced by Connealy, 16; Cunningham, 40; Johnson, 37.

A BILL FOR AN ACT relating to behavioral health services; to adopt the Behavioral Health Rate Reimbursement Determination Act; and to declare an emergency.

LEGISLATIVE BILL 1238. Introduced by Landis, 46; Aguilar, 35; Byars,

30; Combs, 32; Foley, 29; Kruse, 13; Mines, 18; Schimek, 27.

A BILL FOR AN ACT relating to children; to amend sections 28-715, 28-723, 28-724, 28-727, 28-731, and 43-3001, Reissue Revised Statutes of Nebraska, sections 28-710, 28-711, 28-713, 28-713.01, 28-725, 28-726, 28-728, 28-729, 28-730, and 43-245, Revised Statutes Supplement, 2002, and section 43-274, Revised Statutes Supplement, 2003; to create investigation and prosecution centers; to eliminate child abuse and neglect investigation teams and obsolete provisions; to provide powers and duties for the Attorney General and county attorneys; to change provisions relating to reports of child abuse or neglect; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 28-732 and 28-733, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1239. Introduced by Vrtiska, 1.

A BILL FOR AN ACT relating to the State Tort Claims Act; to amend section 81-8,231, Reissue Revised Statutes of Nebraska; to provide for a study of insurance and self-insurance issues; and to repeal the original section.

LEGISLATIVE BILL 1240. Introduced by Foley, 29; Aguilar, 35; Beutler, 28; Brashear, 4; Bromm, 23; Brown, 6; Byars, 30; Combs, 32; Connealy, 16; Cudaback, 36; Engel, 17; Friend, 10; Hartnett, 45; Hudkins, 21; Jensen, 20; Johnson, 37; Jones, 43; Kruse, 13; Landis, 46; Louden, 49; McDonald, 41; Mines, 18; Mossey, 3; Dw. Pedersen, 39; D. Pederson, 42; Preister, 5; Price, 26; Quandahl, 31; Raikes, 25; Redfield, 12; Schimek, 27; Schrock, 38; Stuhr, 24; Stuthman, 22; Synowiecki, 7; Thompson, 14; Vrtiska, 1; Wehrbein, 2.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-5707, Reissue Revised Statutes of Nebraska; to change provisions relating to smoking at in-home day care sites; and to repeal the original section.

LEGISLATIVE BILL 1241. Introduced by Vrtiska, 1; Burling, 33; Combs, 32; Hartnett, 45; Kremer, 34.

A BILL FOR AN ACT relating to claims against the state; to appropriate funds for the payment of certain claims; to provide for payment of the claims; to authorize certain write-offs as prescribed; and to declare an emergency.

LEGISLATIVE BILL 1242. Introduced by Vrtiska, 1; Burling, 33; Combs, 32; Hartnett, 45; Kremer, 34.

A BILL FOR AN ACT relating to claims against the state; to disapprove certain claims.

LEGISLATIVE BILL 1243. Introduced by Preister, 5.

A BILL FOR AN ACT relating to agriculture; to amend sections 81-2,162.02, 81-2,162.03, 81-2,162.04, 81-2,162.06, 81-2,162.07, and 81-2,162.11, Reissue Revised Statutes of Nebraska; to change definitions; to change provisions relating to commercial fertilizer and soil conditioner; and to repeal the original sections.

LEGISLATIVE BILL 1244. Introduced by Redfield, 12; Bourne, 8.

A BILL FOR AN ACT relating to insurance; to provide requirements relating to motor vehicle repair parts.

LEGISLATIVE BILL 1245. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to personal property; to amend sections 69-1330 to 69-1332, Reissue Revised Statutes of Nebraska; to provide for the release of unclaimed or abandoned property to the finder as prescribed; to provide duties for the county sheriff; and to repeal the original sections.

LEGISLATIVE BILL 1246. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to cities and villages; to amend sections 14-109, 15-203, 16-205, and 17-525, Reissue Revised Statutes of Nebraska, and section 15-202, Revised Statutes Supplement, 2002; to prohibit occupation, business, and license taxes related to motor fuel; and to repeal the original sections.

LEGISLATIVE BILL 1247. Introduced by Maxwell, 9.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend section 49-1497, Reissue Revised Statutes of Nebraska, and section 49-1496, Revised Statutes Supplement, 2002; to change requirements for statements of financial interest; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 1248. Introduced by Maxwell, 9.

A BILL FOR AN ACT relating to school funding; to provide for a system of funding elementary and secondary education; to provide duties for the Education Committee of the Legislature and the Revisor of Statutes; and to provide for an operative date.

LEGISLATIVE BILL 1249. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2101 and 77-2101.03, Reissue Revised Statutes of Nebraska; to redefine terms; to change the estate tax rate; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 1250. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the Health Care Facility Licensure Act; to amend section 71-401, Reissue Revised Statutes of Nebraska; to prohibit the issuance of licenses for substance abuse treatment centers as prescribed; to harmonize provisions; to repeal the original section; and to declare an emergency.

GENERAL FILE

LEGISLATIVE BILL 602. The Chambers pending motion, found on page 1610, First Session, 2003, to recommit to the Judiciary Committee, was renewed.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1251. Introduced by Aguilar, 35; Combs, 32; Foley, 29; Jensen, 20; Kruse, 13; McDonald, 41; Price, 26; Quandahl, 31; Redfield, 12; Schimek, 27; Wehrbein, 2.

A BILL FOR AN ACT relating to children; to amend sections 43-1301, 43-1308, 43-1309, and 43-1310, Reissue Revised Statutes of Nebraska, and sections 28-726 and 43-1303, Revised Statutes Supplement, 2002; to provide powers and duties for the State Foster Care Review Board regarding reports of child abuse or neglect; to define and redefine terms; and to repeal the original sections.

LEGISLATIVE BILL 1252. Introduced by Johnson, 37; Aguilar, 35.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 13-518, Revised Statutes Supplement, 2003; to redefine terms for purposes of budget limitations; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 1253. Introduced by Synowiecki, 7; Bourne, 8; Combs, 32; Cunningham, 40; Foley, 29; Friend, 10; Mines, 18; Mossey, 3; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to probation and parole; to amend sections 29-2252.01, 29-2253, 29-2256, 29-2262.03 to 29-2262.05, 29-2265, 29-2268, 29-2270, 43-271, 43-294, 43-2,108, 43-2,113, 43-707, 43-3001, 68-1729, 68-1732, 83-170, 83-171, 83-188, 83-192, 83-195, 83-197, 83-1,109, 83-1,116, 83-1,119, 83-1,120, 83-1,128, 83-4,148, 83-4,149, 83-901, and 83-932, Reissue Revised Statutes of Nebraska, sections 20-150,

20-151, 24-227.01, 25-2407, 28-322, 29-2246, 29-2248, 29-2257, 29-2259, 29-2259.02, 29-2260.01, 29-2272, 29-2935, 29-4009, 43-253, 43-260, 43-286, 43-2411, 43-3505, 43-3507, and 81-1401, Revised Statutes Supplement, 2002, and sections 24-205, 29-2250, 29-2254, 29-2258, 29-2259.01, 29-2261, 29-2262, 29-2262.07, 29-2263, 29-2266, 43-250, 43-260.05, 43-274, 47-623, 47-624, 47-627 to 47-629, 83-1,107 to 83-1,107.02, and 83-1,125, Revised Statutes Supplement, 2003; to adopt the Department of Community Corrections Act; to change, transfer, and eliminate provisions relating to the Nebraska Probation Administration Act, the Nebraska Treatment and Corrections Act, probation, and parole; to change provisions relating to confidentiality and penalties for violation of confidentiality as prescribed; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 29-2249, 29-2251, 83-1,100, 83-1,100.01, 83-1,101, 83-1,103, and 83-1,104, Reissue Revised Statutes of Nebraska, and sections 29-2252, 83-1,102, and 83-933, Revised Statutes Supplement, 2003.

LEGISLATIVE BILL 1254. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to the Department of Correctional Services; to amend section 83-145, Reissue Revised Statutes of Nebraska; to change provisions relating to purchase of goods and services from the department; and to repeal the original section.

LEGISLATIVE BILL 1255. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to certificates of title; to amend sections 37-1211, 37-1279, 37-1280, 37-1283 to 37-1287, 60-111, 60-114 to 60-116, 77-2703, and 81-8,219, Reissue Revised Statutes of Nebraska, sections 13-910, 37-1282, 37-1290, 52-1801, 60-107, 60-108, 60-110, 60-112, and 60-302, Revised Statutes Supplement, 2002, sections 60-106, 60-150 to 60-152, 60-154 to 60-159, and 60-1411.02, Revised Statutes Supplement, 2003, and section 2A-104, Uniform Commercial Code; to name the Certificate of Title Act; to provide for an electronic lien and paperless titling system; to change fee provisions; to require payment of sales tax for issuance of certificates of title; to harmonize provisions; to provide operative dates; and to repeal the original sections.

RESOLUTIONS

LEGISLATIVE RESOLUTION 224CA. Introduced by Landis, 46.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VIII, section 1, and add a new section 1C to Article VIII:

VIII-1 "The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 4, of this Constitution or any other provision of this Constitution to the contrary: (1) Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by this Constitution; (2) tangible personal property, as defined by the Legislature, not exempted by this Constitution or by legislation, shall all be taxed at depreciated cost using the same depreciation method with reasonable class lives, as determined by the Legislature, or shall all be taxed by valuation uniformly and proportionately; (3) the Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles. The tax proceeds from motor vehicles taxed in each county shall be allocated to the county and the cities, villages, and school districts of such county; (4) the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other real property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land; (5) the Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses; (6) the Legislature may prescribe standards and methods for the determination of the value of real property at uniform and proportionate values; (7) in furtherance of the purposes for which such a law of the United States has been adopted, whenever there exists a law of the United States which is intended to protect a specifically designated type, use, user, or owner of property or franchise from discriminatory state or local taxation, such property or franchise shall constitute a separate class of property or franchise under the laws of the State of Nebraska, and such property or franchise may not be taken into consideration in determining whether taxes are levied by valuation uniformly or proportionately upon any property or franchise, and the Legislature may enact laws which statutorily recognize such class and which tax or exempt from taxation such class of property or franchise in such manner as it determines; ~~and~~ (8) the Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year. Each actual property

tax rate levied for a governmental subdivision shall be the same for all classes of taxed property and franchises; and (9) the Legislature may allow municipalities, counties, and school districts to jointly grant an abatement of real or personal property taxes, in whole or in part, for no more than fifteen years, for projects as provided under section 1C of this article. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature."

VIII-1C "(1) The Legislature may provide for the abatement of taxes on real or personal property in whole or in part for qualifying projects for no more than fifteen years. Such abatements shall only be provided after agreement of the county, school district, and municipality, if applicable, in which the property that would be the subject of the abatement is located. A taxpayer shall apply for benefits with the county, school district, and municipality, if applicable, before any grant of the abatement is agreed to. An abatement agreement shall be entered into between the taxpayer and the county, school district, and municipality, if applicable, as a condition for any abatement provided for in this section. Any county, school district, or municipality agreeing to any abatement shall be held accountable for no less than twenty percent of any valuation of real and personal property eligible for abatement with respect to any state funds distributed to local governments under any formula that seeks to equalize property tax resources available to such counties, school districts, and municipalities.

(2) Any taxpayer eligible for the abatement shall pay at least the state average wage as defined by the Legislature. Other qualifications for the abatement shall be established by the Legislature, but a taxpayer involved in the retail sale of goods or services shall not be eligible for abatement.

(3) Beginning on the effective date of this constitutional amendment, there shall be no new applications for benefits for any program granting tax credits, refunds, or abatements for increasing employment or investment in the state under any program first enacted more than fifteen years before the effective date of this constitutional amendment."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to authorize property tax abatements and to prohibit new applications for existing tax incentives.

For

Against".

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 225CA. Introduced by Brashear, 4.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VII, section 13:

VII-13 "The Legislature may establish two-year state colleges and four-year state colleges by law, by founding such colleges or by assuming operation of existing colleges.

If only four-year state colleges are established, the general government of the four-year state colleges as now existing, and such other four-year state colleges as may be established by law, shall be vested, under the direction of the Legislature, in a board of seven members to be styled as designated by the Legislature, six of whom shall be appointed by the Governor, with the advice and consent of the Legislature, two each for a term of two, four, and six years, and two each biennium thereafter for a term of six years, and the Commissioner of Education shall be a member ex officio. If both two-year state colleges and four-year state colleges are established, the government of such state colleges shall be vested, under the direction of the Legislature, in a board of such number as determined by the Legislature and appointed or elected in a manner and for terms as determined by the Legislature. The duties and powers of the board shall be prescribed by law, and the members thereof shall receive no compensation for the performance of their duties, but may be reimbursed their actual expenses incurred therein."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to provide for establishment and governance of two-year and four-year state colleges.

For

Against".

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 226. Introduced by Quandahl, 31.

WHEREAS, separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and

WHEREAS, under the United States Constitution, the states are to determine public policy; and

WHEREAS, our present federal government has from time to time strayed from the intent of our founding fathers and the United States Constitution through inappropriate federal mandates applied to the states; and

WHEREAS, these mandates by the way of statute, rule, or judicial decision have forced state governments to serve as an administrative arm of the federal government; and

WHEREAS, some federal district courts, with the acquiescence of the United States Supreme Court, continue to order states to levy or increase

taxes to comply with federal mandates; and

WHEREAS, these court actions interfere with the legislative process; and

WHEREAS, the people of this great nation and their duly elected representatives in state government reaffirm, in no uncertain terms, that the authority to tax under the Constitution of the United States is retained by the people who, by their consent alone, do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government who they choose, such representatives being directly responsible and accountable to those who have elected them; and

WHEREAS, the lawmakers of Alabama, Alaska, Arizona, Colorado, Delaware, Guam, Illinois, Kansas, Louisiana, Mariana Islands, Massachusetts, Michigan, Missouri, Nevada, New Hampshire, New York, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America; and

WHEREAS, the amendment was previously introduced in Congress; and

WHEREAS, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people against the people's wishes.

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

1. That the Congress of the United States prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows:

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such a state or political subdivision, to levy or increase taxes."

2. That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States.

3. That the Secretary of State of the State of Nebraska transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and each member of the Nebraska Congressional Delegation.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 227CA. Introduced by Maxwell, 9.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, sections 7 and 19:

III-7 "(1) At the general election to be held in November 1964, one-half

the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he or she is affiliated with or endorsed by any political party or organization.

(2) Each member of the Legislature shall receive a salary ~~of not to exceed one thousand dollars per month during the term of his or her office equal to one and one-half times the Nebraska average annual income.~~ The Nebraska average annual income shall be determined by the Tax Commissioner. The Tax Commissioner shall determine the Nebraska average annual income in each odd-numbered year using income figures for the prior calendar year. The salary calculated using such Nebraska average annual income shall be the amount payable to each member commencing July 1 in that odd-numbered year and until the next July in an odd-numbered year. Each member shall receive one thousand dollars per month until July 1, 2005.

(3) In addition to his or her salary, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. ~~Members of the Legislature shall receive no pay nor perquisites other than his or her salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem.~~

(4) In addition to the compensation provided for in this section, members of the Legislature shall receive the same benefits and perquisites provided to full-time employees of the Legislature."

III-19 "The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

~~The~~ Except as provided in Article III, section 7 of the Constitution of Nebraska, the compensation of any public officer, including any officer whose compensation is fixed by the Legislature, shall not be increased or diminished during his or her term of office, except that when there are members ~~elected or appointed to the Legislature or the judiciary; or officers elected or appointed to a board or commission having more than one member; and the terms of such members commence and end at different times, the compensation of all members of the Legislature, of the judiciary, or of such board or commission may be increased or diminished at the beginning of the full term of any member thereof.~~

Nothing in this section shall prevent local governing bodies from reviewing and adjusting vested pension benefits periodically as prescribed by ordinance.

The surviving spouse of any retired public officer, agent, or servant, who

has retired under a pension plan or system, shall be considered as having pensionable status and shall be entitled to the same benefits which may, at any time, be provided for or available to spouses of other public officers, agents, or servants who have retired under such pension plan or system at a later date, and such benefits shall not be prohibited by the restrictions of this section or of Article XIII, section 3 of the Constitution of Nebraska."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to change compensation and benefit provisions for members and employees of the Legislature.

For

Against".

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 228CA. Introduced by Maxwell, 9.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the primary election in May 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VIII, section 1A:

VIII-1A "(1) The state shall be prohibited from levying a property tax for state purposes, except that the state may levy a tax on fifty percent of the taxable valuation of real property to fund the free instruction in the common schools described in Article VII, section 1, of this Constitution.

(2) Political subdivisions shall not levy a property tax to fund the free instruction in the common schools except for capital improvements or except by a vote of the residents of the political subdivision in the manner prescribed by the Legislature."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to authorize a state tax on real property to fund the free instruction in the common schools and to prohibit a local property tax for such purpose as prescribed.

For

Against".

Referred to the Reference Committee.

AMENDMENTS - Print in Journal

Senator Hartnett filed the following amendment to LB 644:
AM2258

1 1. In the Hartnett amendment, AM0402, on page 1, line 3,

2 strike "2003" and insert "2004".

Senator Synowiecki filed the following amendment to LB 278:
(Amendment, AM2181, is printed separately and available in the Bill Room, Room 1104.)

Senator Quandahl filed the following amendment to LB 227:
AM2236

- 1 1. On page 5, line 4, after "(a)" insert "The vehicle is
- 2 traveling twenty-five miles per hour or less;
- 3 (b)"; in line 8 strike "(b)" and insert "(c)"; and in
- 4 line 11 strike "(c)" and insert "(d)".

Senator Smith filed the following amendment to LB 602:
AM1987

(Amendments to Standing Committee amendments, AM0971)

- 1 1. On page 2, line 5, after the semicolon insert "or";
- 2 and strike beginning with "Derive" in line 6 through "(3)" in line
- 3 7.

Senator Smith filed the following amendment to LB 602:
AM2267

(Amendments to Standing Committee amendments, AM0971)

- 1 1. On page 2, line 5, after the semicolon insert "or";
- 2 and strike beginning with "Derive" in line 6 through "(3)" in line
- 3 7.

STANDING COMMITTEE REPORTS

Agriculture

The Agriculture 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.

Nebraska State Fair Board
Francis Partsch

VOTE: Aye: Senators Kremer, Erdman, Burling, Cunningham, Mossey, and Preister. Nay: None. Absent: Senators Chambers and Vrtiska.

The Agriculture 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.

Beginning Farmer Board
Donald Anthony
Bert Garvin

VOTE: Aye: Senators Kremer, Erdman, Burling, Cunningham, Mossey, and Preister. Nay: None. Absent: Senators Chambers and Vrtiska.

(Signed) Bob Kremer, Chairperson

Nebraska Retirement Systems

The Nebraska Retirement Systems 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.

Nebraska Investment Council
Gail Werner-Robertson

VOTE: Aye: Senators Bourne, Erdman, Price, Stuhr, Synowiecki, and Wehrbein. Nay: None. Absent: None.

The Nebraska Retirement Systems 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.

Public Employees Retirement Board
Roger Rea

VOTE: Aye: Senators Bourne, Erdman, Price, Stuhr, Synowiecki, and Wehrbein. Nay: None. Absent: None.

(Signed) Elaine Stuhr, Chairperson

NOTICE OF COMMITTEE HEARINGS

Revenue
Room 1524

LB 986	Wednesday, January 28, 2004	1:30 p.m.
LB 873	Wednesday, January 28, 2004	1:30 p.m.
LB 880	Wednesday, January 28, 2004	1:30 p.m.
LB 881	Wednesday, January 28, 2004	1:30 p.m.
LB 879	Wednesday, January 28, 2004	1:30 p.m.

(Signed) David Landis, Chairperson

Judiciary
Room 1113

LB 855	Wednesday, January 28, 2004	1:30 p.m.
LB 874	Wednesday, January 28, 2004	1:30 p.m.
LB 933	Wednesday, January 28, 2004	1:30 p.m.
LB 1028	Wednesday, January 28, 2004	1:30 p.m.
LB 1059	Wednesday, January 28, 2004	1:30 p.m.

LB 1076	Wednesday, January 28, 2004	1:30 p.m.
LB 817	Thursday, January 29, 2004	1:30 p.m.
LB 1000	Thursday, January 29, 2004	1:30 p.m.
LB 1001	Thursday, January 29, 2004	1:30 p.m.
LB 1101	Thursday, January 29, 2004	1:30 p.m.
LB 1116	Thursday, January 29, 2004	1:30 p.m.
LB 1117	Thursday, January 29, 2004	1:30 p.m.

(Signed) Kermit A. Brashear, Chairperson

STANDING COMMITTEE REPORTS
Transportation and Telecommunications

LEGISLATIVE BILL 908. Placed on General File.

(Signed) Tom Baker, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 961. Placed on General File.

(Signed) Elaine Stuhr, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Synowiecki asked unanimous consent to have his name added as cointroducer to LB 316. No objections. So ordered.

Senator Tyson asked unanimous consent to have his name added as cointroducer to LB 850. No objections. So ordered.

Senator Quandahl asked unanimous consent to have his name added as cointroducer to LB 870. No objections. So ordered.

Senator Tyson asked unanimous consent to have his name added as cointroducer to LB 1046. No objections. So ordered.

Senator Brown asked unanimous consent to have her name added as cointroducer to LB 1046. No objections. So ordered.

Senator Foley asked unanimous consent to have his name added as cointroducer to LB 1136. No objections. So ordered.

Senator Vrtiska asked unanimous consent to have his name added as cointroducer to LB 1149. No objections. So ordered.

Senator Mossey asked unanimous consent to have his name added as cointroducer to LB 1176. No objections. So ordered.

WITHDRAW - Cointroducer

Senator Cudaback withdrew his name as cointroducer to LB 914.

VISITORS

Visitors to the Chamber were Leonard Horton from Omaha; Jerry Palmer from Tekamah; Senator Engel's sister-in-law, Yvonne Engel, and Donna Clauff from Elkhorn; and Talia Head from Omaha.

The Doctor of the Day was Dr. Gilbert Head from Omaha.

ADJOURNMENT

At 12:02 p.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Thursday, January 22, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

ELEVENTH DAY - JANUARY 22, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****ELEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, January 22, 2004

PRAYER

The prayer was offered by Pastor Tom Peyton, Ord Evangelical Free Church, Ord.

ROLL CALL

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

The roll was called and all members were present except Senators Bromm, Landis, D. Pederson, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 312, line 14, correct spelling of "Tweedly".

The Journal for the eighth day was approved as corrected.

Page 330, strike lines 29 and 30 and insert "Senators Dw. Pedersen and Mines asked unanimous consent to have their names added as cointroducers to LB 1014. No objections. So ordered.

The Journal for the ninth day was approved as corrected.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB 1131	Judiciary
LB 1132	Nebraska Retirement Systems
LB 1133	Revenue
LB 1134	Natural Resources
LB 1135	Natural Resources
LB 1136	Revenue
LB 1137	Urban Affairs
LB 1138	Transportation and Telecommunications
LB 1139	Health and Human Services

LB 1140	Health and Human Services
LB 1141	Appropriations
LB 1142	Revenue
LB 1143	Banking, Commerce and Insurance
LB 1144	Appropriations
LB 1145	Health and Human Services
LB 1146	Natural Resources
LB 1147	Transportation and Telecommunications
LB 1148	Urban Affairs
LB 1149	Natural Resources
LB 1150	Appropriations
LB 1151	Agriculture
LB 1152	Agriculture
LB 1153	Education
LB 1154	Transportation and Telecommunications
LB 1155	Government, Military and Veterans Affairs
LB 1156	Revenue
LB 1157	Judiciary
LB 1158	Health and Human Services
LB 1159	Health and Human Services
LB 1160	Revenue
LB 1161	Education
LB 1162	Judiciary
LB 1163	Natural Resources
LB 1164	Banking, Commerce and Insurance
LB 1165	Education

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARINGS
Health and Human Services
Room 1510

LB 1069	Thursday, January 29, 2004	1:30 p.m.
LB 1070	Thursday, January 29, 2004	1:30 p.m.
LB 1110	Thursday, January 29, 2004	1:30 p.m.

(Signed) Jim Jensen, Chairperson

Revenue
Room 1524

LB 1034	Thursday, January 29, 2004	1:30 p.m.
LB 816	Thursday, January 29, 2004	1:30 p.m.
LB 1065	Thursday, January 29, 2004	1:30 p.m.
LB 1066	Thursday, January 29, 2004	1:30 p.m.

(Signed) David Landis, Chairperson

MESSAGES FROM THE GOVERNOR

January 16, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the State Foster Care Review Board.

APPOINTEES:

*Jim Ganz, 4307 Avenue E, Kearney NE 68847
Thomas Poulton, 6004 Charles St, Omaha NE 68132
*Kay Lynn Goldner, 408 S 89th, Omaha NE 68114
Margaret Connealy, 2435 Winding Way, Lincoln NE 68506
*Burrell S. Williams, 1904 Spencer St, Omaha NE 68110
David Patterson, 8121 Stockwell St, Lincoln NE 68506
Judy Meter, 1740 O St, Gering NE 68341

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

January 16, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the State Electrical Board.

APPOINTEES:

*George Morrissey, 4327 N 142nd St, Omaha NE 68164
Tom Ourada, 1130 E 13th St, Crete NE 68333
*William King, 4940 S 91st, Omaha NE 68127

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointments
Enclosure

January 16, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Public Employees Retirement Board.

APPOINTEE:
Dale L. Kahla, 1504 Michigan, York NE 68467

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointments
Enclosure

ANNOUNCEMENTS

Senator Combs designates LB 1046 as her priority bill.

Senator Synowiecki designates LB 1253 as his priority bill.

Senator Vrtiska designates LB 1012 as his priority bill.

Senator Baker designates LB 1065 as his priority bill.

Senator Schimek designates LR 14CA as her priority resolution.

Senator Foley designates LB 958 as his priority bill.

Senator Mines designates LB 1162 as his priority bill.

Senator D. Pederson designates LB 998 as his priority bill.

Senator Jensen designates LB 1083 as his priority bill.

Senator Friend designates LB 888 as his priority bill.

Senator Janssen designates LR 11CA as his priority resolution.

Senator Tyson designates LB 1176 as his priority bill.

Senator Redfield designates LB 868 as her priority bill.

Senator Stuthman designates LB 1075 as his priority bill.

Senator Mossey designates LB 850 as his priority bill.

The Legislative Performance Audit Committee designates LB 1087 and LB 1131 as its priority bills.

Senator Engel designates LB 599 as his priority bill.

Senator Connealy designates LB 879 as his priority bill.

Senator Schrock designates LB 962 as his priority bill.

Senator Johnson designates LB 1252 as his priority bill.

GENERAL FILE

LEGISLATIVE BILL 602. The Chambers pending motion, found on page 1610, First Session, 2003, and considered on page 349, to recommit to the Judiciary Committee, was renewed.

Pending.

ANNOUNCEMENTS

Senator Erdman designates LB 526 as his priority bill.

Senator Burling designates LB 916 as his priority bill.

NOTICE OF COMMITTEE HEARING **Nebraska Retirement Systems** Room 1525

LB 1097 Thursday, January 29, 2004

12:15 p.m.

LB 1132 Thursday, January 29, 2004

12:15 p.m.

(Signed) Elaine Stuhr, Chairperson

STANDING COMMITTEE REPORTS
Agriculture

LEGISLATIVE BILL 835. Placed on General File.**LEGISLATIVE BILL 836.** Placed on General File.**LEGISLATIVE BILL 837.** Placed on General File.

(Signed) Bob Kremer, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 821. Placed on General File.**LEGISLATIVE BILL 824.** Placed on General File.

(Signed) DiAnna R. Schimek, Chairperson

Natural Resources

The Natural Resources 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.

Nebraska Environmental Trust Board
John Campbell

VOTE: Aye: Senators Friend, Hudkins, Jones, Kremer, Louden, Preister, Schrock, and Stuhr. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

AMENDMENT - Print in Journal

Senator Mossey filed the following amendment to LB 850:
AM2273

- 1 1. Strike original section 6 and insert the following
- 2 new section:
- 3 "Sec. 6. Section 29-901.01, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 29-901.01. In determining which condition or conditions
- 6 of release shall reasonably assure appearance, the judge shall, on
- 7 the basis of available information, take into account the nature
- 8 and circumstances of the offense charged, the nature and
- 9 seriousness of the danger to any person or the community that would
- 10 be posed by the defendant's release, the defendant's family ties,
- 11 employment, financial resources, character, and mental condition,

12 the length of his or her residence in the community, ~~his~~ the record
13 of his or her convictions, and ~~his~~ the record of his or her
14 appearances at court proceedings or of flight to avoid prosecution
15 or of failure to appear at court proceedings.".

GENERAL FILE

LEGISLATIVE BILL 602. The Chambers pending motion, found on page 1610, First Session, 2003, and considered on page 349 and in this day's Journal, to recommit to the Judiciary Committee, was renewed.

SPEAKER BROMM PRESIDING

Pending.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 220 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 220.

GENERAL FILE

LEGISLATIVE BILL 602. The Chambers pending motion, found on page 1610, First Session, 2003, and considered on page 349 and in this day's Journal, to recommit to the Judiciary Committee, was renewed.

Senator Smith moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 9 nays, and 14 not voting.

The Chambers motion to recommit to committee failed with 11 ayes, 30 nays, and 8 present and not voting.

Senator Chambers offered the following motion:
Reconsider recommit vote.

Senator Smith offered the following motion:
Invoke cloture on LB 602.

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

Senator Smith requested a roll call vote on his motion to invoke cloture.

Voting in the affirmative, 32:

Aguilar	Cudaback	Jensen	Preister	Synowiecki
Baker	Cunningham	Jones	Quandahl	Tyson
Brashear	Engel	Kremer	Redfield	Vrtiska
Bromm	Erdman	Louden	Schrock	Wehrbein
Byars	Foley	Maxwell	Smith	
Combs	Friend	Mossey	Stuhr	
Connealy	Hudkins	Pedersen, Dw.	Stuthman	

Voting in the negative, 12:

Beutler	Chambers	Landis	Raikes
Bourne	Janssen	Pederson, D.	Schimek
Brown	Johnson	Price	Thompson

Present and not voting, 5:

Burling	Hartnett	Kruse	McDonald	Mines
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The Smith motion to invoke cloture failed with 32 ayes, 12 nays, and 5 present and not voting.

The Chair declared the call raised.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bill was correctly engrossed: LB 355.

ER9092

Enrollment and Review Change to LB 355

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

1. On page 1, the matter beginning with "77-2733" in line 1 through line 4 has been struck and "77-2716.01, Reissue Revised Statutes of Nebraska; to change provisions relating to standard deduction amounts; to provide an operative date; to repeal the original section; and to declare an emergency." inserted.

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORT
Revenue

LEGISLATIVE BILL 957. Placed on General File as amended.
Standing Committee amendment to LB 957:
AM2276

- 1 1. Strike original section 8 and insert the following
2 new sections:
3 "Section 1. Section 49-801.01, Revised Statutes
4 Supplement, 2003, is amended to read:
5 49-801.01. Except as provided by Article VIII, section
6 1B, of the Constitution of Nebraska and in sections 77-2701.01,
7 77-2714 to 77-27,123, 77-27,191, 77-4103, 77-4104, 77-4108,
8 77-5509, 77-5515, 77-5527 to 77-5529, and 77-5539, any reference to
9 the Internal Revenue Code refers to the Internal Revenue Code of
10 1986 as it exists on ~~February 21, 2003~~ the operative date of this
11 section.
12 Sec. 2. Section 77-1784, Reissue Revised Statutes of
13 Nebraska, is amended to read:
14 77-1784. (1) The Tax Commissioner may accept electronic
15 filing of applications, returns, and any other document required to
16 be filed with the Tax Commissioner.
17 (2) The Tax Commissioner may use electronic fund
18 transfers to collect any taxes, fees, or other amounts required to
19 be paid to or collected by the Tax Commissioner or to pay any
20 refunds of such amounts.
21 (3) The Tax Commissioner may adopt rules and regulations
22 to establish the criteria for acceptability of filing documents and
23 making payments electronically. The criteria may include
24 requirements for electronic signature, the type of tax for which
1 electronic filings or payments will be accepted, the method of
2 transfer, or minimum amounts which may be transferred. The Tax
3 Commissioner may refuse to accept any electronic filings or
4 payments that do not meet the criteria established or that are made
5 before the establishment of the criteria.
6 (4) For payments due after January 1, ~~2004~~ 2005, the Tax
7 Commissioner may require the use of electronic fund transfers for
8 any taxes, fees, or amounts required to be paid to or collected by
9 the Tax Commissioner for any taxpayer who made payments exceeding
10 ~~one hundred twenty~~ thousand dollars for a tax program in the prior
11 year for that tax program. The requirement to make electronic fund
12 transfers may be phased in as deemed necessary by the Tax
13 Commissioner. Notice of the requirement to make electronic fund
14 transfers shall be provided at least three months prior to the date
15 the first electronic payment is required to be made.
16 (5) Any person who fails to make a required payment by
17 electronic fund transfer shall be subject to a penalty of one

18 hundred dollars for each required payment that was not made by
19 electronic fund transfer. The penalty provided by this section
20 shall be in addition to all other penalties and applies even if
21 payment by some other method is timely made. The Tax Commissioner
22 may waive the penalty provided in this section upon a showing of
23 good cause.

24 (6) The use of electronic filing of documents and
25 electronic fund transfers shall not change the rights of any party
26 from the rights such party would have if a different method of
27 filing or payment were used. The ~~Until~~ criteria for electronic
1 signatures are adopted under subsection (3) of this section, the
2 document produced during the electronic filing of a taxpayer's
3 information with the state shall be prima facie evidence for all
4 purposes that the taxpayer's signature accompanied the taxpayer's
5 information in the electronic transmission.

6 Sec. 3. Section 77-2701.27, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-2701.27. Property means all tangible and intangible
9 property that is subject to tax under subsection (1) of section
10 77-2703 and all rights, licenses, and franchises that are subject
11 to tax under such subsection. To facilitate the proper
12 administration of the Nebraska Revenue Act of 1967, unless the
13 context clearly requires otherwise, the term property shall be
14 construed to include all services subject to tax.

15 Sec. 4. Section 77-2703.01, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2703.01. (1) The determination of whether a sale or
18 use of property or the provision of services is in this state, in a
19 municipality that has adopted a tax under the Local Option Revenue
20 Act, or in a county that has adopted a tax under section 13-319
21 shall be governed by the sourcing rules in sections 77-2703.01 to
22 77-2703.04.

23 (2) When the property or service is received by the
24 purchaser at a business location of the retailer, the sale is
25 sourced to that business location.

26 (3) When the property or service is not received by the
27 purchaser at a business location of the retailer, the sale is
1 sourced to the location where receipt by the purchaser or the
2 purchaser's donee, designated as such by the purchaser, occurs,
3 including the location indicated by instructions for delivery to
4 the purchaser or donee, known to the retailer.

5 (4) When subsection (2) or (3) of this section does not
6 apply, the sale is sourced to the location indicated by an address
7 or other information for the purchaser that is available from the
8 business records of the retailer that are maintained in the
9 ordinary course of the retailer's business when use of this address
10 does not constitute bad faith.

11 (5) When subsection (2), (3), or (4) of this section does
12 not apply, the sale is sourced to the location indicated by an

13 address for the purchaser obtained during the consummation of the
14 sale, including the address of a purchaser's payment instrument, if
15 no other address is available, when use of this address does not
16 constitute bad faith.

17 (6) When subsection (2), (3), (4), or (5) of this section
18 does not apply, including the circumstance in which the retailer is
19 without sufficient information to apply the rules in any such
20 subsection, then the location will be determined by the address
21 from which property was shipped, from which the digital good was
22 first available for transmission by the retailer, or from which the
23 service was provided disregarding for these purposes any location
24 that merely provided the digital transfer of the product sold.

25 (7) The lease or rental of tangible personal property,
26 other than property identified in subsection (8) or (9) of this
27 section, shall be sourced as follows:

1 (a) For a lease or rental that requires recurring
2 periodic payments, the first periodic payment is sourced the same
3 as a retail sale in accordance with the provisions of subsections
4 (2) through (6) of this section. Periodic payments made subsequent
5 to the first payment are sourced to the primary property location
6 for each period covered by the payment. The primary property
7 location shall be as indicated by an address for the property
8 provided by the lessee that is available to the lessor from its
9 records maintained in the ordinary course of business when use of
10 this address does not constitute bad faith. The property location
11 shall not be altered by intermittent use at different locations,
12 such as use of business property that accompanies employees on
13 business trips and service calls; and

14 (b) For a lease or rental that does not require recurring
15 periodic payments, the payment is sourced the same as a retail sale
16 in accordance with the provisions of subsections (2) through (6) of
17 this section.

18 This subsection does not affect the imposition or
19 computation of sales or use tax on leases or rentals based on a
20 lump-sum or accelerated basis or on the acquisition of property for
21 lease.

22 (8) The lease or rental of motor vehicles, trailers,
23 semitrailers, or aircraft that do not qualify as transportation
24 equipment under subsection (9) of this section shall be sourced as
25 follows:

26 (a) For a lease or rental that requires recurring
27 periodic payments, each periodic payment is sourced to the primary
1 property location. The primary property location shall be as
2 indicated by an address for the property provided by the lessee
3 that is available to the lessor from its records maintained in the
4 ordinary course of business when use of this address does not
5 constitute bad faith. This location shall not be altered by
6 intermittent use at different locations; and

7 (b) For a lease or rental that does not require recurring

8 periodic payments, the payment is sourced the same as a retail sale
 9 in accordance with the provisions of subsections (2) through (6) of
 10 this section.

11 This subsection does not affect the imposition or
 12 computation of sales or use tax on leases or rentals based on a
 13 lump-sum or accelerated basis or on the acquisition of property for
 14 lease.

15 (9) The retail sale, including lease or rental, of
 16 transportation equipment shall be sourced the same as a retail sale
 17 in accordance with subsections (2) through (6) of this section.

18 Transportation equipment means any of the following:

19 (a) Locomotives and railcars that are utilized for the
 20 carriage of persons or property in interstate commerce;

21 (b) Trucks and truck-tractors with a gross vehicle weight
 22 rating of ten thousand one pounds or greater, trailers,
 23 semitrailers, or passenger buses that are (i) registered through
 24 the International Registration Plan and (ii) operated under
 25 authority of a carrier authorized and certificated by the United
 26 States Department of Transportation or another federal authority to
 27 engage in the carriage of persons or property in interstate

1 commerce;

2 (c) Aircraft operated by air carriers authorized and
 3 certificated by the United States Department of Transportation or
 4 another federal authority or a foreign authority to engage in the
 5 carriage of persons or property in interstate or foreign commerce;
 6 and

7 (d) Containers designed for use on and component parts
 8 attached or secured on the items set forth in subdivisions (9)(a)
 9 through (c) of this section.

10 ~~(10) The provision of services shall be sourced to this~~
 11 ~~state for services provided to real estate if the real estate is~~
 12 ~~located in this state; for services provided to personal property~~
 13 ~~or animals if the personal property or animal is located in this~~
 14 ~~state and the service is rendered for use in this state; for~~
 15 ~~detective services under subdivision (10)(i) of section 77-2701.16;~~
 16 ~~in the case of a customer who is an individual, if the individual~~
 17 ~~is residing in this state, or in the case of a business customer,~~
 18 ~~if the principal place of the business is located in this state;~~
 19 ~~and for computer software training under subdivision (10)(c) of~~
 20 ~~section 77-2701.16 if the training is performed at a location that~~
 21 ~~is within this state for a customer located within this state.~~

22 (11) For purposes of this section, receive and receipt
 23 mean taking possession of tangible personal property, making first
 24 use of services, or taking possession or making first use of
 25 digital goods, whichever comes first. The terms receive and
 26 receipt do not include possession by a shipping company on behalf
 27 of the purchaser. For purposes of sourcing detective services

1 subject to tax under subdivision (10)(i) of section 77-2701.16,

2 making first use of a service shall be deemed to be at the

3 individual's residence, in the case of a customer who is an
 4 individual, or at the principal place of business, in the case of a
 5 business customer.
 6 ~~(12)~~ (11) The sales, not including lease or rental, of
 7 motor vehicles, trailers, and semitrailers as defined in section
 8 60-301 shall be sourced to the place of registration of the motor
 9 vehicle, trailer, or semitrailer for operation upon the highways of
 10 this state.
 11 ~~(13)~~ (12) The sale or lease for one year or more of
 12 motorboats shall be sourced to the place of registration of the
 13 motorboat. The lease of motorboats for less than one year shall be
 14 sourced to the point of delivery.
 15 Sec. 7. Section 77-2704.49, Reissue Revised Statutes of
 16 Nebraska, is amended to read:
 17 77-2704.49. Sales ~~and use taxes~~ tax shall not be imposed
 18 on the gross receipts from the sale, lease, or rental of and the
 19 storage, use, or other consumption in this state of property or
 20 services the sale, purchase, or use of which has been taxed to that
 21 taxpayer in another state, territory, or possession of the United
 22 States when such other state, territory, or possession grants a
 23 reciprocal exclusion or an exemption to similar transactions in
 24 this state.
 25 Sec. 13. Sections 2 and 15 of this act become operative
 26 on January 1, 2005. Sections 5, 6, and 16 of this act become
 27 operative three calendar months after adjournment of this
 1 legislative session. Sections 8 to 12 and 17 of this act become
 2 operative for taxable years beginning or deemed to begin on or
 3 after January 1, 2004, under the Internal Revenue Code of 1986, as
 4 amended. The other sections of this act become operative on their
 5 effective date.
 6 Sec. 14. Original sections 77-2701.27, 77-2703.01, and
 7 77-2704.49, Reissue Revised Statutes of Nebraska, and section
 8 49-801.01, Revised Statutes Supplement, 2003, are repealed.
 9 Sec. 15. Original section 77-1784, Reissue Revised
 10 Statutes of Nebraska, is repealed.
 11 Sec. 18. Since an emergency exists, this act takes
 12 effect when passed and approved according to law."
 13 2. Renumber the remaining sections accordingly.

(Signed) David Landis, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 560. Placed on Select File as amended.
 (E & R amendment, AM7159, is printed separately and available in the Bill
 Room, Room 1104.)

LEGISLATIVE BILL 560A. Placed on Select File as amended.

E & R amendment to LB 560A:

AM7157

- 1 1. On page 1, line 3; and page 2, line 5, strike "First
- 2 Session, 2003" and insert "Second Session, 2004".
- 3 2. On page 2, line 2, strike "FY2003-04" and insert
- 4 "FY2004-05".

LEGISLATIVE BILL 740. Placed on Select File as amended.

E & R amendment to LB 740:

AM7156

- 1 1. Strike original section 1 and insert the following
- 2 new section:
- 3 "Section 1. Section 60-110, Revised Statutes Supplement,
- 4 2002, is amended to read:
- 5 60-110. (1) The provisions of article 9, Uniform
- 6 Commercial Code, shall never be construed to apply to or to permit
- 7 or require the deposit, filing, or other record whatsoever of a
- 8 security agreement, conveyance intended to operate as a mortgage,
- 9 trust receipt, conditional sales contract, or similar instrument or
- 10 any copy of the same covering a motor vehicle. Any mortgage,
- 11 conveyance intended to operate as a security agreement as provided
- 12 by article 9, Uniform Commercial Code, trust receipt, conditional
- 13 sales contract, or other similar instrument covering a motor
- 14 vehicle, if such instrument is accompanied by delivery of such
- 15 manufacturer's or importer's certificate and followed by actual and
- 16 continued possession of the same by the holder of such instrument
- 17 or, in the case of a certificate of title, if a notation of the
- 18 same has been made by the county clerk or the Department of Motor
- 19 Vehicles on the face thereof, shall be valid as against the
- 20 creditors of the debtor, whether armed with process or not, and
- 21 subsequent purchasers, secured parties, and other lienholders or
- 22 claimants but otherwise shall not be valid against them, except
- 23 that during any period in which a motor vehicle is inventory, as
- 24 defined in section 9-102, Uniform Commercial Code, held for sale by
- 1 a person or corporation that is licensed as provided in Chapter 60,
- 2 article 14, and is in the business of selling motor vehicles, the
- 3 filing provisions of article 9, Uniform Commercial Code, as applied
- 4 to inventory, shall apply to a security interest in such motor
- 5 vehicle created by such person or corporation as debtor without the
- 6 notation of lien on the instrument of title. A buyer at retail
- 7 from a licensed dealer of any vehicle which is subject to Chapter
- 8 60, article 14, in the ordinary course of business shall take such
- 9 vehicle free of any security interest.
- 10 (2) Subject to ~~the foregoing~~ subsection (1) of this
- 11 section, all liens, security agreements, and encumbrances noted
- 12 upon a certificate of title shall take priority according to the
- 13 order of time in which the same are noted thereon by the county
- 14 clerk or the Department of Motor Vehicles. Exposure for sale of

15 any motor vehicle by the owner thereof with the knowledge or with
16 the knowledge and consent of the holder of any lien, security
17 agreement, or encumbrance on such motor vehicle shall not render
18 the same void or ineffective as against the creditors of such owner
19 or holder of subsequent liens, security agreements, or encumbrances
20 upon such motor vehicle.

21 (3) The holder of a security agreement, trust receipt,
22 conditional sales contract, or similar instrument, upon
23 presentation of such instrument to the department, if the
24 certificate of title was issued by the department, or to any county
25 clerk together with the certificate of title and the fee prescribed
26 by section 60-115, may have a notation of such lien made on the
27 face of such certificate of title. The county clerk or the
1 department shall enter the notation and the date thereof over the
2 signature of such officer or deputy and the seal of office. If
3 noted by a county clerk, he or she shall on that day notify the
4 department which shall note the lien on its records. The county
5 clerk or the department shall also indicate by appropriate notation
6 and on such instrument itself the fact that such lien has been
7 noted on the certificate of title.

8 (4) A transaction does not create a sale or a security
9 interest in a motor vehicle merely because it provides that the
10 rental price is permitted or required to be adjusted under the
11 agreement either upward or downward by reference to the amount
12 realized upon sale or other disposition of the motor vehicle.

13 (5) The county clerk or the department, upon receipt of a
14 lien instrument duly signed by the owner in the manner prescribed
15 by law governing such lien instruments together with the fee
16 prescribed for notation of lien, shall notify the first lienholder
17 to deliver to the county clerk or the department, within fifteen
18 days from the date of notice, the certificate of title to permit
19 notation of such junior lien and, after such notation of lien, the
20 county clerk or the department shall deliver the certificate of
21 title to the first lienholder. The holder of a certificate of
22 title who refuses to deliver a certificate of title to the county
23 clerk or the department for the purpose of showing a junior lien on
24 such certificate of title within fifteen days from the date when
25 notified to do so shall be liable for damages to such junior
26 lienholder for the amount of damages such junior lienholder
27 suffered by reason of the holder of the certificate of title
1 refusing to permit the showing of such lien on the certificate of
2 title.

3 (6) When such lien is discharged, the holder shall,
4 within fifteen days after payment is received, note a cancellation
5 of the lien on the face of the certificate of title over his, her,
6 or its signature and deliver the certificate of title to the county
7 clerk or the department which shall note the cancellation of the
8 lien on the face of the certificate of title and on the records of
9 such office. If delivered to a county clerk, he or she shall on

10 that day notify the department which shall note the cancellation on
 11 its records. The county clerk or the department shall then return
 12 the certificate of title to the owner or as otherwise directed by
 13 the owner. The cancellation of lien shall be noted on the
 14 certificate of title without charge.

15 (7) If a county board consolidates services under the
 16 office of a designated county official other than the county clerk
 17 pursuant to section 23-186, the designated county official shall
 18 make notations of all liens and cancellation of liens on motor
 19 vehicles and collect fees pursuant to section 60-115."

LEGISLATIVE BILL 644. Placed on Select File.

LEGISLATIVE BILL 236. Placed on Select File.

LEGISLATIVE BILL 75. Placed on Select File.

LEGISLATIVE BILL 155. Placed on Select File as amended.

E & R amendment to LB 155:

AM7158

- 1 1. In the Standing Committee amendments, AM0322, on page
- 2 1, line 4, strike "and".

(Signed) Ray Mossey, Chairperson

AMENDMENTS - Print in Journal

Senator Burling filed the following amendments to LB 1083:

AM2280

- 1 1. Strike section 10 and insert the following new
- 2 sections:
- 3 "Sec. 18. (1) The Behavioral Health Services Task Force
- 4 is created. Members of the task force shall be appointed as
- 5 provided in subsection (2) of this section and shall be reimbursed
- 6 for their actual and necessary expenses incurred in carrying out
- 7 their duties under the Nebraska Behavioral Health Services Act as
- 8 provided in sections 81-1174 to 81-1177.
- 9 (2) Members of the Behavioral Health Services Task Force
- 10 shall include:
- 11 (a) The chairperson of the Health and Human Services
- 12 Committee of the Legislature;
- 13 (b) One additional member of the Legislature;
- 14 (c) The Policy Secretary appointed pursuant to section
- 15 81-3008;
- 16 (d) One licensed mental health practitioner practicing in
- 17 the public sector;
- 18 (e) One licensed mental health practitioner practicing in
- 19 the private sector;
- 20 (f) One psychiatrist involved in the state behavioral
- 21 health system;
- 22 (g) The chief executive officers of the Lincoln Regional

- 23 Center, the Norfolk Regional Center, and the Hastings Regional
 24 Center;
- 1 (h) One representative from an established private-sector
 2 community-based provider of behavioral health services;
 3 (i) One representative from an established public-sector
 4 community-based provider of behavioral health services;
 5 (j) One regional administrator from Region 1 or Region 2;
 6 (k) One regional administrator from Region 3 or Region 4;
 7 (l) One regional administrator from Region 5 or Region 6;
 8 (m) One person from each congressional district in
 9 Nebraska representing a mental health board in such congressional
 10 district;
- 11 (n) A consumer or past consumer of behavioral health
 12 services in Nebraska;
- 13 (o) One chief of police appointed from a list submitted
 14 by the Police Officers Association of Nebraska;
- 15 (p) One county sheriff appointed from a list submitted by
 16 the Nebraska County Sheriffs Association; and
- 17 (q) One hospital administrator appointed from a list
 18 submitted by the Nebraska Association of Hospitals and Health
 19 Systems.
- 20 Members shall be appointed by the Executive Board of the
 21 Legislative Council on or before June 15, 2004.
- 22 Sec. 19. The Behavioral Health Services Task Force shall
 23 study and make recommendations with respect to the following
 24 issues:
- 25 (1) The possible effects of closing one or more regional
 26 centers and implementing a system of community-based behavioral
 27 health services in place of such regional centers;
- 1 (2) The short-term and long-term effects that such
 2 closure and implementation would have on access to quality
 3 behavioral health care in rural and sparsely populated areas of the
 4 state;
- 5 (3) The levels of community-based, inpatient, and
 6 outpatient behavioral health services available in each behavioral
 7 health region;
- 8 (4) The availability and possible recruitment of trained
 9 behavioral health professionals in rural and sparsely populated
 10 areas of the state;
- 11 (5) The availability of federal medicaid funds to assist
 12 in financing a system of community-based behavioral health
 13 services;
- 14 (6) The quality of care which would be available to
 15 consumers of behavioral health services during the transitional
 16 period from a regional center system to a system of community-based
 17 behavioral health services;
- 18 (7) The cost of a transitional period from a regional
 19 center system to a system of community-based behavioral health
 20 services;

- 21 (8) The effects on Nebraska's law enforcement community
 22 of implementing a system of community-based behavioral health
 23 services;
 24 (9) The effects on Nebraska's system of correctional
 25 services of implementing a system of community-based behavioral
 26 health services;
 27 (10) The effects on the level of homelessness in Nebraska
 1 of implementing a system of community-based behavioral health
 2 services;
 3 (11) The need for behavioral health services in urban
 4 areas of the state; and
 5 (12) Any other issues identified by the task force which
 6 are related to the closing of the regional centers and implementing
 7 a system of community-based behavioral health services.
 8 Sec. 20. (1) The Behavioral Health Services Task Force
 9 shall report to the Legislature and the Governor on or before
 10 December 15, 2004, with (a) a final report if the task force has
 11 completed its study or (b) a preliminary report of its progress up
 12 to such time. The task force shall issue its final report not
 13 later than December 15, 2005.
 14 (2) The task force shall terminate upon presentation of
 15 its final report."
 16 2. On page 3, line 1, strike "18" and insert "20"; in
 17 line 14 after the semicolon insert "and"; and strike beginning with
 18 the semicolon in line 16 through "centers" in line 17.
 19 3. On page 9, strike beginning with "Any" in line 27
 20 through line 28.
 21 4. On page 10, strike lines 1 and 2.
 22 5. On page 20, strike lines 12 through 23; in line 24
 23 strike "(8)" and insert "(6)"; and in line 27 strike "(9)" and
 24 insert "(7)".
 25 6. On page 21, line 5, strike "(10)" and insert "(8)";
 26 in line 11 strike "(11)" and insert "(9)"; and in line 13 strike
 27 "(12)" and insert "(10)".
 1 7. Renumber the remaining sections and correct internal
 2 references accordingly.

AM2286

- 1 1. On page 3, line 21, strike "persons" and insert
 2 "consumers".

AM2287

- 1 1. On page 9, line 23, strike "three" and insert "five".

MOTION - Print in Journal

Senator Bourne filed the following motion to LB 1129:
 Withdraw LB 1129.

AMENDMENTS - Print in Journal

Senator Burling filed the following amendments to LB 1083:

AM2288

- 1 1. On page 9, line 2, strike "without" and insert "with"
- 2 and strike "but" and insert "and".

AM2289

- 1 1. On page 18, line 24, strike "without" and insert
- 2 "with"; and in line 25 strike "but" and insert "and".

AM2290

- 1 1. Strike section 10.
- 2 2. On page 3, line 1, strike "18" and insert "17"; in
- 3 line 14 after the semicolon insert "and"; and strike beginning with
- 4 the semicolon in line 16 through "centers" in line 17.
- 5 3. Renumber the remaining sections and correct internal
- 6 references accordingly.

ANNOUNCEMENTS

Senator Jones designates LB 1086 as his priority bill.

Senator Kremer designates LB 1103 as his priority bill.

VISITORS

Visitors to the Chamber were Ross Jones from Brownell-Talbot High School, Omaha; Kathy Andersen from Lakeside; 60 nurses and nursing students with the Nebraska Nurses Association; 20 students from Creighton University - Intensive English Program; Tanya Babel from Clarkson, Rebella Bengston from Hartington, and Jane Wessel from Wausa; and Lyle Hight from Stanton.

ADJOURNMENT

At 12:01 p.m., on a motion by Senator Hudkins, the Legislature adjourned until 9:00 a.m., Friday, January 23, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWELFTH DAY - JANUARY 23, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWELFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, January 23, 2004

PRAYER

The prayer was offered by Pastor Brad Boyer, St. John Lutheran Church, Chester.

ROLL CALL

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

The roll was called and all members were present except Senator Vrtiska who was excused; and Senators Brashear, Brown, Byars, Cunningham, Friend, Jensen, Kremer, Landis, Maxwell, D. Pederson, and Schrock who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eleventh day was approved.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB 1134	Revenue (rereferred)
LB 1135	Revenue (rereferred)
LB 1166	Revenue
LB 1167	Business and Labor
LB 1168	Government, Military and Veterans Affairs
LB 1169	Government, Military and Veterans Affairs
LB 1170	Government, Military and Veterans Affairs
LB 1171	Urban Affairs
LB 1172	Natural Resources
LB 1173	Natural Resources
LB 1174	General Affairs
LB 1175	Urban Affairs
LB 1176	Revenue

LB 1177	Government, Military and Veterans Affairs
LB 1178	Revenue
LB 1179	Government, Military and Veterans Affairs
LB 1180	Government, Military and Veterans Affairs
LB 1181	Revenue
LB 1182	Judiciary
LB 1183	Government, Military and Veterans Affairs
LB 1184	Government, Military and Veterans Affairs
LB 1185	Business and Labor
LB 1186	Business and Labor
LB 1187	Business and Labor
LB 1188	Revenue
LB 1189	Revenue
LB 1190	Urban Affairs
LB 1191	Business and Labor
LB 1192	Urban Affairs
LB 1193	Revenue
LB 1194	Government, Military and Veterans Affairs
LB 1195	Government, Military and Veterans Affairs
LB 1196	General Affairs
LB 1197	Revenue
LB 1198	Health and Human Services
LB 1199	Banking, Commerce and Insurance
LB 1200	Judiciary
LB 1201	General Affairs
LB 1202	Government, Military and Veterans Affairs
LB 1203	Natural Resources
LB 1204	Appropriations
LB 1205	Transportation and Telecommunications
LB 1206	Education
LB 1207	Judiciary
LB 1208	Nebraska Retirement Systems
LB 1209	Government, Military and Veterans Affairs
LB 1210	Judiciary
LB 1211	Revenue
LB 1212	Banking, Commerce and Insurance
LB 1213	Judiciary
LB 1214	Executive Board
LB 1215	Revenue
LB 1216	Revenue
LB 1217	Appropriations
LB 1218	Judiciary
LB 1219	Revenue
LB 1220	Education
LB 1221	Education
LB 1222	Judiciary
LB 1223	Government, Military and Veterans Affairs
LB 1224	Revenue
LB 1225	Judiciary

LB 1226	Health and Human Services
LB 1227	Revenue
LB 1228	Banking, Commerce and Insurance
LB 1229	Government, Military and Veterans Affairs
LB 1230	Revenue
LB 1231	Government, Military and Veterans Affairs
LB 1232	Natural Resources
LB 1233	Urban Affairs
LB 1234	Government, Military and Veterans Affairs
LB 1235	Transportation and Telecommunications
LB 1236	Judiciary
LB 1237	Health and Human Services
LB 1238	Judiciary
LB 1239	Business and Labor
LB 1240	Health and Human Services
LB 1241	Business and Labor
LB 1242	Business and Labor
LB 1243	Agriculture
LB 1244	Banking, Commerce and Insurance
LB 1245	Government, Military and Veterans Affairs
LB 1246	Urban Affairs
LB 1247	Government, Military and Veterans Affairs
LB 1248	Education
LB 1249	Revenue
LB 1250	Health and Human Services
LB 1251	Judiciary
LB 1252	Revenue
LB 1253	Judiciary
LB 1254	Government, Military and Veterans Affairs
LB 1255	Transportation and Telecommunications
LR 224CA	Revenue
LR 225CA	Education
LR 226	Government, Military and Veterans Affairs
LR 227CA	Executive Board
LR 228CA	Revenue

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of January 22, 2004, 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

Abboud, Andrew F.

Venetian Resort Hotel Casino, The

American Communications Group, Inc.
Public Health, Nebraskans for

Campbell, Mary M./Campbell & Associates
Tax Lien Buyers, Coalition of Nebraska

Evans, Doug
Children & Families Foundation, Nebraska

Libsack, Fiona
Regional West Health Services

McHugh, Jim
Regional West Health Services

Munguia, Roberto Fernando
Burlington Northern Santa Fe

O'Hara, Lindsay & Associates, Inc.
Citizens for a Healthy Nebraska

Oles, Melissa
Voices for Children

Pappas, James E.
Access Elevator, Inc.
Mid-City Jewelry & Loan Co.

ATTORNEY GENERAL'S OPINION

Opinion # 04001

DATE: January 22, 2004

SUBJECT: Titling of Continuation Vehicles

REQUESTED BY: Carroll Burling, Senator
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Lynn A. Melson, Assistant Attorney General

You have requested a formal opinion of this office regarding potential legislation requested by a constituent. You have informed us that the constituent is a manufacturer of continuation cars which you define as "a new automobile manufactured with the exact specifications of a previous model." You are considering legislation that would allow these continuation

vehicles to be titled as if they were manufactured in the year of the original vehicle. Your specific question is this: "Does allowing for the titling of these continuation vehicles with the model year 1965 when we know that they have been manufactured some forty years later open the door to fraudulent sales/activity?"

In our view, this is more a policy question to be resolved by the legislature than a question of legal nature. We do note that Nebraska has a series of statutes concerning certificates of title at Neb. Rev. Stat. §§ 60-102 through 60-117, the purpose of which is to "provide a means of identifying motor vehicles, ascertaining motor vehicle owners, and preventing theft of motor vehicles and fraud in the transfer of motor vehicles." *Wolfson Car Leasing Company, Inc. v. Weberg*, 200 Neb. 420, 425, 264 N.W.2d 178, 182 (1978). It appears to us that the titling of these continuation vehicles with a model year other than the year of manufacture could certainly create a significant degree of uncertainty or confusion as to whether such vehicles are new or used vehicles. One could certainly speculate that fraudulent sales or activity could also occur.

Sincerely,
JON BRUNING
Attorney General
(Signed) Lynn A. Melson
Assistant Attorney General

pc: Patrick O'Donnell, Clerk of the Legislature
9-75-24

REPORTS

The following reports were received by the Legislature:

Roads, Department of

State Highway Commission Quarterly Report

Secretary of State

Initiative 300 Report - Summary of Activity 2003 (LB 1193, 1998)

ANNOUNCEMENTS

Senator Cudaback designates LR 209CA as his priority resolution.

Senator Stuhr designates LB 906 as her priority bill.

Senator Beutler designates LB 1181 as his priority bill.

MOTION - Withdraw LB 1129

Senator Bourne renewed his pending motion, found on page 378, to withdraw LB 1129.

The Bourne motion to withdraw prevailed with 29 ayes, 0 nays, 8 present and not voting, and 12 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 304. Title read. Considered.

Senator Synowiecki offered the following amendment:
AM2309

1 1. Strike the original sections and insert the following
2 new sections:
3 "Section 1. Sections 1 to 10 of this act shall be known
4 and may be cited as the Peace Officer Employer-Employee Relations
5 Act.

6 Sec. 2. (1) The Legislature finds and declares that
7 effective law enforcement is dependent upon the maintenance of
8 stable relations between peace officers and their employers.
9 Moreover, the existence of stable relations between peace officers
10 and their employers will enhance law enforcement services provided
11 to the citizens of Nebraska.

12 (2) The purpose of the Peace Officer Employer-Employee
13 Relations Act is to prescribe certain procedural rights for peace
14 officers, particularly when they are placed under formal
15 investigation or interrogation by their employer.

16 (3) The act only applies to administrative actions and
17 does not apply to criminal investigations of a peace officer except
18 as provided in section 8 of this act.

19 (4) The act does not apply to a police or sheriff's
20 department that has adopted any procedure that, at a minimum,
21 provides the peace officer the same rights and protections as
22 provided under the act with regard to such procedure.

23 Sec. 3. For purposes of the Peace Officer
24 Employer-Employee Relations Act:

1 (1) Administrative proceeding means any nonjudicial
2 hearing which is authorized to recommend, approve, or order the
3 suspension, removal, or discharge of an officer;

4 (2) Formal investigation means the process of
5 investigation ordered by a commanding officer during which the
6 questioning of an officer is intended to gather evidence of
7 misconduct which may be the basis for filing charges seeking his or
8 her removal, discharge, or suspension in excess of three days;

9 (3) Informal inquiry means a meeting by supervisory or
10 command personnel with a peace officer upon whom an allegation of
11 misconduct has come to the attention of such supervisory or command
12 personnel, the purpose of which meeting is to mediate a citizen
13 complaint or discuss the facts to determine whether a formal
14 investigation should be commenced;

15 (4) Interrogation means the questioning of a peace

16 officer in connection with an alleged violation of the agency or
17 unit rules which may be the basis for filing charges seeking his or
18 her suspension, removal, or discharge. The term does not include
19 questioning (a) as part of an informal inquiry or (b) relating to
20 minor infractions of agency or unit rules which may be noted in the
21 peace officer's personnel file; and

22 (5) Peace officer means any employee of a police or
23 sheriff's department that is part of or administered by any
24 political subdivision of the state who is responsible for the
25 prevention and detection of crime and the enforcement of the laws
26 of the state.

27 Sec. 4. When any peace officer is under formal

1 investigation by his or her employer for alleged actions that could
2 result in administrative sanctions being levied against the peace
3 officer, the following requirements shall be adhered to:

4 (1) Any interrogation of the peace officer shall be
5 conducted when the peace officer is on duty or during his or her
6 normal waking hours unless the urgency of the formal investigation
7 requires otherwise;

8 (2) Any interrogation of the peace officer shall be
9 conducted at the employer's facility unless the urgency of the
10 formal investigation requires otherwise;

11 (3) Prior to commencement of any interrogation session:

12 (a) If an employer chooses to record the interrogation of
13 the peace officer or any party affiliated with the investigation,
14 the employer shall notify the peace officer in writing;

15 (b) The peace officer shall be informed of the name and
16 rank of the person in charge of the interrogation and all other
17 persons who will be present during the interrogation;

18 (c) The peace officer shall be informed of the nature of
19 the formal investigation, and the names of all known complainants
20 shall be disclosed to the peace officer unless the chief
21 administrator of the peace officer's employer determines that the
22 identification of the complainant should not be disclosed because
23 it is necessary for the protection of an informant or because
24 disclosure would jeopardize or compromise the integrity or security
25 of the formal investigation; and

26 (d) A reasonable attempt shall be made to notify the
27 peace officer's commanding officer of the pending interrogation;

1 (4) A peace officer shall be informed of the nature of
2 the formal investigation and shall receive a copy of the written
3 formal complaint against him or her at least twenty-four hours
4 prior to his or her interrogation by the employer. The
5 twenty-four-hour period may be waived if the complaint alleges
6 intoxication or drug incapacitation during on-duty status. The
7 peace officer shall be permitted to have representation present
8 during the interrogation. If the peace officer is not able to
9 obtain and consult with his or her representation, the peace
10 officer may be granted up to an additional twenty-four hours by the

11 employer. The peace officer being interrogated shall be made aware
12 of the fact that any statement may be used by the employer as part
13 of the formal investigation;

14 (5) The combined duration of a peace officer's work shift
15 and any interrogation session shall not exceed fourteen hours
16 within a twenty-four-hour period unless the urgency of the formal
17 investigation requires otherwise;

18 (6) There shall not be more than two interrogators at any
19 given time;

20 (7) A peace officer shall be allowed time to attend to
21 physical necessities as they occur in the course of an
22 interrogation; and

23 (8) A peace officer shall not be subjected to offensive
24 language or illegal coercion by his or her interrogator in the
25 course of an interrogation.

26 Sec. 5. After reviewing all the information collected in
27 the course of a formal investigation of a peace officer, the chief
1 administrator of the peace officer's employer may order the peace
2 officer to submit to a polygraph examination administered by a
3 licensed polygraph examiner if:

4 (1) All other reasonable investigative means have been
5 exhausted; and

6 (2) The peace officer has been advised of the chief
7 administrator's reasons for ordering the polygraph examination.

8 Sec. 6. When any peace officer is under formal
9 investigation for an administrative matter, the peace officer shall
10 be permitted to produce any relevant documents, witnesses, or other
11 evidence to support his or her case and he or she may cross-examine
12 any adverse witnesses during any grievance process or appeal
13 involving disciplinary action.

14 Sec. 7. (1) No document containing comments adverse to a
15 peace officer shall be entered into his or her personnel file
16 unless the peace officer has read and signed the document. When a
17 peace officer refuses to sign a document containing such adverse
18 comments, the document may be entered into the peace officer's
19 personnel file if:

20 (a) The peace officer's refusal to sign the document is
21 noted on the document by the chief administrator of the peace
22 officer's employer; and

23 (b) The notation is witnessed by a third party.

24 (2) A peace officer may file a written response to any
25 document containing adverse comments entered into his or her
26 personnel file, and the response shall be filed with the peace
27 officer's employer within thirty days after the document is entered
1 into the personnel file. A peace officer's written response shall
2 be attached to the document.

3 Sec. 8. When any peace officer is under administrative
4 investigation and a determination is made to commence a criminal
5 investigation, the peace officer shall be immediately notified of

6 the investigation unless the chief administrator of the peace
 7 officer's employer determines that notification should not be given
 8 because it is necessary for the protection of an informant or
 9 because notification would jeopardize or compromise the integrity
 10 or security of the formal investigation. The peace officer shall
 11 be afforded all the protections set forth in the United States
 12 Constitution and the Constitution of Nebraska.

13 Sec. 9. A peace officer shall not be subjected to any
 14 retaliation by his or her employer due to his or her lawful
 15 exercise of his or her rights under the Peace Officer
 16 Employer-Employee Relations Act.

17 Sec. 10. If an employer violates any part of the Peace
 18 Officer Employer-Employee Relations Act, the peace officer shall
 19 have the right to petition the district court for monetary damages,
 20 attorney's fees, costs of the action, and equitable relief."

Senator Chambers requested a division of the question on the Synowiecki amendment.

The Chair sustained the division of the question.

The first Synowiecki amendment is as follows:

FA1419

1 1. Strike the original sections and insert the following
 2 new sections:
 3 "Section 1. Sections 1 to 10 of this act shall be known
 4 and may be cited as the Peace Officer Employer-Employee Relations
 5 Act.

6 Sec. 2. (1) The Legislature finds and declares that
 7 effective law enforcement is dependent upon the maintenance of
 8 stable relations between peace officers and their employers.
 9 Moreover, the existence of stable relations between peace officers
 10 and their employers will enhance law enforcement services provided
 11 to the citizens of Nebraska.

12 (2) The purpose of the Peace Officer Employer-Employee
 13 Relations Act is to prescribe certain procedural rights for peace
 14 officers, particularly when they are placed under formal
 15 investigation or interrogation by their employer.

16 (3) The act only applies to administrative actions and
 17 does not apply to criminal investigations of a peace officer except
 18 as provided in section 8 of this act.

19 (4) The act does not apply to a police or sheriff's
 20 department that has adopted any procedure that, at a minimum,
 21 provides the peace officer the same rights and protections as
 22 provided under the act with regard to such procedure.

Senator Chambers offered the following motion:
 Recommit to Judiciary Committee.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 279. Placed on Select File as amended.
(E & R amendment, AM7162, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 37. Placed on Select File as amended.
E & R amendment to LB 37:
AM7161

- 1 1. Strike original section 12 and insert the following
- 2 new section:
- 3 "Sec. 12. Section 77-2716, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 77-2716. (1) The following adjustments to federal
- 6 adjusted gross income or, for corporations and fiduciaries, federal
- 7 taxable income shall be made for interest or dividends received:
- 8 (a) There shall be subtracted interest or dividends
- 9 received by the owner of obligations of the United States and its
- 10 territories and possessions or of any authority, commission, or
- 11 instrumentality of the United States to the extent includable in
- 12 gross income for federal income tax purposes but exempt from state
- 13 income taxes under the laws of the United States;
- 14 (b) There shall be subtracted that portion of the total
- 15 dividends and other income received from a regulated investment
- 16 company which is attributable to obligations described in
- 17 subdivision (a) of this subsection as reported to the recipient by
- 18 the regulated investment company;
- 19 (c) There shall be added interest or dividends received
- 20 by the owner of obligations of the District of Columbia, other
- 21 states of the United States, or their political subdivisions,
- 22 authorities, commissions, or instrumentalities to the extent
- 23 excluded in the computation of gross income for federal income tax
- 24 purposes except that such interest or dividends shall not be added
- 1 if received by a corporation which is a regulated investment
- 2 company;
- 3 (d) There shall be added that portion of the total
- 4 dividends and other income received from a regulated investment
- 5 company which is attributable to obligations described in
- 6 subdivision (c) of this subsection and excluded for federal income
- 7 tax purposes as reported to the recipient by the regulated
- 8 investment company; and
- 9 (e)(i) Any amount subtracted under this subsection shall
- 10 be reduced by any interest on indebtedness incurred to carry the
- 11 obligations or securities described in this subsection or the
- 12 investment in the regulated investment company and by any expenses

13 incurred in the production of interest or dividend income described
14 in this subsection to the extent that such expenses, including
15 amortizable bond premiums, are deductible in determining federal
16 taxable income.

17 (ii) Any amount added under this subsection shall be
18 reduced by any expenses incurred in the production of such income
19 to the extent disallowed in the computation of federal taxable
20 income.

21 (2) There shall be allowed a net operating loss derived
22 from or connected with Nebraska sources computed under rules and
23 regulations adopted and promulgated by the Tax Commissioner
24 consistent, to the extent possible under the Nebraska Revenue Act
25 of 1967, with the laws of the United States. For a resident
26 individual, estate, or trust, the net operating loss computed on
27 the federal income tax return shall be adjusted by the
1 modifications contained in this section. For a nonresident
2 individual, estate, or trust or for a partial-year resident
3 individual, the net operating loss computed on the federal return
4 shall be adjusted by the modifications contained in this section
5 and any carryovers or carrybacks shall be limited to the portion of
6 the loss derived from or connected with Nebraska sources.

7 (3) There shall be subtracted from federal adjusted gross
8 income for all taxable years beginning on or after January 1, 1987,
9 the amount of any state income tax refund to the extent such refund
10 was deducted under the Internal Revenue Code, was not allowed in
11 the computation of the tax due under the Nebraska Revenue Act of
12 1967, and is included in federal adjusted gross income.

13 (4) Federal adjusted gross income, or, for a fiduciary,
14 federal taxable income shall be modified to exclude the portion of
15 the income or loss received from a small business corporation with
16 an election in effect under subchapter S of the Internal Revenue
17 Code or from a limited liability company organized pursuant to the
18 Limited Liability Company Act that is not derived from or connected
19 with Nebraska sources as determined in section 77-2734.01.

20 (5) There shall be subtracted from federal adjusted gross
21 income or, for corporations and fiduciaries, federal taxable income
22 dividends received or deemed to be received from corporations which
23 are not subject to the Internal Revenue Code.

24 (6) There shall be subtracted from federal taxable income
25 a portion of the income earned by a corporation subject to the
26 Internal Revenue Code of 1986 that is actually taxed by a foreign
27 country or one of its political subdivisions at a rate in excess of
1 the maximum federal tax rate for corporations. The taxpayer may
2 make the computation for each foreign country or for groups of
3 foreign countries. The portion of the taxes that may be deducted
4 shall be computed in the following manner:

5 (a) The amount of federal taxable income from operations
6 within a foreign taxing jurisdiction shall be reduced by the amount
7 of taxes actually paid to the foreign jurisdiction that are not

8 deductible solely because the foreign tax credit was elected on the
9 federal income tax return;

10 (b) The amount of after-tax income shall be divided by
11 one minus the maximum tax rate for corporations in the Internal
12 Revenue Code; and

13 (c) The result of the calculation in subdivision (b) of
14 this subsection shall be subtracted from the amount of federal
15 taxable income used in subdivision (a) of this subsection. The
16 result of such calculation, if greater than zero, shall be
17 subtracted from federal taxable income.

18 (7) Federal adjusted gross income shall be modified to
19 exclude any amount repaid by the taxpayer for which a reduction in
20 federal tax is allowed under section 1341(a)(5) of the Internal
21 Revenue Code.

22 (8)(a) There shall be subtracted from federal adjusted
23 gross income an amount equal to the difference between the amount
24 qualified for calculation of a deduction as provided in section
25 162(l) of the Internal Revenue Code and the amount actually allowed
26 pursuant to section 162(l)(1) of the Internal Revenue Code.

27 (b) For an individual who itemized deductions on his or
1 her federal return, the maximum amount subtracted under subdivision
2 (8)(a) of this section shall be seven and one-half percent of
3 federal adjusted gross income.

4 (9)(a) Federal adjusted gross income or, for corporations
5 and fiduciaries, federal taxable income shall be reduced, to the
6 extent included, by income from interest, earnings, and state
7 contributions received from the Nebraska educational savings plan
8 trust created in sections 85-1801 to 85-1814.

9 (b) Federal adjusted gross income or, for corporations
10 and fiduciaries, federal taxable income shall be reduced, to the
11 extent not deducted for federal income tax purposes, by the amount
12 of any gift, grant, or donation made to the Nebraska educational
13 savings plan trust for deposit in the endowment fund of the trust.

14 (c) Federal adjusted gross income or, for corporations
15 and fiduciaries, federal taxable income shall be reduced by any
16 contributions as a participant in the Nebraska educational savings
17 plan trust, not to exceed five hundred dollars per married filing
18 separate return or one thousand dollars for any other return.

19 (d) Federal adjusted gross income or, for corporations
20 and fiduciaries, federal taxable income shall be increased by the
21 amount resulting from the cancellation of a participation agreement
22 refunded to the taxpayer as a participant in the Nebraska
23 educational savings plan trust to the extent previously deducted as
24 a contribution to the trust.

25 (10)(a) For income tax returns filed after September 10,
26 2001, federal adjusted gross income or, for corporations and
27 fiduciaries, federal taxable income shall be increased by
1 eighty-five percent of any amount of any federal bonus depreciation
2 received under the federal Job Creation and Worker Assistance Act

3 of 2002 or the federal Jobs and Growth Tax Act of 2003, under
4 section 168(k) or section 1400L of the Internal Revenue Code of
5 1986, as amended, for assets placed in service after September 10,
6 2001, and before December 31, 2005.

7 (b) For a partnership, limited liability company,
8 cooperative, including any cooperative exempt from income taxes
9 under section 521 of the Internal Revenue Code of 1986, as amended,
10 subchapter S corporation, or joint venture, the increase shall be
11 distributed to the partners, members, shareholders, patrons, or
12 beneficiaries in the same manner as income is distributed for use
13 against their income tax liabilities.

14 (c) For a corporation with a unitary business having
15 activity both inside and outside the state, the increase shall be
16 apportioned to Nebraska in the same manner as income is apportioned
17 to the state by section 77-2734.05.

18 (d) The amount of bonus depreciation added to federal
19 adjusted gross income or, for corporations and fiduciaries, federal
20 taxable income by this subsection shall be subtracted in a later
21 taxable year. Twenty percent of the total amount of bonus
22 depreciation added back by this subsection for tax years beginning
23 or deemed to begin before January 1, 2003, under the Internal
24 Revenue Code of 1986, as amended, may be subtracted in the first
25 taxable year beginning or deemed to begin on or after January 1,
26 2005, under the Internal Revenue Code of 1986, as amended, and
27 twenty percent in each of the next four following taxable years.

1 Twenty percent of the total amount of bonus depreciation added back
2 by this subsection for tax years beginning or deemed to begin on or
3 after January 1, 2003, may be subtracted in the first taxable year
4 beginning or deemed to begin on or after January 1, 2006, under the
5 Internal Revenue Code of 1986, as amended, and twenty percent in
6 each of the next four following taxable years.

7 (11) For taxable years beginning or deemed to begin on or
8 after January 1, 2003, under the Internal Revenue Code of 1986, as
9 amended, federal adjusted gross income or, for corporations and
10 fiduciaries, federal taxable income shall be increased by the
11 amount of any capital investment that is expensed under section 179
12 of the Internal Revenue Code of 1986, as amended, that is in excess
13 of twenty-five thousand dollars that is allowed under the federal
14 Jobs and Growth Tax Act of 2003. Twenty percent of the total
15 amount of expensing added back by this subsection for tax years
16 beginning or deemed to begin on or after January 1, 2003, may be
17 subtracted in the first taxable year beginning or deemed to begin
18 on or after January 1, 2006, under the Internal Revenue Code of
19 1986, as amended, and twenty percent in each of the next four
20 following tax years.

21 (12)(a) Federal adjusted gross income or, for
22 corporations and fiduciaries, federal taxable income shall be
23 reduced by any contributions as a participant in the Nebraska wage
24 replacement savings plan trust, not to exceed five hundred dollars

- 25 per married filing separate return or one thousand dollars for any
 26 other return.
 27 (b) Federal adjusted gross income or, for corporations
 1 and fiduciaries, federal taxable income shall be increased by the
 2 amount resulting from the cancellation of a participation agreement
 3 refunded to the taxpayer as a participant in the Nebraska wage
 4 replacement savings plan trust to the extent previously deducted as
 5 a contribution to the trust."
 6 2. On page 1, lines 1 and 2; and page 12, lines 15 and
 7 16, strike "Revised Statutes Supplement, 2002" and insert "Reissue
 8 Revised Statutes of Nebraska".

LEGISLATIVE BILL 37A. Placed on Select File as amended.

E & R amendment to LB 37A:

AM7163

- 1 1. On page 1, line 3; and page 2, lines 5 and 13, strike
 2 "First Session, 2003" and insert "Second Session, 2004".
 3 2. On page 2, lines 2, 10, and 16, strike "FY2003-04"
 4 and insert "FY2004-05"; and in lines 3, 11, and 16, strike
 5 "FY2004-05" and insert "FY2005-06".

LEGISLATIVE BILL 382. Placed on Select File.

LEGISLATIVE RESOLUTION 3CA. Placed on Select File as amended.

E & R amendment to LR 3CA:

AM7160

- 1 1. In the Standing Committee amendments, AM0491, on page
 2 4, line 20, after "change" insert "and eliminate"; and in line 21
 3 after "members" insert "and employees".

Correctly Engrossed

The following bills were correctly engrossed: LBs 810, 811, 812, and 813.

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORT Government, Military and Veterans Affairs

LEGISLATIVE BILL 844. Placed on General File.

(Signed) DiAnna R. Schimek, Chairperson

NOTICE OF COMMITTEE HEARINGS Transportation and Telecommunications Room 1113

LB 846	Monday, February 2, 2004	1:30 p.m.
LB 862	Monday, February 2, 2004	1:30 p.m.

LB 867	Monday, February 2, 2004	1:30 p.m.
LB 907	Monday, February 2, 2004	1:30 p.m.
LB 1014	Monday, February 2, 2004	1:30 p.m.
LB 1038	Monday, February 2, 2004	1:30 p.m.
LB 1064	Monday, February 2, 2004	1:30 p.m.

(Signed) Tom Baker, Chairperson

Executive Board

Room 2102

LB 897	Wednesday, February 4, 2004	12:00 p.m.
LB 1214	Wednesday, February 4, 2004	12:00 p.m.
LR 211CA	Wednesday, February 4, 2004	12:00 p.m.
LR 219CA	Monday, February 9, 2004	12:00 p.m.
LR 222CA	Monday, February 9, 2004	12:00 p.m.
LR 227CA	Monday, February 9, 2004	12:00 p.m.

(Signed) L. Patrick Engel, Chairperson

Nebraska Retirement Systems

Room 1525

LB 1081	Thursday, February 5, 2004	12:15 p.m.
LB 1080	Thursday, February 5, 2004	12:15 p.m.
LB 960	Thursday, February 12, 2004	12:15 p.m.
LB 1115	Thursday, February 12, 2004	12:15 p.m.
LB 1098	Thursday, February 12, 2004	12:15 p.m.
LB 1030	Tuesday, February 17, 2004	12:15 p.m.
LB 1013	Tuesday, February 17, 2004	12:15 p.m.

(Signed) Elaine Stuhr, Chairperson

STANDING COMMITTEE REPORT

Natural Resources

The Natural Resources 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.

Nebraska Ethanol Board

Tim L. Else

Dave Hilferty

VOTE: Aye: Senators Friend, Hudkins, Jones, Kremer, Loudon, Preister, and Schrock. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

GENERAL FILE

LEGISLATIVE BILL 304. The Chambers pending motion, found in this day's Journal, to recommit to Judiciary Committee, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 16 ayes, 1 nay, and 32 not voting.

Senator Chambers requested a roll call vote on his motion to recommit to committee.

Voting in the affirmative, 12:

Aguilar	Cudaback	Louden	Pederson, D.
Bourne	Engel	McDonald	Schrock
Brashear	Janssen	Mines	Wehrbein

Voting in the negative, 21:

Burling	Friend	Maxwell	Schimek	Tyson
Byars	Jensen	Mossey	Smith	
Connealy	Jones	Pedersen, Dw.	Stuthman	
Erdman	Kruse	Quandahl	Synowiecki	
Foley	Landis	Redfield	Thompson	

Present and not voting, 13:

Baker	Chambers	Hudkins	Preister	Stuhr
Beutler	Combs	Johnson	Price	
Brown	Hartnett	Kremer	Raikes	

Excused and not voting, 3:

Bromm	Cunningham	Vrtiska
-------	------------	---------

The Chambers motion to recommit to committee failed with 12 ayes, 21 nays, 13 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
Reconsider recommit vote.

SENATOR SCHIMEK PRESIDING

SENATOR CUDABACK PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with

11 ayes, 1 nay, and 37 not voting.

Senator Chambers requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 16:

Aguilar	Cudaback	Kremer	Raikes
Bourne	Engel	Louden	Schimek
Brashear	Janssen	McDonald	Schrock
Chambers	Johnson	Pederson, D.	Wehrbein

Voting in the negative, 24:

Baker	Foley	Kruse	Preister	Stuhr
Beutler	Friend	Landis	Price	Stuthman
Burling	Hudkins	Maxwell	Quandahl	Synowiecki
Connealy	Jensen	Mossey	Redfield	Thompson
Erdman	Jones	Pedersen, Dw.	Smith	

Present and not voting, 3:

Brown	Combs	Hartnett
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Excused and not voting, 6:

Bromm	Cunningham	Tyson
Byars	Mines	Vrtiska

The Chambers motion to reconsider failed with 16 ayes, 24 nays, 3 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 842. Placed on General File.

LEGISLATIVE BILL 937. Placed on General File as amended.
Standing Committee amendment to LB 937:
AM2292

- 1 1. On page 2, line 9, after the period insert "In the
- 2 event of a tie vote, the motion under consideration shall fail to
- 3 be adopted.".

LEGISLATIVE BILL 997. Placed on General File as amended.
Standing Committee amendment to LB 997:

AM2293

- 1 1. On page 2, lines 10 and 15; and page 4, lines 13 and
- 2 19, strike the new matter and reinstate the stricken matter.

LEGISLATIVE BILL 1007. Placed on General File as amended.
Standing Committee amendment to LB 1007:

AM2294

- 1 1. On page 2, strike beginning with "such" in line 22
- 2 through line 24.

LEGISLATIVE BILL 1008. Placed on General File as amended.
Standing Committee amendment to LB 1008:

AM2295

- 1 1. Insert the following new section:
- 2 "Sec. 3. Section 23-168.03, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 23-168.03. (1) The board of adjustment shall, subject to
- 5 such appropriate conditions and safeguards as may be established by
- 6 the county board, have only the following powers:
- 7 ~~(4)~~ (a) To hear and decide appeals ~~where~~ when it is
- 8 alleged by the appellant that there is an error in any order,
- 9 requirement, decision, or refusal made by an administrative
- 10 official or agency based on or made in the enforcement of any
- 11 zoning regulation or any regulation relating to the location or
- 12 soundness of structures, except that the authority to hear and
- 13 decide appeals shall not apply to decisions made under section
- 14 23-114.01;
- 15 ~~(2)~~ (b) To hear and decide, in accordance with the
- 16 provisions of any regulation, requests for interpretation of any
- 17 map; and
- 18 ~~(3)~~ Where (c) When by reason of exceptional narrowness,
- 19 shallowness, or shape of a specific piece of property at the time
- 20 of the adoption of the zoning regulations, or by reason of
- 21 exceptional topographic conditions or other extraordinary and
- 22 exceptional situation or condition of such piece of property, the
- 23 strict application of any enacted regulation under sections 23-114
- 24 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to 23-174, 23-174.02,
- 1 23-373, and 23-376 would result in peculiar and exceptional
- 2 practical difficulties to, or exceptional and undue hardships upon
- 3 the owner of such property, to authorize, upon an appeal relating
- 4 to the property, a variance from such strict application so as to
- 5 relieve such difficulties or hardship, if such relief may be
- 6 granted without substantial detriment to the public good and
- 7 without substantially impairing the intent and purpose of any
- 8 zoning regulations, but no such variance shall be authorized unless
- 9 the board of adjustment finds that: ~~(a)~~ (i) The strict application
- 10 of the resolution would produce undue hardship; ~~(b)~~ (ii) such
- 11 hardship is not shared generally by other properties in the same
- 12 zoning district and the same vicinity; ~~(c)~~ (iii) the authorization

13 of such variance will not be of substantial detriment to adjacent
 14 property and the character of the district will not be changed by
 15 the granting of the variance; and ~~(4)~~ (iv) the granting of such
 16 variance is based upon reasons of demonstrable and exceptional
 17 hardship as distinguished from variations for purposes of
 18 convenience, profit or caprice.

19 (2) No variance shall be authorized unless the board
 20 finds that the condition or situation of the property concerned or
 21 the intended use of the property is not of so general or recurring
 22 a nature as to make reasonably practicable the formulation of a
 23 general regulation to be adopted as an amendment to the zoning
 24 regulations.

25 (3) In exercising the ~~above mentioned~~ powers granted in
 26 this section, the board may, in conformity with the provisions of
 27 sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to
 1 23-174, 23-174.02, 23-373, and 23-376, reverse or affirm, wholly or
 2 partly, or may modify the order, requirement, decision, or
 3 determination appealed from and may make such order, requirement,
 4 decision, or determination as shall be proper, and to that end
 5 shall have the power of the officer or agency from whom the appeal
 6 is taken. The concurring vote of four members of the board shall
 7 be necessary to reverse any order, requirement, decision, or
 8 determination of any such administrative official, or to decide in
 9 favor of the applicant on any matter upon which it is required to
 10 pass under any such regulation or to effect any variation in such
 11 regulation. An appeal of a decision by the county planning
 12 commission or county board of commissioners or supervisors
 13 regarding a conditional use or special exception shall be made to
 14 the district court."

15 2. On page 3, line 16, strike "subsection (1) of".

16 3. On page 6, line 14, strike "and 19-929" and insert "
 17 19-929, and 23-168.03".

18 4. Renumber the remaining section accordingly.

(Signed) D. Paul Hartnett, Chairperson

Revenue

LEGISLATIVE BILL 984. Placed on General File as amended.

Standing Committee amendment to LB 984:

AM2302

1 1. On pages 2 and 3, strike each occurrence of

2 "application for continued exemption" and insert "statement of
 3 reaffirmation of exemption".

4 2. On page 2, line 14, strike "an", show as stricken,
 5 and insert "a".

6 3. On page 3, lines 17 and 27, strike "77-202.07", show
 7 as stricken, and insert "77-202.05".

8 4. On page 22, line 6, strike "section is" and insert

9 "sections are"; and in line 7 strike "Section 77-202.06" and insert 10 "Sections 77-202.06 and 77-202.07".

LEGISLATIVE BILL 854. Indefinitely postponed.

LEGISLATIVE BILL 857. Indefinitely postponed.

(Signed) David Landis, Chairperson

ANNOUNCEMENTS

The Nebraska Retirement Systems Committee designates LB 1097 as its priority bill.

Senator Hudkins designates LB 1128 as her priority bill.

REFERENCE COMMITTEE REPORTS

The Legislative Council Executive Board submits the following reports:

LB/LR	Committee
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LB 1185	Banking, Commerce and Insurance (rereferred)
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LB 1186	Banking, Commerce and Insurance (rereferred)
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Connealy, Margaret - Foster Care Review Board - Health and Human Services

Ganz, Jim - Foster Care Review Board - Health and Human Services

Goldner, Kay Lynn - Foster Care Review Board - Health and Human Services

Kahla, Dale L. - Public Employees Retirement Board - Nebraska Retirement Systems

King, William - State Electrical Board - General Affairs

Meter, Judy - Foster Care Review Board - Health and Human Services

Morrissey, George - State Electrical Board - General Affairs

Ourada, Tom - State Electrical Board - General Affairs

Patterson, David - Foster Care Review Board - Health and Human Services

Poulton, Thomas - Foster Care Review Board - Health and Human Services

Williams, Burrell S. - Foster Care Review Board - Health and Human Services

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARINGS
General Affairs
 Room 1510

Monday, February 2, 2004 1:30 p.m.
 Rhonda R. Flower - Nebraska Liquor Control Commission
 Steven Bloch - Nebraska Arts Council
 Janet Korell - Nebraska Arts Council
 Thomas Nutt - Nebraska Advisory Commission on Compulsive Gambling
 Nancy Schwertley - Nebraska Arts Council
 Fred Simon - Nebraska Arts Council

LB 1109 Monday, February 2, 2004 1:30 p.m.
 LB 1201 Monday, February 2, 2004 1:30 p.m.

(Signed) Ray Janssen, Chairperson

Nebraska Retirement Systems
 Room 1525

LB 1208 Thursday, February 26, 2004 12:15 p.m.

(Signed) Elaine Stuhr, Chairperson

AMENDMENTS - Print in Journal

Senator Johnson filed the following amendment to LB 139:
 AM2313

- 1 1. On page 2, line 4, after "Base" insert "by providing
- 2 a nonsworn, nonuniformed officer preferably with DNA laboratory
- 3 experience who will act as an administrator and supervisor in
- 4 control of DNA testing procedures"; in line 27 after "shall" insert
- 5 "also".
- 6 2. On page 3, line 19, strike "is", show as stricken,
- 7 and insert "would be".

Senator Beutler filed the following amendment to LB 762:
 AM2284

(Amendments to Standing Committee amendments, AM0398)

- 1 1. On page 1, line 4, strike "line 1,"; and strike
- 2 beginning with "and" in line 4 through the quotation mark in line 6
- 3 and insert "in lines 1 through 12; and in lines 2 and 7 after the
- 4 reinstated 'beginning' insert 'on'".
- 5 2. Insert the following new amendments:
- 6 "3. Strike sections 1, 2, and 4 to 13 and insert the
- 7 following sections:
- 8 'Section. 1. Section 32-1601, Reissue Revised Statutes
- 9 of Nebraska, is amended to read:
- 10 32-1601. Sections 32-1601 to 32-1614 and section 2 of

11 this act shall be known and may be cited as the Campaign Finance
 12 Limitation Act.
 13 Sec. 2. A special committee of the Legislature shall be
 14 created to examine the Campaign Finance Limitation Act and to
 15 recommend appropriate changes to the Legislature by December 1,
 16 2004. The special committee shall be composed of twelve members to
 17 include the Speaker of the Legislature, the chairperson of the
 18 Government, Military and Veterans Affairs Committee, the
 19 chairperson of the Executive Board of the Legislature, and nine
 20 members appointed by the Executive Board. Three of such nine
 21 members shall be members of the Legislature. The six remaining
 22 members shall not be elected or appointed officials and shall be
 23 appointed so that there are two members from each congressional
 1 district and so that no more than three are of the same political
 2 party. The members shall be reimbursed for their actual and
 3 necessary expenses as provided in sections 81-1174 to 81-1177.
 4 Sec. 4. Original section 32-1601, Reissue Revised
 5 Statutes of Nebraska, and section 49-1455, Revised Statutes
 6 Supplement, 2002, are repealed.'."

Senator Beutler filed the following amendment to LB 762:
 (Amendment, AM2285, is printed separately and available in the Bill Room,
 Room 1104.)

UNANIMOUS CONSENT - Add Cointroducers

Senator Aguilar asked unanimous consent to have his name added as
 cointroducer to LBs 834, 858, and 963. No objections. So ordered.

Senators Combs, Janssen, Kremer, and Stuhr asked unanimous consent to
 have their names added as cointroducers to LB 1190. No objections. So
 ordered.

VISITORS

Visitors to the Chamber were Courtney, Robert, Brynn, and Ella Hagen
 from Lincoln; Mandy Denker from Madison, Mary Fuchuck from McCook,
 and Teddi Wilson from Norfolk; a group of hygienist students from
 Nebraska and Iowa colleges; and Jack and Shirley Drake from Lewis, Iowa.

The Doctor of the Day was Dr. Dorothy Zink from Omaha.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Redfield, the Legislature adjourned
 until 9:00 a.m., Monday, January 26, 2004.

Patrick J. O'Donnell
 Clerk of the Legislature

THIRTEENTH DAY - JANUARY 26, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, January 26, 2004

PRAYER

The prayer was offered by Senator Price.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senators Aguilar, Bourne, Brashear, Brown, Chambers, Cunningham, Engel, Hartnett, and Maxwell who were excused; and Senators Combs, Janssen, Kruse, Landis, Mossey, D. Pederson, Preister, Quandahl, Vrtiska, and Wehrbein who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twelfth day was approved.

NOTICE OF COMMITTEE HEARINGS

Education
Room 1525

LB 1161	Monday, February 2, 2004	1:30 p.m.
LB 1165	Monday, February 2, 2004	1:30 p.m.
LB 1206	Monday, February 2, 2004	1:30 p.m.
LB 1248	Monday, February 2, 2004	1:30 p.m.
LB 1048	Tuesday, February 3, 2004	1:30 p.m.
LB 1119	Tuesday, February 3, 2004	1:30 p.m.
LB 1006	Tuesday, February 10, 2004	1:30 p.m.
LB 1107	Tuesday, February 10, 2004	1:30 p.m.
LB 1123	Tuesday, February 10, 2004	1:30 p.m.
LB 1125	Tuesday, February 10, 2004	1:30 p.m.
LB 1126	Tuesday, February 10, 2004	1:30 p.m.
LR 225CA	Tuesday, February 10, 2004	1:30 p.m.

LB 904	Monday, February 23, 2004	1:30 p.m.
LB 1153	Monday, February 23, 2004	1:30 p.m.
LB 1221	Monday, February 23, 2004	1:30 p.m.
LB 1124	Monday, February 23, 2004	1:30 p.m.
LB 1220	Monday, February 23, 2004	1:30 p.m.

(Signed) Ron Raikes, Chairperson

MESSAGES FROM THE GOVERNOR

January 16, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska Oil and Gas Conservation Commission.

APPOINTEE:

*James R. Gohl, RR 3 Box 79, Culbertson NE 69024

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointments
Enclosure

January 20, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Railway Council.

APPOINTEES:

*Merlyn Carlson, 8420 Augusta Dr, Lincoln NE 68526

*David Gilfillan, 2410 Lincoln St, Beatrice NE 68310

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointments
Enclosure

MOTIONS - Approve Appointments

Senator Kremer moved the adoption of the Agriculture Committee report for the confirmation of the following appointment found on page 357:

Nebraska State Fair Board
Francis Partsch

Voting in the affirmative, 26:

Baker	Erdman	Louden	Redfield	Synowiecki
Beutler	Friend	McDonald	Schimek	Tyson
Bromm	Jensen	Mines	Schrock	
Burling	Johnson	Pedersen, Dw.	Smith	
Connealy	Jones	Price	Stuhr	
Cudaback	Kremer	Raikes	Stuthman	

Voting in the negative, 0.

Present and not voting, 4:

Byars	Foley	Hudkins	Thompson
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Excused and not voting, 19:

Aguilar	Chambers	Hartnett	Maxwell	Quandahl
Bourne	Combs	Janssen	Mossey	Vrtiska
Brashear	Cunningham	Kruse	Pederson, D.	Wehrbein
Brown	Engel	Landis	Preister	

The appointment was confirmed with 26 ayes, 0 nays, 4 present and not voting, and 19 excused and not voting.

Senator Kremer moved the adoption of the Agriculture Committee report for the confirmation of the following appointments found on page 357:

Beginning Farmer Board

Donald Anthony
Bert Garvin

Voting in the affirmative, 27:

Baker	Cudaback	Louden	Raikes	Synowiecki
Beutler	Erdman	McDonald	Redfield	Thompson
Bromm	Friend	Mines	Schrock	Tyson
Burling	Johnson	Mossey	Smith	
Byars	Jones	Pedersen, Dw.	Stuhr	
Connealy	Kremer	Price	Stuthman	

Voting in the negative, 0.

Present and not voting, 4:

Foley	Hudkins	Jensen	Schimek
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Excused and not voting, 18:

Aguilar	Chambers	Hartnett	Maxwell	Vrtiska
Bourne	Combs	Janssen	Pederson, D.	Wehrbein
Brashear	Cunningham	Kruse	Preister	
Brown	Engel	Landis	Quandahl	

The appointments were confirmed with 27 ayes, 0 nays, 4 present and not voting, and 18 excused and not voting.

Senator Stuhr moved the adoption of the Nebraska Retirement Systems Committee report for the confirmation of the following appointment found on page 358:

Nebraska Investment Council
Gail Werner-Robertson

Voting in the affirmative, 25:

Baker	Erdman	Louden	Raikes	Stuhr
Beutler	Friend	McDonald	Redfield	Stuthman
Bromm	Johnson	Mines	Schimek	Synowiecki
Byars	Jones	Pedersen, Dw.	Schrock	Thompson
Connealy	Kremer	Price	Smith	Tyson

Voting in the negative, 0.

Present and not voting, 6:

Burling	Foley	Jensen
Cudaback	Hudkins	Mossey

Excused and not voting, 18:

Aguilar	Chambers	Hartnett	Maxwell	Vrtiska
Bourne	Combs	Janssen	Pederson, D.	Wehrbein
Brashear	Cunningham	Kruse	Preister	
Brown	Engel	Landis	Quandahl	

The appointment was confirmed with 25 ayes, 0 nays, 6 present and not voting, and 18 excused and not voting.

Senator Stuhr moved the adoption of the Nebraska Retirement Systems Committee report for the confirmation of the following appointment found on page 358:

Public Employees Retirement Board
Roger Rea

Voting in the affirmative, 27:

Baker	Erdman	Louden	Price	Stuthman
Bromm	Friend	McDonald	Redfield	Synowiecki
Burling	Hudkins	Mines	Schimek	Thompson
Combs	Johnson	Mossey	Schrock	
Connealy	Jones	Pedersen, Dw.	Smith	
Cudaback	Kremer	Pederson, D.	Stuhr	

Voting in the negative, 0.

Present and not voting, 6:

Beutler	Foley	Raikes
Byars	Jensen	Tyson

Excused and not voting, 16:

Aguilar	Chambers	Janssen	Preister
Bourne	Cunningham	Kruse	Quandahl
Brashear	Engel	Landis	Vrtiska
Brown	Hartnett	Maxwell	Wehrbein

The appointment was confirmed with 27 ayes, 0 nays, 6 present and not voting, and 16 excused and not voting.

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment found on page 366:

Nebraska Environmental Trust Board
John Campbell

Voting in the affirmative, 26:

Baker	Erdman	McDonald	Raikes	Synowiecki
Beutler	Friend	Mines	Redfield	Thompson
Bromm	Johnson	Mossey	Schrock	
Burling	Jones	Pedersen, Dw.	Smith	
Combs	Kremer	Pederson, D.	Stuhr	
Connealy	Louden	Price	Stuthman	

Voting in the negative, 0.

Present and not voting, 7:

Byars	Foley	Jensen	Tyson
Cudaback	Hudkins	Schimek	

Excused and not voting, 16:

Aguilar	Chambers	Janssen	Preister
Bourne	Cunningham	Kruse	Quandahl
Brashear	Engel	Landis	Vrtiska
Brown	Hartnett	Maxwell	Wehrbein

The appointment was confirmed with 26 ayes, 0 nays, 7 present and not voting, and 16 excused and not voting.

NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1524

LB 1089	Monday, February 2, 2004	1:30 p.m.
LB 1090	Monday, February 2, 2004	1:30 p.m.
LB 1091	Monday, February 2, 2004	1:30 p.m.
LB 1092	Monday, February 2, 2004	1:30 p.m.

LB 917	Tuesday, February 3, 2004	1:30 p.m.
LB 1021	Tuesday, February 3, 2004	1:30 p.m.
LB 1071	Tuesday, February 3, 2004	1:30 p.m.

Tuesday, February 3, 2004	1:30 p.m.
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AGENCY 48 - Postsecondary Education
AGENCY 51 - University Systemwide

Room 1003

Wednesday, February 4, 2004	1:30 p.m.
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AGENCY 13 - Dept. of Education
AGENCY 38 - Women's Commission
AGENCY 47 - Educational Telecommunications
AGENCY 54 - State Historical Society

LB 993 Thursday, February 5, 2004 1:30 p.m.
 LB 1150 Thursday, February 5, 2004 1:30 p.m.

Thursday, February 5, 2004 1:30 p.m.
 AGENCY 23 - Dept. of Labor
 AGENCY 52 - State Board of Agriculture
 AGENCY 65 - Dept. of Administrative Services
 AGENCY 85 - Employees Retirement Bd.

LB 1051 Friday, February 6, 2004 1:30 p.m.

Friday, February 6, 2004 1:30 p.m.
 AGENCY 17 - Dept. of Aeronautics
 AGENCY 18 - Dept. of Agriculture
 AGENCY 24 - Dept. of Motor Vehicles
 AGENCY 67 - Equal Opportunity Comm.
 AGENCY 70 - Foster Care Review Board
 AGENCY 86 - Dry Bean Commission

(Signed) Roger R. Wehrbein, Chairperson

GENERAL FILE

LEGISLATIVE BILL 139. Title read. Considered.

The Standing Committee amendment, AM1057, found on page 1479, First Session, 2003, was considered.

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

AM2300

(Amendments to Standing Committee amendments, AM1057)

- 1 1. Strike amendment 2.
- 2 2. Strike section 7.
- 3 3. Renumber sections 2 and 5 as sections 1 and 4,
- 4 respectively.
- 5 4. On page 1, line 17, strike "blood or tissue", show as
- 6 stricken, and insert "blood, tissue, or bodily fluid".
- 7 5. On page 3, line 11; and page 4, line 1, strike
- 8 "drawn" and insert "taken".
- 9 6. On page 3, lines 12, 16, 17, 19, 22, and 24; and page
- 10 4, line 6, strike "drawn", show as stricken, and insert "taken".
- 11 7. On page 4, strike beginning with the comma in line 3
- 12 through "section" in line 4.
- 13 8. Renumber the remaining amendments accordingly.

SENATOR CUDABACK PRESIDING

The Johnson amendment was adopted with 31 ayes, 0 nays, 7 present and

not voting, and 11 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 32 ayes, 0 nays, 6 present and not voting, and 11 excused and not voting.

Senator Johnson renewed his pending amendment, AM2313, found on page 401.

The Johnson amendment was adopted with 34 ayes, 0 nays, 5 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

AMENDMENT - Print in Journal

Senator Hudkins filed the following amendment to LB 75:
AM2320

(Amendments to AM2221)

- 1 1. On page 1, line 5, strike "Each" and insert "Any" and
- 2 after "sheriff" insert "who does not have a law enforcement officer
- 3 certificate or diploma issued by the Nebraska Commission on Law
- 4 Enforcement and Criminal Justice"; in line 9 strike "Successfully"
- 5 and insert "Within one calendar year prior to the deadline for
- 6 filing the candidate filing form."; and in line 15 after "deadline"
- 7 insert "for the candidate filing form".

NOTICE OF COMMITTEE HEARINGS

Agriculture

Room 2102

LB 1045	Tuesday, February 3, 2004	1:30 p.m.
LB 1002	Tuesday, February 3, 2004	1:30 p.m.
LB 1103	Tuesday, February 3, 2004	1:30 p.m.

Tuesday, February 10, 2004		1:30 p.m.
Dale Pohlmann - Beginning Farmer Board		

LB 1152	Tuesday, February 10, 2004	1:30 p.m.
LB 869	Tuesday, February 10, 2004	1:30 p.m.
LB 992	Tuesday, February 10, 2004	1:30 p.m.
LB 1151	Tuesday, February 10, 2004	1:30 p.m.
LB 946	Tuesday, February 10, 2004	1:30 p.m.

Room 1524

LB 1086	Tuesday, February 17, 2004	1:30 p.m.
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(Signed) Bob Kremer, Chairperson

Banking, Commerce and Insurance
Room 1507

LB 849	Monday, February 2, 2004	1:30 p.m.
LB 990	Monday, February 2, 2004	1:30 p.m.
LB 1143	Monday, February 2, 2004	1:30 p.m.
LB 1244	Monday, February 2, 2004	1:30 p.m.
LB 1120	Tuesday, February 3, 2004	1:30 p.m.
LB 1228	Tuesday, February 3, 2004	1:30 p.m.
LB 1185	Tuesday, February 3, 2004	1:30 p.m.
LB 1186	Tuesday, February 3, 2004	1:30 p.m.

(Signed) Mark Quandahl, Chairperson

Business and Labor
Room 2102

LB 893	Monday, February 2, 2004	1:30 p.m.
LB 951	Monday, February 2, 2004	1:30 p.m.
LB 952	Monday, February 2, 2004	1:30 p.m.
LB 953	Monday, February 2, 2004	1:30 p.m.
LB 954	Monday, February 2, 2004	1:30 p.m.
LB 1191	Monday, February 2, 2004	1:30 p.m.
LB 1167	Monday, February 2, 2004	1:30 p.m.

(Signed) Floyd P. Vrtiska, Chairperson

STANDING COMMITTEE REPORT
Nebraska Retirement Systems

LEGISLATIVE RESOLUTION 21CA. Indefinitely postponed.

(Signed) Elaine Stuhr, Chairperson

GENERAL FILE

LEGISLATIVE BILL 32. Considered.

The Standing Committee amendment, AM0811, found on page 897, First Session, 2003, was considered.

Pending.

STANDING COMMITTEE REPORTS
Revenue

LEGISLATIVE BILL 841. Placed on General File.

LEGISLATIVE BILL 983. Placed on General File.

LEGISLATIVE BILL 900. Indefinitely postponed.

(Signed) David Landis, Chairperson

NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications
 Room 1113

LB 994	Tuesday, February 3, 2004	1:30 p.m.
LB 1039	Tuesday, February 3, 2004	1:30 p.m.
LB 1073	Tuesday, February 3, 2004	1:30 p.m.
LB 1121	Tuesday, February 3, 2004	1:30 p.m.
LB 1138	Tuesday, February 3, 2004	1:30 p.m.

(Signed) Tom Baker, Chairperson

AMENDMENTS - Print in Journal

Senator Price filed the following amendment to LB 37A:
 AM2297

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. There is hereby appropriated (1) \$13,000
 4 from the General Fund for FY2004-05 and (2) \$2,600 from the General
 5 Fund for FY2005-06 to the Department of Revenue, for Program 102,
 6 to aid in carrying out the provisions of Legislative Bill 37,
 7 Ninety-eighth Legislature, Second Session, 2004.
 8 No expenditures for permanent and temporary salaries and
 9 per diems for state employees shall be made from funds appropriated
 10 in this section.
 11 Sec. 2. There is hereby appropriated (1) \$77,000 from
 12 the Treasury Management Cash Fund for FY2004-05 and (2) \$77,000
 13 from the Treasury Management Cash Fund for FY2005-06 to the State
 14 Treasurer, for Program 503, to aid in carrying out the provisions
 15 of Legislative Bill 37, Ninety-eighth Legislature, Second Session,
 16 2004.
 17 Total expenditures for permanent and temporary salaries
 18 and per diems from funds appropriated in this section shall not
 19 exceed \$33,000 for FY2004-05 or \$33,000 for FY2005-06."

Senator Schrock filed the following amendment to LB 32:
 (Amendment, AM2301, is printed separately and available in the Bill Room,
 Room 1104.)

UNANIMOUS CONSENT - Add Cointroducers

Senator Combs asked unanimous consent to have her name added as cointroducer to LBs 943, 1075, 1084, 1131, and 1226. No objections. So ordered.

Senators Burling, Jones, Mines, Dw. Pedersen, and Vrtiska asked unanimous consent to have their names added as cointroducers to LB 1190. No objections. So ordered.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Tuesday, January 27, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FOURTEENTH DAY - JANUARY 27, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FOURTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, January 27, 2004

PRAYER

The prayer was offered by Pastor Dennis Patience, First Christian Church, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senators Bourne, Brown, and Hartnett who were excused; and Senators Bromm, Chambers, Engel, Foley, Kremer, Landis, Maxwell, Mines, Mossey, Dw. Pedersen, D. Pederson, and Thompson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirteenth day was approved.

NOTICE OF COMMITTEE HEARINGS

Revenue
Room 1524

LB 1011	Wednesday, February 4, 2004	1:30 p.m.
LB 1017	Wednesday, February 4, 2004	1:30 p.m.
LB 1211	Wednesday, February 4, 2004	1:30 p.m.
LB 1025	Wednesday, February 4, 2004	1:30 p.m.
LB 988	Wednesday, February 4, 2004	1:30 p.m.
LB 1094	Thursday, February 5, 2004	1:30 p.m.
LB 1015	Thursday, February 5, 2004	1:30 p.m.
LB 1219	Thursday, February 5, 2004	1:30 p.m.
LB 1181	Thursday, February 5, 2004	1:30 p.m.
LB 1040	Thursday, February 5, 2004	1:30 p.m.
LB 1215	Thursday, February 5, 2004	1:30 p.m.
LB 895	Friday, February 6, 2004	1:30 p.m.

LB 1136	Friday, February 6, 2004	1:30 p.m.
LB 1142	Friday, February 6, 2004	1:30 p.m.
LB 1156	Friday, February 6, 2004	1:30 p.m.
LB 1166	Friday, February 6, 2004	1:30 p.m.
LB 1252	Friday, February 6, 2004	1:30 p.m.

(Signed) David Landis, Chairperson

Natural Resources
Room 1525

LB 1042	Wednesday, February 4, 2004	1:30 p.m.
LB 1172	Wednesday, February 4, 2004	1:30 p.m.
LB 1173	Wednesday, February 4, 2004	1:30 p.m.
LB 1146	Thursday, February 5, 2004	1:30 p.m.
LB 1163	Thursday, February 5, 2004	1:30 p.m.
LB 1026	Wednesday, February 11, 2004	1:30 p.m.
LB 826	Wednesday, February 11, 2004	1:30 p.m.
LB 1149	Wednesday, February 11, 2004	1:30 p.m.
LB 827	Wednesday, February 11, 2004	1:30 p.m.
LB 1122	Thursday, February 12, 2004	1:30 p.m.
LB 1232	Wednesday, February 18, 2004	1:30 p.m.
LB 967	Wednesday, February 18, 2004	1:30 p.m.
LB 1203	Thursday, February 19, 2004	1:30 p.m.

(Signed) Ed Schrock, Chairperson

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 828. Placed on General File.

LEGISLATIVE BILL 890. Placed on General File as amended.

Standing Committee amendment to LB 890:

AM2327

- 1 1. On page 6, line 18, after "experience" insert "or, in
- 2 the case of the application for enrollment as a geologist-intern,
- 3 acting only as character references".

LEGISLATIVE BILL 969. Placed on General File as amended.

Standing Committee amendment to LB 969:

AM2328

- 1 1. Insert the following new sections:
- 2 "Sec. 4. If a public entity enters into an ownership

3 agreement of any electric facility pursuant to section 18-412.09,
4 the agreement may contain such terms and conditions as the public
5 entity may determine.

6 Sec. 7. Section 18-412.07, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 18-412.07. It is hereby declared to be in the public
9 interest of the State of Nebraska that cities and villages of this
10 state be empowered to participate jointly or in cooperation with
11 public power districts and public power and irrigation districts
12 and other public agencies in the establishment and operation of
13 facilities for the generation or transmission of electric power and
14 energy located within or outside this state in order to achieve
15 economies and efficiencies in meeting the future electric energy
16 needs of the people of the State of Nebraska. In furtherance of
17 such need and in addition to but not in substitution for any other
18 powers granted cities and villages of this state, each city and
19 village which owns or operates electrical facilities shall have and
20 may exercise its power and authority to plan, finance, acquire,
21 construct, own, operate, maintain, ~~and~~ improve, and decommission
22 electric generation or transmission facilities located within or
23 outside this state jointly and in cooperation with one or more such
24 districts, other cities or villages of this state which own or
1 operate electrical facilities, municipal corporations, or other
2 governmental entities of other states which operate electrical
3 facilities. The powers granted under this section may be exercised
4 with respect to any electric generation or transmission facility
5 jointly with the powers granted under any other provision of
6 sections 18-412.07 to 18-412.09 and 70-628.02 to 70-628.04.

7 Sec. 8. Section 18-412.08, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 18-412.08. It is hereby declared to be in the public
10 interest of the State of Nebraska that cities and villages of this
11 state be empowered to participate jointly and in cooperation with
12 one or more electric cooperatives or electric membership
13 corporations organized under the laws of this state or any other
14 state in the establishment and operation of facilities for the
15 generation or transmission of electric power and energy in order to
16 achieve economies and efficiencies in meeting the future electric
17 energy needs of the people of the State of Nebraska. In
18 furtherance of such end and in addition to, but not in substitution
19 for, any other powers granted such cities and villages of this
20 state, each city or village which owns or operates electrical
21 facilities shall have and may exercise power and authority to plan,
22 finance, acquire, construct, own, operate, maintain, ~~and~~ improve,
23 and decommission electric generation or transmission facilities
24 located in this state jointly and in cooperation with one or more
25 electric cooperatives or electric membership corporations organized
26 under the laws of this state or any other state, and each city or
27 village shall have and may exercise such power and authority with

1 respect to electric generation or transmission facilities located
2 outside this state jointly or in cooperation with one or more
3 electric cooperatives or electric membership corporations organized
4 under the laws of this state or any other state. The powers
5 granted under this section may be exercised with respect to any
6 electric generation or transmission facility jointly with the
7 powers granted under any other provisions of sections 18-412.07 to
8 18-412.09 and 70-628.02 to 70-628.04.

9 Sec. 9. Section 18-412.09, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 18-412.09. Any city or village participating jointly and
12 in cooperation with others in an electric generation or
13 transmission facility ~~shall~~ may own an undivided interest in such
14 facility and be entitled to the share of the output or capacity
15 therefrom attributable to such undivided interest. Such city or
16 village may enter into an agreement or agreements with respect to
17 each such electric generation or transmission facility with the
18 other participants therein, and any such agreement shall contain
19 such terms, conditions, and provisions consistent with the
20 provisions of sections 18-412.07 to 18-412.10 as the governing body
21 of such city or village shall deem to be in the interests of such
22 city or village. The agreement may include, but not be limited to,
23 provision for the construction, operation, ~~and~~ maintenance, and
24 decommissioning of such electric generation or transmission
25 facility by any one of the participants, which shall be designated
26 in or pursuant to such agreement as agent, on behalf of itself and
27 the other participants or by such other means as may be determined
1 by the participants and provision for a uniform method of
2 determining and allocating among participants costs of
3 construction, operation, maintenance, renewals, replacements,
4 decommissioning, and improvements with respect to such facility.
5 In carrying out its functions and activities as such agent with
6 respect to construction, operation, ~~and~~ maintenance, and
7 decommissioning of such a facility, including without limitation
8 the letting of contracts therefor, such agent shall be governed by
9 the laws and regulations applicable to such agent as a separate
10 legal entity and not by any laws or regulations which may be
11 applicable to any of the other participants. Notwithstanding the
12 provisions of any other law to the contrary, pursuant to the terms
13 of any such agreement in which or pursuant to which a public power
14 district or a public power and irrigation district or a city or
15 village of this state shall be designated as the agent thereunder
16 for the construction, operation, ~~and~~ maintenance, and
17 decommissioning of such a facility, each of the participants may
18 delegate its powers and duties with respect to the construction,
19 operation, ~~and~~ maintenance, and decommissioning of such facility to
20 such agent, and all actions taken by such agent in accordance with
21 the provisions of such agreement shall be binding upon each of such
22 participants without further action or approval by their respective

23 boards of directors or governing bodies. Such agent shall be
 24 required to exercise all such powers and perform its duties and
 25 functions under such agreement in a manner consistent with prudent
 26 utility practice. As used in this section, prudent utility
 27 practice shall mean any of the practices, methods, and acts at a
 1 particular time which, in the exercise of reasonable judgment in
 2 the light of the facts, including, but not limited to, the
 3 practices, methods, and acts engaged in or approved by a
 4 significant portion of the electrical utility industry prior
 5 thereto, known at the time the decision was made, would have been
 6 expected to accomplish the desired result at the lowest reasonable
 7 cost consistent with reliability, safety, and expedition. ~~In no~~
 8 ~~event shall anything herein be deemed to authorize any~~ Unless
 9 specifically contracted otherwise by written agreement, no city or
 10 village shall become liable for and to pay for any costs,
 11 expenses, or liabilities attributable to the undivided interest of
 12 any other participant in such electric generation or transmission
 13 facility, and unless specifically contracted otherwise by written
 14 agreement, no funds of such city or village may be used for any
 15 such purpose.

16 Sec. 10. Section 18-412.10, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 18-412.10. If a city or village proposes to, and during
 19 such time as the city and village shall, plan, finance, acquire,
 20 construct, own, operate, maintain, ~~and improve, and decommission~~
 21 jointly and in cooperation with others as contemplated by sections
 22 18-412.07 to 18-412.10 facilities for the generation or
 23 transmission of electric power and energy located or to be located
 24 outside this state, such city or village may comply with all laws
 25 of the United States and of the state in which the facilities are
 26 or are to be located applicable to such facilities or applicable to
 27 any of the foregoing activities or applicable to the performance of
 1 any of such activities across state boundaries or in such state,
 2 including, without limiting the generality of the foregoing,
 3 submitting itself to any governmental body, board, commission, or
 4 agency having jurisdiction over such facilities or over any of such
 5 activities or over the performance of such activities and applying
 6 for and carrying out of all licenses, certificates, or other
 7 approvals required by such laws in order to enable the city or
 8 village to carry out the provisions of sections 18-412.07 to
 9 18-412.10.

10 Sec. 11. Section 18-2451, Reissue Revised Statutes of
 11 Nebraska, is amended to read:

12 18-2451. The books and records of an agency created
 13 pursuant to sections 18-2426 to 18-2434 shall be public records and
 14 shall be kept at the principal place of business of such agency.
 15 The agency books and records shall be open to public inspection at
 16 reasonable times and upon reasonable notice. The agency shall
 17 annually cause to be filed with the Auditor of Public Accounts an

18 audit of the books, records, and financial affairs of the agency.
 19 Such audit shall be made by a certified public accountant or firm
 20 of such accountants selected by the agency and shall be conducted
 21 in the manner prescribed in section 84-304.01. When the audit has
 22 been completed, written copies of the audit shall be placed and
 23 kept on file at the principal place of business of the agency and
 24 shall be filed with the Auditor of Public Accounts and the Nebraska
 25 Power Review Board within one hundred ~~twenty eight~~ days after
 26 December 31 of each year. If any agency created pursuant to
 27 sections 18-2426 to 18-2434 fails to file a copy of an audit within
 1 the time prescribed in this section, the books, records, and
 2 financial affairs of such agency shall, within one hundred eighty
 3 days after the close of the fiscal year of the agency, be audited
 4 by a certified public accountant or firm of accountants selected by
 5 the Auditor of Public Accounts. The cost of the audit shall be
 6 paid by the agency.

7 Sec. 13. Section 70-623, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 70-623. The fiscal year of the district shall coincide
 10 with the calendar year. The board of directors, at the close of
 11 each year's business, shall cause an audit of the books, records,
 12 and financial affairs of the district to be made by a certified
 13 public accountant or firm of such accountants, who shall be
 14 selected by the district. The audit shall be conducted in the
 15 manner prescribed in section 84-304.01. When the audit has been
 16 completed, written copies of the audit shall be placed and kept on
 17 file at the principal place of business of the district and shall
 18 be filed with the Auditor of Public Accounts and the Nebraska Power
 19 Review Board within one hundred ~~twenty eight~~ days after December
 20 31 of each year."

21 2. On page 2, line 1; and page 4, line 13, strike "4"
 22 and insert "5".

23 3. On page 3, line 2, strike "4" and insert "5"; in line
 24 3 strike "such"; in line 4 after "18-412.09" insert "and section 4
 25 of this act"; in line 6 strike "section" and insert "sections"; and
 26 in lines 7 and 9 strike "4" and insert "5".

27 4. On page 6, line 8, strike "and 70-601" and insert "to
 1 18-412.10, 70-601, and 70-623".

2 5. Renumber the remaining sections accordingly.

(Signed) Ed Schrock, Chairperson

MOTION - Approve Appointments

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointments found on page 395:

Nebraska Ethanol Board
 Tim L. Else
 Dave Hilferty

Voting in the affirmative, 27:

Aguilar	Connealy	Johnson	Redfield	Synowiecki
Baker	Cudaback	Jones	Schimek	Tyson
Brashear	Cunningham	Louden	Schrock	Vrtiska
Burling	Erdman	McDonald	Smith	
Byars	Hudkins	Preister	Stuhr	
Combs	Janssen	Quandahl	Stuthman	

Voting in the negative, 0.

Present and not voting, 7:

Beutler	Jensen	Price	Wehrbein
Friend	Kruse	Raikes	

Excused and not voting, 15:

Bourne	Chambers	Hartnett	Maxwell	Pedersen, Dw.
Bromm	Engel	Kremer	Mines	Pederson, D.
Brown	Foley	Landis	Mossey	Thompson

The appointments were confirmed with 27 ayes, 0 nays, 7 present and not voting, and 15 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 32. The Standing Committee amendment, AM0811, found on page 897, First Session, 2003, and considered on page 411, was renewed.

Senator Schrock asked unanimous consent to bracket LB 32 until January 29, 2004. No objections. So ordered.

LEGISLATIVE BILL 762. Title read. Considered.

Senator Beutler renewed his pending motion, found on page 1193, First Session, 2003, to bracket LB 762 to April 1, 2004.

SENATOR WEHRBEIN PRESIDING

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

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

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

Voting in the affirmative, 21:

Baker	Friend	Louden	Quandahl	Tyson
Brashear	Hudkins	McDonald	Raikes	
Cunningham	Jones	Mines	Schrock	
Engel	Kremer	Pedersen, Dw.	Smith	
Erdman	Kruse	Pederson, D.	Stuthman	

Voting in the negative, 19:

Beutler	Chambers	Janssen	Price	Synowiecki
Bromm	Combs	Johnson	Redfield	Thompson
Burling	Connealy	Landis	Schimek	Vrtiska
Byars	Foley	Preister	Stuhr	

Present and not voting, 4:

Aguilar	Maxwell	Mossey	Wehrbein
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Excused and not voting, 5:

Bourne	Brown	Cudaback	Hartnett	Jensen
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The motion to cease debate failed with 21 ayes, 19 nays, 4 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

SELECT COMMITTEE REPORT **Enrollment and Review**

LEGISLATIVE BILL 479. Placed on Select File as amended.
(E & R amendment, AM7164, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORTS **Government, Military and Veterans Affairs**

LEGISLATIVE BILL 820. Placed on General File.

LEGISLATIVE BILL 870. Placed on General File.

LEGISLATIVE BILL 927. Placed on General File.

(Signed) DiAnna R. Schimek, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 1047. Placed on General File as amended.

Standing Committee amendment to LB 1047:

AM2298

- 1 1. Strike original section 6 and insert the following
- 2 new sections:
- 3 "Sec. 12. Section 44-6124, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 44-6124. For purposes of the Mutual Insurance Holding
- 6 Company Act:
- 7 (1) Director means the Director of Insurance;
- 8 (2) Intermediate stock holding company means a holding
- 9 company of which at least a majority of the voting securities are
- 10 owned by a mutual insurance holding company and which, directly or
- 11 indirectly, owns all of the voting securities of a reorganized
- 12 stock insurer;
- 13 (3) Mutual insurance holding company means a holding
- 14 company based on a mutual plan which at all times owns, directly or
- 15 indirectly, a majority of the voting securities of a single one or
- 16 more intermediate stock holding ~~company~~ companies or, if no such
- 17 intermediate stock holding company exists, which owns a majority of
- 18 the voting securities of a reorganized stock insurer;
- 19 (4) Reorganized stock insurer means a stock insurer
- 20 subsidiary which results from a reorganization of a domestic mutual
- 21 insurer pursuant to subsection (1) or (2) of section 44-6125 and in
- 22 compliance with the act; and
- 23 (5) Voting securities means securities of any class or
- 24 any ownership interest having voting power for the election of
- 1 directors, trustees, or management, other than securities having
- 2 voting power only because of the occurrence of a contingency.
- 3 Sec. 13. Section 44-6125, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 44-6125. (1) A domestic mutual insurer, upon approval of
- 6 the director, may reorganize (a) by forming a mutual insurance
- 7 holding company, (b) by merging its policyholders' membership
- 8 interests into the mutual insurance holding company, and (c) by
- 9 continuing the mutual insurer's corporate existence as a stock
- 10 insurer subsidiary of the mutual insurance holding company.
- 11 (2) A domestic mutual insurer, upon the approval of the
- 12 director, may reorganize by merging its policyholders' membership
- 13 interests into an existing mutual insurance holding company formed
- 14 under subsection (1) of this section and by continuing the mutual
- 15 insurer's corporate existence as a stock insurer subsidiary of the
- 16 mutual insurance holding company.
- 17 (3) All of the initial shares of the capital stock of a
- 18 reorganized stock insurer which has reorganized as described in
- 19 subsection (1) or (2) of this section shall be issued to the mutual

20 insurance holding company or to a ~~single~~ one or more intermediate
21 stock holding ~~company~~ companies.

22 (4) Policyholders of a domestic mutual insurer which has
23 reorganized as described in subsection (1) or (2) of this section
24 shall be members of the mutual insurance holding company and their
25 voting rights shall be determined in accordance with the articles
26 of incorporation and bylaws of the mutual insurance holding
27 company. The mutual insurance holding company shall provide its
1 members with the same membership rights as were provided to
2 policyholders of the mutual insurer immediately prior to
3 reorganization. The reorganization shall not reduce, limit, or
4 affect the number or identity of the policyholders who may become
5 members of the mutual insurance holding company or secure for
6 individuals comprising management any unfair advantage through or
7 connected with the reorganization.

8 (5)(a) A mutual insurance holding company or ~~an~~ any
9 intermediate stock holding company formed under the Mutual
10 Insurance Holding Company Act shall not be authorized to transact
11 the business of insurance.

12 (b) A mutual insurance holding company formed under the
13 act shall not issue stock.

14 (c) The director shall have jurisdiction over a mutual
15 insurance holding company and ~~an~~ any intermediate stock holding
16 company to ensure that policyholder interests are protected.

17 (d) A mutual insurance holding company and ~~an~~ any
18 intermediate stock holding company shall be treated as domestic
19 insurers subject to the Insurers Demutualization Act, the Nebraska
20 Insurers Supervision, Rehabilitation, and Liquidation Act, Chapter
21 44, article 2, and section 44-301.

22 (e) The aggregate pledges and encumbrances of a mutual
23 insurance holding company's assets shall not affect more than
24 forty-nine percent of the mutual insurance holding company's stock
25 in an intermediate stock holding company or a reorganized stock
26 insurer.

27 (f) At least fifty percent of the net worth of a mutual
1 insurance holding company, as determined by generally accepted
2 accounting practices, shall be invested in insurers.

3 (g) If any proceeding under the Nebraska Insurers
4 Supervision, Rehabilitation, and Liquidation Act is brought against
5 a reorganized stock insurer, the mutual insurance holding company
6 and intermediate stock holding company shall become parties to the
7 proceedings. All of the assets of the mutual insurance holding
8 company and intermediate stock holding company are deemed assets of
9 the estate of the reorganized stock insurer to the extent necessary
10 to satisfy claims against the reorganized stock insurer.

11 (h) No distribution to members of a mutual insurance
12 holding company may occur without prior written approval of the
13 director and only upon the director's satisfaction that such
14 distribution is fair and equitable to policyholders as members of

15 the mutual insurance holding company.

16 (i) No solicitation for the sale of the stock of an
17 intermediate stock holding company or a reorganized stock insurer
18 may be made without the director's prior written approval.

19 (j) A mutual insurance holding company or an intermediate
20 stock holding company shall not voluntarily dissolve without the
21 approval of the director.".

22 2. On page 20, line 7, strike "44-2403, and" and after
23 the last comma insert "44-6124, and 44-6125,".

24 3. Renumber the remaining sections and correct internal
25 references accordingly.

(Signed) Mark Quandahl, Chairperson

General Affairs

LEGISLATIVE BILL 936. Placed on General File.

(Signed) Ray Janssen, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Carlson, Merlyn - Nebraska Railway Council - Transportation and
Telecommunications

Gilfillan, David - Nebraska Railway Council - Transportation and
Telecommunications

Gohl, James R. - Nebraska Oil and Gas Conservation Commission - Natural
Resources

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARINGS

Banking, Commerce and Insurance

Room 1507

LB 920	Monday, February 9, 2004	1:30 p.m.
LB 1164	Monday, February 9, 2004	1:30 p.m.
LB 1212	Monday, February 9, 2004	1:30 p.m.
LB 847	Tuesday, February 10, 2004	1:30 p.m.
LB 1114	Tuesday, February 10, 2004	1:30 p.m.
LB 1199	Tuesday, February 10, 2004	1:30 p.m.

(Signed) Mark Quandahl, Chairperson

Urban Affairs

Room 1510

LB 1137	Tuesday, February 3, 2004	1:30 p.m.
LB 1190	Tuesday, February 3, 2004	1:30 p.m.
LB 1192	Tuesday, February 3, 2004	1:30 p.m.
LB 1053	Tuesday, February 3, 2004	1:30 p.m.

(Signed) D. Paul Hartnett, Chairperson

Revenue

Room 1524

LB 945	Wednesday, February 11, 2004	1:30 p.m.
LB 1096	Wednesday, February 11, 2004	1:30 p.m.
LB 1216	Wednesday, February 11, 2004	1:30 p.m.
LB 1188	Wednesday, February 11, 2004	1:30 p.m.
LB 1189	Wednesday, February 11, 2004	1:30 p.m.
LB 1176	Thursday, February 12, 2004	1:30 p.m.
LB 1134	Thursday, February 12, 2004	1:30 p.m.
LB 1135	Thursday, February 12, 2004	1:30 p.m.
LB 1197	Thursday, February 12, 2004	1:30 p.m.
LB 1020	Thursday, February 12, 2004	1:30 p.m.
LB 975	Thursday, February 12, 2004	1:30 p.m.

(Signed) David Landis, Chairperson

AMENDMENTS - Print in Journal

Senator Vrtiska filed the following amendment to LB 198:
(Amendment, AM2158, is printed separately and available in the Bill Room, Room 1104.)

Senator Byars filed the following amendment to LB 174:
AM2275

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 79-214, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 79-214. (1) Except as provided in subsection (2) of this
- 6 section, the school board of any school district shall not admit
- 7 any child into the kindergarten or beginner grade of any school of
- 8 such school district unless such child has reached the age of five
- 9 years or will reach such age on or before October 15 of the current
- 10 year.
- 11 (2) The board may admit a child who will reach the age of

12 five between October 16 and February 1 of the current school year
 13 if the parent or guardian requests such entrance and provides an
 14 affidavit stating that (a) the child attended kindergarten in
 15 another jurisdiction in the current school year, (b) the family
 16 anticipates relocation to another jurisdiction that would allow
 17 admission within the current year, or (c) the child has
 18 demonstrated through recognized assessment procedures approved by
 19 the board that he or she is capable of carrying the work of
 20 kindergarten or the beginner grade.

21 (3) The board shall comply with the requirements of
 22 subsection (2) of section 43-2007 and shall require evidence of:
 23 (a) A physical examination by a physician, a physician assistant,
 24 or an advanced practice registered nurse within six months prior to
 1 the entrance of a child into the beginner grade and the seventh
 2 grade or, in the case of a transfer from out of state, to any other
 3 grade of the local school; and (b) for school year 2005-06 and each
 4 school year thereafter, a visual evaluation by a physician or
 5 optometrist within six months prior to the entrance of a child into
 6 the beginner grade or, in the case of a transfer from out of state,
 7 to any other grade of the local school, which consists of testing
 8 for amblyopia, strabismus, and internal and external eye health,
 9 with testing sufficient to determine visual acuity, except that no
 10 such physical examination or visual evaluation shall be required of
 11 any child whose parent or guardian objects in writing. The cost of
 12 such physical examination and visual evaluation shall be borne by
 13 the parent or guardian of each child who is examined.

14 Sec. 2. Section 79-220, Reissue Revised Statutes of
 15 Nebraska, is amended to read:

16 79-220. At the time the parent or guardian of any child
 17 is notified that such child must have a physical examination and a
 18 visual evaluation pursuant to section 79-214 or immunizations
 19 pursuant to section 79-217, ~~he or she~~ the parent or guardian shall
 20 also be notified in writing of his or her right to submit a written
 21 statement refusing a physical examination, a visual evaluation, or
 22 immunization for his or her child.

23 Sec. 3. Original sections 79-214 and 79-220, Reissue
 24 Revised Statutes of Nebraska, are repealed.".

ANNOUNCEMENT

Senator Dw. Pedersen designates LB 853 as his priority bill.

UNANIMOUS CONSENT - Add Cointroducers

Senator Stuthman asked unanimous consent to have his name added as
 cointroducer to LBs 850, 906, and 958. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as
 cointroducer to LB 1190. No objections. So ordered.

VISITORS

Visitors to the Chamber were Brad Goldstrom and Darci Sitzman from Omaha.

ADJOURNMENT

At 11:57 a.m., on a motion by Senator Brashear, the Legislature adjourned until 9:00 a.m., Wednesday, January 28, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTEENTH DAY - JANUARY 28, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FIFTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 28, 2004

PRAYER

The prayer was offered by Senator Redfield.

ROLL CALL

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

The roll was called and all members were present except Senator Hartnett who was excused; and Senators Beutler, Brown, Mines, Mossey, Price, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fourteenth day was approved.

NOTICE OF COMMITTEE HEARINGS**Health and Human Services**

Room 1510

LB 1226	Wednesday, February 4, 2004	1:30 p.m.
LB 1240	Wednesday, February 4, 2004	1:30 p.m.
LB 1140	Wednesday, February 4, 2004	1:30 p.m.
LB 1158	Wednesday, February 4, 2004	1:30 p.m.
LB 1159	Friday, February 6, 2004	1:30 p.m.
LB 1198	Friday, February 6, 2004	1:30 p.m.
LB 1139	Friday, February 6, 2004	1:30 p.m.

(Signed) Jim Jensen, Chairperson

MESSAGE FROM THE GOVERNOR

January 21, 2004

President, Speaker Bromm

and Members of the Legislature
 State Capitol Building
 Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the State Fair Board.

APPOINTEE:

*Sallie Atkins, HC 76 Box 4, Halsey NE 69142

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
 (Signed) Mike Johanns
 Governor

web/

*Reappointments
 Enclosure

GENERAL FILE

LEGISLATIVE BILL 270. The Brashear pending amendment, AM2019, printed separately and referred to on page 1991, First Session, 2003, and considered on page 262, was renewed.

The Brashear amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Senator Brashear withdrew his pending motion, found on page 2015, First Session, 2003, to suspend Rule 6, Section 3 and Rule 7, Sections 3 and 7, and vote on the advancement of LB 270 without further amendment or debate.

Advanced to E & R for review with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 559. The Standing Committee amendment, AM0496, found on page 609, First Session, 2003, and considered on page 314, was renewed.

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

FA1429

Amend AM0496

In line 4 beginning with "line" strike through "and" in line 5.

The Chambers amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Senator Baker withdrew his pending amendment, AM2192, found on page 210.

Senator Baker renewed his pending amendment, AM2241, found on page 317.

The Baker amendment was adopted with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

Senator Chambers offered the following amendment:
FA1430

Page 9 beginning in line 17 strike "or issued based on the submission of false information or the intentional withholding of required information".

The Chambers amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 559A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1003

Friday, February 6, 2004 1:30 p.m.
AGENCY 30 - Electrical Board

Room 1524

Monday, February 9, 2004 1:30 p.m.
AGENCY 5 - Supreme Court
AGENCY 11 - Attorney General
AGENCY 15 - Board of Pardons
AGENCY 46 - Correctional Services
AGENCY 64 - State Patrol
AGENCY 94 - Comm. on Public Advocacy

LB 1141 Tuesday, February 10, 2004 1:30 p.m.

LB 1217 Tuesday, February 10, 2004 1:30 p.m.

Tuesday, February 10, 2004 1:30 p.m.

AGENCY 20 - HHS -- Regulation & Licensure

AGENCY 25 - Health & Human Services

AGENCY 26 - HHS--Finance & Support

Room 1003

LB 1144 Wednesday, February 11, 2004 1:30 p.m.

LB 1204 Wednesday, February 11, 2004 1:30 p.m.

Wednesday, February 11, 2004 1:30 p.m.

AGENCY 12 – State Treasurer

AGENCY 14 - Public Service Commission

AGENCY 16 - Dept. of Revenue

AGENCY 21 - State Fire Marshal

AGENCY 31 - Military

AGENCY 35 - Liquor Control Commission

AGENCY 84 - Dept. of Environmental Quality

AGENCY 96 - Property Assessment & Taxation

Thursday, February 12, 2004 1:30 p.m.

AGENCY 3 - Legislative Council

AGENCY 7 - Governor

AGENCY 8 - Lieutenant Governor

AGENCY 9 - Secretary of State

AGENCY 10 - Auditor of Public Accounts

AGENCY 27 - Dept. of Roads

AGENCY 28 - Dept. of Veterans' Affairs

AGENCY 29 - Dept. of Natural Resources

AGENCY 32 - Bd. of Educational Lands-Funds

AGENCY 33 - Game & Parks Commission

AGENCY 34 - Nebraska Library Commission

AGENCY 50 - State College System

AGENCY 68 - Mexican American Comm.

AGENCY 69 - Nebraska Arts Council

AGENCY 72 - Dept. of Economic Development

AGENCY 76 - Nebraska Indian Commission

AGENCY 77 - Comm. of Industrial Relations

AGENCY 78 - NE Commission on Law Enforcement

AGENCY 83 - Community College Aid

AGENCY 87 - Account. & Disclosure Comm.

AGENCY 93 - Tax Equalization & Review

(Signed) Roger R. Wehrbein, Chairperson

Judiciary
Room 1113

LB 883	Wednesday, February 4, 2004	1:30 p.m.
LB 998	Wednesday, February 4, 2004	1:30 p.m.
LB 1012	Wednesday, February 4, 2004	1:30 p.m.
LB 1046	Wednesday, February 4, 2004	1:30 p.m.
LB 1058	Wednesday, February 4, 2004	1:30 p.m.
LB 1061	Wednesday, February 4, 2004	1:30 p.m.
LB 1200	Wednesday, February 4, 2004	1:30 p.m.
LB 1009	Thursday, February 5, 2004	1:30 p.m.
LB 1044	Thursday, February 5, 2004	1:30 p.m.
LB 1131	Thursday, February 5, 2004	1:30 p.m.
LB 1225	Thursday, February 5, 2004	1:30 p.m.
LB 1031	Friday, February 6, 2004	1:30 p.m.
LB 1032	Friday, February 6, 2004	1:30 p.m.
LB 1112	Friday, February 6, 2004	1:30 p.m.
LB 1157	Friday, February 6, 2004	1:30 p.m.

(Signed) Kermit A. Brashear, Chairperson

ANNOUNCEMENT

The Government, Military and Veterans Affairs Committee designates LB 963 as its priority bill.

BILL ON FIRST READING

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

LEGISLATIVE BILL 279A. Introduced by Jones, 43.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 279, Ninety-eighth Legislature, Second Session, 2004; and to provide for transfers.

SENATOR SCHIMEK PRESIDING

GENERAL FILE

LEGISLATIVE BILL 449. Title read. Considered.

Senator Schrock renewed his pending amendment, AM2218, found on page 267.

The Schrock amendment was adopted with 27 ayes, 0 nays, 17 present and

not voting, and 5 excused and not voting.

Advanced to E & R for review with 29 ayes, 1 nay, 14 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 449A. Title read. Considered.

Senator Schrock renewed his pending amendment, AM2199, found on page 267.

The Schrock amendment was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 323. Title read. Considered.

SENATOR CUDABACK PRESIDING

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

LEGISLATIVE BILL 511. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 656. Title read. Considered.

Senator Chambers offered the following motion:
Indefinitely postpone.

Pending.

STANDING COMMITTEE REPORTS Government, Military and Veterans Affairs

LEGISLATIVE BILL 963. Placed on General File as amended.

Standing Committee amendment to LB 963:

AM2348

1 1. Insert the following new sections:

2 "Sec. 3. Section 55-121, Reissue Revised Statutes of

3 Nebraska, is amended to read:

4 55-121. The Adjutant General shall be appointed by the

5 Governor from the active or retired commissioned officers of the

6 National Guard of this state. Such Adjutant General shall be or

7 have been a commissioned officer ~~of the field or line in active~~

8 service who has actively served in the National Guard of this state

9 for at least ~~seven~~ five years, ~~and~~ shall have attained at least the
 10 grade of lieutenant colonel, and be able to become eligible for
 11 promotion to general officer. If a retired officer is appointed,
 12 he or she shall not have been retired for more than two years at
 13 the time he or she is considered for appointment. He or she shall
 14 hold his or her office as provided in section 55-136. He or she
 15 shall receive for his or her services such salary as the Governor
 16 shall direct, payable monthly, except ; PROVIDED, that such salary
 17 shall not exceed the annual pay and allowances of regular military
 18 officers of equal rank. If ; AND PROVIDED FURTHER, that when funds
 19 made available by the federal government are in excess of the
 20 amount payable as directed by the Governor, the excess shall be
 21 used to reduce the amount required to be paid by the state. Due to
 22 the interrelated nature of the Adjutant General's state and federal
 23 duties, the Adjutant General shall not be required to take paid or
 24 unpaid leave or leaves of absence to perform his or her federal
 1 duties, whether or not under federal orders. The Adjutant General
 2 shall continue to receive his or her salary during all such
 3 periods. The Adjutant General shall only be required to take leave
 4 or leaves of absence during those times when he or she is absent
 5 and performing neither his or her state nor federal duties as
 6 Adjutant General. This section shall not apply if the Adjutant
 7 General is called to active duty of the United States under Title
 8 10 of the United States Code.

9 Sec. 4. Section 55-125, Reissue Revised Statutes of
 10 Nebraska, is amended to read:
 11 55-125. The Adjutant General ~~shall have~~ may appoint a
 12 deputy adjutant general, ~~a~~ or chief of staff of the Military
 13 Department, ~~in a~~ or a deputy director. The officer shall hold the
 14 grade of not less than colonel, as provided in section 55-120, ;
 15 ~~who shall be appointed by the Adjutant General.~~ No person shall be
 16 eligible for such appointment and service unless he or she is an
 17 active member of the Nebraska National Guard. He or she shall have
 18 had at least four years of commissioned service in the Nebraska
 19 National Guard immediately prior to appointment and shall have
 20 attained at least the grade of lieutenant colonel prior to his or
 21 her appointment as deputy adjutant general, or chief of staff of
 22 the Military Department, or deputy director. The Adjutant General
 23 shall appoint an officer with a grade of not less than major who
 24 may act as United States property and fiscal officer. The Adjutant
 25 General may also appoint ; an assistant United States property and
 26 fiscal officer, with the grade of not less than captain. These ;
 27 ~~which~~ officers shall be appointed from among the active officers of
 1 the Nebraska National Guard and shall have been commissioned
 2 officers in the Nebraska National Guard for a period of at least
 3 four years ~~and shall have attained the grade of at least captain~~
 4 ~~and first lieutenant, respectively~~ immediately prior to
 5 appointment. The Adjutant General shall appoint all additional
 6 officers, clerks and caretakers as may be required.

7 Sec. 5. Section 55-126, Reissue Revised Statutes of
8 Nebraska, is amended to read:
9 55-126. The deputy adjutant general, chief of staff of
10 the Military Department, or deputy director shall aid the Adjutant
11 General by the performance of such duties as may be assigned by the
12 Adjutant General. In case of absence or inability of the Adjutant
13 General, the deputy adjutant general, chief of staff of the
14 Military Department, or deputy director shall perform all or such
15 portion of the duties of the Adjutant General as the latter may
16 expressly delegate to him or her. If a deputy adjutant general,
17 chief of staff of the Military Department, or deputy director has
18 not been appointed, the Adjutant General may delegate the authority
19 to perform the duties of the Adjutant General to any active officer
20 of the Nebraska military. Any officer exercising this authority
21 shall hold at least the rank of colonel. The deputy adjutant
22 general, chief of staff of the Military Department, or deputy
23 director shall be bonded under the blanket surety bond required by
24 section 11-201. The deputy adjutant general, chief of staff of the
25 Military Department, or deputy director shall receive such salary
26 as the Adjutant General shall direct, payable monthly. Such salary
27 shall not exceed the annual pay and allowances of regular military
1 officers of equal rank, except that when funds made available by
2 the federal government are in excess of the amount payable as
3 directed by the Adjutant General, the excess shall be used to
4 reduce the amount required to be paid by the State of Nebraska.

5 Sec. 6. Section 55-157, Reissue Revised Statutes of
6 Nebraska, is amended to read:
7 55-157. (1) When an active or retired officer or
8 enlisted person of the National Guard is ordered to active service
9 of the state by the Governor or Adjutant General, he or she shall
10 receive compensation as provided in this section. For service
11 during a disaster or emergency an officer or enlisted person shall
12 be entitled to the same pay, subsistence, and quarters allowance as
13 officers and enlisted personnel of corresponding grades of the Army
14 and Air Force of the United States. For advice, counsel, duties,
15 or service to the Governor or Adjutant General an officer or
16 enlisted person may, at the discretion of the Adjutant General, be
17 in a pay or nonpay status. If in a pay status, the officer or
18 enlisted person shall be entitled to the same pay, subsistence, and
19 quarters allowance as officers and enlisted personnel of
20 corresponding grades of the Army and Air Force of the United
21 States.
22 (2) For any period of active service of the state in
23 excess of thirty days, performed at the order of the Governor or
24 Adjutant General, at the request of the federal government, a
25 state, or other agency or entity, an officer or enlisted person
26 shall be entitled to reimbursement of one hundred percent of the
27 cost of his or her privately purchased health insurance or up to
1 one hundred two percent of the cost of their employer-provided

2 health insurance. The officer or enlisted person shall provide
 3 evidence of payment and shall be reimbursed to the extent that
 4 evidence of payment can be provided. The reimbursement for health
 5 insurance shall be treated as an allowance, but may be paid
 6 separately once received by the State of Nebraska from the federal
 7 government, state, or other agency or entity requesting the
 8 services of the officer or enlisted person. The State of Nebraska
 9 will not pay or advance the cost of such health insurance
 10 reimbursement for the federal government, a state, or other agency
 11 or entity. The State of Nebraska is exempt from the requirement
 12 under this section to reimburse officers and enlisted persons for
 13 their health insurance costs."

14 2. On page 6, line 14, after "original" insert "sections
 15 55-121, 55-125, 55-126, and 55-157, Reissue Revised Statutes of
 16 Nebraska, and"; and in line 15 strike "is" and insert "are".

17 3. Renumber the remaining section accordingly.

(Signed) DiAnna R. Schimek, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 845. Placed on General File.

LEGISLATIVE BILL 884. Placed on General File.

LEGISLATIVE BILL 885. Placed on General File.

LEGISLATIVE BILL 980. Placed on General File.

LEGISLATIVE BILL 979. Placed on General File as amended.

Standing Committee amendment to LB 979:

AM2271

- 1 1. Insert the following new section:
- 2 "Sec. 14. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

LEGISLATIVE BILL 1099. Placed on General File as amended.

Standing Committee amendment to LB 1099:

AM2345

- 1 1. On page 2, line 24; and page 5, line 2, strike the
- 2 new matter and insert "four dollars and fifty cents".

LEGISLATIVE BILL 978. Indefinitely postponed.

(Signed) Mark Quandahl, Chairperson

NOTICE OF COMMITTEE HEARINGS **Government, Military and Veterans Affairs** Room 1507

LB 898 Wednesday, February 4, 2004

1:30 p.m.

LB 964 Wednesday, February 4, 2004

1:30 p.m.

LB 1180	Wednesday, February 4, 2004	1:30 p.m.
LB 1183	Wednesday, February 4, 2004	1:30 p.m.
LB 1247	Wednesday, February 4, 2004	1:30 p.m.
LB 819	Thursday, February 5, 2004	1:30 p.m.
LB 1087	Thursday, February 5, 2004	1:30 p.m.
LB 1118	Thursday, February 5, 2004	1:30 p.m.
LB 1155	Thursday, February 5, 2004	1:30 p.m.
LB 1194	Thursday, February 5, 2004	1:30 p.m.
Friday, February 6, 2004		1:30 p.m.
Jeanne V. Ross - State Personnel Board		
LB 940	Friday, February 6, 2004	1:30 p.m.
LB 1033	Friday, February 6, 2004	1:30 p.m.
LB 1063	Friday, February 6, 2004	1:30 p.m.
LB 1209	Friday, February 6, 2004	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 229. Introduced by Burling, 33.

WHEREAS, Drew Hubl of Hastings, Nebraska, has completed the requirements for and been awarded the highest honor and rank in the Boy Scouts of America, the rank of Eagle Scout; and

WHEREAS, Drew Hubl was recognized by the Boy Scouts for his years of hard work, commitment to his scouting duties, and service to his community which included his Eagle Scout project; and

WHEREAS, fewer than two percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Drew Hubl has achieved great success as an exemplary member of the scouting program; thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes, and has represented his troop and community with excellence.

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

1. That the Legislature congratulates Drew Hubl on his achievement of the elite rank of Eagle Scout in the Boy Scouts and recognizes his outstanding community service efforts in Hastings.

2. That a copy of this resolution be sent to Drew Hubl and his family.

Laid over.

AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 270:
AM2215

(Amendments to AM2019)

- 1 1. Insert the following new section:
- 2 "Sec. 8. Nothing in the Nebraska Crime Victim's
- 3 Reparations Act or sections 81-1843 to 81-1850 and sections 9, 12
- 4 to 14, and 17 of this act requiring an act by the state or
- 5 political subdivision is deemed to create any liability if the
- 6 state or political subdivision fails to act as required under the
- 7 act or such sections. Such failure to act also shall not
- 8 invalidate any legal process or proceeding."
- 9 2. On page 4, line 27, strike "section" and insert
- 10 "sections".
- 11 3. On page 5, line 1, after "5" insert "and 8".
- 12 4. Renumber the remaining sections accordingly.

WITHDRAW - Cointroducer

Senator Friend withdrew his name as cointroducer to LB 439.

UNANIMOUS CONSENT - Add Cointroducers

Senator Maxwell asked unanimous consent to have his name added as cointroducer to LB 816. No objections. So ordered.

Senator Friend asked unanimous consent to have his name added as cointroducer to LBs 880 and 881. No objections. So ordered.

Senator Combs asked unanimous consent to have her name added as cointroducer to LBs 986, 1041, and 1055. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 1082. No objections. So ordered.

Senator Schimek asked unanimous consent to have her name added as cointroducer to LB 1155. No objections. So ordered.

Senator Hudkins asked unanimous consent to have her name added as cointroducer to LB 1181. No objections. So ordered.

Senator Synowiecki asked unanimous consent to have his name added as cointroducer to LB 1184. No objections. So ordered.

VISITORS

Visitors to the Chamber were Pastor Jose Flores from Omaha; Donna Ziems from Ewing; and Senator Synowiecki's son, James, from Omaha.

ADJOURNMENT

At 11:59 a.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Thursday, January 29, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTEENTH DAY - JANUARY 29, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****SIXTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, January 29, 2004

PRAYER

The prayer was offered by Pastor Milton Bryarly, South Side Christian Church, Omaha.

ROLL CALL

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

The roll was called and all members were present except Senators Brown, Byars, Hartnett, Janssen, Jensen, and Mines who were excused until they arrive.

SPEAKER BROMM PRESIDING**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifteenth day was approved.

**SELECT COMMITTEE REPORT
Enrollment and Review**

LEGISLATIVE BILL 139. Placed on Select File as amended.

E & R amendment to LB 139:

AM7165

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 29-4103, Revised Statutes
- 4 Supplement, 2002, is amended to read:
- 5 29-4103. For purposes of the DNA Detection of Sexual and
- 6 Violent Offenders Act:
- 7 (1) Combined DNA Index System means the Federal Bureau of
- 8 Investigation's national DNA identification index system that
- 9 allows the storage and exchange of DNA records submitted by state
- 10 and local forensic DNA laboratories;
- 11 (2) DNA means deoxyribonucleic acid which is located in

- 12 the cells and provides an individual's personal genetic blueprint.
13 DNA encodes genetic information that is the basis of human heredity
14 and forensic identification;
- 15 (3) DNA record means the DNA identification information
16 stored in the State DNA Data Base or the Combined DNA Index System
17 which is derived from DNA typing test results;
- 18 (4) DNA sample means a blood, tissue, or bodily fluid ~~or~~
19 ~~tissue~~ sample provided by any person with respect to offenses
20 covered by the DNA Detection of Sexual and Violent Offenders Act
21 for analysis or storage, or both;
- 22 (5) DNA typing tests means the laboratory procedures
23 which evaluate the characteristics of a DNA sample which are of
24 value in establishing the identity of an individual;
- 1 (6) Felony sex offense means a felony offense, or an
2 attempt, conspiracy, or solicitation to commit a felony offense,
3 under any of the following:
- 4 (a) Kidnapping of a minor pursuant to section 28-313,
5 except when the person is the parent of the minor and was not
6 convicted of any other offense in this subdivision;
- 7 (b) Incest of a minor pursuant to section 28-703;
- 8 (c) Sexual assault in the first or second degree pursuant
9 to section 28-319 or 28-320;
- 10 (d) Sexual assault of a child pursuant to section
11 28-320.01;
- 12 (e) Sexual assault of a vulnerable adult pursuant to
13 subdivision (1)(c) of section 28-386; and
- 14 (f) False imprisonment of a minor in the first degree
15 pursuant to section 28-314, except when the person is the parent of
16 the minor and was not convicted of any other offense in this
17 subdivision;
- 18 (7) Law enforcement agency includes a police department,
19 a town marshal, a county sheriff, and the Nebraska State Patrol;
- 20 (8) Other specified offense means an offense, or an
21 attempt, conspiracy, or solicitation to commit an offense, under
22 any of the following:
- 23 (a) Murder in the first degree pursuant to section
24 28-303;
- 25 (b) Murder in the second degree pursuant to section
26 28-304;
- 27 (c) Manslaughter pursuant to section 28-305; ~~or~~
1 (d) Stalking pursuant to sections 28-311.02 to 28-311.05;
- 2 (e) Burglary pursuant to section 28-507; or
3 (f) Robbery pursuant to section 28-324; and
- 4 (9) Released means any release, parole, furlough, work
5 release, prerelease, or release in any other manner from a prison,
6 a jail, or any other detention facility or institution.
- 7 Sec. 2. Section 29-4104, Revised Statutes Supplement,
8 2002, is amended to read:
9 29-4104. The State DNA Data Base is established. The

10 Nebraska State Patrol shall administer the State DNA Data Base, by
 11 providing a nonsworn, nonuniformed officer, preferably with DNA
 12 laboratory experience, who will act as an administrator and
 13 supervisor in control of DNA testing procedures, and shall provide
 14 DNA records to the Federal Bureau of Investigation for storage and
 15 maintenance in the Combined DNA Index System. The patrol shall
 16 provide for liaison with the Federal Bureau of Investigation and
 17 other law enforcement agencies in regard to the state's
 18 participation in the Combined DNA Index System. The State DNA Data
 19 Base shall store and maintain DNA records related to:

- 20 (1) Forensic casework, including, but not limited to,
 21 forensic casework relating to missing persons, relatives of missing
 22 persons, and unidentified human remains;
 23 (2) Convicted offenders required to provide a DNA sample
 24 under the DNA Detection of Sexual and Violent Offenders Act; ~~and~~
 25 (3) Anonymous DNA records used for research or quality
 26 control; and
 27 (4) Missing persons, relatives of missing persons, and
 1 unidentified human remains.

2 Sec. 3. Section 29-4105, Revised Statutes Supplement,
 3 2002, is amended to read:

4 29-4105. (1) The Nebraska State Patrol shall prescribe
 5 procedures to be used in the collection, submission,
 6 identification, analysis, storage, and disposition of DNA samples
 7 in the State DNA Sample Bank and DNA records under the DNA
 8 Detection of Sexual and Violent Offenders Act in the State DNA Data
 9 Base. These procedures shall also include quality assurance
 10 guidelines for laboratories which submit DNA records to the State
 11 DNA Data Base and shall require that all laboratories be accredited
 12 by the American Society of Crime Laboratory
 13 Directors-LAB-Laboratory Accreditation Board or the National
 14 Forensic Science Technology Center or by any other national
 15 accrediting body or public agency which has requirements that are
 16 substantially equivalent to or more comprehensive than those of the
 17 society or center. The State DNA Data Base shall be compatible
 18 with the procedures specified by the Federal Bureau of
 19 Investigation, including the use of comparable test procedures,
 20 laboratory equipment, supplies, and computer software. The DNA
 21 records shall be securely stored in the State DNA Data Base and
 22 retained in a manner consistent with the procedures established by
 23 the Federal Bureau of Investigation.

24 (2) The Nebraska State Patrol may contract with the
 25 University of Nebraska Medical Center to establish the State DNA
 26 Sample Bank at the medical center and for DNA typing tests. The
 27 State DNA Sample Bank shall serve as the repository of DNA samples
 1 collected under the ~~act~~ DNA Detection of Sexual and Violent
 2 Offenders Act and other forensic casework. The University of
 3 Nebraska Medical Center ~~in contracting under the act~~ is would be
 4 subject to the same restrictions and requirements of the act,

5 insofar as applicable, as the Nebraska State Patrol, as well as any
6 additional restrictions imposed by the patrol.

7 (3) The DNA samples and DNA records shall only be used by
8 the Nebraska State Patrol (a) to create a separate population data
9 base comprised of DNA records obtained ~~under the act~~ after all
10 personal identification is removed and (b) for quality assurance,
11 training, and research purposes related to human DNA
12 identification. The patrol may share or disseminate the population
13 data base with other law enforcement agencies or forensic DNA
14 laboratories which assist the patrol with statistical data bases.

15 The population data base may be made available to and searched by
16 other agencies participating in the Combined DNA Index System.

17 (4) Except for records and samples expunged under section
18 29-4109, the Nebraska State Patrol shall permanently retain DNA
19 samples and records of an individual obtained under section
20 29-4106. Any other DNA samples and records related to forensic
21 casework, other than those used for research or quality control,
22 shall not be permanently retained but shall be retained only as
23 long as needed for a criminal investigation or criminal
24 prosecution.

25 (5) If the Nebraska State Patrol determines after
26 analysis that a forensic sample has been submitted by an individual
27 who has been eliminated as a suspect in a crime, the patrol or the
28 law enforcement agency which submitted the sample shall destroy the
29 DNA sample and record in the presence of a witness. After
30 destruction, the patrol or law enforcement agency shall make and
31 keep a written record of the destruction, signed by the individual
32 who witnessed the destruction. After the patrol or the law
33 enforcement agency destroys the DNA sample and record, it shall
34 notify the individual if he or she is not a minor or the parent or
35 legal guardian of a minor by certified mail that the sample and
36 record have been destroyed. Destruction of a DNA sample and record
37 under this section shall not be considered the offense of tampering
38 with physical evidence under section 28-922.

39 Sec. 4. Section 29-4106, Revised Statutes Supplement,
40 2002, is amended to read:

41 29-4106. (1) A person who is convicted of a felony sex
42 offense or other specified offense on or after ~~September 13, 1997~~
43 the effective date of this act, who has not already had a DNA
44 sample taken pursuant to this section, shall have a DNA sample
45 ~~drawn taken:~~

46 (a) Upon intake to a prison, jail, or other detention
47 facility or institution to which such person is sentenced. If the
48 person is already confined at the time of sentencing, the person
49 shall have a DNA sample ~~drawn taken~~ immediately after the
50 sentencing. Such DNA samples shall be ~~drawn taken~~ at the place of
51 incarceration or confinement. Such person shall not be released
52 unless and until a DNA sample has been ~~drawn taken;~~ or

53 (b) As a condition for any sentence which will not

27 involve an intake into a prison, jail, or other detention facility
1 or institution. Such DNA samples shall be ~~drawn~~ taken at a
2 detention facility or institution as specified by the court. Such
3 person shall not be released unless and until a DNA sample has been
4 ~~drawn~~ taken.

5 (2) A person who has been convicted of a felony sex
6 offense or other specified offense before ~~September 13, 1997~~ the
7 effective date of this act, who has not already had a DNA sample
8 taken pursuant to this section, and who is still serving a term of
9 confinement for such offense on ~~September 13, 1997~~ the effective
10 date of this act, shall not be released prior to the expiration of
11 his or her maximum term of confinement unless and until a DNA
12 sample has been ~~drawn~~ taken.

13 Sec. 5. Section 29-4108, Revised Statutes Supplement,
14 2002, is amended to read:

15 29-4108. (1) All DNA samples and DNA records submitted
16 ~~pursuant to the DNA Detection of Sexual and Violent Offenders Act~~
17 to the State DNA Sample Bank or the State DNA Data Base are
18 confidential except as otherwise provided in the ~~act~~ DNA Detection
19 of Sexual and Violent Offenders Act. The Nebraska State Patrol
20 shall make DNA records in the State DNA Data Base available:

21 (a) To law enforcement agencies and forensic DNA
22 laboratories which serve such agencies; and

23 (b) Upon written or electronic request and in furtherance
24 of an official investigation of a criminal offense or offender or
25 suspected offender.

26 (2) The Nebraska State Patrol shall adopt and promulgate
27 rules and regulations governing the methods of obtaining
1 information from the State DNA Data Base and the Combined DNA Index
2 System and procedures for verification of the identity and
3 authority of the requester.

4 (3) The Nebraska State Patrol may, for good cause shown,
5 revoke or suspend the right of a forensic DNA laboratory in this
6 state to have access to or submit records to the State DNA Data
7 Base.

8 (4) For purposes of this subsection, person means a law
9 enforcement agency, the Federal Bureau of Investigation, any
10 forensic DNA laboratory, or person. No records or DNA samples
11 shall be provided to any person unless such person enters into a
12 written agreement with the Nebraska State Patrol to comply with the
13 provisions of section 29-4109 relative to expungement, when
14 notified by the Nebraska State Patrol that expungement has been
15 granted. Every person shall comply with the provisions of section
16 29-4109 within ten calendar days of receipt of such notice and
17 certify in writing to the Nebraska State Patrol that such
18 compliance has been effectuated. The Nebraska State Patrol shall
19 provide notice of such certification to the person who was granted
20 expungement.

21 Sec. 6. Original sections 29-4103 to 29-4106 and
 22 29-4108, Revised Statutes Supplement, 2002, are repealed."
 23 2. On page 1, strike beginning with "DNA" in line 1
 24 through line 5 and insert "the DNA Detection of Sexual and Violent
 25 Offenders Act; to amend sections 29-4103 to 29-4106 and 29-4108,
 26 Revised Statutes Supplement, 2002; to redefine terms; to change
 27 provisions relating to the State DNA Data Base and State DNA Sample
 1 Bank, taking and use of DNA samples, and use of DNA records; to
 2 harmonize provisions; and to repeal the original sections.".

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORTS **Banking, Commerce and Insurance**

LEGISLATIVE BILL 864. Placed on General File as amended.
 Standing Committee amendment to LB 864:
 AM2272

1 1. Insert the following new section:
 2 "Sec. 2. This act becomes operative on January 1,
 3 2005."
 4 2. On page 4, line 3, after the semicolon insert "or";
 5 strike beginning with "an" in line 4 through "(3)" in line 7; in
 6 lines 13 and 14 strike "subdivisions (1) and (2)" and insert
 7 "subdivision (1)"; in line 18, strike "(3)" and insert "(2)"; and
 8 in line 19, strike "comparable to" and insert "more favorable
 9 than".
 10 3. Renumber the remaining section accordingly.

LEGISLATIVE BILL 999. Placed on General File as amended.
 (Standing Committee amendment, AM2339, is printed separately and
 available in the Bill Room, Room 1104.)

(Signed) Mark Quandahl, Chairperson

ANNOUNCEMENT

Senator Aguilar designates LB 969 as his priority bill.

REPORTS

The following reports were received by the Legislature:

Boys Town National Research Hospital

Tobacco Settlement Biomedical Research Development Fund Progress
 Report

Creighton University

Tobacco Settlement Biomedical Research Development Fund Progress
 Report

Health and Human Services System

Office of the System Advocate Quarterly Report, October-December 2003

Performance Audit Committee, Legislative

Annual Report to the Legislature, Fiscal Year 2002-2003

University of Nebraska

Tobacco Settlement Biomedical Research Development Fund Progress Report

University of Nebraska Medical Center

Tobacco Settlement Biomedical Research Development Fund Progress Report

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of January 28, 2004, 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

Chermok, Ruth
Electrical Contractors Association, National

Fahleson, Mark A.
Linweld, Inc.

Gale, Kristine
Fair Board, Nebraska State

Peters, William E.
Cigar Association of America, Inc.

Plucker, Julia
Childrens Healthcare Services

Radcliffe, Walter H. of Radcliffe & Associates
Home Builders Association, Nebraska State

Wimmer, J. Kent
Western Sugar Company (CO)

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 355. With Emergency.

A BILL FOR AN ACT relating to income tax; to amend section 77-2716.01,

Reissue Revised Statutes of Nebraska; to change provisions relating to standard deduction amounts; to provide an operative date; to repeal the original section; and to declare an emergency.

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

Voting in the affirmative, 42:

Aguilar	Connealy	Jones	Preister	Stuthman
Baker	Cudaback	Kremer	Price	Synowiecki
Beutler	Cunningham	Kruse	Quandahl	Thompson
Bourne	Engel	Landis	Raikes	Tyson
Brashear	Erdman	Louden	Redfield	Vrtiska
Bromm	Foley	Maxwell	Schimek	Wehrbein
Burling	Friend	McDonald	Schrock	
Chambers	Hudkins	Mossey	Smith	
Combs	Johnson	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Excused and not voting, 7:

Brown	Hartnett	Jensen	Pederson, D.
Byars	Janssen	Mines	

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

LEGISLATIVE BILL 810.

A BILL FOR AN ACT relating to the Ethanol Pricing Task Force; to eliminate provisions governing the task force which terminated on December 31, 2000; and to outright repeal section 66-1350, Reissue Revised Statutes of Nebraska.

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

Voting in the affirmative, 42:

Aguilar	Connealy	Jones	Preister	Stuthman
Baker	Cudaback	Kremer	Price	Synowiecki
Beutler	Cunningham	Kruse	Quandahl	Thompson
Bourne	Engel	Landis	Raikes	Tyson
Brashear	Erdman	Louden	Redfield	Vrtiska
Bromm	Foley	Maxwell	Schimek	Wehrbein
Burling	Friend	McDonald	Schrock	
Chambers	Hudkins	Mossey	Smith	
Combs	Johnson	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Excused and not voting, 7:

Brown	Hartnett	Jensen	Pederson, D.
Byars	Janssen	Mines	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 811.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3901, Reissue Revised Statutes of Nebraska; to eliminate obsolete provisions; to harmonize provisions; to repeal the original section; and to outright repeal sections 77-27,138.01, 77-3530, and 77-3909, Reissue Revised Statutes of Nebraska.

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

Voting in the affirmative, 44:

Aguilar	Connealy	Johnson	Mossey	Smith
Baker	Cudaback	Jones	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Kremer	Preister	Stuthman
Bourne	Engel	Kruse	Price	Synowiecki
Brashear	Erdman	Landis	Quandahl	Thompson
Bromm	Foley	Louden	Raikes	Tyson
Burling	Friend	Maxwell	Redfield	Vrtiska
Chambers	Hudkins	McDonald	Schimek	Wehrbein
Combs	Janssen	Mines	Schrock	

Voting in the negative, 0.

Excused and not voting, 5:

Brown	Byars	Hartnett	Jensen	Pederson, D.
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 812.

A BILL FOR AN ACT relating to minibikes; to amend section 60-6,347, Reissue Revised Statutes of Nebraska; to harmonize provisions with Laws 2003, LB 333; and to repeal the original section.

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

Voting in the affirmative, 44:

Aguilar	Connealy	Johnson	Mossey	Smith
Baker	Cudaback	Jones	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Kremer	Preister	Stuthman
Bourne	Engel	Kruse	Price	Synowiecki
Brashear	Erdman	Landis	Quandahl	Thompson
Bromm	Foley	Louden	Raikes	Tyson
Burling	Friend	Maxwell	Redfield	Vrtiska
Chambers	Hudkins	McDonald	Schimek	Wehrbein
Combs	Janssen	Mines	Schrock	

Voting in the negative, 0.

Excused and not voting, 5:

Brown	Byars	Hartnett	Jensen	Pederson, D.
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 813 with 40 ayes, 2 nays, 2 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 813.

A BILL FOR AN ACT relating to statutory forms; to amend sections 10-505, 12-522, 15-813, 19-3005, 19-3006, 19-3007.01, 19-3037, 23-1802, 23-1809, 30-2329, 30-3408, 31-324, 31-331, 31-333, 32-812, 32-934, 32-1040, 32-1401, 32-1402, 49-218, 49-1522, 49-1559, 53-135.01, 53-1,108, 54-403, 57-202, 58-525, 76-1004, 76-1007, 76-1008, 76-1012, 77-1819, 77-1839, and 77-3204, Reissue Revised Statutes of Nebraska; to

change certain forms for the twenty-first century; and to repeal the original sections.

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

Voting in the affirmative, 44:

Aguilar	Connealy	Johnson	Mossey	Smith
Baker	Cudaback	Jones	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Kremer	Preister	Stuthman
Bourne	Engel	Kruse	Price	Synowiecki
Brashear	Erdman	Landis	Quandahl	Thompson
Bromm	Foley	Louden	Raikes	Tyson
Burling	Friend	Maxwell	Redfield	Vrtiska
Chambers	Hudkins	McDonald	Schimek	Wehrbein
Combs	Janssen	Mines	Schrock	

Voting in the negative, 0.

Excused and not voting, 5:

Brown	Byars	Hartnett	Jensen	Pederson, D.
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 355, 810, 811, 812, and 813.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 223 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 223.

SELECT FILE

LEGISLATIVE BILL 454. E & R amendment, AM7110, found on page 1318, First Session, 2003, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 172. Senator Foley withdrew his pending amendment, AM2182, found on page 177.

Senator Schimek renewed her pending amendment, AM2209, found on page 211.

SENATOR CUDABACK PRESIDING

Senator Chambers offered the following amendment to the Schimek pending amendment:

FA1437

Amend AM2209

In line 9 strike "for" and insert "to"

Senator Chambers withdrew his amendment.

Pending.

PRESENTED TO THE GOVERNOR

Presented to the Governor on January 29, 2004, at 9:55 a.m. were the following: LBs 355e, 810, 811, 812, and 813.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

RESOLUTION

LEGISLATIVE RESOLUTION 230. Introduced by Combs, 32; McDonald, 41.

WHEREAS, rural schools provide a quality education for approximately 150,000 students in Nebraska; and

WHEREAS, rural schools provide a community-based education that links children to their community, its history, and its future; and

WHEREAS, rural schools encourage students to participate in extracurricular activities to develop their talents and leadership skills; and

WHEREAS, rural schools are the center of social and community-based activities in many small towns and rural areas and provide many economic development and social benefits to rural places and rural people.

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

1. That February 3, 2004, be declared Rural Education Day in Nebraska.

Laid over.

STANDING COMMITTEE REPORTS
Agriculture

The Agriculture 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.

Beginning Farmer Board
Timothy Schram

VOTE: Aye: Senators Kremer, Erdman, Burling, Cunningham, and Preister.
Nay: None. Absent: Senators Chambers, Mossey, and Vrtiska.

(Signed) Bob Kremer, Chairperson

Natural Resources

The Natural Resources 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.

Nebraska Power Review Board
Eugene Bade

VOTE: Aye: Senators Friend, Hudkins, Jones, Kremer, Loudon, Preister, and Schrock. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

Revenue

The Revenue 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.

Tax Equalization and Review Commission
Robert L. Hans

VOTE: Aye: Senators Baker, Bourne, Connealy, Landis, Raikes, and Redfield. Nay: None. Absent: Senators Hartnett and Janssen.

(Signed) David Landis, Chairperson

NOTICE OF COMMITTEE HEARINGS
Health and Human Services
Room 1510

LB 1237	Thursday, February 5, 2004	1:30 p.m.
LB 1054	Thursday, February 5, 2004	1:30 p.m.
LB 1145	Thursday, February 5, 2004	1:30 p.m.

(Signed) Jim Jensen, Chairperson

Natural Resources
Room 1525

Friday, February 6, 2004	1:30 p.m.
Steve Oltmans - Environmental Quality Council	
Jodi Thompson - Environmental Quality Council	

(Signed) Ed Schrock, Chairperson

AMENDMENT - Print in Journal

Senator Schrock filed the following amendment to LB 32:
AM2366

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 "Section 1. Section 2-3225, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 2-3225. Each In addition to the levy provided in section
6 6 of this act, each district shall have the power and authority to
7 levy a tax of not to exceed four and one-half cents on each one
8 hundred dollars of taxable valuation annually on all of the taxable
9 property within such district unless a higher levy is authorized
10 pursuant to section 77-3444. The proceeds of such tax shall be
11 used, together with any other funds which the district may receive
12 from any source, for the operation of the district. When adopted
13 by the board, the levy shall be certified by the secretary to the
14 county clerk of each county which in whole or in part is included
15 within the district. Such levy shall be handled by the counties in
16 the same manner as other levies, and proceeds shall be remitted to
17 the district treasurer. Such levy shall not be considered a part
18 of the general county levy and shall not be considered in
19 connection with any limitation on levies of such counties.
20 Sec. 2. (1) Any city required by federal law to develop,
21 establish, and implement storm water management programs and secure
22 a storm water discharge permit under the National Pollutant
23 Discharge Elimination System created pursuant to the federal Clean
24 Water Act of 1977, 33 U.S.C. 1251 et seq., may develop, establish,
25 and implement storm water management programs and projects as
26 required by federal law and the capital improvements required for
27 such storm water management programs and projects.
28 (2) Any city described in subsection (1) of this section
29 may acquire by gift, grant, purchase, or condemnation necessary
30 land for such storm water management programs and projects.

7 Sec. 3. For the purpose of developing, establishing, and
8 implementing storm water management programs and projects as
9 required by federal law and funding the capital improvements and
10 operation and maintenance costs of such storm water management
11 programs and projects, a city described in section 2 of this act
12 may make a special levy, not subject to the budgetary limitations
13 specified in section 13-519 and not subject to the levy limitations
14 specified in section 77-3442, which levy shall not exceed five
15 cents on each one hundred dollars upon the taxable value of all the
16 taxable property in such city. The proceeds of the tax shall be
17 placed in a separate fund and shall not be used for any purpose
18 other than developing, establishing, and implementing storm water
19 management programs and projects as required by federal law and
20 funding the capital improvements and the operation and maintenance
21 costs of such storm water management programs and projects and for
22 the retirement of revenue bonds issued pursuant to section 4 of
23 this act.

24 Sec. 4. A city described in section 2 of this act may
25 issue revenue bonds for the purpose of developing, establishing,
26 and implementing storm water management programs and projects and
27 funding the capital improvements and the operation and maintenance
1 costs of such storm water management programs and projects. Such
2 revenue bonds shall not be a general liability on such city but
3 shall be secured only by the proceeds of the tax levy described in
4 section 3 of this act. Such revenue bonds shall be sold for not
5 less than par and bear interest at a rate set by the city council.
6 The amount of such revenue bonds, either issued or outstanding,
7 shall not be included in computing the maximum amount of bonds
8 which such city may otherwise issue under its charter or under any
9 statute of this state.

10 Sec. 5. A city described in section 2 of this act may
11 enter into a contract with any corporation organized under or
12 authorized by the laws of this state for the purpose of developing,
13 establishing, and implementing storm water management programs or
14 projects. The city shall pay for such contract out of the proceeds
15 of the tax levy authorized pursuant to section 3 of this act.

16 Sec. 6. In addition to other powers authorized by law,
17 the board of directors of a natural resources district encompassing
18 a city described in section 2 of this act may develop, establish,
19 and implement storm water management programs and projects within
20 the district and fund the capital improvements and the operation
21 and maintenance costs of such storm water management programs and
22 projects by making a special levy, not subject to the budgetary
23 limitations specified in section 13-519 and levy limitations
24 specified in section 77-3442, which levy shall not exceed one cent
25 on each one hundred dollars upon the taxable value of all taxable
26 property in the district. Any funds raised from such levy shall be
27 placed in a separate fund and shall not be used for any purpose
1 other than storm water management programs and projects, in

2 cooperation with other public agencies.

3 Sec. 7. A city described in section 2 of this act and a
4 natural resources district encompassing any such city may cooperate
5 with each other, with counties, and with other public agencies as
6 defined in section 13-803 in the development, establishment, and
7 implementation of storm water management programs and projects.

8 Sec. 8. Section 77-3442, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-3442. (1) Property tax levies for the support of
11 local governments for fiscal years beginning on or after July 1,
12 1998, shall be limited to the amounts set forth in this section
13 except as provided in section 77-3444.

14 (2)(a) Except as provided in subdivision (2)(b) of this
15 section, school districts and multiple-district school systems may
16 levy a maximum levy of (i) one dollar and five cents per one
17 hundred dollars of taxable valuation of property subject to the
18 levy for fiscal years 2003-04 and 2004-05 and (ii) one dollar per
19 one hundred dollars of taxable valuation of property subject to the
20 levy for all fiscal years except fiscal years 2003-04 and 2004-05.
21 Excluded from this limitation are amounts levied to pay for sums
22 agreed to be paid by a school district to certificated employees in
23 exchange for a voluntary termination of employment and amounts
24 levied to pay for special building funds and sinking funds
25 established for projects commenced prior to April 1, 1996, for
26 construction, expansion, or alteration of school district
27 buildings. For purposes of this subsection, commenced means any
1 action taken by the school board on the record which commits the
2 board to expend district funds in planning, constructing, or
3 carrying out the project.

4 (b) Federal aid school districts may exceed the maximum
5 levy prescribed by subdivision (2)(a) of this section only to the
6 extent necessary to qualify to receive federal aid pursuant to
7 Title VIII of Public Law 103-382, as such title existed on
8 September 1, 2001. For purposes of this subdivision, federal aid
9 school district means any school district which receives ten
10 percent or more of the revenue for its general fund budget from
11 federal government sources pursuant to Title VIII of Public Law
12 103-382, as such title existed on September 1, 2001.

13 (c) Beginning with school fiscal year 2002-03 through
14 school fiscal year 2004-05, school districts and multiple-district
15 school systems may, upon a three-fourths majority vote of the
16 school board of the school district, the board of the unified
17 system, or the school board of the high school district of the
18 multiple-district school system that is not a unified system,
19 exceed the maximum levy prescribed by subdivision (2)(a) of this
20 section in an amount equal to the net difference between the amount
21 of state aid that would have been provided under the Tax Equity and
22 Educational Opportunities Support Act without the changes made by
23 Laws 2002, LB 898, for the ensuing school fiscal year for the

24 school district or multiple-district school system and the amount
 25 provided under the act as amended by Laws 2002, LB 898. The State
 26 Department of Education shall certify to the school districts and
 27 multiple-district school systems the amount by which the maximum
 1 levy may be exceeded pursuant to subdivision (2)(c) of this section
 2 on or before May 15, 2002, for school fiscal year 2002-03, June 30,
 3 2003, for school fiscal year 2003-04, and February 15, 2004, for
 4 school fiscal year 2004-05.

5 (3) Community colleges may levy a maximum levy on each
 6 one hundred dollars of taxable property subject to the levy of
 7 seven cents for fiscal year 2000-01 and each fiscal year
 8 thereafter, plus amounts allowed under subsection (7) of section
 9 85-1536.01.

10 (4) ~~Natural~~ In addition to the levy provided in section 6
 11 of this act, natural resources districts may levy a maximum levy of
 12 four and one-half cents per one hundred dollars of taxable
 13 valuation of property subject to the levy.

14 (5) Educational service units may levy a maximum levy of
 15 one and one-half cents per one hundred dollars of taxable valuation
 16 of property subject to the levy.

17 (6)(a) ~~Incorporated~~ In addition to the levy provided in
 18 section 3 of this act for cities described in section 2 of this
 19 act, incorporated cities and villages which are not within the
 20 boundaries of a municipal county may levy a maximum levy of
 21 forty-five cents per one hundred dollars of taxable valuation of
 22 property subject to the levy plus an additional five cents per one
 23 hundred dollars of taxable valuation to provide financing for the
 24 municipality's share of revenue required under an agreement or
 25 agreements executed pursuant to the Interlocal Cooperation Act or
 26 the Joint Public Agency Act. The maximum levy shall include
 27 amounts levied to pay for sums to support a library pursuant to
 1 section 51-201, museum pursuant to section 51-501, visiting
 2 community nurse, home health nurse, or home health agency pursuant
 3 to section 71-1637, or statue, memorial, or monument pursuant to
 4 section 80-202.

5 (b) ~~Incorporated~~ In addition to the levy provided in
 6 section 3 of this act for cities described in section 2 of this
 7 act, incorporated cities and villages which are within the
 8 boundaries of a municipal county may levy a maximum levy of ninety
 9 cents per one hundred dollars of taxable valuation of property
 10 subject to the levy. The maximum levy shall include amounts paid
 11 to a municipal county for county services, amounts levied to pay
 12 for sums to support a library pursuant to section 51-201, a museum
 13 pursuant to section 51-501, a visiting community nurse, home health
 14 nurse, or home health agency pursuant to section 71-1637, or a
 15 statue, memorial, or monument pursuant to section 80-202.

16 (7) Sanitary and improvement districts which have been in
 17 existence for more than five years may levy a maximum levy of forty
 18 cents per one hundred dollars of taxable valuation of property

19 subject to the levy, and sanitary and improvement districts which
20 have been in existence for five years or less shall not have a
21 maximum levy. Unconsolidated sanitary and improvement districts
22 which have been in existence for more than five years and are
23 located in a municipal county may levy a maximum of eighty-five
24 cents per hundred dollars of taxable valuation of property subject
25 to the levy.

26 (8) Counties may levy or authorize a maximum levy of
27 fifty cents per one hundred dollars of taxable valuation of
1 property subject to the levy, except that five cents per one
2 hundred dollars of taxable valuation of property subject to the
3 levy may only be levied to provide financing for the county's share
4 of revenue required under an agreement or agreements executed
5 pursuant to the Interlocal Cooperation Act or the Joint Public
6 Agency Act. The maximum levy shall include amounts levied to pay
7 for sums to support a library pursuant to section 51-201 or museum
8 pursuant to section 51-501. The county may allocate up to fifteen
9 cents of its authority to other political subdivisions subject to
10 allocation of property tax authority under subsection (1) of
11 section 77-3443 and not specifically covered in this section to
12 levy taxes as authorized by law which do not collectively exceed
13 fifteen cents per one hundred dollars of taxable valuation on any
14 parcel or item of taxable property. The county may allocate to one
15 or more other political subdivisions subject to allocation of
16 property tax authority by the county under subsection (1) of
17 section 77-3443 some or all of the county's five cents per one
18 hundred dollars of valuation authorized for support of an agreement
19 or agreements to be levied by the political subdivision for the
20 purpose of supporting that political subdivision's share of revenue
21 required under an agreement or agreements executed pursuant to the
22 Interlocal Cooperation Act or the Joint Public Agency Act. If an
23 allocation by a county would cause another county to exceed its
24 levy authority under this section, the second county may exceed the
25 levy authority in order to levy the amount allocated.

26 (9) Municipal counties may levy or authorize a maximum
27 levy of one dollar per one hundred dollars of taxable valuation of
1 property subject to the levy. The municipal county may allocate
2 levy authority to any political subdivision or entity subject to
3 allocation under section 77-3443.

4 (10) Property tax levies for judgments, except judgments
5 or orders from the Commission of Industrial Relations, obtained
6 against a political subdivision which require or obligate a
7 political subdivision to pay such judgment, to the extent such
8 judgment is not paid by liability insurance coverage of a political
9 subdivision, for preexisting lease-purchase contracts approved
10 prior to July 1, 1998, for bonded indebtedness approved according
11 to law and secured by a levy on property, and for payments by a
12 public airport to retire interest-free loans from the Department of
13 Aeronautics in lieu of bonded indebtedness at a lower cost to the

14 public airport are not included in the levy limits established by
15 this section.

16 (11) The limitations on tax levies provided in this
17 section are to include all other general or special levies provided
18 by law. Notwithstanding other provisions of law, the only
19 exceptions to the limits in this section are those provided by or
20 authorized by sections 77-3442 to 77-3444.

21 (12) Tax levies in excess of the limitations in this
22 section shall be considered unauthorized levies under section
23 77-1606 unless approved under section 77-3444.

24 (13) For purposes of sections 77-3442 to 77-3444,
25 political subdivision means a political subdivision of this state
26 and a county agricultural society.

27 Sec. 9. If any section of this act or any part of any
1 section is declared invalid or unconstitutional, the declaration
2 shall not affect the validity or constitutionality of the remaining
3 portions.

4 Sec. 10. Original sections 2-3225 and 77-3442, Reissue
5 Revised Statutes of Nebraska, are repealed.".

ANNOUNCEMENT

Senator Chambers designates LB 1085 as his priority bill.

BILL ON FIRST READING

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

LEGISLATIVE BILL 644A. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 644, Ninety-eighth Legislature, Second Session, 2004.

SELECT FILE

LEGISLATIVE BILL 172. The Schimek pending amendment, AM2209, found on page 211 and considered in this day's Journal, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

The Schimek amendment lost with 13 ayes, 29 nays, and 7 present and not voting.

The Chair declared the call raised.

Senator Schimek offered the following amendment:
AM2361

- 1 1. Insert the following new section:
2 "Section 1. At least one employee of each school in each
3 school district with students in grades seven through twelve must
4 keep on file current written materials that explain the provisions
5 in section 71-6902 with regard to the requirements for parental
6 notification as a condition for obtaining an abortion and the
7 provisions of sections 71-6903 and 71-6904 with regard to seeking a
8 judicial waiver of the parental notification requirements. If such
9 employee of the school is approached by a student in grades seven
10 through twelve with a personal inquiry regarding the topic of
11 abortion, that employee shall provide the student with such written
12 materials. The employee may provide additional information
13 regarding the subject matter if he or she deems it relevant to the
14 student's particular situation. Providing these materials shall
15 not be grounds for termination of such employee's employment with
16 the school district."
17 2. Renumber the remaining section accordingly.

Senator Chambers offered the following amendment to the Schimek pending amendment:

FA1438

Amend AM2361

In line 12 after "materials." Insert: "Any such inquiry shall be confidential"

Pending.

LEGISLATIVE BILL 740. E & R amendment, AM7156, found on page 374, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 236. Advanced to E & R for engrossment.

LEGISLATIVE BILL 382. Senator Synowiecki withdrew his pending amendment, AM2244, found on page 324.

Advanced to E & R for engrossment.

ANNOUNCEMENTS

The Banking, Commerce and Insurance Committee designates LB 999 as its priority bill.

Senator Raikes designates LB 698 as his priority bill.

STANDING COMMITTEE REPORTS
Revenue

LEGISLATIVE BILL 955. Placed on General File as amended.
Standing Committee amendment to LB 955:
AM2365

- 1 1. Strike original section 2.
- 2 2. On page 4, lines 12 through 15 strike the new matter
- 3 and reinstate the stricken matter.
- 4 3. On page 10, line 16, strike ", 77-2793,".
- 5 4. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 986. Placed on General File as amended.
Standing Committee amendment to LB 986:
AM2364

- 1 1. Insert the following new sections:
- 2 "Sec. 3. This act becomes operative on January 1, 2004.
- 3 Sec. 5. Since an emergency exists, this act takes effect
- 4 when passed and approved according to law."
- 5 2. Renumber the remaining section accordingly.

(Signed) David Landis, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 902. Placed on General File.
LEGISLATIVE BILL 915. Placed on General File.
LEGISLATIVE BILL 939. Placed on General File.
LEGISLATIVE BILL 1130. Placed on General File.

(Signed) DiAnna R. Schimek, Chairperson

AMENDMENTS - Print in Journal

Senator Schimek filed the following amendment to LB 172:
AM2362

- 1 1. Strike the original section and insert the following
- 2 new sections:
- 3 "Section 1. Section 71-6909, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 71-6909. On or before October 1 of each school year,
- 6 each school district shall provide written information notification
- 7 to all students in grades seven through twelve of the availability
- 8 of written information explaining the provisions of section 71-6902
- 9 with regard to the requirements for parental notification as a
- 10 condition for obtaining an abortion. The information shall also
- 11 explain the provisions of sections 71-6903 and 71-6904 with regard
- 12 to seeking a judicial waiver of the parental notification

13 requirements. The information shall be provided to a student upon
 14 the request of that student. The provisions of this section shall
 15 be narrowly construed to require a school district to provide only
 16 the information specified in this section. The provisions of this
 17 section shall not be construed to require a school district to
 18 provide specific information regarding how students may implement
 19 the judicial bypass provisions of section 71-6903. The State
 20 Department of Education shall develop and distribute to all public
 21 schools a standardized information form which may be used to comply
 22 with this section. ~~The standardized information form shall be~~
 23 ~~approved by the State Board of Education following opportunity for~~
 24 ~~public testimony at a public hearing of the board.~~

- 1 Sec. 2. Original section 71-6909, Reissue Revised
- 2 Statutes of Nebraska, is repealed."

Senator Wehrbein filed the following amendment to LB 279:
 AM2353

(Amendments to E & R amendments, AM7162)

- 1 1. Insert the following new section:
- 2 "Section 1. Section 60-302, Revised Statutes Supplement,
- 3 2002, is amended to read:
- 4 60-302. (1) No motor vehicle, trailer, semitrailer, or
- 5 cabin trailer, unless otherwise expressly provided, shall be
- 6 operated or parked on the highways of this state unless the vehicle
- 7 is registered in accordance with Chapter 60, article 3. There
- 8 shall be a rebuttable presumption that any vehicle stored and kept
- 9 more than thirty days in the state is being operated or parked on
- 10 the highways of this state and shall be registered in accordance
- 11 with Chapter 60, article 3, from the date of title of the motor
- 12 vehicle or, if no transfer in ownership of the motor vehicle has
- 13 occurred, from the expiration of the last registration period for
- 14 which the motor vehicle was registered. Every owner of a vehicle
- 15 required to be registered shall make application for registration
- 16 to the county treasurer of the county in which the vehicle has
- 17 situs as defined in section 60-3001. The application shall be a
- 18 copy of a certificate of title or, in the case of a renewal of a
- 19 registration, the application shall be the previous registration
- 20 period's certificate. A salvage branded certificate of title and a
- 21 nontransferable certificate of title provided for in section 60-131
- 22 shall not be valid for registration purposes.
- 23 (2) An application for registration of a motor vehicle
- 1 shall be accompanied by proof of financial responsibility or
- 2 evidence of insurance covering the motor vehicle. Proof of
- 3 financial responsibility shall be evidenced by a copy of proof of
- 4 financial responsibility filed pursuant to subdivision (2), (3), or
- 5 (4) of section 60-528 bearing the seal of the Department of Motor
- 6 Vehicles. Evidence of insurance shall give the effective dates of
- 7 the automobile liability policy, which dates shall be evidence that
- 8 the coverage is in effect on and following the date of

9 registration, and shall designate, by explicit description or by
10 appropriate reference, all motor vehicles covered. Evidence of
11 insurance in the form of a certificate of insurance for fleet
12 vehicles may include, as an appropriate reference, a designation
13 that the insurance coverage is applicable to all vehicles owned by
14 the named insured, or wording of similar effect, in lieu of an
15 explicit description. Proof of financial responsibility also may
16 be evidenced by (a) a check by the department or its agents of the
17 motor vehicle insurance data base created under section 60-302.05
18 or (b) any other automated or electronic means as prescribed or
19 developed by the department.

20 (3) Any nonresident owner who desires to register a
21 vehicle or vehicles in this state shall register in the county
22 where the vehicle is domiciled or where the owner conducts a bona
23 fide business.

24 (4) Each new application shall contain, in addition to
25 other information as may be required by the department, the name
26 and post office address of the applicant and a description of the
27 vehicle, including the color, the manufacturer, the identification
1 number, and the weight of the vehicle required by Chapter 60,
2 article 3. With the application the applicant shall pay the proper
3 registration fee as provided in sections 60-305.08 to 60-339 and
4 shall state whether the vehicle is propelled by alternative fuel as
5 defined in section 66-686 and, if alternative fuel, the type of
6 fuel. The form shall also contain a notice that bulk fuel
7 purchasers may be subject to federal excise tax liability. The
8 department shall prescribe a form, containing the notice, for
9 supplying the information for vehicles to be registered. The
10 county treasurer shall include the form in each mailing made
11 pursuant to section 60-3003. The county treasurer or his or her
12 agent shall notify the Motor Fuel Tax Enforcement and Collection
13 Division of the Department of Revenue whenever a vehicle powered by
14 an alternative fuel as defined in section 66-686 is registered.
15 The notification shall include the name and address of the
16 registrant, the date of registration, the type of motor vehicle
17 registered, and the type of alternative fuel used to propel the
18 vehicle as indicated on the registration application.

19 (5) The county treasurer or his or her agent shall
20 collect, in addition to the registration fees, one dollar and fifty
21 cents for each certificate issued and shall remit one dollar and
22 fifty cents of each additional fee collected to the State Treasurer
23 for credit to the Department of Motor Vehicles Cash Fund.

24 (6) The county treasurer or his or her agent shall
25 collect, in addition to other registration fees, fifty cents for
26 each certificate issued and shall remit the fee to the State
27 Treasurer for credit to the Nebraska Emergency Medical System
1 Operations Fund.

2 (7) The county treasurer or his or her agent shall
3 collect, in addition to other registration fees, one dollar and

4 fifty cents for each certificate issued and shall remit the fee to
5 the State Treasurer for credit to the State Recreation Road Fund.

6 (8) If a citation is issued to an owner or operator of a
7 vehicle for a violation of this section and the owner properly
8 registers and licenses the vehicle not in compliance and pays all
9 taxes and fees due and the owner or operator provides proof of such
10 registration to the prosecuting attorney within ten days after the
11 issuance of the citation, no prosecution for the offense cited
12 shall occur. However, the county treasurer or his or her agent
13 shall collect, in addition to such taxes and fees due, a late fee
14 for all late registrations as follows: (a) Thirty to sixty days
15 late, twenty-five dollars; (b) sixty-one to ninety days late, fifty
16 dollars; and (c) ninety-one or more days late, one hundred dollars.

17 (9) If a county board consolidates services under the
18 office of a designated county official other than the county
19 treasurer pursuant to section 23-186, the powers and duties of the
20 county treasurer relating to registration under sections 60-301 to
21 60-347 shall be performed by the designated county official.

22 (10) A county treasurer or county official or his or her
23 agent may accept credit cards, charge cards, debit cards, or
24 electronic funds transfers as a means of payment for registration
25 pursuant to section 13-609.

26 (11) For the period January 1, 2003, through December 31,
27 2005, the county treasurer or his or her agent shall collect, in
1 addition to the other registration fees, twenty-five cents for each
2 certificate issued to pay for the costs of the motor vehicle
3 insurance data base created under section 60-302.05 and shall remit
4 such additional fee to the State Treasurer for credit to the
5 Department of Motor Vehicles Cash Fund."

6 2. On page 13, line 25, strike "section" and insert
7 "sections 60-302 and".

8 3. Renumber the remaining sections accordingly.

Senator Wehrbein filed the following amendment to LB 279:
AM2354

(Amendments to E & R amendments, AM7162)

1 1. Insert the following new section:
2 "Sec. 4. Section 60-339, Reissue Revised Statutes of
3 Nebraska, is amended to read:
4 60-339. Upon application to register any motor vehicle,
5 no registration ~~fee~~ fees provided by Chapter 60, article 3, the
6 motor vehicle tax imposed in section 60-3002, and the motor vehicle
7 fee under section 60-3007 shall be required to be paid thereon for
8 any previous registration period during which such motor vehicle
9 was not at any time used or driven upon any public highway within
10 this state, and the person desiring to register such motor vehicle
11 without payment of such taxes and fees for previous registration
12 periods shall file with the county treasurer or designated county
13 official as provided in section 60-302 an affidavit showing where,

14 when, and for how long such motor vehicle was stored and that the
 15 same motor vehicle was not used in this state during such
 16 registration period or periods, and upon receipt ~~thereof~~ of such
 17 affidavit the county treasurer or designated county official shall
 18 issue a registration certificate. If no affidavit is filed or if
 19 the affidavit filed is proved to be false all such taxes and fees
 20 due for any previous registration period or periods shall be paid
 21 prior to the issuance of a registration certificate.".

22 2. On page 13, line 25, after "Original" insert "section
 23 60-339, Reissue Revised Statutes of Nebraska,".

1 3. Renumber the remaining section accordingly.

Senator Beutler filed the following amendment to LB 227:
 AM2332

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. Section 60-6,265, Reissue Revised Statutes
 4 of Nebraska, is amended to read:
 5 60-6,265. For purposes of sections 60-6,266 to 60-6,273,
 6 occupant protection system ~~shall mean~~ means a system utilizing a
 7 lap belt, a shoulder belt, or any combination of belts installed in
 8 a motor vehicle which (1) restrains drivers and passengers and (2)
 9 conforms to Federal Motor Vehicle Safety Standards, 49 C.F.R.
 10 571.207, 571.208, 571.209, and 571.210, as such standards existed
 11 on January 1, 2004, or to the federal motor vehicle safety
 12 standards for passenger restraint systems applicable for the motor
 13 vehicle's model year.
 14 Sec. 2. Section 60-6,267, Revised Statutes Supplement,
 15 2002, is amended to read:
 16 60-6,267. (1) Any person in Nebraska who drives any
 17 motor vehicle which has or is required to have an occupant
 18 protection system shall ensure that:
 19 (a) All children up to six years of age being transported
 20 ~~in~~ by such vehicle use a child passenger restraint system of a type
 21 which meets Federal Motor Vehicle Safety Standard 213 as developed
 22 by the National Highway Traffic Safety Administration, as such
 23 standard existed on ~~July 20, 2002~~ January 1, 2004, and which is
 24 correctly installed in such vehicle; and
 1 (b) All children six years of age and less than ~~sixteen~~
 2 eighteen years of age being transported ~~in~~ by such vehicle use an
 3 occupant protection system.
 4 This subsection shall apply to every motor vehicle which
 5 is equipped with an occupant protection system or is required to be
 6 equipped with restraint systems pursuant to Federal Motor Vehicle
 7 Safety Standard 208, as such standard existed on ~~July 20, 2002~~
 8 January 1, 2004, except taxicabs, mopeds, motorcycles, and any
 9 motor vehicle designated by the manufacturer as a 1963 year model
 10 or earlier which is not equipped with an occupant protection
 11 system.

12 (2) Whenever any licensed physician determines, through
 13 accepted medical procedures, that use of a child passenger
 14 restraint system by a particular child would be harmful by reason
 15 of the child's weight, physical condition, or other medical reason,
 16 the provisions of subsection (1) of this section shall be waived.
 17 The driver of any vehicle transporting such a child shall carry on
 18 his or her person or in the vehicle a signed written statement of
 19 the physician identifying the child and stating the grounds for
 20 such waiver.

21 (3) The drivers of authorized emergency vehicles shall
 22 not be subject to the requirements of subsection (1) of this
 23 section when operating such authorized emergency vehicles pursuant
 24 to their employment.

25 (4) A driver of a motor vehicle shall not be subject to
 26 the requirements of subsection (1) of this section if:

27 (a) An employee under the age of eighteen years,
 1 including agricultural workers, is engaged in the necessary
 2 discharge of the employee's duty within a truck body in space
 3 intended for merchandise or cargo; or

4 (b) The motor vehicle is being operated in a parade or
 5 exhibition and the parade or exhibition is being conducted in
 6 accordance with applicable state law and local ordinances and
 7 resolutions.

8 (5) The Department of Motor Vehicles shall develop and
 9 implement an ongoing statewide public information and education
 10 program regarding the use of child passenger restraint systems and
 11 occupant protection systems and the availability of distribution
 12 and discount programs for child passenger restraint systems.

13 ~~(6)~~ (6) All persons being transported ~~in~~ by a motor
 14 vehicle operated by a holder of a provisional operator's permit or
 15 a school permit shall use such motor vehicle's occupant protection
 16 system.

17 Sec. 3. Section 60-6,268, Revised Statutes Supplement,
 18 2002, is amended to read:

19 60-6,268. (1) A person violating any provision of
 20 subsection (1) of section 60-6,267 shall be guilty of an infraction
 21 as defined in section 29-431 and shall be fined twenty-five dollars
 22 for each violation. The failure to provide a child restraint
 23 system for more than one child in the same vehicle at the same
 24 time, as required in such subsection, shall not be treated as a
 25 separate offense.

26 (2) Enforcement of subdivision (1)(b) and subsection ~~(5)~~
 27 (6) of section 60-6,267 shall be accomplished only as a secondary
 1 action when an operator of a motor vehicle has been cited or
 2 charged with a violation or some other offense unless the violation
 3 involves a person under the age of eighteen years riding in or on
 4 any portion of the vehicle not designed or intended for the use of
 5 passengers when the vehicle is in motion.

6 Sec. 4. Original section 60-6,265, Reissue Revised

7 Statutes of Nebraska, and sections 60-6,267 and 60-6,268, Revised
8 Statutes Supplement, 2002, are repealed."

Senator Vrtiska filed the following amendment to LB 353:
AM2367

1 1. Strike original section 1 and all amendments thereto
2 and insert the following new section:
3 "Section 1. Section 60-4,125, Revised Statutes
4 Supplement, 2002, is amended to read:
5 60-4,125. For any minor convicted or adjudicated of
6 violating the terms of an LPD-learner's permit issued pursuant to
7 section 60-4,123 or an LPE-learner's permit issued pursuant to
8 section 60-4,124, the court shall, in addition to any other penalty
9 or disposition, order the impoundment or revocation of such
10 learner's permit and order that such minor shall not be eligible
11 for another operator's license or school, farm, LPD-learner's, or
12 LPE-learner's permit until he or she has attained the age of
13 sixteen years.
14 A copy of the court's abstract or adjudication shall be
15 transmitted to the director who shall place in an impound status or
16 revoke the LPD-learner's or LPE-learner's permit of such minor in
17 accordance with the order of the court and not again issue another
18 operator's license or school, farm, LPD-learner's, or LPE-learner's
19 permit to such minor until such minor has attained the age of
20 sixteen years."

Senator Baker filed the following amendment to LB 560:
AM2370

(Amendments to E & R amendments, AM7159)

1 1. On page 9, line 1; and page 30, line 16, strike "ten"
2 and insert "thirty".
3 2. On page 42, line 4, reinstate the stricken matter and
4 strike the new matter.

STANDING 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.

Board of Educational Lands and Funds
Demarus Carlson

VOTE: Aye: Senators Byars, McDonald, Maxwell, Raikes, Schrock, and Stuhr. Nay: None. Absent: Senators Bourne and Brashear.

(Signed) Ron Raikes, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Byars asked unanimous consent to have his name added as cointroducer to LB 879. No objections. So ordered.

Senator Tyson asked unanimous consent to have his name added as cointroducer to LB 958. No objections. So ordered.

Senator Combs asked unanimous consent to have her name added as cointroducer to LB 1054. No objections. So ordered.

Senator Aguilar asked unanimous consent to have his name added as cointroducer to LB 1244. No objections. So ordered.

Senators Combs and Redfield asked unanimous consent to have their names added as cointroducers to LB 1246. No objections. So ordered.

WITHDRAW - Cointroducer

Senator Jones withdrew his name as cointroducer to LB 1176.

VISITORS

Visitors to the Chamber were 9 students and teacher from the Lincoln Public Schools; and 50 fourth-grade students and teacher from Longfellow Elementary School, Hastings.

ADJOURNMENT

At 11:54 a.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Monday, February 2, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTEENTH DAY - FEBRUARY 2, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****SEVENTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, February 2, 2004

PRAYER

The prayer was offered by Pastor Daniel Seiker, School Sisters of Christ the King, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senator Thompson who was excused; and Senators Beutler, Bourne, Brashear, Brown, Hartnett, Maxwell, McDonald, Dw. Pedersen, D. Pederson, Preister, Quandahl, Synowiecki, and Wehrbein who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixteenth day was approved.

**STANDING COMMITTEE REPORTS
Health and Human Services**

LEGISLATIVE BILL 818. Placed on General File.

LEGISLATIVE BILL 944. Placed on General File.

LEGISLATIVE BILL 906. Placed on General File as amended.

(Standing Committee amendment, AM2249, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 996. Placed on General File as amended.

Standing Committee amendment to LB 996:

AM2311

- 1 1. On page 3, line 16, strike "who acquires", show as
- 2 stricken, and insert "acquiring"; in line 17 after "that" insert
- 3 "(a)"; in line 18 strike "and shall notify", show the old matter as
- 4 stricken, and insert ", (b) designated personnel are trained in the
- 5 use of the defibrillator according to guidelines established by the

6 Department of Health and Human Services Regulation and Licensure,
 7 and (c)"; in line 19 after "service" insert "is notified"; and in
 8 line 20 after the first "defibrillator" insert "and of any change
 9 in the location of such defibrillator", after "unless" insert "the
 10 person acquired", and strike "was acquired" and show as stricken.

LEGISLATIVE BILL 1005. Placed on General File as amended.
 Standing Committee amendment to LB 1005:
 AM2347

- 1 1. Strike original section 30.
- 2 2. On page 94, line 23, strike "71-409,".
- 3 3. Renumber the remaining sections and correct internal
- 4 references accordingly.

(Signed) Jim Jensen, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 1074. Placed on General File.
LEGISLATIVE BILL 1077. Placed on General File.

(Signed) DiAnna R. Schimek, Chairperson

NOTICE OF COMMITTEE HEARINGS
Transportation and Telecommunications
 Room 1113

LB 838	Monday, February 9, 2004	1:30 p.m.
LB 859	Monday, February 9, 2004	1:30 p.m.
LB 865	Monday, February 9, 2004	1:30 p.m.
LB 1056	Monday, February 9, 2004	1:30 p.m.
LB 866	Tuesday, February 10, 2004	1:30 p.m.
LB 871	Tuesday, February 10, 2004	1:30 p.m.
LB 894	Tuesday, February 10, 2004	1:30 p.m.
LB 1022	Tuesday, February 10, 2004	1:30 p.m.
LB 1111	Tuesday, February 10, 2004	1:30 p.m.
LB 1147	Tuesday, February 10, 2004	1:30 p.m.

(Signed) Tom Baker, Chairperson

MESSAGES FROM THE GOVERNOR

January 30, 2004

Patrick J. O'Donnell
 Clerk of the Legislature
 State Capitol, Room 2018
 Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 355e, 810, 811, 812, and 813 were received in my office on January 29, 2004.

These bills were signed and delivered to the Secretary of State on January 30, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

January 29, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the State Emergency Response Commission.

APPOINTEES:

*Christine Bleich, 1062 Y Street, Lincoln NE 68508

Richard Christensen, 1213 Westbridge Dr, Hastings NE 68901

*Steven Wood, 2840 Loveland Dr, Lincoln NE 68502

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

*Reappointments
Enclosure

ANNOUNCEMENT

Senator Byars designates LB 841 as his priority bill.

ATTORNEY GENERAL'S OPINION

Opinion # 04002

DATE: January 29, 2004

SUBJECT: Whether Legislation Establishing an Authority Empowered to Acquire and Operate a Statewide Communication System for Public Safety Agencies, Which is Authorized to Issue Bonds to Finance the System, Impermissibly Allows the Creation of State Indebtedness in Excess of the Limit in Neb. Const. art. XIII, § 1.

REQUESTED BY: Senator Curt Bromm
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion concerning the constitutionality of LB 1176. The legislation proposes to amend the Nebraska Public Safety Wireless Communication System Act, Neb. Rev. Stat. §§ 86-401 to 86-419 (Cum. Supp. 2002) [the "Act"]. The Act, as originally enacted in 2002 by the passage of LB 1211, provides a mechanism for the establishment of a statewide public safety communication system. To establish such a system, the Act permits the creation of two separate joint entities. The first joint entity is an "acquisition agency" established pursuant to the Interlocal Cooperation Act. Neb. Rev. Stat. §§ 86-404 and 86-410(1) (Cum. Supp. 2002).¹ The "acquisition agency" is empowered "to acquire real and personal property for use in connection with such system and shall construct any facilities necessary to implement such system. . . ." Neb. Rev. Stat. § 86-410(1) (Cum. Supp. 2002). The second joint entity is an "alliance" formed under the Interlocal Cooperation Act. Neb. Rev. Stat. §§ 86-405 and 86-410(2) (Cum. Supp. 2002). The "alliance" is authorized "to operate, maintain, and manage the system." Neb. Rev. Stat. § 86-410(2) (Cum. Supp. 2002). The Act provides that the alliance is governed by an executive board consisting of no more than nine voting members. Neb. Rev. Stat. § 86-412 (Cum. Supp. 2002). Three members are "appointed by the Governor to represent the State of Nebraska, on behalf of the Department of Administrative Services, the Game and Parks Commission, and the Board of Regents of the University of Nebraska." *Id.* "One such member may be a director of homeland security in Nebraska." *Id.* The remaining members of the executive board consist of: (1) "Two members selected by the Governor in consultation with municipalities to represent participating cities and villages"; (2) "Two members selected by the Governor in consultation with counties to represent participating counties"; (3) "One member selected by the Governor in consultation with public power districts to represent participating public power districts"; and (4) "One member selected by the Governor in consultation with fire protection districts to represent participating fire protection districts." *Id.* The history of the Act indicates that state officials were not authorized to participate as parties to an agreement to form an acquisition agency due to concern that State participation as part of an acquisition agency could violate the limit on State indebtedness in Neb. Const. art. XIII, § 1, because an acquisition agency

was authorized to engage in debt financing through the issuance of bonds. Committee Records on LB 1211, 97th Leg., 2nd Sess. 11-13, 16-18 (February 4, 2002); Floor Debate on LB 1211, 97th Leg., 2nd Sess., 11000, 11010 (March 6, 2002).

LB 1176 proposes to alter the mechanism for establishing and operating a statewide public safety communication system by eliminating the separate "acquisition agency" and "alliance" structure enacted by LB 1211, and instead creating a single entity, the Statewide Communication Authority of Nebraska [the "Authority"], empowered to "acquire real and personal property for use in connection with the system, construct any facilities necessary to implement the system, and operate, maintain, and manage the system." LB 1176, §§ 11, 13. The Authority would be "created as a separate governmental subdivision and body corporate and politic, not a state agency, but an independent instrumentality exercising essential public functions." LB 1176, § 13. The Authority would be governed by a nine-member governing board [the "Board"] composed of the following: (1) "Three members appointed by the Governor to represent the State of Nebraska on behalf of the Department of Administrative Services, state public safety agencies, and the Board of Regents of the University of Nebraska . . ."; (2) Two members selected by the Governor in consultation with municipalities to represent participating cities and villages . . ."; (3) "Two members selected by the Governor in consultation with counties to represent participating counties . . ."; (4) "One member selected by the Governor in consultation with public power districts to represent participating public power districts . . ."; and (5) "One member selected by the Governor in consultation with fire protection districts to represent participating fire protection districts." LB 1176, § 15. Appointees currently serving on the board of the alliance established under LB 1211 [the Statewide Communications Alliance of Nebraska, or "SCAN"] "shall be designated as the initial board of the authority unless and until replaced by subsequent gubernatorial appointment." *Id.*

Section 14 of LB 1176 outlines the powers granted the Authority, including the power to: (1) "Design, acquire, construct, maintain, operate, improve, remove, and reconstruct, so long as its corporate existence continues, the system . . ."; (2) "Enter into operational service agreements with public safety agencies for use of the system . . ."; (3) "Levy a public safety communications charge upon the consumption of electricity . . ."; and (4) "Incur debt, issue bonds and notes, and provide for the rights of the holders thereof, and pledge and apply to the payment of such bonds and notes the proceeds from the public safety communications charge and other receipts, income, revenue, profits, and money of the authority. . . ." LB 1176, § 14.² The Authority may issue revenue bonds "payable exclusively from all or a portion of the revenue from service agreements with public safety agencies or from its revenue generally, including proceeds from the charge [on electrical consumers] . . .," or "general obligation bonds. . . ." LB 1176, §§ 20 and 21. As an alternative to issuing revenue or general obligation bonds "for financing public safety

communications projects, the authority may enter into a financing agreement with the Nebraska Investment Finance Authority for such purposes." *Id.* Section 23 of LB 1176 provides:

The bonds shall not be a debt of any political subdivision or public entity, other than the authority, or of this state, and neither this state nor any other political subdivision or public entity shall be liable thereon. Bonds shall be payable only out of any funds or properties of the authority pledged therefor. Such limitations shall be plainly stated upon the face of the bonds.

The question you have asked us to address is whether the establishment of a single, statewide authority under LB 1176, whose governing body is appointed by the Governor and includes members who are representatives of the State, and which is granted the power to issue bonds and incur debt to finance its operations, authorizes the creation of State indebtedness in excess of the limit contained in Neb. Const. art. XIII, § 1?

Art. XIII, § 1, provides, in pertinent part: "The state may, to meet casual deficits, or failure in the revenue, contract debts never to exceed in the aggregate one hundred thousand dollars, and no greater indebtedness shall be incurred. . . ." ³ The debt limitation in art. XIII, § 1, pertains only to debts of the State or its agencies, and is not applicable to political subdivisions or public entities authorized by statute. See *Hallenbeck v. Hahn*, 2 Neb. 377, 399 (1872) (Constitutional limit on state indebtedness in predecessor to art. XIII, § 1, not applicable to counties, cities, or other political subdivisions of State), overruled on other grounds *Johnson v. Hahn*, 4 Neb. 139 (1875). On two occasions, the Nebraska Supreme Court has found that legislation authorizing State agencies to issue bonds secured by revenues generated from fees and charges collected by the agencies or their assets authorized indebtedness in excess of the limit in art. XIII, § 1. *State ex rel. Meyer v. Steen*, 183 Neb. 207, 160 N.W.2d 164 (1968); *State ex rel. Meyer v. Duxbury*, 183 Neb. 302, 160 N.W.2d 88 (1968). The Court in *Duxbury* noted the significance of the fact that the debt financing in question involved a State agency, stating: "It is important to note that the commission is an agency of the state and not a separate corporation. This results in the commission being subject to constitutional requirements and restrictions that would not be applicable to a separate corporation." 183 Neb. at 303, 160 N.W.2d at 91.

LB 1176 creates the Authority "as a separate governmental subdivision and body corporate and politic, not a state agency, but an independent instrumentality exercising essential public functions." LB 1176, § 13. As a governmental subdivision and body corporate and politic separate and apart from the State, we believe the Authority would not be subject to the debt limitation in art. XIII, § 1.

The proposed legislation further reinforces the Authority's status as a governmental instrumentality independent of the State by confirming that

the State will not be liable for any debts of the Authority, providing that any Authority bonds "shall not be a debt of any political subdivision or public entity, other than the authority, or of this state, and neither this state nor any other political subdivision or public entity shall be liable thereon . . . ," and that any bonds issued by the Authority "shall be payable only out of any funds or properties of the authority pledged therefor." LB 1176, § 23. The bill further provides that "[s]uch limitations shall be plainly stated upon the face of the bonds." *Id.*

An issue could arise as to whether the power granted the governing Board of the Authority to impose a charge on electrical consumers throughout the State supports concluding that the Authority, while denominated an independent governmental subdivision and separate body corporate and politic, is in actuality an instrumentality of the State. In view of the organizational structure of the Authority, which demonstrates it is not subject to the control or direction of State officials or agencies, and the Legislature's specific declaration that the Authority is a governmental body independent of the State, whose bonds shall not be a debt of the State, the Authority should not be considered an arm of the State subject to the debt limit in art. XIII, § 1.

Your question also demonstrates concern as to whether the Legislature may create a single governmental subdivision and body corporate and politic to carry out the purpose of establishing a statewide public safety communication system. In *Wittler v. Baumgartner*, 180 Neb. 446, 144 N.W.2d 62 (1966), the Nebraska Supreme Court held a legislative act establishing a public corporation and political subdivision comprising a "grid system" created a corporation by "special law" prohibited by Neb. Const. art. XII, § 1. The Court found the legislation was an unconstitutional attempt "to create a public corporation by a special act rather than by general law." *Id.* at 454, 144 N.W.2d at 68. This holding in *Wittler* was expressly overruled in *State ex rel. Douglas v. Nebraska Mortgage Finance Fund*, 204 Neb. 445, 283 N.W.2d 12 (1979) ["Mortgage Finance Fund"]. The Court in *Nebraska Mortgage Finance Fund* held that "[t]he Legislature may well determine that a legitimate public purpose can be accomplished by creating a single entity to handle the matter. To the extent that *Wittler* is in conflict with our decision, . . . , it is overruled." *Id.* at 456, 144 N.W.2d at 20. In light of the decision in *Mortgage Finance Fund*, it appears there is no constitutional impediment to creation of the Authority as a single independent governmental subdivision and body corporate and politic authorized to establish the statewide public safety communication system.

Another issue presented by your question involves whether granting the Governor power to appoint members of the Authority's governing Board may render the Authority a State agency or entity subject to the debt limits in art. XIII, § 1. The proposed Board includes nine members appointed by the Governor, three of which are State representatives. The other six members, while appointed by the Governor, represent various local government authorities, including counties, cities, fire protection districts,

and public power districts. LB 1176, § 15. The Board is thus not subject to control by the State or any State agency, as a majority of the Board's members are appointed to represent local government entities. This fact reinforces the notion that the Authority is not an agency or instrumentality of the State. See *New Jersey Turnpike Authority v. Parsons*, 3 N.J. 235, 69 A.2d 875 (1949) (Rejecting argument that granting Governor authority to appoint members of Turnpike Authority, statutorily deemed a "body corporate and politic," rendered the Turnpike Authority "the alter ego of the State government" subject to New Jersey state constitutional debt limit).

In sum, to the extent the Authority is deemed an independent governmental subdivision and body corporate and politic separate and apart from the State, the Authority's use of debt financing does not implicate the constitutional debt limitation in Neb. Const. art. XIII, § 1, as the limit applies only to State indebtedness.

¹ The Interlocal Cooperation Act is found at Neb. Rev. Stat. §§ 13-801 to 13-827 (1997 and Cum. Supp. 2002).

² By resolution of the Board, the Authority is empowered to levy a charge on consumers of electrical service "in an amount not to exceed fifty cents per month for each residential customer and two dollars per month for each nonresidential customer." LB 1176, § 20.

³ The Constitutional provision does provide certain exceptions to the debt limitation, none of which have any application to the question presented.

Sincerely,
 JON BRUNING
 Attorney General
 (Signed) L. Jay Bartel
 Assistant Attorney General

pc: Patrick O'Donnell
 Clerk of the Legislature
 07-75-21

SELECT COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 270. Placed on Select File as amended.
 E & R amendment to LB 270:
 AM7166

- 1 1. In the Brashear amendment, AM2019:
- 2 a. Strike section 4 and insert the following section:
- 3 "Sec. 4. Section 81-1423, Revised Statutes Supplement,
- 4 2003, is amended to read:
- 5 81-1423. The commission shall have authority to:
- 6 (1) Adopt and promulgate rules and regulations for its

- 7 organization and internal management and rules and regulations
8 governing the exercise of its powers and the fulfillment of its
9 purposes under sections 81-1415 to 81-1426;
- 10 (2) Delegate to one or more of its members such powers
11 and duties as it may deem proper;
- 12 (3) Coordinate and jointly pursue its activities with the
13 Governor's Policy Research Office;
- 14 (4) Appoint and abolish such advisory committees as may
15 be necessary for the performance of its functions and delegate
16 appropriate powers and duties to them;
- 17 (5) Plan improvements in the administration of criminal
18 justice and promote their implementation;
- 19 (6) Make or encourage studies of any aspect of the
20 administration of criminal justice;
- 21 (7) Conduct research and stimulate research by public and
22 private agencies which shall be designed to improve the
23 administration of criminal justice;
- 24 (8) Coordinate activities relating to the administration
1 of criminal justice among agencies of state and local government;
- 2 (9) Cooperate with the federal and other state
3 authorities concerning the administration of criminal justice;
- 4 (10) Accept and administer loans, grants, and donations
5 from the United States, its agencies, the State of Nebraska, its
6 agencies, and other sources, public and private, for carrying out
7 any of its functions, except that no communications equipment shall
8 be acquired and no approval for acquisition of communications
9 equipment shall be granted without receiving the written approval
10 of the ~~director of the division of communications~~ Director of
11 Communications of the Department of Administrative Services;
- 12 (11) Enter into contracts, leases, and agreements
13 necessary, convenient, or desirable for carrying out its purposes
14 and the powers granted under sections 81-1415 to 81-1426 with
15 agencies of state or local government, corporations, or persons;
- 16 (12) Acquire, hold, and dispose of personal property in
17 the exercise of its powers;
- 18 (13) Conduct random annual audits of criminal justice
19 agencies to verify the accuracy and completeness of criminal
20 history record information maintained by such agencies and to
21 determine compliance with laws and regulations dealing with the
22 dissemination, security, and privacy of criminal history
23 information;
- 24 (14) Do all things necessary to carry out its purposes
25 and for the exercise of the powers granted in sections 81-1415 to
26 81-1426, except that no activities or transfers or expenditures of
27 funds available to the ~~agency commission~~ shall be inconsistent with
1 legislative policy as reflected in substantive legislation,
2 legislative intent legislation, or appropriations legislation;
- 3 (15) Exercise budgetary and administrative control over
4 the Crime Victim's Reparations Committee, the Jail Standards Board,

5 and the Community Corrections Council;
 6 (16) Appoint and remove for cause the director of the
 7 Nebraska Law Enforcement Training Center; and
 8 (17) Do all things necessary to carry out sections
 9 81-1843 to ~~81-1848~~ 81-1850 and sections 8, 11 to 13, and 16 of this
 10 act.";
 11 b. On page 9, line 3, strike "and" and show as stricken;
 12 c. On page 12, line 9, after "to" insert "the";
 13 d. On page 13, line 11, after "agency" insert an
 14 underscored comma; and
 15 e. On page 18, line 2, strike "81-1423,"; in line 4
 16 strike the first "and"; and in line 5 before "are" insert "and
 17 section 81-1423, Revised Statutes Supplement, 2003,".
 18 2. On page 1, strike beginning with "section" in line 1
 19 through line 5 and insert "sections 81-1841, 81-1844, 81-1845,
 20 81-1848, and 81-1850, Reissue Revised Statutes of Nebraska,
 21 sections 28-112, 29-119, and 81-1849, Revised Statutes Supplement,
 22 2002, and section 81-1423, Revised Statutes Supplement, 2003; to
 23 change provisions for allegations set forth in the indictment or
 24 information; to change provisions relating to victim's rights; to
 25 harmonize provisions; and to repeal the original sections."

Correctly Engrossed

The following bills were correctly engrossed: LBs 236, 382, 454, and 740.

(Signed) Ray Mossey, Chairperson

GENERAL FILE

LEGISLATIVE BILL 279A. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 6 present and not voting, and 14 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 172. The Chambers pending amendment, FA1438, found on page 460, to the Schimek pending amendment, AM2361, found on page 459, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 20 ayes, 2 nays, and 27 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 22:

Aguilar	Combs	Janssen	McDonald	Schimek
Beutler	Connealy	Johnson	Pederson, D.	Wehrbein
Bourne	Cudaback	Kruse	Price	
Bromm	Hartnett	Landis	Raikes	
Chambers	Hudkins	Louden	Redfield	

Voting in the negative, 0.

Present and not voting, 21:

Baker	Erdman	Kremer	Smith	Vrtiska
Burling	Foley	Mines	Stuhr	
Byars	Friend	Mossey	Stuthman	
Cunningham	Jensen	Quandahl	Synowiecki	
Engel	Jones	Schrock	Tyson	

Excused and not voting, 6:

Brashear	Maxwell	Preister		
Brown	Pedersen, Dw.	Thompson		

The Chambers amendment lost with 22 ayes, 0 nays, 21 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Schimek pending amendment:

FA1439

Amend AM2361

After line 16 add:

"Information developed by the State Department of Education and approved by the State Board of Education may be used to comply with this section."

SPEAKER BROMM PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Aguilar	Chambers	Janssen	McDonald	Schimek
Beutler	Connealy	Johnson	Pederson, D.	Wehrbein
Bourne	Cudaback	Kruse	Price	
Bromm	Hartnett	Landis	Raikes	

Voting in the negative, 3:

Quandahl Redfield Smith

Present and not voting, 22:

Baker	Engel	Jensen	Pedersen, Dw.	Tyson
Burling	Erdman	Jones	Schrock	Vrtiska
Byars	Foley	Louden	Stuhr	
Combs	Friend	Mines	Stuthman	
Cunningham	Hudkins	Mossey	Synowiecki	

Excused and not voting, 6:

Brashear	Kremer	Preister
Brown	Maxwell	Thompson

The Chambers amendment lost with 18 ayes, 3 nays, 22 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 879. Placed on General File as amended.

Standing Committee amendment to LB 879:

AM2386

- 1 1. On page 2, lines 8 and 9, strike "permanent endowment held by or for a tax-exempt organization" and insert "qualified endowment".
- 2 2. On page 4, line 22, strike "contribution" and insert "planned gift".
- 3 3. On page 3, line 15, strike "shall" and insert "may".

LEGISLATIVE BILL 973. Placed on General File as amended.

(Standing Committee amendment, AM2384, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1019. Placed on General File as amended.

Standing Committee amendment to LB 1019:

AM2385

- 1 1. On page 2, line 4, strike "and taxes that are delinquent"; in lines 5 and 6 and 18 strike "or delinquent"; and in line 17 after "under" insert "civil or criminal audit," and after "investigation" insert a comma.
- 2 2. On page 5, line 10, strike "insurance premium tax,".

LEGISLATIVE BILL 956. Indefinitely postponed.
LEGISLATIVE BILL 970. Indefinitely postponed.
LEGISLATIVE BILL 971. Indefinitely postponed.
LEGISLATIVE BILL 972. Indefinitely postponed.
LEGISLATIVE BILL 974. Indefinitely postponed.
LEGISLATIVE BILL 1016. Indefinitely postponed.

(Signed) David Landis, Chairperson

Natural Resources

LEGISLATIVE BILL 831. Placed on General File.
LEGISLATIVE BILL 832. Placed on General File.

(Signed) Ed Schrock, Chairperson

AMENDMENT - Print in Journal

Senator Redfield filed the following amendment to LB 1047:
 AM2378

1 1. Insert the following new sections:
 2 "Section 1. Section 44-371, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 44-371. (1)(a) All proceeds, cash values, and benefits
 5 accruing under any annuity contract, under any policy or
 6 certificate of life insurance payable upon the death of the insured
 7 to a beneficiary other than the estate of the insured, or under any
 8 accident or health insurance policy shall be exempt from
 9 attachment, garnishment, or other legal or equitable process and
 10 from all claims of creditors of the insured and of the beneficiary
 11 if related to the insured by blood or marriage, unless a written
 12 assignment to the contrary has been obtained by the claimant.
 13 ~~(b) This subsection shall not apply to an individual's~~
 14 ~~aggregate interests greater than ten thousand dollars on all loan~~
 15 ~~values or cash values of all matured or unmatured life insurance~~
 16 ~~contracts or to all proceeds, cash values, or benefits accruing~~
 17 ~~under all annuity contracts owned by such individual.~~
 18 ~~Notwithstanding anything in this subdivision to the contrary, the~~
 19 ~~aggregate exemptions any person may claim under this subdivision~~
 20 ~~and subdivision (2)(b) of section 44-1089 shall not exceed ten~~
 21 ~~thousand dollars.~~
 22 ~~(c) No insurance company shall be liable or responsible~~
 23 ~~to any person to determine or ascertain the aggregate total of life~~
 24 ~~insurance policy or annuity contract loan values, cash values,~~
 1 ~~proceeds, or benefits for any policyholder or annuitant.~~
 2 (2) Notwithstanding subsection (1) of this section, an
 3 individual's interest in all loan values or cash values of all
 4 matured or unmatured life insurance contracts or policies and in
 5 all proceeds, cash values, or benefits accruing under all annuity

6 contracts owned by such individual shall not be exempt from
7 attachment, garnishment, or other legal or equitable process or
8 from any other claims of creditors of the insured and of the
9 beneficiary if related to the insured by blood or marriage, to the
10 extent that the loan value or cash value of any matured or
11 unmatured life insurance contract or the proceeds, cash values, or
12 benefits accruing under any annuity contract was established or
13 increased through contributions, premiums, or any other payments
14 made within three years prior to bankruptcy or within three years
15 prior to entry against the individual of a money judgment which
16 thereafter becomes final. An insurance company shall not be liable
17 or responsible to any person to determine or ascertain the
18 existence or identity of any such creditors prior to payment of any
19 such loan values, cash values, proceeds, or benefits.

20 (3) Notwithstanding subsection (1) of this section,
21 proceeds, cash values, and benefits accruing under any annuity
22 contract or under any policy or certificate of life insurance
23 payable upon the death of the insured to a beneficiary other than
24 the estate of the insured shall not be exempt from attachment,
25 garnishment, or other legal or equitable process by a judgment
26 creditor of the beneficiary if the judgment against the beneficiary
27 was based on, arose from, or was related to an act, transaction, or
1 course of conduct for which the beneficiary has been convicted by
2 any court of a crime punishable only by life imprisonment or death.
3 No insurance company shall be liable or responsible to any person
4 to determine or ascertain the existence or identity of any such
5 judgment creditor prior to payment of any such proceeds, cash
6 values, or benefits. This subsection shall apply to any judgment
7 rendered on or after January 1, 1995, irrespective of when the
8 criminal conviction is or was rendered and irrespective of whether
9 proceedings for attachment, garnishment, or other legal or
10 equitable process were pending on March 14, 1997.

11 Sec. 7. Section 44-1089, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 44-1089. (1) No noninsurance benefit, charity, relief,
14 or aid to be paid, provided, or rendered by any society shall be
15 liable to attachment, garnishment, or other process, or to be
16 seized, taken, appropriated, or applied by any legal or equitable
17 process or operation of law to pay any debt or liability of a
18 member or beneficiary, or any other person who may have a right
19 thereunder, either before or after payment by the society.

20 (2) ~~(a)~~ All proceeds, cash values, and benefits accruing
21 under any annuity contract, under any policy or certificate of life
22 insurance payable upon the death of the insured to a beneficiary
23 other than the estate of the insured, or under any accident or
24 health insurance policy shall be exempt from attachment,
25 garnishment, or other legal or equitable process and from all
26 claims of creditors of the insured and of the beneficiary if
27 related to the insured by blood or marriage, unless a written

1 assignment to the contrary has been obtained by the claimant.
2 ~~(b) This subsection shall not apply to an individual's~~
3 ~~aggregate interests greater than ten thousand dollars on all loan~~
4 ~~values or cash values of all matured or unmatured life insurance~~
5 ~~contracts or to all proceeds, cash values, or benefits accruing~~
6 ~~under all annuity contracts owned by such individual.~~
7 ~~Notwithstanding anything in this subdivision to the contrary, the~~
8 ~~aggregate exemptions any person may claim under subdivision (1)(b)~~
9 ~~of section 44-371 and this subdivision shall not exceed ten~~
10 ~~thousand dollars.~~

11 ~~(c) No fraternal benefit society shall be liable or~~
12 ~~responsible to any person to determine or ascertain the aggregate~~
13 ~~total of policy or certificate of life insurance or annuity~~
14 ~~contract loan values, cash values, proceeds, or benefits for any~~
15 ~~policy or certificate owner or annuitant.~~

16 (3) Notwithstanding subsection (2) of this section, an
17 individual's interest in all loan values or cash values of all
18 matured or unmatured life insurance contracts or policies and in
19 all proceeds, cash values, or benefits accruing under all annuity
20 contracts owned by such individual shall not be exempt from
21 attachment, garnishment, or other legal or equitable process or
22 from any other claims of creditors of the insured and of the
23 beneficiary if related to the insured by blood or marriage, to the
24 extent that the loan value or cash value of any matured or
25 unmatured life insurance contract or the proceeds, cash values, or
26 benefits accruing under any annuity contract was established or
27 increased through contributions, premiums, or any other payments
1 made within three years prior to bankruptcy or within three years
2 prior to entry against the individual of a money judgment which
3 thereafter becomes final. A fraternal benefit society shall not be
4 liable or responsible to any person to determine or ascertain the
5 existence or identity of any such creditors prior to payment of any
6 such loan values, cash values, proceeds, or benefits.

7 (4) Notwithstanding subsection (2) of this section,
8 proceeds, cash values, and benefits accruing under any annuity
9 contract or under any policy or certificate of life insurance
10 payable upon the death of the insured to a beneficiary other than
11 the estate of the insured shall not be exempt from attachment,
12 garnishment, or other legal or equitable process by a judgment
13 creditor of the beneficiary if the judgment against the beneficiary
14 was based on, arose from, or was related to an act, transaction, or
15 course of conduct for which the beneficiary has been convicted by
16 any court of a crime punishable only by life imprisonment or death.
17 No fraternal benefit society shall be liable or responsible to any
18 person to determine or ascertain the existence or identity of any
19 such judgment creditor prior to payment of any such proceeds, cash
20 values, or benefits. This subsection shall apply to any judgment
21 rendered on or after January 1, 1995, irrespective of when the
22 criminal conviction is or was rendered and irrespective of whether

- 23 proceedings for attachment, garnishment, or other legal or
 24 equitable process were pending on March 14, 1997."
 25 2. On page 20, line 6, after "sections" insert
 26 "44-371,"; and in line 7 after the second comma insert "44-1089,".
 27 3. Renumber the remaining sections accordingly.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Atkins, Sallie - Nebraska State Fair Board - Agriculture

Bleich, Christine - State Emergency Response Commission - Government,
 Military and Veterans Affairs

Christensen, Richard - State Emergency Response Commission -
 Government, Military and Veterans Affairs

Wood, Steven - State Emergency Response Commission - Government,
 Military and Veterans Affairs

(Signed) Pat Engel, Chairperson
 Legislative Council, Executive Board

RESOLUTION

LEGISLATIVE RESOLUTION 231. Introduced by Dw. Pedersen, 39.

WHEREAS, Mr. Arthur L. Taylor, a retired bill room clerk, died January 24, 2004; and

WHEREAS, Mr. Taylor was born August 10, 1924, in Beacon Falls, Connecticut. He graduated from the University of Nebraska, was a veteran of World War II, and was an accountant for Aquila. He started working in the bill room in 1989; and

WHEREAS, in his spare time, Mr. Taylor was an avid Cornhusker fan, was active in Northeast United Church of Christ (he was the church financial secretary for fifty years), was commander of VFW Post 3606, and was a member of Delta Sigma Pi fraternity; and

WHEREAS, Arthur Taylor was a quiet gentleman who was always kind, considerate, polite, and dependable and will be greatly missed by his fellow employees.

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

1. That the Legislature sends its condolences to the family of Arthur L. Taylor.
2. That a copy of this resolution be sent to Mr. Taylor's wife, Virginia E. Taylor.

Laid over.

ANNOUNCEMENT

Senator McDonald designates LB 986 as her priority bill.

NOTICE OF COMMITTEE HEARINGS**Business and Labor**

Room 1525

LB 930	Monday, February 9, 2004	1:30 p.m.
LB 976	Monday, February 9, 2004	1:30 p.m.
LB 977	Monday, February 9, 2004	1:30 p.m.
LB 981	Monday, February 9, 2004	1:30 p.m.
LB 982	Monday, February 9, 2004	1:30 p.m.
LB 985	Monday, February 9, 2004	1:30 p.m.
LB 1127	Monday, February 9, 2004	1:30 p.m.
LB 1062	Monday, February 9, 2004	1:30 p.m.

(Signed) Floyd P. Vrtiska, Chairperson

Urban Affairs

Room 1510

LB 1052	Tuesday, February 10, 2004	1:30 p.m.
LB 1175	Tuesday, February 10, 2004	1:30 p.m.
LB 1171	Tuesday, February 10, 2004	1:30 p.m.
LB 1233	Tuesday, February 10, 2004	1:30 p.m.
LB 1246	Tuesday, February 17, 2004	1:30 p.m.
LB 1148	Tuesday, February 17, 2004	1:30 p.m.

(Signed) D. Paul Hartnett, Chairperson

SELECT FILE

LEGISLATIVE BILL 172. The Schimek pending amendment, AM2361, found on page 459, was renewed.

Senator Chambers offered the following amendment to the Schimek pending amendment:

FA1440

Amend AM2361

In line 6 strike "for" and insert "to"

SENATOR WEHRBEIN PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 20 ayes, 2 nays, and 27 not voting.

The Chambers amendment lost with 12 ayes, 17 nays, 11 present and not

voting, and 9 excused and not voting.

The Chair declared the call raised.

The Schimek pending amendment, AM2361, found on page 459 and considered in this day's Journal, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 28 ayes, 2 nays, and 19 not voting.

The Schimek amendment lost with 14 ayes, 22 nays, 5 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Pending.

NOTICE OF COMMITTEE HEARINGS

General Affairs

Room 1510

Monday, February 9, 2004 1:30 p.m.
 John Atherton - Nebraska Advisory Commission on Compulsive Gambling
 William King - State Electrical Board
 George Morrissey - State Electrical Board
 Tom Ourada - State Electrical Board

LB 995 Monday, February 9, 2004 1:30 p.m.
 LB 1174 Monday, February 9, 2004 1:30 p.m.
 LB 1196 Monday, February 9, 2004 1:30 p.m.

(Signed) Ray Janssen, Chairperson

Revenue

Room 1524

LB 1193 Wednesday, February 18, 2004 1:30 p.m.
 LB 1227 Wednesday, February 18, 2004 1:30 p.m.
 LR 224CA Wednesday, February 18, 2004 1:30 p.m.
 LB 1128 Wednesday, February 18, 2004 1:30 p.m.
 LB 1224 Wednesday, February 18, 2004 1:30 p.m.

LB 1160 Thursday, February 19, 2004 1:30 p.m.
 LB 1230 Thursday, February 19, 2004 1:30 p.m.
 LB 1133 Thursday, February 19, 2004 1:30 p.m.
 LB 1102 Thursday, February 19, 2004 1:30 p.m.
 LB 1018 Thursday, February 19, 2004 1:30 p.m.
 LB 905 Thursday, February 19, 2004 1:30 p.m.

LB 922	Friday, February 20, 2004	1:30 p.m.
LB 935	Friday, February 20, 2004	1:30 p.m.
LR 228CA	Friday, February 20, 2004	1:30 p.m.
LB 965	Friday, February 20, 2004	1:30 p.m.

(Signed) David Landis, Chairperson

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 155:
AM2400

(Amendments to Standing Committee amendments, AM0322)

- 1 1. On page 1, line 4, after the comma insert "none of
- 2 whom reside on the leased premises.".

Senator Jones filed the following amendment to LB 279A:
AM2408

- 1 1. On page 2, line 12, strike "July 1" and insert "July
- 2 19".

BILL ON FIRST READING

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

LEGISLATIVE BILL 100A. Introduced by Baker, 44.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 100, Ninety-eighth Legislature, Second Session, 2004.

UNANIMOUS CONSENT - Add Cointroducer

Senator McDonald asked unanimous consent to have her name added as cointroducer to LBs 986 and 1190. No objections. So ordered.

ADJOURNMENT

At 11:57 a.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Tuesday, February 3, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTEENTH DAY - FEBRUARY 3, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****EIGHTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 3, 2004

PRAYER

The prayer was offered by Pastor Kim Cottingham, St. Paul's Lutheran Church, Uehling.

ROLL CALL

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

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Beutler, Brashear, Bromm, Cunningham, Johnson, Maxwell, Preister, Price, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventeenth day was approved.

ANNOUNCEMENT

Senator Cunningham designates LB 1049 as his priority bill.

NOTICE OF COMMITTEE HEARINGS

Revenue
Room 1524

LB 1041	Wednesday, February 25, 2004	1:30 p.m.
LB 1095	Wednesday, February 25, 2004	1:30 p.m.
LB 1249	Thursday, February 26, 2004	1:30 p.m.
LB 1178	Thursday, February 26, 2004	1:30 p.m.
LB 892	Thursday, February 26, 2004	1:30 p.m.

(Signed) David Landis, Chairperson

ATTORNEY GENERAL'S OPINIONOpinion # 04003

DATE: February 2, 2004

SUBJECT: Whether LR4CA, a proposed amendment to the Nebraska Constitution regarding hunting, fishing, and trapping, will have an affect on the Nebraska Constitution and various existing statutes.

REQUESTED BY: Senator Ed Schrock
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
David Cookson, Assistant Attorney General
Justin Lavene, Assistant Attorney General

On January 20, 2004, you requested an opinion from the Attorney General's Office regarding LR4CA, a proposed amendment to the Nebraska Constitution, and its possible affect on the Nebraska Constitution and various existing statutes. The relevant language of the proposed constitutional amendment reads as follows:

Fishing, trapping, and hunting are a valued part of the heritage of the people and will be a right forever preserved for the people subject to reasonable restrictions as prescribed by law.

LR4CA (Ninety-Eighth Legislature, First Session, First Reading January 10, 2003). Please find our responses outlined below.

Question No. 1: Whether the adoption of the proposed constitutional amendment would impair or negatively affect the Nebraska Constitution. For the reasons set forth below, we conclude that the proposed constitutional amendment will not impair or negatively affect the Nebraska Constitution.

The Nebraska Supreme Court has provided a number of rules for the application and construction of constitutional provisions. Essentially, the proposed constitutional amendment would not impair or negatively affect the Nebraska Constitution because the amendment would simply become part of the Constitution and would have the same authority as any other provision within the Constitution.

The Nebraska Constitution represents the supreme written will of the people regarding the framework for their government. *Pig Pro Nonstock Co-op v. Moore*, 253 Neb. 72, 79, 568 N.W.2d 217, 222 (1997). The state constitution is only subject to the limitations found in the Federal Constitution. *Jaksha v. State*, 241 Neb. 106, 110, 486 N.W.2d 858, 863

(1992). In *Jaksha*, the Nebraska Supreme Court found the following:

A constitutional amendment becomes an integral part of the instrument and must be construed and harmonized, if possible, with all other provisions so as to give effect to every section and clause as well as to the whole instrument. If inconsistent, a constitutional amendment prevails over a provision in the original instrument...

Jaksha, 241 Neb. at 110-111, 486 N.W.2d at 863 (internal citations omitted). Constitutional provisions relating to the same subject matter should be construed together, with a view to giving effect to each provision if possible. *State ex rel. Randall v. Hall*, 125 Neb. 236, 249 N.W. 756 (1933). Constitutional provisions are repugnant to each other or conflicting only when they relate to the same subject, are adopted for the same purpose, and cannot be enforced without substantial conflict. *Swanson v. State*, 132 Neb. 82, 271 N.W. 264 (1937). Differences in Constitutional provisions must, if possible, be reconciled. *State ex rel. Randall v. Hall*, *supra*.

Upon review of the Nebraska Constitution, there is one provision that appears to relate to the subject matter of the proposed constitutional amendment. Pursuant to Article III, Section 18 of the Nebraska Constitution, "The Legislature shall not pass local or special laws in any of the following cases, that is to say: . . . the protection of game or fish . . ." Therefore, it is unconstitutional for the Legislature to pass special legislation for the protection of game or fish. A legislative act can violate the Nebraska Constitution as special legislation if (1) it creates an arbitrary and unreasonable method of classification or (2) it creates a permanently closed class. *Gourley ex rel. Gourley v. Nebraska Methodist Health System*, 265 Neb. 918, 663 N.W.2d 43 (2003), (Per curiam, with three justices concurring and two justices concurring in result). Although Article III, Section 18 of the Constitution and the proposed amendment appear to have some relation in subject matter, the provisions do not appear to be in conflict as the provisions were not adopted for the same purpose. Moreover, both provisions can be enforced without substantial conflict. Therefore, the proposed amendment would not impair the current language of the special legislation provision. Notwithstanding Article III, Section 18, there appear to be no other conflicts, either direct or indirect, between the remainder of the provisions and the proposed constitutional amendment.

Furthermore, no limit is placed on the subject matter of proposed language to the Constitution. "A proposed amendment to our Constitution does not have to deal with fundamental rights...but may deal with any subject." *Omaha National Bank v. Spire*, 223 Neb. 209, 219, 389 N.W.2d 269, 276 (1986). The people of the state of Nebraska may amend their Constitution in any way they see fit, provided the amendment is not in violation of the United States Constitution or in conflict with federal statutes or treaties. *Id.* Moreover, the Nebraska Supreme Court is without authority to judge the wisdom or desirability of a Constitutional Amendment. *State ex rel. Stenberg v. Moore*, 251 Neb. 598, 606, 558 N.W.2d 794, 798 (1997).

It can be derived from the language in the above cited cases that there are no limitations on the subject matter of constitutional amendments, provided such amendments are not in violation of the United States Constitution, or federal laws or treaties. Whether the proposed language "clutters" the Constitution is a policy issue and has no effect on the ability of the constitutional amendment to be proposed to the people of the state of Nebraska: it simply is an argument in opposition of the adoption of the amendment.

Question No. 2: Whether the adoption of the proposed constitutional amendment would negatively affect the interpretation of any relevant existing statutes. For the reasons set forth below, we conclude that the proposed constitutional amendment will have an affect on the interpretation of relevant existing statutes. Whether or not these effects can be characterized as "negative" is not within our purview to review.

The Nebraska Game and Parks Commission ("Commission") is vested with sole charge and responsibility for state parks, game and fish, recreation grounds, and all things pertaining thereto, pursuant to Neb. Rev. Stat. §37-301 (Reissue 1998). The Commission is further granted the authority, pursuant to Neb. Rev. Stat. §37-314 (Reissue 1998), to adopt and promulgate rules and regulations as they relate to specifications of hunting, fishing, and fur-harvesting. The qualifying language of the constitutional amendment, "subject to reasonable restrictions as prescribed by law," appears to have no effect on the ability of the Commission to exercise its authority to regulate game and parks pursuant to the current statutory grant of authority by the Legislature.

The language, "reasonable restrictions as proscribed by law," however, has the potential of presenting additional challenges to both the Legislature and the Commission. Currently, all statutes passed by the Legislature and regulations adopted by the Commission relating to the right to fish, trap and hunt are presumed to be constitutional provided the laws are "rationally related to a legitimate governmental interest." The legitimate government interest the Legislature is seeking to protect is the preservation and conservation of wildlife within the state. The burden is on the person challenging the statute to prove that the statute is unconstitutional because it is irrational and satisfies no legitimate governmental interest.

The proposed constitutional amendment recognizes the right of Nebraskans to fish, trap, and hunt as a constitutionally-protected right. As such, the adoption of the amendment may raise the level of judicial scrutiny upon laws related to fishing, trapping, and hunting passed by both the Legislature and the Commission. Under this heightened level of scrutiny, the government would be subject to an increased burden to show that the law is constitutional because it is "substantially related to an important governmental interest." Although the proposed amendment does not directly limit the powers of the Legislature and the Commission to regulate and

control fishing, trapping, and hunting, by recognizing such activities as a constitutional right of the citizens of this state, there is the likelihood that this amendment will open the doors to potential constitutional attacks on the laws of the State, questioning whether the law "reasonably restricts" the right to fish, trap, and hunt.

For the foregoing reasons, the proposed constitutional amendment does not impair or negatively affect the Constitution and is an appropriate amendment to be presented to the people of Nebraska. Furthermore, the amendment may affect the interpretation of relevant existing statutes. There is the potential that such an amendment would heighten the level of scrutiny a court would use in determining the constitutionality of laws related to fishing, trapping, and hunting.

Sincerely,
 JON BRUNING
 Attorney General
 (Signed) David D. Cookson
 Assistant Attorney General
 (Signed) Justin D. Lavene
 Assistant Attorney General

pc: Patrick O'Donnell, Clerk of the Legislature

AMENDMENT - Print in Journal

Senator Schrock filed the following amendment to LB 449:
 AM2420

- 1 1. On page 20, line 28, after the period insert "Any
- 2 money in the fund available for investment shall be invested by the
- 3 state investment officer pursuant to the Nebraska Capital Expansion
- 4 Act and the Nebraska State Funds Investment Act.".

RESOLUTIONS

LEGISLATIVE RESOLUTION 230. Read. Considered.

LR 230 was adopted with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

LEGISLATIVE RESOLUTION 231. Read. Considered.

LR 231 was adopted with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 230 and 231.

MOTIONS - Approve Appointments

Senator Kremer moved the adoption of the Agriculture Committee report for the confirmation of the following appointment found on page 453:

Beginning Farmer Board
Timothy Schram

Voting in the affirmative, 32:

Aguilar	Foley	Kremer	Quandahl	Thompson
Burling	Friend	Kruse	Raikes	Tyson
Byars	Hartnett	Landis	Redfield	Vrtiska
Chambers	Janssen	Louden	Schimek	Wehrbein
Combs	Jensen	Maxwell	Schrock	
Engel	Johnson	Mines	Stuthman	
Erdman	Jones	Pedersen, Dw.	Synowiecki	

Voting in the negative, 0.

Present and not voting, 10:

Baker	Brown	Cudaback	Mossey	Smith
Bourne	Connealy	Cunningham	Pederson, D.	Stuhr

Excused and not voting, 7:

Beutler	Bromm	McDonald	Price
Brashear	Hudkins	Preister	

The appointment was confirmed with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment found on page 453:

Nebraska Power Review Board
Eugene Bade

Voting in the affirmative, 30:

Aguilar	Cunningham	Janssen	Louden	Schimek
Bromm	Engel	Jensen	Mines	Schrock
Burling	Erdman	Johnson	Mossey	Synowiecki
Byars	Foley	Jones	Pedersen, Dw.	Thompson
Chambers	Friend	Kremer	Pederson, D.	Vrtiska
Connealy	Hartnett	Kruse	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 12:

Baker	Combs	Quandahl	Stuhr
Bourne	Cudaback	Raikes	Stuthman
Brown	Maxwell	Smith	Tyson

Excused and not voting, 7:

Beutler	Hudkins	McDonald	Price
Brashear	Landis	Preister	

The appointment was confirmed with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

Senator Connealy moved the adoption of the Revenue Committee report for the confirmation of the following appointment found on page 453:

Tax Equalization and Review Commission
Robert L. Hans

Voting in the affirmative, 36:

Aguilar	Cunningham	Johnson	Pedersen, Dw.	Thompson
Bromm	Engel	Jones	Quandahl	Tyson
Brown	Erdman	Kremer	Raikes	Vrtiska
Burling	Foley	Kruse	Redfield	Wehrbein
Byars	Friend	Louden	Schimek	
Chambers	Hartnett	Maxwell	Schrock	
Combs	Janssen	Mines	Stuthman	
Connealy	Jensen	Mossey	Synowiecki	

Voting in the negative, 0.

Present and not voting, 6:

Baker	Bourne	Smith
Beutler	Cudaback	Stuhr

Excused and not voting, 7:

Brashear	Landis	Pederson, D.	Price
Hudkins	McDonald	Preister	

The appointment was confirmed with 36 ayes, 0 nays, 6 present and not voting, and 7 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment found on page 467:

Board of Educational Lands and Funds
Demarus Carlson

Voting in the affirmative, 28:

Aguilar	Erdman	Kremer	Preister	Stuthman
Burling	Foley	Kruse	Quandahl	Tyson
Byars	Hartnett	Maxwell	Raikes	Vrtiska
Combs	Jensen	Mines	Redfield	Wehrbein
Cunningham	Johnson	Mossey	Schimek	
Engel	Jones	Pedersen, Dw.	Schrock	

Voting in the negative, 0.

Present and not voting, 15:

Baker	Bromm	Connealy	Janssen	Stuhr
Beutler	Brown	Cudaback	Louden	Synowiecki
Bourne	Chambers	Friend	Smith	Thompson

Excused and not voting, 6:

Brashear	Landis	Pederson, D.
Hudkins	McDonald	Price

The appointment was confirmed with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 644A. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

STANDING COMMITTEE REPORTS Natural Resources

LEGISLATIVE BILL 183. Indefinitely postponed.
LEGISLATIVE BILL 363. Indefinitely postponed.
LEGISLATIVE BILL 527. Indefinitely postponed.
LEGISLATIVE BILL 624. Indefinitely postponed.
LEGISLATIVE BILL 633. Indefinitely postponed.
LEGISLATIVE BILL 638. Indefinitely postponed.
LEGISLATIVE BILL 738. Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 1087:

AM2423

1 1. On page 2, strike beginning with the comma in line 24
 2 through the comma in line 26; and in line 26 after the period
 3 insert "If the speaker knowingly divulges or makes known
 4 confidential information or confidential records, he or she shall
 5 be guilty of a Class III misdemeanor.".

Senator Beutler filed the following amendment to LB 1118:

AM2424

1 1. On page 5, strike beginning with "be" in line 2
 2 through "provisions" in line 4 and insert "not include performance
 3 audits, whether conducted pursuant to attestation engagements or
 4 performance audit standards as set forth in Government Auditing
 5 Standards (2003 Revision), published by the Comptroller General of
 6 the United States, General Accounting Office".

Senators Schimek, Beutler, and Janssen filed the following amendment to
LR 14CA:

AM2401

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. At the general election in November 2004 the
 4 following proposed amendment to the Constitution of Nebraska shall
 5 be submitted to the electors of the State of Nebraska for approval
 6 or rejection:
 7 To amend Article III, section 24:
 8 III-24 "(1) Except as provided in this section, the
 9 Legislature shall not authorize any game of chance or any lottery
 10 or gift enterprise when the consideration for a chance to
 11 participate involves the payment of money for the purchase of
 12 property, services, or a chance or admission ticket or requires an
 13 expenditure of substantial effort or time.
 14 (2) The Legislature may authorize and regulate a state
 15 lottery pursuant to subsection (3) of this section and other
 16 lotteries, raffles, and gift enterprises which are intended solely
 17 as business promotions or the proceeds of which are to be used
 18 solely for charitable or community betterment purposes without
 19 profit to the promoter of such lotteries, raffles, or gift
 20 enterprises.
 21 (3) The Legislature may establish a lottery to be
 22 operated and regulated by the State of Nebraska. The proceeds of
 23 the lottery shall be appropriated by the Legislature for the costs
 24 of establishing and maintaining the lottery and for other purposes
 1 as directed by the Legislature. No lottery game shall be conducted
 2 as part of the lottery unless the type of game has been approved by
 3 a majority of the members of the Legislature.
 4 (4) Nothing in this section shall be construed to
 5 prohibit (a) the enactment of laws providing for the licensing and
 6 regulation of wagering on the results of horse races, wherever run,

7 either within or outside of the state, by the parimutuel method,
 8 when such wagering is conducted by licensees within a licensed
 9 racetrack enclosure or (b) the enactment of laws providing for the
 10 licensing and regulation of bingo games conducted by nonprofit
 11 associations which have been in existence for a period of five
 12 years immediately preceding the application for license, except
 13 that bingo games cannot be conducted by agents or lessees of such
 14 associations on a percentage basis.

15 (5)(a) For purposes of this subsection, casino gaming
 16 includes games of chance played for money, credit, or any
 17 representative of value using cards; dice; equipment;
 18 player-activated electronic, video, or mechanical gaming devices;
 19 and other methods authorized by the Legislature.
 20 (b) Nothing in the Constitution of Nebraska shall be
 21 construed to prohibit or restrict casino gaming as authorized by
 22 the Legislature at up to eight casino locations. Only the
 23 Legislature may provide for the operation, regulation, and taxation
 24 of casino gaming at such casino locations."

25 Sec. 2. The proposed amendment shall be submitted to the
 26 electors in the manner prescribed by the Constitution of Nebraska,
 27 Article XVI, section 1, with the following ballot language:

1 "A constitutional amendment to define casino gaming and
 2 to permit the Legislature to authorize up to eight casino
 3 locations and provide for the operation, regulation, and
 4 taxation of casino gaming at such locations.
 5 For
 6 Against".

SELECT FILE

LEGISLATIVE BILL 172. Senator Schimek renewed her pending amendment, AM2362, found on page 461.

Senator Foley offered the following motion:
 Invoke cloture on LB 172.

Senator Foley moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Senator Foley requested a roll call vote on his motion to invoke cloture.

Voting in the affirmative, 37:

Aguilar	Connealy	Jensen	Pedersen, Dw.	Stuthman
Baker	Cudaback	Jones	Preister	Synowiecki
Beutler	Cunningham	Kremer	Quandahl	Tyson
Brashear	Engel	Kruse	Raikes	Vrtiska
Bromm	Erdman	Louden	Redfield	Wehrbein
Burling	Foley	Maxwell	Schrock	
Byars	Friend	Mines	Smith	
Combs	Hartnett	Mossey	Stuhr	

Voting in the negative, 7:

Bourne	Chambers	Johnson	Thompson
Brown	Janssen	Schimek	

Present and not voting, 1:

McDonald

Excused and not voting, 4:

Hudkins	Landis	Pederson, D.	Price
---------	--------	--------------	-------

The Foley motion to invoke cloture prevailed with 37 ayes, 7 nays, 1 present and not voting, and 4 excused and not voting.

Senator Chambers requested a roll call vote on the Schimek amendment, AM2362.

Voting in the affirmative, 13:

Aguilar	Brown	Johnson	Raikes	Wehrbein
Beutler	Chambers	Kruse	Schimek	
Bourne	Janssen	McDonald	Thompson	

Voting in the negative, 20:

Burling	Foley	Kremer	Quandahl	Stuhr
Cudaback	Friend	Mines	Redfield	Stuthman
Engel	Jensen	Mossey	Schrock	Tyson
Erdman	Jones	Pedersen, Dw.	Smith	Vrtiska

Present and not voting, 12:

Baker	Byars	Cunningham	Maxwell
Brashear	Combs	Hartnett	Preister
Bromm	Connealy	Louden	Synowiecki

Excused and not voting, 4:

Hudkins Landis Pederson, D. Price

The Schimek amendment lost with 13 ayes, 20 nays, 12 present and not voting, and 4 excused and not voting.

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

Voting in the affirmative, 35:

Baker	Connealy	Hartnett	Mossey	Smith
Beutler	Cudaback	Jensen	Pedersen, Dw.	Stuhr
Brashear	Cunningham	Jones	Preister	Stuthman
Bromm	Engel	Kremer	Quandahl	Synowiecki
Burling	Erdman	Louden	Raikes	Tyson
Byars	Foley	Maxwell	Redfield	Vrtiska
Combs	Friend	Mines	Schrock	Wehrbein

Voting in the negative, 4:

Bourne Chambers Kruse Schimek

Present and not voting, 6:

Aguilar	Janssen	McDonald
Brown	Johnson	Thompson

Excused and not voting, 4:

Hudkins Landis Pederson, D. Price

Advanced to E & R for engrossment with 35 ayes, 4 nays, 6 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 227. Senator Quandahl renewed his pending amendment, AM2236, found on page 357.

Senator Chambers offered the following amendment to the Quandahl pending amendment:

FA1442

Amend AM2236

In line 2 strike "twenty-five" and insert "twenty"

Senator Chambers moved for a call of the house. The motion prevailed with 19 ayes, 2 nays, and 28 not voting.

The Chambers amendment lost with 7 ayes, 25 nays, 11 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Quandahl pending amendment:

FA1443

Amend AM2236

In line 2 strike "twenty-five" and insert "thirty"

Pending.

STANDING COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 877. Placed on General File.

LEGISLATIVE BILL 882. Placed on General File as amended.

Standing Committee amendment to LB 882:

AM2308

- 1 1. On page 2, line 16, strike "defendant's last-known
- 2 address" and insert "detained premises"; and in line 17 strike
- 3 "such" and insert "the defendant's last-known".

(Signed) Kermit A. Brashear, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 860. Placed on General File.

LEGISLATIVE BILL 861. Placed on General File.

LEGISLATIVE BILL 867. Placed on General File.

(Signed) Tom Baker, Chairperson

General Affairs

LEGISLATIVE BILL 914. Placed on General File as amended.

Standing Committee amendment to LB 914:

AM2363

- 1 1. On page 3, line 19, after "commerce" insert ", but
- 2 does not include a residential installation".

LEGISLATIVE RESOLUTION 209CA. Placed on General File as amended.

Standing Committee amendment to LR 209CA:

AM2346

- 1 1. On page 2, strike the new matter in lines 9 through
- 2 21 and insert
- 3 "(i) The first five hundred thousand dollars after the
- 4 payment of prizes and operating expenses shall be transferred to
- 5 the Compulsive Gamblers Assistance Fund;

- 6 (ii) Forty-four and one-half percent of the money
 7 remaining after the payment of prizes and operating expenses and
 8 the initial transfer to the Compulsive Gamblers Assistance Fund
 9 shall be transferred to the Nebraska Environmental Trust Fund to be
 10 used for competitive grants as provided in the Nebraska
 11 Environmental Trust Act;
 12 (iii) Twenty-two and one-fourth percent of the money
 13 remaining after the payment of prizes and operating expenses and
 14 the initial transfer to the Compulsive Gamblers Assistance Fund
 15 shall be transferred to the Education Innovation Fund;
 16 (iv) Twenty-two and one-fourth percent of the money
 17 remaining after the payment of prizes and operating expenses and
 18 the initial transfer to the Compulsive Gamblers Assistance Fund
 19 shall be transferred to the Nebraska Scholarship Fund;
 20 (v) Ten percent of the money remaining after the payment
 21 of prizes and operating expenses and the initial transfer to the
 22 Compulsive Gamblers Assistance Fund shall be transferred to the
 23 Nebraska State Fair Board; and
 24 (vi) One percent of the money remaining after the payment
 1 of prizes and operating expenses and the initial transfer to the
 2 Compulsive Gamblers Assistance Fund shall be transferred to the
 3 Compulsive Gamblers Assistance Fund".

The General Affairs 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.

Nebraska Liquor Control Commission
 Rhonda R. Flower

VOTE: Aye: Senators Connealy, Cunningham, Erdman, Friend, Janssen, Landis, Mossey, and Schimek. Nay: None. Absent: None.

The General Affairs 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.

Nebraska Arts Council
 Steven Bloch
 Janet Korell
 Nancy Schwertley
 Fred Simon

VOTE: Aye: Senators Connealy, Cunningham, Erdman, Friend, Janssen, Landis, Mossey, and Schimek. Nay: None. Absent: None.

(Signed) Ray Janssen, Chairperson

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 155:
AM2426

(Amendments to Standing Committee amendments, AM0322)

- 1 1. On page 1, line 2, strike "or a single family
- 2 residence lease".

Senator Preister filed the following amendment to LB 301:
AM2262

(Amendments to Standing Committee amendments, AM0669)

- 1 1. On page 3, line 16, strike "2003" and insert "2004";
- 2 and in line 26 after "fee" insert "and shall remit such amount to
- 3 the State Treasurer for credit to the Electronic Equipment
- 4 Recycling Administration Fund, which fund is hereby created".
- 5 2. On page 4, line 6, after the period insert "Any money
- 6 in the Electronic Equipment Recycling Administration Fund available
- 7 for investment shall be invested by the state investment officer
- 8 pursuant to the Nebraska Capital Expansion Act and the Nebraska
- 9 State Funds Investment Act".

Senators Jones and Wehrbein filed the following amendment to LB 279:
AM2417

(Amendments to AM2353)

- 1 1. On page 4, strike lines 14 through 16 and insert "on
- 2 such taxes due of fourteen percent per annum. Such late fee shall
- 3 be credited to the county general fund".

Senator Chambers filed the following amendment to LB 172:
FA1441

- 1 1. Strike the original section and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Each school district shall post and leave
- 4 posted throughout the year in a prominent location, available to
- 5 all students in grades seven through twelve, a toll-free telephone
- 6 number to the Department of Health and Human Services for the
- 7 exclusive purpose of providing information explaining the
- 8 provisions of section 71-6902 with regard to the requirements for
- 9 parental notification as a condition to obtaining an abortion.
- 10 The information shall explain the provisions of sections 71-6903
- 11 and 71-6904 with regard to seeking a judicial waiver of the
- 12 parental notification requirements. The provisions of this section
- 13 shall be narrowly construed to authorize and require the department
- 14 to provide only the information specified in this section. The
- 15 provisions of this section do not authorize the department to
- 16 provide specific information regarding how students may implement
- 17 the judicial waiver provisions of section 71-6903.
- 18 The Director of Health and Human Services in conjunction

19 with the Commissioner of Education shall develop and approve the
20 information to be provided. The Department of Health and Human
21 Services shall establish a statewide toll-free number in order to
22 comply with this section.

23 Sec. 2. The following section is outright repealed:

24 Section 71-6909, Reissue Revised Statutes of Nebraska."

COMMUNICATIONS

From: Nebraska Game and Parks Commission
Bruce K. Sackett
Division Administrator
Realty/Environmental Services Division

Your permission is respectfully requested for us to transfer land in Seward County to the Nebraska Game and Parks Commission. ...

The gift from the Wehrs family to the Nebraska Game and Parks Commission is all of the real estate described as:

The Northeast Quarter (NE1/4) of Section Thirty-two (32), Township Eleven (11) North, Range One (1) East of the 6th P.M., in Seward County, Nebraska, containing 160 acres more or less. These premises are subject to a warranty easement deed to USA (Natural Resources Conservation Service - NRCS) as filed in Seward County, Nebraska.

The land described shall be designated and utilized as a Wildlife Management Area.

February 3, 2004

Senator Patrick Engel
Chairman, Executive Board
Room 2010, State Capitol
Lincoln, NE 68509

Dear Senator Engel,

Enclosed please find correspondence from the Nebraska Game and Parks Commission. The correspondence related to a request for the State Legislature to accept a Gift of Real Property.

I am forwarding this correspondence to you for action by the Executive Board.

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

GENERAL FILE

LEGISLATIVE BILL 32. The Standing Committee amendment, AM0811, found on page 897, First Session, 2003, and considered on pages 411 and 421, was renewed.

Senator Chambers requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:
FA1445

- 1 1. Insert the following new sections:
- 2 "Sec. 14. Any municipality, county, or natural resources
- 3 district which establishes a system of storm water management
- 4 pursuant to sections 18-501 to 18-512 and sections 1 and 10 to 16
- 5 of this act, which system serves property owned or leased by the
- 6 State of Nebraska or any entity thereof, but not including
- 7 political subdivisions, shall bill storm water management fees or
- 8 use charges attributable to such property to the State of Nebraska.
- 9 Such fees or charges shall be paid from the General Fund pursuant
- 10 to appropriation by the Legislature but shall not be charged to the
- 11 budget of the state entity owning or leasing such property.

SPEAKER BROMM PRESIDING

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 559. Placed on Select File as amended.
(E & R amendment, AM7169, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 559A. Placed on Select File as amended.
E & R amendment to LB 559A:
AM7170

- 1 1. On page 1, line 3; and page 2, line 5, strike "First
- 2 Session, 2003" and insert "Second Session, 2004".
- 3 2. On page 2, line 2, strike "FY2003-04" and insert
- 4 "FY2004-05".

LEGISLATIVE BILL 449. Placed on Select File as amended.
E & R amendment to LB 449:
AM7168

- 1 1. On page 1, line 4, after the first semicolon insert

2 "to create a fund; to define terms;"

3 2. On page 19, line 11, strike the comma and show as
4 stricken.

LEGISLATIVE BILL 449A. Placed on Select File.

LEGISLATIVE BILL 323. Placed on Select File.

LEGISLATIVE BILL 511. Placed on Select File as amended.

E & R amendment to LB 511:

AM7167

1 1. On page 3, line 1, strike "phone" and insert

2 "telephone".

LEGISLATIVE BILL 279A. Placed on Select File.

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORT
Business and Labor

LEGISLATIVE BILL 1049. Placed on General File.

(Signed) Floyd P. Vrtiska, Chairperson

NOTICE OF COMMITTEE HEARINGS

Judiciary
Room 1113

LB 1035	Wednesday, February 11, 2004	1:30 p.m.
LB 1068	Wednesday, February 11, 2004	1:30 p.m.
LB 1075	Wednesday, February 11, 2004	1:30 p.m.
LB 1113	Wednesday, February 11, 2004	1:30 p.m.
LB 1210	Wednesday, February 11, 2004	1:30 p.m.
LB 1218	Wednesday, February 11, 2004	1:30 p.m.
LB 851	Thursday, February 12, 2004	1:30 p.m.
LB 1050	Thursday, February 12, 2004	1:30 p.m.
LB 1055	Thursday, February 12, 2004	1:30 p.m.
LB 1162	Thursday, February 12, 2004	1:30 p.m.
LB 1213	Thursday, February 12, 2004	1:30 p.m.

(Signed) Kermit A. Brashear, Chairperson

AMENDMENTS - Print in Journal

Senator Price filed the following amendment to LB 37:

AM2382

1 1. Strike section 6 and insert the following new
2 section:

- 3 "Sec. 5. The State Treasurer or his or her designee may
 4 contract for goods and services and engage personnel as necessary,
 5 including consultants, actuaries, managers, legal counsels, and
 6 auditors to render professional, managerial, and technical
 7 assistance and advice regarding trust administration and operation
 8 under the Wage Replacement Savings Plan Act. The State Treasurer
 9 may establish, impose, and collect administrative fees and
 10 reasonable service charges in connection with the trust. Such fees
 11 and service charges shall be credited to the Wage Replacement
 12 Savings Plan Administrative Cash Fund, which is hereby created.
 13 Beginning in fiscal year 2005-06, the State Treasurer shall use
 14 money appropriated from the fund to carry out the act. Any money
 15 in the fund available for investment shall be invested by the state
 16 investment officer pursuant to the Nebraska Capital Expansion Act
 17 and the Nebraska State Funds Investment Act."
 18 2. Strike beginning with "The" on page 2, line 28,
 19 through the period on page 3, line 7.
 20 3. On page 3, line 15, after the period insert "All
 21 money paid by participants under a participation agreement shall be
 22 deposited as received into separate accounts within the trust.";
 23 and in line 23 strike "administrative fund" and insert "Wage
 24 Replacement Savings Plan Administrative Cash Fund".
 1 4. Renumber the remaining section accordingly.

Senator Price filed the following amendment to LB 37A:
 AM2383

- 1 1. On page 2, line 10, strike the second "General" and
- 2 insert "Wage Replacement Savings Plan Administration Cash"; and in
- 3 line 12 strike "503" and insert "23".

Senator Loudon filed the following amendment to LB 1049:
 AM2291

- 1 1. On page 5, strike beginning with "primary" in line 26
- 2 through "(d)" in line 28 and show as stricken.
- 3 2. On page 6, line 2, strike "(e)", show as stricken,
- 4 and insert "(d)"; and in line 13 before "shall" insert "and primary
- 5 insurance benefits payable under Title II of the Social Security
- 6 Act, as amended, or similar payments under any act of Congress".

UNANIMOUS CONSENT - Add Cointroducers

Senators Dw. Pedersen and Thompson asked unanimous consent to have their names added as cointroducers to LB 1000. No objections. So ordered.

VISITORS

Visitors to the Chamber were Kent Lorens from Stratton and Matt Jedlicka from Schuyler; Senator Loudon's wife, SharonAnn, and her cousin, LeeAnn Merrihew, from Ashby; Stephanie Stueckrath from Osmond, Mark Linville

from Randolph, and Mike Zakrewski from O'Neill; and Travis and Nikki Edeal from Overton.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Burling, the Legislature adjourned until 9:00 a.m., Wednesday, February 4, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

NINETEENTH DAY - FEBRUARY 4, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****NINETEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 4, 2004

PRAYER

The prayer was offered by Pastor John Henderson, Burchard Methodist Church, Brock.

ROLL CALL

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

The roll was called and all members were present except Senators Hudkins, Landis, and Vrtiska who were excused; and Senators Baker, Brown, Maxwell, Dw. Pedersen, and Quandahl who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighteenth day was approved.

**STANDING COMMITTEE REPORT
Health and Human Services**

LEGISLATIVE BILL 929. Placed on General File as amended.

Standing Committee amendment to LB 929:

AM2279

- 1 1. Insert the following new section:
- 2 "Sec. 8. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."
- 4 2. On page 7, line 15, after "inspector" insert ", the
- 5 federal Drug Enforcement Administration".
- 6 3. On page 19, line 3, reinstate the stricken matter; in
- 7 line 4 strike the new matter; in line 5 reinstate the stricken
- 8 "school, college, or"; and in line 6 strike the new matter and
- 9 insert "university".

(Signed) Jim Jensen, Chairperson

NOTICE OF COMMITTEE HEARING
Health and Human Services
 Room 1510

LB 1250 Wednesday, February 25, 2004
 LB 1083 Wednesday, February 25, 2004

1:30 p.m.
 1:30 p.m.

(Signed) Jim Jensen, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 644A. Placed on Select File.

Correctly Engrossed

The following bill was correctly engrossed: LB 172.

(Signed) Ray Mossey, Chairperson

AMENDMENT - Print in Journal

Senator Kruse filed the following amendment to LB 208:
 AM2381

(Amendments to AM2144)

1 1. Strike sections 12, 15, and 18 and insert the
 2 following new sections:
 3 "Sec. 9. Section 60-6,108, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 60-6,108. (1) The provisions of the Nebraska Rules of
 6 the Road relating to operation of vehicles refer exclusively to
 7 operation of vehicles upon highways except where a different place
 8 is specifically referred to in a given section, but sections
 9 60-6,196, 60-6,197, and 60-6,212 to 60-6,218 and section 14 of this
 10 act shall apply upon highways and anywhere throughout the state
 11 except private property which is not open to public access.
 12 (2) Nothing in the Nebraska Rules of the Road shall be
 13 construed to prevent the owner of real property used by the public
 14 for the purposes of vehicular travel, by permission of the owner
 15 and not as a matter of right, from prohibiting such use nor from
 16 requiring other, different, or additional conditions from those
 17 specified or otherwise regulating the use thereof by such owner.
 18 (3) The Nebraska Rules of the Road shall be applicable
 19 and uniform throughout this state and in all political subdivisions
 20 and municipalities of this state, and no local authority shall
 21 enact or enforce any ordinance directly contrary to the Nebraska
 22 Rules of the Road unless expressly authorized by the Legislature.

- 23 Sec. 13. Any person convicted of a violation of section
1 60-6,196 or 60-6,197 shall be punished as follows:
- 2 (1) If such person has not had a prior conviction, such
3 person shall be guilty of a Class W misdemeanor, and the court
4 shall, as part of the judgment of conviction, order such person not
5 to drive any motor vehicle for any purpose for a period of six
6 months from the date ordered by the court and shall order that the
7 operator's license of such person be revoked for a like period.
8 Such revocation shall be administered upon sentencing, upon final
9 judgment of any appeal or review, or upon the date that any
10 probation is revoked.
- 11 If the court places such person on probation or suspends
12 the sentence for any reason, the court shall, as one of the
13 conditions of probation or sentence suspension, order such person
14 not to drive any motor vehicle for any purpose for a period of
15 sixty days from the date ordered by the court unless otherwise
16 authorized by an order issued pursuant to section 60-6,211.05, and
17 such order of probation shall also include, as one of its
18 conditions, the payment of a four-hundred-dollar fine;
- 19 (2) If such person has had one prior conviction, such
20 person shall be guilty of a Class W misdemeanor, and the court
21 shall, as part of the judgment of conviction, order such person not
22 to drive any motor vehicle for any purpose for a period of one year
23 from the date ordered by the court, shall order that the operator's
24 license of such person be revoked for a like period, and shall
25 issue an order pursuant to section 60-6,197.01 with respect to all
26 motor vehicles owned by such person. Such orders shall be
27 administered upon sentencing, upon final judgment of any appeal or
1 review, or upon the date that any probation is revoked.
- 2 If the court places such person on probation or suspends
3 the sentence for any reason, the court shall, as one of the
4 conditions of probation or sentence suspension, order such person
5 not to drive any motor vehicle for any purpose for a period of one
6 year from the date ordered by the court unless otherwise authorized
7 by an order issued pursuant to section 60-6,211.05 and shall issue
8 an order pursuant to section 60-6,197.01 with respect to all motor
9 vehicles owned by such person, and such order of probation shall
10 also include, as conditions, the payment of a five-hundred-dollar
11 fine and either confinement in the city or county jail for five
12 days or the imposition of not less than two hundred forty hours of
13 community service;
- 14 (3) If such person has had two prior convictions, such
15 person shall be guilty of a Class W misdemeanor, and the court
16 shall, as part of the judgment of conviction, order such person not
17 to drive any motor vehicle for any purpose for a period of fifteen
18 years from the date ordered by the court, shall order that the
19 operator's license of such person be revoked for a like period, and
20 shall issue an order pursuant to section 60-6,197.01 with respect
21 to all motor vehicles owned by such person. Such orders shall be

22 administered upon sentencing, upon final judgment of any appeal or
 23 review, or upon the date that any probation is revoked.

24 If the court places such person on probation or suspends
 25 the sentence for any reason, the court shall, as one of the
 26 conditions of probation or sentence suspension, order such person
 27 not to drive any motor vehicle for any purpose for a period of one
 1 year from the date ordered by the court and shall order that the
 2 operator's license of such person be suspended for a like period
 3 unless otherwise authorized by an order issued pursuant to section
 4 60-6,211.05 and shall issue an order pursuant to section
 5 60-6,197.01 with respect to all motor vehicles owned by such
 6 person, and such order of probation shall also include, as
 7 conditions, the payment of a six-hundred-dollar fine and either
 8 confinement in the city or county jail for ten days or the
 9 imposition of not less than four hundred eighty hours of community
 10 service; and

11 (4) If such person has had three or more prior
 12 convictions, such person shall be guilty of a Class IV felony, and
 13 the court shall, as part of the judgment of conviction, order such
 14 person not to drive any motor vehicle for any purpose for a period
 15 of fifteen years from the date ordered by the court, shall order
 16 that the operator's license of such person be revoked for a like
 17 period, and shall issue an order pursuant to section 60-6,197.01
 18 with respect to all motor vehicles owned by such person. Such
 19 orders shall be administered upon sentencing, upon final judgment
 20 of any appeal or review, or upon the date that any probation is
 21 revoked. The court shall also sentence such person to serve at
 22 least ten days' imprisonment in the city or county jail or an adult
 23 correctional facility.

24 If the court places such person on probation or suspends
 25 the sentence for any reason, the court shall, as one of the
 26 conditions of probation or sentence suspension, order such person
 27 not to drive any motor vehicle for any purpose for a period of one
 1 year from the date ordered by the court and shall order that the
 2 operator's license of such person be suspended for a like period
 3 unless otherwise authorized by an order issued pursuant to section
 4 60-6,211.05 and shall issue an order pursuant to section
 5 60-6,197.01 with respect to all motor vehicles owned by such
 6 person, and such order of probation shall also include, as
 7 conditions, the payment of a one-thousand-dollar fine and either
 8 confinement in the city or county jail for ten days or the
 9 imposition of not less than four hundred eighty hours of community
 10 service.

11 Sec. 16. Any person operating a motor vehicle on the
 12 highways or streets of this state while his or her operator's
 13 license has been revoked pursuant to subdivision (3) or (4) of
 14 section 13 of this act or pursuant to subdivision (2)(c) or (2)(d)
 15 of section 60-6,196 or subdivision (4)(c) or (4)(d) of section
 16 60-6,197, as such subdivisions existed prior to the effective date

17 of this act, shall be guilty of a Class IV felony. If such person
 18 has had a conviction under this section or under subsection (6) of
 19 section 60-6,196 or subsection (7) of section 60-6,197, as such
 20 subsections existed prior to the effective date of this act, prior
 21 to the date of the current conviction under this section, such
 22 person shall be guilty of a Class III felony."

23 2. On page 1, lines 15, 22, and 24; and page 3, lines 2
 24 and 12, after "60-6,196" insert "or section 16 of this act".

25 3. On page 2, line 2; and page 3, lines 13 and 14,
 26 strike "such" and show as stricken and after "section" insert
 27 "60-6,196".

1 4. On page 2, line 13, strike ", whichever is later.",
 2 show as stricken, and insert an underscored period.

3 5. On page 4, line 7, after "60-6,211.02" insert "and
 4 section 14 of this act" and strike the new matter; and in line 9
 5 after "60-4,110" insert "and section 16 of this act".

6 6. On page 8, lines 10, 23, and 27; page 9, line 14; and
 7 page 14, line 9, strike "pursuant to", show as stricken, and insert
 8 "as described in subsection (2) of", reinstate the stricken matter,
 9 and strike the new matter.

10 7. On page 8, line 11; and page 9, line 1, strike the
 11 new matter.

12 8. On page 28, line 11, strike "provided in", show as
 13 stricken, and insert "described in subsection (2) of" and reinstate
 14 the stricken "this"; and in line 12 strike the new matter.

15 9. On page 36, line 18, after the semicolon insert "or".

16 10. On page 37, line 9, strike "under" and insert "of";
 17 and in line 23 strike "defendant" and insert "convicted person".

18 11. On page 51, line 13, strike "section" and insert
 19 "sections 60-6,108 and"; and in lines 14 and 15 strike "60-601, and
 20 60-6,201" and insert "and 60-601".

21 12. Renumber the remaining sections and correct internal
 22 references accordingly.

GENERAL FILE

LEGISLATIVE RESOLUTION 14CA. Senator Beutler withdrew his pending motion, found on page 693 and considered on page 739, First Session, 2003, to indefinitely postpone.

Senator Schimek renewed the Schimek et al. pending amendment, AM2401, found on page 497.

Senator Jensen requested a ruling of the Chair on whether the Schimek et al. amendment is germane to the resolution.

The Chair ruled the Schimek et al. amendment is germane to the resolution.

Senator Jensen challenged the ruling of the Chair. The question is, "Shall the

Chair be overruled?" The motion failed with 6 ayes, 25 nays, 12 present and not voting, and 6 excused and not voting.

The Chair was sustained.

Senator Louden offered the following amendment to the Schimek et al. pending amendment:

FA1448

Amend AM2401

On page 2, line 22, after "Locations." Insert "Three of which shall be located within the Mountain Standard or Mountain Daylight Time Zone."

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Louden moved for a call of the house. The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Louden requested a roll call vote on his amendment.

Voting in the affirmative, 4:

Baker	Louden	Schrock	Smith
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Voting in the negative, 21:

Beutler	Cunningham	Mossey	Raikes	Thompson
Burling	Erdman	Pedersen, Dw.	Redfield	
Byars	Jensen	Preister	Stuhr	
Chambers	Johnson	Price	Stuthman	
Combs	Kruse	Quandahl	Synowiecki	

Present and not voting, 18:

Bourne	Cudaback	Hartnett	McDonald	Tyson
Brashear	Engel	Janssen	Mines	Wehrbein
Bromm	Foley	Jones	Pederson, D.	
Brown	Friend	Maxwell	Schimek	

Excused and not voting, 6:

Aguilar	Hudkins	Landis
Connealy	Kremer	Vrtiska

The Louden amendment lost with 4 ayes, 21 nays, 18 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Erdman offered the following amendment to the Schimek et al. pending amendment:

FA1449

Amend AM2401

Strike beginning with line 20, page 2, "Nothing" through line 22 "Locations."

Strike on line 24, page 2, strike "such" and insert "eight".

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 5 nays, and 19 not voting.

Senator Tyson moved for a call of the house. The motion prevailed with 21 ayes, 2 nays, and 26 not voting.

Senator Tyson requested a roll call vote, in reverse order, on the Erdman amendment.

Voting in the affirmative, 14:

Baker	Foley	Kruse	Quandahl	Stuhr
Engel	Jensen	Mossey	Redfield	Tyson
Erdman	Jones	Pedersen, Dw.	Smith	

Voting in the negative, 14:

Aguilar	Bromm	Connealy	McDonald	Synowiecki
Beutler	Byars	Cunningham	Mines	Wehrbein
Bourne	Chambers	Janssen	Stuthman	

Present and not voting, 14:

Brown	Friend	Louden	Preister	Schimek
Combs	Hartnett	Maxwell	Price	Schrock
Cudaback	Johnson	Pederson, D.	Raikes	

Excused and not voting, 7:

Brashear	Hudkins	Landis	Vrtiska
Burling	Kremer	Thompson	

The Erdman amendment lost with 14 ayes, 14 nays, 14 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator Smith offered the following amendment to the Schimek et al. pending amendment:

AM2464

(Amendments to AM2401)

- 1 1. On page 2, line 22, after the period insert "The
 2 Legislature shall provide for the submission of the question of
 3 whether to authorize a casino location in a particular county to
 4 the registered voters of such county prior to authorizing a casino
 5 location in such county.".
- 6 2. On page 3, line 3, after "locations" insert "subject
 7 to approval by voters in the county".

Senator Smith moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Smith amendment lost with 16 ayes, 6 nays, 20 present and not voting, and 7 excused and not voting.

Pending.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board referred the request to accept a Gift of Real Property from the Wehrs family to the Nebraska Game and Parks Commission to the Natural Resources Committee for further consideration.

(Signed) Pat Engel, Chairperson
 Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARINGS Government, Military and Veterans Affairs Room 1507

LB 1072	Wednesday, February 11, 2004	1:30 p.m.
LB 1168	Wednesday, February 11, 2004	1:30 p.m.
LB 1177	Wednesday, February 11, 2004	1:30 p.m.
LB 1179	Wednesday, February 11, 2004	1:30 p.m.
LB 1202	Wednesday, February 11, 2004	1:30 p.m.
LB 1082	Thursday, February 12, 2004	1:30 p.m.
LB 1231	Thursday, February 12, 2004	1:30 p.m.
LB 1184	Thursday, February 12, 2004	1:30 p.m.
LB 1170	Thursday, February 12, 2004	1:30 p.m.
LB 1223	Thursday, February 12, 2004	1:30 p.m.
LB 1169	Wednesday, February 18, 2004	1:30 p.m.

LB 1195	Wednesday, February 18, 2004	1:30 p.m.
LB 1229	Wednesday, February 18, 2004	1:30 p.m.
LR 221CA	Wednesday, February 18, 2004	1:30 p.m.
LB 1234	Thursday, February 19, 2004	1:30 p.m.
LB 1245	Thursday, February 19, 2004	1:30 p.m.
LB 1254	Thursday, February 19, 2004	1:30 p.m.
LR 226	Thursday, February 19, 2004	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

AMENDMENTS - Print in Journal

Senator Quandahl filed the following amendment to LB 882:
AM2430

- 1 1. Strike section 2 and insert the following sections:
- 2 "Section 1. Section 25-1565, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 25-1565. ~~When an execution against the property of a At~~
- 5 any time after the entry of judgment against the judgment debtor,
- 6 or one of several debtors in the same judgment, is issued to the
- 7 sheriff of a county where the debtor resides, or if the debtor does
- 8 not reside in the state, to the sheriff of the county where the
- 9 judgment was rendered, or a transcript of a judgment has been
- 10 filed, and is returned unsatisfied in whole or in part action, the
- 11 judgment creditor is entitled to an order from the county court or
- 12 the district court of the county ~~to (1) in~~ which the execution was
- 13 issued debtor resides, (2) if the debtor does not reside in the
- 14 state, where judgment was rendered, or (3) in which a transcript of
- 15 judgment has been filed, requiring the debtor to appear and answer
- 16 concerning his or her property before the judge of such court or a
- 17 referee appointed by the judge of such court at a time and place
- 18 specified in the order within the county to which the ~~execution~~
- 19 order was issued.
- 20 Sec. 3. The parties to a civil action may as part of a
- 21 settlement of the action agree to the payment of costs of the
- 22 action, interest, and attorney's fees.
- 23 Sec. 4. Original section 25-1565, Reissue Revised
- 24 Statutes of Nebraska, and section 25-21,223, Revised Statutes
- 1 Supplement, 2003, are repealed."
- 2 2. Renumber the remaining section accordingly.

Senator Preister filed the following amendment to LB 1163:
AM2442

- 1 1. On page 2, line 15, after "professional" insert "professional engineer licensed in Nebraska,"; and in lines 17 and
- 2 20 after "professional" insert "professional engineer,".
- 3 2. On page 3, line 26, strike "certification and"; and
- 4 in line 28 strike "certification and registration".

6 3. On page 4, line 3, strike "certification" and insert
7 "onsite wastewater treatment system inspection".

STANDING COMMITTEE REPORTS
Transportation and Telecommunications

LEGISLATIVE BILL 846. Placed on General File.

LEGISLATIVE BILL 911. Placed on General File.

LEGISLATIVE BILL 1004. Placed on General File.

LEGISLATIVE BILL 899. Indefinitely postponed.

LEGISLATIVE BILL 994. Indefinitely postponed.

LEGISLATIVE BILL 1038. Indefinitely postponed.

LEGISLATIVE BILL 1039. Indefinitely postponed.

LEGISLATIVE BILL 1073. Indefinitely postponed.

LEGISLATIVE BILL 1088. Indefinitely postponed.

(Signed) Tom Baker, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion # 04004

DATE: February 4, 2004

SUBJECT: The Constitutionality of Legislation Proposed in LB 660, with AM0301, and LB 709, Requiring the Legislature to Provide Adequate Funding for Mandated Programs and Activities

REQUESTED BY: Senator Chip Maxwell
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Leslie S. Donley, Assistant Attorney General

You have requested our opinion regarding the constitutionality of the legislation proposed in LB 660, with AM0301, and LB 709. Your opinion request letter indicates that both bills are being challenged as unconstitutional under the holding in *State ex rel. Stenberg v. Moore*, 249 Neb. 589, 544 N.W.2d 344 (1996). Your correspondence further indicates LB 660 is being "challenged as an unconstitutional encroachment on the sovereignty of the state board of education." Our response to your inquiry is set forth below.

PROPOSED LEGISLATION

LB 660 would prohibit the Legislature and state agencies from mandating programs or activities for school districts providing elementary or secondary

education unless adequate funding mechanisms are provided for such mandated programs or activities. An adequate funding mechanism "may include, but need not be limited to, legislative appropriations or authorization for affected districts to charge fees or to exceed statutory budget or levy limits to fund such mandated program or activity." The amendment you have provided us, AM0301, would require a state agency to specifically disclose the source and amount of the funding for the mandated program or activity.

LB 709 would add similar language to the Nebraska Health and Human Services System Act, Neb. Rev. Stat. § 81-3001 et seq.:

• • •

(2) Any statute passed by the Legislature that imposes a mandate upon local or tribal governments or the private sector shall include an appropriation of state funds by the Legislature to adequately fund such mandate.

(3) Any rule or regulation adopted and promulgated by any of the departments that imposes a mandate upon local or tribal governments or the private sector shall include a specific disclosure by the department of the source and amount of the funding appropriated by the Legislature specifically to fund such mandate.

(4) For purposes of this section, mandate means any provision in statute, rule, or regulation which (a) imposes an enforceable duty upon local or tribal governments or the private sector and (b) causes such government or the private sector to incur additional costs in order to comply with such duty.

ANALYSIS

Our analysis begins with a discussion of the decision in *State ex rel. Stenberg v. Moore*, 249 Neb. 589, 544 N.W.2d 344 (1996). *State ex rel. Stenberg* was an original action in which the Attorney General sought a declaratory judgment of the constitutionality of LB 507 (1993 Neb. Laws LB 507), codified at Neb. Rev. Stat. §§ 50-129 and 50-130 (Reissue 1993).¹

LB 507 imposed certain requirements on the Legislature relating to future legislation projected to increase inmate populations in the state's correctional facilities:

(1) When any legislation is enacted after June 30, 1993, which is projected in accordance with this section to increase the total adult inmate population or total juvenile population in state correctional facilities, the Legislature shall include in the legislation an estimate of the operating costs resulting from such increased population for the first four fiscal years during which the legislation will be in effect.

• • •

(3) The Legislature shall provide by specific itemized appropriation, for the fiscal year or years for which it can make valid appropriations, an amount sufficient to meet the cost indicated in the estimate contained in the legislation for such fiscal year or years. The appropriation shall be enacted in the same legislative session in which the legislation is enacted and shall be contained in a bill which does not contain appropriations for other programs.

(4) Any legislation enacted after June 30, 1993, which does not include the estimates required by this section and is not accompanied by the required appropriation shall be null and void.

(5) For purposes of this section, operating costs shall include only adult inmate and juvenile per diem and medical expenses.

LB 507 further required that the funds appropriated as set forth above be reserved and used as contingency funds by the Department of Correctional Services. The contingency funds would be placed in a separate budget program under the control of the Department of Administrative Services, and could be transferred only after written certification by the Director of Correctional Services that the original appropriation had been exhausted.

The Relator argued that LB 507 was unconstitutional because it would render future legislation null and void if it did not include the required estimates and appropriations. The Relator further argued that LB 507 violated Neb. Const. art. III, §§ 1, 13 and 14, by impermissibly binding future legislatures and imposing additional requirements on future legislatures for valid enactment of legislation beyond the requirements established in the Constitution.

State ex rel. Stenberg, 249 Neb. at 593.

Nebraska Constitution, art. III, § 1 provides, in relevant part:

. . . [T]he legislative authority of the state shall be vested in a Legislature consisting of one chamber. . . .

Nebraska Constitution, art III, § 13 provides:

The style of all bills shall be, Be it enacted by the people of the State of Nebraska, and no law shall be enacted except by bill. No bill shall be passed by the Legislature unless by the assent of a majority of all members elected and the yeas and nays on the question of final passage of any bill shall be entered upon the journal.

Nebraska Constitution, art. III, § 14 provides, in relevant part:

. . . No bill shall contain more than one subject, and the same shall be clearly expressed in the title. And no law shall be amended unless the new act contain the section or sections as amended and the section or sections so amended shall be repealed. . . .

State ex rel. Stenberg was the first case in which the Nebraska Supreme Court addressed one legislature's attempts to bind or restrict succeeding legislatures:

One legislature cannot bind a succeeding legislature or restrict or limit the power of its successors to enact legislation, except as to valid contracts entered into by it, and as to rights which have actually vested under its acts, and no action by one branch of the legislature can bind a subsequent session of the same branch. . . .

Id. (citing 82 C.J.S. Statutes § 9 at 24-25 (1953)). Ultimately, in State ex rel. Stenberg, the court held LB 507 to be unconstitutional.

LB 660 states that the Legislature shall not mandate any program or activity for school districts providing elementary or secondary education unless the Legislature provides an adequate funding mechanism for such program or activity. LB 709 requires that any statute or rule or regulation that imposes a mandate upon local or tribal governments or the private sector must be funded with an appropriation of state funds. Both bills seek to impose a requirement on this and future Legislatures that is not enumerated in the Constitution.

CONCLUSION

Based on the foregoing, we believe that LB 660 and LB 709 are unconstitutional because both bills would attempt to bind or restrict the authority of future legislatures from exercising their legislative power. In view of our response to your initial question, it is not necessary for us to address the remaining question presented in your opinion request.

¹ See also Op. Atty. Gen. No. 93-040 (May 20, 1993) for our prior discussion regarding the constitutionality of LB 507.

Sincerely,
JON BRUNING
Attorney General
(Signed) Leslie S. Donley
Assistant Attorney General

pc: Patrick J. O'Donnell
Clerk of the Legislature
49-48-21

WITHDRAW - Cointroducer

Senator Dw. Pedersen withdrew his name as cointroducer to LB 914.

UNANIMOUS CONSENT - Add Cointroducer

Senator Connealy asked unanimous consent to have his name added as cointroducer to LR 14CA. No objections. So ordered.

VISITORS

Visitors to the Chamber were Rebecca Rayman, Rinda Hemmer, and Arturo Spindola from Columbus; 75 students and teachers from Elkhorn High School; Hope Flores, Rudy Flores, and Phyllis Smith from Scottsbluff and Jan Fitts from Gering; and Andrea Lake from Oshkosh and Elvira Quijas from Gering.

ADJOURNMENT

At 12:00 p.m., on a motion by Senator Beutler, the Legislature adjourned until 9:00 a.m., Thursday, February 5, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTIETH DAY - FEBRUARY 5, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 5, 2004

PRAYER

The prayer was offered by Senator Redfield.

ROLL CALL

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

The roll was called and all members were present except Senators Hudkins and Quandahl who were excused; and Senators Brashear, Brown, Chambers, Erdman, Friend, Hartnett, Maxwell, Preister, and Thompson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the nineteenth day was approved.

**SPECIAL COMMITTEE REPORTS
Executive Board**

LEGISLATIVE BILL 897. Placed on General File.

LEGISLATIVE RESOLUTION 211CA. Placed on General File.

(Signed) L. Patrick Engel, Chairperson

MOTIONS - Approve Appointments

Senator Janssen moved the adoption of the General Affairs Committee report for the confirmation of the following appointment found on page 502:
Nebraska Liquor Control Commission
Rhonda R. Flower

Voting in the affirmative, 29:

Aguilar	Combs	Jensen	Louden	Stuthman
Baker	Connealy	Johnson	Mossey	Synowiecki
Bourne	Cudaback	Jones	Pederson, D.	Tyson
Bromm	Cunningham	Kremer	Schimek	Vrtiska
Burling	Foley	Kruse	Smith	Wehrbein
Byars	Janssen	Landis	Stuhr	

Voting in the negative, 0.

Present and not voting, 9:

Beutler	McDonald	Pedersen, Dw.	Raikes	Schrock
Engel	Mines	Price	Redfield	

Excused and not voting, 11:

Brashear	Erdman	Hudkins	Quandahl
Brown	Friend	Maxwell	Thompson
Chambers	Hartnett	Preister	

The appointment was confirmed with 29 ayes, 0 nays, 9 present and not voting, and 11 excused and not voting.

Senator Janssen moved the adoption of the General Affairs Committee report for the confirmation of the following appointments found on page 502:

Nebraska Arts Council
 Steven Bloch
 Janet Korell
 Nancy Schwertley
 Fred Simon

Voting in the affirmative, 34:

Aguilar	Connealy	Jensen	Pedersen, Dw.	Stuhr
Baker	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Kremer	Price	Synowiecki
Bromm	Engel	Landis	Raikes	Tyson
Burling	Erdman	McDonald	Redfield	Vrtiska
Byars	Foley	Mines	Schrock	Wehrbein
Combs	Janssen	Mossey	Smith	

Voting in the negative, 0.

Present and not voting, 5:

Beutler	Jones	Kruse	Louden	Schimek
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Excused and not voting, 10:

Brashear	Chambers	Hartnett	Maxwell	Quandahl
Brown	Friend	Hudkins	Preister	Thompson

The appointments were confirmed with 34 ayes, 0 nays, 5 present and not voting, and 10 excused and not voting.

GENERAL FILE

LEGISLATIVE RESOLUTION 14CA. The Schimek et al. pending amendment, AM2401, found on page 497 and considered on page 513, was renewed.

Senator Beutler offered the following amendment to the Schimek et al. pending amendment:

FA1450

Amend AM2401

Strike the word "only" on line 22 page 2.

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

Senator Smith moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

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

Voting in the affirmative, 16:

Baker	Foley	Kruse	Pedersen, Dw.
Burling	Jensen	Landis	Raikes
Engel	Jones	Louden	Smith
Erdman	Kremer	Mossey	Wehrbein

Voting in the negative, 6:

Connealy	Friend	Synowiecki
Cunningham	Redfield	Thompson

Present and not voting, 22:

Aguilar	Byars	Johnson	Price	Tyson
Beutler	Combs	Maxwell	Schimek	Vrtiska
Bourne	Cudaback	McDonald	Schrock	
Brashear	Hartnett	Mines	Stuhr	
Bromm	Janssen	Pederson, D.	Stuthman	

Excused and not voting, 5:

Brown Chambers Hudkins Preister Quandahl

The motion to cease debate failed with 16 ayes, 6 nays, 22 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Beutler withdrew his amendment.

The Schimek et al. pending amendment, AM2401, was renewed.

Senator Janssen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Schimek moved for a call of the house. The motion prevailed with 24 ayes, 1 nay, and 24 not voting.

The Schimek et al. amendment was adopted with 26 ayes, 12 nays, 6 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Senator Schimek moved for a call of the house. The motion prevailed with 30 ayes, 1 nay, and 18 not voting.

Advanced to E & R for review with 26 ayes, 14 nays, 4 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

STANDING COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 1002. Placed on General File.

LEGISLATIVE BILL 918. Placed on General File as amended.
Standing Committee amendment to LB 918:

AM2451

- 1 1. On page 2, strike beginning with "an" in line 12
- 2 through the last period in line 14 and insert "a fuel manufacturer
- 3 or a manufacturer of fuel additives that has duly registered the
- 4 product as a fuel or fuel additive pursuant to 40 C.F.R. part 79";
- 5 and strike line 16 and insert "with".

LEGISLATIVE BILL 1045. Placed on General File as amended.
Standing Committee amendment to LB 1045:
AM2410

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 81-2,239, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 81-2,239. Sections 81-2,239 to 81-2,292 and section 3 of
- 6 this act and the provisions of the Food Code, the Food Salvage
- 7 Code, and the Current Good Manufacturing Practice In Manufacturing,
- 8 Packing, or Holding Human Food adopted by reference in sections
- 9 81-2,257.01 to 81-2,259, shall be known and may be cited as the
- 10 Nebraska Pure Food Act.
- 11 Sec. 2. Section 81-2,240, Reissue Revised Statutes of
- 12 Nebraska, is amended to read:
- 13 81-2,240. For purposes of the Nebraska Pure Food Act,
- 14 unless the context otherwise requires, the definitions found in
- 15 sections 81-2,241 to 81-2,254.01 and section 3 of this act shall be
- 16 used. In addition, the definitions found in the codes and practice
- 17 adopted by reference in sections 81-2,257.01 to 81-2,259, shall be
- 18 used.
- 19 Sec. 3. Single event food vendor shall mean a temporary
- 20 food establishment that operates at no more than one event per
- 21 calendar year for a period of no more than two days.
- 22 Sec. 4. Section 81-2,267, Reissue Revised Statutes of
- 23 Nebraska, is amended to read:
- 24 81-2,267. Prior to construction of, conversion to, or
- 1 remodeling of a food establishment, food processing plant, or
- 2 salvage operation, properly prepared plans and specifications for
- 3 such construction, conversion, or remodeling shall be submitted to
- 4 the regulatory authority for review and approval. The plans and
- 5 specifications shall indicate the proposed layout, arrangement,
- 6 mechanical plans, construction materials of work areas, type and
- 7 model of proposed fixed equipment and facilities, and description
- 8 of the type of food to be served or sold. The regulatory authority
- 9 shall treat such plans and specifications as confidential or trade
- 10 secret information and shall approve the plans and specifications
- 11 if they meet the requirements of the Nebraska Pure Food Act. No
- 12 food establishment, food processing plant, or salvage operation
- 13 shall be constructed, converted, or remodeled except in accordance
- 14 with plans and specifications approved by the regulatory authority.
- 15 This section does not apply to food establishments which are
- 16 temporary food establishments.
- 17 Sec. 5. Section 81-2,270, Reissue Revised Statutes of
- 18 Nebraska, is amended to read:
- 19 81-2,270. (1) No person shall operate: (a) A food
- 20 establishment; (b) a food processing plant; or (c) a salvage
- 21 operation, without a valid permit which sets forth the types of
- 22 operation occurring within the establishment.

23 (2) Application for a permit shall be made to the
 24 director on forms prescribed and furnished by the department. Such
 25 application shall include the applicant's full name and mailing
 26 address, the names and addresses of any partners, members, or
 27 corporate officers, the name and address of the person authorized
 1 by the applicant to receive the notices and orders of the
 2 department as provided in the Nebraska Pure Food Act, whether the
 3 applicant is an individual, partnership, limited liability company,
 4 corporation, or other legal entity, the location and type of
 5 proposed establishment or operation, and the signature of the
 6 applicant. Application for a permit shall be made prior to the
 7 operation of a food establishment, food processing plant, or
 8 salvage operation. The application shall be accompanied by an
 9 initial permit fee and an initial inspection fee in the same amount
 10 as the annual inspection fee if inspections are required to be done
 11 by the department. If the food establishment, food processing
 12 plant, or salvage operation has been in operation prior to applying
 13 for a permit, the applicant shall pay an additional fee of ~~fifty~~
 14 ~~dollars through June 30, 2003, and sixty dollars, on and after~~
 15 ~~July 1, 2003.~~

16 (3) Payment of the initial permit fee, the initial
 17 inspection fee, and the fee for failing to apply for a permit prior
 18 to operation shall not preclude payment of the annual inspection
 19 fees due on August 1 of each year. Except as provided in
 20 subsections ~~(8) through (11)~~ (7) through (10) of this section and
 21 subsection (1) of section 81-2,281, a permit holder shall pay annual
 22 inspection fees on or before August 1 of each year.

23 ~~(4) Through June 30, 2003, the initial permit fee shall~~
 24 ~~be fifty dollars and the annual inspection fee shall be as follows:~~

25 ~~(a) A convenience store, licensed beverage establishment,~~
 26 ~~limited food service establishment, and temporary food~~
 27 ~~establishment, fifty dollars plus twenty five dollars for each~~
 1 separate and distinct food preparation area within the
 2 establishment other than the first such area;

3 ~~(b) A mobile food unit, twenty five dollars per food~~
 4 ~~unit. If the mobile food unit is supplied by a commissary this fee~~
 5 ~~is in addition to the inspection fee due for the commissary;~~

6 ~~(c) A pushcart, ten dollars per pushcart. If the~~
 7 ~~pushcart is supplied by a commissary this fee is in addition to the~~
 8 ~~inspection fee due for the commissary;~~

9 ~~(d) One to ten vending machines, ten dollars; eleven to~~
 10 ~~twenty vending machines, twenty dollars; twenty one to thirty~~
 11 ~~vending machines, thirty dollars; thirty one to forty vending~~
 12 ~~machines, forty dollars; and over forty vending machines, fifty~~
 13 ~~dollars. Only vending machines which are not limited food vending~~
 14 ~~machines shall be included in the number of vending machines upon~~
 15 ~~which the fee is determined. If the vending machines are supplied~~
 16 ~~by a commissary this fee is in addition to the inspection fee due~~
 17 ~~for the commissary; and~~

18 (e) A food processing plant, a salvage operation, and any
 19 other food establishment, including a commissary, seventy dollars
 20 plus twenty-five dollars for each separate and distinct food
 21 preparation area within the establishment other than the first such
 22 area.

23 ~~(5)~~ On and after July 1, 2003:

24 (a) ~~(4)~~(a) The director shall set the initial permit fee
 25 and the annual inspection fees on or before July 1 of each fiscal
 26 year to meet the criteria in this subsection. The director may
 27 raise or lower the fees each year, but the fees shall not exceed
 1 the maximum fees listed in subdivision ~~(5)(b)~~ (4)(b) of this
 2 section. The director shall determine the fees based on estimated
 3 annual revenue and fiscal year-end cash fund balance as follows:
 4 (i) The estimated annual revenue shall not be greater
 5 than one hundred seven percent of program cash fund appropriations
 6 allocated for the Nebraska Pure Food Act;
 7 (ii) The estimated fiscal year-end cash fund balance
 8 shall not be greater than seventeen percent of program cash fund
 9 appropriations allocated for the act; and
 10 (iii) All fee increases or decreases shall be equally
 11 distributed between all categories; and
 12 (b) The maximum fees are:

	Initial	First Food	Additional	Unit Or
	Permit	Preparation	Food	Units
	Fee	Area Annual	Preparation	Annual
		Inspection	Area Annual	Inspection
		Fee	Fee (per area)	Fee
19 Convenience Store	\$61.72	\$61.72	\$30.86	N/A
20 Licensed Beverage				
21 Establishment	\$61.72	\$61.72	\$30.86	N/A
22 Limited Food Service				
23 Establishment	\$61.72	\$61.72	\$30.86	N/A
24 Temporary Food				
25 Establishment	\$61.72	\$61.72	\$30.86	N/A
26 Mobile Food Unit				
27 (for each unit)	\$61.72	N/A	N/A	\$30.86
1 Pushcart (for each				
2 unit)	\$61.72	N/A	N/A	\$12.34
3 Vending Machine				
4 Operations:	\$61.72			
5 One to ten units		N/A	N/A	\$12.34
6 Eleven to twenty units		N/A	N/A	\$24.68
7 Twenty-one to thirty units		N/A	N/A	\$37.02
8 Thirty-one to forty units		N/A	N/A	\$49.36
9 Over forty units		N/A	N/A	\$61.70
10 Food Processing				
11 Plant	\$61.72	\$86.40	\$30.86	N/A
12 Salvage Operation	\$61.72	\$86.40	\$30.86	N/A

13 Commissary	\$61.72	\$86.40	\$30.86	N/A
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14 All Other Food				
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15 Establishments	\$61.72	\$86.40	\$30.86	N/A
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16 ~~(5) (6)~~ Through June 30, 2003, if an establishment is
 17 engaged in more than one food handling activity listed in
 18 subsection (4) of this section, the inspection fee charged shall be
 19 based upon the primary activity conducted within the establishment
 20 as determined by the department. On and after July 1, 2003, if an
 21 if a food establishment is engaged in more than one food handling
 22 activity listed in subsection ~~(5)~~ (4) of this section, the
 23 inspection fee charged shall be based upon the primary activity
 24 conducted within the food establishment as determined by the
 25 department and any fees assessed for each additional food
 26 preparation area within the primary establishment as determined by
 27 the department.

1 ~~(7)~~ (6) The department may impose a penalty for an
 2 inspection fee which is more than one month delinquent. The
 3 penalty may not exceed fifty percent of the fee for the first month
 4 of delinquency and one hundred percent of the fee for the second
 5 month of delinquency.

6 ~~(8)~~ (7) An educational institution, health care facility,
 7 nursing home, or governmental organization operating any type of
 8 food establishment, other than a mobile food unit or pushcart, is
 9 exempt from the requirements in subsections (1) through ~~(7)~~ (6) of
 10 this section.

11 ~~(9)~~ (8) A person whose primary food-related business
 12 activity is determined by the department to be egg handling within
 13 the meaning of the Nebraska Graded Egg Act and who is validly
 14 licensed and paying fees pursuant to such act is exempt from the
 15 permit and inspection fee requirements of the Nebraska Pure Food
 16 Act.

17 ~~(10)~~ (9) A person holding a permit or license and
 18 regulated under the Nebraska Manufacturing Milk Act or the Nebraska
 19 Pasteurized Milk Law and an egg handler licensed and regulated
 20 under the Nebraska Graded Egg Act are exempt from the Nebraska Pure
 21 Food Act.

22 ~~(11)~~ (10) A single event food vendor or a religious,
 23 charitable, or fraternal organization operating any type of
 24 temporary food establishment, mobile food unit, or pushcart is
 25 exempt from the requirements of subsections (1) through ~~(7)~~ (6) of
 26 this section. Any such organization operating any nontemporary
 27 food establishment prior to July 1, 1985, is exempt from the

1 requirements of subsection (2) of this section.

2 Sec. 6. Original sections 81-2,239, 81-2,240, 81-2,267,

3 and 81-2,270, Reissue Revised Statutes of Nebraska, are repealed.

4 Sec. 7. Since an emergency exists, this act takes effect

5 when passed and approved according to law."

(Signed) Bob Kremer, Chairperson

Urban Affairs

LEGISLATIVE BILL 1057. Placed on General File.

LEGISLATIVE BILL 888. Placed on General File as amended.
 Standing Committee amendment to LB 888:
 AM2429

- 1 1. Strike original section 1.
- 2 2. On page 11, strike beginning with "as" in line 15
- 3 through line 27 and insert "The local code authority shall
- 4 submit to the State Energy Office its analysis for determining that
- 5 a specific requirement is not justified. The State Energy Office
- 6 shall review such analysis and transmit its findings and
- 7 conclusions to the local code authority within a reasonable time.
- 8 The local code authority shall submit to the State Energy office
- 9 its explanation as to how the original code or any revised code
- 10 addresses the issues raised by the State Energy Office. Once a
- 11 local code authority has submitted such explanation, the authority
- 12 may proceed to enforce its ordinance, resolution, code, or
- 13 standard.".
- 14 3. On page 13, line 19, strike "71-6406,".
- 15 4. Renumber the remaining sections and correct internal
- 16 references accordingly.

(Signed) D. Paul Hartnett, Chairperson

NOTICE OF COMMITTEE HEARINGS

Revenue
 Room 1524

LB 1176	Thursday, February 12, 2004 (cancel)	1:30 p.m.
LB 1176	Wednesday, February 25, 2004 (reschedule)	1:30 p.m.

(Signed) David Landis, Chairperson

Agriculture
 Room 2102

	Tuesday, February 24, 2004	1:30 p.m.
	Sallie Atkins - Nebraska State Fair Board	
	Dr. Darrell Mark - Beginning Farmer Board	
LB 1243	Tuesday, February 24, 2004	1:30 p.m.

(Signed) Bob Kremer, Chairperson

Natural Resources
Room 1525

Thursday, February 12, 2004 1:30 p.m.
Janet Bernard - Environmental Quality Council
James Whitaker - Environmental Quality Council

Thursday, February 19, 2004 1:30 p.m.
Debra McDowell - Environmental Quality Council

(Signed) Ed Schrock, Chairperson

AMENDMENT - Print in Journal

Senator Stuthman filed the following amendment to LB 323:
AM2471

- 1 1. Insert the following new sections:
- 2 "Sec. 2. Section 32-608, Revised Statutes Supplement,
- 3 2003, is amended to read:
- 4 32-608. (1) Except as provided in subsection (4) or (5)
- 5 of this section, a filing fee shall be paid by or on behalf of each
- 6 candidate prior to filing for office. For candidates who file in
- 7 the office of the Secretary of State as provided in subdivision (1)
- 8 of section 32-607, the filing fee shall be paid to the Secretary of
- 9 State who shall remit the fee to the State Treasurer for credit to
- 10 the Election Administration Fund. ~~For other candidates, the filing~~
- 11 ~~fee shall be paid to the county treasurer or, in the case of a city~~
- 12 ~~or village office, the city or village treasurer of the county,~~
- 13 ~~city, or village in which the candidate resides or, if the~~
- 14 ~~candidate does not reside at the time of filing in the county in~~
- 15 ~~which such candidate is seeking office, in the county where the~~
- 16 ~~office is sought. candidates for city or village office, the~~
- 17 filing fee shall be paid to the city or village treasurer of the
- 18 city or village in which the candidate resides. For candidates who
- 19 file in the office of the election commissioner or county clerk,
- 20 the filing fee shall be paid to the election commissioner or county
- 21 clerk in the county in which the office is sought. The election
- 22 commissioner or county clerk shall remit the fee to the county
- 23 treasurer. The fee shall be placed in the general fund of the
- 24 county, city, or village. No candidate filing forms shall be filed
- 1 until the proper payment or the proper receipt showing the payment
- 2 of such filing fee is presented to the filing officer. On the day
- 3 of the filing deadline, the ~~county~~, city, or village treasurer's
- 4 office shall remain open to receive filing fees until the hour of
- 5 the filing deadline.
- 6 (2) Except as provided in subsection (4) or (5) of this
- 7 section, the filing fees shall be as follows:
- 8 (a) For the office of United States Senator, state

9 officers, including members of the Legislature, Representatives in
10 Congress, county officers, and city or village officers, except the
11 mayor or council members of cities having a home rule charter, a
12 sum equal to one percent of the annual salary such candidate will
13 receive if he or she is elected and qualifies for the office for
14 which he or she files as a candidate;

15 (b) For directors of public power and irrigation
16 districts in districts receiving annual gross revenue of forty
17 million dollars or more, twenty-five dollars, and in districts
18 receiving annual gross revenue of less than forty million dollars,
19 ten dollars;

20 (c) For directors of reclamation districts, ten dollars;
21 and

22 (d) For Regents of the University of Nebraska, members of
23 the State Board of Education, and directors of metropolitan
24 utilities districts, twenty-five dollars.

25 (3) All declared write-in candidates shall pay the filing
26 fees that are required for the office at the time that they present
27 the write-in affidavit to the filing officer. Any undeclared
1 write-in candidate who is nominated or elected by write-in votes
2 shall pay the filing fee required for the office within ten days
3 after the canvass of votes by the county canvassing board and shall
4 file the receipt with the person issuing the certificate of
5 nomination or the certificate of election prior to the certificate
6 being issued.

7 (4) No filing fee shall be required for any candidate
8 filing for an office in which a per diem is paid rather than a
9 salary or for which there is a salary of less than five hundred
10 dollars per year. No filing fee shall be required for any
11 candidate for membership on a school board, on the board of an
12 educational service unit, on the board of governors of a community
13 college area, on the board of directors of a natural resources
14 district, or on the board of trustees of a sanitary and improvement
15 district.

16 (5) No filing fee shall be required of any candidate
17 completing an affidavit requesting to file for elective office in
18 forma pauperis. A pauper shall mean a person whose income and
19 other resources for maintenance are found under assistance
20 standards to be insufficient for meeting the cost of his or her
21 requirements and whose reserve of cash or other available resources
22 does not exceed the maximum available resources that an eligible
23 individual may own. Available resources shall include every type
24 of property or interest in property that an individual owns and may
25 convert into cash except:

26 (a) Real property used as a home;

27 (b) Household goods of a moderate value used in the home;

1 and

2 (c) Assets to a maximum value of three thousand dollars

3 used by a recipient in a planned effort directed towards

4 self-support.

- 5 (6) If any candidate dies prior to an election, the
 6 spouse of the candidate may file a claim for refund of the filing
 7 fee with the proper governing body prior to the date of the
 8 election. Upon approval of the claim by the proper governing body,
 9 the filing fee shall be refunded.
- 10 Sec. 3. Sections 2 and 4 of this act become operative on
 11 January 1, 2005. The other sections of this act become operative
 12 on their effective date.
- 13 Sec. 4. Original section 32-608, Revised Statutes
 14 Supplement, 2003, is repealed."
 15 2. Renumber the remaining section accordingly.

SPEAKER BROMM PRESIDING

GENERAL FILE

LEGISLATIVE BILL 906. Title read. Considered.

The Standing Committee amendment, AM2249, printed separately and referred to on page 469, was considered.

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

AM2480

(Amendments to Standing Committee amendments, AM2249)

- 1 1. On page 8, line 16, reinstate the stricken matter;
 2 and in line 17 strike the new matter and after "compensation"
 3 insert "or who performs any or all of the practices of body art".
- 4 2. On page 14, lines 16, 19, 22, and 25; page 17, line
 5 23; page 18, line 16; and page 19, line 7, strike "board" and
 6 insert "department".
- 7 3. On page 16, line 8, strike "conducted" and insert
 8 "prescribed or approved".
- 9 4. On page 17, line 11, strike "or enroll".
- 10 5. On page 18, strike line 10 and insert the following
 11 new subdivision:
 12 "(1) Use of applicable sanitation standards:".
- 13 6. On page 19, line 5, strike "be in" and insert
 14 "demonstrate"; and in line 6 after "standards" insert "at the
 15 time".
- 16 7. On page 27, line 9, after "(c)" insert "without".

The Stuhr amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Pending.

ANNOUNCEMENT

Senator Price designates LB 1059 as her priority bill.

RESOLUTION

LEGISLATIVE RESOLUTION 232. Introduced by Baker, 44.

WHEREAS, Shawn McMurtrey has earned the rank of Eagle Scout in the Boy Scouts of America, that organization's highest rank; and

WHEREAS, Shawn McMurtrey is a member of the Boy Scout Troop 244 chartered to the McCook Branch of the Church of Jesus Christ of Latter-day Saints; and

WHEREAS, in achieving this rank, Shawn McMurtrey advanced through five ranks and earned thirty-seven merit badges when only twenty-one are required; and

WHEREAS, for his Eagle Scout project, Shawn was involved in planning, recruiting volunteers, and holding a track meet for the Special Olympics; and

WHEREAS, fewer than four percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Shawn McMurtrey has achieved great success as an exemplary member of the Scouting program and has represented his troop and community with excellence; and

WHEREAS, a Court of Honor was held for Shawn McMurtrey on Saturday, January 10, 2004, at the Church of Jesus Christ of Latter-day Saints at which time Shawn was presented with the Eagle Scout Badge.

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

1. That the Legislature commends Shawn McMurtrey for his dedication, perseverance, and hard work in obtaining this distinguished rank.

2. That a copy of this resolution be sent to Shawn McMurtrey and his family.

Laid over.

STANDING COMMITTEE REPORTS Government, Military and Veterans Affairs

LEGISLATIVE BILL 898. Placed on General File as amended.

Standing Committee amendment to LB 898:

AM2440

1 1. On page 34, line 23, strike "fifteen", show as

2 stricken, and insert "thirty".

LEGISLATIVE BILL 1180. Placed on General File as amended.

Standing Committee amendment to LB 1180:

AM2477

- 1 1. On page 2, lines 4 and 5, strike "and a member of any
- 2 school board" and show as stricken.
- 3 2. On page 3, line 1, after "An" insert "elected"; in
- 4 line 2 strike "considers taking any action or making" and insert
- 5 "would be required to take any action or make"; in line 17 strike
- 6 "advisory"; and strike beginning with "as" in line 18 through
- 7 "49-14,100".

LEGISLATIVE BILL 1183. Indefinitely postponed.

LEGISLATIVE BILL 1247. Indefinitely postponed.

(Signed) DiAnna R. Schimek, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LBs 616 and 1158. No objections. So ordered.

Senators Aguilar, Byars, Cunningham, Friend, Louden, Maxwell, McDonald, Mossey, and Stuthman asked unanimous consent to have their names added as cointroducers to LB 1046. No objections. So ordered.

VISITORS

Visitors to the Chamber were members from the Scottsbluff/Gering United Chamber; members from Leadership Scottsbluff and Alliance; and students from Kimball and Morrill High School.

ADJOURNMENT

At 12:00 p.m., on a motion by Senator Bourne, the Legislature adjourned until 9:00 a.m., Friday, February 6, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-FIRST DAY - FEBRUARY 6, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, February 6, 2004

PRAYER

The prayer was offered by Senator Janssen.

ROLL CALL

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

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Brashear, Bromm, Brown, Byars, Landis, Maxwell, Preister, Raikes, and Wehrbein who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twentieth day was approved.

**SELECT COMMITTEE REPORT
Enrollment and Review**

LEGISLATIVE RESOLUTION 14CA. Placed on Select File.

(Signed) Ray Mossey, Chairperson

NOTICE OF COMMITTEE HEARINGS

Judiciary
Room 1113

Wednesday, February 18, 2004	1:30 p.m.	
Scot Ford - Crime Victim's Reparations Committee		
Joe Kelly - Community Corrections Council		
LB 850	Wednesday, February 18, 2004	1:30 p.m.
LB 872	Wednesday, February 18, 2004	1:30 p.m.
LB 958	Wednesday, February 18, 2004	1:30 p.m.
LB 987	Wednesday, February 18, 2004	1:30 p.m.

LB 1060	Wednesday, February 18, 2004	1:30 p.m.
LB 875	Thursday, February 19, 2004	1:30 p.m.
LB 943	Thursday, February 19, 2004	1:30 p.m.
LB 1238	Thursday, February 19, 2004	1:30 p.m.
LB 1251	Thursday, February 19, 2004	1:30 p.m.
Thursday, February 19, 2004		1:30 p.m.
Scot Adams - Community Corrections Council		
William Burgess - Community Corrections Council		
Friday, February 20, 2004		1:30 p.m.
Catherine Cook - Community Corrections Council		
Scott Arnold - Crime Victim's Reparations Committee		
Aileen Gruendel - Community Corrections Council		
Julie Hippen - Community Corrections Council		
Robert Lindemeier - Community Corrections Council		
LB 901	Friday, February 20, 2004	1:30 p.m.
LB 1222	Friday, February 20, 2004	1:30 p.m.
LB 1236	Friday, February 20, 2004	1:30 p.m.
LB 1253	Friday, February 20, 2004	1:30 p.m.
LB 876	Wednesday, February 25, 2004	1:30 p.m.
LB 959	Wednesday, February 25, 2004	1:30 p.m.
LB 1085	Wednesday, February 25, 2004	1:30 p.m.
LB 1182	Wednesday, February 25, 2004	1:30 p.m.
LB 1207	Wednesday, February 25, 2004	1:30 p.m.

(Signed) Kermit A. Brashear, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 139A. 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 139, Ninety-eighth Legislature, Second Session, 2004.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 5, 2004, 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

Heine, Bruce W.
Magellan Midstream Partners

Kissel/Erickson & Sederstrom Associates, LLC
Pork Producers Association, Nebraska (Withdrawn 02/02/2004)

Wurster, Donald F.
National Indemnity Company

Zaenglein, Norbert
Autobody Association, Nebraska

REPORTS

The following reports were received by the Legislature:

Administrative Services, Department of

Annual Budgetary Report for year ended June 30, 2003

Geographic Information Systems (GIS) Steering Committee

Annual Report and Nebraska I-Team Strategic Plan

Health and Human Services System

Customer Service Call Center Annual Report

New Hire Report which discloses the number of employees reported to the Department and the number of matches during the preceding calendar year

Operator's Licenses Suspended Annual Report

State Disbursement Unit Report

MOTION - Return LB 208 to Select File

Senator Kruse moved to return LB 208 to Select File for his specific pending amendment, AM2381, found on page 510.

The Kruse motion to return prevailed with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 208. The Kruse specific pending amendment, AM2381, found on page 510, was adopted with 29 ayes, 0 nays, 10 present and not voting, and 10 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 227. The Quandahl pending amendment, AM2236, found on page 357 and considered on page 500, was renewed.

The Chambers pending amendment, FA1443, found on page 501, to the

Quandahl pending amendment, was renewed.

The Chambers amendment lost with 1 aye, 12 nays, 29 present and not voting, and 7 excused and not voting.

Senator Chambers offered the following motion:
Reconsider vote taken on FA1443

Senator Chambers asked unanimous consent to withdraw his motion to reconsider vote taken on FA1443. No objections. So ordered.

The Quandahl pending amendment, AM2236, was renewed.

Senator Quandahl moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

SPEAKER BROMM PRESIDING

The Quandahl amendment was adopted with 25 ayes, 10 nays, 8 present and not voting, 1 absent and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORTS **Business and Labor**

LEGISLATIVE BILL 947. Placed on General File.

LEGISLATIVE BILL 950. Placed on General File.

LEGISLATIVE BILL 251. Indefinitely postponed.

LEGISLATIVE BILL 308. Indefinitely postponed.

LEGISLATIVE BILL 631. Indefinitely postponed.

(Signed) Floyd P. Vrtiska, Chairperson

SELECT FILE

LEGISLATIVE BILL 227. Senator Beutler withdrew his pending amendment, AM2332, found on page 465.

Senator Schimek offered the following amendment:
FA1452

On page 5, by deleting lines 4 through 7.

Senator Schimek moved for a call of the house. The motion prevailed with 29 ayes, 1 nay, and 19 not voting.

Senator Schimek requested a roll call vote on her amendment.

Senator Chambers requested the roll call vote be taken in reverse order.

Voting in the affirmative, 19:

Aguilar	Byars	Jensen	Pederson, D.	Synowiecki
Beutler	Connealy	Kruse	Price	Thompson
Bourne	Foley	Mines	Schimek	Wehrbein
Bromm	Hartnett	Pedersen, Dw.	Stuhr	

Voting in the negative, 17:

Baker	Erdman	Louden	Raikes	Vrtiska
Burling	Friend	McDonald	Smith	
Cunningham	Jones	Mossey	Stuthman	
Engel	Kremer	Quandahl	Tyson	

Present and not voting, 6:

Chambers	Cudaback	Johnson
Combs	Janssen	Schrock

Excused and not voting, 7:

Brashear	Hudkins	Maxwell	Redfield
Brown	Landis	Preister	

The Schimek amendment lost with 19 ayes, 17 nays, 6 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
Reconsider the vote on FA1452.

SENATOR WEHRBEIN PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

The Chambers motion to reconsider prevailed with 29 ayes, 6 nays, 8 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Schimek asked unanimous consent to bracket LB 227 until February 11, 2004. No objections. So ordered.

LEGISLATIVE BILL 353. E & R amendment, AM7155, found on page 311, was adopted.

Senator Vrtiska renewed his pending amendment, AM2367, found on page 467.

The Vrtiska amendment was adopted with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 560. E & R amendment, AM7159, printed separately and referred to on page 373, was adopted.

Senator Baker renewed his pending amendment, AM2370, found on page 467.

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

Senator Baker offered the following amendment:
AM2490

(Amendments to E & R amendments, AM7159)

- 1 1. Strike sections 2, 29, 38, and 40 and insert the
- 2 following new sections:
- 3 "Sec. 2. Section 30-24,125, Revised Statutes Supplement,
- 4 2002, is amended to read:
- 5 30-24,125. (a) Thirty days after the death of a
- 6 decedent, any person indebted to the decedent or having possession
- 7 of tangible personal property or an instrument evidencing a debt,
- 8 obligation, stock, or chose in action belonging to the decedent
- 9 shall make payment of the indebtedness or deliver the tangible
- 10 personal property or an instrument evidencing a debt, obligation,
- 11 stock, or chose in action to a person claiming to be the successor
- 12 of the decedent upon being presented an affidavit made by or on
- 13 behalf of the successor stating:
- 14 (1) the value of all of the personal property in the
- 15 decedent's estate, wherever located, less liens and encumbrances,
- 16 does not exceed twenty-five thousand dollars;
- 17 (2) thirty days have elapsed since the death of the
- 18 decedent as shown in a certified or authenticated copy of the
- 19 decedent's death certificate attached to the affidavit;
- 20 (3) the claiming successor's relationship to the decedent
- 21 or, if there is no relationship, the basis of the successor's claim
- 22 to the personal property;
- 23 (4) the person or persons claiming as successors under

1 the affidavit swear or affirm that all statements in the affidavit
2 are true and material and further acknowledge that any false
3 statement may subject the person or persons to penalties relating
4 to perjury under section 28-915;

5 (5) no application or petition for the appointment of a
6 personal representative is pending or has been granted in any
7 jurisdiction; and

8 (6) the claiming successor is entitled to payment or
9 delivery of the property.

10 (b) A transfer agent of any security shall change the
11 registered ownership on the books of a corporation from the
12 decedent to the successor or successors upon the presentation of an
13 affidavit as provided in subsection (a).

14 (c) In addition to compliance with the requirements of
15 subsection (a), a person seeking a transfer of a certificate of
16 title to a motor vehicle, motorboat, all-terrain vehicle, or
17 minibike shall be required to furnish to the Department of Motor
18 Vehicles an affidavit showing applicability of this section and
19 compliance with the requirements of this section to authorize the
20 department to issue a new certificate of title.

21 Sec. 29. Section 60-139, Revised Statutes Supplement,
22 2003, is amended to read:

23 60-139. (1) Sections 60-139 to 60-169 apply to
24 all-terrain vehicles as defined in section 60-6,355 and minibikes
25 as defined in section 60-636, including assembled all-terrain
26 vehicles and minibikes. For purposes of sections 60-139 to 60-169,
27 assembled all-terrain vehicle or minibike means an all-terrain
1 vehicle or minibike that is materially altered from its
2 construction by the removal, addition, or substitution of new or
3 used major component parts. Its make shall be assembled, and its
4 model year shall be the year in which the all-terrain vehicle or
5 minibike was assembled.

6 (2) All new all-terrain vehicles and minibikes sold on or
7 after January 1, 2004, shall be required to have a certificate of
8 title. An owner of an all-terrain vehicle or minibike sold prior
9 to such date may apply for a certificate of title for such
10 all-terrain vehicle or minibike as provided in rules and
11 regulations of the Department of Motor Vehicles.

12 Sec. 30. Section 60-301, Revised Statutes Supplement,
13 2003, is amended to read:

14 60-301. For purposes of Chapter 60, article 3, unless
15 the context otherwise requires:

16 (1) Agricultural products means field crops and
17 horticultural, viticultural, forestry, nut, dairy, livestock,
18 poultry, bee, and farm products, including sod grown on the land
19 owned or rented by the farmer, and the byproducts derived from any
20 of them;

21 (2) Apportionable vehicle means any vehicle used or
22 intended for use in two or more member jurisdictions that allocate

23 or proportionally register vehicles and used for the transportation
24 of persons for hire or designed, used, or maintained primarily for
25 the transportation of property. Apportionable vehicle does not
26 include any recreational vehicle, vehicle displaying restricted
27 plates, city pickup and delivery vehicle, bus used in the
1 transportation of chartered parties, or government-owned vehicle.
2 Such vehicle shall either (a) be a power unit having two axles and
3 a gross vehicle weight or registered gross vehicle weight in excess
4 of twenty-six thousand pounds, (b) be a power unit having three or
5 more axles, regardless of weight, or (c) be used in combination
6 when the weight of such combination exceeds twenty-six thousand
7 pounds gross vehicle weight. Vehicles or combinations of vehicles
8 having a gross vehicle weight of twenty-six thousand pounds or less
9 and two-axle vehicles and buses used in the transportation of
10 chartered parties may be proportionally registered at the option of
11 the registrant;

12 (3) Automobile liability policy means liability insurance
13 written by an insurance carrier duly authorized to do business in
14 this state protecting other persons from damages for liability on
15 account of accidents occurring subsequent to the effective date of
16 the insurance arising out of the ownership of a motor vehicle (a)
17 in the amount of twenty-five thousand dollars because of bodily
18 injury to or death of one person in any one accident, (b) subject
19 to the limit for one person, in the amount of fifty thousand
20 dollars because of bodily injury to or death of two or more persons
21 in any one accident, and (c) in the amount of twenty-five thousand
22 dollars because of injury to or destruction of property of other
23 persons in any one accident. An automobile liability policy shall
24 not exclude liability coverage under the policy solely because the
25 injured person making a claim is the named insured in the policy or
26 residing in the household with the named insured;

27 (4) Base jurisdiction means, for purposes of fleet
1 registration, the jurisdiction where the registrant has an
2 established place of business, where miles or kilometers are
3 accrued by the fleet, and where operational records of such fleet
4 are maintained or can be made available. For such purpose, there
5 is hereby adopted and incorporated by reference section 1602 of
6 Article XVI, International Registration Plan, adopted by the
7 American Association of Motor Vehicle Administrators, as revised
8 October 1, 2001;

9 (5) Cabin trailer means any vehicle without motive power
10 designed for living quarters and for being drawn by a motor vehicle
11 and not exceeding one hundred two inches in width, forty feet in
12 length, or thirteen and one-half feet in height, except as provided
13 in subdivision (2)(k) of section 60-6,288;

14 (6) Commercial trailer means any trailer or semitrailer
15 which has a gross weight, including load thereon, of more than nine
16 thousand pounds and which is designed, used, or maintained for the
17 transportation of persons or property for hire, compensation, or

18 profit or designed, used, or maintained primarily for the
19 transportation of property. Commercial trailer and does not
20 include farm trailers, fertilizer trailers, utility trailers, or
21 cabin trailers;

22 (7) Commercial vehicle means any motor vehicle used or
23 maintained for the transportation of persons or property for hire,
24 compensation, or profit or designed, used, or maintained primarily
25 for the transportation of property and does not include farm
26 trucks;

27 (8) Evidence of insurance means evidence of a current and
1 effective automobile liability policy;

2 (9) Farm trailer means any trailer or semitrailer (a)
3 used exclusively to carry a farmer's or rancher's own supplies,
4 farm equipment, and household goods to or from the owner's farm or
5 ranch, (b) used by the farmer or rancher to carry his or her own
6 agricultural products, livestock, and produce to or from storage
7 and market and attached to a passenger car, commercial-licensed
8 vehicle registered for sixteen tons or less, or farm-licensed
9 vehicle, or (c) used by a farmer or rancher to carry his or her own
10 agricultural products, livestock, and produce to and from market.
11 Such trailers shall carry on their license plate, in addition to
12 the registration number, the letter X. Farm trailer does not
13 include a trailer so used when attached to a farm tractor;

14 (10) Farm trucks means trucks, including combinations of
15 trucks or truck-tractors and trailers or semitrailers, of farmers
16 or ranchers (a) used exclusively to carry a farmer's or rancher's
17 own supplies, farm equipment, and household goods to or from the
18 owner's farm or ranch, (b) used by the farmer or rancher to carry
19 his or her own agricultural products, livestock, and produce to or
20 from storage or market, (c) used by farmers or ranchers in exchange
21 of service in such hauling of such supplies or agricultural
22 products, livestock, and produce, or (d) used occasionally to carry
23 camper units, to pull boats or cabin trailers, or to carry or pull
24 museum pieces or vehicles of historical significance, without
25 compensation, to events for public display or educational purposes.
26 Such trucks may carry on their license plates, in addition to the
27 registration number, the designation farm and the words NOT FOR
1 HIRE;

2 (11) Fertilizer trailer means any trailer, including
3 gooseneck applicators or trailers, designed and used exclusively to
4 carry or apply agricultural fertilizer or agricultural chemicals
5 and having a gross weight, including load thereon, of twenty
6 thousand pounds or less. Such trailers shall carry on their
7 license plate, in addition to the registration number, the letter
8 X;

9 (12) Film vehicle means any motor vehicle or trailer used
10 exclusively by a nonresident production company temporarily on
11 location in Nebraska producing a feature film, television
12 commercial, documentary, or industrial or educational videotape

13 production;

14 (13) Fleet means one or more apportionable vehicles;

15 (14) Highways means public streets, roads, turnpikes,
16 parks, parkways, drives, alleys, and other public ways used for the
17 passage of road vehicles;

18 (15) Injurisdiction distance means total miles or
19 kilometers operated (a) in the State of Nebraska during the
20 preceding year by the motor vehicle or vehicles registered and
21 licensed for fleet operation and (b) in noncontracting reciprocity
22 jurisdictions by fleet vehicles that are base-plated in Nebraska;

23 (16) Local truck means a truck and combinations of
24 trucks, truck-tractors, or trailers or semitrailers operated solely
25 within an incorporated city or village or within ten miles of the
26 corporate limits of the city or village in which they are owned,
27 operated, and registered. Such trucks shall carry on their license
1 plates, in addition to the registration number, the designation of
2 local truck;

3 (17) Motor vehicle means any vehicle propelled by any
4 power other than muscular power except (a) mopeds as defined in
5 section 60-637, (b) farm tractors, (c) self-propelled equipment
6 designed and used exclusively to carry and apply fertilizer,
7 chemicals, or related products to agricultural soil and crops,
8 agricultural floater-spreader implements as defined in section
9 60-6,294.01, and other implements of husbandry designed for and
10 used primarily for tilling the soil and harvesting crops or feeding
11 livestock, (d) power unit hay grinders or a combination which
12 includes a power unit and a hay grinder when operated without
13 cargo, (e) vehicles which run only on rails or tracks, (f) off-road
14 designed vehicles, including, but not limited to, golf carts,
15 go-carts, riding lawnmowers, garden tractors, all-terrain vehicles
16 as defined in section 60-6,355, snowmobiles ~~as defined in section~~
17 ~~60-663 registered or exempt from registration under sections~~
18 60-6,320 to 60-6,346, and minibikes as defined in section 60-636,
19 (g) road and general-purpose construction and maintenance machinery
20 not designed or used primarily for the transportation of persons or
21 property, including, but not limited to, ditchdigging apparatus,
22 asphalt spreaders, bucket loaders, leveling graders, earthmoving
23 carryalls, power shovels, earthmoving equipment, and crawler
24 tractors, (h) self-propelled chairs used by persons who are
25 disabled, and (i) electric personal assistive mobility devices as
26 defined in section 60-618.02;

27 (18) Motorcycle means any motor vehicle, except a
1 tractor, an all-terrain vehicle as defined in section 60-6,355, or
2 an electric personal assistive mobility device as defined in
3 section 60-618.02, having a seat or saddle for use of the rider and
4 designed to travel on not more than three wheels in contact with
5 the ground;

6 (19) Noncontracting reciprocity jurisdiction means any
7 jurisdiction which is not a party to any type of contracting

8 agreement between the State of Nebraska and one or more other
9 jurisdictions for registration purposes on commercial vehicles and,
10 as a condition to operate on the highways of that jurisdiction, (a)
11 does not require any type of vehicle registration or allocation of
12 vehicles for registration purposes or (b) does not impose any
13 charges based on miles operated, other than those that might be
14 assessed against fuel consumed in that jurisdiction, on any
15 vehicles which are part of a Nebraska-based fleet;

16 (20) Owner means a person, firm, or corporation which
17 holds a legal title of a vehicle. If (a) a vehicle is the subject
18 of an agreement for the conditional sale thereof with the right of
19 purchase upon performance of the conditions stated in the agreement
20 and with an immediate right of possession vested in the conditional
21 vendee, (b) a vehicle is subject to a lease of thirty days or more
22 with an immediate right of possession vested in the lessee, or (c)
23 a mortgagor of a vehicle is entitled to possession, then such
24 conditional vendee, lessee, or mortgagor shall be deemed the owner
25 for purposes of Chapter 60, article 3. For such purpose, there are
26 hereby adopted and incorporated by reference the provisions of
27 Article XI, International Registration Plan, adopted by the
1 American Association of Motor Vehicle Administrators, as revised
2 October 1, 2001;

3 (21) Park means to stop a vehicle for any length of time,
4 whether occupied or unoccupied;

5 (22) Passenger car means a motor vehicle designed and
6 used to carry ten passengers or less and not used for hire;

7 (23) Proof of financial responsibility has the same
8 meaning as in section 60-501;

9 (24) Self-propelled mobile home means a vehicle with
10 motive power designed for living quarters;

11 (25) Semitrailer means any vehicle without motive power
12 designed for carrying persons or property and for being drawn by a
13 motor vehicle and so constructed that some part of its weight and
14 that of its load rests upon or is carried by the towing vehicle;

15 (26) Suspension of operator's license has the same
16 meaning as in section 60-476.02;

17 (27) Total fleet distance means the total distance
18 operated in all jurisdictions during the preceding year by the
19 vehicles in such fleet during such year;

20 (28) Trailer means any vehicle without motive power
21 designed for carrying persons or property and being pulled by a
22 motor vehicle and so constructed that no part of its weight rests
23 upon the towing vehicle;

24 (29) Transporter means any person lawfully engaged in the
25 business of transporting vehicles not his or her own solely for
26 delivery thereof (a) by driving singly, (b) by driving in
27 combinations by the towbar, fullmount, or saddlemount methods or
1 any combinations thereof, or (c) when a truck or tractor draws a
2 semitrailer or tows a trailer;

3 (30) Truck means a motor vehicle that is designed, used,
4 or maintained primarily for the transportation of property;

5 (31) Truck-tractor means any motor vehicle designed and
6 used primarily for drawing other vehicles and not so constructed as
7 to carry a load other than a part of the weight of the vehicle and
8 load being drawn;

9 (32) Utility trailer means a trailer having a gross
10 weight, including load thereon, of nine thousand pounds or less
11 attached to a motor vehicle, ~~and used exclusively to carry~~
12 ~~miscellaneous items of personal property~~. Such trailers shall
13 carry on their license plate, in addition to the registration
14 number, the letter X; and

15 (33) Vehicle means any device in, upon, or by which any
16 person or property is or may be transported or drawn upon a public
17 highway except devices moved solely by human power or used
18 exclusively upon stationary rails or tracks.

19 Sec. 41. Section 60-364, Revised Statutes Supplement,
20 2003, is amended to read:

21 60-364. (1) The Director of Motor Vehicles may revoke,
22 suspend, cancel, or refuse to issue or renew a registration
23 certificate under sections 60-356 to 60-361 upon receipt of notice
24 under the federal Performance and Registration Information Systems
25 Management Program that the ability of the applicant or certificate
26 holder to operate has been terminated or denied by a federal
27 agency.

1 (2) Any person who receives notice from the director of
2 action taken pursuant to subsection (1) of this section shall
3 immediately return such registration certificate and license plates
4 to the Department of Motor Vehicles. If any person fails to return
5 the certificate and plates to the department, the department shall
6 forthwith direct a carrier enforcement officer or other officer of
7 the Nebraska State Patrol to secure possession thereof and to
8 return the same to the department. The officer shall make every
9 reasonable effort to secure the certificate and plates and return
10 them to the department.

11 Sec. 42. Section 60-462.01, Revised Statutes Supplement,
12 2002, is amended to read:

13 60-462.01. For purposes of the Motor Vehicle Operator's
14 License Act, the parts, subparts, and sections of the federal Motor
15 Carrier Safety Regulations, 49 C.F.R., as referenced in the act and
16 as they existed on January 1, ~~2003~~ 2004, are adopted as Nebraska
17 law.

18 Sec. 44. Section 60-484.02, Revised Statutes Supplement,
19 2002, is amended to read:

20 60-484.02. (1) Each applicant for an operator's license
21 or state identification card shall have his or her photograph taken
22 or, beginning on the implementation date designated pursuant to
23 section 60-484.01, have his or her digital image taken. Digital
24 images shall be preserved for use as prescribed in sections

25 60-4,119, 60-4,151, and 60-4,180. The images shall be used for
26 issuing operators' licenses and state identification cards. The
27 images may be retrieved only by the Department of Motor Vehicles
1 for issuing renewal, duplicate, and replacement operators' licenses
2 and state identification cards and may not be otherwise released
3 except in accordance with subsection (3) of this section.

4 (2) Upon application for an operator's license or state
5 identification card, each applicant shall provide his or her
6 signature in a form prescribed by the department. Beginning on the
7 implementation date designated pursuant to section 60-484.01,
8 digital signatures shall be preserved for use on original, renewal,
9 duplicate, and replacement operators' licenses and state
10 identification cards and may not be otherwise released except in
11 accordance with subsection (3) of this section.

12 (3) No officer, employee, agent, or contractor of the
13 department or a law enforcement officer shall release a digital
14 image or a digital signature except to a federal, state, or local
15 law enforcement agency or a driver licensing agency of another
16 state for the purpose of carrying out the functions of the agency
17 or assisting another agency in carrying out its functions upon the
18 verification of the identity of the person requesting the release
19 of the information and the verification of the purpose of the
20 requester in requesting the release. Any officer, employee, agent,
21 or contractor of the department or law enforcement officer that
22 knowingly discloses or knowingly permits disclosure of a digital
23 image or digital signature in violation of this section shall be
24 guilty of a Class IV felony and shall be subject to removal from
25 office or discharge in the discretion of the Governor or agency
26 head, as appropriate.

27 Sec. 47. Section 60-1901, Revised Statutes Supplement,
1 2002, is amended to read:

2 60-1901. (1) A motor vehicle is an abandoned vehicle:

3 (a) If left unattended, with no license plates or valid
4 In Transit decals issued pursuant to section 60-320 affixed
5 thereto, for more than six hours on any public property;

6 (b) If left unattended for more than twenty-four hours on
7 any public property, except a portion thereof on which parking is
8 legally permitted;

9 (c) If left unattended for more than forty-eight hours,
10 after the parking of such vehicle has become illegal, if left on a
11 portion of any public property on which parking is legally
12 permitted;

13 (d) If left unattended for more than seven days on
14 private property if left initially without permission of the owner,
15 or after permission of the owner is terminated; or

16 (e) If left for more than thirty days in the custody of a
17 law enforcement agency after the agency has sent a letter to the
18 last-registered owner under section 60-1903.01.

19 (2) An all-terrain vehicle or minibike is an abandoned

20 vehicle:

21 (a) If left unattended for more than twenty-four hours on
 22 any public property, except a portion thereof on which parking is
 23 legally permitted;

24 (b) If left unattended for more than forty-eight hours,
 25 after the parking of such vehicle has become illegal, if left on a
 26 portion of any public property on which parking is legally
 27 permitted;

1 (c) If left unattended for more than seven days on
 2 private property if left initially without permission of the owner,
 3 or after permission of the owner is terminated; or

4 (d) If left for more than thirty days in the custody of a
 5 law enforcement agency after the agency has sent a letter to the
 6 last-registered owner under section 60-1903.01.

7 (3) For purposes of this section:

8 (a) Public property means any public right-of-way,
 9 street, highway, alley, or park or other state, county, or
 10 municipally owned property; and

11 (b) Private property means any privately owned property
 12 which is not included within the definition of public property.

13 ~~(3)~~ (4) No motor vehicle subject to forfeiture under
 14 section 28-431 shall be an abandoned vehicle under this section.

15 Sec. 49. Sections 1 to 27, 29 to 48, and 51 of this act
 16 become operative three calendar months after the adjournment of
 17 this legislative session. The other sections of this act become
 18 operative on their effective date.

19 Sec. 51. Original sections 37-1201, 60-6,324, 60-1805,
 20 and 81-8,219, Reissue Revised Statutes of Nebraska, sections
 21 13-910, 30-24,125, 37-1291, 60-108, 60-110, 60-111.01, 60-302.05,
 22 60-308, 60-311.01, 60-484.02, and 60-1901, Revised Statutes
 23 Supplement, 2002, and sections 60-106, 60-139, 60-301, 60-311.02,
 24 60-364, 60-462.01, and 60-483, Revised Statutes Supplement, 2003,
 25 are repealed."

26 2. Renumber the remaining sections and correct internal
 27 references accordingly.

The Baker amendment was adopted with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 560A. E & R amendment, AM7157, found on page 374, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 644. Senator Hartnett renewed his pending amendment, AM2258, found on page 356.

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

Advanced to E & R for engrossment.

LEGISLATIVE BILL 644A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 155. E & R amendment, AM7158, found on page 376, was adopted.

Senator Quandahl requested to pass over LB 155.

SENATOR CUDABACK PRESIDING

LEGISLATIVE BILL 279. E & R amendment, AM7162, printed separately and referred to on page 390, was adopted.

Senator Wehrbein renewed his pending amendment, AM2353, found on page 462.

Senator Jones renewed the Jones-Wehrbein pending amendment, AM2417, found on page 503, to the Wehrbein pending amendment.

The Jones-Wehrbein amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

The Wehrbein amendment, as amended, was adopted with 30 ayes, 1 nay, 11 present and not voting, and 7 excused and not voting.

Senator Wehrbein renewed his pending amendment, AM2354, found on page 464.

Pending.

STANDING COMMITTEE REPORTS **Judiciary**

LEGISLATIVE BILL 874. Placed on General File.

LEGISLATIVE BILL 1059. Placed on General File.

LEGISLATIVE BILL 1028. Placed on General File as amended.
Standing Committee amendment to LB 1028:

AM2406

- 1 1. Strike the original section and insert the following
- 2 new sections:
- 3 "Section 1. Section 43-3342.04, Revised Statutes
- 4 Supplement, 2002, is amended to read:
- 5 43-3342.04. (1) The Title IV-D Division shall establish
- 6 a Customer Service Unit. In hiring the initial staff for the unit,

- 7 a hiring preference shall be given to employees of the clerks of
 8 the district court. The duties of the Customer Service Unit
 9 include, but are not limited to:
- 10 (a) Providing account information as well as addressing
 11 inquiries made by customers of the State Disbursement Unit; and
 12 (b) Administering two statewide toll-free telephone
 13 systems, one for use by employers and one for use by all other
 14 customers, to provide responses to inquiries regarding income
 15 withholding, the collection and disbursement of support order
 16 payments made to the State Disbursement Unit, and other child
 17 support enforcement issues, including establishing a call center
 18 with sufficient telephone lines, a voice response unit, and
 19 adequate personnel available during normal business hours to ensure
 20 that responses to inquiries are made by the division's personnel or
 21 the division's designee.
- 22 (2) The physical location of the Customer Service Unit
 23 shall be in Nebraska and shall result in the hiring of a number of
 24 new employees or contractor's staff equal to at least one-fourth of
 1 one percent of the labor force in the county or counties in which
 2 the Customer Service Unit is located. Customer service staff
 3 responsible for providing account information related to the State
 4 Disbursement Unit may be located at the same location as the State
 5 Disbursement Unit.
- 6 (3) The Director of Health and Human Services shall issue
 7 a report to the Governor and to the Legislature on or before
 8 January 31 of each year which discloses information relating to the
 9 operation of the Title IV-D Division, the State Disbursement Unit,
 10 and the Customer Service Unit for the preceding calendar year
 11 including, but not limited to:
- 12 (a) The number of ~~transactions~~ cases processed by the
 13 State Disbursement Unit;
- 14 (b) The dollar amount collected by the State Disbursement
 15 Unit;
- 16 (c) The dollar amount disbursed by the State Disbursement
 17 Unit;
- 18 (d) The percentage of identifiable collections disbursed
 19 within two business days;
- 20 (e) The percentage of identifiable collections that are
 21 matched to the correct case;
- 22 (f) The number and dollar amount of insufficient funds
 23 checks received by the State Disbursement Unit;
- 24 (g) The number and dollar amount of insufficient funds
 25 checks received by the State Disbursement Unit for which
 26 restitution is subsequently made to the State Disbursement Unit;
- 27 (h) The number of cases open at the end of the fiscal
 1 year with support orders established;
 2 (i) The number of cases for which paternity was
 3 established;
 4 (j) The total dollar amount of support due;

5 (k) The total arrearages due and the number of cases
 6 paying toward arrearages;
 7 (l) The number of incoming telephone calls processed
 8 through the Customer Service Unit;
 9 (+)(m) The average length of incoming calls from
 10 employers;
 11 (+)(n) The average length of incoming calls from all
 12 other customers;
 13 (-)(o) The percentage of incoming calls resulting in
 14 abandonment by the customer;
 15 (+)(p) The percentage of incoming calls resulting in a
 16 customer receiving a busy signal;
 17 (+)(q) The average holding time for all incoming calls;
 18 and
 19 (+)(r) The percentage of calls handled by employees of
 20 the Customer Service Unit that are resolved within twenty-four
 21 hours; and
 22 (s) A narrative highlighting the strengths and weaknesses
 23 of the Title IV-D Division, progress, or lack thereof, in
 24 collections and disbursement of support payments, and
 25 recommendations for improvements.
 26 Sec. 2. Original section 43-3342.04, Revised Statutes
 27 Supplement, 2002, is repealed."

(Signed) Kermit A. Brashear, Chairperson

Natural Resources

LEGISLATIVE BILL 830. Placed on General File.

LEGISLATIVE BILL 1163. Placed on General File as amended.
 Standing Committee amendment to LB 1163:
 AM2481

- 1 1. On page 2, line 15, after "professional" insert ",
- 2 professional engineer licensed in Nebraska,"; and in lines 17 and
- 3 20 after "professional" insert ", professional engineer,".
- 4 2. On page 3, line 26, strike "certification" and insert
- 5 "inspection"; and in line 28 strike "certification and
- 6 registration".
- 7 3. On page 4, line 3, strike "certification" and insert
- 8 "onsite wastewater treatment system inspection".

LEGISLATIVE BILL 1173. Placed on General File as amended.
 Standing Committee amendment to LB 1173:
 AM2483

- 1 1. On page 2, line 14, strike "five" and insert "three".
- 2 2. On page 3, line 6, after "intent" insert ", except
- 3 that (a) any person who, at least six months prior to the filing of
- 4 a notice of intent, obtained a valid permit from a natural

5 resources district to drill or construct a water well within the
 6 area subject to the protection provided by this section is not
 7 prohibited from drilling or constructing such well and (b) the
 8 public water supplier may waive the protection provided by this
 9 section and allow a person to drill or construct a new or
 10 replacement water well within one thousand feet of the boundaries
 11 of such land, unless the replacement water well is drilled in
 12 accordance with section 46-609.

13 (6) Within thirty days after the public water supplier
 14 reaches a determination that the land described in a particular
 15 notice of intent is not suitable for a public water supply
 16 wellfield, the public water supplier shall notify the Department of
 17 Natural Resources, the owner of the land described in the notice of
 18 intent, and the owners of the contiguous tracts of land of such
 19 determination. Upon receipt by the department of the notice of
 20 such determination, the notice of intent that contains the
 21 description of such tract of land shall terminate immediately,
 22 notwithstanding any other provision of this section".

LEGISLATIVE BILL 1146. Placed on General File as amended.
 Standing Committee amendment to LB 1146:
 AM2499

1 1. On page 2, line 19; page 4, line 3; page 5, line 10;
 2 page 7, lines 4 and 13; and page 10, line 27, strike "2013" and
 3 insert "2008".

(Signed) Ed Schrock, Chairperson

AMENDMENTS - Print in Journal

Senator Johnson filed the following amendment to LB 139:
 AM2414

(Amendments to E & R amendments, AM7165)

1 1. Insert the following new sections:
 2 "Section 1. Section 29-2262, Revised Statutes
 3 Supplement, 2003, is amended to read:
 4 29-2262. (1) When a court sentences an offender to
 5 probation, it shall attach such reasonable conditions as it deems
 6 necessary or likely to insure that the offender will lead a
 7 law-abiding life. No offender shall be sentenced to probation if
 8 he or she is deemed to be a habitual criminal pursuant to section
 9 29-2221.
 10 (2) The court may, as a condition of a sentence of
 11 probation, require the offender:
 12 (a) To refrain from unlawful conduct;
 13 (b) To be confined periodically in the county jail or to
 14 return to custody after specified hours but not to exceed (i) for
 15 misdemeanors, the lesser of ninety days or the maximum jail term
 16 provided by law for the offense and (ii) for felonies, one hundred

- 17 eighty days;
- 18 (c) To meet his or her family responsibilities;
- 19 (d) To devote himself or herself to a specific employment
20 or occupation;
- 21 (e) To undergo medical or psychiatric treatment and to
22 enter and remain in a specified institution for such purpose;
- 23 (f) To pursue a prescribed secular course of study or
1 vocational training;
- 2 (g) To attend or reside in a facility established for the
3 instruction, recreation, or residence of persons on probation;
- 4 (h) To refrain from frequenting unlawful or disreputable
5 places or consorting with disreputable persons;
- 6 (i) To possess no firearm or other dangerous weapon if
7 convicted of a felony, or if convicted of any other offense, to
8 possess no firearm or other dangerous weapon unless granted written
9 permission by the court;
- 10 (j) To remain within the jurisdiction of the court and to
11 notify the court or the probation officer of any change in his or
12 her address or his or her employment and to agree to waive
13 extradition if found in another jurisdiction;
- 14 (k) To report as directed to the court or a probation
15 officer and to permit the officer to visit his or her home;
- 16 (l) To pay a fine in one or more payments as ordered;
- 17 (m) To pay for tests to determine the presence of drugs
18 or alcohol, psychological evaluations, offender assessment screens,
19 and rehabilitative services required in the identification,
20 evaluation, and treatment of offenders if such offender has the
21 financial ability to pay for such services;
- 22 (n) To perform community service as outlined in sections
23 29-2277 to 29-2279 under the direction of his or her probation
24 officer;
- 25 (o) To be monitored by an electronic surveillance device
26 or system and to pay the cost of such device or system if the
27 offender has the financial ability;
- 1 (p) To participate in a community correctional facility
2 or program as provided in the Community Corrections Act;
- 3 (q) To successfully complete an incarceration work camp
4 program as determined by the Department of Correctional Services;
- 5 (r) To satisfy any other conditions reasonably related to
6 the rehabilitation of the offender;
- 7 (s) To make restitution as described in sections 29-2280
8 and 29-2281; or
- 9 (t) To pay for all costs imposed by the court, including
10 court costs and the fees imposed pursuant to section 29-2262.06.
- 11 (3) In all cases in which the offender is guilty of
12 violating section 28-416, a condition of probation shall be
13 mandatory treatment and counseling as provided by such section.
- 14 (4) In all cases in which the offender is guilty of a
15 crime covered by the DNA Detection of Sexual and Violent Offenders

16 Act, a condition of probation shall be the taking of a DNA sample
 17 pursuant to the act prior to release on probation.

18 Sec. 2. Section 29-4102, Revised Statutes Supplement,
 19 2002, is amended to read:

20 29-4102. The Legislature finds that DNA data banks are
 21 an important tool in criminal investigations, in the exclusion of
 22 individuals who are the subject of criminal investigations or
 23 prosecutions, ~~and~~ in deterring and detecting recidivist acts, and
 24 in locating and identifying missing persons and human remains.
 25 Several states have enacted laws requiring persons convicted of
 26 certain crimes, especially sex offenses, to provide genetic samples
 27 for DNA typing tests. Moreover, it is the policy of this state to
 1 assist federal, state, and local criminal justice and law
 2 enforcement agencies in the identification and detection of
 3 individuals in criminal investigations and in locating and
 4 identifying missing persons and human remains. It is in the best
 5 interest of this state to establish a State DNA Data Base for DNA
 6 records and a State DNA Sample Bank as a repository for DNA samples
 7 from individuals convicted of felony sex offenses and other
 8 specified offenses and from individuals for purposes of assisting
 9 in locating and identifying missing persons and human remains.

10 Sec. 7. Section 29-4107, Revised Statutes Supplement,
 11 2002, is amended to read:

12 29-4107. (1) Only individuals (a) who are physicians or
 13 registered nurses, (b) who are trained to withdraw human blood for
 14 scientific or medical purposes and are obtaining blood specimens
 15 while working under orders of or protocols and procedures approved
 16 by a physician, registered nurse, or other independent health care
 17 practitioner licensed to practice by the state if the scope of
 18 practice of that practitioner permits the practitioner to obtain
 19 blood specimens, or (c) who are both employed by a licensed
 20 institution or facility and have been trained to withdraw human
 21 blood for scientific or medical purposes shall ~~draw~~ withdraw blood
 22 for a DNA sample under the DNA Detection of Sexual and Violent
 23 Offenders Act.

24 (2) In addition to the DNA sample, one thumb print or
 25 fingerprint shall be taken from the person from whom the DNA sample
 26 is being ~~drawn~~ taken for the exclusive purpose of verifying the
 27 identity of such person. The DNA sample and the thumb print or
 1 fingerprint shall be delivered to the Nebraska State Patrol within
 2 five working days after ~~drawing~~ taking the sample.

3 (2) (3) A person authorized to ~~draw~~ take DNA samples
 4 under ~~this section~~ the act is not criminally liable for ~~drawing~~
 5 taking a DNA sample and transmitting DNA records pursuant to the
 6 act if he or she performs these activities in good faith and is not
 7 civilly liable for such activities if he or she performed such
 8 activities in a reasonable manner according to generally accepted
 9 medical and other professional practices."

10 2. On page 1, line 19, strike "with respect to offenses"

11 and show as stricken.

12 3. On page 3, line 11, strike "nonsworn," and strike
13 "officer" and insert "member"; and in line 13 strike "testing
14 procedures" and insert "typing tests".

15 4. On page 5, line 2, strike "The", show as stricken,
16 and insert "Any such contract shall require that the"; and in line
17 3 strike "would".

18 5. On page 6, lines 16 and 17; and page 7, lines 7 and
19 8, strike "has not already had a DNA sample taken pursuant to this
20 section" and insert "does not have a DNA sample available for use
21 in the State DNA Sample Bank".

22 6. On page 7, line 8, strike "still", show as stricken,
23 and insert "awaiting sentencing or".

24 7. On page 8, line 21, strike "29-4103 to 29-4106 and"
25 and insert "29-4102 to"; and in line 22 after the last comma insert
26 "and section 29-2262, Revised Statutes Supplement, 2003,".

27 8. Renumber the remaining sections accordingly.

Senator Beutler filed the following amendment to LB 227:
AM2503

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 60-6,265, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 60-6,265. For purposes of sections 60-6,266 to 60-6,273,
- 6 occupant protection system ~~shall mean~~ means a system utilizing a
- 7 lap belt, a shoulder belt, or any combination of belts installed in
- 8 a motor vehicle which (1) restrains drivers and passengers and (2)
- 9 conforms to Federal Motor Vehicle Safety Standards, 49 C.F.R.
- 10 571.207, 571.208, 571.209, and 571.210, as such standards existed
- 11 on January 1, 2004, or to the federal motor vehicle safety
- 12 standards for passenger restraint systems applicable for the motor
- 13 vehicle's model year.
- 14 Sec. 2. Section 60-6,267, Revised Statutes Supplement,
- 15 2002, is amended to read:
- 16 60-6,267. (1) Any person in Nebraska who drives any
- 17 motor vehicle which has or is required to have an occupant
- 18 protection system shall ensure that:
- 19 (a) All children up to six years of age being transported
- 20 ~~in~~ by such vehicle use a child passenger restraint system of a type
- 21 which meets Federal Motor Vehicle Safety Standard 213 as developed
- 22 by the National Highway Traffic Safety Administration, as such
- 23 standard existed on ~~July 20, 2002~~ January 1, 2004, and which is
- 24 correctly installed in such vehicle; and
- 1 (b) All children six years of age and less than ~~sixteen~~
- 2 eighteen years of age being transported ~~in~~ by such vehicle use an
- 3 occupant protection system.
- 4 This subsection shall apply to every motor vehicle which
- 5 is equipped with an occupant protection system or is required to be

6 equipped with restraint systems pursuant to Federal Motor Vehicle
 7 Safety Standard 208, as such standard existed on ~~July 20, 2002~~
 8 January 1, 2004, except taxicabs, mopeds, motorcycles, and any
 9 motor vehicle designated by the manufacturer as a 1963 year model
 10 or earlier which is not equipped with an occupant protection
 11 system.

12 (2) Whenever any licensed physician determines, through
 13 accepted medical procedures, that use of a child passenger
 14 restraint system by a particular child would be harmful by reason
 15 of the child's weight, physical condition, or other medical reason,
 16 the provisions of subsection (1) of this section shall be waived.
 17 The driver of any vehicle transporting such a child shall carry on
 18 his or her person or in the vehicle a signed written statement of
 19 the physician identifying the child and stating the grounds for
 20 such waiver.

21 (3) The drivers of authorized emergency vehicles shall
 22 not be subject to the requirements of subsection (1) of this
 23 section when operating such authorized emergency vehicles pursuant
 24 to their employment.

25 (4) A driver of a motor vehicle shall not be subject to
 26 the requirements of subsection (1) of this section if the motor
 27 vehicle is being operated in a parade or exhibition and the parade
 1 or exhibition is being conducted in accordance with applicable
 2 state law and local ordinances and resolutions.

3 (5) The Department of Motor Vehicles shall develop and
 4 implement an ongoing statewide public information and education
 5 program regarding the use of child passenger restraint systems and
 6 occupant protection systems and the availability of distribution
 7 and discount programs for child passenger restraint systems.

8 ~~(5)~~ (6) All persons being transported ~~in~~ by a motor
 9 vehicle operated by a holder of a provisional operator's permit or
 10 a school permit shall use such motor vehicle's occupant protection
 11 system.

12 Sec. 3. Section 60-6,268, Revised Statutes Supplement,
 13 2002, is amended to read:

14 60-6,268. (1) A person violating any provision of
 15 subsection (1) of section 60-6,267 shall be guilty of an infraction
 16 as defined in section 29-431 and shall be fined twenty-five dollars
 17 for each violation. The failure to provide a child restraint
 18 system for more than one child in the same vehicle at the same
 19 time, as required in such subsection, shall not be treated as a
 20 separate offense.

21 (2) Enforcement of subdivision (1)(b) and subsection ~~(5)~~
 22 (6) of section 60-6,267 shall be accomplished only as a secondary
 23 action when an operator of a motor vehicle has been cited or
 24 charged with a violation or some other offense unless the violation
 25 involves a person under the age of eighteen years riding in or on
 26 any portion of the vehicle not designed or intended for the use of
 27 passengers when the vehicle is in motion.

- 1 Sec. 4. Original section 60-6,265, Reissue Revised
- 2 Statutes of Nebraska, and sections 60-6,267 and 60-6,268, Revised
- 3 Statutes Supplement, 2002, are repealed."

Senator Hartnett filed the following amendment to LB 227:

FA1454

On page 5 delete lines 8-10.

RESOLUTION

LEGISLATIVE RESOLUTION 233. Introduced by Thompson, 14; Jensen, 20.

PURPOSE: The purpose of this study is to examine the utilization of buildings owned by the State of Nebraska. This study shall review the status of all state buildings, specifically those that are currently unoccupied, and shall review the future plans for all unoccupied state buildings. Information on the potential sale price or demolition costs of these unoccupied state buildings shall be included in this study.

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

1. That the Building Maintenance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

ATTORNEY GENERAL'S OPINION

Opinion # 04005

DATE: February 6, 2004

SUBJECT: Whether Application of Amendment to Definition of "New Ethanol Facility" to Existing Ethanol Production Agreements Unconstitutionally Impairs Contractual Obligations.

REQUESTED BY: Senator Chris Beutler
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion regarding the constitutionality of LB 479,

as amended by AM0852. LB 479, as amended, includes several changes to the Nebraska Ethanol Development Act, Neb. Rev. Stat. §§ 66-1330 to 66-1348 (1996 and Cum. Supp. 2002) [the "Act"]. The Act provides for certain tax credits for ethanol produced at a qualifying ethanol production facility. Neb. Rev. Stat. § 66-1344 (Cum. Supp. 2002). Subsection (4)(a) of § 66-1344 provides that "[b]eginning January 1, 2002, any new ethanol facility which is in production at the minimum rate of one hundred thousand gallons annually for the production of ethanol, before denaturing, on or before June 30, 2004, shall receive a credit of eighteen cents per gallon of ethanol produced . . ." for specified periods. Neb. Rev. Stat. § 66-1444(4)(a).¹ "[N]ew ethanol facility" is defined to "mean [] an ethanol facility which (i) is not in production on or before September 1, 2001, or (ii) has not received credits prior to June 1, 1999." Neb. Rev. Stat. § 66-1344(4)(b) (Cum. Supp. 2002). In order to receive the credits provided in subsection (4) of § 66-1344, producers must enter into written agreements with the Tax Commissioner. Neb. Rev. Stat. § 66-1344.01 (Cum. Supp. 2002).

LB 479, as amended by AM0852, proposes to amend the definition of "new ethanol facility" as follows:

[N]ew ethanol facility means a facility for the conversion of grain or other raw feedstock into ethanol and other byproducts of ethanol production which (i) is not in production on or before September 1, 2002, or (ii) has not received credits prior to June 1, 1999. A new ethanol facility does not mean an expansion of an existing ethanol plant that does not result in the physical construction of an entire ethanol processing facility or which shares or uses in a significant manner any existing plant's systems and does not include the expansion of production capacity after June 30, 2004, of a plant qualifying for credits under this subsection. This definition applies to contracts entered into before, on, or after the effective date of this act. (Emphasis added).

It is our understanding that a number of ethanol producers have entered into agreements with the Tax Commissioner pursuant to § 66-1344.01 under which production of the 100,000 gallon minimum annual rate required by § 66-1344(4)(a) to qualify for credits will occur at a new ethanol facility prior to June 30, 2004, followed by expansion of the facility to a capacity of several million gallons.² LB 479, as amended, would prohibit the receipt of credits for expansion of such facilities. As the amendment expressly provides that "[t]his definition applies to contracts entered into before . . ." the bill's effective date, you have asked us to address whether application of the amended definition of "new ethanol facility" to existing ethanol production agreements unconstitutionally impairs contractual obligations under these agreements.

I. Does LB 479, as Amended, Change Existing Law?

Initially, prior to addressing any question regarding impairment of

contracts, it is necessary to determine if the amended definition of "new ethanol facility" effects a change in the statutory definition of this term in § 66-1344(4)(b). It has been suggested that the amendment merely interprets or clarifies the Legislature's intent in defining "new ethanol facility" in a manner consistent with LB 536, and that retroactive application of the amended definition thus does not impermissibly impair any vested rights or contracts entered into between producers and the State. In this regard, it has been recognized that "[t]he mere fact that a statute has a retrospective application does not necessarily render it unconstitutional. For instance, a statute that merely clarifies, rather than changes, existing law does not operate retrospectively even if it is applied to transactions predating its enactment." 16B Am. Jur. 2d Constitutional Law § 690 (1998) (footnotes omitted). Thus, it is first necessary to examine whether the amended definition of "new ethanol facility" effects a change in the law under which existing agreements were entered.

Subsection (4)(a) of § 66-1344 provides that "[b]eginning January 1, 2002, any new ethanol facility which is in production at the minimum rate of one hundred thousand gallons annually for the production of ethanol, before denaturing, on or before June 30, 2004, shall receive a credit of eighteen cents per gallon of ethanol produced . . ." for specified periods. Neb. Rev. Stat. § 66-1444(4)(a). "[N]ew ethanol facility" is defined to "mean[] an ethanol facility which (i) is not in production on or before September 1, 2001, or (ii) has not received credits prior to June 1, 1999." Neb. Rev. Stat. § 66-1344(4)(b) (Cum. Supp. 2002). Thus, the only current statutory requirements to qualify a "new ethanol facility" for credits are that the facility must be in production at a "minimum rate of one hundred thousand gallons of ethanol annually . . . on or before June 30, 2004 . . .," and that the facility either (1) was "not in production on or before September 1, 2001 . . .," or (2) had "not received credits prior to June 1, 1999." Neb. Rev. Stat. §§ 66-1344(a) and (b) (Cum. Supp. 2002).

In addition to the qualifications to receive ethanol credits under subsection (4) of § 66-1344, Neb. Rev. Stat. § 66-1344.01 requires that producers enter into agreements with the Tax Commissioner to receive credits. Section 66-1344.01 provides:

The Tax Commissioner and the producer eligible to receive credits under subsection (4) of section 66-1344 shall enter into a written agreement. The producer shall agree to produce ethanol at the designated facility and any expansion thereof. The Tax Commissioner, on behalf of the State of Nebraska, shall agree to furnish the producer the tax credits as provided by and limited in section 66-1344 in effect on the date of the agreement. The agreement to produce ethanol in return for the credits shall be sufficient consideration, and the agreement shall be binding upon the state. No credit shall be given to any producer of ethanol which fails to produce ethanol in Nebraska in compliance with the agreement. The agreement shall include:

- (1) The name of the producer;
- (2) The address of the ethanol facility;
- (3) The date of the initial eligibility of the ethanol facility to receive such credits;
- (4) The name plate design capacity of the ethanol facility as of the date of its initial eligibility to receive such credits; and
- (5) The name plate design capacity which the facility is intended to have after the completion of any proposed expansion. If no expansion is contemplated at the time of the initial agreement, the agreement may be amended to include any proposed expansion.

Neb. Rev. Stat. § 66-1344.01 (Cum. Supp. 2002) (emphasis added).

"In reading a statute, a court must determine and give effect to the purpose and intent of the Legislature as ascertained from the entire language of the statute considered in its plain, ordinary, and popular sense." *First Data Corp. v. Nebraska Dep't of Revenue*, 263 Neb. 344, 352, 639 N.W.2d 898, 903 (2002). "A court must attempt to give effect to all parts of a statute, and if it can be avoided, no word, clause, or sentence will be rejected as superfluous or meaningless." *Sydow v. City of Grand Island*, 263 Neb. 389, 397, 539 N.W.2d 913, 921 (2002). "[A] court will construe statutes relating to the same subject matter together so as to maintain a consistent, harmonious, and sensible scheme." *Premium Farms v. County of Holt*, 263 Neb. 415, 427, 640 N.W.2d 633, 642 (2002).

The plain language of §§ 66-1344(4) and 66-1344.01, construed together, evidences an intent to allow producers entering into agreements to qualify for credits for a "new ethanol facility" provided: (1) the producers have met the 100,000 gallon annual rate production threshold by June 30, 2004; and (2) the facility either was not in production on or before September 1, 2001, or had not received credits prior to June 1, 1999. The statutes do not appear to limit a producer to credits based on production capacity achieved on or before June 30, 2004, if the minimum production level is achieved. The language of § 66-1344.01 providing that the agreement encompasses production of ethanol "at the designated facility or any expansion thereof," and that an agreement may include reference to facility capacity "after the completion of any proposed expansion," appears to contemplate that producers are eligible to receive credits based on the expansion of a "new ethanol facility" pursuant to agreements entered into under existing statutes. Under this interpretation, retrospective application of the definition of "new ethanol facility" in LB 479, as amended, would effect a change in existing law altering the effect of a number of ethanol production agreements entered into between producers and the State.

Indeed, an examination of agreements entered into by producers and the

Tax Commissioner providing for production at the minimum rate on or before June 30, 2004, and including expansion of the facility's name plate design capacity thereafter, demonstrates an administrative construction consistent with an interpretation allowing credits for expansion of capacity at facilities timely meeting the statutory minimum production deadline. The courts accord deference to the interpretation and application of statutes by administrative agencies or officers charged with their administration and enforcement. *Metropolitan Utilities Dist. v. Balka*, 252 Neb. 172, 560 N.W.2d 795 (1997); *Vulcraft v. Karnes*, 229 Neb. 676, 428 N.W.2d 505 (1988); *McCaul v. American Savings Co.*, 213 Neb. 841, 331 N.W.2d 795 (1983). This administrative interpretation, while not controlling, further supports concluding that the amended definition of "new ethanol facility" alters the law under which existing ethanol production agreements were executed.

The history of LB 536 provides some indication the Legislature intended that the credits available for a "new ethanol facility" would be available only for a new facility completed on or before June 30, 2004, and that credits for "expansion" of a facility after that date were not contemplated. The Introducer's Statement of Intent accompanying LB 536 stated "[t]he bill amends section 66-1344 to establish a renewed ethanol production incentive for new ethanol plants modeled after previous production incentives that have expired . . .," and that "[n]ew subsection (4) provides that newly constructed ethanol facilities shall be eligible for a credits [sic] of 20 cents per gallon of ethanol produced." Committee Records on LB 536, 97th Leg., 1st Sess., 1 (Introducer's Statement of Intent) (Feb. 2, 2001).³ The bill's principal introducer testified that the June 30, 2004, deadline was intended to "narrow" the "window" for credit eligibility "so that revenue measures in the bill match the assumptions of new plant building foreseeable in the most immediate future." *Id.* at 17-18 (Statement of Sen. Dierks). A contrast was drawn between the proposed higher credit for new facilities, as opposed to the lower, 7 and ½ cents credit per gallon "for existing plant expansion." *Id.* at 18. The bill's introducer further testified that "LB 536 lower[ed] the minimum annual production to qualify from 2 million gallons to 100,000 gallons . . .," which was "intended to open the program to farm-scale ethanol production systems that can be built in conjunction with feeding operations." *Id.*

This history potentially bolsters interpreting the Act to provide credits for "new ethanol facilities" only to those constructed on or before June 30, 2004. This interpretation would be consistent with the stated intent to match the revenue measures intended to fund the credits with expectations regarding the number of new facilities which would qualify for the credits.⁴ Also, it appears the 100,000 gallon minimum threshold to qualify for credits was designed to allow small scale farm producers to qualify for credits, as opposed to permitting proposed new operators of large scale commercial ethanol facilities an opportunity to qualify for credits by producing the minimum amount on or before June 30, 2004, and expanding to greater capacity after that date. Under this interpretation, the amended definition of

"new ethanol facility" in LB 479 would not alter the law under which current agreements were executed.

There are two impediments to adopting this construction. First, while certain portions of the legislative history of LB 536 support this view, other aspects of the history seem to contradict this interpretation. For example, the bill's introducer described the new incentives as applying to "new facilities which begin production within the window established by the bill," and stated it was intended "that the new plants would need to be in production prior to June of 2004." Committee Records on LB 536, *supra*, at 17 (Statement of Sen. Dierks). These statements indicate that new facilities were required only to "begin production" or be "in production" at the minimum rate on or before June 30, 2004, in order to qualify for credits as a "new ethanol facility." Second, legislative history is only used to construe a statute which is "reasonably considered ambiguous." *Sydow v. City of Grand Island*, 263 Neb. at 397, 639 N.W.2d at 921. As noted previously, the plain language of §§ 66-1344(4) and 66-1344.01, construed together, appears to unambiguously demonstrate a legislative intent under existing law to require that, in order for a producer to qualify for credits as a "new ethanol facility," the minimum production level in § 66-1344(4)(a) must be met by June 30, 2004, and the facility either must not have been in production prior to September 1, 2001, or did not receive credits prior to June 1, 1999. Section 66-1344.01 provides that a producer entering into an agreement to receive credits at a "new ethanol facility" may agree to produce ethanol qualifying for credits "at the designated facility or any expansion thereof." Neb. Rev. Stat. § 66-1344.01 (Cum. Supp. 2002). Given this statutory language, it is difficult to assert that the definition of "new ethanol facility" in LB 479, as amended, does not change the definition of this term in the existing statutes under which various producers have entered into ethanol production agreements with the State, including credits based on expansion of qualifying facilities. Accordingly, the amended definition of "new ethanol facility" likely is not a mere legislative "clarification" or "interpretation" which does not alter the definition of this term under existing law.

II. Does LB 479, as Amended, Unconstitutionally Impair Vested Rights or Existing Contracts?

If the amended definition of "new ethanol facility" is not viewed as a mere "clarification" or "interpretation" of present statutes, it is then necessary to address your question as to whether application of this new definition operates to unconstitutionally impair the obligation of contracts entered into by ethanol producers and the State under current law.

Article I, § 10, of the United States Constitution, provides that "[n]o state . . . shall . . . pass any . . . Law impairing the Obligation of Contracts. . . ." The Nebraska Constitution similarly provides that "[n]o law impairing the obligation of contracts . . . shall be passed." Neb. Const. art. I, § 16.

In analyzing claims that legislation unconstitutionally impairs contractual rights, the issue is whether state law has "operated as a substantial impairment of a contractual relationship." *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 244 (1978). "This inquiry has three components: whether there is a contractual relationship, whether a change in law impairs that contractual relationship, and whether the impairment is substantial." *General Motors Corp. v. Romein*, 503 U.S. 181, 186 (1992). If the legislation involves a substantial impairment, "the State, in justification, must have a significant and legitimate public purpose behind the [law] . . . , such as remedying a broad or general social or economic" problem. *Energy Reserves Group, Inc. v. Kansas Power and Light Co.*, 459 U.S. 400, 411-12 (1983) (citation omitted). If a legitimate public purpose is established, it must be determined whether the law "[is based] upon reasonable conditions and [is] of a character appropriate to the public purpose justifying [the legislation's] adoption." *Id.* at 412 (quoting *United States Trust Co. v. New Jersey*, 431 U.S. 1, 22 (1977)). While courts will generally defer to legislative judgments as to the necessity and reasonableness of acts affecting contractual relationships, *Keystone Bituminous Coal Ass'n v. DeBenedictis*, 480 U.S. 470, 505 (1987), such deference is not appropriate where the State's financial self-interest is at stake. *United States Trust Co. v. New Jersey*, 431 U.S. at 25-26.⁵

The initial Contract Clause inquiry concerns whether a contractual relationship exists between producers and the State by virtue of agreements with the Tax Commissioner executed pursuant to §§ 66-1344(4) and 66-1344.01. Section 66-1344.01 specifically provides that the producer's "agreement to produce ethanol in return for the credits shall be sufficient consideration, and the agreement shall be binding upon the state." *Neb. Rev. Stat. § 66-1344.01 (Cum. Supp. 2002)*. In reviewing the effect of this language, the following discussion from 16B *Am. Jur. 2d Constitutional Law § 723 (1998)* is instructive:

In determining whether a particular statute gives rise to a contractual obligation subject to constitutional impairment, it is of first importance to examine the language of the statute. Absent an adequate expression of actual intent to create a contract, that which is undoubtedly a scheme of public regulation will not lightly be construed to be, in addition, a private contract to which the state is a party. Although it may be taken as a general rule that rights conferred by statutes or ordinances are presumed not to be contractual in their nature so as to prevent their alteration or abrogation, this presumption can be overcome if language in the statute and other indicia show that the legislature intended to bind itself contractually. A legislative enactment in the ordinary form of a statute may contain provisions which, when accepted as the basis of action by individuals or corporations, become contracts between them and the state within the protection of the clause of the Federal Constitution forbidding the impairment of contractual obligations; rights may accrue under a statute, or even be conferred by it, of such character as to be regarded as contractual, and such rights cannot be

defeated by subsequent legislation or inadequate funding by the state.

Section 66-1344.01 expressly provides that agreements for credits under § 66-1344(4) are contracts between producers and the State. In prior opinions, we have recognized that agreements entered into under previous statutes allowing ethanol production credits based on agreements between producers and the State created contracts establishing vested rights. Op. Att'y Gen. No. 95043 (May 25, 1995); Op. Att'y Gen. No. 96031 (April 12, 1996). In each case, we concluded that the legislation in question was not intended to apply additional qualifications for credits to existing agreements, and, therefore, involved no unconstitutional retroactive application. Id. Implicit in these opinions was recognition that signed agreements already in effect under existing statutes created vested, contractual rights which could not be altered by the proposed amendatory legislation. Therefore, as to the first part of the Contract Clause analysis, the agreements between producers and the State entered into pursuant to §§ 66-1344(4) and 66-1344.01 constitute binding contracts subject to the Contract Clause.

The second aspect of the Contract Clause inquiry concerns whether the contractual impairment imposed by statute is substantial. Assuming the amended definition of "new ethanol facility" alters existing contractual rights, there appears to be little doubt that, if applied to existing agreements, it would effect a substantial impairment of certain contracts. In particular, producers that have entered into agreements to establish a new ethanol facility qualifying for credits based on meeting the minimum production rate of 100,000 gallons annually prior to June 30, 2004, and currently eligible to receive credits based on facility expansion after that date, would face a substantial impairment of their existing agreements under LB 479, as amended. The amendment would in effect nullify their ability to qualify for millions of dollars of credits which they are currently eligible to receive if they timely meet the current minimum 100,000 gallon production threshold and expand capacity after June 30, 2004, pursuant to agreements with the Tax Commissioner entered into under existing law. Producers entering into such agreements have undoubtedly made financial decisions and commitments in reliance on these agreements. It is difficult to envision how application of LB 479, as amended, to alter these agreements, cannot be viewed as a "substantial" impairment.

The third aspect of the Contract Clause analysis is whether a significant and legitimate public purpose justifies the impairment. The only seeming justification for the amendment is concern that the number of producers that have entered into agreements with the State under §§ 66-1344(4) and 66-1344.01 (including those that have agreed to meet only the minimum threshold by June 30, 2004, and to qualify for further credits based on facility expansion after that date) is greater than anticipated, and that this will result in the State incurring a substantially larger responsibility to provide a mechanism to fund credits under the Act than originally envisioned by the Legislature. Difficulty in finding legislative solutions to funding the State's obligations under existing contracts entered into under

§§ 66-1344(4) and 66-1344.01 does not appear to be a significant, legitimate public purpose to justify altering existing agreements with producers and the State. This is particularly true where, as here, the contractual obligations involve the State's own financial self-interest.

III. Conclusion

In sum, we conclude that LB 479, as amended, which alters the definition of a "new ethanol production facility" eligible for ethanol tax credits under § 66-1344(4) to prevent facilities meeting the minimum production rate on the date required under current law from qualifying for credits based on facility expansion after that date, likely creates an unconstitutional impairment of contracts between the State and producers that have been executed under existing law. Our conclusion is based on a finding that the proposed amendment does not appear to merely clarify or interpret existing law, but, in fact, attempts to retroactively change vested rights of producers that have entered into agreements with the State. The statute authorizing execution of these agreements specifically binds the State to provide such credits under the law in effect at the time of execution of the agreements. While an argument could be advanced to support concluding that the amendment merely clarifies or interprets the law under which the agreements were executed, limiting eligibility to receive credits to facilities completed and at full capacity as of June 30, 2004, without regard to subsequent expansion, we believe it is doubtful that a court would find that the amendment does not unconstitutionally impair vested, contractual rights.

¹ The credits provided under subsection (4) of § 66-1344 were part of 2001 Neb. Laws, LB 536.

² A list of producers entering into agreements with the Tax Commissioner found on the Department of Revenue's web site indicates several agreements have been executed which provide for production at the 100,000 gallon annual rate threshold followed by an increase in plant capacity. See http://www.revenue.state.ne.us/fuels/eth_list.htm.

³ The original bill was amended to reduce the amount of the credit for new facilities to 18 cents per gallon of ethanol produced. Neb. Rev. Stat. § 66-1344(4)(a) (Cum. Supp. 2002).

⁴ During floor debate, it was noted that construction of only two new ethanol production plants was anticipated, and that the funding mechanism was designed based on this assumption. Floor Debate on LB 536, 97th Leg., 1st Sess., 8290 (May 24, 2001).

⁵ The Nebraska Supreme Court follows essentially the same analysis to claims of contractual impairment under Neb. Const. art. I, § 16, as is applied to impairment of contract claims asserting violations of U. S. Const. art. I, § 10. See *Pick v. Nelson*, 247 Neb. 487, 528 N.W.2d 309 (1995).

Sincerely,
JON BRUNING
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

pc: Patick O'Donnell
Clerk of the Legislature
07-77-21

UNANIMOUS CONSENT - Add Cointroducers

Senator Burling asked unanimous consent to have his name added as cointroducer to LB 916. No objections. So ordered.

Senator Johnson asked unanimous consent to have his name added as cointroducer to LB 1054. No objections. So ordered.

Senator Price asked unanimous consent to have her name added as cointroducer to LB 1142. No objections. So ordered.

WITHDRAW - Cointroducer

Senator Bourne withdrew his name as cointroducer to LB 870.

VISITORS

Visitors to the Chamber were Steve, Claudia, and Etienne Brock from Omaha; and Brian Elliott from Wahoo.

ADJOURNMENT

At 12:05 p.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Monday, February 9, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-SECOND DAY - FEBRUARY 9, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, February 9, 2004

PRAYER

The prayer was offered by Pastor Linda Newman, United Church of Christ, Uehling and Scribner.

ROLL CALL

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

The roll was called and all members were present except Senators Brashear, Hudkins, and Dw. Pedersen who were excused; and Senators Aguilar, Brown, Maxwell, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-first day was approved.

ANNOUNCEMENT

Senator Maxwell designates LB 602 as his priority bill.

MESSAGE FROM THE SECRETARY OF STATE

February 6, 2004

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

The purpose of this letter is to inform the honorable members of the Legislature that I have made the following appointments requiring Legislative confirmation:

Mr. Gary Rosacker (Independent) to the Accountability and Disclosure Commission on July 22, 2003, for a six year term ending June 30, 2009; and

Mr. Andre R. Barry (Democrat) to the Accountability and Disclosure Commission on September 5, 2003, for a six year term ending June 30, 2009.

These appointments were made by me pursuant to the provisions of Sections 49-14,105, 49-14,110, 49-14,112 and 49-14,114 and is respectfully submitted for your consideration.

Attached is additional background information on the qualifications of each of the appointments.

Sincerely,
(Signed) John A. Gale
Secretary of State

cc: Frank Daley
sh

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 229 was adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR 229.

GENERAL FILE

LEGISLATIVE BILL 906. Considered.

Senator Chambers offered the following amendment:

FA1455

Amend AM2249

P. 20, strike lines 5-8.

Senator Chambers withdrew his amendment.

Senator Stuhr moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Advanced to E & R for review with 43 ayes, 0 nays, 1 absent and not voting, and 5 excused and not voting.

The Chair declared the call raised.

SENATOR CUDABACK PRESIDING

LEGISLATIVE BILL 969. Title read. Considered.

The Standing Committee amendment, AM2328, found on page 416, was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 841. Title read. Considered.

Senator Chambers offered the following amendment:

FA1456

P. 2 in line 6, strike and show as stricken, "any organization created exclusively for religious purposes"

Pending.

STANDING COMMITTEE REPORTS
Education

LEGISLATIVE BILL 934. Placed on General File as amended.

Standing Committee amendment to LB 934:

AM2334

1 1. On page 2, line 7, reinstate the stricken matter; in
2 lines 7 and 8 strike "August" through "year", show the old matter
3 as stricken, and insert "of the current year for school years prior
4 to school year 2005-06 and on or before August 1 of the current
5 year for school year 2005-06 and each school year thereafter"; in
6 line 10 reinstate the stricken matter; and in lines 10 and 11
7 strike "August" through "year", show the old matter as stricken,
8 and insert "of the current year for school years prior to school
9 year 2005-06 and between August 2 and November 15 of the current
10 year for school year 2005-06 and each school year thereafter".

LEGISLATIVE BILL 1079. Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 234. Introduced by Bromm, 23.

WHEREAS, at the annual Statehood dinner, held in the Nebraska State Capitol, the NEBRASKALAND Foundation on Saturday, February 28, 2004, will present the distinguished Nebraskalander award, along with the

WagonMaster Awards, the Trailblazer Award, and the Pioneer Award; and

WHEREAS, the first WagonMaster Award is presented to Mr. Tony Raimondo. Mr. Raimondo is chairman and CEO of Behlen Mfg. Company. He led the effort to complete a successful management buy-out in 1984 as Behlen experienced major losses due to market changes and Wickes Corporation emerged from Chapter 11. Mr. Raimondo has spent the majority of his career in large corporations, beginning with General Motors Upon completing his BSME Degree in 1962. In 1976 he relocated from New York to Omaha and spent many years with Sperry Corporation. He has served as a member and chairman of numerous national and state boards, especially those associated with the manufacturing industry; and

WHEREAS, the second WagonMaster Award is presented to Ms. Susan S. Seacrest. Ms. Seacrest founded the Groundwater Foundation in 1985 and has served as its president since that time. Under her direction, the foundation has grown to become a nationally known, well-respected voice for groundwater education. Ms. Seacrest's expertise has been recognized by the U.S. Environmental Protection Agency through her appointment to several EPA advisory boards. In November 1999 Ms. Seacrest was a speaker at a water issues briefing at the United Nations and spoke at an International Association of Hydrologists Conference in Ireland in 2003; and

WHEREAS, the Pioneer Award is presented to Mr. Norman A. Geske. Mr. Geske served as the Director of the Sheldon Memorial Art Gallery, at the University of Nebraska-Lincoln, from 1956 to 1983. While serving as director of the Sheldon gallery, he also taught art classes at the University. In 1968 Mr. Geske served as the American Commissioner for the XXXIV Biennale in Venice, Italy. This esteemed honor allowed him to select the art that would be viewed in the American Pavilion during the Biennale. The Venice Biennale is considered to be the world's most prestigious art exhibition; and

WHEREAS, the Trailblazer Award is presented to Mr. Benny Hochman. Mr. Hochman has gone from being a prisoner in a Nazi concentration camp, ensuring untold hardships and horror, to being a community leader. Following his release from the concentration camp, he made his way to the United States and was employed by the former Northwestern Bell Telephone Company. He has been a tireless community and state supporter serving on many boards over the years. He has traveled thousands of miles and spent countless hours telling of his experience in the Nazi camp, always leaving his audience with the same message: "Don't take freedom for granted. It is something we need to treasure and protect always." Benny had his book From Hell to Here published at his own expense with all proceeds going to the Endowment Association for Student Scholarships; and

WHEREAS, the distinguished NEBRASKAlander Award is presented to Mr. Michael B. Yanney. Mr. Yanney is Chairman of the Board of the America First Companies, which has managed public investment funds with assets in excess of \$7 billion. Prior to this position, Mr. Yanney was principally engaged in the ownership and management of commercial banks. He has done business in the Soviet Union and Russia since 1976. Additionally, he serves as a member of the board of directors for such

corporations as Burlington Northern Santa Fe Corporation, Level 3 Communications, Inc., Magnum Resources, and RCN Corporation.

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

1. That the Legislature extends its appreciation to the honorees named in this resolution for their service to the State of Nebraska.

2. That a copy of this resolution be given to all honorees.

Laid over.

BILL ON FIRST READING

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

LEGISLATIVE BILL 986A. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 986, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Barry, Andre R. - Accountability and Disclosure Commission - Government, Military and Veterans Affairs

Rosacker, Gary - Accountability and Disclosure Commission - Government, Military and Veterans Affairs

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

**NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications**

Room 1113

LB 1154	Tuesday, February 17, 2004	1:30 p.m.
LB 1205	Tuesday, February 17, 2004	1:30 p.m.
LB 1235	Tuesday, February 17, 2004	1:30 p.m.
LB 1255	Tuesday, February 17, 2004	1:30 p.m.

(Signed) Tom Baker, Chairperson

AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 906:

AM2500

(Amendments to Standing Committee amendments, AM2249)

- 1 1. On page 27, line 7, strike the comma and insert "or";
- 2 and strike beginning with "without" in line 8 through "(c)" in line
- 3 9.
- 4 2. On page 30, strike beginning with "The" in line 19
- 5 through the period in line 20.

ANNOUNCEMENT

Senator Preister designates LB 278 as his priority bill.

COMMUNICATIONS

February 5, 2004

Mr. Patrick O'Donnell
Clerk of the Legislature
Room 2018
State Capitol Building
Lincoln, NE 68509

Dear Mr. O'Donnell:

The University of Nebraska is seeking legislative approval of the following project:

University of Nebraska-Lincoln Library Depository/Retrieval Center.

The University of Nebraska-Lincoln proposes to construct a new facility on the East Campus of UNL. The major goal is to provide additional space for library collections that are continuing to grow at significant rates. The facility will house approximately 800,000 library print volumes and documents in an area of 8,975 gross square feet. The stringent environmental conditions in the storage area will minimize the deterioration of books and other documents stored in the facility. The project is estimated to cost \$2,997,000.

Request. The University requests approval for this Library Depository/Retrieval Center totaling \$2,997,000 to be financed from indirect cost funds.

The Board of Regents authorized the project at its June 20, 1998, meeting and the expenditures at its August 9, 2003, meeting. On September 18, 1998, the Nebraska Coordinating Commission for Postsecondary Education approved the project.

Thank you for your consideration of this project.

Respectfully submitted,

(Signed) Kim M. Robak
Vice President for External Affairs
and Corporation Secretary

KMR/rk/nko

February 9, 2004

Senator Pat Engel
Chairman, Executive Board
Room 2010, State Capitol
Lincoln, NE 68509

Dear Senator Engel,

Enclosed is correspondence from Ms. Kim Robak, Vice President for External Affairs and Corporation Secretary for the University of Nebraska-Lincoln. The University is requesting approval to construct the University of Nebraska-Lincoln Depository/Retrieval Center through indirect cost funds.

I am forwarding this correspondence to you for Executive Board action.

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

PJO:jk

GENERAL FILE

LEGISLATIVE BILL 841. The Chambers pending amendment, FA1456, found in this day's Journal, was renewed.

Senator Chambers withdrew his amendment.

Advanced to E & R for review with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

STANDING COMMITTEE REPORTS Health and Human Services

LEGISLATIVE BILL 1069. Placed on General File.

LEGISLATIVE BILL 1140. Placed on General File.

LEGISLATIVE BILL 921. Placed on General File as amended.

Standing Committee amendment to LB 921:

AM2399

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

3 "Section 1. Section 43-146.17, Revised Statutes
4 Supplement, 2002, is amended to read:
5 43-146.17. (1) Notwithstanding sections 43-119 to
6 43-146.16 and except as otherwise provided in this section, an heir
7 twenty-one years of age or older of an adopted person shall have
8 access to all information on file at the Department of Health and
9 Human Services and the Department of Health and Human Services
10 Finance and Support related to such adopted person, including
11 information contained in the original birth certificate of the
12 adopted person, if: (a)(i) ~~The~~ ~~(1)(a)~~ ~~the~~ adopted person is
13 deceased, ~~(b)~~ (ii) both biological parents of the adopted person
14 are deceased or, if only one biological parent is known, such
15 parent is deceased, and ~~(c)~~ (iii) each spouse of the biological
16 parent or parents of the adopted person, if any, is deceased, if
17 such spouse is not a biological parent; or ~~(2)~~ (b) at least one
18 hundred years has passed since the birth of the adopted person.
19 (2) The following information relating to an adopted
20 person shall not be released to the heir of such person under this
21 section: (a) Tests conducted for the human immunodeficiency virus
22 or acquired immunodeficiency syndrome; (b) the revocation of a
23 license to practice medicine in the State of Nebraska; (c) child
24 protective services reports or records; (d) adult protective
25 services reports or records; (e) child abuse and neglect central
26 register and Adult Protective Services Central Registry
27 information; or (f) law enforcement investigative reports.
28 (3) ~~The department~~ Department of Health and Human
29 Services and the Department of Health and Human Services Finance
30 and Support shall provide a form ~~for requesting such that an heir~~
31 of an adopted person may use to request information under this
32 section. ~~The department~~ Department of Health and Human Services
33 and the Department of Health and Human Services Finance and Support
34 may charge a reasonable fee in an amount established by rules and
35 regulations of ~~the each~~ department to recover expenses incurred by
36 ~~the department~~ in carrying out this section. ~~The department may~~
37 ~~waive the~~ Such fee may be waived if the requesting party shows that
38 the fee would work an undue financial hardship on the party. When
39 any information is provided to an heir of an adopted person under
40 this section, ~~the department shall record~~ disclosure of such
41 information shall be recorded in the records of the adopted person,
42 including the nature of the information disclosed, to whom the
43 information was disclosed, and the date of the disclosure.
44 (4) For purposes of this section, an heir of an adopted
45 person means a direct biological descendent of such adopted person.
46 (5) ~~The department~~ Department of Health and Human
47 Services and the Department of Health and Human Services Finance
48 and Support may adopt and promulgate rules and regulations to carry
49 out this section."

LEGISLATIVE BILL 941. Placed on General File as amended.

Standing Committee amendment to LB 941:

AM2388

- 1 1. Strike sections 2 and 9 and insert the following new
 2 sections:
 3 "Sec. 2. Section 71-6103, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 71-6103. For purposes of the Occupational Therapy
 6 Practice Act, unless the context otherwise requires:
 7 (1) Active license means the license of a person who is
 8 acting, practicing, functioning, and working in compliance with the
 9 requirements of a license;
 10 (2) Association means a recognized national or state
 11 association for occupational therapy;
 12 (3) Board means the Board of Occupational Therapy
 13 Practice established by section 71-6115;
 14 (4) Credentialing means the process of obtaining state
 15 approval to provide health care services or human services or to
 16 change aspects of a current approval and includes, but is not
 17 limited to, granting permission to use a protected title that
 18 signifies that a person is qualified to provide the services within
 19 the scope of practice of a profession;
 20 (5) Deep thermal agent modalities means therapeutic
 21 ultrasound and phonophoresis. Deep thermal agent modalities does
 22 not include the use of diathermy or lasers;
 23 (6) Department means the Department of Health and Human
 24 Services Regulation and Licensure;
 1 ~~(6) License means a license issued under the act;~~
 2 ~~(7) Licensee means a person holding a license;~~
 3 ~~(8) (7) Electrotherapeutic agent modalities means~~
 4 neuromuscular electrical stimulation, transcutaneous electrical
 5 nerve stimulation, and iontophoresis. Electrotherapeutic agent
 6 modalities does not include the use of ultraviolet light;
 7 (8) Mechanical devices means intermittent compression
 8 devices. Mechanical devices does not include devices to perform
 9 spinal traction;
 10 (9) Occupational therapist means a person holding an
 11 active license as an occupational therapist to practice
 12 occupational therapy;
 13 ~~(9) (10)(a) Occupational therapy means the use of~~
 14 purposeful activity with individuals who are limited by physical
 15 injury or illness, psychosocial dysfunction, developmental or
 16 learning disabilities, or the aging process in order to maximize
 17 independence independent function, prevent further disability, and
 18 achieve and maintain health and productivity.
 19 (b) Occupational therapy encompasses evaluation,
 20 treatment, and consultation and may include teaching daily living
 21 skills, developing perceptual motor skills and sensory integrative
 22 functioning, developing prevocational capacities, designing,
 23 fabricating, or applying selected orthotic and prosthetic devices

24 ~~or selective adaptive equipment, using specifically designed~~
 25 ~~therapeutic media and exercises to enhance functional performance,~~
 26 ~~administering and interpreting tests such as manual muscle and~~
 27 ~~range of motion, and adapting environments for the handicapped (i)~~
 1 ~~remediation or restoration of performance abilities that are~~
 2 ~~limited due to impairment in biological, physiological,~~
 3 ~~psychological, or neurological processes, (ii) adaptation of task,~~
 4 ~~process, or the environment, or the teaching of compensatory~~
 5 ~~techniques, in order to enhance performance, (iii) disability~~
 6 ~~prevention methods and techniques which facilitate the development~~
 7 ~~or safe application of performance skills, and (iv) health~~
 8 ~~promotion strategies and practices which enhance performance~~
 9 ~~abilities;~~

10 ~~(10) (11) Occupational therapy aide means a person who~~
 11 ~~assists in the practice of occupational therapy, who works under~~
 12 ~~the supervision of an occupational therapist, and whose activities~~
 13 ~~require an understanding of occupational therapy but do not require~~
 14 ~~professional or advanced training or licensure is not licensed by~~
 15 ~~the board and who provides supportive services to occupational~~
 16 ~~therapists and occupational therapy assistants;~~

17 ~~(11) (12) Occupational therapy assistant means a person~~
 18 ~~holding an active license to assist in the practice of occupational~~
 19 ~~therapy;~~

20 ~~(12) (13) Physical agent modalities means modalities that~~
 21 ~~produce a biophysiological response through the use of water,~~
 22 ~~temperature, sound, electricity, or mechanical devices; and~~

23 ~~(13) (14) Superficial thermal agent modalities means hot~~
 24 ~~packs, cold packs, ice, fluidotherapy, paraffin, water, and other~~
 25 ~~commercially available superficial heating and cooling~~
 26 ~~technologies, as an occupational therapy assistant; and~~

27 ~~(14) (12) Person means any individual, partnership, limited~~
 1 ~~liability company, unincorporated organization, or corporate body.~~

2 ~~Sec. 9. (1) In order to apply physical agent modalities,~~
 3 ~~an occupational therapist shall be certified pursuant to this~~
 4 ~~section. The department shall issue a certificate to an~~
 5 ~~occupational therapist to administer a physical agent modality if~~
 6 ~~the occupational therapist:~~

7 ~~(a) Has successfully completed a training course approved~~
 8 ~~by the board and passed an examination approved by the board on the~~
 9 ~~physical agent modality;~~

10 ~~(b) Is certified as a hand therapist by the Hand Therapy~~
 11 ~~Certification Commission or other equivalent entity recognized by~~
 12 ~~the board;~~

13 ~~(c) Has a minimum of five years of experience in the use~~
 14 ~~of the physical agent modality and has passed an examination~~
 15 ~~approved by the board on the physical agent modality; or~~

16 ~~(d) Has completed education during a basic educational~~
 17 ~~program which included demonstration of competencies for~~
 18 ~~application of the physical agent modality.~~

19 (2) The department shall issue a certificate to authorize
 20 an occupational therapy assistant to set up and implement treatment
 21 using superficial thermal agent modalities if the occupational
 22 therapy assistant has successfully completed a training course
 23 approved by the board and passed an examination approved by the
 24 board. Such set up and implementation shall only be done under the
 25 onsite supervision of an occupational therapist certified to
 26 administer superficial thermal agent modalities.

27 (3) An occupational therapist shall not delegate
 1 evaluation, reevaluation, treatment planning, and treatment goals
 2 for physical agent modalities to an occupational therapy
 3 assistant."

4 2. On page 6, line 15, strike "Apply" and insert "If
 5 certified pursuant to section 9 of this act, apply".

6 3. On page 11, line 1, after "Act" insert "to protect
 7 the public health, safety, and welfare and to insure, to the
 8 greatest extent possible, the efficient, adequate, and safe
 9 practice of occupational therapy"; in line 12 strike "The" and
 10 insert "Except as provided in subsection (4) of this section, the";
 11 and after line 16 insert the following new subsection:

12 "(4) The board may adopt and promulgate rules and
 13 regulations governing the training courses for an occupational
 14 therapist to be certified to administer a physical agent modality.
 15 The board may adopt and promulgate rules and regulations governing
 16 the training course for an occupational therapy assistant to be
 17 certified to set up and implement superficial thermal agent
 18 modalities. In adopting such rules and regulations, the board
 19 shall give consideration to the levels of training and experience
 20 which are required, in the opinion of the board, to protect the
 21 public health, safety, and welfare and to insure, to the greatest
 22 extent possible, the efficient, adequate, and safe practice of
 23 occupational therapy. Such rules and regulations shall include the
 24 approval of examinations and the passing score for such
 25 examinations for certification."

LEGISLATIVE BILL 942. Placed on General File as amended.

(Standing Committee amendment, AM2456, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1054. Placed on General File as amended.

Standing Committee amendment to LB 1054:

AM2449

1 1. Insert the following new sections:

2 "Sec. 4. Section 71-5661, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 71-5661. (1) The financial incentives provided by the
 5 Rural Health Systems and Professional Incentive Act shall consist
 6 of (a) student loans to eligible students for attendance at an
 7 eligible school as determined pursuant to section 71-5662 and (b)

8 the repayment of qualified educational debts owed by eligible
 9 health professionals as determined pursuant to such section. Funds
 10 for such incentives shall be appropriated from the General Fund to
 11 the department for such purposes.

12 (2) The Rural Health Professional Incentive Fund is
 13 created. The fund shall be used to carry out the purposes of the
 14 act. Money credited pursuant to section 71-5670.01 and payments
 15 received pursuant to sections 71-5666 and 71-5668 shall be remitted
 16 to the State Treasurer for credit to the fund. Any money in the
 17 fund available for investment shall be invested by the state
 18 investment officer pursuant to the Nebraska Capital Expansion Act
 19 and the Nebraska State Funds Investment Act.

20 Sec. 9. Since an emergency exists, this act takes effect
 21 when passed and approved according to law."

22 2. On page 8, line 21, strike "71-5662," and insert
 23 "71-5661 to".

24 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 1240. Placed on General File as amended.
 Standing Committee amendment to LB 1240:
 AM2478

- 1 1. On page 2, strike beginning with "and" in line 23
- 2 through "program" in line 24.

(Signed) Jim Jensen, Chairperson

General Affairs

LEGISLATIVE BILL 1201. Placed on General File as amended.
 Standing Committee amendment to LB 1201:
 AM2489

- 1 1. On page 2, line 6, strike "columbariums" and insert
- 2 "columbaria"; and in line 19 strike "The" and insert
- 3 "(b) Except as provided in subdivision (c) of this
- 4 subsection, the".
- 5 2. On page 3, line 5, strike "(b)" through "the" and
- 6 insert
- 7 "(c) The information required in subdivision (b) of this
- 8 subsection regarding the operation and maintenance of a cemetery,
- 9 burial ground, mausoleum, or columbarium prior to January 1, 2005,
- 10 shall be required only if such information is reasonably available
- 11 to the registering entity.
- 12 (d) The entity owning, operating, or maintaining the
- 13 cemetery, burial ground, mausoleum, or columbarium may include the
- 14 following information in the registration: (i) The"; in line 8
- 15 before "information" insert "(ii)"; in line 10 strike "A" and
- 16 insert "The entity owning, operating, or maintaining a"; and in
- 17 line 11 strike "be registered" and insert "register".

(Signed) Ray Janssen, Chairperson

GENERAL FILE

LEGISLATIVE BILL 986. Title read. Considered.

The Standing Committee amendment, AM2364, found on page 461, was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 1049. Title read. Considered.

Senator Loudon renewed his pending amendment, AM2291, found on page 507.

Pending.

STANDING COMMITTEE REPORTS

Natural Resources

The Natural Resources 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.

Environmental Quality Council

Steve Oltmans

Jodi Thompson

VOTE: Aye: Senators Friend, Jones, Kremer, Loudon, Preister, Schrock, and Stuhr. Nay: None. Absent: Senator Hudkins.

(Signed) Ed Schrock, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 819. Placed on General File.

LEGISLATIVE BILL 940. Placed on General File as amended.

Standing Committee amendment to LB 940:

AM2517

1 1. Strike original sections 3 to 7 and insert the
2 following new section:

3 "Sec. 3. Original section 81-8,271.01, Reissue Revised

4 Statutes of Nebraska, and section 43-260, Revised Statutes

5 Supplement, 2002, are repealed."

6 2. On page 7, line 24, strike "81-1201.04 to

7 81-1201.06,".

8 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 1033. Placed on General File as amended.

Standing Committee amendment to LB 1033:

AM2516

- 1 1. Insert the following new section:
- 2 "Sec. 3. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

LEGISLATIVE BILL 1118. Placed on General File as amended.

Standing Committee amendment to LB 1118:

AM2494

- 1 1. Strike original section 3 and insert the following
- 2 new section:
- 3 "Sec. 3. Section 84-304, Revised Statutes Supplement,
- 4 2003, is amended to read:
- 5 84-304. It shall be the duty of the Auditor of Public
- 6 Accounts:
- 7 (1) To give information in writing to the Legislature,
- 8 whenever required, upon any subject relating to the fiscal affairs
- 9 of the state or with regard to any duty of his or her office;
- 10 (2) To furnish offices for himself or herself and all
- 11 fuel, lights, books, blanks, forms, paper, and stationery required
- 12 for the proper discharge of the duties of his or her office;
- 13 (3) To examine or cause to be examined, ~~in accordance~~
- 14 ~~with generally accepted government auditing standards for financial~~
- 15 ~~audits, as that term is defined in the Electronic Codification of~~
- 16 ~~Government Auditing Standards as of July 1999, published by the~~
- 17 ~~Comptroller General of the United States, General Accounting~~
- 18 ~~Office, at such time as he or she shall determine, books, accounts,~~
- 19 ~~vouchers, records, and expenditures of all state officers, state~~
- 20 ~~bureaus, state boards, state commissioners, the state library,~~
- 21 ~~societies and associations supported by the state, state~~
- 22 ~~institutions, state colleges, and the University of Nebraska,~~
- 23 ~~except when required to be performed by other officers or persons.~~
- 24 Such examinations shall be done in accordance with generally
- 1 accepted government auditing standards for financial audits and
- 2 attestation engagements set forth in Government Auditing Standards
- 3 (2003 Revision), published by the Comptroller General of the United
- 4 States, General Accounting Office, and except as provided in
- 5 subdivision (12) of this section, subdivision (17) of section
- 6 50-1205, and section 84-322, shall not include performance audits
- 7 as defined in Government Auditing Standards (2003 Revision)
- 8 published by the Comptroller General of the United States, General
- 9 Accounting Office;
- 10 (4)(a) To examine or cause to be examined, at the expense
- 11 of the political subdivision, when the Auditor of Public Accounts
- 12 determines such examination necessary or when requested by the
- 13 political subdivision, the books, accounts, vouchers, records, and

14 expenditures of any agricultural association formed under Chapter
15 2, article 20, county agricultural society, joint airport authority
16 formed under the Joint Airport Authorities Act, city or county
17 airport authority, bridge commission created pursuant to section
18 39-868, cemetery district, development district, drainage district,
19 health district, historical society, hospital authority or
20 district, county hospital, housing agency as defined in section
21 71-1575, irrigation district, county or municipal library,
22 community mental health center, railroad transportation safety
23 district, rural water district, township, Wyuka Cemetery, any
24 village, any political subdivision with the authority to levy a
25 property tax or a toll, or any entity created pursuant to the Joint
26 Public Agency Act which has separately levied a property tax based
27 on legal authority for a joint public agency to levy such a tax
1 independent of the public agencies forming such joint public
2 agency.

3 (b) The Auditor of Public Accounts may waive the audit
4 requirement of subdivision (4)(a) of this section upon the
5 submission by the political subdivision of a written request in a
6 form prescribed by the auditor. The auditor shall notify the
7 political subdivision in writing of the approval or denial of the
8 request for a waiver;

9 (5) To report promptly to the Governor and the
10 appropriate standing committee of the Legislature the fiscal
11 condition shown by such examinations conducted by the auditor,
12 including any irregularities or misconduct of officers or
13 employees, any misappropriation or misuse of public funds or
14 property, and any improper system or method of bookkeeping or
15 condition of accounts. In addition, if, in the normal course of
16 conducting an audit in accordance with subdivision (3) of this
17 section, generally accepted government auditing standards for
18 financial audits, as that term is defined in the Electronic
19 Codification of Government Auditing Standards as of July 1999,
20 published by the Comptroller General of the United States, General
21 Accounting Office, the auditor discovers any potential problems
22 related to the effectiveness, efficiency, or performance of state
23 programs, he or she shall immediately report them in writing to the
24 Legislative Performance Audit Committee which may investigate the
25 issue further, report it to the appropriate standing committee of
26 the Legislature, or both;

27 (6)(a) To examine or cause to be examined the books,
1 accounts, vouchers, records, and expenditures of a fire protection
2 district. The expense of the examination shall be paid by the
3 political subdivision.

4 (b) Whenever the expenditures of a fire protection
5 district are one hundred fifty thousand dollars or less per fiscal
6 year, the fire protection district shall be audited no more than
7 once every five years except as directed by the board of directors
8 of the fire protection district or unless the auditor receives a

9 verifiable report from a third party indicating any irregularities
10 or misconduct of officers or employees of the fire protection
11 district, any misappropriation or misuse of public funds or
12 property, or any improper system or method of bookkeeping or
13 condition of accounts of the fire protection district. In the
14 absence of such a report, the auditor may waive the five-year audit
15 requirement upon the submission of a written request by the fire
16 protection district in a form prescribed by the auditor. The
17 auditor shall notify the fire protection district in writing of the
18 approval or denial of a request for waiver of the five-year audit
19 requirement. Upon approval of the request for waiver of the
20 five-year audit requirement, a new five-year audit period shall
21 begin.

22 (c) Whenever the expenditures of a fire protection
23 district exceed one hundred fifty thousand dollars in a fiscal
24 year, the auditor may waive the audit requirement upon the
25 submission of a written request by the fire protection district in
26 a form prescribed by the auditor. The auditor shall notify the
27 fire protection district in writing of the approval or denial of a
1 request for waiver. Upon approval of the request for waiver, a new
2 five-year audit period shall begin for the fire protection district
3 if its expenditures are one hundred fifty thousand dollars or less
4 per fiscal year in subsequent years;

5 (7) To appoint two assistant deputies (a) whose entire
6 time shall be devoted to the service of the state as directed by
7 the auditor, (b) who shall be certified public accountants with at
8 least five years' experience, (c) who shall be selected without
9 regard to party affiliation or to place of residence at the time of
10 appointment, (d) who shall promptly report in duplicate to the
11 auditor the fiscal condition shown by each examination, including
12 any irregularities or misconduct of officers or employees, any
13 misappropriation or misuse of public funds or property, and any
14 improper system or method of bookkeeping or condition of accounts,
15 and it shall be the duty of the auditor to file promptly with the
16 Governor a duplicate of such report, and (e) who shall qualify by
17 taking an oath which shall be filed in the office of the Secretary
18 of State;

19 (8) To conduct audits and related activities for state
20 agencies, political subdivisions of this state, or grantees of
21 federal funds disbursed by a receiving agency on a contractual or
22 other basis for reimbursement to assure proper accounting by all
23 such agencies, political subdivisions, and grantees for funds
24 appropriated by the Legislature and federal funds disbursed by any
25 receiving agency. The auditor may contract with any political
26 subdivision to perform the audit of such political subdivision
27 required by or provided for in section 23-1608 or 79-1229 or this
1 section and charge the political subdivision for conducting the
2 audit. The fees charged by the auditor for conducting audits on a
3 contractual basis shall be in an amount sufficient to pay the cost

4 of the audit. The fees remitted to the auditor for such audits and
 5 services shall be deposited in the Auditor of Public Accounts Cash
 6 Fund;

7 (9) To conduct all audits and examinations in a timely
 8 manner and in accordance with the standards for audits of
 9 governmental organizations, programs, activities, and functions
 10 published by the Comptroller General of the United States;

11 (10) To develop a plan for implementing on-line filing of
 12 budgeted and actual financial information by political
 13 subdivisions. Such plan shall describe the technology and staff
 14 resources necessary to implement on-line filing of such information
 15 and the costs of these resources. Such plan shall be presented to
 16 the Clerk of the Legislature on or before January 15, 2003;

17 (11) To develop and maintain an annual budget and actual
 18 financial information reporting system that is accessible on-line
 19 by the public; and

20 (12) When authorized, to conduct joint audits with the
 21 Legislative Performance Audit Committee as described in section
 22 50-1205."

(Signed) DiAnna R. Schimek, Chairperson

AMENDMENTS - Print in Journal

Senator Wehrbein filed the following amendment to LB 279:
 AM2515

(Amendments to E & R amendments, AM7162)

1 1. Insert the following new section:
 2 "Sec. 4. Section 60-339, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 60-339. Upon application to register any motor vehicle,
 5 no registration fee required by Chapter 60, article 3, motor
 6 vehicle tax imposed in section 60-3002, or motor vehicle fee
 7 imposed in section 60-3007 shall be required to be paid thereon for
 8 any previous registration period during which such motor vehicle
 9 was not at any time used or driven upon any public highway within
 10 this state, and the person desiring to register such motor vehicle
 11 without payment of such taxes and fees for previous registration
 12 periods shall file with the county treasurer or designated county
 13 official as provided in section 60-302 an affidavit showing where,
 14 when, and for how long such motor vehicle was stored and stating
 15 that the same motor vehicle was not used in this state during such
 16 registration period or periods. Upon ; ~~and upon~~ receipt ~~thereof~~ of
 17 such affidavit, the county treasurer or designated county official
 18 shall issue a registration certificate. If no affidavit is filed
 19 or if the affidavit filed is proved to be false, all such taxes and
 20 fees due for any previous registration period or periods and late
 21 fees if required under subsection (8) of section 60-302 shall be
 22 paid prior to the issuance of a registration certificate. "

- 23 2. On page 13, line 25, after "Original" insert "section
 1 60-339, Reissue Revised Statutes of Nebraska,".
 2 3. Renumber the remaining section accordingly.

Senator Wehrbein filed the following amendment to LB 279:
 AM2509

(Amendments to E & R amendments, AM7162)

- 1 1. In the Wehrbein amendment, AM2353, on page 4, line 6,
 2 after "(8)" insert "If a person fails to register his or her motor
 3 vehicle as required in Chapter 60, article 3, and pay registration
 4 fees required by Chapter 60, article 3, motor vehicle taxes imposed
 5 in section 60-3002, motor vehicle fees imposed in section 60-3007,
 6 and motor vehicle sales taxes as prescribed in section 77-2703 when
 7 due, the county treasurer or his or her agent shall collect a late
 8 fee of fourteen percent per annum of the motor vehicle tax due.
 9 Such late fee shall be credited to the county general fund.
 10 (9)"; in line 9 after "due" insert ", including a late
 11 fee under subsection (8) of this section."; in lines 12 to 16
 12 strike the new matter and all amendments thereto; in line 17 strike
 13 "(9)", show as stricken, and insert "(10)"; in line 22 strike
 14 "(10)", show as stricken, and insert "(11)"; and in line 26 strike
 15 "(11)", show as stricken, and insert "(12)".

Senator Preister filed the following amendment to LB 449:
 AM2492

- 1 1. Insert the following new section:
 2 "Sec. 4. Section 81-15,248, Revised Statutes Supplement,
 3 2003, is amended to read:
 4 81-15,248. (1) Beginning January 1, 2004, a private
 5 onsite wastewater treatment system shall not be sited, laid out,
 6 constructed, reconstructed, altered, modified, repaired, inspected,
 7 or pumped unless the siting, layout, construction, reconstruction,
 8 alteration, modification, repair, inspection, or pumping is carried
 9 out or supervised by either a certified professional as required by
 10 the Private Onsite Wastewater Treatment System Contractors
 11 Certification and System Registration Act, ~~or~~ a professional
 12 engineer licensed in Nebraska, or a registered environmental health
 13 specialist registered in Nebraska.
 14 (2) Beginning January 1, 2004, any private onsite
 15 wastewater treatment system constructed, reconstructed, altered, or
 16 modified, ~~or inspected~~ by a certified professional, professional
 17 engineer licensed in Nebraska, or registered environmental health
 18 specialist registered in Nebraska shall be registered with the
 19 department by the certified professional, professional engineer, or
 20 registered environmental health specialist within forty-five days
 21 of completion of the construction, reconstruction, alteration, or
 22 modification, ~~or inspection~~. The certified professional,
 23 professional engineer, or registered environmental health
 24 specialist shall submit the registration on forms provided by the

1 department and shall include the registration fee. The
 2 registration fee shall be fifty dollars until rules and regulations
 3 adopted and promulgated under the act provide a schedule of system
 4 registration fees adequate to cover direct and indirect program
 5 costs.

6 (3) The department may issue a temporary provisional
 7 certificate which shall satisfy the requirements of subsection (1)
 8 of this section until December 31, 2005, to an individual who
 9 applies to the department and includes with the application (a) a
 10 fee of three hundred dollars and (b) a properly executed and sworn
 11 affidavit stating that the applicant was engaged in activity
 12 relating to the siting, layout, construction, reconstruction,
 13 alteration, modification, repair, inspection, or pumping of a
 14 private onsite wastewater treatment system for at least twelve
 15 months preceding August 31, 2003. The affidavit shall specify the
 16 activity or activities listed in this subsection in which the
 17 applicant was engaged during such time.

18 (4) All temporary provisional certificates issued
 19 pursuant to subsection (3) of this section shall be subject to all
 20 administrative and enforcement authority of the department under
 21 the act and any rules and regulations relating to private onsite
 22 wastewater treatment systems adopted and promulgated by the council
 23 under the Environmental Protection Act.

24 (5) All temporary provisional certificates issued under
 25 subsection (3) of this section shall expire on December 31, 2005.
 26 Any individual holding a temporary provisional certificate wishing
 27 to become a certified professional under the Private Onsite
 1 Wastewater Treatment System Contractors Certification and System
 2 Registration Act shall before such date meet the requirements for
 3 such certification contained in the rules and regulations of the
 4 council adopted and promulgated pursuant to section 81-15,247.

5 (6) The director by contract may delegate onsite
 6 wastewater treatment system inspection and registration to a
 7 governmental subdivision which has adopted a program at least as
 8 stringent as the requirements provided by the Private Onsite
 9 Wastewater Treatment System Contractors Certification and System
 10 Registration Act and which has demonstrated authority to administer
 11 and enforce its onsite wastewater treatment system inspection and
 12 registration program."

13 2. On page 21, line 14, after the second comma insert
 14 "and section 81-15,248, Revised Statutes Supplement, 2003,".

15 3. Renumber the remaining section accordingly.

Senator Baker filed the following amendment to LB 559:
 AM2495

1 1. On page 5, line 4, reinstate the stricken matter and
 2 strike the new matter; and in line 5 strike "be".

3 2. On page 7, lines 5, 9, 15, and 23, strike

4 "endorsement" and insert "class, endorsement, or restriction".

- 5 3. On page 18, line 24, strike "course" and insert
6 "school".
7 4. On page 26, lines 17 and 18, reinstate the stricken
8 matter and strike the new matter.

UNANIMOUS CONSENT - Add cointroducer

Senator Stuhr asked unanimous consent to have her name added as cointroducer to LB 1211. No objections. So ordered.

VISITORS

Visitors to the Chamber were Boy Scout Pack 307 from Deshler; 6 seniors and teacher from Twin Valley School, Bartley; 38 high school students and teacher from Lincoln Christian School, Lincoln; and students and teachers of Family and Consumer Science classes from seven schools in Nebraska.

The Doctor of the Day was Dr. Lisa Rauner from Lincoln.

ADJOURNMENT

At 12:00 p.m., on a motion by Senator Combs, the Legislature adjourned until 9:00 a.m., Tuesday, February 10, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-THIRD DAY - FEBRUARY 10, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 10, 2004

PRAYER

The prayer was offered by Pastor Bob Larson, St. Paul's Lutheran Churches, Elim and Hooper.

ROLL CALL

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

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Foley, Jensen, Landis, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-second day was approved.

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

The following bills were correctly engrossed: LBs 208 and 353.

ER9095

Enrollment and Review Change to LB 208

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

1. On page 1, the matter beginning with "sections" in line 1 through line 9 has been struck and "sections 60-6,108 and 60-6,210, Reissue Revised Statutes of Nebraska, sections 28-306, 28-394, 29-3605, and 60-601, Revised Statutes Supplement, 2002, and sections 60-484, 60-498.01, 60-498.02, 60-4,144, 60-6,196, 60-6,197, 60-6,209, 60-6,211.04, 60-6,211.05, and 83-1,129, Revised Statutes Supplement, 2003; to change

and transfer provisions relating to driving under the influence and implied consent; to harmonize provisions; and to repeal the original sections." inserted.

2. On page 19, lines 17 and 18; page 20, line 8; and page 28, lines 20 and 25, "11 to 17" has been struck and "12 to 18" inserted.

3. On page 36, lines 5 and 6; and page 41, line 19, "12" has been struck and "13" inserted.

4. On page 42, line 8; and page 49, line 6, "11 and 12" has been struck and "12 and 13" inserted.

(Signed) Ray Mossey, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board referred the University of Nebraska's request to issue revenue bonds to the Appropriations Committee for further consideration.

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

GENERAL FILE

LEGISLATIVE BILL 139A. Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 1049. The Loudon pending amendment, AM2291, found on page 507 and considered on page 581, was renewed.

Senator Schimek offered the following amendment to the Loudon pending amendment:

FA1457

(Amendments to AM2291)

- 1 1. On page 1, line 4, before "and" insert "and".
- 2 compensation related to military service in an international
- 3 conflict or national emergency."

Pending.

NOTICE OF COMMITTEE HEARING

Judiciary
Room 1113

Wednesday, February 25, 2004
James Pearson - Board of Parole
Kenneth J. Vampola - Board of Parole

1:30 p.m.

(Signed) Kermit A. Brashear, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 906. Placed on Select File as amended.
E & R amendment to LB 906:
AM7173

- 1 1. In the Standing Committee amendments, AM2249, on page
- 2 24, line 17, after the comma insert "any person".
- 3 2. On page 1, line 2, strike "71-343" and insert
- 4 "71-344"; in line 8 strike "a penalty" and insert "penalties"; and
- 5 in line 9 strike "an operative date" and insert "operative dates".

LEGISLATIVE BILL 969. Placed on Select File as amended.
(E & R amendment, AM7171, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 841. Placed on Select File.

LEGISLATIVE BILL 986. Placed on Select File as amended.
E & R amendment to LB 986:
AM7172

- 1 1. On page 1, line 4, strike "and" and insert "to
- 2 provide an operative date;"; and in line 5 after "sections" insert
- 3 "; and to declare an emergency".

LEGISLATIVE BILL 139A. Placed on Select File.

(Signed) Ray Mossey, Chairperson

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 1049:
AM2553

- 1 1. On page 2, line 22, before the semicolon insert "
- 2 Leaving work voluntarily for the sole purpose of relocating in
- 3 order to allow a spouse to accept previously secured, permanent,
- 4 full-time work, which the spouse does accept, is good cause if the
- 5 spouse's work offers a reasonable expectation of betterment of
- 6 wages or working conditions".

Senator Beutler filed the following amendment to LB 1049:
AM2552

- 1 1. On page 2, line 7, strike "thirteen" and insert
- 2 "eleven".

Senator Beutler filed the following amendment to LB 1049:
AM2554

- 1 1. On page 3, line 4, reinstate the stricken "not less
- 2 than seven weeks nor more than"; and in line 11 reinstate the
- 3 stricken matter.

Senator Byars filed the following amendment to LB 279:
AM2547

(Amendments to E & R amendments, AM7162)

- 1 1. Insert the following new section:
- 2 "Sec. 3. Section 60-311.03, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 60-311.03. (1) Any resident of this state may, in
- 5 addition to the application required by section 60-302, make
- 6 application to the Department of Motor Vehicles for a set of
- 7 license plates designed by the department to indicate that the
- 8 applicant for the plates is a survivor of the Japanese attack on
- 9 Pearl Harbor if he or she:
- 10 (a) Was a member of the United States Armed Forces on
- 11 December 7, 1941;
- 12 (b) Was on station on December 7, 1941, during the hours
- 13 of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island
- 14 of Oahu, or offshore at a distance not to exceed three miles; and
- 15 (c) Received an honorable discharge from the United
- 16 States Armed Forces. ~~;~~ ~~and~~
- 17 ~~(d) Holds a current membership in a Nebraska Chapter of~~
- 18 ~~the Pearl Harbor Survivors Association.~~
- 19 (2) The plates shall be issued upon the applicant paying
- 20 the regular license fee and an additional fee of five dollars and
- 21 furnishing proof satisfactory to the department that the applicant
- 22 fulfills the requirements provided by subsection (1) of this
- 23 section. Only one motor vehicle owned by the applicant shall be so
- 1 licensed at any one time.
- 2 (3) If the license plates issued pursuant to this section
- 3 are lost, stolen, or mutilated, the recipient of the plates shall
- 4 be issued replacement plates upon request and without charge."
- 5 2. On page 13, line 25, after "Original" insert "section
- 6 60-311.03, Reissue Revised Statutes of Nebraska,".
- 7 3. Renumber the remaining sections accordingly.

Senator Schimek filed the following amendment to LB 1049:
AM2558

- 1 1. On page 4, line 11, after the comma insert "whether
- 2 the employer provides health insurance coverage"; and in line 19
- 3 after the second comma insert "health insurance".

WITHDRAW - Cointroducer

Senator Vrtiska withdrew his name as cointroducer to LB 278.

VISITORS

Visitors to the Chamber were Romell Cooks from Kansas City; Reba Wright, Travis Moore, and Brian and Melissa Olson; and Keith and Jeanette Bottrell from Crete.

ADJOURNMENT

At 11:53 a.m., on a motion by Senator Schimek, the Legislature adjourned until 9:00 a.m., Wednesday, February 11, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-FOURTH DAY - FEBRUARY 11, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 11, 2004

PRAYER

The prayer was offered by Sister Barbara Brumleve, Alegent Health, Omaha.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Baker, Beutler, Brashear, Landis, Maxwell, Dw. Pedersen, Schimek, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 572, line 9, strike "Upon" and insert "upon".

Page 572, line 42, strike "has" and insert "his".

The Journal for the twenty-second day was approved as corrected.

The Journal for the twenty-third day was approved.

MOTION - Approve Appointments

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointments found on page 581:

Environmental Quality Council

Steve Oltmans

Jodi Thompson

Voting in the affirmative, 30:

Aguilar	Combs	Friend	Mines	Schrock
Bourne	Connealy	Hartnett	Mossey	Stuhr
Bromm	Cudaback	Johnson	Pederson, D.	Stuthman
Burling	Engel	Jones	Price	Synowiecki
Byars	Erdman	Kruse	Quandahl	Vrtiska
Chambers	Foley	Louden	Raikes	Wehrbein

Voting in the negative, 0.

Present and not voting, 9:

Brown	Janssen	Kremer	Redfield	Thompson
Cunningham	Jensen	Preister	Smith	

Excused and not voting, 10:

Baker	Brashear	Landis	McDonald	Schimek
Beutler	Hudkins	Maxwell	Pedersen, Dw.	Tyson

The appointments were confirmed with 30 ayes, 0 nays, 9 present and not voting, and 10 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 986A. Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 279. Senator Wehrbein withdrew his pending amendment, AM2354, found on page 464 and considered on page 551.

Senator Wehrbein renewed his pending amendment, AM2515, found on page 585.

Senator Chambers offered the following motion:
Recommit to the Transportation and Telecommunications Committee.

Senator Chambers withdrew his motion.

Senator Wehrbein withdrew his amendment, AM2515.

Senator Wehrbein withdrew his pending amendment, AM2509, found on page 586.

Senator Byars withdrew his pending amendment, AM2547, found on page 592.

Senator Jones offered the following amendment:

FA1459

Strike the Jones amendment, AM2417.

Strike the Wehrbein amendment, AM2353.

The Jones amendment was adopted with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 279A. Senator Jones renewed his pending amendment, AM2408, found on page 487.

The Jones amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

STANDING COMMITTEE REPORTS **Health and Human Services**

LEGISLATIVE BILL 1036. Placed on General File as amended.
(Standing Committee amendment, AM2504, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Jim Jensen, Chairperson

Business and Labor

LEGISLATIVE BILL 951. Placed on General File as amended.
(Standing Committee amendment, AM2523, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Floyd P. Vrtiska, Chairperson

NOTICE OF COMMITTEE HEARING **Health and Human Services** Room 1510

Wednesday, February 18, 2004

1:30 p.m.

Margaret Coleman - Commission for the Deaf and Hard of Hearing

James P. Devaney - Commission for the Deaf and Hard of Hearing

Kenya S. Taylor - Commission for the Deaf and Hard of Hearing

Cecelia J. Bevard - Commission for the Deaf and Hard of Hearing

Timothy Crockett - State Board of Health

Kent H. Forney - State Board of Health

Clinton Schafer - State Board of Health

Jerry Vaughan - State Board of Health
 Gwen Weber - State Board of Health
 Angela Brennan - Rural Health Advisory Commission
 Donald Fry - Rural Health Advisory Commission
 Rebecca Schroeder - Rural Health Advisory Commission
 Michael Sitorius - Rural Health Advisory Commission
 William Welch - Rural Health Advisory Commission
 Roger Wells - Rural Health Advisory Commission
 Robert Burns - Commission for the Blind and Visually Impaired
 Barbara Loos - Commission for the Blind and Visually Impaired
 William Orester - Commission for the Blind and Visually Impaired
 Margaret Connealy - Foster Care Review Board
 David Patterson - Foster Care Review Board
 Judy Meter - Foster Care Review Board
 Thomas Poulton - Foster Care Review Board
 Jim Ganz - Foster Care Review Board
 Kay Lynn Goldner - Foster Care Review Board
 Burrell S. Williams - Foster Care Review Board
 Ronald F. Balthazor - Board of Emergency Medical Services
 Bruce A. Beins - Board of Emergency Medical Services
 Joel E. Cerny - Board of Emergency Medical Services
 David T. Engler - Board of Emergency Medical Services
 Dan L. Hakel - Board of Emergency Medical Services
 Robert K. Olson - Board of Emergency Medical Services
 Earl Rudolph - Board of Emergency Medical Services
 Val D. Snyder - Board of Emergency Medical Services
 George Tom Surber - Board of Emergency Medical Services
 Diane L. Yetter - Board of Emergency Medical Services
 Debra Phelps - Child Abuse Prevention Fund Board
 Jennie Cole-Mossman - Child Abuse Prevention Fund Board
 Dale Baker - Child Abuse Prevention Fund Board

(Signed) Jim Jensen, Chairperson

SELECT FILE

LEGISLATIVE BILL 37. E & R amendment, AM7161, found on page 390, was adopted.

Senator Price renewed her pending amendment, AM2382, found on page 506.

The Price amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 37A. E & R amendment, AM7163, found on page 394, was adopted.

Senator Price withdrew her pending amendment, AM2297, found on page 412.

Senator Price renewed her pending amendment, AM2383, found on page 507.

The Price amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 139. E & R amendment, AM7165, found on page 441, was adopted.

Senator Johnson renewed his pending amendment, AM2414, found on page 554.

The Johnson amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 139A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 270. E & R amendment, AM7166, found on page 476, was adopted.

Senator Brashear withdrew his pending motion, found on page 2015, First Session, 2003, to suspend Rule 6, Section 5 and Rule 7, Sections 3 and 7, and vote on the advancement of LB 270 without further amendment or debate.

Senator Brashear withdrew his pending motion, found on page 2015, First Session, 2003, to suspend Rule 6, Sections 6, 7 and 8, and Rule 7, Sections 3 and 7, and vote on the advancement of LB 270 without further amendment or debate.

Senator Beutler renewed his pending amendment, AM2215, found on page 439.

The Beutler amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Senator Brashear offered the following amendment:
AM2441

(Amendments to AM2019)

1. On page 12, line 25, after "81-1848" insert "and
2 sections 11 and 12 of this act".

- 3 2. On page 13, lines 22 and 26, after "board" insert "2
 4 the county corrections agency,".
 5 3. On page 17, line 14, after the semicolon insert
 6 "and"; in line 21 strike "department" and insert "Department of
 7 Correctional Services, the Department of Health and Human
 8 Services"; and in line 18 strike "2003" and insert "2004".

The Brashear amendment was adopted with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 559. E & R amendment, AM7169, printed separately and referred to on page 505, was adopted.

Senator Baker asked unanimous consent to withdraw his pending amendment, AM2495, found on page 587, and replace it with his substitute amendment, FA1458. No objections. So ordered.

FA1458

Amend AM7169

1. On page 5, line 4, reinstate the stricken matter and strike the new matter; and in line 5 strike "be".
2. On page 7, lines 5, 9, 15, and 23, strike "endorsement" and insert "class, endorsement, or restriction".
3. On page 18, line 24, strike "course" and insert "school".
4. On page 26, lines 17 and 18, reinstate the stricken matter and strike the new matter.

The Baker amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Senator Thompson offered the following amendment:

AM2564

(Amendments to E & R amendments, AM7169)

- 1 1. Strike sections 21 and 22 and insert the following
- 2 new sections:
- 3 "Sec. 7. Section 60-493, Revised Statutes Supplement,
- 4 2002, is amended to read:
- 5 60-493. When a person applies for an operator's license
- 6 or state identification card, the county treasurer or examiner of
- 7 the Department of Motor Vehicles shall distribute a brochure
- 8 provided by an organ and tissue ~~recovery agency~~ procurement
- 9 organization and approved by the Department of Health and Human
- 10 Services Regulation and Licensure containing a description and
- 11 explanation of the Uniform Anatomical Gift Act to each person
- 12 applying for a new or renewal license or card. ~~Beginning October~~
- 13 ~~1, 2000, the brochure shall include the information prescribed in~~
- 14 ~~subsection (4) of section 60-494.~~
- 15 If an individual desires to receive additional specific

16 information regarding organ and tissue donation and the Donor
 17 Registry of Nebraska as indicated on an application or examiner's
 18 certificate under section 60-484, 60-4,144, or 60-4,181, the
 19 department shall notify a representative of the Nebraska Organ
 20 Retrieval System federally designated organ procurement
 21 organization in Nebraska within five working days of the name and
 22 address of such individual.

23 Sec. 8. Section 60-494, Revised Statutes Supplement,
 1 2002, is amended to read:

2 60-494. (1) Each operator's license and state
 3 identification card shall include a special ~~notification~~ notation
 4 on the front of the license or card if the licensee or cardholder
 5 ~~desires to make an organ and tissue donation~~ indicates on the
 6 application or examiner's certificate under section 60-484,
 7 60-4,144, or 60-4,181 his or her wish to be an organ donor, a
 8 tissue donor, or both.

9 (2) The ~~organ and tissue donation~~ status as an organ
 10 donor, a tissue donor, or both shall be renewed upon renewal of
 11 each license or card ~~only~~ if the licensee or cardholder, at the
 12 time of renewal, indicates the desire to renew the ~~organ and tissue~~
 13 donation.

14 (3) ~~No licensee or cardholder shall be deemed to have~~
 15 ~~authorized an organ and tissue donation if status and the notation~~
 16 ~~authorized in subsection (1) of this section has not been marked.~~
 17 The status as an organ donor, a tissue donor, or both is not
 18 changed by the suspension, cancellation, revocation, or impoundment
 19 of the license or card.

20 (4) (3) Any person whose operator's license or state
 21 identification card indicates ~~that he or she desires to make an~~
 22 ~~organ and tissue donation~~ his or her status as an organ donor, a
 23 tissue donor, or both may obtain a replacement license or card
 24 ~~changing his or her status to that of a nondonor without a notation~~
 25 of such status. The fee for such replacement license or card shall
 26 be the fee provided in section 60-4,115.

27 (4) A licensee or cardholder may also change his or her
 1 status as a donor by (a) Internet access to the Donor Registry of
 2 Nebraska, (b) telephone request to the registry, or (c) other
 3 methods approved by the federally designated organ procurement
 4 organization in Nebraska.

5 (5) The Department of Motor Vehicles shall electronically
 6 transfer to the federally designated organ procurement organization
 7 in Nebraska all information which appears on the face of the
 8 original or replacement operator's license or state identification
 9 card except the image and signature of each person whose license or
 10 card includes the notation described in subsection (1) of this
 11 section.

12 Sec. 16. Section 60-4,144, Revised Statutes Supplement,
 13 2003, is amended to read:

14 60-4,144. (1) Application for any original or renewal

15 commercial driver's license or application for any change of class
16 of commercial motor vehicle, endorsement, or restriction may be
17 made in a manner prescribed by the department. Such application
18 may be made to an examiner in any county. The examiner shall
19 personally conduct the examination of the applicant and deliver to
20 each successful applicant an examiner's certificate containing the
21 statements made pursuant to subsection (2) of this section.

22 (2) The application or examiner's certificate shall
23 include the voter registration portion pursuant to section 32-308,
24 the advisement language required by subsection (10) of section
25 60-6,197, and the following:

26 (a) The full name, the current mailing address, and the
27 residential address of the applicant, except that if the applicant
1 is a program participant under the Address Confidentiality Act, he
2 or she need not supply his or her residential address;

3 (b) A physical description of the applicant, including
4 sex, height, weight, and eye and hair colors;

5 (c) The applicant's date of birth;

6 (d) The applicant's social security number;

7 (e) The applicant's signature;

8 (f) Certification that the commercial motor vehicle in
9 which the applicant takes any driving skills examination is
10 representative of the class of commercial motor vehicle that the
11 applicant operates or expects to operate;

12 (g) The certification required pursuant to section
13 60-4,145 or 60-4,146;

14 (h) Beginning September 30, 2005, the names of all states
15 where the applicant has previously been licensed to operate any
16 type of motor vehicle;

17 (i) The following specific questions:

18 (i) Have you within the last three months (e.g. due to
19 diabetes, epilepsy, mental illness, head injury, stroke, heart
20 condition, neurological disease, etc.):

21 (A) lost voluntary control or consciousness ... yes ...

22 no

23 (B) experienced vertigo or multiple episodes of dizziness
24 or fainting ... yes ... no

25 (C) experienced disorientation ... yes ... no

26 (D) experienced seizures ... yes ... no

27 (E) experienced impairment of memory, memory loss ... yes
1 ... no

2 Please explain:

3 (ii) Do you experience any condition which affects your
4 ability to operate a motor vehicle? (e.g. due to loss of or
5 impairment of foot, leg, hand, or arm; neurological or
6 neuromuscular disease, etc.) ... yes ... no

7 Please explain:

8 (iii) Since the issuance of your last driver's
9 license/permit has your health or medical condition changed or

10 worsened? ... yes ... no

11 Please explain, including how the above affects your ability to
12 drive:

13

14 (j) Do you wish to register to vote as part of this
15 application process?

16 OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING
17 QUESTIONS:

18 (k) Do you wish to be an organ and tissue donor?

19 (l) Do you wish to receive any additional specific
20 information regarding organ and tissue donation and the Donor
21 Registry of Nebraska?

22 (m) Do you wish to donate \$1 to promote the Organ and
23 Tissue Donor Awareness and Education Fund?

24 (3) Application shall be made under oath or affirmation
25 of the applicant.

26 Sec. 24. Section 60-2907, Revised Statutes Supplement,
27 2002, is amended to read:

1 60-2907. The department and any officer, employee,
2 agent, or contractor of the department having custody of a motor
3 vehicle record shall, upon the verification of identity and purpose
4 of a requester, disclose and make available the requested motor
5 vehicle record, including the personal information in the record,
6 for the following purposes:

7 (1) For use by any federal, state, or local governmental
8 agency, including any court or law enforcement agency, in carrying
9 out the agency's functions or by a private person or entity acting
10 on behalf of a governmental agency in carrying out the agency's
11 functions;

12 (2) For use in connection with matters of motor vehicle
13 or driver safety and theft; motor vehicle emissions; motor vehicle
14 product alterations, recalls, or advisories; performance monitoring
15 of motor vehicles, motor vehicle parts, and dealers; motor vehicle
16 market research activities, including survey research; and removal
17 of nonowner records from the original owner records of motor
18 vehicle manufacturers;

19 (3) For use in the normal course of business by a
20 legitimate business or its agents, employees, or contractors but
21 only:

22 (a) To verify the accuracy of personal information
23 submitted by the individual to the business or its agents,
24 employees, or contractors; and

25 (b) If such information as so submitted is not correct or
26 is no longer correct, to obtain the correct information, but only
27 for the purposes of preventing fraud by, pursuing legal remedies
1 against, or recovering on a debt or security interest against, the
2 individual;

3 (4) For use in connection with any civil, criminal,

4 administrative, or arbitral proceeding in any federal, state, or
 5 local court or governmental agency or before any self-regulatory
 6 body, including service of process, investigation in anticipation
 7 of litigation, and execution or enforcement of judgments and
 8 orders, or pursuant to an order of a federal, state, or local
 9 court, an administrative agency, or a self-regulatory body;

10 (5) For use in research activities, and for use in
 11 producing statistical reports, so long as the personal information
 12 is not published, redisclosed, or used to contact individuals;

13 (6) For use by any insurer or insurance support
 14 organization, or by a self-insured entity, or its agents,
 15 employees, or contractors, in connection with claims investigation
 16 activities, anti-fraud activities, rating, or underwriting;

17 (7) For use in providing notice to the owners of
 18 abandoned, towed, or impounded vehicles;

19 (8) For use only for a purpose permitted under this
 20 section either by a private detective, plain clothes investigator,
 21 or private investigative agency licensed under sections 71-3201 to
 22 71-3213;

23 (9) For use by an employer or the employer's agent or
 24 insurer to obtain or verify information relating to a holder of a
 25 commercial driver's license that is required under the Commercial
 26 Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., or
 27 pursuant to sections 60-4,132 and 60-4,141;

1 (10) For use in connection with the operation of private
 2 toll transportation facilities;

3 (11) For bulk distribution for surveys of, marketing to,
 4 or solicitations of persons who have expressly consented to such
 5 disclosure if the requester has obtained the notarized written
 6 consent of the individual who is the subject of the personal
 7 information being requested and has provided proof of receipt of
 8 such written consent to the department or an officer, employee,
 9 agent, or contractor of the department on a form prescribed by the
 10 department;

11 (12) For any use if the requester has obtained the
 12 notarized written consent of the individual who is the subject of
 13 the personal information being requested and has provided proof of
 14 receipt of such written consent to the department or an officer,
 15 employee, agent, or contractor of the department;

16 (13) For use, including redisclosure through news
 17 publication, of a member of a medium of communication as defined in
 18 section 20-145 who requests such information in connection with
 19 preparing, researching, gathering, or confirming news information
 20 involving motor vehicle or driver safety or motor vehicle theft;

21 (14) For use by the federally designated organ
 22 procurement organization in Nebraska to establish and maintain the
 23 Donor Registry of Nebraska as provided in section 25 of this act;
 24 and

25 ~~(14)~~ (15) For any other use specifically authorized by

26 law that is related to the operation of a motor vehicle or public
27 safety.

1 Sec. 25. (1) The federally designated organ procurement
2 organization in Nebraska shall use the information received from
3 the Department of Motor Vehicles under section 60-494 to establish
4 and maintain the Donor Registry of Nebraska. Transplant facilities
5 may obtain needed information from such organization for placement
6 of organs and tissue. Federally designated organ procurement
7 agencies and cadaveric tissue agencies in other states may obtain
8 information from such organization when a Nebraska resident is
9 listed as a donor on the registry and is not located in Nebraska
10 immediately preceding or at the time of his or her death. The
11 federally designated organ procurement organization in Nebraska may
12 receive donor information from sources other than the Department of
13 Motor Vehicles and shall pay all costs associated with creating and
14 maintaining the registry.

15 (2) It is the intent of the Legislature that the registry
16 facilitate organ and tissue donations and not inhibit such
17 donations. A person does not need to be listed on the registry to
18 be an organ and tissue donor.

19 (3) No person shall obtain information from the registry
20 for the purpose of fundraising or other commercial use.
21 Information obtained from the registry may only be used to
22 facilitate the donation process at the time of the donor's death.
23 General statistical information may be provided upon request to the
24 federally designated organ procurement organization in Nebraska.

25 Sec. 26. (1) The Donor Registry of Nebraska Advisory
26 Board is created. The advisory board shall consist of:

27 (a) A member of the board of directors of the federally
1 designated organ procurement organization in Nebraska who shall
2 serve as the chairperson of the advisory board;

3 (b) A representative of the Nebraska Organ and Tissue
4 Donor Coalition appointed by the board of directors of the
5 coalition;

6 (c) A representative of the Lion's Eye Bank of Nebraska
7 appointed by the board of directors of such organization;

8 (d) A representative of each transplant hospital in
9 Nebraska appointed by the chief executive officer of such hospital;

10 (e) A representative of a Nebraska community hospital in
11 Nebraska appointed by the Nebraska Hospital Association;

12 (f) A representative of the National Kidney Foundation of
13 Nebraska appointed by the board of directors of such organization;

14 (g) A representative of the American Lung Association of
15 Nebraska appointed by the board of directors of such organization;

16 (h) A representative of the Nebraska chapter of the
17 American Heart Association appointed by the board of directors of
18 such organization; and

19 (i) A representative of the Department of Motor Vehicles
20 appointed by the Director of Motor Vehicles.

- 21 (2) The federally designated organ procurement
 22 organization in Nebraska shall provide administrative support for
 23 the advisory board.
- 24 (3) The advisory board shall advise and assist the
 25 federally designated organ procurement organization in Nebraska on
 26 matters relating to the Donor Registry of Nebraska, including, but
 27 not limited to, (a) evaluation of the donor registry system, (b)
 1 consideration of processes and procedures to increase public
 2 awareness and use of the registry, and (c) the development of
 3 protocols to ensure the security and integrity of the registry and
 4 the confidentiality of donors listed on the registry.
- 5 Sec. 27. This act becomes operative on January 1, 2005.
- 6 Sec. 28. Original sections 60-482, 60-4,118.04,
 7 60-4,123.01, 60-4,130.05, 60-4,155, and 60-4,173 to 60-4,175,
 8 Reissue Revised Statutes of Nebraska, sections 60-486, 60-493,
 9 60-494, 60-495, 60-4,115, 60-4,118, 60-4,127, 60-4,146.01,
 10 60-4,158, and 60-2907, Revised Statutes Supplement, 2002, and
 11 sections 60-462, 60-479, 60-484, 60-4,144, and 60-4,181, Revised
 12 Statutes Supplement, 2003, are repealed."
- 13 2. On page 4, line 1; and page 27, line 5, after
 14 "donation" insert "and the Donor Registry of Nebraska".
- 15 3. Renumber the remaining sections accordingly.

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

Senator Synowiecki offered the following amendment:
 FA1460

(Amendments to E & R amendments, AM7169)

- 1 1. On page 6, after line 23, insert the following new
 2 subdivision:
 3 "(d) If an applicant is not able to produce a social
 4 security number, such person shall be licensed to operate a motor
 5 vehicle by the State of Nebraska if he or she presents to the
 6 department a valid United States-based identification as approved
 7 by the director and has fulfilled all other requirements as set forth in this act."
- 8 2. On page 28, after line 13, insert the following new
 9 subdivision:
 10 "(d) If an applicant is not able to produce a social
 11 security number, such person shall be issued a state identification
 12 card by the State of Nebraska if he or she presents to the
 13 department a valid United States-based identification as approved
 14 by the director and has fulfilled all other requirements as set forth in this act."

Pending.

STANDING COMMITTEE REPORTS
Education

LEGISLATIVE BILL 1107. Placed on General File.

(Signed) Ron Raikes, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 1114. Placed on General File.

LEGISLATIVE BILL 1164. Placed on General File as amended.
Standing Committee amendment to LB 1164:
AM2560

- 1 1. On page 2, strike beginning with "or" in line 19
- 2 through "organization" in line 20.

LEGISLATIVE BILL 1185. Placed on General File as amended.
(Standing Committee amendment, AM2485, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 847. Indefinitely postponed.

LEGISLATIVE BILL 1212. Indefinitely postponed.

(Signed) Mark Quandahl, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 644 and 644A.

(Signed) Ray Mossey, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 235. Introduced by Schrock, 38.

WHEREAS, Duane R. Wehrs and Judith A. Breager-Wehrs have conveyed to the Nebraska Game and Parks Foundation real estate located in Seward County, Nebraska, which will be maintained as a wildlife management area for public outdoor recreation activities; and

WHEREAS, the Game and Parks Commission has the general authority to acquire real estate, with the consent of the Governor, by gift; and

WHEREAS, in the interest of promoting outdoor opportunities for Nebraskans, the Legislature wishes to grant approval for the Game and

Parks Commission to obtain title to all or any part of such real estate presently held in trust by the Nebraska Game and Parks Foundation.

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

1. That the Legislature approves the gift from the Nebraska Game and Parks Foundation to the Game and Parks Commission of all of the real estate described as: The northeast quarter of section thirty-two, township eleven north, range one east of the sixth principal meridian, in Seward County, Nebraska, containing one hundred sixty acres, more or less. These premises are subject to a warranty easement deed to the Natural Resources Conservation Service of the United States Department of Agriculture as filed in Seward County, Nebraska.

2. That such approval is granted with the understanding that the real estate described shall be designated and utilized as a wildlife management area.

SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR 235 was referred to the Reference Committee.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LR 235	Natural Resources

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

RESOLUTION

LEGISLATIVE RESOLUTION 236. Introduced by Kremer, 34.

WHEREAS, Brooke Herbig, an esteemed resident of Central City, Nebraska, and a student at Central City Middle School, has achieved national recognition for exemplary volunteer service by receiving a 2004 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Herbig earned this award by giving generously of her time and energy to treating lonely female residents of two local nursing homes to special days of favorite activities, pampering, and friendship; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend, in great

measure, upon the dedication of young people like Ms. Herbig who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates and honors Brooke Herbig as a recipient of a Prudential Spirit of Community Award, recognizes her outstanding record of volunteer service, peer leadership, and community spirit, and extends best wishes for her continued success and happiness.

2. That a copy of this resolution be sent to Brooke Herbig.

Laid over.

STANDING COMMITTEE REPORT **Agriculture**

The Agriculture 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.

Beginning Farmer Board

Dale Pohlmann

VOTE: Aye: Senators Kremer, Erdman, Burling, Cunningham, Preister, and Vrtiska. Nay: None. Absent: Senators Chambers and Mossey.

(Signed) Bob Kremer, Chairperson

ANNOUNCEMENTS

Senator Louden designates LB 838 as his priority bill.

Senator Smith designates LB 1045 as his priority bill.

BILL ON FIRST READING

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

LEGISLATIVE BILL 906A. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 906, Ninety-eighth Legislature, Second Session, 2004.

AMENDMENTS - Print in Journal

Senator Kruse filed the following amendment to LB 559:
AM2532

(Amendments to E & R amendments, AM7169)

- 1 1. On page 6, line 6; and page 27, line 23, after
- 2 "person" insert "who qualifies for a social security number".
- 3 2. On page 6, line 9; and page 27, line 26, after "to"
- 4 insert "such".

Senator Thompson filed the following amendment to LB 559A:
AM2585

- 1 1. On page 2, line 1, strike "\$14,400" and insert
- 2 "\$32,800".

UNANIMOUS CONSENT - Add Cointroducer

Senator Price asked unanimous consent to have her name added as cointroducer to LB 879. No objections. So ordered.

WITHDRAW - Cointroducers

Senator Friend withdrew his name as cointroducer to LB 916.

Senator Dw. Pedersen withdrew his name as cointroducer to LR 209CA.

VISITORS

Visitors to the Chamber were 55 twelfth-grade students and teacher from Syracuse.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Aguilar, the Legislature adjourned until 9:00 a.m., Thursday, February 12, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-FIFTH DAY - FEBRUARY 12, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 12, 2004

PRAYER

The prayer was offered by Senator Kruse.

ROLL CALL

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

The roll was called and all members were present except Senator Hudkins who was excused; and Senators Brashear, Maxwell, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-fourth day was approved.

ANNOUNCEMENT

The Health and Human Services Committee designates LB 1005 as its priority bill.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 11, 2004, 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

Crawford, Derek
Kraft Foods North America, Inc. - Altria Corporate Services, Inc.
Philip Morris USA, Inc. - Altria Corporate Services, Inc.

Johnson, DeMaris
Check Cashers, Nebraska Association of

Kelley, Michael of Kelley & Lehan, PC
 Criminal Defense Attorneys Association, Nebraska
 (Withdrawn 02/11/2004)

McGinley, Donald F.
 US Selective Service System, Region III

Mueller, William J.
 Fullenkamp, Doyle & Jobeun

Ruth, Larry L.
 Fullenkamp, Doyle & Jobeun

REPORTS

The following reports were received by the Legislature:

Administrative Services, Department of
 Information Technology Commission Project Status Summary
Energy Office

Document entitled Nebraska Energy Statistics of the collection, compilation, and analysis of energy statistics

Investment Finance Authority

2002 Series A, B, C, D, E and F Community Development Loan Notes
 (City of Lincoln Program-2002)

Drinking Water State Revolving Fund Revenue Bonds Series 2002 A
 Quarterly Report

Drinking Water State Revolving Fund Revenue Bonds Series 2003 A
 Quarterly Report

Single Family Housing Revenue Bonds Series 2000 EFG and General
 Obligation Bonds Series 2000 G.O.-11 Quarterly Report

Single Family Housing Revenue Bonds Series 2003 DE Quarterly Report

Roads, Department of

Board of Public Roads Classifications and Standards Minutes

University of Nebraska

Progress Report on Increasing Minority and Women Faculty

SELECT COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 986A. Placed on Select File.

(Signed) Ray Mossey, Chairperson

SELECT FILE

LEGISLATIVE BILL 559. Senator Synowiecki renewed his pending

amendment, FA1460, found on page 606.

Senator Synowiecki withdrew his amendment.

Senator Kruse withdrew his pending amendment, AM2532, found on page 609.

Senator Baker offered the following amendment:

FA1462

1. On page 6, line 8, after 'Administration' insert "except as provided by subsection (d)".
2. On page 6, after line 23, insert the following new subdivision: "(d) If an applicant is not able to legally acquire a social security number, such person shall be licensed to operate a motor vehicle by the State of Nebraska if he or she presents to the department a valid United States-based identification as approved by the director and has fulfilled all other requirements as set forth in this act."
3. On page 28, after line 13, insert the following new subdivision: "(d) If an applicant is not able to legally acquire a social security number, such person shall be licensed to operate a motor vehicle by the State of Nebraska if he or she presents to the department a valid United States-based identification as approved by the director and has fulfilled all other requirements as set forth in this act."

Senator Baker withdrew his amendment.

Senator Baker offered the following amendment:

AM2609

(Amendments to E & R amendments, AM7169)

- 1 1. On page 6, line 8; and page 27, line 25, after
- 2 "Administration" insert "except as provided in subdivision (b) or
- 3 (d) of this subsection".
- 4 2. On page 6, after line 23, insert the following new
- 5 subdivision:
- 6 "(d) If a person is not able to legally acquire a social
- 7 security number, such person shall be licensed to operate a motor
- 8 vehicle by the State of Nebraska if he or she presents to the
- 9 department a valid United States-based identification as approved
- 10 by the director and has fulfilled all other requirements set forth
- 11 in the Motor Vehicle Operator's License Act.".
- 12 3. On page 28, after line 13, insert the following new
- 13 subdivision:
- 14 "(d) If a person is not able to legally acquire a social
- 15 security number, such person shall be issued a state identification
- 16 card by the State of Nebraska if he or she presents to the
- 17 department a valid United States-based identification as approved
- 18 by the director and has fulfilled all other requirements set forth
- 19 in the Motor Vehicle Operator's License Act.".

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

Advanced to E & R for engrossment.

LEGISLATIVE BILL 559A. E & R amendment, AM7170, found on page 505, was adopted.

Senator Thompson renewed her pending amendment, AM2585, found on page 610.

The Thompson 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.

LEGISLATIVE BILL 227. The Schimek amendment, FA1452, found on page 540, was reconsidered.

Senator Schimek withdrew her amendment.

Senator Beutler renewed his pending amendment, AM2503, found on page 557.

Senator Beutler moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

The Beutler amendment was adopted with 27 ayes, 9 nays, 9 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Pending.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 279 and 279A.

ER9100

Enrollment and Review Change to LB 279

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

1. On page 1, line 6, "to change fees;" has been inserted after the first

semicolon.

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 1149. Placed on General File.

LEGISLATIVE BILL 826. Placed on General File as amended.

Standing Committee amendment to LB 826:

AM2606

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

3 "Section 1. Section 37-201, Revised Statutes Supplement,
4 2003, is amended to read:

5 37-201. Sections 37-201 to 37-811 and sections 2 and 5
6 of this act shall be known and may be cited as the Game Law.

7 Sec. 2. It is the intent of the Legislature to preserve
8 the state game refuges described in section 37-706.

9 Sec. 3. Section 37-706, Revised Statutes Supplement,
10 2002, is amended to read:

11 37-706. (1) For the better protection of birds and the
12 establishment of breeding places therefor, the following area
13 within the State of Nebraska is hereby set aside, designated, and
14 established as a state game refuge: All that portion of the State
15 of Nebraska on the North Platte River and for one hundred ten yards
16 back of the banks of said stream on the land side in Garden County,
17 Nebraska, ~~and, except for the repair for existing alterations,~~
18 ~~future alterations in the banks by the damming of such stream shall~~
19 ~~not be recognized as effecting legal changes of such refuge~~
20 ~~boundary.~~

21 (2) For the better protection of birds and the
22 establishment of breeding and resting places therefor, the
23 following areas within the State of Nebraska are hereby set aside,
24 designated, and established as state game refuges: (a) All that
1 portion of the State of Nebraska on the Platte River and for one
2 hundred ten yards on each side of the banks of said stream from the
3 west line of Dodge County and Saunders County east and southeast to
4 the bridge across said Platte River, west of Venice, Nebraska, on
5 U.S. Route No. 30A and State Route No. 92; (b) all that portion of
6 the State of Nebraska embracing the channel or channels of the
7 Niobrara River and for one hundred ten yards back from the banks of
8 such stream on the land side in Boyd and Holt Counties, extending
9 from the west line of Boyd and Holt Counties on the west to State
10 Highway No. 11 on the east; ~~and manmade alterations in the banks~~
11 ~~of such streams shall not be recognized as effecting legal changes~~
12 ~~of refuge boundaries;~~ and (c) all that portion of the State of
13 Nebraska on the North Platte River, and for one hundred ten yards

14 on each side of the banks of the stream in sections twenty-one,
 15 twenty-six, twenty-seven, twenty-eight, thirty-four, thirty-five,
 16 and thirty-six, township fourteen north, range thirty, west of the
 17 sixth principal meridian, Lincoln County, Nebraska.
 18 (3) For purposes of sections 37-701 to 37-708, the banks
 19 of said stream means the banks of the river which are the elevation
 20 of ground which confines the water at a level not exceeding flood
 21 stage.

22 Sec. 4. Section 37-707, Reissue Revised Statutes of
 23 Nebraska, is amended to read:

24 37-707. (1) The commission is directed to place suitable
 25 signs showing the boundaries of the refuges, as designated in
 26 section 37-706, using the map adopted by the Department of Natural
 27 Resources pursuant to this section, and on all roads leading into
 1 such refuges.

2 (2)(a) The Department of Natural Resources shall adopt
 3 and promulgate rules and regulations determining the boundaries of
 4 the state game refuges. The department's determination shall be
 5 based on the definitions in sections 37-701 to 37-708 and shall
 6 include maps showing such boundaries.

7 (b) The department shall make the initial boundary
 8 determinations for the state game refuge in Garden County by March
 9 1, 2005. The department shall make the initial boundary
 10 determinations for the remaining state game refuges by January 1,
 11 2006.

12 (c) Until the initial determinations are made pursuant to
 13 subdivision (a) of this subsection, the boundaries that have been
 14 determined and maintained by the commission shall remain in effect.

15 (d) The department shall update any boundary
 16 determination required by subdivision (a) of this subsection
 17 whenever it determines that there has been a substantial change in
 18 the location of the banks of said stream used for locating such
 19 boundary.

20 (e) To the extent necessary to fulfill their obligations
 21 under sections 37-701 to 37-708, the department and the commission
 22 shall have access at all reasonable times to all properties to
 23 which access is needed to fulfill such obligations. Entry upon
 24 such properties for the purposes set forth in such sections shall
 25 not be considered trespass.

26 Sec. 5. (1) The validity of any rule or regulation
 27 adopted by the Department of Natural Resources pursuant to sections
 1 37-701 to 37-708 may be determined pursuant to section 84-911.

2 (2) Any person aggrieved by any other order or act of the
 3 department or commission pursuant to its authority under sections
 4 37-701 to 37-708 may, within thirty days after notice thereof, file
 5 a petition in the district court of the county in which the
 6 aggrieved person resides or, if the aggrieved person is not a
 7 resident of Nebraska, in the district court of Lancaster County,
 8 for review. The court shall summarily hear the petition as a case

9 in equity without a jury and may order only declaratory or
 10 prospective injunctive relief with regard to such order or act.
 11 (3) Except as provided in subsection (1) of this section,
 12 the appeal procedures described in the Administrative Procedure Act
 13 shall not apply to actions taken pursuant to sections 37-701 to
 14 37-708.
 15 (4) The appeal procedures described in sections 61-206
 16 and 61-207 do not apply to actions taken pursuant to sections
 17 37-701 to 37-708.
 18 Sec. 6. The Revisor of Statutes shall assign sections 2
 19 and 5 of this act within sections 37-701 to 37-709.
 20 Sec. 7. Original section 37-707, Reissue Revised
 21 Statutes of Nebraska, section 37-706, Revised Statutes Supplement,
 22 2002, and section 37-201, Revised Statutes Supplement, 2003, are
 23 repealed."

LEGISLATIVE BILL 923. Placed on General File as amended.
 Standing Committee amendment to LB 923:
 AM2605

- 1 1. On page 7, line 28, strike beginning with "The"
- 2 through "information" and insert "Such person may also request or
- 3 petition the Director of Environmental Quality, in writing, for a
- 4 hearing and state the nature of the issues to be raised. The
- 5 director shall hold a public hearing if the comments, request, or
- 6 petition raise legal, policy, or discretionary questions of general
- 7 application and significant public interest exists."
- 8 2. On page 8, strike lines 1 and 2.

(Signed) Ed Schrock, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 866. Placed on General File.

LEGISLATIVE BILL 838. Placed on General File as amended.
 Standing Committee amendment to LB 838:
 AM2584

- 1 1. On page 3, line 24, strike "one-third" and insert
- 2 "five dollars", strike "fees" and insert "fee".
- 3 2. On page 4, line 6, strike "seventy-five percent" and
- 4 insert "thirty dollars", strike "fees" and insert "fee"; and in
- 5 line 8, strike "twenty-five percent" and insert "ten dollars",
- 6 strike "fees" and insert "fee".
- 7 3. On page 13, line 24, strike "July" and insert
- 8 "January".

(Signed) Tom Baker, Chairperson

Revenue**LEGISLATIVE BILL 1034.** Placed on General File.

(Signed) David Landis, Chairperson

Education**LEGISLATIVE BILL 868.** Placed on General File as amended.
Standing Committee amendment to LB 868:
AM2598

- 1 1. Strike the original sections and insert the following
2 new sections:
- 3 "Section 1. Section 79-201, Reissue Revised Statutes of
4 Nebraska, is amended to read:
- 5 79-201. (1) Except as provided in section 79-202 and
6 subsection (2) of this section, every person residing in a school
7 district within the State of Nebraska who has legal or actual
8 charge or control of any child who is not less than (a)(i) has
9 reached the age of seven years of age and not more than sixteen
10 years of age and (ii) unless the child has reached the age of
11 sixteen years prior to the effective date of this act, is under the
12 age of eighteen years or who (b)(i) is younger than seven years of
13 age and (ii) is enrolled in any public school shall cause such
14 child to attend regularly the public, private, denominational, or
15 parochial day schools which meet the requirements for legal
16 operation prescribed in Chapter 79 or a school which elects
17 pursuant to section 79-1601 not to meet accreditation or approval
18 requirements each day that such schools are open and in session,
19 except when excused by school authorities,
- 20 (2) Subsection (1) of this section does not apply in the
21 case of any child who has (a) obtained a high school diploma by
22 meeting the graduation requirements established in section 79-729,
23 (b) completed the program of instruction offered by a school which
24 elects pursuant to section 79-1601 not to meet accreditation or
1 approval requirements, or (c) reached the age of sixteen years and
2 such child's parent or guardian has signed a notarized waiver on a
3 waiver form provided by the school.
- 4 (3) ; unless such child has graduated from high school.
5 Any person with legal or actual charge or control of a child
6 younger than seven years of age who is enrolled in a public school
7 may discontinue the enrollment of such child pursuant to the policy
8 of the school board. All school boards shall adopt policies
9 allowing discontinuation of the enrollment of students younger than
10 seven years of age and specifying the procedures therefor.
- 11 (4) The school term shall be as provided in section
12 79-211.
- 13 Sec. 2. Section 79-214, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 79-214. (1) Except as provided in subsection (2) of this
 16 section, the school board of any school district shall not admit
 17 any child into the kindergarten or beginner grade of any school of
 18 such school district unless such child has reached the age of five
 19 years or will reach such age on or before October 15 of the current
 20 year for school years prior to school year 2005-06 and on or before
 21 August 1 of the current year for school year 2005-06 and each
 22 school year thereafter.

23 (2) The board may admit a child who will reach the age of
 24 five between October 16 and February 1 of the current ~~school~~ year
 25 for school years prior to school year 2005-06 and between August 2
 26 and November 15 of the current year for school year 2005-06 and
 27 each school year thereafter if the parent or guardian requests such
 1 entrance and provides an affidavit stating that (a) the child
 2 attended kindergarten in another jurisdiction in the current school
 3 year, (b) the family anticipates relocation to another jurisdiction
 4 that would allow admission within the current year, or (c) the
 5 child has demonstrated through recognized assessment procedures
 6 approved by the board that he or she is capable of carrying the
 7 work of kindergarten or the beginner grade.

8 (3) The board shall comply with the requirements of
 9 subsection (2) of section 43-2007 and shall require evidence of a
 10 physical examination by a physician, a physician assistant, or an
 11 advanced practice registered nurse within six months prior to the
 12 entrance of a child into the beginner grade and the seventh grade
 13 or, in the case of a transfer from out of state, to any other grade
 14 of the local school, except that no such physical examination shall
 15 be required of any child whose parent or guardian objects in
 16 writing. The cost of such physical examination shall be borne by
 17 the parent or guardian of each child who is examined.

18 Sec. 3. Original sections 79-201 and 79-214, Reissue
 19 Revised Statutes of Nebraska, are repealed."

(Signed) Ron Raikes, Chairperson

NOTICE OF COMMITTEE HEARINGS
Business and Labor
 Room 1510

LB 932	Monday, February 23, 2004	1:30 p.m.
LB 1187	Monday, February 23, 2004	1:30 p.m.
LB 1239	Monday, February 23, 2004	1:30 p.m.
LB 1241	Monday, February 23, 2004	1:30 p.m.
LB 1242	Monday, February 23, 2004	1:30 p.m.

(Signed) Floyd P. Vrtiska, Chairperson

Transportation and Telecommunications
Room 1113

Monday, February 23, 2004 1:30 p.m.
 James Bauer - Board of Public Roads Classifications and Standards
 Rich Ruby - Board of Public Roads Classifications and Standards
 Tim Schram - Board of Public Roads Classifications and Standards
 Darold Tagge - Board of Public Roads Classifications and Standards
 Henry Thieman - Board of Public Roads Classifications and Standards
 Henry Vieregger - Board of Public Roads Classifications and Standards
 Ed Wootton - Board of Public Roads Classifications and Standards
 Donna Wanitschke - State Highway Commission
 Jack D. Henry - Nebraska Motor Vehicle Industry Licensing Board
 Toby J. Miller - Nebraska Motor Vehicle Industry Licensing Board
 Darlene J. Noah - Nebraska Motor Vehicle Industry Licensing Board
 Kelly B. Smith - Nebraska Motor Vehicle Industry Licensing Board
 Merlyn Carlson - Nebraska Railway Council
 David Gilfillan - Nebraska Railway Council

(Signed) Tom Baker, Chairperson

Natural Resources
Room 1525

LR 235 Friday, February 20, 2004 1:30 p.m.
 Friday, February 20, 2004 1:30 p.m.
 John T. Baker - Environmental Quality Council

(Signed) Ed Schrock, Chairperson

AMENDMENT - Print in Journal

Senator Baker filed the following amendment to LB 560:
 AM2589

(Amendments to AM2490)

1 1. Insert the following new sections:
 2 "Sec. 48. Section 60-1904, Revised Statutes Supplement,
 3 2002, is amended to read:
 4 60-1904. If a state agency caused an abandoned vehicle
 5 described in subdivision (1)(e) or (2)(d) of section 60-1901 to be
 6 removed from public property, the state agency shall be entitled to
 7 custody of the vehicle. If a state agency caused an abandoned
 8 vehicle described in subdivision (1)(a), (b), (c), or (d) or
 9 (2)(a), (b), or (c) of section 60-1901 to be removed from public
 10 property, the state agency shall deliver the vehicle to the local
 11 authority which shall have custody. The local authority entitled
 12 to custody of an abandoned vehicle shall be the county in which the

13 vehicle was abandoned or, if abandoned in a city or village, the
14 city or village in which the vehicle was abandoned.

15 Sec. 49. Section 60-1907, Revised Statutes Supplement,
16 2002, is amended to read:

17 60-1907. No person shall cause any vehicle to be an
18 abandoned vehicle as described in subdivision (1)(a), (b), (c), or
19 (d) or (2)(a), (b), or (c) of section 60-1901."

20 2. On page 15, line 15, strike "48, and 51" and insert
21 "50, and 53"; and in line 22, strike "and 60-1901" and insert
22 "60-1901, 60-1904, and 60-1907".

23 3. Renumber the remaining sections accordingly.

ANNOUNCEMENT

Senator Brown designates LB 870 as her priority bill.

SELECT FILE

LEGISLATIVE BILL 227. Senator Hartnett withdrew his pending amendment, FA1454, found on page 559.

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

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

The motion to cease debate prevailed with 26 ayes, 6 nays, and 17 not voting.

The Chair declared the call raised.

Senator Aguilar moved for a call of the house. The motion prevailed with 38 ayes, 1 nay, and 10 not voting.

Senator Quandahl requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 26 ayes, 14 nays, 4 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 449. E & R amendment, AM7168, found on page 505, was adopted.

Senator Schrock renewed his pending amendment, AM2420, found on page 493.

The Schrock amendment was adopted with 26 ayes, 1 nay, 17 present and not voting, and 5 excused and not voting.

Senator Preister renewed his pending amendment, AM2492, found on page 586.

The Preister amendment was adopted with 25 ayes, 1 nay, 17 present and not voting, and 6 excused and not voting.

Senator Schrock offered the following amendment:

AM2604

- 1 1. Insert the following sections:
- 2 "Sec. 4. Section 81-15,181, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 81-15,181. Sections 81-15,181 to 81-15,188 and sections
- 5 7 and 10 to 12 of this act shall be known and may be cited as the
- 6 Remedial Action Plan Monitoring Act.
- 7 Sec. 5. Section 81-15,182, Reissue Revised Statutes of
- 8 Nebraska, is amended to read:
- 9 81-15,182. For purposes of the Remedial Action Plan
- 10 Monitoring Act; ~~the following definitions shall apply:~~
- 11 (1) Land pollution ~~shall mean~~ means the presence upon or
- 12 within the land resources of the state of one or more contaminants
- 13 or combinations of contaminants, including, but not limited to,
- 14 ~~refuse, garbage, rubbish, or junk~~ solid waste, hazardous waste,
- 15 petroleum, or hazardous substances, in such quantities and of such
- 16 quality as will or are likely to (a) create a nuisance, (b) be
- 17 harmful, detrimental, or injurious to public health, safety, or
- 18 welfare, (c) be injurious to plant and animal life and property, or
- 19 (d) be detrimental to the economic and social development, the
- 20 scenic beauty, or the enjoyment of the natural attractions of the
- 21 state; and
- 22 (2) Water pollution ~~shall mean~~ means the manmade or
- 23 man-induced alteration of the chemical, physical, biological, or
- 24 radiological integrity of water.
- 1 Sec. 6. Section 81-15,183, Reissue Revised Statutes of
- 2 Nebraska, is amended to read:
- 3 81-15,183. ~~There is hereby created the~~ (1) The Remedial
- 4 Action Plan Monitoring Fund is created. The fund which shall be
- 5 administered by the Department of Environmental Quality. Revenue
- 6 from the following sources shall be credited to the fund:
- 7 (a) Application fees collected under the Remedial Action
- 8 Plan Monitoring Act;
- 9 (b) Deposits for costs associated with administration of
- 10 the act, including review, oversight, and guidance;
- 11 (c) Gifts, grants, reimbursements, or appropriations from
- 12 any source intended to be used for purposes of the act; and
- 13 (d) Investment interest attributable to the fund.
- 14 (2) The fund shall be used by the department to:

- 15 (a) Review applications and provide technical review,
16 oversight, guidance, and other activities associated with remedial
17 action plans for land pollution or water pollution;
18 (b) Fund activities performed by the department to
19 address immediate or emergency threats to human health and the
20 environment related to property under this act; and
21 (c) Administer and enforce the act.
22 ~~(1) Receive funds voluntarily paid by public and private~~
23 ~~entities to finance department administration and oversight of~~
24 ~~remedial action plans for land pollution or water pollution;~~
25 ~~(2) Provide funds for the department to offset expenses~~
26 ~~incurred in monitoring remedial action plans for land pollution or~~
27 ~~water pollution as voluntarily submitted by public and private~~
1 ~~entities; and~~
2 ~~(3) Receive a one-time General Fund appropriation in an~~
3 ~~amount not to exceed one hundred thousand dollars for costs~~
4 ~~associated with the implementation of the Remedial Action Plan~~
5 ~~Monitoring Act.~~
6 (3) Any money in the fund available for investment shall
7 be invested by the state investment officer pursuant to the
8 Nebraska Capital Expansion Act and the Nebraska State Funds
9 Investment Act.
10 Sec. 7. The Environmental Quality Council may adopt and
11 promulgate rules and regulations necessary to administer and
12 enforce the provisions of the Remedial Action Plan Monitoring Act.
13 Sec. 8. Section 81-15,184, Reissue Revised Statutes of
14 Nebraska, is amended to read:
15 81-15,184. (1) Any entity which voluntarily chooses to
16 make application for monitoring of remedial action plans for
17 property where land pollution or water pollution exists shall:
18 (a) Submit an application on a form approved by the
19 Department of Environmental Quality;
20 (b) Provide the department with a nonrefundable
21 application fee of five thousand dollars;
22 (c) Execute a written agreement to provide reimbursement
23 of all department direct and indirect costs related to technical
24 review, oversight, guidance and other activities associated with
25 the remedial action plan. As part of the voluntary agreement, the
26 department shall require the applicant to post a deposit of five
27 thousand dollars to be used by the department to cover all costs.
1 The department shall not commence technical review, oversight,
2 guidance, or other activities associated with the remedial action
3 plan until the voluntary agreement is executed and a complete
4 remedial action plan has been submitted. If the costs of the
5 department exceed the initial deposit, an additional amount agreed
6 upon by the department and the applicant may be required prior to
7 proceeding. After the mutual termination of the voluntary
8 agreement, any balance of funds paid under this subdivision shall
9 be refunded.

- 10 (2) The department shall review and approve or deny all
11 applications and notify the applicant in writing. If the
12 application is denied, the notification shall state the reason for
13 the denial. If the department determines that an application does
14 not contain adequate information, the department shall return the
15 application to the applicant. The applicant has sixty days to
16 resubmit the required information or the application will be deemed
17 denied.
- 18 (3) Within ninety days of approval of the application,
19 the applicant shall provide a complete remedial action plan for the
20 proposed project that conforms to all federal and state
21 environmental standards and substantive requirements, including:
22 (a) Documentation regarding the investigation of land
23 pollution or water pollution including, when appropriate,
24 information indicating that the applicant holds or can acquire
25 title to all lands or has the necessary easements and rights-of-way
26 for the project and related lands;
27 (b) A remedial action work plan which describes the
1 remedial action measures to be taken to address the land or water
2 pollution; and
3 (c) Project monitoring reports, appropriate engineering,
4 scientific, and financial feasibility data, and other data and
5 information as may be required by the department.
- 6 (1) Submit a remedial action plan on a form approved by
7 the Department of Environmental Quality which conforms with
8 procedures approved by the department;
9 (2) Provide the department with documentation regarding
10 the land pollution or water pollution site, including, when
11 appropriate, information indicating that the applicant holds or can
12 acquire title to all lands or has the necessary easements and
13 rights-of-way for the project and related lands;
14 (3) Provide a plan for the proposed project, including
15 project monitoring reports, appropriate engineering, scientific,
16 and financial feasibility data, and other data and information as
17 may be required by the department;
18 (4) Provide a payment plan and schedule for the
19 reimbursement of all department expenses related to monitoring the
20 progress of the remedial action plan, including expenses to review
21 and evaluate the proposed plan;
22 (5) Demonstrate that the remedial action plan conforms
23 with federal Environmental Protection Agency standards. However,
24 nothing in this subdivision shall be construed to require that the
25 department make any determination that such plan conforms with such
26 standards; and
27 (6) Provide the department with an application fee of
1 five thousand dollars and a participation fee of five thousand
2 dollars. The application fee shall be used by the department to
3 offset the expenses referred to in subdivision (4) of this section.
4 The participation fee shall be used by the department to reimburse

5 the General Fund as such fund is impacted by activities conducted
6 pursuant to the Remedial Action Plan Monitoring Act.
7 Sec. 9. Section 81-15,185, Reissue Revised Statutes of
8 Nebraska, is amended to read:
9 81-15,185. Upon the receipt of a voluntary application
10 for the monitoring of a remedial action plan for land pollution or
11 water pollution pursuant to section 81-15,184, the Department of
12 Environmental Quality shall evaluate and investigate all aspects of
13 the proposed project, the proposed schedule for completion, and the
14 proposed reimbursement schedule and shall determine if the remedial
15 action plan is eligible for department monitoring. If the
16 department determines that an application is unsatisfactory or does
17 not contain adequate information, the department shall return the
18 application to the applicant and may make recommendations to the
19 applicant which the department considers necessary to make the
20 plan, the reimbursement schedule, or the application satisfactory.
21 If the department approves the application, the department shall
22 execute an agreement with the applicant for department monitoring
23 and payments by the applicant. Upon their receipt of a voluntary
24 remedial action plan for land pollution or water pollution pursuant
25 to section 81-15,184, the Department of Environmental Quality shall
26 review and approve or disapprove the plan and notify the applicant
in writing. If the plan is disapproved, the notification shall
1 state the reason for the disapproval and provide a reasonable
2 opportunity to resubmit the plan.
3 Sec. 10. The Department of Environmental Quality shall
4 issue public notice of its intent to approve a voluntary remedial
5 action plan pursuant to section 81-15,185 in a local newspaper of
6 general circulation in the area affected and make the remedial
7 action plan available to the public. The public shall have thirty
8 days from the date of publication during which any person may
9 submit written comments to the department regarding the proposed
10 remedial action. Such person may also request or petition the
11 Director of Environmental Quality, in writing, for a hearing and
12 state the nature of the issues to be raised. The director shall
13 hold a public hearing if the comments, request, or petition raise
14 legal, policy, or discretionary questions of general application
15 and significant public interest exists.
16 Sec. 11. (1) The applicant may unilaterally terminate a
17 voluntary remedial action plan approved pursuant to section
18 81-15,185 prior to completion of investigative and remedial
19 activities if the applicant leaves the property in no worse
20 condition, from a human health and environment perspective, than
21 when the applicant initiated voluntary remedial action and the
22 applicant reimburses the Department of Environmental Quality for
23 all outstanding costs.
24 (2) The department may terminate a voluntary remedial
25 action plan if the applicant:
26 (a) Violates any terms or conditions of the plan or fails

27 to fulfill any obligations of the plan, including submission of an
 1 acceptable remedial action plan within a reasonable period of time;

2 (b) Fails to address an immediate and significant risk of
 3 harm to public health and the environment in a timely and effective
 4 manner; or

5 (c) Fails to initiate the plan within six months after
 6 approval by the department or to complete the plan within
 7 twenty-four months after approval by the department, excluding
 8 long-term operation, maintenance, and monitoring, unless the
 9 department grants an extension of time.

10 (3) The department shall notify the applicant in writing
 11 of the intention to terminate the voluntary remedial action plan
 12 and include the reason for the termination and a summary of any
 13 unreimbursed costs of the department that are due.

14 Sec. 12. (1) Within sixty days after completion of a
 15 voluntary remedial action plan approved pursuant to section
 16 81-15,185, the applicant shall provide the department with a final
 17 remedial action report and assurance that the plan has been fully
 18 implemented. Department of Environmental Quality approval of a
 19 voluntary remedial action plan shall be void upon failure to comply
 20 with the approved plan or willful submission of false, inaccurate,
 21 or misleading information by the applicant.

22 (2) Voluntary remedial action plans approved under
 23 section 81-15,185 are not enforceable unless the department can
 24 demonstrate that the applicant has failed to fully implement the
 25 approved plan. The department may require further action if such
 26 action is authorized by other state statutes administered by the
 27 department.

1 Sec. 13. Section 81-15,186, Reissue Revised Statutes of
 2 Nebraska, is amended to read:
 3 81-15,186. If the ~~provisions set forth in~~ requirements
 4 of the Remedial Action Plan Monitoring Act are met and the
 5 applicant has remitted all applicable fees, the Department of
 6 Environmental Quality may issue to the applicant a letter stating
 7 that no further action need be taken at the site related to any
 8 contamination for which remedial action has been taken in
 9 accordance with the approved remedial action plan. Such letter
 10 shall provide that the department may require the person to conduct
 11 additional remedial action in the event that any monitoring
 12 conducted at or near the real property or other circumstances
 13 indicate that (1) contamination is reoccurring, (2) additional
 14 contamination is present which was not identified pursuant to
 15 section 81-15,184, ~~or 81-15,185,~~ or (3) additional contamination is
 16 present for which remedial action was not taken according to the
 17 remedial action plan. As a condition of issuance, the department
 18 may require payment of ongoing direct and indirect costs of
 19 oversight of any ongoing long-term operation, maintenance, and
 20 monitoring."

21 2. On page 21, line 13, after "Original" insert

22 "sections 81-15,181 to 81-15,186, Reissue Revised Statutes of
23 Nebraska, and".

24 3. Renumber the remaining section accordingly.

The Schrock amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 449A. Advanced to E & R for engrossment.

ANNOUNCEMENT

Pursuant to Rule 8, Sec. 3, the Appropriations Committee presented its preliminary report on February 12, 2004, summarizing the recommended appropriations for the following biennium.

SELECT FILE

LEGISLATIVE BILL 323. Senator Stuthman renewed his pending amendment, AM2471, found on page 532.

The Stuthman amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 963. Title read. Considered.

The Standing Committee amendment, AM2348, found on page 434, was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Pending.

STANDING COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 869. Placed on General File as amended.
Standing Committee amendment to LB 869:
AM2611

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 2-10,117, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 2-10,117. All money received from any source pursuant to
- 5 the Plant Protection and Plant Pest Act shall be remitted by the
- 6 department to the State Treasurer and by the State Treasurer

7 credited to the Plant Protection and Plant Pest Cash Fund which is
 8 hereby created. The fund also shall include funds transferred
 9 pursuant to section 81-201.05. The fund shall be used by the
 10 department to aid in defraying the expenses of administering the
 11 act. Any money in the fund available for investment shall be
 12 invested by the state investment officer pursuant to the Nebraska
 13 Capital Expansion Act and the Nebraska State Funds Investment
 14 Act."

15 2. On page 7, line 15, strike "(1)"; and strike lines 25
 16 through 28.

17 3. On page 8, strike lines 1 and 2.

18 4. On page 13, line 28, after the last comma insert
 19 "2-10,117,".

20 5. Renumber the remaining sections accordingly.

(Signed) Bob Kremer, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 1179. Placed on General File.

LEGISLATIVE BILL 727. Placed on General File as amended.

Standing Committee amendment to LB 727:

AM2571

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

3 "Section 1. Section 32-939, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 32-939. (1) The persons listed in this subsection who
 6 are residents of Nebraska but who reside outside the United States
 7 shall be allowed to simultaneously register to vote and make
 8 application for absentee ballots for all elections in a calendar
 9 year through the use of the Federal Post Card Application or a
 10 personal letter which includes the same information as appears on
 11 the Federal Post Card Application:

12 (a) Members of the armed forces of the United States and
 13 their spouses and dependents residing with them;

14 (b) Citizens temporarily residing outside of the United
 15 States and the District of Columbia; and

16 (c) Overseas citizens.

17 (2) An omission of required information, except the
 18 political party affiliation of the applicant, may prevent the
 19 processing of an application and mailing of absentee ballots. The
 20 request for absentee ballots and registration forms shall be sent
 21 to the election commissioner or county clerk of the county of the
 22 applicant's residence at any time in the same calendar year but
 23 prior to any election. If so requested, absentee ballots may be
 24 sent for all elections held in the county in that calendar year.

1 (3) Any person meeting the criteria in subsection (1) of

2 this section may cast a ballot by the use of the Federal Write-In
 3 Absentee Ballot. The Federal Write-In Absentee Ballot may be used
 4 for all elections. If a person casting a ballot using the Federal
 5 Write-In Absentee Ballot is not a registered voter, the information
 6 submitted in the Federal Write-In Absentee Ballot transmission
 7 envelope shall be treated as a voter registration application.
 8 (4) Any person meeting the criteria in subsection (1) of
 9 this section requesting an absentee ballot under this section or
 10 the special absentee ballot described in section 32-808 may receive
 11 the ballot and the oath prescribed in subsection (2) of section
 12 32-947 by facsimile but shall return the cast ballot and completed
 13 oath by mail.
 14 Sec. 2. Original section 32-939, Reissue Revised
 15 Statutes of Nebraska, is repealed."

LEGISLATIVE BILL 1155. Placed on General File as amended.
 Standing Committee amendment to LB 1155:
 AM2608

1 1. On page 2, line 22, after the period insert "This
 2 priority shall only be given if the bid submitted is comparable in
 3 price to the other bids submitted and the qualifications and
 4 capabilities of the vendors bidding for a contract are found to be
 5 similar to the other bidders.".

LEGISLATIVE BILL 1177. Placed on General File as amended.
 Standing Committee amendment to LB 1177:
 AM2603

1 1. Strike original section 31 and insert the following
 2 new sections:
 3 "Sec. 31. Section 79-1217, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 79-1217. (1) All educational service units, except
 6 Educational Service Units No. 18 and 19, shall be governed by a
 7 board to be known as the Board of Educational Service Unit No.
 8 The educational service unit board shall be composed of
 9 one member from each county and four members at large, all of whom
 10 shall reside within the geographical boundaries of the educational
 11 service unit, but no more than two of the members at large shall be
 12 appointed or elected from the same county unless any one county
 13 within the educational service unit has a population in excess of
 14 one hundred fifty thousand inhabitants or the educational service
 15 unit consists of only one county. The four candidates who receive
 16 the highest number of votes for at-large representative shall be
 17 elected, except that if more than two of such candidates reside
 18 within the same county which has a population of one hundred fifty
 19 thousand inhabitants or less, the candidates from such county
 20 receiving fewer votes than the two candidates receiving the highest
 21 number of votes for at-large representative from such county shall
 22 not be elected and a vacancy or vacancies shall exist for at-large

23 representative. The vacancy shall be filled pursuant to subsection
24 (2) of this section. Successors to the members initially appointed
1 shall be elected pursuant to section 32-515.

2 (2)(a) Vacancies in office shall occur (i) as set forth
3 in subsection (1) of this section, (ii) as set forth in section
4 32-560, or (iii) when a member is absent from the geographical
5 boundaries of the educational service unit for a continuous period
6 of sixty days at one time or from more than two consecutive regular
7 meetings of the board unless excused by a majority of the remaining
8 members of the board.

9 (b) Whenever any vacancy occurs on the board, the
10 remaining members of such board shall appoint an individual
11 residing within the geographical boundaries of the educational
12 service unit and meeting the qualifications for the office to fill
13 such vacancy for the balance of the unexpired term.

14 (c) If a board fails to fill a vacancy on the board, the
15 vacancy may be filled by election at a special election called for
16 that purpose. Such election shall be called in the same manner and
17 subject to the same procedures as other special elections.

18 (d) If there are vacancies in the offices of a majority
19 of the members of a board of an educational service unit, the
20 Secretary of State shall conduct a special election for the
21 educational service unit to fill such vacancies.

22 (3) Members of the board shall receive no compensation
23 for their services but shall be reimbursed for the actual and
24 necessary expenses incurred in the performance of their duties
25 under the Educational Service Units Act as provided in sections
26 81-1174 to 81-1177.

27 (4) Except as provided in subsection (5) of this section,
1 any joint school district located in two or more counties shall be
2 considered a part of the educational service unit in which the
3 greater number of school-age children of such joint school district
4 reside. All legal voters of any such joint school district shall
5 be eligible to hold office as the county representative of the
6 county in which the greater number of school-age children reside.
7 Any legal voter of any joint school district shall be eligible to
8 hold office as the at-large representative if such legal voter
9 resides within the geographical boundary of the school district
10 comprising the educational service unit.

11 (5) Any Class I district which is part of a Class VI
12 district shall be considered a part of the educational service unit
13 of which the Class VI district is a member. If the Class VI
14 district has removed itself from an educational service unit, each
15 Class I district which is part of such Class VI district may
16 continue its existing membership in an educational service unit or
17 may change its status relative to membership in an educational
18 service unit in accordance with section 79-1209. The patrons of a
19 Class I district maintaining membership in an educational service
20 unit pursuant to this subsection shall have the same rights and

21 privileges as other patrons of the educational service unit, and
22 the taxable valuation of the taxable property within the geographic
23 boundaries of such Class I district shall be subject to the
24 educational service unit's tax levy established pursuant to section
25 79-1225.

26 (6) The administrator of each educational service unit,
27 prior to July 1 of each year in which a statewide primary election
1 is to be held, shall certify to the election commissioner or county
2 clerk of each county located within the unit the corporate name of
3 each school district, as described in section 79-405, located
4 within the county. If a school district is a joint school district
5 located in two or more counties, the administrator shall certify to
6 each election commissioner or county clerk the educational service
7 unit of which the school district is considered to be a part.

8 (7) Educational Service Unit No. 18 shall be governed by
9 the school board of School District 55-001 of Lancaster County.

10 (8) Educational Service Unit No. 19 shall be governed by
11 the school board of School District 28-001 of Douglas County.

12 Sec. 32. Sections 1 to 30, 34, and 35 of this act become
13 operative on January 1, 2005. The other sections of this act
14 become operative on their effective date.

15 Sec. 33. Original section 79-1217, Reissue Revised
16 Statutes of Nebraska, is repealed."

17 2. Renumber the remaining sections accordingly.

(Signed) DiAnna R. Schimek, Chairperson

VISITORS

Visitors to the Chamber were 22 members of the Blair Chamber of
Commerce; 9 members of Adults Leadership Tomorrow class from Aurora;
and 70 seventh-grade students and teacher from Ashland-Greenwood.

ADJOURNMENT

At 12:01 p.m., on a motion by Senator Cunningham, the Legislature
adjourned until 9:00 a.m., Tuesday, February 17, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-SIXTH DAY - FEBRUARY 17, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 17, 2004

PRAYER

The prayer was offered by Senator Kruse.

ROLL CALL

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

The roll was called and all members were present except Senators Burling and Hudkins who were excused; and Senators Beutler, Brashear, Byars, Combs, Landis, Maxwell, Mines, and Schrock who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-fifth day was approved.

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

The following bills were correctly engrossed: LBs 37, 37A, 139, 139A, and 270.

ER9097

Enrollment and Review Change to LB 37A

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

1. In the Price amendment, AM2383, on page 1, line 2, "Administration" has been struck and "Administrative" inserted; and in line 3 "12" has been struck and "11" inserted.

ER9098

Enrollment and Review Change to LB 139

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

1. In the E & R amendments, AM7165, on page 8, line 25, "29-4103 to 29-4106 and" has been struck and "29-4102 to" inserted; and in line 26 ", and section 29-2262, Revised Statutes Supplement, 2003; to restate intent" has been inserted after "2002".

ER9099

Enrollment and Review Change to LB 270

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

1. In the Brashear amendment, AM2441, on page 1, line 2, "11 and 12" has been struck and "12 and 13" inserted; and in line 8 "18" has been struck and "24" inserted.

2. In the Beutler amendment, AM2215:

a. Section 8 has been renumbered as section 7; and

b. On page 1, line 4, "a" has been inserted after "or"; in line 7 the first "act" has been struck and "Nebraska Crime Victim's Reparations Act" inserted; and in line 11 "8" has been struck and "7" inserted.

3. In the E & R amendments, AM7166, on page 3, line 9, "8, 11 to 13, and 16" has been struck and "9, 12 to 14, and 17" inserted.

4. In the Brashear amendment, AM2019:

a. On page 1, line 6; page 5, lines 9 and 18; page 6, line 9; page 12, line 18; and page 17, line 26, "8, 11 to 13, and 16" has been struck and "9, 12 to 14, and 17" inserted; and

b. On page 9, line 14, "education" has been struck and "educational" inserted.

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORT
Banking, Commerce and Insurance

LEGISLATIVE BILL 920. Indefinitely postponed.

(Signed) Mark Quandahl, Chairperson

NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications
Room 1113

(Signed) Tom Baker, Chairperson

MOTION - Approve Appointment

Senator Kremer moved the adoption of the Agriculture Committee report for the confirmation of the following appointment found on page 609:

Beginning Farmer Board
Dale Pohlmann

Voting in the affirmative, 33:

Aguilar	Cunningham	Jones	Pederson, D.	Synowiecki
Baker	Engel	Kremer	Preister	Thompson
Bourne	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Louden	Redfield	Vrtiska
Brown	Janssen	McDonald	Smith	Wehrbein
Connealy	Jensen	Mossey	Stuhr	
Cudaback	Johnson	Pedersen, Dw.	Stuthman	

Voting in the negative, 0.

Present and not voting, 6:

Chambers	Hartnett	Raikes
Friend	Price	Schimek

Excused and not voting, 10:

Beutler	Burling	Combs	Landis	Mines
Brashear	Byars	Hudkins	Maxwell	Schrock

The appointment was confirmed with 33 ayes, 0 nays, 6 present and not voting, and 10 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 906A. Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 9 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 963. Considered.

Senator Chambers offered the following amendment:

FA1463
Amend AM2348
Strike section 3.

Senator Chambers withdrew his amendment.

Senator Beutler offered the following amendment:

FA1464

1. In the Standing Committee amendments, AM2348, on page 4, line 23, after "thirty" insert "consecutive".
2. On page 2, line 20; and page 6, line 2, after "thirty" insert "consecutive".

Pending.

STANDING COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 853. Placed on General File.

LEGISLATIVE BILL 1157. Placed on General File.

(Signed) Kermit A. Brashear, Chairperson

Education

LEGISLATIVE BILL 1161. Placed on General File as amended.

Standing Committee amendment to LB 1161:

AM2519

- 1 1. Strike original sections 3 and 4.
- 2 2. On page 2, line 22, after the period insert "On or
- 3 before such deadline, the applicant school district shall send
- 4 copies of the application to the high school districts of the local
- 5 systems receiving valuation in the transfer.".
- 6 3. On page 3, strike beginning with "The" in line 6
- 7 through "on" in line 7 and insert "On"; in line 8 strike the first
- 8 "of" and insert ", the department shall certify to the applicant
- 9 school district"; in lines 9 and 12 strike "If" and insert "Except
- 10 as otherwise provided in this subsection, if"; in line 16 after the
- 11 underscored period insert "If a portion of the total reduction
- 12 calculated pursuant to subsection (5) of this section for local
- 13 systems receiving valuation in the transfer of property that is the
- 14 subject of the application is delayed until future years, the
- 15 additional state aid to be paid in the school fiscal year described
- 16 in subsection (3) of this section shall be reduced by the amount of
- 17 the total reduction that is delayed until future years. The amount
- 18 of the reduction shall be paid as additional aid in the next school
- 19 fiscal year."; in line 17 after "(5)" insert "The state aid
- 20 payments shall be reduced for the high school district of each
- 21 receiving local system."; and strike beginning with "The" in line
- 22 23 through the period in line 24.
- 23 4. On page 4, line 9, strike "notify" and insert
- 24 "certify to"; in line 10 strike the second "of"; and strike
- 1 beginning with "June" in line 26 through "merger" in line 27, show
- 2 as stricken, and insert "July 1 immediately following the effective

- 3 date of the change of city or village boundaries which caused the
 4 merger pursuant to section 79-407, 79-408, or 79-473".
 5 5. On page 11, line 19, after "amounts" insert " ¹
 6 including adjustments pursuant to section 1 of this act."
 7 6. On page 12, strike beginning with the first comma in
 8 line 22 through the first comma in line 23.
 9 7. Renumber the remaining sections accordingly.

(Signed) Ron Raikes, Chairperson

ANNOUNCEMENT

Senator Kruse designates LB 871 as his priority bill.

GENERAL FILE

LEGISLATIVE BILL 963. The Beutler pending amendment, FA1464, found in this day's Journal, was renewed.

SPEAKER BROMM PRESIDING

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

Senator Chambers offered the following amendment:
 FA1465
 Amend AM2348
 Strike section 4.

Senator Chambers withdrew his amendment.

Pending.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 232 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 232.

GENERAL FILE

LEGISLATIVE BILL 963. Senator Beutler offered the following amendment:
 FA1466

On page 3, line 27 add the following language: "Any creditor suffering a loss of interest income pursuant to this provision may file a claim against the state and recover the amount lost if the debt is verified"

SENATOR CUDABACK PRESIDING

Pending.

STANDING COMMITTEE REPORTS **Natural Resources**

The Natural Resources 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.

Environmental Quality Council
Janet Bernard
James Whitaker

VOTE: Aye: Senators Friend, Jones, Kremer, Louden, Preister, Schrock, and Stuhr. Nay: None. Absent: Senator Hudkins.

(Signed) Ed Schrock, Chairperson

Revenue

LEGISLATIVE BILL 1219. Placed on General File as amended.
Standing Committee amendment to LB 1219:
AM2643

1 1. Strike the original sections and insert the following
2 new sections:
3 "Section 1. Section 77-2727, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 77-2727. (1) A partnership as such shall not be subject
6 to the income tax imposed by the Nebraska Revenue Act of 1967.
7 Persons or their authorized representatives carrying on business as
8 partners shall be liable for the income tax imposed by the Nebraska
9 Revenue Act of 1967 only in their separate or individual
10 capacities.
11 (2) The partners of such partnership who are residents of
12 this state or corporations shall include in their incomes their
13 proportionate share of such partnership's income.
14 (3) If any partner of such partnership is a nonresident
15 individual during any part of the partnership's reporting year, he
16 or she shall file a Nebraska income tax return which shall include
17 in Nebraska adjusted gross income that portion of the partnership's
18 Nebraska income, as determined under the provisions of sections
19 77-2728 and 77-2729, allocable to his or her interest in the
20 partnership and shall execute and forward to the partnership, on or

21 before the original due date of the Nebraska partnership return, an
22 agreement which states that he or she will file a Nebraska income
23 tax return and pay income tax on all income derived from or
24 attributable to sources in this state, and such agreement shall be
1 attached to the partnership's Nebraska return for such reporting
2 year.

3 (4)(a) ~~It~~ Except as provided in subdivision (c) of this
4 subsection, in the absence of the nonresident individual partner's
5 executed agreement being attached to the Nebraska partnership
6 return, the partnership shall remit a portion of such partner's
7 income which was derived from or attributable to Nebraska sources
8 with its Nebraska return for the reporting year. The amount of
9 remittance, in such instance, shall be the highest individual
10 income tax rate determined under section 77-2715.02 multiplied by
11 the nonresident individual partner's share of the partnership
12 income which was derived from or attributable to sources within
13 this state.

14 (b) Any amount remitted on behalf of any partner shall be
15 allowed as a credit against the Nebraska income tax liability of
16 the partner.

17 (c) Subdivision (a) of this subsection shall not apply to
18 a publicly traded partnership as defined by section 7704(b) of the
19 Internal Revenue Code of 1986, as amended, that is treated as a
20 partnership for the purposes of the code and that has agreed to
21 file an annual information return with the Department of Revenue
22 reporting the name, address, taxpayer identification number, and
23 other information requested by the department of each unit holder
24 with an income in the state in excess of five hundred dollars.

25 (5) The Tax Commissioner may allow a nonresident
26 individual partner to not file a Nebraska income tax return if the
27 nonresident individual partner's only source of Nebraska income was
1 his or her share of the partnership's income which was derived from
2 or attributable to sources within this state, the nonresident did
3 not file an agreement to file a Nebraska income tax return, and the
4 partnership has remitted the amount required by subsection (4) of
5 this section on behalf of such nonresident individual partner. The
6 amount remitted shall be retained in satisfaction of the Nebraska
7 income tax liability of the nonresident individual partner.

8 Sec. 2. This act becomes operative for all taxable years
9 beginning or deemed to begin on or after January 1, 2004, under the
10 Internal Revenue Code of 1986, as amended.

11 Sec. 3. Original section 77-2727, Reissue Revised
12 Statutes of Nebraska, is repealed."

LEGISLATIVE BILL 1066. Indefinitely postponed.

(Signed) David Landis, Chairperson

Natural Resources

LEGISLATIVE BILL 833. Placed on General File.

(Signed) Ed Schrock, Chairperson

Health and Human Services

LEGISLATIVE BILL 931. Placed on General File.

LEGISLATIVE BILL 594. Placed on General File as amended.
Standing Committee amendment to LB 594:

AM2597

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 71-401, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 71-401. Sections 71-401 to ~~71-463~~ 71-459 shall be known
- 6 and may be cited as the Health Care Facility Licensure Act.
- 7 Sec. 2. Section 71-448, Reissue Revised Statutes of
- 8 Nebraska, is amended to read:
- 9 71-448. The department may take disciplinary action
- 10 against a license issued under the Health Care Facility Licensure
- 11 Act on any of the following grounds:
- 12 (1) Violation of any of the provisions of the
- 13 Assisted-Living Facility Act, the Health Care Facility Licensure
- 14 Act, the Nebraska Nursing Home Act, or the rules and regulations
- 15 adopted and promulgated under such acts;
- 16 (2) Committing or permitting, aiding, or abetting the
- 17 commission of any unlawful act;
- 18 (3) Conduct or practices detrimental to the health or
- 19 safety of a person residing in, served by, or employed at the
- 20 health care facility or health care service;
- 21 (4) A report from an accreditation body or public agency
- 22 sanctioning, modifying, terminating, or withdrawing the
- 23 accreditation or certification of the health care facility or
- 24 health care service;
- 1 (5) Failure to allow an agent or employee of the
- 2 Department of Health and Human Services, the Department of Health
- 3 and Human Services Finance and Support, or the Department of Health
- 4 and Human Services Regulation and Licensure access to the health
- 5 care facility or health care service for the purposes of
- 6 inspection, investigation, or other information collection
- 7 activities necessary to carry out the duties of such departments;
- 8 (6) Discrimination or retaliation against a person
- 9 residing in, served by, or employed at the health care facility or
- 10 health care service who has submitted a complaint or information to
- 11 the Department of Health and Human Services, the Department of

12 Health and Human Services Finance and Support, or the Department of
13 Health and Human Services Regulation and Licensure;

14 (7) Discrimination or retaliation against a person
15 residing in, served by, or employed at the health care facility or
16 health care service who has presented a grievance or information to
17 the office of the state long-term care ombudsman;

18 (8) Failure to allow a state long-term care ombudsman or
19 an ombudsman advocate access to the health care facility or health
20 care service for the purposes of investigation necessary to carry
21 out the duties of the office of the state long-term care ombudsman
22 as specified in the rules and regulations adopted and promulgated
23 by the Department of Health and Human Services;

24 (9) Violation of the Emergency Box Drug Act;

25 (10) Failure to file a report required by section
26 71-168.02;

27 (11) Violation of the Medication Aide Act; or

1 (12) Failure to file a report of suspected abuse or
2 neglect as required by sections 28-372 and 28-711.

3 Sec. 3. Sections 3 to 10 of this act shall be known and
4 may be cited as the Assisted-Living Facility Act.

5 Sec. 4. The purposes of the Assisted-Living Facility Act
6 are to supplement provisions of the Health Care Facility Licensure
7 Act relating to the licensure and regulation of assisted-living
8 facilities and to provide for the health and safety of residents of
9 such facilities.

10 Sec. 5. Section 71-460, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-460.~~ For purposes of this section and section 71-461
13 the Assisted-Living Facility Act:

14 (1) Activities of daily living means transfer,
15 ambulation, exercise, toileting, eating, self-administered
16 self-administration of medication, and similar activities;

17 (2) Administrator means the operating officer of an
18 assisted-living facility and includes a person with a title such as
19 administrator, chief executive officer, manager, superintendent,
20 director, or other similar designation;

21 (3) Assisted-living facility has the same meaning as in
22 section 71-406;

23 ~~(4)~~ (4) Authorized representative means (a) a person
24 holding a durable power of attorney for health care, (b) a
25 guardian, or (c) a person appointed by a court to manage the
26 personal affairs of a resident of an assisted-living facility other
27 than the facility;

1 (5) Chemical restraint means a psychopharmacologic drug
2 that is used for discipline or convenience and is not required to
3 treat medical symptoms;

4 ~~(6)~~ (6) Complex nursing interventions means interventions
5 which require nursing judgment to safely alter standard procedures
6 in accordance with the needs of the resident, which require nursing

7 judgment to determine how to proceed from one step to the next, or
 8 which require a multidimensional application of the nursing
 9 process. Complex nursing interventions does not include a nursing
 10 assessment;

11 ~~(5)~~ Designee means a person holding a durable power of
 12 attorney for health care, a guardian, or a person appointed by a
 13 court to manage the personal affairs of a resident of a facility
 14 other than the facility;

15 ~~(6)~~ (7) Department means the Department of Health and
 16 Human Services Regulation and Licensure;

17 (8) Health maintenance activities means noncomplex
 18 interventions which can safely be performed according to exact
 19 directions, which do not require alteration of the standard
 20 procedure, and for which the results and resident responses are
 21 predictable;

22 ~~(7)~~ (9) Personal care means bathing, hair care, nail
 23 care, shaving, dressing, oral care, and similar activities;

24 ~~(8)~~ (10) Physical restraint means any manual method or
 25 physical or mechanical device, material, or equipment attached or
 26 adjacent to the resident's body that he or she cannot remove easily
 27 and that restricts freedom of movement or normal access to his or
 1 her own body; and

2 ~~(9)~~ (11) Stable or predictable means that a resident's
 3 clinical and behavioral status and nursing care needs are
 4 determined to be (a) nonfluctuating and consistent or (b)
 5 fluctuating in an expected manner with planned interventions,
 6 including an expected deteriorating condition.

7 Sec. 6. Section 71-461, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 ~~71-461. (4) Assisted living promotes resident~~
 10 ~~self-direction and participation in decisions which emphasize~~
 11 ~~independence, individuality, privacy, dignity, and residential~~
 12 ~~surroundings.~~

13 ~~(2) An assisted living facility shall complete criminal~~
 14 ~~background checks on each member of the direct care staff of the~~
 15 ~~facility.~~

16 ~~(3) To be eligible for admission to an assisted-living~~
 17 ~~facility, a person shall be in need of or wish to have available~~
 18 ~~room, board, assistance with or provision of personal care,~~
 19 ~~activities of daily living, or health maintenance activities or~~
 20 ~~supervision due to age, infirmity illness, or physical disability.~~
 21 ~~The administrator of the facility shall have the discretion~~

22 ~~regarding admission or retention of residents subject to the~~
 23 ~~Assisted-Living Facility Act and rules and regulations adopted and~~
 24 ~~promulgated under the act. provisions of this section. No~~
 25 ~~assisted living facility shall admit or retain an individual who~~
 26 ~~requires complex nursing interventions or whose condition is not~~
 27 ~~stable or predictable unless:~~

1 (a) ~~The resident, if the resident has sufficient mental~~

- 2 ability to understand the situation and make a rational decision as
3 to his or her needs or care and is not a minor; the resident's
4 designee; and the resident's physician or the registered nurse
5 agree that admission or retention of the resident is appropriate;
6 (b) The resident or his or her designee is responsible
7 for arranging for the resident's care through appropriate private
8 duty personnel, a licensed home health agency, or a licensed
9 hospice; and
10 (c) The resident's care does not compromise the facility
11 operations or create a danger to others in the facility.
12 (4) An assisted-living facility shall assure that each
13 resident does not require complex nursing interventions and that
14 each resident is stable or predictable or is suitable for admission
15 under subsection (3) of this section. All health maintenance
16 activities shall be performed in accordance with the Nurse Practice
17 Act and the rules and regulations adopted and promulgated under the
18 act.
19 (5) Chemical and physical restraints are prohibited in an
20 assisted-living facility.
21 (6) For purposes of the Life Safety Code under section
22 81-502, an assisted-living facility shall be classified as (a)
23 residential board and care if the facility meets the residential
24 board and care classification requirements of the Life Safety Code
25 or (b) limited care if the facility meets the limited care
26 classification requirements of the Life Safety Code.
27 Sec. 7. (1) An assisted-living facility shall not admit
1 or retain a resident who requires complex nursing interventions or
2 whose condition is not stable or predictable unless:
3 (a) The resident, if he or she is not a minor and is
4 competent to make a rational decision as to his or her needs or
5 care, or his or her authorized representative, and his or her
6 physician or a registered nurse agree that admission or retention
7 of the resident is appropriate;
8 (b) The resident or his or her authorized representative
9 agrees to arrange for the care of the resident through appropriate
10 private duty personnel, a licensed home health agency, or a
11 licensed hospice; and
12 (c) The resident's care does not compromise the facility
13 operations or create a danger to others in the facility.
14 (2) Health maintenance activities at an assisted-living
15 facility shall be performed in accordance with the Nurse Practice
16 Act and the rules and regulations adopted and promulgated under the
17 act.
18 Sec. 8. (1) On and after the operative date of this act,
19 every person seeking admission to an assisted-living facility or
20 the authorized representative of such person shall, upon admission
21 and annually thereafter, provide the facility with a list of drugs,
22 devices, biologicals, and supplements being taken or being used by
23 the person, including dosage, instructions for use, and reported

24 use.

25 (2) Every person residing in an assisted-living facility
26 on the operative date of this act or the authorized representative
27 of such person shall, within sixty days after the operative date of
1 this act, and annually thereafter, provide the facility with a list
2 of drugs, devices, biologicals, and supplements being taken or
3 being used by such person, including dosage, instructions for use,
4 and reported use.

5 (3) An assisted-living facility shall not be subject to
6 disciplinary action by the department for the failure of any person
7 seeking admission to or residing at such facility or the authorized
8 representative of such person to comply with subsections (1) and
9 (2) of this section.

10 (4) Each assisted-living facility shall provide for a
11 registered nurse to review medication administration policies and
12 procedures and to be responsible for the training of medication
13 aides at such facility.

14 Sec. 9. For purposes of the Life Safety Code under
15 section 81-502, an assisted-living facility shall be classified as
16 (1) residential board and care if the facility meets the
17 residential board and care classification requirements of the Life
18 Safety Code or (2) limited care if the facility meets the limited
19 care classification requirements of the Life Safety Code.

20 Sec. 10. The department shall adopt and promulgate rules
21 and regulations necessary to carry out the Assisted-Living Facility
22 Act, including, but not limited to, rules and regulations which:

23 (1) Prohibit the use of chemical or physical restraints
24 at an assisted-living facility;

25 (2) Require that a criminal background check be conducted
26 on all persons employed as direct care staff at an assisted-living
27 facility;

1 (3) Establish initial and ongoing training requirements
2 for administrators and approved curriculum for such training. Such
3 requirements shall consist of thirty hours of initial training,
4 including, but not limited to, training in resident care and
5 services, social services, financial management, administration,
6 gerontology, and rules, regulations, and standards relating to the
7 operation of an assisted-living facility. The department may waive
8 initial training requirements established under this subdivision
9 for persons employed as administrators of assisted-living
10 facilities on the operative date of this act upon application to
11 the department and documentation of equivalent training or
12 experience satisfactory to the department. Training requirements
13 established under this subdivision shall not apply to an
14 administrator who is also a nursing home administrator or a
15 hospital administrator; and

16 (4) Provide for acceptance of accreditation by a
17 recognized independent accreditation body or public agency, which
18 has standards that are at least as stringent as those of the State

19 of Nebraska, as evidence that the assisted-living facility complies
20 with rules and regulations adopted and promulgated under the
21 Assisted-Living Facility Act.

22 Sec. 11. This act becomes operative on January 1, 2005.

23 Sec. 12. Original sections 71-401, 71-448, 71-460, and

24 71-461, Reissue Revised Statutes of Nebraska, are repealed.

25 Sec. 13. The following section is outright repealed:

26 Section 71-463, Reissue Revised Statutes of Nebraska.".

LEGISLATIVE BILL 1084. Placed on General File as amended.

(Standing Committee amendment, AM2590, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1158. Placed on General File as amended.

Standing Committee amendment to LB 1158:

AM2627

1 1. Strike the original sections and insert the following

2 new section:

3 "Section 1. On and after January 1, 2006, any medical

4 professional in Nebraska administering a vaccine containing mercury

5 shall provide written notice in advance of the presence of mercury

6 in such vaccine to the recipient of the vaccine or, if the

7 recipient is a minor child, to the parent or guardian of the minor

8 child.".

LEGISLATIVE BILL 1159. Placed on General File as amended.

Standing Committee amendment to LB 1159:

AM2588

1 1. Strike original section 2 and insert the following

2 new sections:

3 "Section 1. Section 71-185.03, Reissue Revised Statutes

4 of Nebraska, is amended to read:

5 71-185.03. (1) The department upon recommendation of the

6 Board of Dentistry shall issue a faculty license to any person who

7 meets the requirements of subsection (4) or (5) of this section. A

8 faculty licensee may practice dentistry only as a faculty member at

9 a dental education institution in the State of Nebraska accredited

10 by the Commission on Dental Accreditation of the American Dental

11 Association, the Commission on Dental Accreditation of Canada, or

12 similar organization as determined by the board and may teach

13 dentistry, conduct research, and participate in an institutionally

14 administered faculty practice only at such dental education

15 institution. A faculty licensee eligible for licensure under

16 subsection (5) of this section shall limit his or her practice to

17 the clinical discipline in which he or she has received

18 postgraduate education at an accredited dental education

19 institution.

20 (2) Any person who desires a faculty license shall make a

21 written application to the department. The application shall

22 include information regarding the applicant's professional
 23 qualifications, experience, and licensure. The application shall
 24 be accompanied by a copy of the applicant's dental degree, any
 1 other degrees or certificates for postgraduate education of the
 2 applicant, the required fee, and certification from the dean of an
 3 accredited dental education institution in the State of Nebraska
 4 that the applicant has a contract to be employed as a full-time
 5 faculty member at such institution.

6 (3) A faculty license shall expire at the same time and
 7 be subject to the same renewal requirements as a regular dental
 8 license, except that such license shall remain valid and may only
 9 be renewed if:

10 (a) The faculty licensee remains employed as a full-time
 11 faculty member of an accredited dental education institution in the
 12 State of Nebraska; and

13 (b) The faculty licensee demonstrates continuing clinical
 14 competency if required by the board.

15 (4) An individual who graduated from an accredited dental
 16 education institution shall be eligible for a faculty license if he
 17 or she:

18 (a) Has a license to practice dentistry in some other
 19 state in the United States or a Canadian province;

20 (b) Has a contract to be employed as a full-time faculty
 21 member at an accredited dental education institution in the State
 22 of Nebraska;

23 (c) Passes a jurisprudence examination administered by
 24 the Board of Dentistry; and

25 (d) Agrees to demonstrate continuing clinical competency
 26 as a condition of renewal if required by the board.

27 (5) An individual who graduated from a nonaccredited
 1 dental education institution shall be eligible for a faculty
 2 license if he or she:

3 (a) Has completed at least two years of postgraduate
 4 education at an accredited dental education institution and
 5 received a certificate or degree from such institution;

6 (b) Has a contract to be employed as a full-time faculty
 7 member at an accredited dental education institution in the State
 8 of Nebraska;

9 (c) Passes a jurisprudence examination administered by
 10 the Board of Dentistry;

11 (d) Agrees to demonstrate continuing clinical competency
 12 as a condition of renewal if required by the board; and

13 (e) Has passed Part I and Part II of the National Board
 14 Dental Examinations or its equivalent as determined by the Board of
 15 Dentistry.

16 Sec. 3. Original sections 71-185.03 and 71-190, Reissue
 17 Revised Statutes of Nebraska, are repealed."

18 2. On page 2, strike line 9 and insert "the"; and in
 19 line 17 strike "licensed" and insert "regulated".

LEGISLATIVE BILL 1226. Indefinitely postponed.

(Signed) Jim Jensen, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 906A. Placed on Select File.

Correctly Engrossed

The following bills were correctly engrossed: LBs 227, 323, 449, 449A, 559, and 559A.

ER9102

Enrollment and Review Change to LB 227

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

1. On page 1, the matter beginning with "sections" in line 1 through line 5 has been struck and "section 60-6,265, Reissue Revised Statutes of Nebraska, and sections 60-6,267 and 60-6,268, Revised Statutes Supplement, 2002; to redefine a term; to change provisions relating to use and enforcement of use of occupant protection systems; and to repeal the original sections." inserted.

ER9105

Enrollment and Review Change to LB 323

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

1. On page 1, the matter beginning with "counties" in line 1 through line 4 has been struck and "political subdivisions; to amend section 23-272, Reissue Revised Statutes of Nebraska, and section 32-608, Revised Statutes Supplement, 2003; to change provisions relating to regular meetings of certain county boards and payment of filing fees for certain candidates; to provide operative dates; and to repeal the original sections." inserted.

ER9104

Enrollment and Review Change to LB 449

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

1. In the Schrock amendment, AM2604:

- a. On page 2, line 20, "this" has been struck and "the" inserted;
- b. On page 3, line 21, "and" has been inserted after the semicolon; and in line 24 an underscored comma has been inserted after "guidance";
- c. On page 6, line 23, "their" has been struck;
- d. On page 8, line 16, "department" has been struck and "Department of Environmental Quality" inserted; and in line 18 "of Environmental Quality" has been struck; and
- e. On page 9, line 23, "and" has been struck.

2. On page 1, the matter beginning with "Environmental" in line 1 through line 5 and all amendments thereto have been struck and "environment; to amend sections 81-15,181 to 81-15,186, Reissue Revised Statutes of Nebraska, sections 81-1505 and 81-1532, Revised Statutes Supplement, 2002, and section 81-15,248, Revised Statutes Supplement, 2003; to define and redefine terms; to change provisions relating to environmental rules and regulations and air pollution fees; to create a fund; to change provisions of the Remedial Action Plan Monitoring Act; to change provisions relating to system construction and registration under the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act; to harmonize provisions; and to repeal the original sections." inserted.

ER9103

Enrollment and Review Change to LB 449A

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

1. On page 1, line 3, "First Session, 2003" has been struck and "Second Session, 2004" inserted.

ER9101

Enrollment and Review Change to LB 559

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

1. On page 1, the matter beginning with "Motor" in line 1 through the semicolon in line 15 and all amendments thereto have been struck and "Department of Motor Vehicles; to amend sections 60-482, 60-4,118.04, 60-4,123.01, 60-4,130.05, 60-4,155, and 60-4,173 to 60-4,175, Reissue Revised Statutes of Nebraska, sections 60-486, 60-493, 60-494, 60-495, 60-4,115, 60-4,118, 60-4,127, 60-4,146.01, 60-4,158, and 60-2907, Revised Statutes Supplement, 2002, and sections 60-462, 60-479, 60-484, 60-4,144, and 60-4,181, Revised Statutes Supplement, 2003; to change provisions relating to rules and regulations; to prohibit certain acts and change provisions relating to issuance and cancellation of operators' licenses and state identification cards; to provide fees;" inserted; and in line 16 "to provide for a Donor Registry of Nebraska; to authorize the Department of Motor Vehicles to transfer certain motor vehicle operator's license and state identification card

information; to change provisions relating to donor notations on licenses and cards; to create an advisory board;" has been inserted after the second semicolon.

(Signed) Ray Mossey, Chairperson

ANNOUNCEMENTS

Senator Thompson designates LB 943 as her priority bill.

The Natural Resources Committee designates LB 32 and LR 4CA as its priority bill and priority resolution.

VISITORS

Visitors to the Chamber were Mike Motis from Geneva; 32 tenth-grade students and director from Youth Leadership Tomorrow, Hall County; 20 students from Wayne State College; 90 4-H members and sponsors from across the state; Karna Dam from Hooper; and Sarah Meyer from Aurora, Cassie Rudolph from Syracuse, and Kelly Norrie from Geneva.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Wednesday, February 18, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-SEVENTH DAY - FEBRUARY 18, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 18, 2004

PRAYER

The prayer was offered by Senator Stuhr.

ROLL CALL

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

The roll was called and all members were present except Senators Burling, Hartnett, Landis, Maxwell, and Mines who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-sixth day was approved.

**STANDING COMMITTEE REPORTS
Banking, Commerce and Insurance**

LEGISLATIVE BILL 1120. Placed on General File.

LEGISLATIVE BILL 1228. Placed on General File.

LEGISLATIVE BILL 334. Indefinitely postponed.

LEGISLATIVE BILL 386. Indefinitely postponed.

(Signed) Mark Quandahl, Chairperson

GENERAL FILE

LEGISLATIVE BILL 963. Senator Beutler withdrew his pending amendment, FA1466, found on page 637.

Senator Chambers offered the following amendment:

FA1467

Amend AM2348

On page 3, in line 20 strike beginning with the period through "authority" and insert "who".

Senator Chambers moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

The Chambers amendment was adopted with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Beutler offered the following amendment:

AM2653

- 1 1. On page 4, lines 6, 9, 11, 19, 22, and 24, after
- 2 "who" insert "knowingly".

Senator Chambers offered the following amendment to the Beutler pending amendment:

FA1468

Amend AM2653

In line 2 after "knowingly" insert "and intentionally"

The Chambers amendment was adopted with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

The Beutler amendment, as amended, was adopted with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

Senator Vrtiska offered the following amendment:

AM2675

- 1 1. On page 2, strike beginning with "The" in line 5
- 2 through line 11 and insert "The portions of the federal
- 3 Servicemembers Civil Relief Act, Public Law 108-189, listed in this
- 4 section or any other portions of federal law referred to in the
- 5 federal Servicemembers Civil Relief Act in existence and effective
- 6 as of January 1, 2004, are adopted as Nebraska law and are
- 7 applicable to all persons in military service as defined in Public
- 8 Law 108-189, Title I, section 101. The Legislature hereby adopts,
- 9 as modified in this section, the following portions of the federal
- 10 Servicemembers Civil Relief Act:".

Senator Vrtiska withdrew his amendment.

Advanced to E & R for review with 26 ayes, 1 nay, 20 present and not voting, and 2 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 237. Introduced by Johnson, 37.

WHEREAS, Warner Phipps, an esteemed resident of Kearney, Nebraska,

and a student at Sunrise Christian Academy, has achieved national recognition for exemplary volunteer service by receiving a 2004 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Warner Phipps earned this award by giving generously of his time and energy to design and teach grain bin safety workshops at safety camps, school assemblies, farm shows, and other community events across the State of Nebraska; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depends, in great measure, upon the dedication of young people like Warner Phipps who use their considerable talents and resources to serve others.

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

1. That the Legislature hereby congratulates and honors Warner Phipps as a recipient of a Prudential Spirit of Community Award and recognizes his outstanding record of volunteer service, peer leadership, and community spirit.

2. That a copy of this resolution be sent to Warner Phipps and his family.

Laid over.

ANNOUNCEMENT

The Agriculture Committee designates LB 869 and LB 212 as its priority bills.

GENERAL FILE

LEGISLATIVE BILL 999. Title read. Considered.

The Standing Committee amendment, AM2339, printed separately and referred to on page 446, was considered.

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

FA1470

Amend AM2339

On page 31, line 20, after the word "deposit" insert "or time deposit"

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

The Standing Committee 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 review with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 526. Placed on General File.

(Signed) Kermit A. Brashear, Chairperson

Revenue

LEGISLATIVE BILL 816. Placed on General File.

(Signed) David Landis, Chairperson

AMENDMENT - Print in Journal

Senator Schrock filed the following amendment to LB 832:
AM2673

- 1 1. Insert the following new section:
- 2 "Sec. 5. Section 81-1411, Revised Statutes Supplement,
- 3 2002, is amended to read:
- 4 84-1411. (1) Each public body shall give reasonable
- 5 advance publicized notice of the time and place of each meeting by
- 6 a method designated by each public body and recorded in its
- 7 minutes. Such notice shall be transmitted to all members of the
- 8 public body and to the public. Such notice shall contain an agenda
- 9 of subjects known at the time of the publicized notice or a
- 10 statement that the agenda, which shall be kept continually current,
- 11 shall be readily available for public inspection at the principal
- 12 office of the public body during normal business hours. Except for
- 13 items of an emergency nature, the agenda shall not be altered later
- 14 than (a) twenty-four hours before the scheduled commencement of the
- 15 meeting or (b) forty-eight hours before the scheduled commencement
- 16 of a meeting of a city council or village board scheduled outside
- 17 the corporate limits of the municipality. The public body shall
- 18 have the right to modify the agenda to include items of an
- 19 emergency nature only at such public meeting.
- 20 (2) A meeting of a state agency, state board, state
- 21 commission, state council, or state committee, of an advisory
- 22 committee of any such state entity, of an organization created
- 23 under the Interlocal Cooperation Act, the Joint Public Agency Act,
- 24 or the Municipal Cooperative Financing Act, of the governing body
- 1 of a public power district having a chartered territory of more
- 2 than fifty counties in this state, or of the governing body of a
- 3 risk management pool or its advisory committees organized in
- 4 accordance with the Intergovernmental Risk Management Act may be

5 held by means of videoconferencing or, in the case of the Judicial
6 Resources Commission in those cases specified in section 24-1204,
7 by telephone conference, if:

- 8 (a) Reasonable advance publicized notice is given;
- 9 (b) Reasonable arrangements are made to accommodate the
10 public's right to attend, hear, and speak at the meeting, including
11 seating, recordation by audio or visual recording devices, and a
12 reasonable opportunity for input such as public comment or
13 questions to at least the same extent as would be provided if
14 videoconferencing or telephone conferencing was not used;
- 15 (c) At least one copy of all documents being considered
16 is available to the public at each site of the videoconference or
17 telephone conference;
- 18 (d) At least one member of the state entity, advisory
19 committee, or governing body is present at each site of the
20 videoconference or telephone conference; and
- 21 (e) No more than one-half of the state entity's, advisory
22 committee's, or governing body's meetings in a calendar year are
23 held by videoconference or telephone conference.

24 Videoconferencing or telephone conferencing shall not be
25 used to circumvent any of the public government purposes
26 established in sections 84-1408 to 84-1414.

27 (3)(a) A meeting of the governing body of an entity
1 formed under the Interlocal Cooperation Act or the Joint Public
2 Agency Act or of the governing body of a risk management pool or
3 its advisory committees organized in accordance with the
4 Intergovernmental Risk Management Act may be held by telephone
5 conference call if:

- 6 ~~(a)~~ (i) The territory represented by the member public
7 agencies of the entity or pool covers more than one county;
- 8 ~~(b)~~ (ii) Reasonable advance publicized notice is given
9 which identifies each telephone conference location at which a
10 member of the entity's or pool's governing body will be present;
- 11 ~~(c)~~ (iii) All telephone conference meeting sites
12 identified in the notice are located within public buildings used
13 by members of the entity or pool or at a place which will
14 accommodate the anticipated audience;
- 15 ~~(d)~~ (iv) Reasonable arrangements are made to accommodate
16 the public's right to attend, hear, and speak at the meeting,
17 including seating, recordation by audio recording devices, and a
18 reasonable opportunity for input such as public comment or
19 questions to at least the same extent as would be provided if a
20 telephone conference call was not used;
- 21 ~~(e)~~ (v) At least one copy of all documents being
22 considered is available to the public at each site of the telephone
23 conference call;
- 24 ~~(f)~~ (vi) At least one member of the governing body of the
25 entity or pool is present at each site of the telephone conference
26 call identified in the public notice;

- 27 ~~(g)~~ (vii) The telephone conference call lasts no more
 1 than one hour; and
 2 ~~(h)~~ (viii) No more than one-half of the entity's or
 3 pool's meetings in a calendar year are held by telephone conference
 4 call.
- 5 (b) A meeting of the Nebraska Environmental Trust Board
 6 may be held by telephone conference call if:
- 7 (i) Reasonable advance publicized notice is given which
 8 identifies each telephone conference location at which a member of
 9 the board will be present;
- 10 (ii) All telephone conference meeting sites identified in
 11 the notice are located within public buildings used by members of
 12 the board or at a place which will accommodate the anticipated
 13 audience;
- 14 (iii) Reasonable arrangements are made to accommodate the
 15 public's right to attend, hear, and speak at the meeting, including
 16 seating, recordation by audio recording devices, and a reasonable
 17 opportunity for input such as public comment or questions to at
 18 least the same extent as would be provided if a telephone
 19 conference call were not used;
- 20 (iv) At least one copy of all documents being considered
 21 is available to the public at each site of the telephone conference
 22 call;
- 23 (v) At least one member of the board is present at each
 24 site of the telephone conference call identified in the public
 25 notice;
- 26 (vi) The telephone conference call lasts no more than one
 27 hour; and
- 1 (h) No more than one-half of the board's meetings in a
 2 calendar year are held by telephone conference call.
- 3 (c) Nothing in this subsection shall prevent the
 4 participation of consultants, members of the press, and other
 5 nonmembers of the governing body at sites not identified in the
 6 public notice. Telephone conference calls shall not be used to
 7 circumvent any of the public government purposes established in
 8 sections 84-1408 to 84-1414.
- 9 (4) The secretary or other designee of each public body
 10 shall maintain a list of the news media requesting notification of
 11 meetings and shall make reasonable efforts to provide advance
 12 notification to them of the time and place of each meeting and the
 13 subjects to be discussed at that meeting.
- 14 (5) When it is necessary to hold an emergency meeting
 15 without reasonable advance public notice, the nature of the
 16 emergency shall be stated in the minutes and any formal action
 17 taken in such meeting shall pertain only to the emergency. Such
 18 emergency meetings may be held by means of electronic or
 19 telecommunication equipment. The provisions of subsection (4) of
 20 this section shall be complied with in conducting emergency
 21 meetings. Complete minutes of such emergency meetings specifying

22 the nature of the emergency and any formal action taken at the
 23 meeting shall be made available to the public by no later than the
 24 end of the next regular business day.

25 (6) A public body may allow a member of the public or any
 26 other witness other than a member of the public body to appear
 27 before the public body by means of video or telecommunications
 1 equipment."

2 2. On page 2, line 7, strike "sections" through

3 "84-1414" and insert "section 84-1411".

4 3. On page 8, line 3, strike the last "and"; and in line

5 4 before "Revised" insert "and 84-1411".

6 4. Renumber the remaining section accordingly.

ANNOUNCEMENT

The Revenue Committee designates LB 1017 and LB 1034 as its priority bills.

RESOLUTIONS

LEGISLATIVE RESOLUTION 238. Introduced by Burling, 33.

WHEREAS, Captain E. "Bobby" Heminger was an honorable and dedicated firefighter and citizen of the community of Wood River; and

WHEREAS, Captain Heminger gave his life in the line of duty as a member of the Wood River Fire Department on February 15, 2004; and

WHEREAS, the Wood River firefighters held Captain Heminger as a member of their family, a brother of their own; and

WHEREAS, Captain Heminger will be remembered for his bravery, commitment, and sacrifice to his community, state, and country; and

WHEREAS, Captain Heminger will be remembered for his actions by the community of Wood River and the State of Nebraska; and

WHEREAS, Captain Heminger shall be remembered as a fallen hero.

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

1. That the Legislature expresses and extends its sympathy and condolences to the family of Captain Heminger, to the Wood River Fire Department, and to the bereaved community of Wood River.

2. That a copy of this resolution be sent to the family of Captain Heminger.

Laid over.

LEGISLATIVE RESOLUTION 239. Introduced by Burling, 33.

WHEREAS, Captain Kenny Woitalewicz was a dedicated firefighter and citizen of the community of Wood River; and

WHEREAS, Captain Woitalewicz gave his life in the line of duty as a

member of the Wood River Fire Department on February 17, 2004; and

WHEREAS, the Wood River firefighters held Captain Woitalewicz as a member of their family, a brother of their own; and

WHEREAS, Captain Woitalewicz will be remembered for his bravery, commitment, and sacrifice to his community, state, and country; and

WHEREAS, Captain Woitalewicz will be remembered for his actions by the community of Wood River and the State of Nebraska; and

WHEREAS, Captain Woitalewicz shall be remembered as a fallen hero.

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

1. That the Legislature expresses and extends its sympathy and condolences to the family of Captain Woitalewicz, to the Wood River firefighters, and to the bereaved community of Wood River.

2. That a copy of this resolution be sent to the family of Captain Woitalewicz.

Laid over.

NOTICE OF COMMITTEE HEARING

Education
Room 1525

Tuesday, March 2, 2004

12:00 p.m.

Colleen Adam - Coordinating Commission for Postsecondary Education

Stan Carpenter - Nebraska Educational Telecommunications Commission

James O'Rourke - Coordinating Commission for Postsecondary Education

Louis Pofahl - Coordinating Commission for Postsecondary Education

Eric Seacrest - Coordinating Commission for Postsecondary Education

(Signed) Ron Raikes, Chairperson

SELECT FILE

LEGISLATIVE RESOLUTION 14CA. Senator Smith offered the following amendment:

AM2572

(Amendments to AM2401)

- 1 1. On page 2, line 22, after "locations" insert "in
- 2 counties in which the registered voters have approved the placement
- 3 of a casino location within such county subsequent to the
- 4 proclamation of the Governor under Article III, section 4, of this
- 5 Constitution".
- 6 2. On page 3, line 3, after "locations" insert "subject
- 7 to approval by registered voters of the county".

Senator Smith asked unanimous consent to withdraw his pending amendment, AM2572, found in this day's Journal, and replace it with his substitute amendment, FA1469. No objections. So ordered.

FA1469

Amend AM2401

On page 2, line 23, strike "eight" and insert "one".

Pending.

AMENDMENTS - Print in Journal

Senator Smith filed the following amendment to LR 14CA:
AM2599

(Amendments to AM2401)

- 1 1. On page 2, line 22, after "locations" insert ",
- 2 subject to the approval of the registered voters of the county
- 3 voting on the question of whether such casino location shall be in
- 4 such county".
- 5 2. On page 3, line 3, after "locations" insert "subject
- 6 to approval by voters in the affected counties".

Senator Smith filed the following amendment to LR 14CA:
AM2670

(Amendments to AM2401)

- 1 1. On page 2, line 22, after the period insert "The
- 2 registered voters of a county in which a casino location is
- 3 authorized shall, after such casino location has been in existence
- 4 for five years, approve or disapprove the continued presence of
- 5 such casino location within the county.".
- 6 2. On page 3, line 1, strike "and" and insert a comma;
- 7 and in line 4 after "locations" insert ", and to authorize
- 8 registered voters of a county to approve the continued presence of
- 9 such location".

Senator Smith filed the following amendment to LR 14CA:
AM2576

(Amendments to AM2401)

- 1 1. On page 2, line 24, after the first period insert "At
- 2 least twenty-five percent of the revenue derived by the state from
- 3 the operation and regulation of casino gaming at a casino location
- 4 shall be remitted to the county general fund of the county in which
- 5 such casino location is authorized.".
- 6 2. On page 3, line 1, strike "and" and insert a comma;
- 7 and in line 4 before the period insert ", and to require at least
- 8 twenty-five percent of the revenue derived by the state to be
- 9 remitted to the county in which the casino location is authorized".

Senator Smith filed the following amendment to LR 14CA:
AM2600

(Amendments to AM2401)

- 1 1. On page 2, line 24, before the first period insert ",
- 2 except that the county board of a county in which a casino location

3 is authorized shall approve or disapprove all contractual agreements relating to casino gaming at such location".

Senator Schimek filed the following amendment to LR 14CA:
AM2474

(Amendments to AM 2401)

- 1 1. On page 2, line 23, after "the" insert
- 2 "authorization."; and in line 24 strike "at" through "locations".
- 3 2. On page 3, line 3, after "the" insert
- 4 "authorization,"; and in line 4 strike "at" through "locations".

Senator Smith filed the following amendment to LR 14CA:
AM2686

(Amendments to AM2401)

- 1 1. On page 2, line 24, after the first period insert
- 2 "Two and one-half percent of the proceeds from such taxation shall
- 3 be used for the treatment of gambling addiction.".

RESOLUTION

LEGISLATIVE RESOLUTION 240. Introduced by Cudaback, 36.

WHEREAS, Fred Yeiter of Cozad, Nebraska, will celebrate his one hundredth birthday on February 23, 2004; and

WHEREAS, Mr. Yeiter farmed most of his life south of Cozad, Nebraska; and

WHEREAS, Mr. Yeiter is still active and enjoys music, football, daily lunch at the senior center, and visiting with his many friends; and

WHEREAS, the celebration of a person's one hundredth birthday is deserving of recognition.

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

1. That the members of the Legislature wish Mr. Yeiter a very happy one hundredth birthday.
2. That a copy of this resolution be sent to Mr. Yeiter.

Laid over.

VISITORS

Visitors to the Chamber were Linda Olson from O'Neill; Trudy Spicer and Kellie Knop from Fairbury; and 40 fifth-grade students and teachers from Clarmar Elementary School, Fremont.

ADJOURNMENT

At 11:57 a.m., on a motion by Senator Hartnett, the Legislature adjourned until 9:00 a.m., Thursday, February 19, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-EIGHTH DAY - FEBRUARY 19, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 19, 2004

PRAYER

The prayer was offered by Mother Jane Heenan, Rector of Holy Trinity Episcopal Church, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Bromm presiding.

The roll was called and all members were present except Senator Burling who was excused; and Senators Beutler, Brashear, Hartnett, Jensen, Kremer, Maxwell, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-seventh day was approved.

STANDING COMMITTEE REPORTS**Banking, Commerce and Insurance**

LEGISLATIVE BILL 630. Indefinitely postponed.
LEGISLATIVE BILL 652. Indefinitely postponed.
LEGISLATIVE BILL 687. Indefinitely postponed.
LEGISLATIVE BILL 737. Indefinitely postponed.
LEGISLATIVE BILL 839. Indefinitely postponed.
LEGISLATIVE BILL 886. Indefinitely postponed.
LEGISLATIVE BILL 966. Indefinitely postponed.
LEGISLATIVE BILL 990. Indefinitely postponed.
LEGISLATIVE BILL 1143. Indefinitely postponed.
LEGISLATIVE BILL 1186. Indefinitely postponed.
LEGISLATIVE BILL 1244. Indefinitely postponed.

(Signed) Mark Quandahl, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 989. Indefinitely postponed.

(Signed) Tom Baker, Chairperson

AMENDMENT - Print in Journal

Senators Beutler and Quandahl filed the following amendment to LB 999:
FA1471

Amend AM2339

1. Strike section 29.

MOTION - Approve Appointments

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointments found on page 638:

Environmental Quality Council
Janet Bernard
James Whitaker

Voting in the affirmative, 36:

Aguilar	Cunningham	Jones	Price	Synowiecki
Baker	Engel	Kruse	Quandahl	Thompson
Bourne	Erdman	Landis	Redfield	Tyson
Bromm	Foley	McDonald	Schimek	Vrtiska
Byars	Friend	Mines	Schrock	
Combs	Hudkins	Mossey	Smith	
Connealy	Janssen	Pedersen, Dw.	Stuhr	
Cudaback	Johnson	Pederson, D.	Stuthman	

Voting in the negative, 0.

Present and not voting, 5:

Brown	Chambers	Louden	Preister	Wehrbein
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Excused and not voting, 8:

Beutler	Burling	Jensen	Maxwell
Brashear	Hartnett	Kremer	Raikes

The appointments were confirmed with 36 ayes, 0 nays, 5 present and not voting, and 8 excused and not voting.

SELECT FILE

LEGISLATIVE RESOLUTION 14CA. Senator Smith renewed his pending amendment, FA1469, found on page 659.

SENATOR CUDABACK PRESIDING

Pending.

STANDING COMMITTEE REPORTS
Health and Human Services

LEGISLATIVE BILL 599. Placed on General File as amended. (Standing Committee amendment, AM2502, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1139. Placed on General File as amended. Standing Committee amendment to LB 1139: AM2650

1 1. Strike the original sections and insert the following
2 new sections:
3 "Section 1. Section 71-162, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 71-162. (1) It is the intent of the Legislature that the
6 revenue to cover the cost of the credentialing system administered
7 by the department is to be derived from General Funds, cash funds,
8 federal funds, gifts, grants, or fees from individuals or entities
9 seeking credentials. The credentialing system includes the
10 totality of the credentialing infrastructure and the process of
11 issuance and renewal of credentials, examinations, inspections,
12 investigations, continuing competency, compliance assurance, and
13 the credentialing review process for the following individuals and
14 entities that provide health services and health-related services:
15 (a) Individuals in the practice of acupuncture; advanced
16 practice nursing; asbestos abatement, inspection, project design,
17 and training; athletic training; audiology; speech-language
18 pathology; chiropractic; dentistry; dental hygiene; environmental
19 health; hearing aid instrument dispensing and fitting; lead-based
20 paint abatement, inspection, project design, and training; medical
21 nutrition therapy; medical radiography; medication aide services;
22 medicine and surgery; mental health practice; nursing; ~~nurse aide~~
23 nursing assistant or paid dining assistant services; nursing home
24 administration; occupational therapy; optometry; osteopathic
1 medicine; pharmacy; physical therapy; podiatry; psychology; radon
2 detection, measurement, and mitigation; respiratory care; social
3 work; swimming pool operation; veterinary medicine and surgery;
4 water system operation; constructing or decommissioning water wells
5 and installing water well pumps and pumping equipment; and

6 wholesale drug distribution; and

7 (b) Individuals in the practice of and entities in the
8 business of cosmetology; electrology; emergency medical services;
9 esthetics; funeral directing and embalming; massage therapy; and
10 nail technology.

11 (2) The department shall determine the cost of the
12 credentialing system for such individuals and entities by
13 calculating the total of the base costs, the variable costs, and
14 any adjustments as provided in sections 71-162.01 to 71-162.03.

15 (3) When fees are to be established pursuant to section
16 71-162.04 for individuals or entities other than individuals in the
17 practice of constructing or decommissioning water wells and
18 installing water well pumps and pumping equipment, the department,
19 upon recommendation of the appropriate board if applicable, shall
20 base the fees on the cost of the credentialing system and shall
21 include usual and customary cost increases, a reasonable reserve,
22 and the cost of any new or additional credentialing activities.
23 For individuals in the practice of constructing or decommissioning
24 water wells and installing water well pumps and pumping equipment,
25 the Water Well Standards and Contractors' Licensing Board shall
26 establish the fees as otherwise provided in this subsection. All
27 such fees shall be collected as provided in section 71-163.

1 Sec. 2. Section 71-6038, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-6038. For purposes of sections 71-6038 to 71-6042;

4 ~~unless the context otherwise requires~~ and sections 7 to 11 of this
5 act:

6 (1) Complicated feeding problems include, but are not
7 limited to, difficulty swallowing, recurrent lung aspirations, and
8 tube or parenteral or intravenous feedings;

9 (2) Department ~~shall mean~~ means the Department of Health
10 and Human Services Regulation and Licensure; ~~and~~

11 (2) (3) Nursing assistant ~~shall mean~~ means any person;
12 ~~other than a licensed registered or practical nurse,~~ employed by a
13 nursing home for the purpose of aiding a licensed registered or
14 practical nurse through the performance of nonspecialized tasks
15 related to the personal care and comfort of residents other than a
16 paid dining assistant or a licensed registered or practical nurse;

17 (4) Nursing home means any facility or a distinct part of
18 any facility that provides care as defined in sections 71-420,
19 71-421, 71-422, 71-424, and 71-429; and

20 (5) Paid dining assistant means any person employed by a
21 nursing home for the purpose of aiding a licensed registered or
22 practical nurse through the feeding of residents other than a
23 nursing assistant or a licensed registered or practical nurse.

24 Sec. 3. Section 71-6039, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-6039. (1) No person shall act as a nursing assistant
27 in a nursing home unless such person:

1 (4) (a) Is at least sixteen years of age and has not been
 2 convicted of a crime involving moral turpitude;
 3 (2) (b) Is able to speak and understand the English
 4 language or a language understood by a substantial portion of the
 5 nursing home residents; and
 6 (3) (c) Has successfully completed a basic course of
 7 training approved by the department for nursing assistants within
 8 one hundred twenty days of initial employment in the capacity of a
 9 nursing assistant at any nursing home if employment begins after
 10 January 1, 1984.

11 (2) The department may prescribe a curriculum for
 12 training nursing assistants and may adopt and promulgate rules and
 13 regulations for such courses of training. The content of the
 14 courses of training and competency evaluation programs shall be
 15 consistent with federal requirements unless exempted. The
 16 department may approve courses of training if such courses of
 17 training meet the requirements of this section. Such courses of
 18 training shall include instruction on the responsibility of each
 19 nursing assistant to report suspected abuse or neglect pursuant to
 20 sections 28-372 and 28-711. Nursing homes may carry out approved
 21 courses of training within the nursing home, except that nursing
 22 homes may not conduct the competency evaluation part of the
 23 program. The prescribed training shall be administered by a
 24 licensed registered nurse.

25 ~~Prior to October 1, 1990, for nursing assistants at all~~
 26 ~~nursing homes, and on and after such date for~~ (3) For nursing
 27 assistants at intermediate care facilities for the mentally
 1 retarded, such courses of training shall be no less than twenty
 2 hours in duration and shall include at least fifteen hours of basic
 3 personal care training and five hours of basic therapeutic and
 4 emergency procedure training, and ~~on and after October 1, 1990, for~~
 5 nursing assistants at all nursing homes other than intermediate
 6 care facilities for the mentally retarded, such courses shall be no
 7 less than seventy-five hours in duration.

8 (4) This section shall not prohibit any facility from
 9 exceeding the minimum hourly or training requirements.

10 Sec. 4. Section 71-6040, Reissue Revised Statutes of
 11 Nebraska, is amended to read:

12 71-6040. The ~~Department of Health and Human Services~~
 13 ~~Regulation and Licensure department~~ shall approve all courses,
 14 lectures, seminars, course materials, or other instructional
 15 programs used to meet the requirements of sections 71-6038 to
 16 71-6042 and sections 7 to 11 of this act.

17 Sec. 5. Section 71-6041, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 71-6041. To protect the health, safety, and welfare of
 20 nursing home residents and the public, the ~~Department of Health and~~
 21 ~~Human Services Regulation and Licensure department~~ shall adopt and
 22 promulgate such rules and regulations as are necessary for the

23 effective administration of sections 71-6038 to 71-6042 and
 24 sections 7 to 11 of this act. Such rules and regulations shall be
 25 consistent with federal requirements developed by the United States
 26 Department of Health and Human Services.

27 Sec. 6. Section 71-6042, Reissue Revised Statutes of
 1 Nebraska, is amended to read:

2 71-6042. The department shall have the authority to
 3 enforce sections 71-6038 to 71-6042 and sections 7 to 11 of this
 4 act and such rules and regulations adopted thereto under section
 5 71-6041 by any of the following means: ~~denial~~ Denial, suspension,
 6 restriction, or revocation of a nursing home's license, refusal of
 7 the renewal of a nursing home's license, restriction of a nursing
 8 home's admissions, or any other enforcement provision granted to
 9 the department.

10 Sec. 7. No person shall act as a paid dining assistant
 11 in a nursing home unless such person:

12 (1) Is at least sixteen years of age;
 13 (2) Is able to speak and understand the English language
 14 or a language understood by the nursing home resident being fed by
 15 such person;

16 (3) Has successfully completed at least eight hours of
 17 training as prescribed by the department for paid dining
 18 assistants;

19 (4) Has no adverse findings on the Nurse Aide Registry or
 20 the Adult Protective Services Central Registry; and

21 (5) Has no adverse findings on the central register
 22 created in section 28-718 if the nursing home which employs such
 23 person as a paid dining assistant has more than one resident under
 24 the age of nineteen years.

25 Sec. 8. A paid dining assistant shall:

26 (1) Only feed residents who have no complicated feeding
 27 problems as selected by the nursing home based on the resident's
 1 latest assessment and plan of care and a determination by the
 2 charge nurse that the resident's condition at the time of such
 3 feeding meets that plan of care;

4 (2) Work under the supervision of a licensed registered
 5 or practical nurse who is in the nursing home and immediately
 6 available; and

7 (3) Call a supervisor for help in an emergency.

8 Sec. 9. (1) The department may prescribe a curriculum
 9 for training paid dining assistants and may adopt and promulgate
 10 rules and regulations for such courses of training. Such courses

11 shall be no less than eight hours in duration. The department may
 12 approve courses of training for paid dining assistants that meet
 13 the requirements of this section. Nursing homes may carry out
 14 approved courses of training and competency evaluation programs at
 15 the nursing home. Training of paid dining assistants shall be
 16 provided by a licensed registered nurse.

17 (2) Courses of training and competency evaluation

18 programs for paid dining assistants shall include:

19 (a) Feeding techniques;

20 (b) Assistance with feeding and hydration;

21 (c) Communication and interpersonal skills;

22 (d) Appropriate responses to resident behavior;

23 (e) Safety and emergency procedures, including the

24 abdominal thrust maneuver;

25 (f) Infection control;

26 (g) Resident rights;

27 (h) Recognizing abnormal changes in resident behavior and

1 reporting such changes to a supervising nurse;

2 (i) Special needs; and

3 (j) Abuse and neglect, including the responsibility to

4 report suspected abuse or neglect pursuant to sections 28-372 and

5 28-711.

6 (3) This section shall not prohibit any facility from

7 exceeding the minimum hourly or training requirements.

8 Sec. 10. The department shall maintain a paid dining

9 assistant registry and shall include in the registry individuals

10 who have successfully completed a paid dining assistant course of

11 training and a competency evaluation program.

12 Sec. 11. Each nursing home shall maintain (1) a record

13 of all paid dining assistants employed by such facility, (2)

14 verification of successful completion of a training course for each

15 paid dining assistant, and (3) verification that the facility has

16 made checks with the Nurse Aide Registry, the Adult Protective

17 Services Central Registry, and the central register created in

18 section 28-718, if applicable under section 7 of this act, with

19 respect to each paid dining assistant.

20 Sec. 12. Section 81-3201, Revised Statutes Supplement,

21 2003, is amended to read:

22 81-3201. (1) The Governor shall appoint a Director of

23 Regulation and Licensure for the Department of Health and Human

24 Services Regulation and Licensure who shall (a) have administrative

25 experience in an executive capacity and some special training in

26 public health work and (b) be either a graduate of a recognized

27 school of medicine and licensed to practice medicine and surgery in

1 the State of Nebraska or a person with a recognized and

2 demonstrated expertise in and knowledge of health and human

3 services delivery. The director shall report to the Governor and

4 serve full time at the pleasure of the Governor. The director

5 shall be subject to confirmation by a majority vote of the members

6 of the Legislature as provided in section 81-102.

7 (2) If the director appointed under subsection (1) of

8 this section is not a licensed physician, the Governor shall

9 appoint a chief medical officer to be responsible for oversight of

10 health issues for the Nebraska Health and Human Services System.

11 The chief medical officer shall report to the Governor and serve

12 full time at the pleasure of the Governor and shall be subject to

13 confirmation by a majority of the members of the Legislature. The
 14 chief medical officer shall be a graduate of a recognized school of
 15 medicine and licensed to practice medicine and surgery in the State
 16 of Nebraska and have some special training in public health work.
 17 If a chief medical officer is appointed, he or she shall perform
 18 the duties under the Uniform Licensing Law specified in section
 19 71-155.01 and shall be the final decisionmaker in contested cases
 20 of (a) the health care facilities defined in the Health Care
 21 Facility Licensure Act arising under the act and sections 71-6042
 22 and 81-604.03 and (b) occupations ~~referenced in sections 71-6038~~
 23 ~~and 71-6039~~ defined in subdivisions (3) and (5) of section 71-6038.

24 Sec. 13. Original sections 71-162 and 71-6038 to
 25 71-6042, Reissue Revised Statutes of Nebraska, and section 81-3201,
 26 Revised Statutes Supplement, 2003, are repealed.

27 Sec. 14. The following sections are outright repealed:

- 1 Sections 71-6014 and 71-6015, Reissue Revised Statutes of Nebraska.
- 2 Sec. 15. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

LEGISLATIVE BILL 1198. Placed on General File as amended.

Standing Committee amendment to LB 1198:

AM2472

1 1. Strike section 1 and insert the following new
 2 section:
 3 "Section 1. Section 71-409, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 71-409. Critical access hospital means a facility (1)(a)
 6 which was licensed under the Health Care Facility Licensure Act on
 7 or after January 1, 2004, with up to fifteen acute care inpatient
 8 beds or (b) which was licensed under the act prior to January 1,
 9 2004, with up to twenty-five acute care inpatient beds, (2) where
 10 care or treatment is provided on an outpatient basis or on an
 11 inpatient basis to persons for an average period of not more than
 12 ninety-six hours and emergency services are provided on a
 13 twenty-four-hour basis, and ~~(2)~~ (3) which has formal agreements
 14 with at least one hospital and other appropriate providers for
 15 services such as patient referral and transfer, communications
 16 systems, provision of emergency and nonemergency transportation,
 17 and backup medical and emergency services."

LEGISLATIVE BILL 1100. Indefinitely postponed.

The Health and Human Services 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.

Board of Emergency Medical Services
 Ronald F. Balthazor
 Bruce A. Beins

Joel E. Cerny
David T. Engler
Dan L. Hakel
Robert K. Olson
Val D. Snyder
George Tom Surber
Diane L. Yetter

VOTE: Aye: Senators Jensen, Byars, Cunningham, Maxwell, Erdman, Stuthman, and Johnson. Nay: None. Absent: None.

The Health and Human Services 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.

Child Abuse Prevention Fund Board

Jennie Cole-Mossman
Debra Phelps

VOTE: Aye: Senators Jensen, Byars, Cunningham, Maxwell, Erdman, Stuthman, and Johnson. Nay: None. Absent: None.

The Health and Human Services 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.

Commission for the Blind and Visually Impaired

Robert Burns
Barbara Loos
William Orestor

VOTE: Aye: Senators Jensen, Byars, Cunningham, Maxwell, Erdman, Stuthman, and Johnson. Nay: None. Absent: Senator .

The Health and Human Services 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.

State Board of Health

Timothy Crockett
Kent H. Forney
Clinton Schafer
Jerry Vaughan
Gwen Weber

VOTE: Aye: Senators Jensen, Byars, Cunningham, Maxwell, Erdman, Stuthman, and Johnson. Nay: None. Absent: None.

The Health and Human Services 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.

Foster Care Review Board

Margaret Connealy
Jim Ganz
Kay Lynn Goldner
Judy Meter
David Patterson
Thomas Poulton
Burrell S. Williams

VOTE: Aye: Senators Jensen, Byars, Cunningham, Maxwell, Erdman, Stuthman, and Johnson. Nay: None. Absent: None.

The Health and Human Services 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.

Commission for the Deaf and Hard of Hearing

Margaret Coleman
James P. Devaney
Kenya S. Taylor
Cecelia J. Bevard

VOTE: Aye: Senators Jensen, Byars, Cunningham, Maxwell, Erdman, Stuthman, and Johnson. Nay: None. Absent: None.

The Health and Human Services 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.

Rural Health Advisory Commission

Angela Brennan
Donald Frey
Rebecca Schroeder
Michael Sitorius
William Welch
Roger Wells

VOTE: Aye: Senators Jensen, Byars, Cunningham, Maxwell, Erdman, Stuthman, and Johnson. Nay: None. Absent: None.

(Signed) Jim Jensen, Chairperson

NOTICE OF COMMITTEE HEARING
Nebraska Retirement Systems
Room 1525

Thursday, February 26, 2004
Dale L. Kahla - Public Employees Retirement Board

12:15 p.m.

(Signed) Elaine Stuhr, Chairperson

AMENDMENTS - Print in Journal

Senator Kruse filed the following amendment to LB 526:
AM2699

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 "Section 1. Section 29-2524, Revised Statutes
4 Supplement, 2003, is amended to read:
5 29-2524. Nothing in sections 25-1140.09, 28-303, 28-313,
6 and 29-2519 to 29-2546 and sections 7 to 9 of this act shall be in
7 any way deemed to repeal or limit existing procedures for automatic
8 review of capital cases, nor shall they in any way limit the right
9 of the Supreme Court to reduce a sentence of death to a sentence of
10 life imprisonment without parole in accordance with the provisions
11 of section 29-2308, nor shall they limit the right of the Board of
12 Pardons to commute any sentence of death to a sentence of life
13 imprisonment without parole.
14 Sec. 2. Section 29-2532, Reissue Revised Statutes of
15 Nebraska, is amended to read:
16 29-2532. (1)(a) The mode of inflicting the punishment of
17 death; in all cases; shall be, at the option of the convicted
18 person being punished, (i) by causing to pass through the body of
19 the convicted person a current or currents of electricity of
20 sufficient intensity to cause death; and the application of such
21 current or currents shall be continued until such convicted person
22 is dead, (ii) by intravenous administration of a lethal quantity of
23 an ultra-short-acting barbiturate in combination with a chemical
24 paralytic agent and potassium chloride, or other equally effective
1 substances, sufficient to cause death, or (iii) by beheading by
2 means of a heavy blade that slides down vertical guides.
3 (b) The warden of the Department of Correctional Services
4 facility designated by the Director of Correctional Services to
5 carry out the sentence of death, or his or her designee, shall
6 provide written notice to the convicted person of the requirement
7 to choose a mode of inflicting the punishment of death set forth in
8 this section within thirty days after the effective date of this
9 act. Such notice shall state that a failure to choose shall result
10 in the punishment of death being inflicted pursuant to subdivision
11 (1)(a)(iii) of this subsection. If a choice is made by the

12 convicted person, it shall be made in writing and received by the
13 warden or his or her designee within thirty days after receipt by
14 the convicted person of the warden's written notice.

15 (c) If the convicted person being punished fails to
16 choose as provided in this subsection, the mode of inflicting the
17 punishment of death shall be pursuant to subdivision (1)(a)(iii) of
18 this section.

19 (2) The warden of the ~~Nebraska Penal and Correctional~~
20 ~~Complex~~ Department of Correctional Services facility designated by
21 the Director of Correctional Services to carry out the sentence of
22 death, and in case of ~~his~~ such warden's death, sickness, absence,
23 or inability to act, then the deputy warden, shall be the
24 executioner. ~~The~~ ; PROVIDED, the warden may in writing specially
25 designate and appoint a suitable and competent person to act for
26 him or her, and under his or her direction, as executioner in any
27 particular case. A crime punishable by death ~~must~~ shall be
1 punished according to ~~the provisions herein made~~ this section and
2 not otherwise.

3 (3) If the Supreme Court of the United States declares
4 that the mode of inflicting the punishment of death under
5 subdivision (1)(a)(i), (ii), or (iii) of this section violates the
6 United States Constitution, or if the Nebraska Supreme Court
7 declares that the mode of inflicting the punishment of death under
8 subdivision (1)(a)(i), (ii), or (iii) of this section violates the
9 United States Constitution or the Constitution of Nebraska, the
10 mode of inflicting the punishment of death shall be by the other
11 remaining statutory modes of inflicting the punishment of death.

12 Sec. 3. Section 29-2533, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 29-2533. When any convicted person shall be sentenced to
15 be electrocuted ~~is punished by death~~, such punishment shall be
16 inflicted ~~within the walls of the Department of Correctional~~
17 ~~Services adult correctional facility, at a Department of~~
18 ~~Correctional Services facility or within the yard or enclosure~~
19 ~~adjacent thereto~~, under the supervision of the warden of such
20 facility and in such a manner as to exclude the view of all persons
21 ~~save except~~ those permitted to be present as provided in sections
22 29-2534 and 29-2535.

23 Sec. 4. Section 29-2542, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 29-2542. If any person escapes who has been convicted of
26 a crime punishable by death, ~~and has been sentenced to be~~
27 ~~electrocuted death, shall escape, and shall not be and has not been~~
1 retaken before the time fixed for his or her execution, it shall be
2 lawful for the warden the Director of Correctional Services or his
3 or her designee may rearrest such person, or any sheriff or other
4 officer or person ~~to~~ may rearrest such person and return him or her
5 to the custody of the warden of the ~~Nebraska Penal and Correctional~~
6 ~~Complex, who~~ Department of Correctional Services. The director

7 shall ~~thereupon make return thereof to~~ then notify the Governor of
 8 the state, and the Governor shall ~~thereupon~~ issue a warrant, fixing
 9 and appointing a day for the execution. The director shall ensure
 10 that the designated ; ~~which shall be carried into effect by the~~
 11 warden carry out the execution in the same manner as herein
 12 provided for the execution of an original a sentence of death.

13 Sec. 5. Section 29-2543, Reissue Revised Statutes of
 14 Nebraska, is amended to read:

15 29-2543. Whenever any person has been tried and
 16 convicted before any district court in this state of a crime
 17 punishable by death and under the conviction has been sentenced ~~by~~
 18 ~~the court to suffer to~~ death, it shall be the duty of the clerk of
 19 the court before which the conviction was had to issue a warrant,
 20 under the seal of the court, reciting therein the conviction and
 21 sentence directed to the ~~warden of the Nebraska Penal and~~
 22 ~~Correctional Complex~~ Director of Correctional Services, commanding
 23 ~~him or her the director to proceed at the time named in the~~
 24 ~~sentence to carry the same into execution by causing the person so~~
 25 ~~convicted and sentenced to be electrocuted by the passage of an~~
 26 ~~electric current through the body until dead~~ cause the death of the
 27 convicted person. The clerk shall deliver the warrant to the
 1 sheriff of the county in which conviction was had and such sheriff
 2 shall thereupon forthwith remove such convicted person to a
 3 Department of Correctional Services ~~adult correctional~~ facility of
 4 the state and there deliver him or her, together with the warrant,
 5 into the custody of the ~~warden~~ director who shall receive and
 6 safely keep such ~~convict~~ convicted person within a Department of
 7 Correctional Services ~~adult correctional~~ facility until the time of
 8 execution or until otherwise ordered by competent authority.

9 Sec. 6. Section 29-2544, Reissue Revised Statutes of
 10 Nebraska, is amended to read:

11 29-2544. It shall be the duty of the ~~warden of the~~
 12 ~~Nebraska Penal and Correctional Complex~~ Director of Correctional
 13 Services on receipt of such warrant, if the Supreme Court or a
 14 judge thereof shall not have ordered a suspension of the execution,
 15 and if the Board of Pardons shall not have commuted such sentence,
 16 or granted a reprieve or pardon to such convict, to proceed at the
 17 time named in the warrant to carry the sentence into execution in
 18 the manner herein provided; and of the manner of ~~his or her~~
 19 ~~executing the warrant, and of his or her doings thereon, he or she~~
 20 shall forthwith make return to the clerk, who shall cause the
 21 warrant and return to be recorded as a part of the records of the
 22 case.

23 Sec. 7. Notwithstanding any other provision of law, the
 24 assistance with, participation in, or performance of ancillary or
 25 other functions pursuant to the administration of the substance or
 26 substances described in subdivision (1)(a)(ii) of section 29-2532
 27 in order to carry out the punishment of death as provided by law
 1 shall not be construed to constitute the practice of medicine and

2 shall not be a violation of the Uniform Controlled Substances Act
 3 or sections 71-2501 to 71-2512.

4 Sec. 8. Notwithstanding any other provision of law, any
 5 pharmacist or pharmaceutical supplier is authorized to distribute
 6 drugs to the Director of Correctional Services or his or her
 7 designee, without prescription, in order to carry out the
 8 punishment of death as provided by law.

9 Sec. 9. The Department of Correctional Services shall
 10 adopt and promulgate rules and regulations establishing the
 11 policies and procedures for carrying out the method of inflicting
 12 the death penalty.

13 Sec. 10. If any section in this act or any part of any
 14 section is declared invalid or unconstitutional, the declaration
 15 shall not affect the validity or constitutionality of the remaining
 16 portions.

17 Sec. 11. Original sections 29-2532, 29-2533, 29-2542,
 18 29-2543, and 29-2544, Reissue Revised Statutes of Nebraska, and
 19 section 29-2524, Revised Statutes Supplement, 2003, are repealed.

20 Sec. 12. Since an emergency exists, this act takes
 21 effect when passed and approved according to law.".

Senator Kruse filed the following amendment to LB 526:
 AM2700

1 1. Strike the original sections and insert the following
 2 new sections:
 3 "Section 1. Section 29-2524, Revised Statutes
 4 Supplement, 2003, is amended to read:
 5 29-2524. Nothing in sections 25-1140.09, 28-303, 28-313,
 6 and 29-2519 to 29-2546 and sections 7 to 9 of this act shall be in
 7 any way deemed to repeal or limit existing procedures for automatic
 8 review of capital cases, nor shall they in any way limit the right
 9 of the Supreme Court to reduce a sentence of death to a sentence of
 10 life imprisonment without parole in accordance with the provisions
 11 of section 29-2308, nor shall they limit the right of the Board of
 12 Pardons to commute any sentence of death to a sentence of life
 13 imprisonment without parole.

14 Sec. 2. Section 29-2532, Reissue Revised Statutes of
 15 Nebraska, is amended to read:
 16 29-2532. (1)(a) The mode of inflicting the punishment of
 17 death, in all cases, shall be, at the option of the convicted
 18 person being punished, (i) by causing to pass through the body of
 19 the convicted person a current or currents of electricity of
 20 sufficient intensity to cause death; and the application of such
 21 current or currents shall be continued until such convicted person
 22 is dead, (ii) by intravenous administration of a lethal quantity of
 23 an ultra-short-acting barbiturate in combination with a chemical
 24 paralytic agent and potassium chloride, or other equally effective
 1 substances, sufficient to cause death, (iii) by beheading by means
 2 of a heavy blade that slides down vertical guides, or (iv) by a

3 squad detailed to carry out the punishment of death by shooting the
 4 convicted person.

5 (b) The warden of the Department of Correctional Services
 6 facility designated by the Director of Correctional Services to
 7 carry out the sentence of death, or his or her designee, shall
 8 provide written notice to the convicted person of the requirement
 9 to choose a mode of inflicting the punishment of death set forth in
 10 this section within thirty days after the effective date of this
 11 act. Such notice shall state that a failure to choose shall result
 12 in the punishment of death being inflicted pursuant to subdivision
 13 (1)(a)(iv) of this subsection. If a choice is made by the
 14 convicted person, it shall be made in writing and received by the
 15 warden or his or her designee within thirty days after receipt by
 16 the convicted person of the warden's written notice.

17 (c) If the convicted person being punished fails to
 18 choose as provided in this subsection, the mode of inflicting the
 19 punishment of death shall be pursuant to subdivision (1)(a)(iv) of
 20 this section.

21 (2) ~~The warden of the Nebraska Penal and Correctional~~
 22 ~~Complex~~ Department of Correctional Services facility designated by
 23 the Director of Correctional Services to carry out the sentence of
 24 death, and in case of his such warden's death, sickness, absence,
 25 or inability to act, then the deputy warden, shall be the
 26 executioner. The ; PROVIDED, the warden may in writing specially
 27 designate and appoint a suitable and competent person to act for
 1 him or her, and under his or her direction, as executioner in any
 2 particular case. A crime punishable by death must shall be
 3 punished according to the provisions herein made this section and
 4 not otherwise.

5 (3) If the Supreme Court of the United States declares
 6 that the mode of inflicting the punishment of death under
 7 subdivision (1)(a)(i), (ii), (iii), or (iv) of this section
 8 violates the United States Constitution, or if the Nebraska Supreme
 9 Court declares that the mode of inflicting the punishment of death
 10 under subdivision (1)(a)(i), (ii), (iii), or (iv) of this section
 11 violates the United States Constitution or the Constitution of
 12 Nebraska, the mode of inflicting the punishment of death shall be
 13 by the other remaining statutory modes of inflicting the punishment
 14 of death.

15 Sec. 3. Section 29-2533, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 29-2533. When any convicted person shall be sentenced to
 18 be electrocuted is punished by death, such punishment shall be
 19 inflicted within the walls of the Department of Correctional
 20 Services adult correctional facility, at a Department of
 21 Correctional Services facility or within the yard or enclosure
 22 adjacent thereto, under the supervision of the warden of such
 23 facility and in such a manner as to exclude the view of all persons
 24 save except those permitted to be present as provided in sections

25 29-2534 and 29-2535.

26 Sec. 4. Section 29-2542, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 29-2542. If any person escapes who has been convicted of
2 a crime punishable by death, and has been sentenced to be
3 electrocuted death, shall escape, and shall not be and has not been
4 retaken before the time fixed for his or her execution, it shall be
5 lawful for the warden the Director of Correctional Services or his
6 or her designee may rearrest such person, or any sheriff or other
7 officer or person to may rearrest such person and return him or her
8 to the custody of the warden of the Nebraska Penal and Correctional
9 Complex, who Department of Correctional Services. The director
10 shall thereupon make return thereof to then notify the Governor of
11 the state, and the Governor shall thereupon issue a warrant, fixing
12 and appointing a day for the execution. The director shall ensure
13 that the designated ; which shall be carried into effect by the
14 warden carry out the execution in the same manner as herein
15 provided for the execution of an original a sentence of death.

16 Sec. 5. Section 29-2543, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 29-2543. Whenever any person has been tried and
19 convicted before any district court in this state of a crime
20 punishable by death and under the conviction has been sentenced by
21 the court to suffer to death, it shall be the duty of the clerk of
22 the court before which the conviction was had to issue a warrant,
23 under the seal of the court, reciting therein the conviction and
24 sentence directed to the warden of the Nebraska Penal and
25 Correctional Complex Director of Correctional Services, commanding
26 him or her the director to proceed at the time named in the
27 sentence to carry the same into execution by causing the person so
1 convicted and sentenced to be electrocuted by the passage of an
2 electric current through the body until dead cause the death of the
3 convicted person. The clerk shall deliver the warrant to the
4 sheriff of the county in which conviction was had and such sheriff
5 shall thereupon forthwith remove such convicted person to a
6 Department of Correctional Services adult correctional facility of
7 the state and there deliver him or her, together with the warrant,
8 into the custody of the warden director who shall receive and
9 safely keep such convict convicted person within a Department of
10 Correctional Services adult correctional facility until the time of
11 execution or until otherwise ordered by competent authority.

12 Sec. 6. Section 29-2544, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 29-2544. It shall be the duty of the warden of the
15 Nebraska Penal and Correctional Complex Director of Correctional
16 Services on receipt of such warrant, if the Supreme Court or a
17 judge thereof shall not have ordered a suspension of the execution,
18 and if the Board of Pardons shall not have commuted such sentence,
19 or granted a reprieve or pardon to such convict, to proceed at the

20 time named in the warrant to carry the sentence into execution in
21 the manner herein provided; and of the manner of his or her
22 executing the warrant, and of his or her doings thereon, he or she
23 shall forthwith make return to the clerk, who shall cause the
24 warrant and return to be recorded as a part of the records of the
25 case.

26 Sec. 7. Notwithstanding any other provision of law, the
27 assistance with, participation in, or performance of ancillary or
1 other functions pursuant to the administration of the substance or
2 substances described in subdivision (1)(a)(ii) of section 29-2532
3 in order to carry out the punishment of death as provided by law
4 shall not be construed to constitute the practice of medicine and
5 shall not be a violation of the Uniform Controlled Substances Act
6 or sections 71-2501 to 71-2512.

7 Sec. 8. Notwithstanding any other provision of law, any
8 pharmacist or pharmaceutical supplier is authorized to distribute
9 drugs to the Director of Correctional Services or his or her
10 designee, without prescription, in order to carry out the
11 punishment of death as provided by law.

12 Sec. 9. The Department of Correctional Services shall
13 adopt and promulgate rules and regulations establishing the
14 policies and procedures for carrying out the method of inflicting
15 the death penalty.

16 Sec. 10. If any section in this act or any part of any
17 section is declared invalid or unconstitutional, the declaration
18 shall not affect the validity or constitutionality of the remaining
19 portions.

20 Sec. 11. Original sections 29-2532, 29-2533, 29-2542,
21 29-2543, and 29-2544, Reissue Revised Statutes of Nebraska, and
22 section 29-2524, Revised Statutes Supplement, 2003, are repealed.

23 Sec. 12. Since an emergency exists, this act takes
24 effect when passed and approved according to law."

The Education Committee designates LB 1048 as its priority bill.

ANNOUNCEMENTS

Senator Brashear designates LB 1202 as his priority bill.

SELECT FILE

LEGISLATIVE RESOLUTION 14CA. The Smith pending amendment, FA1469, found on page 659 and considered in this day's Journal, was renewed.

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

Senator Beutler moved for a call of the house. The motion prevailed with 19

ayes, 0 nays, and 30 not voting.

The motion to cease debate prevailed with 25 ayes, 1 nay, and 23 not voting.

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

Voting in the affirmative, 19:

Brown	Friend	Jones	Preister	Tyson
Cudaback	Hudkins	Kruse	Quandahl	Vrtiska
Engel	Jensen	Maxwell	Redfield	Wehrbein
Erdman	Johnson	Mossey	Smith	

Voting in the negative, 18:

Aguilar	Byars	Hartnett	Mines	Schimek
Baker	Combs	Janssen	Pederson, D.	Schrock
Beutler	Connealy	Landis	Price	
Bromm	Foley	McDonald	Raikes	

Present and not voting, 8:

Bourne	Kremer	Pedersen, Dw.	Stuthman
Chambers	Louden	Stuhr	Synowiecki

Excused and not voting, 4:

Brashear	Burling	Cunningham	Thompson
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The Smith amendment lost with 19 ayes, 18 nays, 8 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Smith renewed his pending amendment, AM2599, found on page 659.

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

Senator Beutler moved for a call of the house. The motion prevailed with 19 ayes, 1 nay, and 29 not voting.

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

Voting in the affirmative, 23:

Baker	Byars	Hudkins	Preister	Synowiecki
Beutler	Combs	Kruse	Price	Thompson
Bourne	Connealy	Louden	Raikes	Wehrbein
Bromm	Engel	Maxwell	Schrock	
Brown	Hartnett	Pederson, D.	Stuthman	

Voting in the negative, 6:

Erdman	Quandahl	Tyson
Foley	Smith	Vrtiska

Present and not voting, 11:

Cudaback	Jones	Mossey	Schimek
Janssen	Kremer	Pedersen, Dw.	Stuhr
Johnson	McDonald	Redfield	

Excused and not voting, 9:

Aguilár	Burling	Cunningham	Jensen	Mines
Brashear	Chambers	Friend	Landis	

The motion to cease debate failed with 23 ayes, 6 nays, 11 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

SENATOR VRTISKA PRESIDING

Pending.

AMENDMENTS - Print in Journal

Senator Thompson filed the following amendment to LB 838:
AM2683

- 1 1. Strike original section 8 and insert the following
- 2 new sections:
- 3 "Section 1. Section 43-1904, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 43-1904. The board shall have the following powers and
- 6 duties:
- 7 (1) To meet not less than twice annually at the call of
- 8 the chairperson to conduct its official business;
- 9 (2) To require that at least five of the board members
- 10 approve the awarding of grants made under subdivision (3)(b) of
- 11 this section; and
- 12 (3) To develop, one year after the appointment of the
- 13 original board and annually thereafter, a state plan for the
- 14 distribution and disbursement of money in the fund. The plan

15 developed under this subdivision shall assure that an equal
 16 opportunity exists for the establishment and maintenance of
 17 prevention programs and the receipt of money from the fund in all
 18 geographic areas of this state. The plan shall be transmitted to
 19 the director, the Governor, and the Legislature and made available
 20 to the general public. In carrying out a plan developed under this
 21 subdivision, the board shall establish procedures for:

22 (a) Developing and publicizing criteria for the awarding
 23 of grants for programs to be supported with money from the fund
 24 within the limits of appropriations made for that purpose;

1 (b) Awarding grants to agencies, organizations, or
 2 individuals for community-based child abuse prevention programs.
 3 The programs shall provide education, public awareness, or
 4 prevention services. In awarding grants under this subdivision,
 5 consideration shall be given by the board to factors such as need,
 6 geographic location, diversity, coordination with or improvement of
 7 existing services, and extensive use of volunteers;

8 (c) Supporting and encouraging the formation of local
 9 child abuse councils;

10 (d) Consulting with applicable state agencies,
 11 commissions, and boards to help determine probable effectiveness,
 12 fiscal soundness, and need for proposed community-based educational
 13 and service prevention programs;

14 (e) Facilitating information exchange among groups
 15 concerned with prevention programs; ~~and~~

16 (f) Encouraging statewide educational and public
 17 awareness programs regarding the problems of families and children
 18 which (i) encourage professional persons and groups to recognize
 19 and deal with problems of families and children, (ii) make
 20 information regarding the problems of families and children and the
 21 prevention of such problems available to the general public in
 22 order to encourage citizens to become involved in the prevention of
 23 such problems, and (iii) encourage the development of community
 24 prevention programs; and

25 (g) Reviewing the recommendations of the 2003 report of
 26 the Governor's Children's Task Force and using proceeds from the
 27 sale of child abuse prevention plates allocated to the fund under
 1 section 6 of this act to assist with carrying out the
 2 recommendations of the report or other programs, as determined by
 3 the board, that address child abuse and neglect in Nebraska.

4 Sec. 2. Section 43-1906, Revised Statutes Supplement,
 5 2002, is amended to read:

6 43-1906. (1) There is hereby established the Nebraska
 7 Child Abuse Prevention Fund. The additional docket fee as provided
 8 in section 33-106.03, the additional charge for supplying a
 9 certified copy of the record of any birth as provided in sections
 10 71-612, 71-617.15, 71-627, and 71-628, proceeds from the sale of
 11 child abuse prevention plates allocated to the fund under section 6
 12 of this act, and all amounts which may be received from grants,

13 gifts, bequests, the federal government, or other sources granted
14 or given for the purposes specified in sections 43-1901 to 43-1906
15 shall be remitted to the State Treasurer for credit to the Nebraska
16 Child Abuse Prevention Fund. The fund shall be administered and
17 disbursed by the department.

18 (2) Any money in the fund available for investment shall
19 be invested by the state investment officer pursuant to the
20 Nebraska Capital Expansion Act and the Nebraska State Funds
21 Investment Act.

22 (3) In any one fiscal year, no more than twenty percent
23 of the annually appropriated funds shall be disbursed to any one
24 agency, organization, or individual.

25 (4) Funds allocated from the fund shall only be used for
26 purposes authorized under sections 43-1901 to 43-1906 and shall not
27 be used to supplant any existing governmental program or service.

1 No grants may be made to any state department or agency.

2 Sec. 5. (1) The Department of Motor Vehicles shall
3 design license plates to be known as child abuse prevention plates.
4 The department shall create designs reflecting support for
5 preventing child abuse in Nebraska. The design shall be selected
6 on the basis of (a) enhancing the marketability of the plates to
7 supporters of the prevention of child abuse and (b) limiting the
8 manufacturing cost of each plate to an amount less than or equal to
9 the amount charged for license plates pursuant to subsection (5) of
10 section 60-311. The department shall make applications available
11 for each type of plate when it is designed. The department may
12 adopt and promulgate rules and regulations to carry out this
13 section and section 6 of this act.

14 (2) One type of child abuse prevention plates shall be
15 consecutively numbered plates. The department shall (a) number
16 the plates consecutively beginning with the number one, using
17 numerals the size of which maximizes legibility and limiting the
18 numerals to five characters or less, and (b) not use a county
19 designation or any characters other than numbers on the plates.

20 (3) One type of child abuse prevention plates shall be
21 personalized message plates. Such plates shall be issued subject
22 to the same conditions specified for message plates in subsection
23 (2) of section 60-311.11.

24 Sec. 6. (1) A person may apply to the Department of
25 Motor Vehicles for child abuse prevention plates in lieu of regular
26 license plates on an application prescribed and provided by the
27 department for any passenger vehicle, farm truck, self-propelled
1 mobile home, cabin trailer, or commercial truck registered for ten
2 tons gross weight or less pursuant to section 60-302. An applicant
3 receiving a child abuse prevention plate for a farm truck with a
4 gross weight of over sixteen tons or for a commercial truck or
5 truck-tractor registered for a gross weight of five tons or over
6 shall affix the appropriate tonnage sticker to the plate. The
7 department shall make forms available for such applications through

8 the county treasurers or designated county officials as provided in
9 section 60-302.

10 (2)(a) Each application for initial issuance of
11 consecutively numbered child abuse prevention plates shall be
12 accompanied by a fee of thirty dollars. An application for renewal
13 of such plates shall be accompanied by a fee of thirty dollars.
14 The county treasurer or designated county official subdivision
15 shall remit the fees to the State Treasurer. The State Treasurer
16 shall credit one-sixth of the fees for initial issuance and renewal
17 of such plates to the Department of Motor Vehicles Cash Fund and
18 five-six of the fees to the Nebraska Child Abuse Prevention Fund.

19 (b) Each application for initial issuance of personalized
20 message child abuse prevention plates shall be accompanied by a fee
21 of forty dollars. An application for renewal of such plates shall
22 be accompanied by a fee of forty dollars. The county treasurer or
23 designated county official shall remit the fees to the State
24 Treasurer. The State Treasurer shall credit seventy-five percent
25 of the fees for initial issuance and renewal of such plates to the
26 Department of Motor Vehicles Cash Fund and twenty-five percent of
27 the fees to the Nebraska Child Abuse Prevention Fund.

1 (3) When the department receives an application for child
2 abuse prevention plates, the department shall deliver the plates to
3 the county treasurer or designated county official of the county in
4 which the vehicle is registered. The county treasurer or
5 designated county official shall issue child abuse prevention
6 plates in lieu of regular license plates when the applicant
7 complies with the other provisions of law for registration of the
8 vehicle. If child abuse prevention plates are lost, stolen, or
9 mutilated, the licensee shall be issued replacement plates pursuant
10 to section 60-324.

11 (4)(a) The owner of a vehicle bearing child abuse
12 prevention plates may make application to the county treasurer or
13 designated county official as provided in section 60-302 to have
14 such plates transferred to a motor vehicle other than the vehicle
15 for which such plates were originally purchased if such vehicle is
16 owned by the owner of the plates.

17 (b) The owner may have the unused portion of the fee for
18 the child abuse prevention plates credited to the other vehicle
19 which will bear the plates at the rate of eight and one-third
20 percent per month for each full month left in the registration
21 period.

22 (c) Application for such transfer shall be accompanied by
23 a fee of three dollars. Fees collected pursuant to this subsection
24 shall be remitted to the State Treasurer for credit to the
25 Department of Motor Vehicles Cash Fund.

26 (5) If the cost of manufacturing child abuse prevention
27 plates at any time exceeds the amount charged for license plates
1 pursuant to subsection (5) of section 60-311, any money to be
2 credited to the Nebraska Child Abuse Prevention Fund shall instead

- 3 be credited first to the Highway Trust Fund in an amount equal to
 4 the difference between the manufacturing costs of child abuse
 5 prevention plates and the amount charged pursuant to subsection (5)
 6 of section 60-311 with respect to such plates and the remainder
 7 shall be credited to the Nebraska Child Abuse Prevention Fund.
 8 Sec. 12. Original section 43-1904, Reissue Revised
 9 Statutes of Nebraska, sections 43-1906, 60-311.11, and 60-315,
 10 Revised Statutes Supplement, 2002, and sections 60-310 and
 11 60-311.02, Revised Statutes Supplement, 2003, are repealed."
 12 2. On page 2, line 19, strike "2" and insert "4".
 13 3. On page 6, line 25; page 9, line 23; and page 11,
 14 lines 17 and 18, strike "section 2" and insert "sections 4 and 6".
 15 4. Renumber the remaining sections accordingly.

Senator Vrtiska filed the following amendment to LB 278:
 AM2679

(Amendments to AM2181)

- 1 1. On page 11, line 3, after "residence" insert "or a
 2 building that houses a church that has an average weekly attendance
 3 of not more than one hundred fifty people"; and in line 6 after the
 4 period insert "For purposes of this subsection, church means a
 5 building that is erected or converted primarily for public
 6 religious worship, where services are regularly convened, that is
 7 exempt from taxation under section 77-202, that is owned by the
 8 religious organization housed in the building, and which a
 9 reasonable person would conclude is a church by reason of design,
 10 signs, or architectural or other features.".

Senator Vrtiska filed the following amendment to LB 278:
 AM2678

(Amendments to AM2181)

- 1 1. On page 9, after line 9 insert:
 2 "(3) Notwithstanding any other provision of the
 3 Conveyance Safety Act, conveyances that have been certified as
 4 low-use and are located in a building which houses a church shall
 5 be inspected at no less than five-year intervals. The inspection
 6 frequency of such conveyances shall be determined according to
 7 requirements provided in rules and regulations. The commissioner
 8 shall determine the requirements necessary for a conveyance to be
 9 certified as a low-use conveyance, and such requirements may be
 10 documented by the conveyance owner or operator with a certified
 11 statement of annual use filed with the commissioner annually. For
 12 purposes of this section, church means a building that is erected
 13 or converted primarily for public religious worship, where services
 14 are regularly convened, that is exempt from taxation under section
 15 77-202, that is owned by the religious organization housed in the
 16 building, and which a reasonable person would conclude is a church
 17 by reason of design, signs, or architectural or other features.".

Senator Baker filed the following amendment to LB 479:
AM2713

(Amendments to E & R amendments, AM7164)

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 66-482, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 66-482. For purposes of sections 66-482 to 66-4,149:
- 5 (1) Motor vehicle shall have the same definition as in
- 6 section 60-301;
- 7 (2) Motor vehicle fuel shall include all products and
- 8 fuel commonly or commercially known as gasoline, including casing
- 9 head or natural gasoline, and shall include any other liquid and
- 10 such other volatile and inflammable liquids as may be produced,
- 11 compounded, or used for the purpose of operating or propelling
- 12 motor vehicles, motorboats, or aircraft or as an ingredient in the
- 13 manufacture of such fuel. Agricultural ethyl alcohol produced for
- 14 use as a motor vehicle fuel shall be considered a motor vehicle
- 15 fuel. Motor vehicle fuel shall not include the products commonly
- 16 known as methanol, kerosene oil, kerosene distillate, crude
- 17 petroleum, naphtha, and benzine with a boiling point over two
- 18 hundred degrees Fahrenheit, residuum gas oil, smudge oil, leaded
- 19 automotive racing fuel with an American Society of Testing
- 20 Materials research method octane number in excess of one hundred
- 21 five, and any petroleum product with an initial boiling point under
- 22 two hundred degrees Fahrenheit, a ninety-five percent distillation
- 23 (recovery) temperature in excess of four hundred sixty-four degrees
- 1 Fahrenheit, an American Society of Testing Materials research
- 2 method octane number less than seventy, and an end or dry point of
- 3 distillation of five hundred seventy degrees Fahrenheit maximum;
- 4 (3) Agricultural ethyl alcohol shall mean ethyl alcohol
- 5 produced from cereal grains or agricultural commodities grown
- 6 within the continental United States, and ~~for~~ which is a finished
- 7 product that is a nominally anhydrous ethyl alcohol meeting
- 8 American Society for Testing and Materials D4806 standards. For
- 9 the purpose of sections 66-482 to 66-4,149, the purity of the ethyl
- 10 alcohol shall be determined excluding denaturant and the volume of
- 11 alcohol blended with gasoline for motor vehicle fuel shall include
- 12 the volume of any denaturant required pursuant to law;
- 13 (4) Alcohol blend shall mean a blend of agricultural
- 14 ethyl alcohol in gasoline or other motor vehicle fuel, such blend
- 15 to contain not less than five percent by volume of alcohol;
- 16 (5) Supplier shall mean any person who owns motor vehicle
- 17 fuel imported by barge, barge line, or pipeline and stored at a
- 18 barge, barge line, or pipeline terminal in this state and any
- 19 person who refines and stores motor vehicle fuel at a refinery in
- 20 this state;
- 21 (6) Distributor shall mean any person who acquires
- 22 ownership of motor vehicle fuel directly from a supplier at or from
- 23 a barge, barge line, or pipeline terminal in this state;

24 (7) Wholesaler shall mean any person, other than a
25 supplier, distributor, or importer, who acquires motor vehicle fuel
26 for resale;

27 (8) Retailer shall mean any person who acquires motor
1 vehicle fuel from a supplier, distributor, wholesaler, or importer
2 for resale to consumers of such fuel;

3 (9) Importer shall mean any person who owns motor vehicle
4 fuel at the time such fuel enters the State of Nebraska by any
5 means other than barge, barge line, or pipeline. Importer shall
6 not include a person who imports motor vehicle fuel in a tank
7 directly connected to the engine of a motor vehicle, train,
8 watercraft, or airplane for purposes of providing fuel to the
9 engine to which the tank is connected;

10 (10) Exporter shall mean any person who acquires
11 ownership of motor vehicle fuel from any licensed supplier,
12 distributor, wholesaler, or importer exclusively for use or resale
13 in another state;

14 (11) Gross gallons shall mean measured gallons without
15 adjustment or correction for temperature or barometric pressure;

16 (12) Diesel fuel shall mean any fuel defined as diesel
17 fuel in section 66-654;

18 (13) Compressed fuel shall mean any fuel defined as
19 compressed fuel in section 66-6,100;

20 (14) Person shall mean any individual, firm, partnership,
21 limited liability company, company, agency, association,
22 corporation, state, county, municipality, or other political
23 subdivision;

24 (15) Department shall mean the Motor Fuel Tax Enforcement
25 and Collection Division of the Department of Revenue; and

26 (16) Semiannual period shall mean either the period which
27 begins on January 1 and ends on June 30 of each year or the period
1 which begins on July 1 and ends on December 31 of each year.

2 Sec. 9. Section 77-4104.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-4104.01. The following transactions or activities
5 shall not create any credits or allow any benefits under the
6 Employment and Investment Growth Act except as specifically allowed
7 by this section:

8 (1) The acquisition of a business which is continued by
9 the taxpayer and which was operated in this state during the three
10 hundred sixty-six days prior to the date of application or the date
11 of acquisition, whichever is later. All employees of the acquired
12 business during such period shall be considered base-year
13 employees, and the compensation paid during the base year or the
14 year before acquisition, whichever is later shall be the base-year
15 compensation. Any investment in the acquisition of such business
16 shall be considered as being made before the date of application;

17 (2) The moving of a business from one location to
18 another, which business was operated in this state during the three

19 hundred sixty-six days prior to the date of application. All
 20 employees of the business during such three hundred sixty-six days
 21 shall be considered base-year employees;

22 (3) The purchase or lease of any property which was
 23 previously owned by the taxpayer or a related person. The first
 24 purchase by either the taxpayer or a related person shall be
 25 treated as investment if the item was first placed in service in
 26 this state after the date of the application;

27 (4) The renegotiation of any lease in existence on the
 1 date of application which does not materially change any of the
 2 terms of the lease, other than the expiration date, shall be
 3 presumed to be a transaction entered into for the purpose of
 4 generating benefits under the act and shall not be allowed in the
 5 computation of any benefit or the meeting of any required levels
 6 under the agreement;

7 (5) Any purchase or lease of property from a related
 8 person, except that the taxpayer will be allowed any benefits under
 9 the Employment and Investment Growth Act to which the related
 10 person would have been entitled on the purchase or lease of the
 11 property if the related person was considered the taxpayer; ~~and~~

12 (6) Any transaction entered into primarily for the
 13 purpose of receiving benefits under the act which is without a
 14 business purpose and does not result in increased economic activity
 15 in the state; and

16 (7) For applications received after the effective date of
 17 this act, any activity that results in benefits under the Ethanol
 18 Development Act.

19 Sec. 10. Section 77-5536, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 77-5536. (1) The board shall determine whether to
 22 approve the company's application by majority vote based on its
 23 determination as to whether the project will sufficiently help
 24 enable the state to accomplish the purposes of the Invest Nebraska
 25 Act. The board shall be governed by and shall take into
 26 consideration all of the following factors in making its
 27 determination:

1 (a) The timing, number, wage levels, employee benefit
 2 package, and types of new jobs to be created by the project;

3 (b) The type of industry in which the company and the
 4 project would be engaged;

5 (c) The timing, amount, and types of investment in
 6 qualified property to be made at the project; and

7 (d) Whether the board believes the project would occur in
 8 this state regardless of whether the application was approved.

9 (2) The weight given to each factor shall be determined
 10 by each board member individually for each application. The
 11 decision of the board shall be made in open meeting and is not
 12 confidential.

13 (3) A project shall be considered eligible under the act

14 and may be approved by the board only if the application defines a
15 project consistent with the purposes contained in section 77-5502
16 in one or more qualified business activities within this state that
17 will result in (a) the investment in qualified property of at least
18 ten million dollars and the hiring of a number of new employees of
19 at least twenty-five. The investment and new employees for such
20 project shall count towards attaining and maintaining such
21 thresholds only if the qualified property is located in, and the
22 employee's principal place of employment for the company is located
23 in, one or more Nebraska counties having a population of less than
24 one hundred thousand individuals as of the end of the base year.
25 For this purpose, the population shall be conclusively determined
26 by the Department of Revenue, (b) the investment in qualified
27 property of at least fifty million dollars and the hiring of a
1 number of new employees of at least five hundred, (c) the
2 investment in qualified property of at least one hundred million
3 dollars and the hiring of a number of new employees of at least two
4 hundred fifty, or (d) the investment in qualified property of at
5 least two hundred million dollars and the hiring of a number of new
6 employees of at least five hundred.

7 (4) The new investment and employment shall occur within
8 seven years, meaning by the end of the sixth year after the end of
9 the year the application was filed, and shall be maintained for the
10 entire entitlement period. These thresholds shall constitute the
11 required levels of employment and investment for purposes of the
12 act.

13 (5)(a) An individual employed by the company, other than
14 a base-year employee, shall be considered an employee for purposes
15 of attaining and maintaining the required number of new employees
16 and shall be considered an employee whose compensation is included
17 in the calculation of the wage benefit credit only if the
18 compensation paid by the company to such employee for the year is
19 (i) for companies qualifying under the ten million dollar
20 investment and twenty-five new employee threshold under subdivision
21 (3)(a) of this section, at least one hundred percent of the
22 Nebraska average annual wage, (ii) for companies qualifying under
23 the fifty million dollar investment and five hundred new employee
24 threshold under subdivision (3)(b) of this section or the one
25 hundred million dollar investment and two hundred fifty new
26 employee threshold under subdivision (3)(c) of this section, at
27 least one hundred ten percent of the Nebraska average annual wage;
1 and (iii) for the companies applying under the two hundred million
2 dollar investment and five hundred new employee threshold of
3 subdivision (3)(d) of this section, at least one hundred twenty
4 percent of the Nebraska average annual wage.

5 (b) For the purposes of subdivision (a) of this
6 subsection, compensation paid by the company to such employee for
7 the year shall be the amount paid for the entire year for regular
8 hours worked, not including overtime, bonuses, or any other

9 irregular payments. If the employee works for less than a year,
 10 the compensation paid will be annualized solely for the purpose of
 11 comparison with the Nebraska average annual wage.

12 (6) If the project application is approved by the board,
 13 the company and the state shall enter into a written agreement,
 14 which shall be executed on behalf of the state by the Tax
 15 Commissioner. In the agreement the company shall agree to complete
 16 the project and the state shall designate the approved plans of the
 17 company as a project and, in consideration of the company's
 18 agreement, agree to allow the wage benefit credit or the investment
 19 tax credit, as applicable, as provided for in the act. The
 20 application, and all supporting documentation, to the extent
 21 approved, shall be deemed a part of the agreement. The agreement
 22 shall contain such terms and conditions as the board shall specify
 23 in order to carry out the legislative purposes of the act. The
 24 agreement shall contain provisions to allow the Department of
 25 Revenue to verify that the required levels of employment and
 26 investment have been attained and maintained. The agreement shall
 27 contain provisions to require verification that the required levels
 1 have been attained before any credits are used. The agreement
 2 shall contain such other conditions or requirements, if any, for
 3 the company as established by the department to carry out the
 4 purposes of the act.

5 (7) Any investment or employment which is eligible for
 6 benefits under the Quality Jobs Act shall not be included in a
 7 project under the Invest Nebraska Act. A project under the Invest
 8 Nebraska Act may involve the same location as another project under
 9 the Invest Nebraska Act or under the Quality Jobs Act, except that
 10 no new employment or new investment shall be included in more than
 11 one project for either the meeting of the employment or investment
 12 requirements or the creation of tax incentives. When projects
 13 overlap and the project application does not otherwise clearly
 14 specify, the company shall specify in which project the employment
 15 and investment belongs. ~~Any~~

16 (8) For applications for projects that are not receiving
 17 benefits under the Ethanol Development Act or applications filed
 18 before the effective date of this act, any employment or investment
 19 which is eligible for benefits under the Invest Nebraska Act may
 20 also be included in, and create incentives for, a project under the
 21 Employment and Investment Growth Act, the Employment Expansion and
 22 Investment Incentive Act, and the Rural Economic Opportunities Act,
 23 to the extent otherwise allowable under such respective acts. For
 24 applications filed on or after the effective date of this act, a
 25 taxpayer that is receiving benefits under the Ethanol Development
 26 Act may not receive benefits under the Invest Nebraska Act for the
 27 project that generates the incentive under the Ethanol Development
 1 Act.

2 ~~(8)~~ (9) In order to provide the degree of certainty
 3 necessary to enable a project to proceed, and notwithstanding any

4 provision of Nebraska statute or common law to the contrary, to the
 5 extent any such right of appeal or challenge otherwise exists, no
 6 appeal or challenge of the board's decision by any person shall be
 7 filed after the expiration of thirty days after the board's
 8 decision."

9 2. On page 5, line 3, after the first comma insert "and
 10 which has provided to the Department of Revenue written evidence
 11 substantiating that the ethanol facility has received the requisite
 12 authority from the Department of Environmental Quality and from the
 13 United States Department of Justice, Bureau of Alcohol, Tobacco,
 14 Firearms and Explosives,"; and strike beginning with "The" in line
 15 11 through the period in line 13 and insert "The new ethanol
 16 facility shall provide an analysis to the Department of Revenue of
 17 samples of the product collected according to procedures specified
 18 by the department no later than July 30, 2004, and at least
 19 annually thereafter. The analysis shall be prepared by an
 20 independent laboratory meeting the International Organization for
 21 Standardization standard ISO/IEC 17025:1999. Prior to collecting
 22 the samples, the new ethanol facility shall notify the department
 23 which may observe the sampling procedures utilized by the new
 24 ethanol facility to obtain the samples to be submitted for
 25 independent analysis. The minimum rate shall be established for a
 26 period of at least thirty days.".

27 3. On page 6, line 3, strike "before, on, or".

1 4. On page 10, after line 25 insert the following new
 2 subsection:

3 "(11) For contracts signed under the Employment and
 4 Investment Growth Act and the Invest Nebraska Act, no ethanol
 5 facility receiving benefits under the Ethanol Development Act shall
 6 be eligible for benefits under the Employment and Investment Growth
 7 Act or the Invest Nebraska Act unless it is producing at a rate of
 8 fifteen million gallons or more on an annual basis by October 1,
 9 2004.".

10 5. Renumber the remaining sections and correct internal
 11 references and the repealer accordingly.

Senator Schimek filed the following amendment to LR 14CA:
AM2707

(Amendments to AM2401)

1 1. On page 2, line 23, after "the" insert
 2 "authorization,"; and in line 24 strike "at" through "locations"
 3 and insert "whether casino gaming is authorized under this section
 4 or by initiative measure".

5 2. On page 3, line 3, after "the" insert
 6 "authorization,"; and in line 4 strike "at such locations".

NOTICE OF COMMITTEE HEARING
Government, Military and Veterans Affairs
Room 1507

Thursday, February 26, 2004
Jeanne V. Ross - State Personnel Board (rehearing)

8:45 a.m.

(Signed) DiAnna R. Schimek, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 931A. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2003, LB 407, section 220; to appropriate funds to aid in carrying out the provisions of Legislative Bill 931, Ninety-eighth Legislature, Second Session, 2004; to repeal the original section; and to declare an emergency.

ANNOUNCEMENTS

The Banking, Commerce and Insurance Committee designates LB 1185 as its priority bill.

The Business and Labor Committee designates LB 893 and LB 198 as its priority bills.

UNANIMOUS CONSENT - Add Cointroducer

Senator Hudkins asked unanimous consent to have her name added as cointroducer to LB 1046. No objections. So ordered.

VISITORS

Visitors to the Chamber were 6 Cub Scouts and sponsor from Kearney; Bill and Mary Blackburn from Broken Bow; 13 fourth-grade students, teacher, and sponsors from St. Paul School, Beatrice; 65 members of Leadership Tomorrow from Grand Island, York, and Hastings; Senator Pederson's grandson, Matthew, from North Platte; 26 students from Wayne State College; 8 student volunteers from libraries across the state; and Marilyn Bohn and Dwaine Uttecht from Ravenna.

The Doctor of the Day was Dr. Wade Fornander from Lincoln.

ADJOURNMENT

At 11:59 a.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Friday, February 20, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

TWENTY-NINTH DAY - FEBRUARY 20, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****TWENTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, February 20, 2004

PRAYER

The prayer was offered by Pastor Paul Witt, St. Mary's Catholic Church, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senators Brashear, Brown, Maxwell, Mines, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-eighth day was approved.

ANNOUNCEMENTS

The Transportation and Telecommunications Committee designates LB 863 and LB 878 as its priority bills.

Senator Hartnett designates LB 1231 as his priority bill.

The Urban Affairs Committee designates LB 1233 and LB 499 as its priority bills.

Senator Bourne designates LB 203 as his priority bill.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 19, 2004, 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

Dierks, Merton L.
Farmers Union, Nebraska
Save Boyd County

Ferdinand, L. Rene'
ARC of Nebraska (Withdrawn 02/17/2004)
Health Care Association, Nebraska

Marcus, Joan K.
ARC of Nebraska (Withdrawn 02/17/2004)

Moors, H. Jack
Novartis Pharmaceuticals Corporation

Newell, David R.
City of Elkhorn

REPORTS

The following reports were received by the Legislature:

Economic Development, Department of
Microenterprise Development Act (LB 327) Report

Energy Office
Annual Report for FY 2002-2003

Investment Finance Authority
2004 Series A & B Single Family Housing Revenue Bonds
2004 Series G.O.-16 General Obligation Bonds

NOTICE OF COMMITTEE HEARING Government, Military and Veterans Affairs Room 1507

Friday, March 5, 2004

8:15 a.m.

Andre R. Barry - Accountability and Disclosure Commission
Marilee A. Fredrickson - Accountability and Disclosure Commission
Gary Rosacker - Accountability and Disclosure Commission
Christine Bleich - State Emergency Response Commission
Richard Christensen - State Emergency Response Commission
Steven Wood - State Emergency Response Commission

(Signed) DiAnna R. Schimek, Chairperson

SELECT FILE

LEGISLATIVE RESOLUTION 14CA. Senator Smith renewed his pending amendment, AM2599, found on page 659 and considered on page 680.

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

Senator Janssen moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

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

Voting in the affirmative, 37:

Aguilar	Connealy	Janssen	Mines	Stuthman
Baker	Cunningham	Johnson	Mossey	Synowiecki
Beutler	Engel	Kremer	Pederson, D.	Thompson
Bourne	Erdman	Kruse	Preister	Tyson
Bromm	Foley	Landis	Raikes	Wehrbein
Burling	Friend	Louden	Redfield	
Byars	Hartnett	Maxwell	Schrock	
Combs	Hudkins	McDonald	Stuhr	

Voting in the negative, 1:

Chambers

Present and not voting, 10:

Brashear	Jensen	Pedersen, Dw.	Quandahl	Smith
Cudaback	Jones	Price	Schimek	Vrtiska

Excused and not voting, 1:

Brown

The motion to cease debate prevailed with 37 ayes, 1 nay, 10 present and not voting, and 1 excused and not voting.

The Smith amendment lost with 18 ayes, 20 nays, 10 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

ANNOUNCEMENTS

The Government, Military and Veterans Affairs Committee designates LB 784 as its priority bill.

Senator Landis designates LB 1019 as his priority bill.

The General Affairs Committee designates LB 485 and LB 1201 as its priority bills.

The Judiciary Committee designates LB 876 and LB 1207 as its priority bills.

STANDING COMMITTEE REPORT **Transportation and Telecommunications**

LEGISLATIVE BILL 859. Placed on General File as amended.

Standing Committee amendment to LB 859:

AM2730

- 1 1. Strike original section 1 and insert the following
 2 new sections:
 3 "Section 1. (1) The Department of Motor Vehicles shall
 4 design license plates to be known as Shriners Plates. The plates
 5 shall include an inscription which includes a facsimile of the
 6 Shriner emblems and across the bottom of the design the words
 7 Shriners Help Children. The design shall be selected on the basis
 8 of (a) enhancing the marketability of the plates and (b) limiting
 9 the manufacturing cost of each plate to an amount less than or
 10 equal to the amount charged for license plates pursuant to
 11 subsection (5) of section 60-311. The department shall make
 12 applications available for each type of plate when it is designed.
 13 The department may adopt and promulgate rules and regulations to
 14 carry out this section and section 2 of this act.
 15 (2) One type of Shriners Plates shall be consecutively
 16 numbered plates. The department shall:
 17 (a) Number the plates consecutively beginning with the
 18 number one, using numerals the size of which maximizes legibility
 19 and limiting the numerals to five characters or less; and
 20 (b) Not use a county designation or any characters other
 21 than numbers on the plates.
 22 (3) One type of Shriners Plates shall be personalized
 23 message plates. Such plates shall be issued subject to the same
 24 conditions specified for message plates in subsection (2) of
 1 section 60-311.11, except that a maximum of five characters may be
 2 used.
 3 Sec. 2. (1) A person may apply to the Department of
 4 Motor Vehicles for Shriners Plates in lieu of regular license
 5 plates on an application prescribed and provided by the department
 6 for any passenger vehicle, farm truck, self-propelled mobile home,
 7 cabin trailer, or commercial truck registered for ten tons gross
 8 weight or less pursuant to section 60-302. An applicant receiving
 9 a Shriners Plate for a farm truck with a gross weight of over
 10 sixteen tons or for a commercial truck or truck-tractor registered
 11 for a gross weight of five tons or over shall affix the appropriate
 12 tonnage sticker to the plate. The department shall make forms

13 available for such applications through the county treasurers or
14 designated county officials as provided in section 60-302.

15 (2)(a) Each application for initial issuance of
16 consecutively numbered Shriners Plates shall be accompanied by a
17 fee of fifteen dollars. An application for renewal of such plates
18 shall be accompanied by a fee of fifteen dollars. County
19 treasurers or designated county officials collecting fees for
20 renewals pursuant to this subdivision shall remit them to the State
21 Treasurer. The State Treasurer shall credit two-thirds of the fees
22 for initial issuance and renewal of such plates to the Shriners
23 Travel and Lodging Assistance Fund and one-third of such fees to
24 the Department of Motor Vehicles Cash Fund.

25 (b) Each application for initial issuance of personalized
26 message Shriners Plates shall be accompanied by a fee of forty
27 dollars. An application for renewal of such plates shall be
1 accompanied by a fee of forty dollars. County treasurers or
2 designated county officials collecting fees for renewals pursuant
3 to this subdivision shall remit them to the State Treasurer. The
4 State Treasurer shall credit twenty-five percent of the fees for
5 initial issuance and renewal of such plates to the Shriners Travel
6 and Lodging Assistance Fund and seventy-five percent of such fees
7 to the Department of Motor Vehicles Cash Fund.

8 (3) When the department receives an application for
9 Shriners Plates which are authorized to be manufactured pursuant to
10 section 1 of this act, the department shall deliver the plates to
11 the county treasurer or designated county official of the county in
12 which the vehicle is registered. The county treasurer or
13 designated county official shall issue Shriners Plates in lieu of
14 regular license plates when the applicant complies with the other
15 provisions of law for registration of the vehicle. If Shriners
16 Plates are lost, stolen, or mutilated, the licensee shall be issued
17 replacement plates pursuant to section 60-324.

18 (4)(a) The owner of a vehicle bearing Shriners Plates may
19 make application to the county treasurer or designated county
20 official as provided in section 60-302 to have such plates
21 transferred to a motor vehicle other than the vehicle for which
22 such plates were originally purchased if such vehicle is owned by
23 the owner of the plates.

24 (b) The owner may have the unused portion of the fee for
25 the Shriners Plates credited to the other vehicle which will bear
26 the plates at the rate of eight and one-third percent per month for
27 each full month left in the registration period.

1 (c) Application for such transfer shall be accompanied by
2 a fee of three dollars. Fees collected pursuant to this subsection
3 shall be remitted to the State Treasurer for credit to the
4 Department of Motor Vehicles Cash Fund.

5 (5) If the cost of manufacturing Shriners Plates at any
6 time exceeds the amount charged for license plates pursuant to
7 subsection (5) of section 60-311, any money to be credited to the

8 Department of Motor Vehicles Cash Fund shall instead be credited
9 first to the Highway Trust Fund in an amount equal to the
10 difference between the manufacturing costs of Shriners Plates and
11 the amount charged pursuant to subsection (5) of section 60-311
12 with respect to such plates and the remainder shall be credited to
13 the Department of Motor Vehicles Cash Fund.

14 Sec. 3. Section 60-310, Revised Statutes Supplement,
15 2003, is amended to read:

16 60-310. (1) Registration may be renewed annually in the
17 same manner and upon payment of the same fee as provided for the
18 original registration. On making an application for renewal, the
19 registration certificate for the preceding registration period
20 shall be presented with the application.

21 (2) The certificate of registration and license plates
22 furnished by the department shall be valid during the registration
23 period for which they are issued, and when renewal tabs furnished
24 pursuant to section 60-311 have been affixed to the license plates,
25 the plates shall also be valid for the registration period
26 designated by such renewal tabs.

27 (3) The registration period for motor vehicles, trailers,
1 semitrailers, and cabin trailers required to be registered as
2 provided in section 60-302 shall expire on the first day of the
3 month one year from the month of issuance, and renewal shall become
4 due on such day and shall become delinquent on the first day of the
5 following month.

6 (4) Subsections (1) through (3) of this section do not
7 apply to dealer's license plates, repossession plates, and
8 transporter plates as provided in section 60-320, which plates
9 shall be issued for a calendar year. The registration period for
10 vehicles licensed as apportioned vehicles as provided in section
11 60-356 shall expire December 31 of each year and shall become
12 delinquent February 1 of the following year.

13 (5) Any owner who has two or more vehicles required to be
14 registered under Chapter 60, article 3, may register all such
15 vehicles on a calendar-year basis or on an annual basis for the
16 same registration period beginning in a month chosen by the owner.
17 When electing to establish the same registration period for all
18 such vehicles, the owner shall pay the registration fee, the motor
19 vehicle tax imposed in section 60-3002, and the motor vehicle fee
20 imposed in section 60-3007 on each vehicle for the number of months
21 necessary to extend its current registration period to the
22 registration period under which all such vehicles will be
23 registered. Credit shall be given for registration paid on each
24 vehicle when the vehicle has a later expiration date than that
25 chosen by the owner except as otherwise provided in sections
26 60-311.23 and 60-315.01 and section 2 of this act. Thereafter all
27 such vehicles shall be registered on an annual basis starting in
1 the month chosen by the owner.

2 Sec. 4. Section 60-315, Revised Statutes Supplement,

3 2002, is amended to read:

4 60-315. (1) Except as otherwise provided in sections
5 60-311.23 and 60-315.01 and section 2 of this act, (a) upon
6 transfer of ownership of any motor vehicle or cabin trailer as
7 defined in section 60-301, (b) in case of loss of possession
8 because of fire, theft, dismantlement, or junking, (c) when a
9 salvage branded certificate of title is issued, (d) whenever a type
10 or class of motor vehicle previously registered is subsequently
11 declared by legislative act or court decision to be illegal or
12 ineligible to be operated on the public roads and no longer subject
13 to registration fees, the motor vehicle tax imposed in section
14 60-3002, and the motor vehicle fee imposed in section 60-3007, or
15 (e) in case of a change in the situs of a motor vehicle as defined
16 in section 60-3001 to a location outside of this state, the
17 registration shall expire and the registered owner may, by
18 returning the registration certificate, the number plates, and,
19 when appropriate, the renewal tabs and by either making affidavit
20 to the county treasurer or designated county official as provided
21 in section 60-302 of the occurrence of an event described in
22 subdivisions (a) through (d) of this subsection or, in the case of
23 a change in situs, displaying to the county treasurer or designated
24 county official the registration certificate of such other state as
25 evidence of a change in situs, receive a refund of that part of the
26 unused fees on passenger vehicles, trucks, and cabin trailers based
27 on the number of unexpired months remaining in the registration
1 period from the date of the event, except that when such date falls
2 within the same calendar month in which the vehicle or trailer is
3 acquired, no refund shall be allowed for such month. The
4 registered owner shall make a claim for credit or refund of the
5 unused fees within sixty days after the date of the event or shall
6 be deemed to have forfeited his or her right to such refund. For
7 purposes of this subsection, the date of the event shall be, in the
8 case of a transfer or loss, the date of the transfer or loss, in
9 the case of a change in the situs, the date of registration in
10 another state, in the case of a legislative act, the effective date
11 of the act, and in the case of a court decision, the date the
12 decision is rendered. Application for registration or for
13 reassignment of number plates and, when appropriate, renewal tabs
14 to another motor vehicle or cabin trailer shall be made within
15 thirty days of the date of purchase.

16 (2) Whenever the registered owner files an application
17 with the county treasurer or designated county official showing
18 that a motor vehicle is disabled and has been removed from service,
19 the registered owner may, by returning the registration
20 certificate, the number plates, and, when appropriate, the renewal
21 tabs or, in the case of the unavailability of such certificate or
22 certificates, number plates, or tabs, then by making an affidavit
23 to the county treasurer or designated county official of such
24 disablement and removal from service, receive a credit for a

25 portion of the registration fee from the fee deposited with the
26 State Treasurer at the time of registration based upon the number
27 of unexpired months remaining in the registration year except as
1 otherwise provided in sections 60-311.23 and 60-315.01 and section
2 2 of this act. The owner shall also receive a credit for the
3 unused portion of the motor vehicle tax and fee based upon the
4 number of unexpired months remaining in the registration year.
5 When the owner registers a replacement vehicle at the time of
6 filing such affidavit, the credit may be immediately applied
7 against the registration fee and the motor vehicle tax and fee for
8 the replacement vehicle. When no such replacement vehicle is so
9 registered, the county treasurer or designated county official
10 shall forward the application and affidavit, if any, to the State
11 Treasurer who shall determine the amount, if any, of the allowable
12 credit for the registration fee and furnish a certificate therefor
13 to the owner. For the motor vehicle tax and fee, the county
14 treasurer shall determine the amount, if any, of the allowable
15 credit and furnish a certificate to the owner. When such motor
16 vehicle is removed from service within the same month in which it
17 was registered, no credits shall be allowed for such month. The
18 credits may be applied against taxes and fees for new or
19 replacement vehicles incurred within one year after cancellation of
20 registration of the motor vehicle for which the credits were
21 allowed. When any such vehicle is reregistered within the same
22 registration year in which its registration has been canceled, the
23 taxes and fees shall be that portion of the registration fee and
24 the motor vehicle tax and fee for the remainder of the registration
25 year.

26 (3) If a vehicle has a salvage branded certificate of
27 title issued as a result of an insurance company acquiring the
1 vehicle through a total loss settlement, the prior owner of the
2 vehicle who is a party to the settlement may receive a credit or
3 refund of unused fees and taxes by (a) filing an application with
4 the county treasurer or designated county official within thirty
5 days after the date of the settlement stating that title to the
6 vehicle was transferred as a result of the settlement and (b)
7 returning the registration certificate, the license plates, and,
8 when appropriate, the renewal tabs or, in the case of the
9 unavailability of the certificate, plates, or tabs, filing an
10 affidavit with the county treasurer or designated county official
11 regarding the transfer of title due to the settlement and the
12 unavailability of the certificate, plates, or tabs. The owner may
13 receive a refund or credit of the registration fees for the
14 unexpired months remaining in the registration year determined
15 based on the date when the vehicle was damaged and became
16 unavailable for service. The owner may receive a credit for motor
17 vehicle taxes and fees for the unexpired months remaining in the
18 registration year determined based on the date when the vehicle was
19 damaged and became unavailable for service. If the vehicle was

20 damaged and became unavailable for service during the same month in
 21 which it was registered, no refund or credit shall be allowed for
 22 such month. When the owner registers a replacement vehicle at the
 23 time of filing such affidavit, the credit may be immediately
 24 applied against the registration fee and the motor vehicle tax and
 25 fee for the replacement vehicle. When no such replacement vehicle
 26 is so registered, the county treasurer or designated county
 27 official shall refund the unused registration fees or forward the
 1 application and affidavit, if any, to the State Treasurer who shall
 2 determine the amount, if any, of the allowable credit for the
 3 registration fee and furnish a certificate therefor to the owner.
 4 For the motor vehicle tax and fee, the county treasurer or
 5 designated county official shall determine the amount, if any, of
 6 the allowable credit and furnish a certificate to the owner. The
 7 credits may be applied against taxes and fees for new or
 8 replacement vehicles incurred within one year after the date of the
 9 settlement.

10 Sec. 5. The Shriners Travel and Lodging Assistance Fund
 11 is created. The fund shall include money credited to the fund
 12 pursuant to section 2 of this act received by the Shriners for the
 13 purpose of providing traveling and lodging assistance to patients
 14 and their parents. Funds received pursuant to section 2 of this
 15 act shall not be used for administrative or fundraising costs. The
 16 Potentate of the Sesostri Shrine shall administer the fund
 17 throughout the state for the purpose of providing traveling and
 18 lodging assistance to patients and their parents.

19 Sec. 6. This act becomes operative on July 1, 2005.

20 Sec. 7. Original section 60-315, Revised Statutes
 21 Supplement, 2002, and section 60-310, Revised Statutes Supplement,
 22 2003, are repealed.".

(Signed) Tom Baker, Chairperson

AMENDMENTS - Print in Journal

Senator Byars filed the following amendment to LB 1198:
 AM2660

1 1. Strike original section 1 and insert the following
 2 new section:
 3 "Section 1. Section 71-409, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 71-409. Critical access hospital means a facility (1)
 6 with ~~up to fifteen~~ acute care inpatient beds where care or
 7 treatment is provided on an outpatient basis or on an inpatient
 8 basis to persons for an average period of not more than ninety-six
 9 hours and emergency services are provided on a twenty-four-hour
 10 basis and (2) which has formal agreements with at least one
 11 hospital and other appropriate providers for services such as
 12 patient referral and transfer, communications systems, provision of

13 emergency and nonemergency transportation, and backup medical and
 14 emergency services. A facility licensed as a critical access
 15 hospital as of January 1, 2004, shall have no more than twenty-five
 16 acute care inpatient beds, and any other facility licensed as a
 17 critical access hospital shall have no more than fifteen acute care
 18 inpatient beds.".

Senator Vrtiska filed the following amendment to LB 963:
 AM2717

(Amendments to E & R amendments, AM7174)

- 1 1. Strike sections 1 and 2.
- 2 2. On page 10, strike beginning with "and" in line 9
- 3 through the second comma in line 10.
- 4 3. Renumber the remaining sections accordingly.

STANDING COMMITTEE REPORTS

General Affairs

The General Affairs 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.

State Electrical Board
 William King
 George Morrissey
 Tom Ourada

VOTE: Aye: Senators Connealy, Cunningham, Erdman, Friend, Janssen, Mossey, and Schimek. Nay: None. Absent: Senator Landis.

The General Affairs 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.

Nebraska Advisory Commission on Compulsive Gambling
 John Atherton
 Thomas Nutt

VOTE: Aye: Senators Connealy, Cunningham, Erdman, Friend, Janssen, Mossey, and Schimek. Nay: None. Absent: Senator Landis.

(Signed) Ray Janssen, Chairperson

SELECT COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 963. Placed on Select File as amended.

E & R amendment to LB 963:

AM7174

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 55-101, Revised Statutes Supplement,
- 4 2003, is amended to read:
- 5 55-101. Sections 55-101 to 55-181 and section 2 of this
- 6 act shall be known and may be cited as the Military Code.
- 7 Sec. 2. The sections of the federal Servicemembers Civil
- 8 Relief Act, Public Law 108-189, listed in this section or any other
- 9 sections referred to by such sections in existence and effective as
- 10 of January 1, 2004, are adopted as Nebraska law and are applicable
- 11 to all persons in military service as defined in Public Law
- 12 108-189, Title I, Sec. 101. The Legislature hereby adopts the
- 13 following sections:
- 14 (1) Section 1. Short title; table of contents;
- 15 (2) Sec. 2. Purpose. Sec. 2 shall be construed to apply
- 16 to the defense, peace, and security of the State of Nebraska and
- 17 includes servicemembers of the Nebraska National Guard while
- 18 -serving on state active duty;
- 19 (3) Title I - General Provisions;
- 20 (a) Sec. 101. Definitions. Sec. 101(1) Servicemember
- 21 includes uniformed members of the Nebraska National Guard
- 22 performing state active duty for periods of more than thirty
- 23 consecutive days. Sec. 101(2) Military service includes state
- 24 active duty under the Nebraska Military Code. Sec. 101(7)
- 1 Secretary concerned includes the Adjutant General with respect to
- 2 members of the Nebraska National Guard;
- 3 (b) Sec. 102. Jurisdiction and Applicability of Act.
- 4 The jurisdiction and applicability of act is limited to the State
- 5 of Nebraska unless otherwise extended by law;
- 6 (c) Sec. 103. Protection of persons secondarily liable;
- 7 (d) Sec. 104. Extension of protections to citizens
- 8 -serving with allied forces. Sec. 104 includes service within
- 9 another state, territory, or the District of Columbia;
- 10 (e) Sec. 105. Notification of benefits;
- 11 (f) Sec. 106. Extension of rights and protections to
- 12 reserves ordered to report for military service and to persons
- 13 ordered to report for induction;
- 14 (g) Sec. 107. Waiver of rights pursuant to written
- 15 agreement;
- 16 (h) Sec. 108. Exercise of rights under act not to affect
- 17 certain future financial transactions; and
- 18 (i) Sec. 109. Legal representatives;
- 19 (4) Title II - General Relief;
- 20 (a) Sec. 201. Protection of servicemembers against
- 21 default judgments. Any person who falsifies an affidavit required
- 22 by Sec. 201(b) may be prosecuted for making a false statement under
- 23 oath or affirmation under section 28-915.01;

- 24 (b) Sec. 202. Stay of proceedings when servicemember has
25 notice;
- 26 (c) Sec. 203. Fines and penalties under contracts;
- 27 (d) Sec. 204. Stay or vacation of execution of
1 judgments, attachments, and garnishments;
- 2 (e) Sec. 205. Duration and terms of stays; codefendants
3 not in service;
- 4 (f) Sec. 206. Statute of limitations; and
- 5 (g) Sec. 207. Maximum rate of interest on debts incurred
6 before military service;
- 7 (5) Title III - Rent, Installment Contracts, Mortgages,
8 Liens, Assignment, Leases;
- 9 (a) Sec. 301. Evictions and distress. For the purposes
10 of subdivision 301(a)(1)(A), dependents includes any person
11 providing primary care for the dependents of a servicemember as
12 defined in Sec. 101(4)(C), during a period of military service of
13 the servicemember. Any person who knowingly and intentionally
14 violates Sec. 301 is guilty of a Class I misdemeanor;
- 15 (b) Sec. 302. Protection under installment contracts for
16 purchase or lease. Any person who knowingly and intentionally
17 violates Sec. 302 shall be guilty of a Class I misdemeanor;
- 18 (c) Sec. 303. Mortgages and trust deeds. Any person who
19 knowingly and intentionally violates Sec. 303 is guilty of a Class
20 I misdemeanor;
- 21 (d) Sec. 304. Settlement of stayed cases relating to
22 personal property;
- 23 (e) Sec. 305. Termination of residential or motor
24 vehicle leases. For the purposes of Sec. 305, the definition of
25 dependents is expanded to include persons who are joint lessees
26 with a person in military service or sureties or cosigners for the
27 person in military service. Any person who knowingly and
1 intentionally violates Sec. 305 is guilty of a Class I misdemeanor;
- 2 (f) Sec. 306. Protection of life insurance policy. Any
3 person who knowingly and intentionally violates Sec. 306 is guilty
4 of a Class I misdemeanor;
- 5 (g) Sec. 307. Enforcement of storage liens. Any person
6 who knowingly and intentionally violates Sec. 307 is guilty of a
7 Class I misdemeanor; and
- 8 (h) Sec. 308. Extension of protections to dependants;
- 9 (6) Title IV - Life Insurance;
- 10 (a) Sec. 401. Definitions;
- 11 (b) Sec. 402. Insurance rights and protections;
- 12 (c) Sec. 403. Application for insurance protection;
- 13 (d) Sec. 404. Policies entitled to protection and lapse
14 of policies;
- 15 (e) Sec. 405. Policy restrictions; and
- 16 (f) Sec. 406. Deduction of unpaid premiums;
- 17 (7) Title V - Taxes and Public Lands;
- 18 (a) Sec. 501. Taxes respecting personal property, money,

19 credits, and real property;

20 (b) Sec. 510. Income taxes. Sec. 510 shall be construed

21 to apply to state income taxes; and

22 (c) Sec. 511. Residence for tax purposes. Sec. 511

23 shall be construed to apply to residency in Nebraska for tax

24 purposes;

25 (8) Title VI - Administrative Remedies:

26 (a) Sec. 601. Inappropriate use of act;

27 (b) Sec. 602. Certificates of service; persons reported

1 missing. For the purposes of Sec. 602, Secretary concerned shall

2 be construed to mean the Adjutant General with respect to members

3 of the Nebraska National Guard; and

4 (c) Sec. 603. Interlocutory orders;

5 (9) Title VII - Further Relief:

6 (a) Sec. 701. Anticipatory relief;

7 (b) Sec. 702. Power of attorney. Subdivision

8 702(a)(1)(B) includes powers of attorney executed by a

9 servicemember who has been advised by an official of the Military

10 Department that the servicemember may receive a call or order to

11 report for military service;

12 (c) Sec. 703. Professional liability protection.

13 Subdivision 703(a)(1) shall include a servicemember who is ordered

14 to state active duty in excess of thirty consecutive days under the

15 Military Code or National Guard, 32 U.S.C.;

16 (d) Sec. 704. Health insurance reinstatement. Sec. 704

17 shall include insurance personally purchased by the servicemember

18 or carried by a third party or entity for the benefit of the

19 servicemember without regard to employment. For the purposes of

20 Sec. 704, Secretary of Veterans Affairs is construed to mean the

21 Nebraska National Guard state surgeon. Subsection (c) also applies

22 to section 55-161;

23 (e) Sec. 705. Guarantee of residency for military

24 personnel; and

25 (f) Sec. 706. Business or trade obligations.

26 Sec. 3. Section 55-121, Reissue Revised Statutes of

27 Nebraska, is amended to read:

1 55-121. The Adjutant General shall be appointed by the

2 Governor from the active or retired commissioned officers of the

3 National Guard of this state. Such Adjutant General shall be or

4 have been a commissioned officer ~~of the field or line in active~~

5 ~~service~~ who has actively served in the National Guard of this state

6 for at least ~~seven~~ five years, ~~and~~ shall have attained at least the

7 grade of lieutenant colonel, and shall be able to become eligible

8 for promotion to general officer. If a retired officer is

9 appointed, he or she shall not have been retired for more than two

10 years at the time he or she is considered for appointment. He or

11 she shall hold his or her office as provided in section 55-136. He

12 or she shall receive for his or her services such salary as the

13 Governor shall direct, payable monthly, except ; ~~PROVIDED~~, that

14 such salary shall not exceed the annual pay and allowances of
 15 regular military officers of equal rank. ~~If ; AND PROVIDED~~
 16 ~~FURTHER, that when~~ funds made available by the federal government
 17 are in excess of the amount payable as directed by the Governor,
 18 the excess shall be used to reduce the amount required to be paid
 19 by the state. Due to the interrelated nature of the Adjutant
 20 General's state and federal duties, the Adjutant General shall not
 21 be required to take paid or unpaid leave or leaves of absence to
 22 perform his or her federal duties, whether or not under federal
 23 orders. The Adjutant General shall continue to receive his or her
 24 salary during all such periods. The Adjutant General shall only be
 25 required to take leave or leaves of absence during those times when
 26 he or she is absent and performing neither his or her state nor
 27 federal duties as Adjutant General. This section shall not apply
 1 if the Adjutant General is called to active duty of the United
 2 States under 10 U.S.C.

3 Sec. 4. Section 55-125, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 55-125. The Adjutant General ~~shall have~~ may appoint a
 6 deputy adjutant general, ~~a~~ or chief of staff of the Military
 7 Department, ~~in a~~ or a deputy director. The officer shall hold the
 8 grade of not less than colonel, as provided in section 55-120, ;
 9 ~~who shall be appointed by the Adjutant General.~~ No person shall be
 10 eligible for such appointment and service unless he or she is an
 11 active member of the Nebraska National Guard. He or she shall have
 12 had at least four years of commissioned service in the Nebraska
 13 National Guard immediately prior to appointment and shall have
 14 attained at least the grade of lieutenant colonel prior to his or
 15 her appointment as deputy adjutant general, or chief of staff of
 16 the Military Department, or deputy director. The Adjutant General
 17 shall appoint an officer with a grade of not less than major who
 18 may act as United States property and fiscal officer. The Adjutant
 19 General may also appoint ; an assistant United States property and
 20 fiscal officer, with the grade of not less than captain. These ;
 21 ~~which~~ officers shall be appointed from among the active officers of
 22 the Nebraska National Guard and shall have been commissioned
 23 officers in the Nebraska National Guard for a period of at least
 24 four years and shall have attained the grade of at least captain
 25 and first lieutenant, respectively immediately prior to
 26 appointment. The Adjutant General shall appoint all additional
 27 officers, clerks, and caretakers as may be required.

1 Sec. 5. Section 55-126, Reissue Revised Statutes of
 2 Nebraska, is amended to read:
 3 55-126. The deputy adjutant general, chief of staff of
 4 the Military Department, or deputy director shall aid the Adjutant
 5 General by the performance of such duties as may be assigned by the
 6 Adjutant General. In case of absence or inability of the Adjutant
 7 General, the deputy adjutant general, chief of staff of the
 8 Military Department, or deputy director shall perform all or such

9 portion of the duties of the Adjutant General as the latter may
10 expressly delegate to him or her. If a deputy adjutant general,
11 chief of staff of the Military Department, or deputy director has
12 not been appointed, the Adjutant General may delegate the authority
13 to perform the duties of the Adjutant General to any active officer
14 of the Nebraska military who shall hold at least the rank of
15 colonel. The deputy adjutant general, chief of staff of the
16 Military Department, or deputy director shall be bonded under the
17 blanket surety bond required by section 11-201. The deputy
18 adjutant general, chief of staff of the Military Department, or
19 deputy director shall receive such salary as the Adjutant General
20 shall direct, payable monthly. Such salary shall not exceed the
21 annual pay and allowances of regular military officers of equal
22 rank, except that when funds made available by the federal
23 government are in excess of the amount payable as directed by the
24 Adjutant General, the excess shall be used to reduce the amount
25 required to be paid by the State of Nebraska.

26 Sec. 6. Section 55-157, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 55-157. (1) When an active or retired officer or
2 enlisted person of the National Guard is ordered to active service
3 of the state by the Governor or Adjutant General, he or she shall
4 receive compensation as provided in this ~~section~~ subsection. For
5 service during a disaster or emergency an officer or enlisted
6 person shall be entitled to the same pay, subsistence, and quarters
7 allowance as officers and enlisted personnel of corresponding
8 grades of the Army and Air Force of the United States. For advice,
9 counsel, duties, or service to the Governor or Adjutant General, an
10 officer or enlisted person may, at the discretion of the Adjutant
11 General, be in a pay or nonpay status. If in a pay status, the
12 officer or enlisted person shall be entitled to the same pay,
13 subsistence, and quarters allowance as officers and enlisted
14 personnel of corresponding grades of the Army and Air Force of the
15 United States.

16 (2) For any period of active service of the state in
17 excess of thirty consecutive days, performed at the order of the
18 Governor or Adjutant General or at the request of the federal
19 government, a state, or other agency or entity, an officer or
20 enlisted person shall be entitled to reimbursement of one hundred
21 percent of the cost of his or her privately purchased health
22 insurance or up to one hundred two percent of the cost of his or
23 her employer-provided health insurance. The officer or enlisted
24 person shall provide evidence of payment and shall be reimbursed to
25 the extent that evidence of payment can be provided. The
26 reimbursement for health insurance shall be treated as an allowance
27 but may be paid separately once received by the State of Nebraska
1 from the federal government, a state, or other agency or entity
2 requesting the services of the officer or enlisted person. The
3 State of Nebraska will not pay or advance the cost of such health

4 insurance reimbursement for the federal government, a state, or
 5 other agency or entity. The State of Nebraska is exempt from the
 6 requirement under this subsection to reimburse officers and
 7 enlisted persons for their health insurance costs.
 8 Sec. 7. Original sections 55-121, 55-125, 55-126, and
 9 55-157, Reissue Revised Statutes of Nebraska, and section 55-101,
 10 Revised Statutes Supplement, 2003, are repealed."
 11 2. On page 1, strike beginning with "military" in line 1
 12 through line 4 and insert "Military Code; to amend sections 55-121,
 13 55-125, 55-126, and 55-157, Reissue Revised Statutes of Nebraska,
 14 and section 55-101, Revised Statutes Supplement, 2003; to adopt
 15 portions of the federal Servicemembers Civil Relief Act; to provide
 16 and change powers and duties of the Adjutant General; to provide
 17 for health insurance reimbursement as prescribed; to harmonize
 18 provisions; and to repeal the original sections."

(Signed) Ray Mossey, Chairperson

SELECT FILE

LEGISLATIVE RESOLUTION 14CA. Senator Smith renewed his pending amendment, AM2670, found on page 659.

Pending.

LEGISLATIVE BILL 906. E & R amendment, AM7173, found on page 591, was adopted.

Senator Beutler withdrew his pending amendment, AM2500, found on page 573.

Senators Jensen and Stuhr offered the following amendment:
 AM2748

(Amendments to Standing Committee amendments, AM2249)

- 1 1. On page 15, line 1, strike "board" and insert
 2 "department".
- 3 2. On page 16, line 13, after "date" insert ", and may
 4 be licensed by the department"; strike beginning with "as" in line
 5 14 through the second "of" in line 15 and insert "of training and";
 6 in line 21 after the second comma insert "and"; and strike
 7 beginning with the comma in line 23 through "apprentice" in line
 8 25.
- 9 3. On page 17, line 6, after the period insert
 10 paragraphing and "(3)"; in line 13 strike "permission" and insert
 11 "approval"; in line 20 strike "in" and insert "at" and after "than"
 12 insert "at"; and in line 21 strike "specifically permitted" and
 13 insert "otherwise specifically provided".
- 14 4. On page 18, line 2, strike "facility for such
 15 business" and insert "body art facility"; in line 4 after "date"
 16 insert ", and may be licensed by the department,"; strike lines 5
 17 and 6 and insert "within such ninety-day period and the facility

- 18 receives a satisfactory rating by the department upon inspection of
 19 the facility."; in line 18 strike "its" and insert "a"; and in line
 20 19 strike "each" and insert "a".
 21 5. On page 19, line 18, after "art" insert "at such
 22 facility"; in line 19 after "the" insert "facility's"; in line 25
 23 strike "all other" and insert "such"; and in line 27 strike
 1 "attained" and insert "received".
 2 6. On page 20, line 1, strike "able to meet such
 3 requirement" and insert "receiving such rating"; and in line 18
 4 strike "in" and insert "at".
 5 7. On page 31, line 9, strike "33 and 36" and insert
 6 "26, 33, 36, and 52"; and in line 13 strike "71-386".
 7 8. Insert the following new section:
 8 "Sec. 52. Original section 71-386, Reissue Revised
 9 Statutes of Nebraska, is repealed."

Senator Chambers requested a division of the question on the Jensen-Stuhr amendment.

The Chair sustained the division of the question.

The first Jensen-Stuhr amendment is as follows:

FA1472

(Amendments to Standing Committee amendments, AM2249)

- 1 1. On page 15, line 1, strike "board" and insert
- 2 "department".

SPEAKER BROMM PRESIDING

The first Jensen-Stuhr amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

The second Jensen-Stuhr amendment is as follows:

FA1473

(Amendments to Standing Committee amendments, AM2249)

- 3 2. On page 16, line 13, after "date" insert ", and may
 4 be licensed by the department"; strike beginning with "as" in line
 5 14 through the second "of" in line 15 and insert "of training and";
 6 in line 21 after the second comma insert "and"; and strike
 7 beginning with the comma in line 23 through "apprentice" in line
 8 25.

SENATOR CUDABACK PRESIDING

The second Jensen-Stuhr amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Pending.

BILL ON FIRST READING

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

LEGISLATIVE BILL 838A. Introduced by Louden, 49.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 838, Ninety-eighth Legislature, Second Session, 2004.

STANDING COMMITTEE REPORTS**Judiciary**

LEGISLATIVE BILL 926. Placed on General File.

LEGISLATIVE BILL 1035. Placed on General File.

LEGISLATIVE BILL 1210. Placed on General File.

LEGISLATIVE BILL 817. Placed on General File as amended.

Standing Committee amendment to LB 817:

AM2668

- 1 1. Strike original section 2 and insert the following
 2 new sections:
 3 "Sec. 2. Section 28-322.01, Revised Statutes Supplement,
 4 2002, is amended to read:
 5 28-322.01. A person commits the offense of sexual abuse
 6 of an inmate or parolee if such person subjects an ~~individual who~~
 7 ~~is confined in a correctional institution or a city or county~~
 8 ~~correctional or jail facility or under parole supervision~~ inmate or
 9 parolee to sexual penetration or sexual contact as those terms are
 10 defined in section 28-318. It is not a defense to a charge under
 11 this section that the inmate or parolee consented to such sexual
 12 penetration or sexual contact.
 13 Sec. 3. Original sections 28-322 and 28-322.01, Revised
 14 Statutes Supplement, 2002, are repealed."
 15 2. On page 2, lines 3 and 4, strike ", person", show as
 16 stricken, and insert "":
 17 (1) Inmate or parolee means any individual confined in a
 18 facility operated by the Department of Correctional Services or a
 19 city or county correctional or jail facility or under parole
 20 supervision; and
 21 (2) Person"; in line 4 strike "(1)", show as stricken,
 22 and insert "(a)"; in line 11 strike "(2)", show as stricken, and
 23 insert "(b)"; in line 19 strike "(3)" and insert "(c)"; and in line
 24 22 after "Services" insert "or a city or county correctional or
 1 jail facility".

LEGISLATIVE BILL 998. Placed on General File as amended.

Standing Committee amendment to LB 998:

AM2697

- 1 1. Insert the following new sections:
 2 "Sec. 5. Any health care provider who has furnished
 3 proof of financial responsibility prior to the operative date of
 4 this act under sections 44-2824 and 44-2827 shall be qualified
 5 under section 44-2824 for the remainder of the policy year or
 6 risk-loss trust year. The increases in coverage requirements made
 7 by this legislative bill in sections 44-2824 and 44-2827 shall
 8 apply to policies issued or renewed and risk-loss trust years which
 9 commence after the operative date of this act.
- 10 Sec. 6. Section 44-2855, Reissue Revised Statutes of
 11 Nebraska, is amended to read:
 12 44-2855. Sections 44-2801 to 44-2855 and section 5 of
 13 this act shall be known and may be cited as the Nebraska
 14 Hospital-Medical Liability Act.
- 15 Sec. 7. This act becomes operative on January 1, 2005".
- 16 2. On page 8, line 4, strike "section 44-2824" and
 17 insert "sections 44-2824 and 44-2855".
- 18 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 1068. Placed on General File as amended.
 Standing Committee amendment to LB 1068:
 AM2667

- 1 1. On page 4, lines 5 and 6, strike the new matter.
 2 2. On page 5, after line 9, insert the following new
 3 subsection:
 4 "(9) Notwithstanding subsection (6) of this section, the
 5 Supreme Court or an agent of the Supreme Court acting under the
 6 direction and supervision of the Chief Justice shall have access to
 7 psychiatric examinations and presentence investigations and reports
 8 for research purposes. The Supreme Court and its agent shall treat
 9 such information as confidential and nothing identifying any
 10 individual shall be released.".

LEGISLATIVE BILL 1112. Placed on General File as amended.
 Standing Committee amendment to LB 1112:
 AM2616

- 1 1. Strike the original sections and insert the following
 2 new sections:
 3 "Section 1. Any county treasurer, county official, or
 4 political subdivision official may charge a fee not to exceed
 5 thirty dollars for a check which is dishonored after being properly
 6 presented. Such fee shall be remitted to the county treasurer for
 7 credit to the county general fund.
 8 Sec. 2. Any state official or state agency may charge a
 9 fee not to exceed thirty dollars for a check which is dishonored
 10 after being properly presented. Such fee shall be remitted to the
 11 State Treasurer for credit to the General Fund.".

(Signed) Kermit A. Brashear, Chairperson

Revenue

LEGISLATIVE BILL 1065. Placed on General File as amended.
(Standing Committee amendment, AM2644, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1094. Placed on General File as amended.
Standing Committee amendment to LB 1094:
AM2732

1 1. On page 4, strike the new matter in lines 12 through
2 28 and insert "(a) Every payor who is maintaining an office or
3 transacting business within this state and making a payment or
4 payments related to such business in excess of six hundred dollars,
5 and such payment or payments are for construction services
6 performed or to be performed substantially within this state, to an
7 individual, other than an employee, who is not subject to
8 withholding on such payment under the Internal Revenue Code of
9 1986, as amended, or to any person who is providing or arranging
10 for labor for construction services, either as employees or as
11 independent contractors, shall deduct and withhold five percent of
12 such payments. If the individual performing the services provides
13 the payor with the total amount of expenses reasonably related to
14 the services, the total payment or payments may be reduced by the
15 total expenses before computing the amount to deduct and withhold.
16 Such reduction shall not be more than fifty percent of such payment
17 or payments, except that when one-half or more of the payment is
18 for materials or the use of equipment provided to the payor, such
19 reduction shall not be more than seventy-five percent of such
20 payment or payments.

21 (b) The withholding required by this subsection shall not
22 apply to any payment made to a person that provides the payor with
23 a statement that the income earned is not subject to tax because of
24 a treaty obligation of the United States.

1 (c) For purposes of this subsection, construction
2 services means services that are provided by a contractor as
3 defined in section 77-3101."

4 2. On page 5, strike lines 1 through 14.

5 3. On page 7, line 3, strike "person" and insert
6 "subcontractor".

7 4. On page 10, line 7, after "Any" insert "resident or
8 nonresident" and after "with" insert "(1)"; and in line 9 after the
9 comma insert "(2) any individual who is not an employee and who is
10 not subject to withholding on such payment under the Internal
11 Revenue Code of 1986, as amended, or (3) any person who is
12 providing or arranging for labor for construction services, either
13 as an employee or as an independent contractor."

LEGISLATIVE BILL 1181. Placed on General File as amended.

Standing Committee amendment to LB 1181:

AM2747

- 1 1. On page 2, lines 6, 15, 22, and 28 strike "four" and
- 2 insert "three".

LEGISLATIVE BILL 1216. Placed on General File as amended.

Standing Committee amendment to LB 1216:

AM2688

- 1 1. On page 3, line 15, after the period insert "The
- 2 number of hours assessed to qualifying businesses under this
- 3 section shall not exceed one hundred in any calendar year.".

LEGISLATIVE BILL 945. Indefinitely postponed.

LEGISLATIVE BILL 988. Indefinitely postponed.

LEGISLATIVE BILL 1011. Indefinitely postponed.

LEGISLATIVE BILL 1015. Indefinitely postponed.

LEGISLATIVE BILL 1020. Indefinitely postponed.

LEGISLATIVE BILL 1025. Indefinitely postponed.

LEGISLATIVE BILL 1040. Indefinitely postponed.

LEGISLATIVE BILL 1134. Indefinitely postponed.

LEGISLATIVE BILL 1135. Indefinitely postponed.

LEGISLATIVE BILL 1142. Indefinitely postponed.

LEGISLATIVE BILL 1189. Indefinitely postponed.

LEGISLATIVE BILL 1197. Indefinitely postponed.

LEGISLATIVE BILL 1211. Indefinitely postponed.

LEGISLATIVE BILL 1215. Indefinitely postponed.

(Signed) David Landis, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 1202. Placed on General File.

LEGISLATIVE BILL 1229. Placed on General File.

LEGISLATIVE RESOLUTION 221CA. Placed on General File.

(Signed) DiAnna R. Schimek, Chairperson

AMENDMENT - Print in Journal

Senators Jensen, Byars, and Cunningham filed the following amendment to LB 906:

(Amendment, AM2724, is printed separately and available in the Bill Room, Room 1104.)

ANNOUNCEMENTS

Senator Wehrbein designates LB 297 as his priority bill.

Senator Quandahl designates LB 679 as his priority bill.

The Education Committee designates LB 1106 as its priority bill.

The Executive Board designates LB 470 and LR 211CA as its priority bill and priority resolution.

Senator Bromm designates LB 613 as his priority bill.

The Health and Human Services Committee designates LB 1145 as its priority bill.

VISITORS

Visitors to the Chamber were Senator Schrock's cousin, Daniel Wallenás, from Sweden; Jeff, Josh, Kyle, and Bryan Hohnholt and Garrison Swanson from Polk; Ben Carrel from Beatrice; and 16 fourth-grade students, teacher, and sponsors from Emmanuel Lutheran School, Columbus.

ADJOURNMENT

At 11:57 a.m., on a motion by Senator Vrtiska, the Legislature adjourned until 9:00 a.m., Monday, February 23, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTIETH DAY - FEBRUARY 23, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, February 23, 2004

PRAYER

The prayer was offered by Pastor Jim Miller, Grace United Methodist Church, Hastings.

ROLL CALL

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

The roll was called and all members were present except Senators Landis and Dw. Pedersen who were excused; and Senators Bourne, Brashear, Byars, Maxwell, D. Pederson, Stuthman, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-ninth day was approved.

**SPECIAL COMMITTEE REPORT
Executive Board**

LEGISLATIVE RESOLUTION 219CA. Placed on General File.

(Signed) L. Patrick Engel, Chairperson

MOTIONS - Approve Appointments

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointments found on page 670:

Board of Emergency Medical Services

Ronald F. Balthazor

Bruce A. Beins

Joel E. Cerny

David T. Engler

Dan L. Hakel

Robert K. Olson
 Val D. Snyder
 George Tom Surber
 Diane L. Yetter

Voting in the affirmative, 30:

Aguilar	Cudaback	Hartnett	Mines	Smith
Bromm	Cunningham	Jensen	Mossey	Stuhr
Brown	Engel	Johnson	Price	Thompson
Burling	Erdman	Jones	Quandahl	Tyson
Combs	Foley	Kremer	Redfield	Vrtiska
Connealy	Friend	McDonald	Schrock	Wehrbein

Voting in the negative, 0.

Present and not voting, 10:

Baker	Chambers	Janssen	Louden	Raikes
Beutler	Hudkins	Kruse	Preister	Schimek

Excused and not voting, 9:

Bourne	Byars	Maxwell	Pederson, D.	Synowiecki
Brashear	Landis	Pedersen, Dw.	Stuthman	

The appointments were confirmed with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointments found on page 671:

Child Abuse Prevention Fund Board
 Jennie Cole-Mossman
 Debra Phelps

Voting in the affirmative, 27:

Aguilar	Cudaback	Hartnett	Mines	Smith
Brown	Cunningham	Jensen	Mossey	Stuhr
Burling	Engel	Johnson	Price	Tyson
Byars	Erdman	Jones	Quandahl	
Combs	Foley	Kremer	Redfield	
Connealy	Friend	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 14:

Baker	Chambers	Kruse	Raikes	Vrtiska
Beutler	Hudkins	Louden	Schimek	Wehrbein
Bromm	Janssen	Preister	Thompson	

Excused and not voting, 8:

Bourne	Landis	Pedersen, Dw.	Stuthman
Brashear	Maxwell	Pederson, D.	Synowiecki

The appointments were confirmed with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointments found on page 671:

Commission for the Blind and Visually Impaired

Robert Burns
Barbara Loos
William Orester

Voting in the affirmative, 30:

Aguilar	Combs	Friend	Mines	Smith
Bromm	Cudaback	Jensen	Mossey	Stuhr
Brown	Cunningham	Johnson	Price	Stuthman
Burling	Engel	Jones	Quandahl	Thompson
Byars	Erdman	Kremer	Redfield	Tyson
Chambers	Foley	McDonald	Schrock	Vrtiska

Voting in the negative, 0.

Present and not voting, 12:

Baker	Hartnett	Kruse	Raikes
Beutler	Hudkins	Louden	Schimek
Connealy	Janssen	Preister	Wehrbein

Excused and not voting, 7:

Bourne	Landis	Pedersen, Dw.	Synowiecki
Brashear	Maxwell	Pederson, D.	

The appointments were confirmed with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointments found on page 671:

State Board of Health

Timothy Crockett
 Kent H. Forney
 Clinton Schafer
 Jerry Vaughan
 Gwen Weber

Voting in the affirmative, 28:

Aguilar	Cudaback	Jensen	Mossey	Stuhr
Bromm	Cunningham	Johnson	Pederson, D.	Stuthman
Brown	Engel	Jones	Price	Thompson
Byars	Erdman	Kremer	Quandahl	Tyson
Combs	Foley	McDonald	Redfield	
Connealy	Hudkins	Mines	Smith	

Voting in the negative, 0.

Present and not voting, 16:

Baker	Chambers	Kruse	Schimek
Beutler	Friend	Louden	Schrock
Brashear	Hartnett	Preister	Vrtiska
Burling	Janssen	Raikes	Wehrbein

Excused and not voting, 5:

Bourne	Landis	Maxwell	Pedersen, Dw.	Synowiecki
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The appointments were confirmed with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointments found on page 672:

Foster Care Review Board
 Margaret Connealy
 Jim Ganz
 Kay Lynn Goldner
 Judy Meter
 David Patterson
 Thomas Poulton
 Burrell S. Williams

Voting in the affirmative, 33:

Aguilar	Connealy	Hudkins	Mossey	Stuhr
Baker	Cudaback	Jensen	Pederson, D.	Stuthman
Bromm	Cunningham	Johnson	Price	Thompson
Brown	Engel	Kremer	Quandahl	Tyson
Byars	Erdman	Maxwell	Schimek	Vrtiska
Chambers	Foley	McDonald	Schrock	
Combs	Friend	Mines	Smith	

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Hartnett	Kruse	Raikes
Brashear	Janssen	Louden	Redfield
Burling	Jones	Preister	Wehrbein

Excused and not voting, 4:

Bourne	Landis	Pedersen, Dw.	Synowiecki
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The appointments were confirmed with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointments found on page 672:

Commission for the Deaf and Hard of Hearing

Margaret Coleman
James P. Devaney
Kenya S. Taylor
Cecelia J. Bevard

Voting in the affirmative, 29:

Aguilar	Cudaback	Jensen	McDonald	Stuhr
Bromm	Cunningham	Johnson	Mines	Stuthman
Brown	Engel	Jones	Mossey	Thompson
Byars	Erdman	Kremer	Price	Tyson
Combs	Friend	Louden	Quandahl	Wehrbein
Connealy	Hudkins	Maxwell	Redfield	

Voting in the negative, 0.

Present and not voting, 16:

Baker	Chambers	Kruse	Schimek
Beutler	Foley	Pederson, D.	Schrock
Brashear	Hartnett	Preister	Smith
Burling	Janssen	Raikes	Vrtiska

Excused and not voting, 4:

Bourne Landis Pedersen, Dw. Synowiecki

The appointments were confirmed with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointments found on page 672:

Rural Health Advisory Commission

Angela Brennan
Donald Frey
Rebecca Schroeder
Michael Sitorius
William Welch
Roger Wells

Voting in the affirmative, 32:

Aguilar	Connealy	Jensen	Mines	Stuthman
Baker	Cudaback	Johnson	Mossey	Thompson
Bromm	Cunningham	Jones	Price	Tyson
Brown	Engel	Kremer	Quandahl	Vrtiska
Byars	Erdman	Louden	Redfield	
Chambers	Friend	Maxwell	Smith	
Combs	Hudkins	McDonald	Stuhr	

Voting in the negative, 0.

Present and not voting, 13:

Beutler	Foley	Kruse	Raikes	Wehrbein
Brashear	Hartnett	Pederson, D.	Schimek	
Burling	Janssen	Preister	Schrock	

Excused and not voting, 4:

Bourne Landis Pedersen, Dw. Synowiecki

The appointments were confirmed with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE RESOLUTION 14CA. Senator Smith renewed his pending amendment, AM2670, found on page 659 and considered on page 710.

Senator Schimek offered the following amendment to the Smith pending amendment:

FA1478

(Amendments to AM2670)

- 1 1. On page 2, line 22, strike "eight" and insert "five"
- 2 and after the period insert "Subsequent to the initial legislative
- 3 authorization of any casino location, the voters of the county in
- 4 which such casino location is authorized shall either approve or
- 5 disapprove casino gaming in such county."; and in line 23 after
- 6 "the" insert "authorization."; and in line 24 strike "at" through
- 7 "locations" and insert "whether casino gaming is authorized under
- 8 this section or by initiative measure".
- 9 2. On page 3, line 2, strike "eight" and insert "five";
- 10 in line 3 after "locations" insert "subject to approval by voters
- 11 in the affected counties" and after "the" insert "authorization,";
- 12 and in line 4 strike "at such locations".

Senator Smith requested a ruling of the Chair on whether the Schimek amendment is germane to the Smith amendment.

The Chair ruled the Schimek amendment is germane to the Smith amendment.

Senator Smith challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?" The motion failed with 4 ayes, 13 nays, 25 present and not voting, and 7 excused and not voting.

The Chair was sustained.

Senator Schimek withdrew her amendment.

Senator Smith offered the following amendment to his pending amendment:
FA1479

Amend AM2670

Line 4, strike five, insert 3.

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion failed with 20 ayes, 6 nays, and 23 not voting.

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

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

The motion to cease debate prevailed with 26 ayes, 1 nay, and 22 not voting.

The Smith amendment lost with 9 ayes, 24 nays, 11 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Schimek offered the following amendment to the Smith pending amendment:

FA1480

(Amendments to AM2670)

Strike all original language in AM2670 and insert the following:

- 1 1. On page 2, line 22, strike "eight" and insert "five"
- 2 and after the period insert "Subsequent to the initial legislative
- 3 authorization of any casino location, the voters of the county in
- 4 which such casino location is authorized shall either approve or
- 5 disapprove casino gaming in such county."; and in line 23 after
- 6 "the" insert "authorization,"; and in line 24 strike "at" through
- 7 "locations" and insert "whether casino gaming is authorized under
- 8 this section or by initiative measure".
- 9 2. On page 3, line 2, strike "eight" and insert "five";
- 10 in line 3 after "locations" insert "subject to approval by voters
- 11 in the affected counties" and after "the" insert "authorization,";
- 12 and in line 4 strike "at such locations".

Senator Smith requested a division of the question on the Schimek amendment.

The Chair sustained the division of the question.

The first Schimek amendment, to the Smith pending amendment, is as follows:

FA1483

(Amendments to AM2670)

Strike all original language in AM2670 and insert the following:

- 1 1. On page 2, line 22, strike "eight" and insert "five"
- 9 2. On page 3, line 2, strike "eight" and insert "five";

Senator Smith offered the following motion:

Bracket until April 15.

SPEAKER BROMM PRESIDING

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

Senator Beutler moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

The motion to cease debate prevailed with 35 ayes, 1 nay, and 13 not voting.

The Chair declared the call raised.

Senator Smith moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Senator Smith requested a roll call vote on his motion to bracket.

Voting in the affirmative, 5:

Erdman	Jensen	Price	Quandahl	Tyson
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Voting in the negative, 30:

Aguilar	Byars	Friend	Maxwell	Raikes
Baker	Chambers	Hudkins	McDonald	Schimek
Beutler	Combs	Janssen	Mines	Schrock
Bourne	Connealy	Johnson	Mossey	Stuthman
Bromm	Cunningham	Kruse	Pederson, D.	Synowiecki
Brown	Engel	Louden	Preister	Thompson

Present and not voting, 12:

Brashear	Foley	Kremer	Stuhr
Burling	Hartnett	Redfield	Vrtiska
Cudaback	Jones	Smith	Wehrbein

Excused and not voting, 2:

Landis	Pedersen, Dw.
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The Smith motion to bracket failed with 5 ayes, 30 nays, 12 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The first Schimek pending amendment, FA1483, found in this day's Journal, to the Smith pending amendment, was renewed.

Pending.

MESSAGES FROM THE GOVERNOR

February 17, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Environmental Quality Council.

APPOINTEE:

Robert C. Hall, 957 Beech, Wahoo NE 68066

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

February 17, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Commission for the Deaf and Hard of Hearing.

APPOINTEES:

Pamela J. Duin, 19903 Hackberry Drive, Gretna NE 68028

*Barbara J. Woodhead, 1028 Twin Ridge Rd, Lincoln NE 68510

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

*Reappointment

RESOLUTION

LEGISLATIVE RESOLUTION 241. Introduced by Beutler, 28.

PURPOSE: The goal of this interim study is to examine the failure of the National Warranty Insurance Company.

National Warranty Insurance Company is a risk retention group organized under the laws of the Cayman Islands and the federal Liability Risk Retention Act. National Warranty was registered to do business in Nebraska and maintained its headquarters in Lincoln. The company insured several hundred group members, most of which sold a variety of motor vehicle related services. More specifically, National Warranty insured its members' ability to pay claims under motor vehicle service contracts.

In June 2003, National Warranty filed for the Cayman Islands' version of bankruptcy protection. In August, a court in the Cayman Islands determined that the company's assets should be liquidated. As National Warranty's liquidation progressed, the company, its members, and dealers disagreed as to who was responsible for the claims of individual motor vehicle owners. As a result, motor vehicle owners across the country found that their motor vehicle services contracts were essentially worthless.

It is the intent of the Legislature that this interim study will explain how National Warranty was able to continue operating its business out of Nebraska as its financial condition deteriorated. Questions remain as to whether the Department of Insurance was aware of National Warranty's financial situation and whether it could have, in fact, taken additional steps to protect consumers from what ultimately occurred.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

STANDING COMMITTEE REPORT
Natural Resources

The Natural Resources 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.

Environmental Quality Council
John T. Baker
Debra McDowell

VOTE: Aye: Senators Friend, Hudkins, Jones, Kremer, Loudon, Preister, and Schrock. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

ANNOUNCEMENT

Speaker Bromm designates LBs 174, 232, 237, 391, 514, 657, 747, 816, 817, 866, 874, 909, 913, 914, 944, 960, 973, 983, 1068, 1084, 1094, 1156, 1180, 1197, and 1229 as Speaker priority bills.

AMENDMENTS - Print in Journal

Senator Byars filed the following amendment to LB 841:
AM2672

- 1 1. Insert the following new sections:
- 2 "Sec. 2. Sections 2 to 10 of this act shall be known and
- 3 may be cited as the ICF/MR Reimbursement Protection Act.
- 4 Sec. 3. For purposes of the ICF/MR Reimbursement
- 5 Protection Act:
- 6 (1) Department means the Department of Health and Human
- 7 Services Finance and Support;
- 8 (2) Gross revenue means the revenue paid to an
- 9 intermediate care facility for the mentally retarded for resident
- 10 care, room, board, and services less contractual adjustments and
- 11 does not include revenue from sources other than operations,
- 12 including, but not limited to, interest and guest meals;
- 13 (3) Intermediate care facility for the mentally retarded
- 14 has the definition found in section 71-421; and
- 15 (4) Medicaid program means the medical assistance program
- 16 established pursuant to sections 68-1018 to 68-1025.
- 17 Sec. 4. (1) Each intermediate care facility for the
- 18 mentally retarded shall pay a tax equal to six percent of its gross
- 19 revenue for the most recent State of Nebraska fiscal year.
- 20 (2) Taxes collected under this section shall be remitted
- 21 to the State Treasurer for credit to the ICF/MR Reimbursement
- 22 Protection Fund.
- 23 (3) Taxes collected pursuant to this section shall be
- 24 reported on a separate line on the cost report of the intermediate
- 1 care facility for the mentally retarded, regardless of how such
- 2 costs are reported on any other cost report or income statement.
- 3 The department shall recognize such tax as an allowable cost within
- 4 the state plan for reimbursement of intermediate care facilities
- 5 for the mentally retarded which participate in the Medicaid
- 6 program. The tax shall be a direct pass-through and shall not be
- 7 subject to cost limitations.
- 8 Sec. 5. (1) The ICF/MR Reimbursement Protection Fund is
- 9 created. Any money in the fund available for investment shall be

10 invested by the state investment officer pursuant to the Nebraska
11 Capital Expansion Act and the Nebraska State Funds Investment Act.
12 Interest and income earned by the fund shall be credited to the
13 fund.

14 (2) Up to sixty-six percent of the money in the fund each
15 year, including matching federal financial participation, shall be
16 used by the department solely for the purpose of increasing
17 payments under the medicaid program to intermediate care facilities
18 for the mentally retarded participating in such program. Money in
19 the fund not required for payment to intermediate care facilities
20 for the mentally retarded shall be used by the department for
21 payment to providers of community-based services for persons with
22 developmental disabilities. Such payments shall be made in a
23 uniform fashion based on the medicaid resident days for each
24 facility.

25 Sec. 6. (1) On or before May 1, 2004, the department
26 shall submit an application to the Centers for Medicare and
27 Medicaid Services of the United States Department of Health and
1 Human Services amending the state medicaid plan to provide for
2 utilization of money in the ICF/MR Reimbursement Protection Fund to
3 uniformly increase medicaid payments to intermediate care
4 facilities for the mentally retarded.

5 (2) The tax imposed under section 4 of this act is not
6 due and payable until such amendment to the state medicaid plan is
7 approved by the Centers for Medicare and Medicaid Services.

8 Sec. 7. (1) Collection of the tax imposed by section 4
9 of this act shall be discontinued if:

10 (a) The amendment to the state medicaid plan described in
11 section 6 of this act is disapproved by the Centers for Medicare
12 and Medicaid Services;

13 (b) The department reduces rates paid to intermediate
14 care facilities for the mentally retarded to an amount less than
15 the rates effective September 1, 2003; or

16 (c) The department or any other state agency attempts to
17 utilize the money in the ICF/MR Reimbursement Protection Fund for
18 any use other than uses permitted pursuant to the ICF/MR
19 Reimbursement Protection Act.

20 (2) If collection of the tax is discontinued as provided
21 in subsection (1) of this section, all money in the fund shall be
22 returned to the intermediate care facilities for the mentally
23 retarded from which the tax was collected on the same basis as the
24 tax was assessed.

25 Sec. 8. (1) An intermediate care facility for the
26 mentally retarded that fails to pay the tax required by section 4
27 of this act shall be subject to a penalty of five hundred dollars
1 per day of delinquency. The total amount of the penalty assessed
2 under this section shall not exceed five percent of the tax due
3 from the intermediate care facility for the mentally retarded for
4 the year for which the tax is assessed.

- 5 (2) Penalties shall be collected by the department and
 6 remitted to the State Treasurer for credit to the ICF/MR
 7 Reimbursement Protection Fund.
 8 Sec. 9. An intermediate care facility for the mentally
 9 retarded that has paid a tax that is not required by section 4 of
 10 this act may file a claim for refund with the department. The
 11 department shall by rule and regulation establish procedures for
 12 filing and consideration of such claims.
 13 Sec. 10. The department shall adopt and promulgate rules
 14 and regulations to carry out the ICF/MR Reimbursement Protection
 15 Act.
 16 Sec. 13. Since an emergency exists, this act takes
 17 effect when passed and approved according to law."
 18 2. On page 4, line 8, strike "This act becomes" and
 19 insert "Sections 1 and 3 of this act become" and after the period
 20 insert "The other sections of this act become operative on their
 21 effective date."
 22 3. Renumber the remaining sections accordingly.

Senator Jensen filed the following amendment to LB 1083:
AM2770

- 1 1. On page 3, line 16, strike "provide for" and insert
 2 "authorize"; and in line 17 strike "two".
 3 2. On page 11, line 26, strike "the purpose of" and
 4 insert "purposes of (a) providing greater access to such services
 5 and improved outcomes for consumers of such services and (b)"; and
 6 in line 28 strike "shall not reduce or discontinue any" and insert
 7 "is authorized to reduce or discontinue".
 8 3. On page 12, line 2, strike "any regional center
 9 unless" and insert "a regional center if"; and strike line 28.
 10 4. On page 13, strike lines 1 through 3 and insert the
 11 following new subsection:
 12 "(5) The provisions of this section are self-executing
 13 and require no further authorization or other enabling
 14 legislation.".
 15 5. On page 18, line 17, strike "fifteen" and insert
 16 "twenty"; in line 20 after "shall" insert "(1) include, but not be
 17 limited to, representatives of (a) the Legislature, (b) consumers
 18 and consumer advocacy organizations, (c) behavioral health
 19 providers, (d) the communities of Norfolk and Hastings, (e) state
 20 employees, (f) regional behavioral health authorities, and (g)
 21 mental health boards, (2)"; and in line 23 strike "and" and insert
 22 ", and (3)".
 23 6. On page 19, strike beginning with the comma in line
 24 10 through the comma in line 12; in line 12 after "shall" insert
 1 "prepare and"; in line 14 after the period insert "The division
 2 shall communicate regularly with the Behavioral Health Oversight
 3 Commission and the Health and Human Services Committee of the
 4 Legislature and shall provide such reports and other information as

5 requested by the committee or the commission during preparation of
6 the plan. The commission shall review and provide written
7 recommendations relating to the plan no later than October 1, 2004.
8 The division shall provide written responses to such
9 recommendations, including any proposed changes to the plan, no
10 later than December 1, 2004."; strike line 15 and insert "committee
11 and the"; in line 16 after "plan" insert "as submitted"; in line 17
12 strike "required" and insert "requested"; and in line 20 after
13 "shall" insert "be consistent with the Nebraska Behavioral Health
14 Services Act and shall".
15 7. On page 20, line 7, strike "Plan for" and insert
16 "Encourage and facilitate".
17 8. On page 21, line 12, strike the second "the" and
18 insert "such".

UNANIMOUS CONSENT - Add Cointroducer

Senator Mossey asked unanimous consent to have his name added as cointroducer to LB 943. No objections. So ordered.

VISITOR

Visitor to the Chamber was Eric Knutson from Schuyler.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Smith, the Legislature adjourned until 9:00 a.m., Tuesday, February 24, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-FIRST DAY - FEBRUARY 24, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 24, 2004

PRAYER

The prayer was offered by Senator Wehrbein.

ROLL CALL

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

The roll was called and all members were present except Senators Jensen, Dw. Pedersen, and Stuhr who were excused; and Senators Brashear, Brown, Byars, Landis, Maxwell, Mines, Mossey, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirtieth day was approved.

MOTIONS - Approve Appointments

Senator Janssen moved the adoption of the General Affairs Committee report for the confirmation of the following appointments found on page 704:

Nebraska Advisory Commission on Compulsive Gambling
John Atherton
Thomas Nutt

Voting in the affirmative, 29:

Aguilar	Cudaback	Johnson	Pederson, D.	Synowiecki
Baker	Cunningham	Jones	Price	Thompson
Bourne	Erdman	Kremer	Quandahl	Tyson
Bromm	Hartnett	Kruse	Redfield	Vrtiska
Combs	Hudkins	Louden	Schrock	Wehrbein
Connealy	Janssen	McDonald	Stuthman	

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Chambers	Foley	Preister	Smith
Burling	Engel	Friend	Schimek	

Excused and not voting, 11:

Brashear	Jensen	Mines	Raikes
Brown	Landis	Mossey	Stuhr
Byars	Maxwell	Pedersen, Dw.	

The appointments were confirmed with 29 ayes, 0 nays, 9 present and not voting, and 11 excused and not voting.

Senator Janssen moved the adoption of the General Affairs Committee report for the confirmation of the following appointments found on page 704:

State Electrical Board
 William King
 George Morrissey
 Tom Ourada

Voting in the affirmative, 27:

Aguilar	Cudaback	Johnson	Price	Thompson
Beutler	Cunningham	Jones	Quandahl	Vrtiska
Bourne	Erdman	Kruse	Redfield	Wehrbein
Burling	Hartnett	Louden	Schrock	
Combs	Hudkins	McDonald	Stuthman	
Connealy	Janssen	Pederson, D.	Synowiecki	

Voting in the negative, 0.

Present and not voting, 11:

Baker	Engel	Kremer	Smith
Bromm	Foley	Preister	Tyson
Chambers	Friend	Schimek	

Excused and not voting, 11:

Brashear	Jensen	Mines	Raikes
Brown	Landis	Mossey	Stuhr
Byars	Maxwell	Pedersen, Dw.	

The appointments were confirmed with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 1049. Senator Schimek renewed her pending amendment, FA1457, found on page 590, to the Louden pending amendment, AM2291, found on page 507 and considered on pages 581 and 590.

Senator Schimek withdrew her amendment.

Pending.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Duin, Pamela J. - Commission for the Deaf and Hard of Hearing - Health and Human Services

Hall, Robert C. - Environmental Quality Council - Natural Resources

Woodhead, Barbara J. - Commission for the Deaf and Hard of Hearing - Health and Human Services

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

STANDING COMMITTEE REPORTS
Transportation and Telecommunications

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Board of Public Roads Classifications and Standards

James Bauer
Rich Ruby
Tim Schram
Darold Tagge
Henry Thieman
Henry Vieregger
Ed Wootton

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

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests

the appointment(s) be confirmed by the Legislature and suggests a record vote.

State Highway Commission
Donna Wanitschke

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

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Nebraska Motor Vehicle Industry Licensing Board
Jack D. Henry
Toby J. Miller
Darlene J. Noah
Kelly B. Smith

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

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Nebraska Railway Council
Merlyn Carlson
David Gilfillan

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

(Signed) Tom Baker, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 1195. Placed on General File.

LEGISLATIVE BILL 1234. Indefinitely postponed.

LEGISLATIVE BILL 1245. Indefinitely postponed.

(Signed) DiAnna R. Schimek, Chairperson

Natural Resources

LEGISLATIVE BILL 829. Placed on General File.

LEGISLATIVE BILL 962. Placed on General File as amended.
(Standing Committee amendment, AM2733, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE RESOLUTION 235. Reported to the Legislature for further consideration with the following amendment:
AM2773

- 1 1. Strike the original provisions and insert the
- 2 following:
- 3 "WHEREAS, Duane R. Wehrs and Judith A. Breager-Wehrs have
- 4 conveyed to the Game and Parks Commission real estate located in
- 5 Seward County, Nebraska, which will be maintained as a wildlife
- 6 management area for public outdoor recreation activities; and
- 7 WHEREAS, the Game and Parks Commission has the general
- 8 authority to acquire real estate, with the consent of the Governor,
- 9 by gift; and
- 10 WHEREAS, in the interest of promoting outdoor
- 11 opportunities for Nebraskans, the Legislature wishes to grant
- 12 approval for the Game and Parks Commission to obtain title to all
- 13 or any part of such real estate.
- 14 NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE
- 15 NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:
- 16 1. That the Legislature approves the gift from Duane R.
- 17 Wehrs and Judith A. Breager-Wehrs, husband and wife, to the Game
- 18 and Parks Commission of all of the real estate described as:
- 19 The northeast quarter of section thirty-two, township eleven north,
- 20 range one east of the sixth principal meridian, in Seward County,
- 21 Nebraska, containing one hundred sixty acres, more or less. These
- 22 premises are subject to a warranty easement deed to the Natural
- 23 Resources Conservation Service of the United States Department of
- 24 Agriculture as filed in Seward County, Nebraska.
- 1 2. That such approval is granted with the understanding
- 2 that the real estate described shall be designated and utilized as
- 3 a wildlife management area."

LEGISLATIVE BILL 26. Indefinitely postponed.
LEGISLATIVE BILL 27. Indefinitely postponed.
LEGISLATIVE BILL 827. Indefinitely postponed.
LEGISLATIVE BILL 967. Indefinitely postponed.
LEGISLATIVE BILL 1203. Indefinitely postponed.
LEGISLATIVE BILL 1232. Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

NOTICE OF COMMITTEE HEARING
Natural Resources
 Room 1525

Tuesday, March 2, 2004

1:00 p.m.

Donald Williams - Environmental Quality Council

Tom Miller - Environmental Quality Council

(Signed) Ed Schrock, Chairperson

AMENDMENTS - Print in Journal

Senator Schrock filed the following amendment to LB 1173:
 AM2577

- 1 1. On page 3, strike beginning with "During" in line 3
 2 through line 6 and insert "(a) Except as provided in subdivisions
 3 (b) and (c) of this subsection, during the time that a notice of
 4 intent under this section is in effect, no person may drill or
 5 construct a water well, as defined in section 46-601.01, within the
 6 following number of feet of the boundaries of the land described in
 7 the notice of intent, whichever is greater:
 8 (i) One thousand feet; or
 9 (ii) The maximum number of feet specified in any
 10 applicable regulations of a natural resources district that a well
 11 of a public water supplier must be spaced from another well.
 12 (b) Any person who, at least one hundred eighty days
 13 prior to filing a notice of intent, obtained a valid permit from a
 14 natural resources district to drill or construct a water well
 15 within the area subject to the protection provided by this section
 16 is not prohibited from drilling or constructing a water well.
 17 (c) The public water supplier may waive the protection
 18 provided by this section and allow a person to drill or construct a
 19 new or replacement water well within the area subject to the
 20 protection provided by this section."

Senator Cunningham filed the following amendment to LB 1083:
 AM2780

- 1 1. Strike original section 10 and insert the following
 2 new section:
 3 "Sec. 10. (1) The division shall encourage and
 4 facilitate the statewide development and provision of an
 5 appropriate array of community-based behavioral health services and
 6 continuum of care for purposes of (a) providing greater access to
 7 behavioral health services and improved outcomes for consumers of
 8 such services and (b) reducing the necessity and demand for
 9 regional center behavioral health services.
 10 (2) The division shall not reduce or discontinue any
 11 regional center behavioral health services unless the following

12 conditions have been met: (a) Appropriate community-based
13 behavioral health services or other regional center services are
14 available for every person receiving regional center services that
15 would be affected by such reduction or discontinuation; and (b) no
16 further commitments, admissions, or readmissions for such services
17 are required due to the availability of community-based behavioral
18 health services or other regional center services to replace such
19 services. It is the intent of the Legislature to ensure that
20 regional center services are maintained at levels existing on the
21 operative date of this section until services have been developed
22 and are operating and available at the community level to provide
23 needed care and support to persons with behavioral health
24 disorders. The division shall inform the Governor, the
1 Legislature, the State Behavioral Health Council, and the
2 Behavioral Health Oversight Commission of the Legislature at least
3 thirty days prior to any intended reduction or discontinuation
4 under this section and shall provide detailed documentation of the
5 community-based behavioral health services or other regional center
6 services that are being utilized to replace services that would be
7 affected by the intended reduction or discontinuation. The
8 documentation shall certify that services available at the
9 community level possess sufficient capacity and capability to
10 effectively replace the service needs which otherwise would have
11 been provided at a regional center.

12 (3) All funding related to the provision of regional
13 center services that are reduced or discontinued under this section
14 shall be reallocated and expended by the division for purposes
15 related to the statewide development and provision of
16 community-based behavioral health services.

17 (4) The division may establish state-operated
18 community-based behavioral health services to replace regional
19 center services that are reduced or discontinued under this
20 section. The division shall provide regional center employees with
21 appropriate training and support to transition such employees into
22 positions as may be necessary for the provision of such
23 state-operated services.

24 (5) No regional center may be closed before July 1, 2007.
25 The division may close a regional center on July 1, 2007, or on
26 July 1 of any year thereafter only after the following conditions
27 have been met:

1 (a) A report has been issued to the Governor, the
2 Legislature, the State Behavioral Health Council, and the
3 Behavioral Health Oversight Commission on or before December 1 of
4 the previous year, proposing the closure and including detailed
5 documentation of the community-based behavioral health services or
6 other regional center services which are being utilized to replace
7 behavioral health services provided by the regional center that
8 would be affected by the proposed closure;

9 (b) The community behavioral health services which will

10 be utilized have been available and operating for at least one year
 11 and have been certified by the division to possess sufficient
 12 capacity, capability, and sustainability to effectively replace the
 13 services which otherwise would have been provided at the regional
 14 center to provide needed care and support to persons with
 15 behavioral health disorders;
 16 (c) The Behavioral Health Oversight Commission makes a
 17 recommendation to the Legislature regarding the proposed closure or
 18 closures; and
 19 (d) The Legislature has passed a resolution affirming the
 20 conditions for the closure of a regional center have been met."
 21 2. On page 3, line 14, after the semicolon insert "and";
 22 in line 15 after "services" insert ", regional center services,";
 23 and strike beginning with the semicolon in line 16 through
 24 "centers" in line 17.
 25 3. On page 18, line 17, strike "fifteen" and insert
 26 "twenty-five"; and in line 24 after the period insert "Members of
 27 the commission shall include, but not be limited to,
 1 representatives of (a) behavioral health consumers and consumer
 2 advocacy organizations, (b) the communities of Hastings and
 3 Norfolk, (c) regional center employees, (d) behavioral health
 4 regions, (e) mental health boards, (f) counties, (g) law
 5 enforcement, (h) private hospitals, and (i) behavioral health
 6 services providers."
 7 4. On page 19, line 2, after "Act" insert "to achieve
 8 the most appropriate setting, financing, and delivery of behavioral
 9 health services"; in line 13 after "to" insert "the commission,"
 10 and after "Governor" insert an underscored comma; in line 14 strike
 11 "The division shall immediately" and insert "The commission shall
 12 review and amend the proposed plan and, in consultation with the
 13 division, adopt a final plan by December 1, 2004. The division
 14 shall immediately begin implementation of the plan and"; and strike
 15 beginning with the second "and" in line 15 through line 16 and
 16 insert "as to the progress in implementing the plan by providing".
 17 5. On page 20, line 20, strike "for the closure of" and
 18 insert "for the reduction or discontinuation of services at".
 19 6. On page 45, line 9, strike "83-352.02, and 83-356"
 20 and insert "and 83-352.02".

ATTORNEY GENERAL'S OPINION

Opinion # 04006

DATE: February 24, 2004

SUBJECT: Whether, Pursuant to the Nebraska Fair Housing Act, It Is Appropriate For the NEOC to Negotiate Fines, Some of Which Are Paid to Organizations Beyond the Control of State Government or Whether These

Monies Should Be Received, Accounted For, and
Disbursed Like Other State Monies?

REQUESTED BY: Senator Mick Mines, Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Lynne Fritz, Assistant Attorney General

This is in response to your request for an Attorney General's Opinion generally concerning the authority of the Nebraska Equal Opportunity Commission to negotiate fines. The background materials you submitted in conjunction with your request for an opinion suggest your focus is on the Nebraska Fair Housing Act, Neb. Rev. Stat. §§ 20-301 to 20-344 (Reissue 1997 and Cum. Supp. 2002). As a result, this opinion will address your questions in the context of the Nebraska Fair Housing Act.

The Nebraska Equal Opportunity Commission ("NEOC") plays at least two different roles in its enforcement of the Nebraska Fair Housing Act. The NEOC's duties include those of a conciliator between complainants and respondents and of a quasi-judicial entity.

Pursuant to Neb. Rev. Stat. § 20-327 (Reissue 1997), the NEOC is required to engage in the conciliation of a complaint to the extent feasible. Said section provides in pertinent part that:

. . . A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the commission.

. . . A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

If conciliation attempts fail, and the NEOC has determined there is reasonable cause to believe a discriminatory housing practice has occurred, the NEOC shall issue a charge on behalf of the aggrieved person for further proceedings. Neb. Rev. Stat. § 20-333(b)(i) (Reissue 1997). When a charge is issued, a complainant, respondent or an aggrieved person on whose behalf the complaint was filed may elect to have the charge decided in a civil action. Neb. Rev. Stat. § 20-335 (Reissue 1997). If a party elects to have the charge decided in a civil action, a district court is authorized, upon a finding that a discriminatory housing practice has occurred, to grant relief as the court deems appropriate. Neb. Rev. Stat. § 20-342 (Reissue 1997).

If no election is made to file an action in district court, the NEOC provides an opportunity for an administrative hearing on the charge. A hearing officer conducts the hearing and makes findings of fact and conclusions of law which are reviewed and finalized by the Commission

acting in a quasi-judicial capacity. Neb. Rev. Stat. §§ 20-337 and 20-378 (Reissue 1999). If there is a finding that a respondent has engaged or is about to engage in a discriminatory housing practice, the relief ordered may include actual damages, injunctive relief and substantial civil penalties up to \$50,000 depending on the specific factual circumstances. Neb. Rev. Stat. § 20-337 (Reissue 1997).

In summary, the NEOC has the authority to conciliate complaints in an effort to reach an agreed upon settlement with both parties. In addition, at the election of an interested party, the NEOC provides an opportunity for an administrative hearing which results in an order entered by the NEOC acting in a quasi-judicial capacity.

With the foregoing in mind, your opinion request poses the following questions:

1. "Is it appropriate that NEOC fines are based solely upon random negotiations?"

The NEOC does not "fine" respondents based on random negotiations. As stated above, pursuant to Neb. Rev. Stat. § 20-327 (Reissue 1997), the NEOC has the authority to conciliate complaints for violations of the Nebraska Fair Housing Act. Conciliation is the attempted resolution of issues raised by a complaint or by the investigation of a complaint through informal negotiations involving the aggrieved person, the respondent and the Commission. Neb. Rev. Stat. § 20-307 (Reissue 1997). Hence, the NEOC has a duty to attempt negotiations to resolve the complaint before parties may resort to the judicial or quasi-judicial litigation process. Negotiations are not random, but rather to the extent feasible, negotiations are statutorily required.

In addition, the NEOC, aggrieved parties and respondents alike, have an incentive to cooperate in the negotiation process. Depending on the merits of the investigation, a negotiated agreement may allow a party guilty of fair housing violations to avoid paying a greater amount which might be imposed in judicial or quasi-judicial proceedings. Moreover, the negotiation process allows parties to resolve their complaints thereby avoiding a lengthy litigation process.

2. "Is it appropriate that fines negotiated by the NEOC are paid directly to organizations beyond the control of state government?"

To reiterate, the NEOC does not impose fines through negotiations. The NEOC negotiates a settlement between the complainant and respondent that may or may not include a monetary payment. A settlement agreement is subject to the general principles of contract law. *Strategic Staff Management, Inc. v. Roseland*, 260 Neb. 682, 619 N.W.2d 230 (2000); *Woodmen of the World Life Ins. Soc. v. Kight*, 246 Neb. 619, 522 N.W.2d 155 (1994). Interested parties have the right to determine the terms of their

agreement.

The parties, by agreement, may designate the disbursement of settlement funds to anyone they choose whether it is an aggrieved party or an uninterested third party. Hence, any person, organization or business may receive monies or such other remedies as agreed to by the parties in the settlement agreement.

3. "Should fine monies paid due to NEOC sanctions be received, accounted for and disbursed like all other monies of the state?"

If this question involves payments made as a result of settlement agreements negotiated between the parties as facilitated by the NEOC, such payments would go to the parties or other entities designated by the agreement, as stated above. If the parties to a complaint are unable to reach a settlement agreement, they may elect to have a hearing on the matter before a hearing officer or pursue the matter through district court. Neb. Rev. Stat. § 20-335 (Reissue 1997).

Regardless of the chosen forum for litigation, any civil penalties awarded by the NEOC or a district court are subject to Article VII, Section 5 of the Nebraska State Constitution. This section states:

. . . All fines, penalties, and license money arising under the general laws of the state . . . shall belong and be paid over to the counties . . . [and] shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue . . .

Therefore, any penalties issued by the NEOC in its quasi-judicial capacity are received, accounted for and disbursed in the same manner as other penalties issued within the State of Nebraska.

Sincerely,
 JON BRUNING
 Attorney General
 (Signed) Lynne R. Fritz
 Assistant Attorney General

pc: Patrick J. O'Donnell,
 Clerk of the Legislature
 32-205-11

GENERAL FILE

LEGISLATIVE BILL 1049. The Louden pending amendment, AM2291, found on page 507 and considered on pages 581 and 590, was renewed.

SPEAKER BROMM PRESIDING

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 234 and 236 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 234 and 236.

GENERAL FILE

LEGISLATIVE BILL 1049. The Louden pending amendment, AM2291, found on page 507 and considered on pages 581, 590, and in this day's Journal, was renewed.

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

Senator Louden moved for a call of the house. The motion prevailed with 17 ayes, 1 nay, and 31 not voting.

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

Voting in the affirmative, 30:

Baker	Combs	Hudkins	Louden	Stuthman
Beutler	Cunningham	Johnson	Maxwell	Synowiecki
Bromm	Erdman	Jones	McDonald	Thompson
Brown	Foley	Kremer	Mossey	Tyson
Burling	Friend	Kruse	Quandahl	Vrtiska
Byars	Hartnett	Landis	Schrock	Wehrbein

Voting in the negative, 1:

Chambers

Present and not voting, 4:

Bourne	Brashear	Cudaback	Preister
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Absent and not voting, 1:

Raikes

Excused and not voting, 13:

Aguilar	Janssen	Pedersen, Dw.	Redfield	Stuhr
Connealy	Jensen	Pederson, D.	Schimek	
Engel	Mines	Price	Smith	

The motion to cease debate prevailed with 30 ayes, 1 nay, 4 present and not voting, 1 absent and not voting, and 13 excused and not voting.

The Chair declared the call raised.

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

Senator Chambers requested a roll call vote on the Louden amendment.

Voting in the affirmative, 23:

Baker	Cunningham	Jones	Quandahl	Tyson
Beutler	Erdman	Kremer	Schrock	Vrtiska
Bromm	Foley	Kruse	Smith	Wehrbein
Burling	Hartnett	Landis	Stuthman	
Combs	Hudkins	Mossey	Synowiecki	

Voting in the negative, 7:

Bourne	Brown	Johnson	Thompson
Brashear	Chambers	Raikes	

Present and not voting, 6:

Byars	Louden	Preister
Friend	Maxwell	Redfield

Excused and not voting, 13:

Aguilar	Engel	McDonald	Pederson, D.	Stuhr
Connealy	Janssen	Mines	Price	
Cudaback	Jensen	Pedersen, Dw.	Schimek	

The Louden amendment lost with 23 ayes, 7 nays, 6 present and not voting, and 13 excused and not voting.

The Chair declared the call raised.

Senator Beutler renewed his pending amendment, AM2553, found on page 591.

SENATOR CUDABACK PRESIDING

Pending.

STANDING COMMITTEE REPORTS
Nebraska Retirement Systems

LEGISLATIVE BILL 773. Indefinitely postponed.

LEGISLATIVE BILL 1080. Indefinitely postponed.

(Signed) Elaine Stuhr, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 242. Introduced by Combs, 32.

WHEREAS, Shea Neil Austin of Troop 302, Fairbury, Nebraska, has completed the requirements for, and will be awarded on March 3, 2004, the highest honor and rank in the Boy Scouts of Eagle Scout; and

WHEREAS, Shea Neil Austin was recognized by the Boy Scouts for his years of hard work, commitment to his scouting duties, and service to his community which included his Eagle Scout project and earning twenty-eight merit badges. His project consisted of building, painting, and installing comment boxes which will be used by visitors at Nebraska State Parks; and

WHEREAS, fewer than four percent of all boys who join Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Shea Neil Austin has achieved great success as an exemplary member of the scouting program; thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes, and has represented his troop and community with excellence.

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

1. That the Legislature congratulates Shea Neil Austin on his achievement of the elite rank of Eagle Scout in the Boy Scouts and recognizes his outstanding community service efforts in Fairbury.

2. That a copy of this resolution be sent to Shea Neil Austin and his family.

Laid over.

LEGISLATIVE RESOLUTION 243. Introduced by Combs, 32.

WHEREAS, Chad Michael Winslow of Troop 302, Fairbury, Nebraska, has completed the requirements for, and will be awarded on March 3, 2004, the highest honor and rank in the Boy Scouts of Eagle Scout; and

WHEREAS, Chad Michael Winslow was recognized by the Boy Scouts for his years of hard work, commitment to his scouting duties, and service to his community which included his Eagle Scout project and earning thirty-two merit badges. His project consisted of building and finishing benches for the Cedar Woods Assisted Living Apartments; and

WHEREAS, fewer than four percent of all boys who join Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Chad Michael Winslow has achieved great success as an exemplary member of the scouting program; thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes, and has represented his troop and community with excellence.

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

1. That the Legislature congratulates Chad Michael Winslow on his achievement of the elite rank of Eagle Scout in the Boy Scouts and recognizes his outstanding community service efforts in Fairbury.

2. That a copy of this resolution be sent to Chad Michael Winslow and his family.

Laid over.

LEGISLATIVE RESOLUTION 244. Introduced by Stuthman, 22.

WHEREAS, Emily Wemhoff, an esteemed resident of Creston, Nebraska, and a student at Lakeview High School, has achieved national recognition for exemplary volunteer service by receiving a 2004 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Emily Wemhoff earned this award by giving generously of her time and energy to design and complete a community-wide fire safety awareness phone survey, use grant funding to purchase and deliver free smoke alarms to every unprotected residence as well as educating the public about house fires, regular testing of smoke alarms, and developing a family escape plan in case of fire; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depends, in great measure, upon the dedication of young people like Emily Wemhoff who use their considerable talents and resources to serve others.

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

1. That the Legislature hereby congratulates and honors Emily Wemhoff as a recipient of a Prudential Spirit of Community Award and recognizes her outstanding record of volunteer service, peer leadership, and community spirit.

2. That a copy of this resolution be sent to Emily Wemhoff and her family.

Laid over.

AMENDMENTS - Print in Journal

Senator Brown filed the following amendment to LR 14CA:

AM2766

(Amendments to AM2401)

- 1 1. On page 2, line 22, strike "eight" and insert "three"
- 2 and after the period insert "Subsequent to the initial legislative
- 3 authorization of any casino location, the voters of the county in
- 4 which such casino location is authorized shall either approve or
- 5 disapprove casino gaming in such county."; and in line 23 after
- 6 "the" insert "authorization."; and in line 24 strike "at" through
- 7 "locations" and insert "whether casino gaming is authorized under
- 8 this section or by initiative measure".
- 9 2. On page 3, line 2, strike "eight" and insert "three";
- 10 in line 3 after "locations" insert "subject to approval by voters
- 11 in the affected counties" and after "the" insert "authorization,";
- 12 and in line 4 strike "at such locations".

Senator Smith filed the following amendment to LR 14CA:

FA1481

Amend AM2670

Strike, in line 4, "five" and insert 10.

Senator Smith filed the following amendment to LR 14CA:

FA1482

Amend AM2670

Line 4, strike 5, insert 2.

Senator Landis filed the following amendment to LR 209CA:

AM2752

(Amendments to Standing Committee amendments, AM2346)

- 1 1. On page 1, strike beginning with "Twenty-two" in line
- 2 12 through "Fund" in line 19 and insert "Forty-four and one-half
- 3 percent of the money remaining after the payment of prizes and
- 4 operating expenses and the initial transfer to the Compulsive
- 5 Gamblers Assistance Fund shall be used for education as the
- 6 Legislature may direct"; in line 20 strike "(v)" and insert "(iv)";
- 7 in line 23 after "Board" insert ". If the Nebraska State Fair
- 8 ceases operations, ten percent of the money remaining after the
- 9 payment of prizes and operating expenses and the initial transfer
- 10 to the Compulsive Gamblers Assistance Fund shall be transferred to
- 11 the General Fund"; and in line 24 strike "(vi)" and insert "(v)".

Senator Chambers filed the following amendment to LB 139:

AM2593

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:

2 "Sec. 9. (1) With respect to employment and other civil
 3 matters, if a person is accused of wrongdoing as a result of a body
 4 fluid test, such person, and only that person or his or her
 5 representative, may request, through the Nebraska State Patrol, DNA
 6 typing tests of his or her body fluid.

7 (2) The Nebraska State Patrol, upon receipt of such
 8 request, with relevant information, including the body fluid
 9 identity number and the name of the laboratory at which the body
 10 fluid was originally analyzed, shall, within ten working days,
 11 directly contact such laboratory and direct that untested aliquots
 12 of samples of the person's body fluid be delivered to the
 13 respective laboratory designated by the patrol for DNA typing
 14 tests. The delivery shall meet all chain of custody requirements
 15 applicable in a criminal case.

16 (3) The person submitting a request for DNA typing tests
 17 shall submit to body fluid collections, as directed by the Nebraska
 18 State Patrol, to ascertain the person's DNA. The collection shall
 19 be confidential under sections 27-503 and 27-504. After such DNA
 20 typing tests, a certified report shall be issued to the person or
 21 representative who requested the DNA typing tests. If the DNA
 22 report concludes that the initial body fluids were not those of the
 23 person, the person shall be cleared of any accusation of wrongdoing
 1 to the extent to which such body fluid test was the basis of such
 2 accusation of wrongdoing.

3 (4) All costs of the DNA typing tests shall be incurred
 4 by the person. The person shall not be deemed to have waived any
 5 of his or her rights as a result of such request.

6 (5) All records relating to the certified report shall be
 7 purged after a receipt of a written request from the person who
 8 requested such tests, or his or her representative, to the Nebraska
 9 State Patrol directing the patrol to do so. If a written request
 10 is not received from such person or his or her representative, the
 11 records shall be purged within sixty days after the date the report
 12 was issued to such person or his or her representative.

13 (6) For purposes of this section, DNA typing tests has
 14 the same meaning as in section 29-4103."

15 2. On page 1, line 7, after the semicolon insert "to
 16 authorize DNA typing tests requested by persons accused of civil
 17 wrongdoing as prescribed;"

18 3. Renumber the remaining sections accordingly.

Senator Thompson filed the following amendment to LB 838:
 AM2790

(Amendments to Standing Committee amendments, AM2584)

1 1. Insert the following new amendments:

2 "1. Strike original section 8 and insert the following
 3 new sections:

4 'Section 1. Section 43-1904, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

- 6 43-1904. The board shall have the following powers and
7 duties:
- 8 (1) To meet not less than twice annually at the call of
9 the chairperson to conduct its official business;
- 10 (2) To require that at least five of the board members
11 approve the awarding of grants made under subdivision (3)(b) of
12 this section; and
- 13 (3) To develop, one year after the appointment of the
14 original board and annually thereafter, a state plan for the
15 distribution and disbursement of money in the fund. The plan
16 developed under this subdivision shall assure that an equal
17 opportunity exists for the establishment and maintenance of
18 prevention programs and the receipt of money from the fund in all
19 geographic areas of this state. The plan shall be transmitted to
20 the director, the Governor, and the Legislature and made available
21 to the general public. In carrying out a plan developed under this
22 subdivision, the board shall establish procedures for:
- 23 (a) Developing and publicizing criteria for the awarding
1 of grants for programs to be supported with money from the fund
2 within the limits of appropriations made for that purpose;
- 3 (b) Awarding grants to agencies, organizations, or
4 individuals for community-based child abuse prevention programs.
5 The programs shall provide education, public awareness, or
6 prevention services. In awarding grants under this subdivision,
7 consideration shall be given by the board to factors such as need,
8 geographic location, diversity, coordination with or improvement of
9 existing services, and extensive use of volunteers;
- 10 (c) Supporting and encouraging the formation of local
11 child abuse councils;
- 12 (d) Consulting with applicable state agencies,
13 commissions, and boards to help determine probable effectiveness,
14 fiscal soundness, and need for proposed community-based educational
15 and service prevention programs;
- 16 (e) Facilitating information exchange among groups
17 concerned with prevention programs; ~~and~~
- 18 (f) Encouraging statewide educational and public
19 awareness programs regarding the problems of families and children
20 which (i) encourage professional persons and groups to recognize
21 and deal with problems of families and children, (ii) make
22 information regarding the problems of families and children and the
23 prevention of such problems available to the general public in
24 order to encourage citizens to become involved in the prevention of
25 such problems, and (iii) encourage the development of community
26 prevention programs; and
- 27 (g) Reviewing the recommendations of the 2003 report of
1 the Governor's Children's Task Force and using proceeds from the
2 sale of child abuse prevention plates allocated to the fund under
3 section 6 of this act to assist with carrying out the
4 recommendations of the report or other programs, as determined by

5 the board, that address child abuse and neglect in Nebraska.

6 Sec. 2. Section 43-1906, Revised Statutes Supplement,
7 2002, is amended to read:

8 43-1906. (1) There is hereby established the Nebraska
9 Child Abuse Prevention Fund. The additional docket fee as provided
10 in section 33-106.03, the additional charge for supplying a
11 certified copy of the record of any birth as provided in sections
12 71-612, 71-617.15, 71-627, and 71-628, proceeds from the sale of
13 child abuse prevention plates allocated to the fund under section 6
14 of this act, and all amounts which may be received from grants,
15 gifts, bequests, the federal government, or other sources granted
16 or given for the purposes specified in sections 43-1901 to 43-1906
17 shall be remitted to the State Treasurer for credit to the Nebraska
18 Child Abuse Prevention Fund. The fund shall be administered and
19 disbursed by the department.

20 (2) Any money in the fund available for investment shall
21 be invested by the state investment officer pursuant to the
22 Nebraska Capital Expansion Act and the Nebraska State Funds
23 Investment Act.

24 (3) In any one fiscal year, no more than twenty percent
25 of the annually appropriated funds shall be disbursed to any one
26 agency, organization, or individual.

27 (4) Funds allocated from the fund shall only be used for
1 purposes authorized under sections 43-1901 to 43-1906 and shall not
2 be used to supplant any existing governmental program or service.
3 No grants may be made to any state department or agency.

4 Sec. 5. (1) The Department of Motor Vehicles shall
5 design license plates to be known as child abuse prevention plates.
6 The department shall create designs reflecting support for
7 preventing child abuse in Nebraska. The design shall be selected
8 on the basis of (a) enhancing the marketability of the plates to
9 supporters of the prevention of child abuse and (b) limiting the
10 manufacturing cost of each plate to an amount less than or equal to
11 the amount charged for license plates pursuant to subsection (5) of
12 section 60-311. The department shall make applications available
13 for each type of plate when it is designed. The department may
14 adopt and promulgate rules and regulations to carry out this
15 section and section 6 of this act.

16 (2) One type of child abuse prevention plates shall be
17 consecutively numbered plates. The department shall (a) number
18 the plates consecutively beginning with the number one, using
19 numerals the size of which maximizes legibility and limiting the
20 numerals to five characters or less, and (b) not use a county
21 designation or any characters other than numbers on the plates.

22 (3) One type of child abuse prevention plates shall be
23 personalized message plates. Such plates shall be issued subject
24 to the same conditions specified for message plates in subsection
25 (2) of section 60-311.11.

26 Sec. 6. (1) A person may apply to the Department of

27 Motor Vehicles for child abuse prevention plates in lieu of regular
1 license plates on an application prescribed and provided by the
2 department for any passenger vehicle, farm truck, self-propelled
3 mobile home, cabin trailer, or commercial truck registered for ten
4 tons gross weight or less pursuant to section 60-302. An applicant
5 receiving a child abuse prevention plate for a farm truck with a
6 gross weight of over sixteen tons or for a commercial truck or
7 truck-tractor registered for a gross weight of five tons or over
8 shall affix the appropriate tonnage sticker to the plate. The
9 department shall make forms available for such applications through
10 the county treasurers or designated county officials as provided in
11 section 60-302.

12 (2)(a) Each application for initial issuance of
13 consecutively numbered child abuse prevention plates shall be
14 accompanied by a fee of thirty dollars. An application for renewal
15 of such plates shall be accompanied by a fee of thirty dollars.
16 The county treasurer or designated county official subdivision
17 shall remit the fees to the State Treasurer. The State Treasurer
18 shall credit one-sixth of the fees for initial issuance and renewal
19 of such plates to the Department of Motor Vehicles Cash Fund and
20 five-six of the fees to the Nebraska Child Abuse Prevention Fund.

21 (b) Each application for initial issuance of personalized
22 message child abuse prevention plates shall be accompanied by a fee
23 of forty dollars. An application for renewal of such plates shall
24 be accompanied by a fee of forty dollars. The county treasurer or
25 designated county official shall remit the fees to the State
26 Treasurer. The State Treasurer shall credit seventy-five percent
27 of the fees for initial issuance and renewal of such plates to the
1 Department of Motor Vehicles Cash Fund and twenty-five percent of
2 the fees to the Nebraska Child Abuse Prevention Fund.

3 (3) When the department receives an application for child
4 abuse prevention plates, the department shall deliver the plates to
5 the county treasurer or designated county official of the county in
6 which the vehicle is registered. The county treasurer or
7 designated county official shall issue child abuse prevention
8 plates in lieu of regular license plates when the applicant
9 complies with the other provisions of law for registration of the
10 vehicle. If child abuse prevention plates are lost, stolen, or
11 mutilated, the licensee shall be issued replacement plates pursuant
12 to section 60-324.

13 (4)(a) The owner of a vehicle bearing child abuse
14 prevention plates may make application to the county treasurer or
15 designated county official as provided in section 60-302 to have
16 such plates transferred to a motor vehicle other than the vehicle
17 for which such plates were originally purchased if such vehicle is
18 owned by the owner of the plates.

19 (b) The owner may have the unused portion of the fee for
20 the child abuse prevention plates credited to the other vehicle
21 which will bear the plates at the rate of eight and one-third

22 percent per month for each full month left in the registration
 23 period.

24 (c) Application for such transfer shall be accompanied by
 25 a fee of three dollars. Fees collected pursuant to this subsection
 26 shall be remitted to the State Treasurer for credit to the
 27 Department of Motor Vehicles Cash Fund.

1 (5) If the cost of manufacturing child abuse prevention
 2 plates at any time exceeds the amount charged for license plates
 3 pursuant to subsection (5) of section 60-311, any money to be
 4 credited to the Nebraska Child Abuse Prevention Fund shall instead
 5 be credited first to the Highway Trust Fund in an amount equal to
 6 the difference between the manufacturing costs of child abuse
 7 prevention plates and the amount charged pursuant to subsection (5)
 8 of section 60-311 with respect to such plates and the remainder
 9 shall be credited to the Nebraska Child Abuse Prevention Fund.

10 Sec. 12. Original section 43-1904, Reissue Revised
 11 Statutes of Nebraska, sections 43-1906, 60-311.11, and 60-315,
 12 Revised Statutes Supplement, 2002, and sections 60-310 and
 13 60-311.02, Revised Statutes Supplement, 2003, are repealed.'

14 2. On page 2, line 19, strike '2' and insert '4'.

15 5. On page 6, line 25; page 9, line 23; and page 11,
 16 lines 17 and 18, strike 'section 2' and insert 'sections 4 and 6'.

17 7. Renumber the remaining sections accordingly."

18 2. Renumber the remaining amendments accordingly.

MOTION - Print in Journal

Senator Loudon filed the following motion to LB 1049:
 Reconsider the vote taken on AM2291.

UNANIMOUS CONSENT - Add Cointroducer

Senator Bromm asked unanimous consent to have his name added as
 cointroducer to LB 613. No objections. So ordered.

VISITORS

Visitors to the Chamber were Don Schwab and Rich Magill from Hooper;
 25 high school students from Pius X, Lincoln; eighth-grade students and
 teacher from Sacred Heart School, Lincoln; Senator Brown's husband,
 Steve, from Omaha, and her niece and grandniece, Sarah and Grace Roby,
 from San Diego, California; Quentin Curry from Lincoln; LaVern Kull,
 Delbert Moeller, and Lee Burkink from Scribner; and 20 adults from
 Leadership Lincoln County and former Senator David Bernard-Stevens.

The Doctor of the Day was Dr. Kyle Haefele from Lincoln.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Vrtiska, the Legislature adjourned until 9:00 a.m., Wednesday, February 25, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-SECOND DAY - FEBRUARY 25, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 25, 2004

PRAYER

The prayer was offered by Senator Friend.

ROLL CALL

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

The roll was called and all members were present except Senators Engel and Dw. Pedersen who were excused; and Senators Burling, Loudon, Raikes, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-first day was approved.

MESSAGE FROM THE GOVERNOR

February 20, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Transit and Rail Advisory Council.

APPOINTEES:

- *Allan Abbott, PO Box 94759, Lincoln NE 68509
- *Roger Figard, 5411 Glade, Lincoln NE 68506
- *Thomas Mulligan, 12311 Charles St, Omaha NE 68154
- *Georgia Janssen, RR # 1 Box 144, Winside NE 68790
- *Duane Eitel, 3505 S 31st St, Lincoln NE 68502

Steve McBeth, 6010 Rolling Hills Blvd, Lincoln NE 68512

*Paul Mullen, 2222 Cuming St, Omaha NE 68102

*Michael Ongerth, 1105 Harney, Omaha NE 68102

*David Gilfillan, 2410 Lincoln St, Beatrice NE 68310

*Anne Boyle, 420 South 11th # 303, Omaha NE 68102

*Gary Ruegg, 16314 Seward Cr, Omaha NE 68118

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

*Reappointments

SELECT COMMITTEE REPORT Enrollment and Review

LEGISLATIVE BILL 999. Placed on Select File as amended.

E & R amendment to LB 999:

AM7175

- 1 1. In the Standing Committee amendments, AM2339:
- 2 a. On page 13, line 13, strike "act" and insert
- 3 "section";
- 4 b. On page 16, line 23, strike "herein" and show as
- 5 stricken and after "conferred" insert "in the Nebraska Trust Deeds
- 6 Act";
- 7 c. On page 17, line 24, strike "subsection", show as
- 8 stricken, and insert "subdivision";
- 9 d. On page 19, line 19, after "interest" insert an
- 10 underscored comma; and in line 23 after "deed" insert an
- 11 underscored comma;
- 12 e. On page 23, line 19, after "bank" insert an
- 13 underscored comma; and
- 14 f. On page 32, line 21, after "56" insert "of this act".
- 15 2. On page 1, strike lines 2 through 15 and insert
- 16 "8-1009, 8-1512, 8-1513, 25-1530, 30-2734, 43-3334, 45-206, 45-342,
- 17 45-346, 45-921, 72-1262, 76-1006, 76-1009, 76-1010, 76-1012,
- 18 77-2365.01, 77-2366, and 77-2387, Reissue Revised Statutes of
- 19 Nebraska, sections 8-113, 8-208, 8-910, 8-1006, 8-1008, 8-1010,
- 20 8-1511, 45-205, 45-351, 45-1017, and 45-1065, Revised Statutes
- 21 Supplement, 2002, and sections 8-157.01, 8-1,140, 8-355, 8-602,
- 22 8-1001, 8-1003, 8-1012.01, 21-17,115, 30-3811, 30-3837, 30-3854,
- 23 30-3855, 30-3867, 30-3897, 30-38,110, 45-101.04, 45-1018, 45-1024,
- 24 and 45-1025, Revised Statutes Supplement, 2003; to change
- 1 provisions relating to bank names, electronic terminals, trust

2 companies, fees, the Nebraska Sale of Checks and Funds Transmission
 3 Act, acquisition of credit card banks, foreclosure of mortgages,
 4 uniform transfer on death security registration, the Nebraska
 5 Uniform Trust Codes, the bank match system used for support orders,
 6 interest and loans, revolving charge agreements, the Nebraska
 7 Installment Sales Act, the Delayed Deposit Services Licensing Act,
 8 the Nebraska Installment Loan Act, deposit and investment of public
 9 funds, and the Nebraska Trust Deeds Act; to revise powers of
 10 state-chartered banks, savings and loan associations, and credit
 11 unions; to provide for credit card banks; to define and redefine
 12 terms; to eliminate obsolete language; to harmonize provisions; to
 13 provide operative dates; to repeal the original sections; and to
 14 declare an emergency."

15 3. On page 2, strike lines 1 through 5.

16 4. On page 26, line 21, strike "(1)" and insert

17 "(1)(a)"; and in line 22 strike "department" and insert "Department
 18 of Banking and Finance".

19 5. On page 33, lines 11, 12, and 21, strike the commas.

20 6. On page 42, line 11, strike "department" and insert

21 "Department of Banking and Finance".

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 1018. Placed on General File as amended.

Standing Committee amendment to LB 1018:

AM2769

1 1. Insert the following new section:

2 "Section 1. This act becomes operative on July 1,
 3 2005."

4 2. Renumber the remaining section accordingly.

LEGISLATIVE BILL 1224. Placed on General File as amended.

Standing Committee amendment to LB 1224:

AM2767

1 1. On page 3, line 9, strike "Money" through "fund" and

2 insert "Up to sixty-six percent of the money in the fund each
 3 year"; and in line 15 after the period insert "Money in the fund
 4 not required for payment to intermediate care facilities for the
 5 mentally retarded shall be used by the department for payment to
 6 providers of community-based services for persons with
 7 developmental disabilities."

8 2. On page 4, line 28; and page 5, line 2, strike

9 "shall" and insert "may".

LEGISLATIVE BILL 1133. Indefinitely postponed.

LEGISLATIVE BILL 1230. Indefinitely postponed.

(Signed) David Landis, Chairperson

MOTION - Approve Appointments

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointments found on page 727:

Environmental Quality Council
 John T. Baker
 Debra McDowell

Voting in the affirmative, 30:

Aguilar	Erdman	Johnson	Mossey	Schrock
Baker	Foley	Jones	Pederson, D.	Smith
Brown	Friend	Kremer	Price	Stuhr
Byars	Hartnett	Maxwell	Quandahl	Stuthman
Combs	Hudkins	McDonald	Redfield	Vrtiska
Cudaback	Janssen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Present and not voting, 13:

Beutler	Bromm	Cunningham	Landis	Thompson
Bourne	Chambers	Jensen	Preister	
Brashear	Connealy	Kruse	Synowiecki	

Excused and not voting, 6:

Burling	Louden	Raikes
Engel	Pedersen, Dw.	Tyson

The appointments were confirmed with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

ANNOUNCEMENT

The Chair announced today is Senator Kruse's birthday.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 236.

A BILL FOR AN ACT relating to public records; to amend section 84-712.05, Revised Statutes Supplement, 2002; to eliminate provisions for

routine directory information; and to repeal the original section.

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

Voting in the affirmative, 43:

Aguilar	Connealy	Johnson	Mossey	Smith
Baker	Cudaback	Jones	Pederson, D.	Stuhr
Beutler	Cunningham	Kremer	Preister	Stuthman
Brashear	Erdman	Kruse	Price	Synowiecki
Brown	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Janssen	McDonald	Schimek	
Combs	Jensen	Mines	Schrock	

Voting in the negative, 0.

Present and not voting, 4:

Bourne	Bromm	Hudkins	Thompson
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Excused and not voting, 2:

Engel	Pedersen, Dw.
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 382.

A BILL FOR AN ACT relating to labor; to amend section 48-212, Reissue Revised Statutes of Nebraska; to change lunch period requirements; and to repeal the original section.

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

Voting in the affirmative, 44:

Aguilar	Connealy	Jensen	Mines	Schrock
Beutler	Cudaback	Johnson	Mossey	Smith
Bourne	Cunningham	Jones	Pederson, D.	Stuhr
Brashear	Erdman	Kremer	Preister	Stuthman
Bromm	Foley	Kruse	Price	Synowiecki
Brown	Friend	Landis	Quandahl	Tyson
Byars	Hartnett	Louden	Raikes	Vrtiska
Chambers	Hudkins	Maxwell	Redfield	Wehrbein
Combs	Janssen	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 3:

Baker	Burling	Thompson
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Excused and not voting, 2:

Engel	Pedersen, Dw.
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 740.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-110, Revised Statutes Supplement, 2002; to change provisions relating to security interests; and to repeal the original section.

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

Voting in the affirmative, 44:

Aguilar	Chambers	Hudkins	McDonald	Schimek
Baker	Combs	Janssen	Mines	Schrock
Beutler	Connealy	Jensen	Mossey	Smith
Bourne	Cudaback	Johnson	Pederson, D.	Stuhr
Brashear	Cunningham	Jones	Preister	Stuthman
Bromm	Erdman	Kremer	Price	Synowiecki
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	

Voting in the negative, 0.

Present and not voting, 3:

Louden	Thompson	Wehrbein
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Excused and not voting, 2:

Engel Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 208 with 39 ayes, 2 nays, 6 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 208.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-6,108 and 60-6,210, Reissue Revised Statutes of Nebraska, sections 28-306, 28-394, 29-3605, and 60-601, Revised Statutes Supplement, 2002, and sections 60-484, 60-498.01, 60-498.02, 60-4,144, 60-6,196, 60-6,197, 60-6,209, 60-6,211.04, 60-6,211.05, and 83-1,129, Revised Statutes Supplement, 2003; to change and transfer provisions relating to driving under the influence and implied consent; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 47:

Aguilar	Combs	Jensen	Mossey	Stuhr
Baker	Connealy	Johnson	Pederson, D.	Stuthman
Beutler	Cudaback	Jones	Preister	Synowiecki
Bourne	Cunningham	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Landis	Raikes	Vrtiska
Brown	Friend	Louden	Redfield	Wehrbein
Burling	Hartnett	Maxwell	Schimek	
Byars	Hudkins	McDonald	Schrock	
Chambers	Janssen	Mines	Smith	

Voting in the negative, 0.

Excused and not voting, 2:

Engel Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

LEGISLATIVE BILL 353.

A BILL FOR AN ACT relating to motor vehicle operators' licenses; to amend section 60-4,125, Revised Statutes Supplement, 2002; to provide for impoundment of learner's permits as prescribed; and to repeal the original section.

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

Voting in the affirmative, 47:

Aguilar	Combs	Jensen	Mossey	Stuhr
Baker	Connealy	Johnson	Pederson, D.	Stuthman
Beutler	Cudaback	Jones	Preister	Synowiecki
Bourne	Cunningham	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Landis	Raikes	Vrtiska
Brown	Friend	Louden	Redfield	Wehrbein
Burling	Hartnett	Maxwell	Schimek	
Byars	Hudkins	McDonald	Schrock	
Chambers	Janssen	Mines	Smith	

Voting in the negative, 0.

Excused and not voting, 2:

Engel Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 227.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-6,265, Reissue Revised Statutes of Nebraska, and sections 60-6,267 and 60-6,268, Revised Statutes Supplement, 2002; to redefine a term; to change provisions relating to use and enforcement of use of occupant protection systems; and to repeal the original sections.

Senator Beutler requested a roll call vote.

Senator Smith requested the roll call vote be taken in reverse order.

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

Voting in the affirmative, 25:

Aguilar	Byars	Hartnett	Mossey	Stuhr
Beutler	Chambers	Janssen	Preister	Synowiecki
Bourne	Combs	Jensen	Price	Thompson
Bromm	Connealy	Kruse	Redfield	Vrtiska
Brown	Foley	Maxwell	Schimek	Wehrbein

Voting in the negative, 18:

Baker	Friend	Landis	Quandahl	Stuthman
Burling	Hudkins	Louden	Raikes	Tyson
Cunningham	Jones	McDonald	Schrock	
Erdman	Kremer	Mines	Smith	

Present and not voting, 4:

Brashear	Cudaback	Johnson	Pederson, D.
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Excused and not voting, 2:

Engel	Pedersen, Dw.
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 270 with 37 ayes, 4 nays, 6 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 270.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 81-1841, 81-1844, 81-1845, 81-1848, and 81-1850, Reissue Revised Statutes of Nebraska, sections 28-112, 29-119, and 81-1849, Revised Statutes Supplement, 2002, and section 81-1423, Revised Statutes Supplement, 2003; to change provisions for allegations set forth in the indictment or information; to change provisions relating to victim's rights; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 41:

Aguilar	Chambers	Jensen	Mossey	Stuthman
Baker	Combs	Johnson	Pederson, D.	Synowiecki
Beutler	Connealy	Jones	Preister	Thompson
Bourne	Cudaback	Kruse	Price	Vrtiska
Brashear	Cunningham	Landis	Raikes	Wehrbein
Bromm	Friend	Louden	Redfield	
Brown	Hartnett	Maxwell	Schimek	
Burling	Hudkins	McDonald	Schrock	
Byars	Janssen	Mines	Stuhr	

Voting in the negative, 4:

Erdman	Foley	Smith	Tyson
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Present and not voting, 2:

Kremer	Quandahl
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Excused and not voting, 2:

Engel	Pedersen, Dw.
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 454 to Select File

Senator Chambers moved to return LB 454 to Select File for the following specific amendment:

FA1489

On page 2 in line 4, strike "correction" and insert "correctional".

The Chambers motion to return prevailed with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 454. The Chambers specific amendment, FA1489, found in this day's Journal, was adopted with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

Advanced to E & R for reengrossment.

MOTION - Return LB 279 to Select File

Senator Chambers moved to return LB 279 to Select File for the following

specific amendment:

FA1490

On page 13 in line 11, strike and show as stricken "and prosecute"; in line 12, place a period after "section", strike and show as stricken "and see that they are properly prosecuted according to law."; in line 16 strike and show as stricken "deemed".

The Chambers motion to return prevailed with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 279. The Chambers specific amendment, FA1490, found in this day's Journal, was adopted with 30 ayes, 1 nay, 16 present and not voting, and 2 excused and not voting.

Advanced to E & R for reengrossment.

MOTION - Return LB 323 to Select File

Senator Chambers moved to return LB 323 to Select File for the following specific amendment:

FA1491

On page 2 in line 19, before "city" insert "any".

The Chambers motion to return prevailed with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 323. The Chambers specific amendment, FA1491, found in this day's Journal, was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Advanced to E & R for reengrossment.

GENERAL FILE

LEGISLATIVE BILL 1049. Senator Beutler renewed his pending amendment, AM2553, found on page 591 and considered on page 745.

Senator Chambers moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 13:

Aguilar	Chambers	Hartnett	Louden	Wehrbein
Beutler	Connealy	Kruse	Preister	
Burling	Foley	Landis	Schimek	

Voting in the negative, 25:

Baker	Erdman	Jones	Pederson, D.	Smith
Bromm	Friend	Kremer	Quandahl	Stuhr
Brown	Hudkins	McDonald	Raikes	Stuthman
Combs	Jensen	Mines	Redfield	Tyson
Cunningham	Johnson	Mossey	Schrock	Vrtiska

Present and not voting, 9:

Bourne	Byars	Janssen	Price	Thompson
Brashear	Cudaback	Maxwell	Synowiecki	

Excused and not voting, 2:

Engel	Pedersen, Dw.
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The Beutler amendment lost with 13 ayes, 25 nays, 9 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORTS

Agriculture

The Agriculture 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.

Nebraska State Fair Board
Sallie Atkins

VOTE: Aye: Senators Kremer, Erdman, Burling, Cunningham, Mossey, Preister, and Vrtiska. Nay: None. Absent: Senator Chambers.

The Agriculture 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.

Beginning Farmer Board
Darrell Mark

VOTE: Aye: Senators Kremer, Erdman, Burling, Cunningham, Mossey,

Preister, and Vrtiska. Nay: None. Absent: Senator Chambers.

(Signed) Bob Kremer, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Abbott, Allan - Nebraska Transit and Rail Advisory Council -
Transportation and Telecommunications

Boyle, Anne - Nebraska Transit and Rail Advisory Council - Transportation
and Telecommunications

Eitel, Duane - Nebraska Transit and Rail Advisory Council - Transportation
and Telecommunications

Figard, Roger - Nebraska Transit and Rail Advisory Council -
Transportation and Telecommunications

Gilfillan, David - Nebraska Transit and Rail Advisory Council -
Transportation and Telecommunications

Janssen, Georgia - Nebraska Transit and Rail Advisory Council -
Transportation and Telecommunications

McBeth, Steve - Nebraska Transit and Rail Advisory Council -
Transportation and Telecommunications

Mullen, Paul - Nebraska Transit and Rail Advisory Council - Transportation
and Telecommunications

Mulligan, Thomas - Nebraska Transit and Rail Advisory Council -
Transportation and Telecommunications

Ongerth, Michael - Nebraska Transit and Rail Advisory Council -
Transportation and Telecommunications

Ruegg, Gary - Nebraska Transit and Rail Advisory Council - Transportation
and Telecommunications

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

RESOLUTION

LEGISLATIVE RESOLUTION 245. Introduced by Stuthman, 22.

WHEREAS, the Howells High School boys' wrestling team won the Class D Boys State High School Wrestling Tournament; and

WHEREAS, the win was the result of a long-term commitment and combined effort of the entire wrestling team; and

WHEREAS, the team and coach Lee Schroeder deserve special recognition for the commitment, teamwork, discipline, and spirit which they displayed throughout the season.

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

1. That the Legislature congratulates the Howells High School boys' wrestling team and Coach Lee Schroeder.

2. That a copy of this resolution be sent to the Howells High School boys' wrestling team.

Laid over.

STANDING COMMITTEE REPORTS **Government, Military and Veterans Affairs**

LEGISLATIVE BILL 1231. Placed on General File as amended.

Standing Committee amendment to LB 1231:

AM2782

- 1 1. Strike original section 1 and insert the following
 2 new section:
 3 "Section 1. Section 12-1301, Revised Statutes
 4 Supplement, 2002, is amended to read:
 5 12-1301. (1) The Director of Veterans' Affairs may
 6 establish and operate a state veteran cemetery system consisting of
 7 a facility in Box Butte County, a facility in Sarpy County, and the
 8 Nebraska Veterans' Memorial Cemetery in Hall County. The director
 9 may seek and expend private, state, and federal funds for the
 10 establishment, construction, maintenance, administration, and
 11 operation of the cemetery system as provided in this section. Any
 12 gift, bequest, or devise of real property for the cemetery system
 13 shall be subject to the approval requirements of section 81-1108.33
 14 notwithstanding the value of the real property. All funds received
 15 for the construction of the cemetery system shall be remitted to
 16 the state treasurer for credit to the Veteran Cemetery ~~Maintenance~~
 17 Construction Fund. No revenue from the General Fund shall be
 18 remitted to the Veteran Cemetery Construction Fund for use in the
 19 construction of the state veteran cemetery system. Any funds
 20 remaining in the Veteran Cemetery Construction Fund following the
 21 completion of construction of the three facilities comprising the
 22 state veteran cemetery system shall upon such completion be
 23 transferred to the Nebraska Veteran Cemetery System Endowment Fund
 24 and the Veteran Cemetery Construction Fund shall thereafter
 1 terminate.
 2 (2)(a) A trust fund to be known as the Nebraska Veteran

3 Cemetery System Endowment Fund is hereby created. The fund shall
4 consist of:
5 (i) Gifts, bequests, grants, or contributions from
6 private or public sources designated for the maintenance,
7 administration, or operation of the state veteran cemetery system;
8 (ii) Any funds transferred from the Veteran Cemetery
9 Construction Fund following the completion of construction of the
10 three facilities comprising the state veteran cemetery system; and
11 (iii) Following the termination of the Veteran Cemetery
12 Construction Fund, any funds received by the state from any source
13 for the state veteran cemetery system.
14 (b) No revenue from the General Fund shall be remitted to
15 the Nebraska Veteran Cemetery System Endowment Fund. The
16 Legislature shall not appropriate or transfer money from the
17 Nebraska Veteran Cemetery System Endowment Fund for any purpose
18 other than as provided in this section. Any money in the Nebraska
19 Veteran Cemetery System Endowment Fund available for investment
20 shall be invested by the state investment officer pursuant to the
21 Nebraska Capital Expansion Act and the Nebraska State Funds
22 Investment Act. Only the earnings of the Nebraska Veteran Cemetery
23 System Endowment Fund may be used as provided in subsection (3) of
24 this section. All investment earnings from the Nebraska Veteran
25 Cemetery System Endowment Fund shall be credited on a quarterly
26 basis to the Nebraska Veteran Cemetery System Operation Fund.
27 (3) There is hereby created the Nebraska Veteran Cemetery
1 System Operation Fund. Money in the fund shall be used for the
2 operation, administration, and maintenance of the state veteran
3 cemetery system. Any money in this fund available for investment
4 shall be invested by the state investment officer pursuant to the
5 Nebraska Capital Expansion Act and the Nebraska State Funds
6 Investment Act. No revenue from the General Fund shall be remitted
7 to the Nebraska Veteran Cemetery System Operation Fund.
8 (4) The director may make formal application to the
9 federal government regarding federal financial assistance for the
10 construction of the three facilities comprising the state veteran
11 cemetery system when sufficient funds have been remitted to the
12 Nebraska Veteran Cemetery System Endowment Fund such that (a) the
13 projected annual earnings from such fund available for transfer to
14 the Nebraska Veteran Cemetery System Operation Fund in each of the
15 succeeding five years plus (b) the projected annual value of formal
16 agreements that have been entered into between the state and any
17 political subdivisions or private entities to subsidize or
18 undertake the operation, administration, or maintenance of any of
19 the facilities within the state veteran cemetery system, has a
20 value that is equal to or exceeds one hundred and twenty-five
21 percent of the projected annual cost of the operation,
22 administration, and maintenance of the three facilities comprising
23 the state veteran cemetery system in each of the succeeding five
24 years. The director may expend such funds as may be available for

25 any of the purposes authorized in this section.

26 (5) The director, with the approval of the Governor, may
 27 enter into agreements for cemetery construction, administration,
 1 operation, or maintenance with qualified persons or business
 2 entities. The director shall provide lots in the cemetery system
 3 for the interment of deceased veterans with an honorable discharge
 4 or its equivalent and their spouses, minor children, and unmarried
 5 adult children who were physically or mentally disabled and
 6 incapable of self-support. Section 12-501 does not apply to the
 7 state veteran cemetery system.

8 (6) The Veteran Cemetery Maintenance Fund is created.
 9 Any money in the fund available for investment shall be invested by
 10 the state investment officer pursuant to the Nebraska Capital
 11 Expansion Act and the Nebraska State Funds Investment Act.

12 (7) The Nebraska Veterans Cemetery Advisory Board is
 13 created. The board shall consist of seven members. One member
 14 shall be the director who shall serve as the chairperson of the
 15 board. Three members of the board shall be veterans appointed by
 16 the Governor from a list of candidates forwarded by the county
 17 board of each county within which a state veteran cemetery system
 18 facility is located. Three members with experience in cemetery
 19 administration or operation, one from each congressional district,
 20 shall be appointed by the Governor. The members of the board shall
 21 receive no compensation but shall be reimbursed for their actual
 22 and necessary expenses in the discharge of their duties as provided
 23 in sections 81-1174 to 81-1177. The board shall meet from time to
 24 time as requested by the director to review the status of the state
 25 veteran cemetery system, to recommend actions to facilitate the
 26 development of the system, to assist in fundraising from public or
 27 private sources for the construction, operation, administration,
 1 and maintenance of the system, and to advise the director on the
 2 most appropriate actions for the state to undertake in the
 3 development of the system and the priorities for action.

4 (8) The director may adopt and promulgate rules and
 5 regulations to carry out this section. The rules and regulations
 6 shall include requirements for proof of residency, cost of burial
 7 if any, and standards for cemeteries, including decorations and
 8 headstones."

(Signed) DiAnna R. Schimek, Chairperson

Revenue

LEGISLATIVE BILL 1017. Placed on General File as amended.
 (Standing Committee amendment, AM2687, is printed separately and
 available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1160. Placed on General File as amended.
 Standing Committee amendment to LB 1160:

AM2768

1 1. Strike the original sections and insert the following
2 new sections:
3 "Section 1. Section 77-1315.01, Reissue Revised Statutes
4 of Nebraska, is amended to read:
5 77-1315.01. After March 20 and on or before July 25 or
6 on or before August 10 in counties that have adopted a resolution
7 to extend the time for hearing protests under section 77-1502, the
8 county assessor shall report to the county board of equalization
9 any overvaluation or undervaluation of any real property. The
10 county board of equalization shall consider the report in
11 accordance with section 77-1504.
12 The current year's assessed valuation of any real
13 property shall not be changed by the county assessor after March 20
14 except by action of the agricultural and horticultural land
15 valuation board, the Tax Equalization and Review Commission, or the
16 county board of equalization.
17 Sec. 2. Section 77-1502, Reissue Revised Statutes of
18 Nebraska, is amended to read:
19 77-1502. The county board of equalization shall hold a
20 session of not less than three days, for the purpose of reviewing
21 and deciding the written protests filed pursuant to this section,
22 commencing on June 1 of each year and ending on July 25. Protests
23 shall be filed in triplicate with the board. Protests for real
24 property shall be filed after the assessor's completion of the real
1 property assessment roll as required by section 77-1315 and on or
2 before June 30. Protests for tangible personal property shall be
3 filed on or before the last date for filing the form required by
4 section 77-1229. The county board in a county with a population of
5 more than one hundred thousand may adopt a resolution to extend the
6 time for hearing protests from July 25 to August 10. By adopting
7 such resolution, such county waives any right to petition the Tax
8 Equalization and Review Commission for adjustment of a class or
9 subclass of real property under section 77-1504.01.
10 Attached to each copy of the protest shall be a statement
11 of the reason or reasons why the requested change in assessment
12 should be made or the protest shall be automatically dismissed.
13 The board shall prepare a separate report on each
14 protest, and such report shall include a description of the
15 property described in the protest, the recommendation of the county
16 assessor with respect to the action proposed or taken, the names of
17 witnesses whose testimony was heard in connection with the protest,
18 a summary of their testimony, and a statement by the board of the
19 basis upon which its action was taken. Such report shall identify
20 by name the members of the board favoring the action taken and be
21 signed by the chairperson of the board. One copy of the report
22 shall be given to the officer charged with the duty of preparing
23 the tax list, and such officer shall have no authority to make a
24 change in the values prepared and submitted by the county assessor

25 until such report is in his or her possession, completed, signed,
 26 and certified in the manner specified in this section. If he or
 27 she deems it incomplete, he or she shall return the same to the
 1 board for proper preparation and execution.

2 Within seven days after a final decision by the county
 3 board of equalization on any protest filed with the board, the
 4 county clerk shall notify the protester of the action taken by the
 5 board.

6 Sec. 3. Section 77-1504, Reissue Revised Statutes of
 7 Nebraska, is amended to read:

8 77-1504. The county board of equalization may meet on or
 9 after June 1 and on or before July 25, unless the county has
 10 adopted a resolution to extend the time for hearing protests until
 11 August 10 under section 77-1502, to consider and correct the
 12 current year's assessment of any real property which has been
 13 undervalued, overvalued, or omitted. The board shall give notice
 14 of the assessed value to the record owner or agent at his or her
 15 last-known address.

16 The county board of equalization in taking action
 17 pursuant to this section may consider the reports of the county
 18 assessor pursuant to sections 77-1315.01 and 77-1317 or any other
 19 documented information known to any member of the board.

20 Action of the county board of equalization pursuant to
 21 this section shall be for the current assessment year only.

22 The action of the county board of equalization may be
 23 protested to the board within thirty days after the mailing of the
 24 notice required by this section. If no protest is filed, the
 25 action of the board shall be final. If a protest is filed, the
 26 county board of equalization shall hear the protest in the manner
 27 prescribed in section 77-1502, except that all protests shall be
 1 heard and decided on or before September 15.

2 The action of the county board of equalization upon a
 3 protest filed pursuant to this section may be appealed to the Tax
 4 Equalization and Review Commission on or before October 15.

5 Sec. 4. Section 77-1504.01, Reissue Revised Statutes of
 6 Nebraska, is amended to read:

7 77-1504.01. (1) ~~After~~ Unless the county has adopted a
 8 resolution to extend the time for hearing protests under section
 9 77-1502, after completion of its actions and based upon the
 10 hearings conducted pursuant to sections 77-1502 and 77-1504, a
 11 county board of equalization may petition the Tax Equalization and
 12 Review Commission to consider an adjustment to a class or subclass
 13 of real property within the county. Petitions must be filed with
 14 the commission on or before July 26.

15 (2) The commission shall hear and take action on a
 16 petition filed by a county board of equalization on or before
 17 August 10. Hearings held pursuant to this section may be held by
 18 means of videoconference. Hearings conducted pursuant to this
 19 section shall be in the manner prescribed in section 77-5026. The

20 burden of proof is on the petitioning county to show that failure
21 to make an adjustment would result in values that are not equitable
22 and in accordance with the law.

23 (3) After a hearing the commission shall enter its order
24 based on evidence presented to it at such hearing and the hearings
25 held pursuant to section 77-5022 for that year. The order shall
26 specify the percentage increase or decrease and the class or
27 subclass of real property affected or any corrections or
1 adjustments to be made to the class or subclass of real property
2 affected. When issuing an order to adjust a class or subclass of
3 real property, the commission may exclude individual properties
4 from that order whose value has already been adjusted by a county
5 board of equalization in the same manner as the commission directs
6 in its order. On or before August 10 of each year, the commission
7 shall send its order by certified mail to the county assessor and
8 by regular mail to the county clerk and chairperson of the county
9 board.

10 (4) The county assessor shall make the specified changes
11 to each item of property in the county as directed by the order of
12 the commission. In implementing such order, the county assessor
13 shall adjust the values of the class or subclass that is the
14 subject of the order. For properties that have already received an
15 adjustment from the county board of equalization, no additional
16 adjustment shall be made applying the commission's order, but such
17 an exclusion from the commission's order shall not preclude
18 adjustments to those properties for corrections or omissions. The
19 county assessor of the county adjusted by an order of the
20 commission shall recertify the abstract of assessment to the
21 Property Tax Administrator on or before August 20.

22 Sec. 5. Section 77-1507, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-1507. (1) The county board of equalization may meet
25 at any time for the purpose of assessing any omitted real property
26 which was not reported to the county assessor pursuant to section
27 77-1318.01 and for clerical errors as defined in section 77-128
1 that result in a change of valuation. The county board of
2 equalization shall give notice of the assessed value of the real
3 property to the record owner or agent at his or her last-known
4 address. For real property which has been omitted in the current
5 year, the county board of equalization shall not send notice
6 pursuant to this section on or before June 1.

7 Protests for omitted real property pursuant to this
8 section and clerical errors shall be filed with the county board of
9 equalization within thirty days after the mailing of the notice.
10 The procedures for filing a protest under this section shall be the
11 same as those in section 77-1502 except for date restrictions.

12 (2) The county clerk shall, within seven days after the
13 board's final decision, send:

14 (a) For protested action, a notification to the protester

15 of the board's final action; and

16 (b) For protested and nonprotested action, a report to
17 the Property Tax Administrator which shall state the description of
18 the property, the reason such property was not assessed pursuant to
19 section 77-1301, and a statement of the board's justification for
20 its action. A copy of the report shall be available for public
21 inspection in the office of the county clerk.

22 (3) The action of the county board of equalization upon a
23 protest filed pursuant to this section may be appealed to the Tax
24 Equalization and Review Commission within thirty days after the
25 board's final decision.

26 (4) No omitted real property which was properly reported
27 to the county assessor pursuant to section 77-1318.01 shall be
1 added to the assessment roll after July 25 of the year or years in
2 which the property was omitted or after August 10 of such year or
3 years in counties that have adopted a resolution to extend the time
4 for hearing protests under section 77-1502.

5 Sec. 6. Section 77-1510, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 77-1510. Appeals may be taken from any action of the
8 county board of equalization to the Tax Equalization and Review
9 Commission in accordance with the Tax Equalization and Review
10 Commission Act. The appeal shall be filed or postmarked within
11 thirty days after adjournment of the board which, for actions taken
12 pursuant to section 77-1502, shall be deemed to be July 25 of the
13 year in which the action is taken, unless the county has adopted a
14 resolution to extend the time for hearing protests under section
15 77-1502, in which case it shall be deemed to be August 10. After
16 an appeal has been initiated, the county board of equalization
17 shall have no power or authority to compromise, settle, or
18 otherwise change the action it has taken with respect to such
19 assessment, and exclusive jurisdiction thereof shall be vested in
20 the Tax Equalization and Review Commission, except that the county
21 board of equalization may offer to confess judgment pursuant to
22 section 77-1510.01.

23 Sec. 7. Section 77-1613.04, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 77-1613.04. The county assessor after July 25, or after
26 August 10 in counties that have adopted a resolution to extend the
27 time for hearing protests under section 77-1502, and with approval
1 of the county board of equalization shall correct the assessment
2 roll and the tax list, if necessary, in the case of a clerical
3 error as defined in section 77-128 that results in a change in the
4 value of the real property. Clerical errors that do not result in
5 a change of value on the assessment roll may be corrected at any
6 time by the county assessor. All corrections to the tax list shall
7 be made as provided in section 77-1613.02.

8 Sec. 8. Original sections 77-1315.01, 77-1502, 77-1504,
9 77-1504.01, 77-1507, 77-1510, and 77-1613.04, Reissue Revised

10 Statutes of Nebraska, are repealed."

LEGISLATIVE BILL 223. Indefinitely postponed.
LEGISLATIVE BILL 322. Indefinitely postponed.
LEGISLATIVE BILL 368. Indefinitely postponed.
LEGISLATIVE BILL 369. Indefinitely postponed.
LEGISLATIVE BILL 375. Indefinitely postponed.
LEGISLATIVE BILL 376. Indefinitely postponed.
LEGISLATIVE BILL 397. Indefinitely postponed.
LEGISLATIVE BILL 400. Indefinitely postponed.
LEGISLATIVE BILL 420. Indefinitely postponed.
LEGISLATIVE BILL 448. Indefinitely postponed.
LEGISLATIVE BILL 453. Indefinitely postponed.
LEGISLATIVE BILL 475. Indefinitely postponed.
LEGISLATIVE BILL 505. Indefinitely postponed.
LEGISLATIVE BILL 506. Indefinitely postponed.
LEGISLATIVE BILL 507. Indefinitely postponed.
LEGISLATIVE BILL 516. Indefinitely postponed.
LEGISLATIVE BILL 579. Indefinitely postponed.
LEGISLATIVE BILL 581. Indefinitely postponed.
LEGISLATIVE BILL 587. Indefinitely postponed.
LEGISLATIVE BILL 595. Indefinitely postponed.
LEGISLATIVE BILL 651. Indefinitely postponed.
LEGISLATIVE BILL 691. Indefinitely postponed.
LEGISLATIVE BILL 696. Indefinitely postponed.
LEGISLATIVE BILL 697. Indefinitely postponed.
LEGISLATIVE BILL 736. Indefinitely postponed.
LEGISLATIVE BILL 744. Indefinitely postponed.
LEGISLATIVE BILL 776. Indefinitely postponed.
LEGISLATIVE BILL 783. Indefinitely postponed.
LEGISLATIVE BILL 794. Indefinitely postponed.

(Signed) David Landis, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 442. Indefinitely postponed.

(Signed) Elaine Stuhr, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1049. Senator Louden renewed his pending motion, found on page 753, to reconsider the vote taken on AM2291.

Senator Cunningham moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

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

SPEAKER BROMM PRESIDING

Senator Louden requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 31:

Baker	Cunningham	Jones	Mossey	Tyson
Beutler	Erdman	Kremer	Quandahl	Vrtiska
Bromm	Foley	Kruse	Schimek	Wehrbein
Burling	Friend	Landis	Schrock	
Byars	Hartnett	Louden	Smith	
Combs	Hudkins	McDonald	Stuhr	
Connealy	Janssen	Mines	Stuthman	

Voting in the negative, 4:

Bourne	Chambers	Johnson	Raikes
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Present and not voting, 11:

Aguilar	Jensen	Preister	Synowiecki
Brown	Maxwell	Price	Thompson
Cudaback	Pederson, D.	Redfield	

Excused and not voting, 3:

Brashear	Engel	Pedersen, Dw.
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The Louden motion to reconsider prevailed with 31 ayes, 4 nays, 11 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The Louden amendment, AM2291, found on page 507 and considered on pages 581, 590, 743, and 744, was reconsidered.

Senators Cunningham and Brown offered the following amendment to the Louden pending amendment:
AM2803

(Amendments to AM2291)

- 1 1. Insert the following new amendments:
- 2 "1. On page 2, line 7; and page 3, lines 5 and 28;
- 3 before 'thirteen' insert 'not less than ten weeks nor more than'.
- 4 2. On page 3, line 12, before 'thirteen-week' insert
- 5 'ten-week to'."
- 6 2. Renumber the remaining amendments accordingly.

Senator Beutler requested a ruling of the Chair on whether the Cunningham-Brown amendment is germane to the Louden amendment.

The Chair ruled the Cunningham-Brown amendment is not germane to the bill.

Senator Cunningham offered the following motion:
To invoke cloture on LB 1049, pursuant to Rule 7, Section 10.

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

Senator Cunningham requested a roll call vote on his motion to invoke cloture.

Voting in the affirmative, 37:

Baker	Erdman	Kremer	Pederson, D.	Stuthman
Bromm	Foley	Kruse	Price	Synowiecki
Brown	Friend	Landis	Quandahl	Tyson
Burling	Hudkins	Louden	Raikes	Vrtiska
Byars	Janssen	Maxwell	Redfield	Wehrbein
Combs	Jensen	McDonald	Schrock	
Cudaback	Johnson	Mines	Smith	
Cunningham	Jones	Mossey	Stuhr	

Voting in the negative, 4:

Beutler	Bourne	Chambers	Connealy
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Present and not voting, 4:

Aguilar	Hartnett	Schimek	Thompson
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Excused and not voting, 4:

Brashear	Engel	Pedersen, Dw.	Preister
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The Cunningham motion to invoke cloture prevailed with 37 ayes, 4 nays, 4 present and not voting, and 4 excused and not voting.

The Louden amendment, AM2291, was adopted with 27 ayes, 11 nays, 7 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 31 ayes, 8 nays, 6 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 236, 382, 740, 208, 353, 227, and 270.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 238 and 239 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 238 and 239.

RESOLUTION

LEGISLATIVE RESOLUTION 246. Introduced by Erdman, 47.

WHEREAS, the team representing Ogallala High School won the State Mock Trial Championship; and

WHEREAS, the team representing Ogallala High School has also won the right to represent Nebraska in the National High School Mock Trial Championship in Orlando, Florida, May 6-9, 2004; and

WHEREAS, coaches Mark and Pam Carlton and the members of the Ogallala High School Mock Trial Team deserve recognition and commendation for not only winning the State Mock Trial Championship but also for qualifying for the National High School Mock Trial Championship; and

WHEREAS, the accomplishment of both winning the 2003 State Mock Trial Championship and qualifying for the National High School Mock Trial Championship area testament to the skill, talents, hard work, and determination of the Ogallala High School Mock Trial Team, excellent coaching, and the unwavering support of Ogallala High School's parents, students, teachers, staff, and administrators.

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

1. That the Legislature congratulates the members of the 2003-2004 Ogallala High School Mock Trial Team and their coaches, Mark and Pam Carlton, for the team's achievements.

2. That a copy of this resolution be sent to Ogallala High School and coaches Mark and Pam Carlton.

Laid over.

BILL ON FIRST READING

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

LEGISLATIVE BILL 1019A. Introduced by Landis, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1019, Ninety-eighth Legislature, Second Session, 2004.

STANDING COMMITTEE REPORTS
General Affairs

LEGISLATIVE BILL 538. Indefinitely postponed.

LEGISLATIVE BILL 787. Indefinitely postponed.

(Signed) Ray Janssen, Chairperson

Health and Human Services

LEGISLATIVE BILL 1145. Placed on General File as amended.

(Standing Committee amendment, AM2702, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Jim Jensen, Chairperson

AMENDMENTS - Print in Journal

Senator Landis filed the following amendment to LR 209CA:
AM2822

(Amendments to Standing Committee amendments, AM2346)

1 1. On page 1, line 10, strike "for competitive grants";
2 strike beginning with "Twenty-two" in line 12 through "Fund" in
3 line 19 and insert "Forty-four and one-half percent of the money
4 remaining after the payment of prizes and operating expenses and
5 the initial transfer to the Compulsive Gamblers Assistance Fund
6 shall be used for education as the Legislature may direct"; in line
7 20 strike "(v)" and insert "(iv)"; in line 23 after "Board" insert
8 ". If the Nebraska State Fair ceases operations, ten percent of
9 the money remaining after the payment of prizes and operating
10 expenses and the initial transfer to the Compulsive Gamblers
11 Assistance Fund shall be transferred to the General Fund"; and in
12 line 24 strike "(vi)" and insert "(v)".

Senator Chambers filed the following amendment to LB 998:
FA1494

Amend AM2697

In line 6 strike beginning with "The" through the period in line 9.

Senator Chambers filed the following amendment to LB 998:
FA1495
Amend AM2697
Strike section 6.

Senator Chambers filed the following amendment to LB 998:
FA1496
Amend AM2697
Strike in line 7 beginning with "This" through the period.

UNANIMOUS CONSENT - Add Cointroducer

Senator Redfield asked unanimous consent to have her name added as cointroducer to LB 1083. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Cunningham's parents, Dean and Elda Cunningham, from Wausa; members of the Delta Sigma Theta Sorority; and 10 students and teacher from Prairie Hill Learning Center, rural Lancaster County.

ADJOURNMENT

At 11:57 a.m., on a motion by Senator Redfield, the Legislature adjourned until 9:00 a.m., Thursday, February 26, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-THIRD DAY - FEBRUARY 26, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 26, 2004

PRAYER

The prayer was offered by Pastor Del Wiemers, St. John's Lutheran Church, Beatrice.

ROLL CALL

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

The roll was called and all members were present except Senators Engel, Mines, Mossey, and Redfield who were excused; and Senators Burling, Byars, Cunningham, Landis, D. Pederson, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-second day was approved.

PRESENTED TO THE GOVERNOR

Presented to the Governor on February 25, 2004, at 3:27 p.m. were the following: LBs 236, 382, 740, 208, 353, 227, and 270.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendment to LB 1049:
FA1486

On page 3, in line 5 put a period after "week", strike and show as stricken ", as determined by the commissioner in each case according to the seriousness of the misconduct."

Senator Chambers filed the following amendment to LB 1049:
FA1487

Page 2 in line 7 reinstate stricken language and strike new language.

Senator Chambers filed the following amendment to LB 1049:
FA1488

Page 3, in line 28 reinstate stricken language and strike new language.

Senator Brown filed the following amendment to LB 1049:
AM2796

- 1 1. On page 2, line 7; and page 3, lines 5 and 28; before
- 2 "thirteen" insert "not less than ten weeks nor more than".
- 3 2. On page 3, line 12, before "thirteen-week" insert
- 4 "ten-week to".

Senators Beutler and Bourne filed the following amendment to LB 1049:
AM2814

- 1 1. On page 2, line 7, strike the new matter and
- 2 reinstate the stricken matter.
- 3 2. On page 3, line 5, before "thirteen" insert "not less
- 4 than ten weeks nor more than"; in line 12 before "thirteen-week"
- 5 insert "ten-week to"; and in line 28 strike the new matter and
- 6 reinstate the stricken matter.
- 7 3. On page 5, strike beginning with "primary" in line 26
- 8 through "(d)" in line 28 and show as stricken.
- 9 4. On page 6, line 2, strike "(e)", show as stricken,
- 10 and insert "(d)"; and in line 13 before "shall" insert "and primary
- 11 insurance benefits payable under Title II of the Social Security
- 12 Act, as amended, or similar payments under any act of Congress".
- 13 5. On page 10, after line 23 insert the following new
- 14 paragraph:
- 15 "It is the intent of the Legislature to appropriate
- 16 fourteen million dollars of the funds made available to the state
- 17 in federal fiscal year 2002 under section 903(d) of the federal
- 18 Social Security Act to the Unemployment Insurance Trust Fund".

SELECT COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 1049. Placed on Select File.

Correctly Reengrossed

The following bills were correctly reengrossed: LBs 279, 323, and 454.

(Signed) Ray Mossey, Chairperson

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 25, 2004, 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

Abboud, Greg
Abboud, Chris, Public Affairs Group

King, Terry L.
Better Nebraska Association

O'Hara, Lindsay & Associates, Inc.
National Association of Professional Employer Organizations

REPORTS

The following reports were received by the Legislature:

Health and Human Services System

Board of Emergency Medical Services Five Year Report

Property Assessment and Taxation, Department of

Redevelopment Projects for Cities Using Tax Increment Financing Report

**STANDING COMMITTEE REPORT
Nebraska Retirement Systems**

LEGISLATIVE BILL 1098. Placed on General File.

(Signed) Elaine Stuhr, Chairperson

MOTIONS - Approve Appointments

Senator Baker moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointments found on page 735:

Board of Public Roads Classifications and Standards

James Bauer

Rich Ruby

Tim Schram

Darold Tagge

Henry Thieman

Henry Vieregger

Ed Wootton

Voting in the affirmative, 28:

Aguilar	Combs	Jensen	Quandahl	Synowiecki
Baker	Connealy	Jones	Raikes	Tyson
Bourne	Erdman	Kremer	Schimek	Vrtiska
Brashear	Foley	Louden	Schrock	Wehrbein
Bromm	Hudkins	Maxwell	Stuhr	
Brown	Janssen	Pedersen, Dw.	Stuthman	

Voting in the negative, 0.

Present and not voting, 11:

Beutler	Friend	Kruse	Smith
Chambers	Hartnett	McDonald	Thompson
Cudaback	Johnson	Preister	

Excused and not voting, 10:

Burling	Cunningham	Landis	Mossey	Price
Byars	Engel	Mines	Pederson, D.	Redfield

The appointments were confirmed with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

Senator Baker moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment found on page 736:

State Highway Commission
Donna Wanitschke

Voting in the affirmative, 30:

Aguilar	Byars	Hartnett	Maxwell	Schrock
Baker	Combs	Hudkins	McDonald	Stuhr
Bourne	Connealy	Janssen	Pedersen, Dw.	Stuthman
Brashear	Erdman	Kremer	Quandahl	Synowiecki
Bromm	Foley	Kruse	Raikes	Tyson
Brown	Friend	Louden	Schimek	Vrtiska

Voting in the negative, 0.

Present and not voting, 10:

Beutler	Cudaback	Johnson	Preister	Thompson
Chambers	Jensen	Jones	Smith	Wehrbein

Excused and not voting, 9:

Burling	Engel	Mines	Pederson, D.	Redfield
Cunningham	Landis	Mossey	Price	

The appointment was confirmed with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

Senator Baker moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointments found on page 736:

Nebraska Motor Vehicle Industry Licensing Board

Jack D. Henry
Toby J. Miller
Darlene J. Noah
Kelly B. Smith

Voting in the affirmative, 28:

Aguilar	Combs	Janssen	Maxwell	Synowiecki
Baker	Connealy	Jensen	McDonald	Thompson
Brashear	Erdman	Johnson	Pedersen, Dw.	Tyson
Brown	Foley	Kremer	Quandahl	Vrtiska
Burling	Friend	Kruse	Stuhr	
Byars	Hudkins	Louden	Stuthman	

Voting in the negative, 0.

Present and not voting, 13:

Beutler	Chambers	Jones	Schimek	Wehrbein
Bourne	Cudaback	Preister	Schrock	
Bromm	Hartnett	Raikes	Smith	

Excused and not voting, 8:

Cunningham	Landis	Mossey	Price
Engel	Mines	Pederson, D.	Redfield

The appointments were confirmed with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Senator Baker moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointments found on page 736:

Nebraska Railway Council

Merlyn Carlson
David Gilfillan

Voting in the affirmative, 30:

Aguilar	Connealy	Johnson	McDonald	Smith
Baker	Erdman	Jones	Pedersen, Dw.	Stuhr
Brashear	Foley	Kremer	Pederson, D.	Stuthman
Brown	Friend	Kruse	Quandahl	Synowiecki
Byars	Hartnett	Louden	Raikes	Vrtiska
Combs	Hudkins	Maxwell	Schimek	Wehrbein

Voting in the negative, 0.

Present and not voting, 14:

Beutler	Burling	Janssen	Preister	Thompson
Bourne	Chambers	Jensen	Price	Tyson
Bromm	Cudaback	Landis	Schrock	

Excused and not voting, 5:

Cunningham	Engel	Mines	Mossey	Redfield
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The appointments were confirmed with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 237 and 240 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 237 and 240.

GENERAL FILE

LEGISLATIVE BILL 16. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 625. Title read. Considered.

The Standing Committee amendment, AM0681, found on page 1022, First Session, 2003, was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 878. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 961. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

AMENDMENTS - Print in Journal

Senator Smith filed the following amendments to LR 11CA:
AM2808

(Amendments to Final Reading copy)

- 1 1. On page 3, line 7, after the period insert "The
- 2 registered voters of a county in which a facility is authorized
- 3 shall, after such facility has been in existence for five years,
- 4 approve or disapprove the continued presence of such facility
- 5 within the county."; and in line 18 strike "in the State of
- 6 Nebraska" and insert ", to authorize registered voters of a county
- 7 to approve the continued presence of such a facility".

AM2804

(Amendments to Final Reading copy)

- 1 1. On page 3, line 4, strike "eight" and insert "two";
- 2 and in line 17 strike "eight" and insert "two".

AM2811

(Amendments to Final Reading copy)

- 1 1. On page 3, line 11, after "Legislature" insert " ,
- 2 except that two percent of the gross proceeds from gaming shall be
- 3 used for the treatment of gambling addiction"; in line 18 strike
- 4 "and"; and in line 20 before the period insert ", and to provide
- 5 funding for treatment of gambling addiction from gross proceeds".

FA1498

Amend AM2808

P. 1, line 3, strike "five" and insert "ten".

FA1499

Amend AM2808

Pg. 1, line 3, strike "five" and insert "seven".

FA1500

Amend AM2808

Pg. 1, line 3, strike "five" and insert "fifteen".

Senator Byars filed the following amendment to LB 841:
AM2813

- 1 1. Insert the following new sections:
2 "Sec. 2. Sections 2 to 10 of this act shall be known and
3 may be cited as the ICF/MR Reimbursement Protection Act.
4 Sec. 3. For purposes of the ICF/MR Reimbursement
5 Protection Act:
6 (1) Department means the Department of Health and Human
7 Services Finance and Support;
8 (2) Gross revenue means the revenue paid to an
9 intermediate care facility for the mentally retarded for resident
10 care, room, board, and services less contractual adjustments and
11 does not include revenue from sources other than operations,
12 including, but not limited to, interest and guest meals;
13 (3) Intermediate care facility for the mentally retarded
14 has the definition found in section 71-421; and
15 (4) Medicaid program means the medical assistance program
16 established pursuant to sections 68-1018 to 68-1025.
17 Sec. 4. (1) Each intermediate care facility for the
18 mentally retarded shall pay a tax equal to six percent of its gross
19 revenue for the most recent State of Nebraska fiscal year.
20 (2) Taxes collected under this section shall be remitted
21 to the State Treasurer for credit to the ICF/MR Reimbursement
22 Protection Fund.
23 (3) Taxes collected pursuant to this section shall be
24 reported on a separate line on the cost report of the intermediate
1 care facility for the mentally retarded, regardless of how such
2 costs are reported on any other cost report or income statement.
3 The department shall recognize such tax as an allowable cost within
4 the state plan for reimbursement of intermediate care facilities
5 for the mentally retarded which participate in the medicaid
6 program. The tax shall be a direct pass-through and shall not be
7 subject to cost limitations.
8 Sec. 5. (1) The ICF/MR Reimbursement Protection Fund is
9 created. Any money in the fund available for investment shall be
10 invested by the state investment officer pursuant to the Nebraska
11 Capital Expansion Act and the Nebraska State Funds Investment Act.
12 Interest and income earned by the fund shall be credited to the
13 fund.
14 (2) Up to sixty-six percent of the money in the fund each
15 year, including matching federal financial participation, shall be
16 used by the department solely for the purpose of increasing
17 payments under the medicaid program to intermediate care facilities
18 for the mentally retarded participating in such program. Money in
19 the fund not required for payment to intermediate care facilities
20 for the mentally retarded shall be used by the department for
21 payment to providers of community-based services for persons with
22 developmental disabilities. Such payments shall be made in a
23 uniform fashion based on the medicaid resident days for each
24 facility.
25 Sec. 6. (1) On or before May 1, 2004, the department

26 shall submit an application to the Centers for Medicare and
27 Medicaid Services of the United States Department of Health and
1 Human Services amending the state medicaid plan to provide for
2 utilization of money in the ICF/MR Reimbursement Protection Fund to
3 uniformly increase medicaid payments to intermediate care
4 facilities for the mentally retarded.

5 (2) The tax imposed under section 4 of this act is not
6 due and payable until such amendment to the state medicaid plan is
7 approved by the Centers for Medicare and Medicaid Services.

8 Sec. 7. (1) Collection of the tax imposed by section 4
9 of this act shall be discontinued if:

10 (a) The amendment to the state medicaid plan described in
11 section 6 of this act is disapproved by the Centers for Medicare
12 and Medicaid Services;

13 (b) The department reduces rates paid to intermediate
14 care facilities for the mentally retarded to an amount less than
15 the rates effective September 1, 2003; or

16 (c) The department or any other state agency attempts to
17 utilize the money in the ICF/MR Reimbursement Protection Fund for
18 any use other than uses permitted pursuant to the ICF/MR
19 Reimbursement Protection Act.

20 (2) If collection of the tax is discontinued as provided
21 in subsection (1) of this section, all money in the fund shall be
22 returned to the intermediate care facilities for the mentally
23 retarded from which the tax was collected on the same basis as the
24 tax was assessed.

25 Sec. 8. (1) An intermediate care facility for the
26 mentally retarded that fails to pay the tax required by section 4
27 of this act shall be subject to a penalty of five hundred dollars
1 per day of delinquency. The total amount of the penalty assessed
2 under this section shall not exceed five percent of the tax due
3 from the intermediate care facility for the mentally retarded for
4 the year for which the tax is assessed.

5 (2) Penalties shall be collected by the department and
6 remitted to the State Treasurer for credit to the ICF/MR
7 Reimbursement Protection Fund.

8 Sec. 9. An intermediate care facility for the mentally
9 retarded that has paid a tax that is not required by section 4 of
10 this act may file a claim for refund with the department. The
11 department may by rule and regulation establish procedures for
12 filing and consideration of such claims.

13 Sec. 10. The department may adopt and promulgate rules
14 and regulations to carry out the ICF/MR Reimbursement Protection
15 Act.

16 Sec. 13. Since an emergency exists, this act takes
17 effect when passed and approved according to law."

18 2. On page 4, line 8, strike "This act becomes" and
19 insert "Sections 1 and 3 of this act become" and after the period
20 insert "The other sections of this act become operative on their

21 effective date."

22 3. Renumber the remaining sections accordingly.

STANDING COMMITTEE REPORT
Transportation and Telecommunications

LEGISLATIVE RESOLUTION 202. Reported to the Legislature for further consideration.

(Signed) Tom Baker, Chairperson

GENERAL FILE

LEGISLATIVE BILL 835. Title read. Considered.

Advanced to E & R for review with 30 ayes, 1 nay, 14 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 836. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

SENATOR CUDABACK PRESIDING

LEGISLATIVE BILL 821. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 937. Title read. Considered.

The Standing Committee amendment, AM2292, found on page 397, was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 820. Title read. Considered.

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

LEGISLATIVE BILL 927. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 936. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 915. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

STANDING COMMITTEE REPORTS

General Affairs

LEGISLATIVE BILL 1196. Placed on General File as amended.

Standing Committee amendment to LB 1196:

AM2823

- 1 1. On page 8, line 15, after the first "license" insert
- 2 "of the same class"; and in line 17 strike "to" and insert "for".

LEGISLATIVE BILL 1174. Indefinitely postponed.

(Signed) Ray Janssen, Chairperson

Natural Resources

LEGISLATIVE BILL 1172. Placed on General File as amended.

Standing Committee amendment to LB 1172:

AM2827

- 1 1. On page 3, line 1, strike "applies for" and insert
- 2 "receives"; and strike beginning with "The" in line 3 through line
- 3 5.

(Signed) Ed Schrock, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 962A. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 962, Ninety-eighth Legislature, Second Session, 2004.

STANDING COMMITTEE REPORT

Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs 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.

State Personnel Board
Jeanne V. Ross

VOTE: Aye: Senators Aguilar, Burling, Combs, McDonald, Schimek, Smith, and Vrtiska. Nay: None. Absent: Senator Brown.

(Signed) DiAnna R. Schimek, Chairperson

AMENDMENTS - Print in Journal

Senator Quandahl filed the following amendment to LB 999:
AM2778

- 1 1. Insert the following new section:
- 2 "Sec. 57. The following sections are outright repealed:
- 3 Sections 8-1801 to 8-1807, Reissue Revised Statutes of Nebraska."
- 4 2. On page 3, lines 6 and 7, after "loan" insert
- 5 "association"; and in line 20 after "Code" insert "as defined in
- 6 section 49-801.01".
- 7 3. On page 33, line 28, after "to" insert "the
- 8 Interstate Branching By Merger Act of 1997, the Nebraska Bank
- 9 Holding Company Act of 1995, the Nebraska Banking Act, and".
- 10 4. On page 34, line 1, strike "1", "9", and "18".
- 11 after "19" insert "and", and strike "and 21".
- 12 5. Renumber the remaining section accordingly.

Senator Chambers filed the following amendment to LB 449:
FA1492
Strike enacting clause.

Senator Chambers filed the following amendment to LB 559:
FA1493
Strike enacting clause.

GENERAL FILE

LEGISLATIVE BILL 818. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 911. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

LEGISLATIVE RESOLUTION 211CA. Read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 947. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 950. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 1069. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 940. Title read. Considered.

The Standing Committee amendment, AM2517, found on page 581, was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 1033. Title read. Considered.

The Standing Committee amendment, AM2516, found on page 582, was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 1179. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

MOTION - Reconsider Action on Gubernatorial Appointments

Senator Chambers moved to reconsider the Natural Resources Committee Report, found on Journal page 758, as to certain appointments to the Environmental Quality Council.

Senator Chambers moved for a call of the house. The motion prevailed with

22 ayes, 0 nays, and 27 not voting.

The Chambers motion to reconsider prevailed with 37 ayes, 0 nays, 4 present and not voting, 1 absent and not voting, and 7 excused and not voting.

The Chair declared the call raised.

STANDING COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 946. Placed on General File.

LEGISLATIVE BILL 1086. Placed on General File as amended.
Standing Committee amendment to LB 1086:
AM2776

- 1 1. Strike original section 4 and insert the following
- 2 new section:
- 3 "Sec. 4. (1) The Nebraska Agricultural Opportunities
- 4 Task Force shall consider significant trends in agriculture such as
- 5 evolving marketing systems for the production and sale of
- 6 agricultural commodities, emerging nonfood or feed uses of
- 7 agricultural products, risk management tools and strategies needed
- 8 in agricultural production, and other issues the task force deems
- 9 relevant to the production and marketing of agricultural products
- 10 to identify the opportunities and challenges such trends present
- 11 for Nebraska's agricultural producers and those barriers that may
- 12 exist in order for agricultural producers to respond to such
- 13 opportunities and challenges.
- 14 (2) The task force shall discuss the issues described in
- 15 subsection (1) of this section and shall submit a report to the
- 16 Governor and the Legislature and include in the report any
- 17 recommendations regarding any changes in state policy, including,
- 18 but not limited to, modifications of Article XII, section 8, of the
- 19 Constitution of Nebraska that the task force deems desirable to:
- 20 (a) Facilitate the intergenerational transfers of farming
- 21 assets, including transfers between unrelated individuals;
- 22 (b) Provide Nebraska producers and groups of producers
- 23 additional opportunities to share the risks and costs of investment
- 24 in, and to attract capital for, production agricultural operations
- 1 and value-added enterprises;
- 2 (c) Attract investment in production and processing of
- 3 agricultural products for pharmaceutical, industrial, or other
- 4 specialized end uses; and
- 5 (d) Provide agricultural producers with additional
- 6 opportunities to capitalize and finance agricultural operations,
- 7 manage risk, and utilize additional types of business organizations
- 8 to carry out farming and ranching operations.
- 9 (3) If the task force submits recommendations that
- 10 include potential amendments to the constitution to be considered

11 by the electorate, the task force shall also include in its report
 12 of recommendations discussion of the potential that such amendments
 13 could expose the state's corporate farming restrictions to new
 14 legal challenge.

15 (4) The task force shall first attempt to reach
 16 recommendations by consensus of its members. If consensus cannot
 17 be reached on any recommendation, a recommendation may be reached
 18 by a majority vote of its entire membership. The task force shall
 19 complete its work within eighteen months after the Governor
 20 notifies the Legislature that all members of the task force have
 21 been appointed."

22 2. On page 2, strike beginning with "therefor" in line
 23 11 through line 18 and insert "Therefor, it is the intent of the
 24 Legislature that a task force, broadly representative of
 25 agricultural producers, others with an economic stake in
 26 agriculture, and advocacy interests that participate in the
 27 formation of agricultural policy, be appointed to advise the
 1 Legislature and the Governor regarding appropriate policies,
 2 particularly with respect to those tools that may be utilized by
 3 those engaged in production agriculture to manage risk, access
 4 capital, transfer assets, and cooperatively own and manage farming
 5 and ranching enterprises to enable production agriculture to
 6 respond to challenges and opportunities."; and in line 24 strike
 7 "Three" and insert "Two".

8 3. On page 3, line 5, strike beginning with "One"
 9 through "attorney" and insert "Two members who shall be attorneys";
 10 and strike beginning with "A" through "for" in line 28.

11 4. On page 4, strike lines 1 through 3.

LEGISLATIVE BILL 1103. Placed on General File as amended.
 (Standing Committee amendment, AM2815, is printed separately and
 available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 843. Indefinitely postponed.

(Signed) Bob Kremer, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 514. Placed on General File as amended.
 Standing Committee amendment to LB 514:
 AM2706

1 1. Strike original section 1 and insert the following
 2 new sections:
 3 "Section 1. Section 81-2017, Revised Statutes
 4 Supplement, 2002, is amended to read:
 5 81-2017. (1) Prior to July 1, 1995, each officer while
 6 in the service of the Nebraska State Patrol shall pay or have paid
 7 on his or her behalf a sum equal to eight percent of his or her

8 monthly compensation. Commencing July 1, 1995, and through June
9 30, 1996, each officer while in the service of the Nebraska State
10 Patrol shall pay or have paid on his or her behalf a sum equal to
11 ten percent of his or her monthly compensation. Commencing July 1,
12 1996, each officer while in the service of the Nebraska State
13 Patrol shall pay or have paid on his or her behalf a sum equal to
14 eleven percent of his or her monthly compensation, except that
15 commencing July 1, 2004, and through June 30, 2005, each officer
16 while in the service of the Nebraska State Patrol shall pay or have
17 paid on his or her behalf a sum equal to twelve percent of his or
18 her monthly compensation. Such amounts shall be deducted monthly
19 by the Director of Administrative Services who shall draw a warrant
20 monthly in the amount of the total deductions from the compensation
21 of members of the Nebraska State Patrol in accordance with
22 subsection (2) of this section, and the State Treasurer shall
23 credit the amount of such warrant to the State Patrol Retirement
24 Fund. The director shall cause a detailed report of all monthly
1 deductions to be made each month to the board. In addition there
2 shall be transferred from the General Fund monthly by the State
3 Treasurer a sum equal to the amount of such compensation deductions
4 each month which shall be credited to the State Patrol Retirement
5 Fund, except that commencing July 1, 2004, and through June 30,
6 2005, there shall be transferred from the General Fund monthly by
7 the State Treasurer a sum equal to the amount of twelve percent of
8 each officer's monthly compensation which shall be credited to the
9 State Patrol Retirement Fund. The fund shall further be
10 supplemented annually by an appropriation in such amount, if any,
11 as may be determined on the basis of an actuarial valuation
12 prepared by a member of the American Academy of Actuaries to be
13 sufficient to fully fund the unfunded accrued liability of the
14 system as of June 30, 1988, by January 1, 2005. For the fiscal
15 year beginning on July 1, 2002, and each fiscal year thereafter,
16 the actuary for the board shall perform an actuarial valuation of
17 the system using the entry age actuarial cost method. Under this
18 method, the actuarially required funding rate is equal to the
19 normal cost rate, plus the contribution rate necessary to amortize
20 the unfunded actuarial accrued liability on a level payment basis.
21 The normal cost under this method shall be determined for each
22 individual member on a level percentage of salary basis. The
23 normal cost amount is then summed for all members. The initial
24 unfunded actual accrued liability as of July 1, 2002, if any, shall
25 be amortized over a twenty-five-year period. During each
26 subsequent actuarial valuation, changes in the funded actuarial
27 accrued liability due to changes in benefits, actuarial
1 assumptions, the asset valuation method, or actuarial gains or
2 losses shall be measured and amortized over a twenty-five-year
3 period beginning on the valuation date of such change. If the
4 unfunded actuarial accrued liability under the entry age actuarial
5 cost method is zero or less than zero on an actuarial valuation

6 date, then all prior unfunded actuarial accrued liabilities shall
 7 be considered fully funded and the unfunded actuarial accrued
 8 liability shall be reinitialized and amortized over a
 9 twenty-five-year period as of the actuarial valuation date. If the
 10 actuarially required contribution rate exceeds the rate of all
 11 contributions required pursuant to the Nebraska State Patrol
 12 Retirement Act, there shall be a supplemental appropriation
 13 sufficient to pay for the differences between the actuarially
 14 required contribution rate and the rate of all contributions
 15 required pursuant to the Nebraska State Patrol Retirement Act.
 16 Such valuation shall be on the basis of actuarial assumptions
 17 recommended by the actuary, approved by the board, and kept on file
 18 with the board.

19 (2) The state shall pick up the member contributions
 20 required by this section for all compensation paid on or after
 21 January 1, 1985, and the contributions so picked up shall be
 22 treated as employer contributions in determining federal tax
 23 treatment under the Internal Revenue Code as defined in section
 24 49-801.01, except that the state shall continue to withhold federal
 25 income taxes based upon these contributions until the Internal
 26 Revenue Service or the federal courts rule that, pursuant to
 27 section 414(h) of the code, these contributions shall not be
 1 included as gross income of the member until such time as they are
 2 distributed or made available. The state shall pay these member
 3 contributions from the same source of funds which is used in paying
 4 earnings to the member. The state shall pick up these
 5 contributions by a compensation deduction through a reduction in
 6 the cash compensation of the member. Member contributions picked
 7 up shall be treated for all purposes of the Nebraska State Patrol
 8 Retirement Act in the same manner and to the extent as member
 9 contributions made prior to the date picked up.

10 Sec. 2. This act becomes operative on July 1, 2004."

11 2. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 1132. Placed on General File as amended.

Standing Committee amendment to LB 1132:

AM2447

- 1 1. On page 2, lines 26 through 28, before "system"
- 2 insert "retirement".
- 3 2. On page 3, line 24, strike the second "the" and
- 4 insert "such retirement".
- 5 3. On page 6, line 5, strike "School Retirement" and
- 6 insert "Service Annuity".

(Signed) Elaine Stuhr, Chairperson

Business and Labor

LEGISLATIVE BILL 932. Placed on General File.

LEGISLATIVE BILL 1241. Placed on General File as amended.
Standing Committee amendment to LB 1241:
AM2818

- 1 1. On page 2, strike lines 15 through 18 and 22 through
2 25; and after line 25 insert
3 "Claim No. 03-699, against the Department of Health
4 and Human Services, pay to Marsha Busse, 2204 South
5 8th Street, Lincoln, NE 68502, out of the
6 General Fund. 9,006.74".
- 7 2. On page 3, strike lines 1 through 3.
- 8 3. On page 4, lines 8 and 9, strike "253,301.42" and
9 insert "16,786.24"; in line 26 strike "Operation" and insert
10 "Operations"; and after line 26 insert
- 11 "Tort Claim No. 02-902, against the Department of
12 Roads, pay to Philip Bader, Personal Representative
13 for the Estate of Eric Bader, and Cindy Bader,
14 parent, and James Martin Davis, Attorney, 1623
15 Farnam St. #500, Omaha, NE 68102, out of the
16 Department of Roads Operations Cash Fund. 74,460.00
- 17 Tort Claim No. 03-054, against the Department of
18 Roads, pay to Tim and Lori Moravec, Individually and
19 as parents of Adrian Moravec, a minor, and Lori
20 Moravec, Conservator of Adrian Moravec, and Terry
21 Dougherty and Bruce Smith, Attorneys, 301 S. 13th
22 St. #500, Lincoln, NE 68508, out of the Department
23 of Roads Operations Cash Fund. 87,000.00
- 24 Tort Claim No. 03-062, against the Department of
1 Roads, pay to Donna Eiting, duly appointed
2 conservator of Paul Eiting, and Donna and Doug
3 Eiting, for themselves and as parents of Paul
4 Eiting, a minor, and Terry Dougherty and Bruce
5 Smith, Attorneys, 301 S. 13th St. #500, Lincoln, NE
6 68508, out of the Department of Roads Operations
7 Cash Fund. 3,800.00
- 8 Tort Claim No. 03-063, against the Department of
9 Roads, pay to Donna Eiting and Doug Eiting, her
10 spouse, and Terry Dougherty and Bruce Smith,
11 Attorneys, 301 S. 13th St. #500, Lincoln, NE 68508,
12 out of the Department of Roads Operations
13 Cash Fund. 116,600.00
- 14 Tort Claim No. 03-106, against the Department of
15 Roads, pay to Dawn Prescott and her spouse, Steve
16 Prescott, and Terry Dougherty and Bruce Smith,
17 Attorneys, 301 S. 13th, St. #500, Lincoln, NE 68508,
18 out of the Department of Roads Operations Cash Fund. 158,000.00
- 19 Tort Claim No. 03-107, against the Department of
20 Roads, pay to Dawn and Steve Prescott, Personal
21 Representative for the Estate of Benjamin Prescott,

22 <u>and Terry Dougherty and Bruce Smith, Attorneys, 301</u>	
23 <u>S. 13th #500, Lincoln, NE 68508, out of the</u>	
24 <u>Department of Roads Operations Cash Fund.</u>	38,000.00
25 <u>Tort Claim No. 03-269, against the Department of</u>	
26 <u>Roads, pay to <u>Scott Dinslage, for himself and for</u></u>	
27 <u>his parent, <u>Debra Dinslage, and Gary Nedved,</u></u>	
1 <u>Attorney, 530 S. 13th #100, Lincoln, NE 68508-2795,</u>	
2 <u>out of the Department of Roads Operations</u>	
3 <u>Cash Fund.</u>	77,000.00
4 <u>Tort Claim No. 03-273, against the Department of</u>	
5 <u>Roads, pay to <u>Thomas Rief and Brenda Rief,</u></u>	
6 <u>individually as <u>Husband and Wife, and as</u></u>	
7 <u><u>Conservators and Natural Guardians of <u>Tait Rief, and</u></u></u>	
8 <u><u>Nicholas Lamme and Dave Mitchell, Attorneys, West</u></u>	
9 <u><u>Court Building, 81 West 5th Street Fremont, NE</u></u>	
10 <u><u>68025, out of the Department of Roads Operations</u></u>	
11 <u><u>Cash Fund.</u></u>	2,073,000.00
12 <u>Tort Claim No. 03-274, against the Department of</u>	
13 <u>Roads, pay to <u>Lucas Rief, Brenda Rief, and Tom Rief</u></u>	
14 <u><u>and <u>Nicholas Lamme and Dave Mitchell, Attorneys,</u></u></u>	
15 <u><u>West Court Building, 81 West 5th Street Fremont, NE</u></u>	
16 <u><u>68025, out of the Department of Roads Operations</u></u>	
17 <u><u>Cash Fund.</u></u>	50,000.00
18 <u>Tort Claim No. 03-275, against the Department of</u>	
19 <u>Roads, pay to <u>Brenda Rief and Nicholas Lamme and</u></u>	
20 <u><u>Dave Mitchell, Attorneys, West Court Building, 81</u></u>	
21 <u><u>West 5th Street Fremont, NE 68025, out of the</u></u>	
22 <u><u>Department of Roads Operations Cash Fund.</u></u>	100,000.00
23 <u>Tort Claim No. 03-285, against the Department of</u>	
24 <u>Roads, pay to <u>Carolyn Allen-Kortmeyer, individually</u></u>	
25 <u><u>and as parent of <u>Sarah Allen, a minor, and as</u></u></u>	
26 <u><u>conservator for the minor with <u>Alan Kortmeyer,</u></u></u>	
27 <u><u>co-conservator, and <u>Terry Dougherty and Bruce Smith,</u></u></u>	
1 <u><u>Attorneys, 301 S. 13th St. #500, Lincoln, NE 68508,</u></u>	
2 <u><u>out of the Department of Roads Operations Cash</u></u>	
3 <u><u>Fund.</u></u>	19,600.00
4 <u>Tort Claim No. 03-286, against the Department of</u>	
5 <u>Roads, pay to <u>Laura Matulka, Natural Guardian for</u></u>	
6 <u><u>Paul E. Matulka, and <u>James Martin Davis, Attorney,</u></u></u>	
7 <u><u>1623 Farnam St. #500, Omaha, NE 68102, out of the</u></u>	
8 <u><u>Department of Roads Operations Cash Fund.</u></u>	7,400.00
9 <u>Tort Claim No. 03-913, against the Department of</u>	
10 <u>Roads, pay to <u>Cindy Koch, Conservator of <u>Lacey Koch,</u></u></u>	
11 <u><u>a minor, and <u>Cindy and Dave Koch, parents of <u>Lacey</u></u></u></u>	
12 <u><u>Koch, and <u>Robert Moodie, Attorney, 633 S. 9th St.</u></u></u>	
13 <u><u>#300, P.O. Box 82009, Lincoln, NE 68501-2009, out of</u></u>	
14 <u><u>the Department of Roads Operations Cash Fund.</u></u>	2,960.00
15 <u>Tort Claim No. 03-914, against the Department of</u>	
16 <u>Roads, pay to <u>Jeston Koch and his parents, <u>Cindy and</u></u></u>	

17 <u>Dave Koch, and Robert Moodie, Attorney, 633 S. 9th</u>	
18 <u>St. #300, P.O. Box 82009, Lincoln, NE 68501-2009,</u>	
19 <u>out of the Department of Roads Operations Cash Fund.</u>	41,000.00
20 <u>Tort Claim No. 04-074, against the Department of</u>	
21 <u>Roads, pay to <u>Clark Koehler, Personal Representative</u></u>	
22 <u>for the Estate of <u>Ian Koehler, and Clark Koehler and</u></u>	
23 <u><u>Allegra Koehler, Individually, and Larry Brauer,</u></u>	
24 <u><u>Attorney, 510 Seward St., Seward, NE 68434-0411, out</u></u>	
25 <u>of the</u>	
26 <u>Department of Roads Operations Cash Fund.</u>	54,000.00
27 <u>Tort Claim No. 04-075, against the Department of</u>	
1 <u>Roads, pay to <u>Jonathan Kohlmeier, Personal</u></u>	
2 <u><u>Representative for the Estate of <u>Tracey Kohlmeier,</u></u></u>	
3 <u><u>and <u>Larry Brauer, Attorney, 510 Seward St., Seward,</u></u></u>	
4 <u><u>NE 68434-0411, out of the Department of Roads</u></u>	
5 <u><u>Operations Cash Fund.</u></u>	118,000.00
6 <u>Tort Claim No. 04-077, against the Department of</u>	
7 <u>Roads, pay to <u>Brandon Mueller and Cheryl and Randy</u></u>	
8 <u><u>Mueller, his parents, and <u>Mike Mullally and Vince</u></u></u>	
9 <u><u>Powers, Attorneys, 510 Seward St., P.O. Box 411,</u></u>	
10 <u><u>Seward, NE 68434, out of the Department of Roads</u></u>	
11 <u><u>Operations Cash Fund.</u></u>	9,600.00
12 <u>Tort Claim No. 04-078, against the Department of</u>	
13 <u>Roads, pay to <u>Cheryl Mueller and Mike Mullally and</u></u>	
14 <u><u>Vince Powers, Attorneys, 510 Seward St., P.O. Box</u></u>	
15 <u><u>411, Seward, NE 68434, out of the Department of</u></u>	
16 <u><u>Roads Operations Cash Fund.</u></u>	2,800.00
17 <u>Tort Claim No. 04-272, against the Department of</u>	
18 <u>Roads, pay to <u>Martin Telecky, individually and as</u></u>	
19 <u><u>parent of <u>Jennifer Telecky, a minor, and on behalf</u></u></u>	
20 <u><u>of <u>Denise Telecky, the minor's other parent, and</u></u></u>	
21 <u><u>Gary Nedved, Attorney, 530 S. 13th St. #100,</u></u>	
22 <u><u>Lincoln, NE 68508-2795, out of the Department of</u></u>	
23 <u><u>Roads Operations Cash Fund.</u></u>	36,800.00".
24 <u>4. On page 5, strike lines 4 and 5 and insert</u>	
25 <u>"CASH FUND</u>	4,795,893.30
26 <u>TOTAL</u>	4,908,657.69".
27 <u>5. On page 6, lines 13 and 14, strike "22,410.74" and</u>	
1 <u>insert "27,857.52".</u>	

LEGISLATIVE BILL 1242. Indefinitely postponed.

(Signed) Floyd P. Vrtiska, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 998A. Introduced by D. Pederson, 42.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 998, Ninety-eighth Legislature, Second Session, 2004.

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 1146:
FA1497
Amend AM2499
On line 3 change "2008" to "2006"

Senator Erdman filed the following amendment to LB 818:
FA1501
On line 27, page 3, restore stricken matter.
On line 27, page 3, strike "2004" and insert "2009"

VISITORS

Visitors to the Chamber were Eugene Ulmer from Geneva; Odessia and Floyd Donald from Omaha; 36 fourth-grade students and teachers from Lincoln Christian School, Lincoln; and Beth Anne Kunz from Ord.

The Doctor of the Day was Dr. Bob Rauner from Lincoln.

ADJOURNMENT

At 11:41 a.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Tuesday, March 2, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-FOURTH DAY - MARCH 2, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 2, 2004

PRAYER

The prayer was offered by Senator Baker.

ROLL CALL

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

The roll was called and all members were present except Senators Beutler, Byars, Cunningham, Engel, Landis, Maxwell, Price, and Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-third day was approved.

SELECT COMMITTEE REPORTS**Enrollment and Review**

LEGISLATIVE BILL 16. Placed on Select File as amended.
E & R amendment to LB 16:

AM7178

- 1 1. Strike original sections 6 to 9 and insert the
- 2 following new sections:
- 3 "Sec. 6. Section 67-454, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 67-454. (1) A partnership may become a limited liability
- 6 partnership pursuant to this section.
- 7 (2) The terms and conditions on which a partnership
- 8 becomes a limited liability partnership must be approved by the
- 9 vote necessary to amend the partnership agreement except, in the
- 10 case of a partnership agreement that expressly considers
- 11 obligations to contribute to the partnership, the vote necessary to
- 12 amend those provisions.
- 13 (3) After the approval required by subsection (2) of this
- 14 section, a partnership may become a limited liability partnership

15 by filing a statement of qualification with the Secretary of State.
 16 The statement must contain:
 17 (a) The name of the partnership;
 18 (b) The street address of the partnership's chief
 19 executive office and, if different, the street address of an office
 20 in this state, if any;
 21 (c) If the partnership does not have an office in this
 22 state, the name and street address of the partnership's agent for
 23 service of process;
 24 (d) A statement that the partnership elects to be a
 1 limited liability partnership; and
 2 (e) A deferred effective date, if any.
 3 (4) The agent of a limited liability partnership for
 4 service of process must be an individual who is a resident of this
 5 state or other person authorized to do business in this state.
 6 (5) The status of a partnership as a limited liability
 7 partnership is effective on the later of the filing of the
 8 statement or a date specified in the statement. The status remains
 9 effective, regardless of changes in the partnership, until it is
 10 canceled pursuant to subsection (4) of section 67-406 or revoked
 11 pursuant to section 67-456.
 12 (6) The status of a partnership as a limited liability
 13 partnership and the liability of its partners is not affected by
 14 errors or later changes in the information required to be contained
 15 in the statement of qualification under subsection (3) of this
 16 section.
 17 (7) The filing of a statement of qualification
 18 establishes that a partnership has satisfied all conditions
 19 precedent to the qualification of the partnership as a limited
 20 liability partnership.
 21 (8) An amendment or cancellation of a statement of
 22 qualification is effective when it is filed or on a deferred
 23 effective date specified in the amendment or cancellation.
 24 (9) Any limited liability partnership engaging in the
 25 practice of law in this state shall file with the Secretary of
 26 State, along with its statement of qualification, a certificate of
 27 authority issued by the Nebraska Supreme Court. In addition, such
 1 certificate of authority shall be renewed annually and filed by the
 2 limited liability partnership with its annual report required by
 3 section 67-456.
 4 Sec. 7. Section 67-456, Reissue Revised Statutes of
 5 Nebraska, is amended to read:
 6 67-456. (1) A limited liability partnership, and a
 7 foreign limited liability partnership authorized to transact
 8 business in this state, shall file an annual report in the office
 9 of the Secretary of State which contains:
 10 (a) The name of the limited liability partnership and the
 11 state or other jurisdiction under whose laws the foreign limited
 12 liability partnership is formed;

13 (b) The street address of the partnership's chief
14 executive office and, if different, the street address of an office
15 of the partnership in this state, if any; and

16 (c) If the partnership does not have an office in this
17 state, the name and street address of the partnership's current
18 agent for service of process.

19 (2) Any limited liability partnership, or foreign limited
20 liability partnership authorized to transact business in this
21 state, engaging in the practice of law in this state shall file
22 with its annual report a current certificate of authority from the
23 Nebraska Supreme Court.

24 (3) An annual report and certificate of authority, if
25 applicable, must be filed between January 1 and April 1 of each
26 year following the calendar year in which a partnership files a
27 statement of qualification or a foreign partnership becomes

1 authorized to transact business in this state.

2 ~~(3)~~ (4) The Secretary of State may revoke the statement
3 of qualification of a partnership that fails to file an annual
4 report and certificate of authority, if applicable, when due or pay
5 the required filing fee provided in section 67-462. To do so, the
6 Secretary of State shall provide the partnership at least sixty
7 days' written notice of intent to revoke the statement. The notice
8 must be mailed to the partnership at its chief executive office set
9 forth in the last filed statement of qualification or annual
10 report. The notice must specify the annual report or certificate
11 of authority, if applicable, that has not been filed, the fee that
12 has not been paid, and the effective date of the revocation. The
13 revocation is not effective if the annual report and certificate of
14 authority, if applicable, is filed and the fee is paid before the
15 effective date of the revocation.

16 ~~(4)~~ (5) A revocation under subsection ~~(3)~~ (4) of this
17 section only affects a partnership's status as a limited liability
18 partnership and is not an event of dissolution of the partnership.

19 ~~(5)~~ (6) A partnership whose statement of qualification
20 has been revoked may apply to the Secretary of State for
21 reinstatement within two years after the effective date of the
22 revocation. The application must state:

23 (a) The name of the partnership and the effective date of
24 the revocation; and

25 (b) That the ground for revocation either did not exist
26 or has been corrected.

27 ~~(6)~~ (7) A reinstatement under subsection ~~(5)~~ (6) of this
1 section relates back to and takes effect as of the effective date
2 of the revocation, and the partnership's status as a limited
3 liability partnership continues as if the revocation had never
4 occurred.

5 Sec. 8. Section 67-458, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 67-458. (1) Before transacting business in this state, a

8 foreign limited liability partnership must file a statement of
 9 foreign qualification. The statement must contain:

10 (a) The name of the foreign limited liability partnership
 11 which (i) satisfies the requirements of the state or other
 12 jurisdiction under whose law it is formed, (ii) ends with
 13 "registered limited liability partnership", "limited liability
 14 partnership", "R.L.L.P.", "RLLP", "L.L.P.", "LLP", or similar words
 15 or abbreviations as required by the jurisdiction under whose law it
 16 is formed, and (iii) complies with the requirements of a domestic
 17 limited liability partnership as provided in subdivisions (1)(b)
 18 and (c) and subsection (2) of section 67-455;

19 (b) The street address of the partnership's chief
 20 executive office and, if different, the street address of an office
 21 of the partnership in this state, if any;

22 (c) If there is no office of the partnership in this
 23 state, the name and street address of the partnership's agent for
 24 service of process; and

25 (d) A deferred effective date, if any.

26 (2) The agent of a foreign limited liability partnership
 27 for service of process must be an individual who is a resident of
 1 this state or other person authorized to do business in this state.

2 (3) The status of a partnership as a foreign limited
 3 liability partnership is effective on the later of the filing of
 4 the statement of foreign qualification or a date specified in the
 5 statement. The status remains effective, regardless of changes in
 6 the partnership, until it is canceled pursuant to subsection (4) of
 7 section 67-406 or revoked pursuant to section 67-456.

8 (4) An amendment or cancellation of a statement of
 9 foreign qualification is effective when it is filed or on a
 10 deferred effective date specified in the amendment or cancellation.

11 (5) Any foreign limited liability partnership engaged in
 12 the practice of law in this state shall file with the Secretary of
 13 State, along with its statement of foreign qualification, a
 14 certificate of authority issued by the Nebraska Supreme Court. In
 15 addition, such certificate of authority shall be renewed annually
 16 and filed by the foreign limited liability partnership with its
 17 annual report required by section 67-456.

18 Sec. 9. Original sections 21-2204, 21-2209, 21-2607,
 19 21-2631, 21-2639, 67-454, 67-456, and 67-458, Reissue Revised
 20 Statutes of Nebraska, are repealed."

21 2. On page 1, line 2, strike "and 21-2639" and insert
 22 "21-2639, 67-454, 67-456, and 67-458"; and strike beginning with
 23 the first comma in line 3 through "2002" in line 4.

24 3. On page 5, line 2, strike "as".

LEGISLATIVE BILL 625. Placed on Select File.

LEGISLATIVE BILL 878. Placed on Select File.

LEGISLATIVE BILL 961. Placed on Select File.

LEGISLATIVE BILL 835. Placed on Select File as amended.
E & R amendment to LB 835:

AM7176

- 1 1. On page 1, strike lines 6 through 8 and insert
2 "sections 81-2,172 and 81-2,177.01, Reissue Revised Statutes of
3 Nebraska."
- 4 2. On page 13, strike lines 16 and 17 and insert
5 "Sections 81-2,172 and 81-2,177.01, Reissue Revised Statutes of
6 Nebraska."

LEGISLATIVE BILL 836. Placed on Select File as amended.
E & R amendment to LB 836:

AM7177

- 1 1. On page 4, line 3, strike "subsection" and insert
2 "subdivision".

LEGISLATIVE BILL 821. Placed on Select File.

LEGISLATIVE BILL 937. Placed on Select File.

LEGISLATIVE BILL 820. Placed on Select File.

LEGISLATIVE BILL 927. Placed on Select File.

LEGISLATIVE BILL 936. Placed on Select File.

LEGISLATIVE BILL 915. Placed on Select File.

LEGISLATIVE BILL 818. Placed on Select File.

LEGISLATIVE BILL 911. Placed on Select File.

LEGISLATIVE RESOLUTION 211CA. Placed on Select File.

LEGISLATIVE BILL 947. Placed on Select File as amended.
E & R amendment to LB 947:

AM7179

- 1 1. On page 1, line 3, strike "time provisions for
2 permit" and insert "the expiration date for permits".

LEGISLATIVE BILL 950. Placed on Select File.

LEGISLATIVE BILL 1069. Placed on Select File.

LEGISLATIVE BILL 940. Placed on Select File as amended.
E & R amendment to LB 940:

AM7181

- 1 1. On page 1, strike beginning with "sections" in line 1
2 through "81-1201.08" in line 3 and insert "section 81-8,271.01"; in
3 line 5 strike "commissions" and insert "a commission"; and in line
4 11 strike "81-1201.04 to 81-1201.06,".

LEGISLATIVE BILL 1033. Placed on Select File as amended.
E & R amendment to LB 1033:

AM7180

- 1 1. On page 1, line 3, strike "and"; and in line 4 after
2 "section" insert "; and to declare an emergency".

LEGISLATIVE BILL 1179. Placed on Select File.

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 154. Indefinitely postponed.

LEGISLATIVE BILL 312. Indefinitely postponed.

LEGISLATIVE BILL 317. Indefinitely postponed.

LEGISLATIVE BILL 477. Indefinitely postponed.

LEGISLATIVE BILL 492. Indefinitely postponed.

LEGISLATIVE BILL 568. Indefinitely postponed.

LEGISLATIVE BILL 583. Indefinitely postponed.

LEGISLATIVE BILL 763. Indefinitely postponed.

(Signed) DiAnna R. Schimek, Chairperson

MOTIONS - Approve Appointments

Senator Kremer moved the adoption of the Agriculture Committee report for the confirmation of the following appointment found on page 766:

Beginning Farmer Board
Darrell Mark

Voting in the affirmative, 28:

Aguilar	Foley	Jones	Pederson, D.	Stuthman
Baker	Hartnett	Kremer	Quandahl	Synowiecki
Brashear	Hudkins	Louden	Raikes	Vrtiska
Burling	Janssen	McDonald	Redfield	Wehrbein
Cudaback	Jensen	Mossey	Schrock	
Erdman	Johnson	Pedersen, Dw.	Smith	

Voting in the negative, 0.

Present and not voting, 13:

Bourne	Chambers	Friend	Preister	Tyson
Bromm	Combs	Kruse	Stuhr	
Brown	Connealy	Mines	Thompson	

Excused and not voting, 8:

Beutler	Cunningham	Landis	Price
Byars	Engel	Maxwell	Schimek

The appointment was confirmed with 28 ayes, 0 nays, 13 present and not

voting, and 8 excused and not voting.

Senator Kremer moved the adoption of the Agriculture Committee report for the confirmation of the following appointment found on page 766:

Nebraska State Fair Board
Sallie Atkins

Voting in the affirmative, 29:

Aguilar	Erdman	Johnson	Mossey	Smith
Baker	Foley	Jones	Pedersen, Dw.	Stuhr
Brashear	Hartnett	Kremer	Pederson, D.	Stuthman
Brown	Hudkins	Louden	Quandahl	Synowiecki
Burling	Janssen	McDonald	Raikes	Vrtiska
Cudaback	Jensen	Mines	Redfield	

Voting in the negative, 0.

Present and not voting, 12:

Bourne	Combs	Kruse	Thompson
Bromm	Connealy	Preister	Tyson
Chambers	Friend	Schrock	Wehrbein

Excused and not voting, 8:

Beutler	Cunningham	Landis	Price
Byars	Engel	Maxwell	Schimek

The appointment was confirmed with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 998. Title read. Considered.

The Standing Committee amendment, AM2697, found on page 712, was considered.

Senator Chambers renewed his pending amendment, FA1494, found on page 779, to the Standing Committee amendment.

Senator Chambers withdrew his amendment.

Senator Chambers renewed his pending amendment, FA1495, found on page 780, to the Standing Committee amendment.

Senator Chambers withdrew his amendment.

Pending.

MESSAGE FROM THE GOVERNOR

March 2, 2004

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 208, 227, 236, 270, 353, 382, and 740 were received in my office on February 25, 2004.

These bills were signed and delivered to the Secretary of State on March 2, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

BILL ON FIRST READING

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

LEGISLATIVE BILL 1086A. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1086, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

STANDING COMMITTEE REPORTS Urban Affairs

LEGISLATIVE BILL 1175. Placed on General File.

LEGISLATIVE BILL 903. Indefinitely postponed.

LEGISLATIVE BILL 1043. Indefinitely postponed.

LEGISLATIVE BILL 1137. Indefinitely postponed.

LEGISLATIVE BILL 1148. Indefinitely postponed.

LEGISLATIVE BILL 1171. Indefinitely postponed.

LEGISLATIVE BILL 1192. Indefinitely postponed.

LEGISLATIVE BILL 1246. Indefinitely postponed.

(Signed) D. Paul Hartnett, Chairperson

Revenue

LEGISLATIVE BILL 895. Placed on General File as amended.
Standing Committee amendment to LB 895:
AM2841

1 1. Strike the original sections and insert the following
2 new sections:
3 "Section 1. Section 2-3225, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 2-3225. Each district shall have the power and authority
6 to levy a tax of not to exceed four and one-half cents on each one
7 hundred dollars of taxable valuation annually on all of the taxable
8 property within such district unless a higher levy is authorized
9 pursuant to section 77-3444. Each district shall also have the
10 power and authority to levy a tax equal to the dollar amount by
11 which its budgeted expenditures to administer and implement ground
12 water management activities and integrated management activities
13 under the Nebraska Ground Water Management and Protection Act
14 exceed its budgeted expenditures to administer and implement ground
15 water management activities and integrated management activities
16 for FY2003-04, not to exceed one cent on each one hundred dollars
17 of taxable valuation annually on all of the taxable property within
18 the district. The proceeds of such tax shall be used, together
19 with any other funds which the district may receive from any
20 source, for the operation of the district. When adopted by the
21 board, the levy shall be certified by the secretary to the county
22 clerk of each county which in whole or in part is included within
23 the district. Such levy shall be handled by the counties in the
24 same manner as other levies, and proceeds shall be remitted to the
1 district treasurer. Such levy shall not be considered a part of
2 the general county levy and shall not be considered in connection
3 with any limitation on levies of such counties.
4 Sec. 2. Section 13-520, Revised Statutes Supplement,
5 2002, is amended to read:
6 13-520. The limitations in section 13-519 shall not
7 apply to (1) restricted funds budgeted for capital improvements,
8 (2) restricted funds expended from a qualified sinking fund for
9 acquisition or replacement of tangible personal property with a
10 useful life of five years or more, (3) restricted funds pledged to
11 retire bonded indebtedness, used by a public airport to retire
12 interest-free loans from the Department of Aeronautics in lieu of
13 bonded indebtedness at a lower cost to the public airport, or used
14 to pay other financial instruments that are approved and agreed to
15 before July 1, 1999, in the same manner as bonds by a governing
16 body created under section 35-501, (4) restricted funds budgeted in
17 support of a service which is the subject of an agreement or a
18 modification of an existing agreement whether operated by one of
19 the parties to the agreement or by an independent joint entity or

20 joint public agency, (5) restricted funds budgeted to pay for
 21 repairs to infrastructure damaged by a natural disaster which is
 22 declared a disaster emergency pursuant to the Emergency Management
 23 Act, ~~or~~ (6) restricted funds budgeted to pay for judgments, except
 24 judgments or orders from the Commission of Industrial Relations,
 25 obtained against a governmental unit which require or obligate a
 26 governmental unit to pay such judgment, to the extent such judgment
 27 is not paid by liability insurance coverage of a governmental unit,
 1 or (7) the dollar amount by which restricted funds budgeted by a
 2 natural resources district to administer and implement ground water
 3 management activities and integrated management activities under
 4 the Nebraska Ground Water Management and Protection Act exceed its
 5 budgeted expenditures to administer and implement ground water
 6 management activities and integrated management activities for
 7 FY2003-04.

8 Sec. 3. Section 77-3442, Reissue Revised Statutes of
 9 Nebraska, is amended to read:

10 77-3442. (1) Property tax levies for the support of
 11 local governments for fiscal years beginning on or after July 1,
 12 1998, shall be limited to the amounts set forth in this section
 13 except as provided in section 77-3444.

14 (2)(a) Except as provided in subdivision (2)(b) of this
 15 section, school districts and multiple-district school systems may
 16 levy a maximum levy of (i) one dollar and five cents per one
 17 hundred dollars of taxable valuation of property subject to the
 18 levy for fiscal years 2003-04 and 2004-05 and (ii) one dollar per
 19 one hundred dollars of taxable valuation of property subject to the
 20 levy for all fiscal years except fiscal years 2003-04 and 2004-05.
 21 Excluded from this limitation are amounts levied to pay for sums
 22 agreed to be paid by a school district to certificated employees in
 23 exchange for a voluntary termination of employment and amounts
 24 levied to pay for special building funds and sinking funds
 25 established for projects commenced prior to April 1, 1996, for
 26 construction, expansion, or alteration of school district
 27 buildings. For purposes of this subsection, commenced means any
 1 action taken by the school board on the record which commits the
 2 board to expend district funds in planning, constructing, or
 3 carrying out the project.

4 (b) Federal aid school districts may exceed the maximum
 5 levy prescribed by subdivision (2)(a) of this section only to the
 6 extent necessary to qualify to receive federal aid pursuant to
 7 Title VIII of Public Law 103-382, as such title existed on
 8 September 1, 2001. For purposes of this subdivision, federal aid
 9 school district means any school district which receives ten
 10 percent or more of the revenue for its general fund budget from
 11 federal government sources pursuant to Title VIII of Public Law
 12 103-382, as such title existed on September 1, 2001.

13 (c) Beginning with school fiscal year 2002-03 through
 14 school fiscal year 2004-05, school districts and multiple-district

15 school systems may, upon a three-fourths majority vote of the
16 school board of the school district, the board of the unified
17 system, or the school board of the high school district of the
18 multiple-district school system that is not a unified system,
19 exceed the maximum levy prescribed by subdivision (2)(a) of this
20 section in an amount equal to the net difference between the amount
21 of state aid that would have been provided under the Tax Equity and
22 Educational Opportunities Support Act without the changes made by
23 Laws 2002, LB 898, for the ensuing school fiscal year for the
24 school district or multiple-district school system and the amount
25 provided under the act as amended by Laws 2002, LB 898. The State
26 Department of Education shall certify to the school districts and
27 multiple-district school systems the amount by which the maximum
1 levy may be exceeded pursuant to subdivision (2)(c) of this section
2 on or before May 15, 2002, for school fiscal year 2002-03, June 30,
3 2003, for school fiscal year 2003-04, and February 15, 2004, for
4 school fiscal year 2004-05.

5 (3) Community colleges may levy a maximum levy on each
6 one hundred dollars of taxable property subject to the levy of
7 seven cents for fiscal year 2000-01 and each fiscal year
8 thereafter, plus amounts allowed under subsection (7) of section
9 85-1536.01.

10 (4) Natural resources districts may levy a maximum levy
11 of four and one-half cents per one hundred dollars of taxable
12 valuation of property subject to the levy. Natural resources
13 districts shall also have the power and authority to levy a tax
14 equal to the dollar amount by which their budgeted expenditures to
15 administer and implement ground water management activities and
16 integrated management activities under the Nebraska Ground Water
17 Management and Protection Act exceed their budgeted expenditures to
18 administer and implement ground water management activities and
19 integrated management activities for FY2003-04, not to exceed one
20 cent on each one hundred dollars of taxable valuation annually on
21 all of the taxable property within the district.

22 (5) Educational service units may levy a maximum levy of
23 one and one-half cents per one hundred dollars of taxable valuation
24 of property subject to the levy.

25 (6)(a) Incorporated cities and villages which are not
26 within the boundaries of a municipal county may levy a maximum levy
27 of forty-five cents per one hundred dollars of taxable valuation of
1 property subject to the levy plus an additional five cents per one
2 hundred dollars of taxable valuation to provide financing for the
3 municipality's share of revenue required under an agreement or
4 agreements executed pursuant to the Interlocal Cooperation Act or
5 the Joint Public Agency Act. The maximum levy shall include
6 amounts levied to pay for sums to support a library pursuant to
7 section 51-201, museum pursuant to section 51-501, visiting
8 community nurse, home health nurse, or home health agency pursuant
9 to section 71-1637, or statue, memorial, or monument pursuant to

10 section 80-202.

11 (b) Incorporated cities and villages which are within the
12 boundaries of a municipal county may levy a maximum levy of ninety
13 cents per one hundred dollars of taxable valuation of property
14 subject to the levy. The maximum levy shall include amounts paid
15 to a municipal county for county services, amounts levied to pay
16 for sums to support a library pursuant to section 51-201, a museum
17 pursuant to section 51-501, a visiting community nurse, home health
18 nurse, or home health agency pursuant to section 71-1637, or a
19 statue, memorial, or monument pursuant to section 80-202.

20 (7) Sanitary and improvement districts which have been in
21 existence for more than five years may levy a maximum levy of forty
22 cents per one hundred dollars of taxable valuation of property
23 subject to the levy, and sanitary and improvement districts which
24 have been in existence for five years or less shall not have a
25 maximum levy. Unconsolidated sanitary and improvement districts
26 which have been in existence for more than five years and are
27 located in a municipal county may levy a maximum of eighty-five
1 cents per hundred dollars of taxable valuation of property subject
2 to the levy.

3 (8) Counties may levy or authorize a maximum levy of
4 fifty cents per one hundred dollars of taxable valuation of
5 property subject to the levy, except that five cents per one
6 hundred dollars of taxable valuation of property subject to the
7 levy may only be levied to provide financing for the county's share
8 of revenue required under an agreement or agreements executed
9 pursuant to the Interlocal Cooperation Act or the Joint Public
10 Agency Act. The maximum levy shall include amounts levied to pay
11 for sums to support a library pursuant to section 51-201 or museum
12 pursuant to section 51-501. The county may allocate up to fifteen
13 cents of its authority to other political subdivisions subject to
14 allocation of property tax authority under subsection (1) of
15 section 77-3443 and not specifically covered in this section to
16 levy taxes as authorized by law which do not collectively exceed
17 fifteen cents per one hundred dollars of taxable valuation on any
18 parcel or item of taxable property. The county may allocate to one
19 or more other political subdivisions subject to allocation of
20 property tax authority by the county under subsection (1) of
21 section 77-3443 some or all of the county's five cents per one
22 hundred dollars of valuation authorized for support of an agreement
23 or agreements to be levied by the political subdivision for the
24 purpose of supporting that political subdivision's share of revenue
25 required under an agreement or agreements executed pursuant to the
26 Interlocal Cooperation Act or the Joint Public Agency Act. If an
27 allocation by a county would cause another county to exceed its
1 levy authority under this section, the second county may exceed the
2 levy authority in order to levy the amount allocated.

3 (9) Municipal counties may levy or authorize a maximum
4 levy of one dollar per one hundred dollars of taxable valuation of

5 property subject to the levy. The municipal county may allocate
6 levy authority to any political subdivision or entity subject to
7 allocation under section 77-3443.

8 (10) Property tax levies for judgments, except judgments
9 or orders from the Commission of Industrial Relations, obtained
10 against a political subdivision which require or obligate a
11 political subdivision to pay such judgment, to the extent such
12 judgment is not paid by liability insurance coverage of a political
13 subdivision, for preexisting lease-purchase contracts approved
14 prior to July 1, 1998, for bonded indebtedness approved according
15 to law and secured by a levy on property, and for payments by a
16 public airport to retire interest-free loans from the Department of
17 Aeronautics in lieu of bonded indebtedness at a lower cost to the
18 public airport are not included in the levy limits established by
19 this section.

20 (11) The limitations on tax levies provided in this
21 section are to include all other general or special levies provided
22 by law. Notwithstanding other provisions of law, the only
23 exceptions to the limits in this section are those provided by or
24 authorized by sections 77-3442 to 77-3444.

25 (12) Tax levies in excess of the limitations in this
26 section shall be considered unauthorized levies under section
27 77-1606 unless approved under section 77-3444.

1 (13) For purposes of sections 77-3442 to 77-3444,
2 political subdivision means a political subdivision of this state
3 and a county agricultural society.

4 Sec. 4. This act becomes operative on July 1, 2004.

5 Sec. 5. Original sections 2-3225 and 77-3442, Reissue
6 Revised Statutes of Nebraska, and section 13-520, Revised Statutes
7 Supplement, 2002, are repealed.

8 Sec. 6. Since an emergency exists, this act takes effect
9 when passed and approved according to law."

LEGISLATIVE BILL 1095. Placed on General File as amended.
Standing Committee amendment to LB 1095:
AM2840

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. This act becomes operative on October 1,
- 4 2004.
- 5 Sec. 2. The following section is outright repealed:
- 6 Section 77-2704.37, Reissue Revised Statutes of Nebraska."

LEGISLATIVE BILL 1178. Indefinitely postponed.

(Signed) David Landis, Chairperson

Nebraska Retirement Systems

The Nebraska Retirement Systems 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.

Public Employees Retirement Board
Dale L. Kahla

VOTE: Aye: Senators Bourne, Erdman, Price, Stuhr, Synowiecki, and Wehrbein. Nay: None. Absent: None.

(Signed) Elaine Stuhr, Chairperson

GENERAL FILE

LEGISLATIVE BILL 998. Senator Chambers renewed his pending amendment, AM1496, found on page 780, to the Standing Committee amendment.

Senator Chambers withdrew his amendment.

The Standing Committee amendment, AM2697, found on page 712 and considered in this day's Journal, was renewed.

The Standing Committee amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 998A. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 962. Title read. Considered.

SENATOR JANSSEN PRESIDING

The Standing Committee amendment, AM2733, printed separately and referred to on page 737, was considered.

Senator Chambers requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:
(FA1502 consists of Sections 1 through 10 and Section 12 of the Standing Committee amendment.)

Pending.

NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications
Room 1113

Monday, March 22, 2004

1:00 p.m.

Allan Abbott - Nebraska Transit and Rail Advisory Council
Anne Boyle - Nebraska Transit and Rail Advisory Council
Duane Eitel - Nebraska Transit and Rail Advisory Council
Roger Figard - Nebraska Transit and Rail Advisory Council
David Gilfillan - Nebraska Transit and Rail Advisory Council
Georgia Janssen - Nebraska Transit and Rail Advisory Council
Steve McBeth - Nebraska Transit and Rail Advisory Council
Paul Mullen - Nebraska Transit and Rail Advisory Council
Thomas Mulligan - Nebraska Transit and Rail Advisory Council
Michael Ongerth - Nebraska Transit and Rail Advisory Council
Gary Ruegg - Nebraska Transit and Rail Advisory Council

(Signed) Tom Baker, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 247. Introduced by Bromm, 23.

WHEREAS, the David City Aquinas boys' wrestling team won the Class C Boys' State High School Wrestling Championship; and

WHEREAS, David City Aquinas won thirteen of fourteen matches over the final three sessions to capture the Class C title for the third time in four years; and

WHEREAS, David City Aquinas had a school-record four state champions in achieving the Class C title; and

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

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

1. That the David City Aquinas High School boys' wrestling team be congratulated for their exemplary effort this season.

2. That a copy of this resolution be sent to Coach Tony Horacek and the David City Aquinas High School boys' wrestling team.

Laid over.

STANDING COMMITTEE REPORT
Natural Resources

LEGISLATIVE BILL 916. Placed on General File as amended.
(Standing Committee amendment, AM2826, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Ed Schrock, Chairperson

VISITORS

Visitors to the Chamber were 35 students from Paddock Lane Elementary School, Beatrice; 50 fourth-grade students from Stoddard Elementary School, Beatrice; 40 first- through fourth-grade students and teachers from Cavett Elementary School, Lincoln; and Don Fiedler from Omaha, Jack Huck from Lincoln, and Sue Burns from Beatrice.

RECESS

At 12:01 p.m., on a motion by Senator Loudon, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Brown, Engel, Landis, Mines, Mossey, Preister, and Schimek who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 962. The first Standing Committee amendment, FA1502, found in this day's Journal, was renewed.

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

FA1503

Amend FA1502

On page 1, in line 6 strike "recognizes" and insert "finds"; strike and show as stricken "the" and insert "a"; strike and show as stricken "this" and insert "the".

SPEAKER BROMM PRESIDING

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 242 and 243 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 242 and 243.

GENERAL FILE

LEGISLATIVE BILL 962. The Chambers pending amendment, FA1503, found in this day's Journal, to the first Standing Committee amendment, was renewed.

The Chambers amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Pending.

STANDING COMMITTEE REPORTS**Natural Resources**

The Natural Resources 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.

Environmental Quality Council

Tom Miller

Donald Williams

VOTE: Aye: Senators Friend, Hudkins, Jones, Kremer, Loudon, Schrock, and Stuhr. Nay: Senator Preister. Absent: None.

(Signed) Ed Schrock, Chairperson

Urban Affairs

LEGISLATIVE BILL 339. Indefinitely postponed.

LEGISLATIVE BILL 518. Indefinitely postponed.

LEGISLATIVE BILL 654. Indefinitely postponed.

LEGISLATIVE BILL 716. Indefinitely postponed.

LEGISLATIVE BILL 717. Indefinitely postponed.

LEGISLATIVE BILL 718. Indefinitely postponed.

LEGISLATIVE BILL 792. Indefinitely postponed.

LEGISLATIVE RESOLUTION 24CA. Indefinitely postponed.

(Signed) D. Paul Hartnett, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 871. Placed on General File as amended.

Standing Committee amendment to LB 871:

AM2833

- 1 1. Strike original sections 2, 3, and 8 and insert the
 2 following new sections:
 3 "Sec. 4. Section 60-6,196, Revised Statutes Supplement,
 4 2003, as amended by section 10, Legislative Bill 208, Ninety-eighth
 5 Legislature, Second Session, 2004, is amended to read:
 6 60-6,196. (1) It shall be unlawful for any person to
 7 operate or be in the actual physical control of any motor vehicle:
 8 (a) While under the influence of alcoholic liquor, under
 9 the influence ~~or~~ of any drug, or under the influence of any
 10 combination of alcoholic liquor and one or more drugs;
 11 (b) When such person has a concentration of
 12 eight-hundredths of one gram or more by weight of alcohol per one
 13 hundred milliliters of his or her blood; or
 14 (c) When such person has a concentration of
 15 eight-hundredths of one gram or more by weight of alcohol per two
 16 hundred ten liters of his or her breath.
 17 (2) Any person who operates or is in the actual physical
 18 control of any motor vehicle while in a condition described in
 19 subsection (1) of this section shall be guilty of a crime and upon
 20 conviction punished as provided in sections 12 to 18 of this act.
 21 Sec. 5. Section 12, Legislative Bill 208, Ninety-eighth
 22 Legislature, Second Session, 2004, is amended to read:
 23 Sec. 12. (1) A violation of section 60-6,196 or 60-6,197
 24 shall be punished as provided in section 13 of this act. For
 1 purposes of sentencing under section 13 of this act:
 2 (a) Prior conviction means a conviction for a violation
 3 committed within the twelve-year period prior to the offense for
 4 which the sentence is being imposed as follows:
 5 (i) For a violation of section 60-6,196:
 6 (A) Any conviction for a violation of section 60-6,196;
 7 (B) Any conviction for a violation of a city or village
 8 ordinance enacted in conformance with section 60-6,196;
 9 (C) Any conviction under a law of another state if, at
 10 the time of the conviction under the law of such other state, the
 11 offense for which the person was convicted would have been a
 12 violation of section 60-6,196; or
 13 (D) Any conviction for a violation of section 60-6,198;
 14 or
 15 (ii) For a violation of section 60-6,197;
 16 (A) Any conviction for a violation of section 60-6,197;
 17 (B) Any conviction for a violation of a city or village

18 ordinance enacted in conformance with section 60-6,197; or
19 (C) Any conviction under a law of another state if, at
20 the time of the conviction under the law of such other state, the
21 offense for which the person was convicted would have been a
22 violation of section 60-6,197;

23 (b) Prior conviction includes any conviction under
24 section 60-6,196, 60-6,197, or 60-6,198, or any city or village
25 ordinance enacted in conformance with any of such sections, as such
26 sections or city or village ordinances existed at the time of such
27 conviction regardless of subsequent amendments to any of such
1 sections or city or village ordinances; and

2 (c) Twelve-year period means the period computed from the
3 date of the prior offense to the date of the offense which resulted
4 in the conviction for which the sentence is being imposed.

5 (2) In any case charging a violation of section 60-6,196
6 or 60-6,197, the prosecutor or investigating agency shall use due
7 diligence to obtain the person's driving record from the Department
8 of Motor Vehicles and the person's driving record from other states
9 where he or she is known to have resided within the last twelve
10 years. The prosecutor shall certify to the court, prior to
11 sentencing, that such action has been taken. The prosecutor shall
12 present as evidence for purposes of sentence enhancement a
13 court-certified copy or an authenticated copy of a prior conviction
14 in another state. The court-certified or authenticated copy shall
15 be prima facie evidence of such prior conviction.

16 (3) For each conviction for a violation of section
17 60-6,196 or 60-6,197, the court shall, as part of the judgment of
18 conviction, make a finding on the record as to the number of the
19 convicted person's prior convictions. The convicted person shall
20 be given the opportunity to review the record of his or her prior
21 convictions, bring mitigating facts to the attention of the court
22 prior to sentencing, and make objections on the record regarding
23 the validity of such prior convictions.

24 Sec. 6. Section 13, Legislative Bill 208, Ninety-eighth
25 Legislature, Second Session, 2004, is amended to read:

26 Sec. 13. Any person convicted of a violation of section
27 60-6,196 or 60-6,197 shall be punished as follows:

1 (1) If such person has not had a prior conviction, such
2 person shall be guilty of a Class W misdemeanor, and the court
3 shall, as part of the judgment of conviction, order ~~such person not~~
4 ~~to drive any motor vehicle for any purpose that the operator's~~
5 license of such person be revoked for a period of six months from
6 the date ordered by the court, ~~and shall order that the operator's~~
7 ~~license of such person be revoked for a like period.~~ Such
8 revocation shall be administered upon sentencing, upon final
9 judgment of any appeal or review, or upon the date that any
10 probation is revoked.

11 If the court places such person on probation or suspends
12 the sentence for any reason, the court shall, as one of the

13 conditions of probation or sentence suspension, order ~~such person~~
 14 ~~not to drive any motor vehicle for any purpose that the operator's~~
 15 license of such person be revoked or impounded for a period of
 16 sixty days from the date ordered by the court unless otherwise
 17 authorized by an order issued pursuant to section 60-6,211.05, and
 18 such order of probation or sentence suspension shall also include,
 19 as one of its conditions, the payment of a four-hundred-dollar
 20 fine;

21 (2) If such person has had one prior conviction, such
 22 person shall be guilty of a Class W misdemeanor, and the court
 23 shall, as part of the judgment of conviction, order ~~such person not~~
 24 ~~to drive any motor vehicle for any purpose that the operator's~~
 25 license of such person be revoked for a period of one year from the
 26 date ordered by the court; ~~shall order that the operator's license~~
 27 ~~of such person be revoked for a like period~~; and shall issue an
 1 order pursuant to section 60-6,197.01 with respect to all motor
 2 vehicles owned by such person. Such orders shall be administered
 3 upon sentencing, upon final judgment of any appeal or review, or
 4 upon the date that any probation is revoked.

5 If the court places such person on probation or suspends
 6 the sentence for any reason, the court shall, as one of the
 7 conditions of probation or sentence suspension, order ~~such person~~
 8 ~~not to drive any motor vehicle for any purpose that the operator's~~
 9 license of such person be revoked or impounded for a period of one
 10 year from the date ordered by the court unless otherwise authorized
 11 by an order issued pursuant to section 60-6,211.05 and shall issue
 12 an order pursuant to section 60-6,197.01 with respect to all motor
 13 vehicles owned by such person, and such order of probation or
 14 sentence suspension shall also include, as conditions, the payment
 15 of a five-hundred-dollar fine and either confinement in the city or
 16 county jail for five days or the imposition of not less than two
 17 hundred forty hours of community service;

18 (3) If such person has had two prior convictions, such
 19 person shall be guilty of a Class W misdemeanor, and the court
 20 shall, as part of the judgment of conviction, order ~~such person not~~
 21 ~~to drive any motor vehicle for any purpose that the operator's~~
 22 license of such person be revoked for a period of fifteen years
 23 from the date ordered by the court; ~~shall order that the operator's~~
 24 ~~license of such person be revoked for a like period~~; and shall
 25 issue an order pursuant to section 60-6,197.01 with respect to all
 26 motor vehicles owned by such person. Such orders shall be
 27 administered upon sentencing, upon final judgment of any appeal or
 1 review, or upon the date that any probation is revoked.

2 If the court places such person on probation or suspends
 3 the sentence for any reason, the court shall, as one of the
 4 conditions of probation or sentence suspension, order ~~such person~~
 5 ~~not to drive any motor vehicle for any purpose that the operator's~~
 6 license of such person be revoked or impounded for a period of one
 7 year from the date ordered by the court ~~and shall order that the~~

8 operator's license of such person be suspended for a like period
 9 unless otherwise authorized by an order issued pursuant to section
 10 60-6,211.05 and shall issue an order pursuant to section
 11 60-6,197.01 with respect to all motor vehicles owned by such
 12 person, and such order of probation or sentence suspension shall
 13 also include, as conditions, the payment of a six-hundred-dollar
 14 fine and either confinement in the city or county jail for ten days
 15 or the imposition of not less than four hundred eighty hours of
 16 community service; and

17 (4) If such person has had three or more prior
 18 convictions, such person shall be guilty of a Class IV felony, and
 19 the court shall, as part of the judgment of conviction, order ~~such~~
 20 ~~person not to drive any motor vehicle for any purpose that the~~
 21 operator's license of such person be revoked for a period of
 22 fifteen years from the date ordered by the court; ~~shall order that~~
 23 ~~the operator's license of such person be revoked for a like period;~~
 24 and shall issue an order pursuant to section 60-6,197.01 with
 25 respect to all motor vehicles owned by such person. Such orders
 26 shall be administered upon sentencing, upon final judgment of any
 27 appeal or review, or upon the date that any probation is revoked.

1 The court shall also sentence such person to serve at least ten
 2 days' imprisonment in the city or county jail or an adult
 3 correctional facility.

4 If the court places such person on probation or suspends
 5 the sentence for any reason, the court shall, as one of the
 6 conditions of probation or sentence suspension, order ~~such person~~
 7 ~~not to drive any motor vehicle for any purpose that the operator's~~
 8 license of such person be revoked or impounded for a period of one
 9 year from the date ordered by the court ~~and shall order that the~~
 10 ~~operator's license of such person be suspended for a like period~~
 11 unless otherwise authorized by an order issued pursuant to section
 12 60-6,211.05 and shall issue an order pursuant to section
 13 60-6,197.01 with respect to all motor vehicles owned by such
 14 person, and such order of probation or sentence suspension shall
 15 also include, as conditions, the payment of a one-thousand-dollar
 16 fine and either confinement in the city or county jail for ten days
 17 or the imposition of not less than four hundred eighty hours of
 18 community service.

19 Sec. 9. Original sections 28-106, 60-601, and
 20 60-6,197.01, Revised Statutes Supplement, 2002, section
 21 60-4,118.06, Revised Statutes Supplement, 2003, section 60-6,196,
 22 Revised Statutes Supplement, 2003, as amended by section 10,
 23 Legislative Bill 208, Ninety-eighth Legislature, Second Session,
 24 2004, and sections 12 and 13, Legislative Bill 208, Ninety-eighth
 25 Legislature, Second Session, 2004, are repealed."

26 2. On page 11, strike beginning with "the" in line 8
 27 through the period in line 11 and insert "that the operator's
 1 license of such person be revoked or impounded for a period of at
 2 least one year and not more than fifteen years.".

3 3. Renumber the remaining sections accordingly.

(Signed) Tom Baker, Chairperson

GENERAL FILE

LEGISLATIVE BILL 962. Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1516

Amend FA1502

On page 1, in line 8 strike and show as stricken "of this state"; in lines 8 and 9 strike and show as stricken "financially assist in" and insert "provide financial assistance to"; in line 9 strike and show as stricken "necessary" and insert "essential".

SENATOR CUDABACK PRESIDING

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

The Chambers amendment was adopted with 39 ayes, 0 nays, 3 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENTS - Print in Journal

Senator Louden filed the following amendment to LR 209CA:

AM2828

(Amendments to Standing Committee amendments, AM2346)

- 1 1. On page 1, line 23, after "Board" insert "to be used
- 2 for the direction and supervision of the Nebraska State Fair, which
- 3 shall be held at or near the city of Mitchell, in Scotts Bluff
- 4 County".

Senator Schrock filed the following amendment to LB 962:

AM2785

(Amendments to Standing Committee amendments, AM2733)

- 1 1. Strike original section 99 and insert the following
- 2 new sections:
- 3 "Sec. 99. Section 81-15,172, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 81-15,172. The board shall annually elect a chairperson
- 6 from among the citizen members. The board shall meet at least
- 7 quarterly, ~~and~~ may meet more often at the call of the chairperson
- 8 or the request of any three members, and may hold meetings by
- 9 teleconference as necessary subject to section 84-1411.

10 Sec. 100. Section 81-15,173, Revised Statutes
 11 Supplement, 2002, is amended to read:
 12 81-15,173. The board shall have and may exercise the
 13 following powers and duties:
 14 (1) Adopt bylaws to govern the proceedings of the board;
 15 (2) Keep records, conduct hearings, and adopt and
 16 promulgate rules and regulations to carry out its duties and
 17 implement the Nebraska Environmental Trust Act;
 18 (3) Contract with the Game and Parks Commission for
 19 administrative support; ~~and with governmental agencies for~~
 20 ~~technical assistance;~~
 21 (4) Contract with governmental and private agencies to
 22 receive technical assistance and services;
 23 (5) Contract with governmental and private agencies to
 24 provide technical assistance and services;
 25 (6) Establish environmental priorities categories for use
 26 of the funds and develop an appropriate rating system for each
 27 category;
 28 ~~(7)~~ (7) Establish ad hoc advisory boards and
 29 subcommittees;
 30 ~~(8)~~ (8) Sponsor or assist environmental proposals
 31 pertaining to the environmental ~~priorities categories~~ of the board,
 32 including issuing grants to agencies, organizations, and persons
 33 engaged in the purposes of the trust;
 34 ~~(9)~~ (9) Cooperate with or assist any unit of the state,
 35 any political subdivision, or any private, public, or federal
 36 agency, foundation, or person in furtherance of the purposes of the
 37 trust;
 38 ~~(10)~~ (10) Acquire and dispose of personal property in
 39 furtherance of the purposes of the trust; and
 40 ~~(11)~~ (11) Apply for or accept any gift, grant, bequest,
 41 royalty, or donation, designate the fund to which it will be
 42 credited, and expend the proceeds in furtherance of the purposes of
 43 the trust.

21 Sec. 101. Section 81-15,175, Revised Statutes
 22 Supplement, 2002, is amended to read:
 23 81-15,175. (1) The board may make an annual allocation
 24 each fiscal year from the Nebraska Environmental Trust Fund to the
 25 Nebraska Environmental Endowment Fund as provided in section
 26 81-15,174.01. The board shall make annual allocations from the
 27 Nebraska Environmental Trust Fund and may make annual allocations
 28 each fiscal year from the Nebraska Environmental Endowment Fund for
 29 projects which conform to the environmental ~~priorities categories~~
 30 of the board established pursuant to section 81-15,176 and to the
 31 extent the board determines those projects to have merit. The
 32 board shall establish ~~an annual calendar~~ a calendar annually for
 33 receiving and evaluating proposals and awarding grants. To
 34 evaluate the economic, financial, and technical feasibility of
 35 8 proposals, the board may establish subcommittees, request or

9 contract for assistance, or establish advisory groups. Private
10 citizens serving on advisory groups shall be reimbursed for their
11 actual and necessary expenses pursuant to sections 81-1174 to
12 81-1177.

13 (2) The board shall establish a ~~rating system~~ rating
14 systems for ranking proposals which meet the board's environmental
15 priorities categories and other criteria. The rating ~~system~~
16 systems shall include, but not be limited to, the following
17 considerations:

18 (a) Conformance with ~~priorities categories~~ priorities categories established
19 pursuant to section 81-15,176;

20 (b) Amount of funds committed from other funding sources;

21 (c) Encouragement of public-private partnerships;

22 (d) Geographic mix of projects over time;

23 (e) Cost-effectiveness and economic impact;

24 (f) Direct environmental impact; and

25 (g) Environmental benefit to the general public and the
26 long-term nature of such public benefit.

27 (3) The board may establish a subcommittee to rate grant
1 applications. If the board uses a subcommittee, the subcommittee
2 shall (a) use the rating ~~system~~ systems established by the board
3 under subsection (2) of this section, (b) assign a numeric value to
4 each rating criterion, combine these values into a total score for
5 each application, and rank the applications by the total scores,
6 (c) recommend an amount of funding for each application, which
7 amount may be more or less than the requested amount, and (d)
8 submit the ranked list and recommended funding to the board for its
9 approval or disapproval. A motion to deviate from the
10 subcommittee's recommendations must specify the reason for doing so
11 and be adopted with an affirmative vote of not fewer than eight
12 members of the board.

13 (4) The board may commit funds to multiyear projects,
14 subject to available funds and appropriations. No commitment shall
15 exceed three years without formal action by the board to renew the
16 grant or contract. Multiyear commitments may be exempt from the
17 rating process except for the initial application and requests to
18 renew the commitment.

19 (5) The board shall adopt and promulgate rules and
20 regulations and publish guidelines governing allocations from the
21 fund. The board shall conduct annual reviews of existing projects
22 for compliance with project goals and grant requirements.

23 (6) Every five years the board may evaluate the long-term
24 effects of the projects it funds. The evaluation may assess a
25 sample of such projects. The board may hire an independent
26 consultant to conduct the evaluation and may report the evaluation
27 findings to the Legislature and the Governor.

1 Sec. 102. Section 81-15,176, Revised Statutes

2 Supplement, 2002, is amended to read:

3 81-15,176. (1) Subject to subsection (3) of this

4 section, the board shall establish environmental ~~priorities for~~
 5 categories of projects eligible for funding by the trust. The
 6 board, after allowing opportunity for public comment, shall
 7 designate as ~~priorities~~ categories those environmental goals which
 8 most affect the natural physical and biological environment in
 9 Nebraska, including the air, land, ground water and surface water,
 10 flora and fauna, prairies and forests, wildlife and wildlife
 11 habitat, and areas of aesthetic or scenic values. In designating
 12 environmental ~~priorities~~ categories, the board shall attempt to
 13 focus on the areas which promise the greatest opportunities for
 14 effective action to achieve and preserve the future environmental
 15 quality in the state. The board shall establish ~~priorities~~
 16 categories for five-year periods beginning July 1, 1995. The board
 17 may establish annual priorities within the five-year categories. ;
 18 ~~except that the board may make annual modifications to refine and~~
 19 ~~clarify its priorities.~~ The board shall provide for public
 20 involvement in developing the ~~priorities~~ categories for such
 21 five-year periods; including and any priorities within these
 22 categories, including, but not limited to, public meetings in each
 23 of the three congressional districts.

24 (2) The board shall establish criteria for determining
 25 the eligibility of projects for grant assistance, which criteria
 26 shall include the following:

27 (a) The grants shall not provide direct assistance to
 1 regulatory programs or to implement actions mandated by regulations
 2 except remediation;

3 (b) No more than sixty percent of grant allocations in
 4 any year shall assist remediation of soils or ground water, and no
 5 grants for this purpose shall occur unless all other available
 6 sources of funding are, in the opinion of the board, being
 7 substantially utilized;

8 (c) The grants shall not pay for projects which provide
 9 primarily private benefits or relieve private liability for
 10 environmental damage;

11 (d) The grants shall not pay for projects which have
 12 direct beneficiaries who could afford the costs of the benefits
 13 without experiencing serious financial hardship;

14 (e) The grants should assist those projects which offer
 15 the greatest environmental benefits relative to cost;

16 (f) The grants should assist those projects which provide
 17 clear and direct environmental benefits;

18 (g) The grants should assist those projects which will
 19 make a real contribution to achieving the board's environmental
 20 ~~priorities~~ categories;

21 (h) The grants should assist those projects which offer
 22 the greatest public benefits; and

23 (i) The grants shall not pay for land or easements
 24 acquired without the full and express consent of the landowner.

25 (3) Until the first five-year ~~priorities~~ categories

26 become effective on July 1, 1995, the board shall observe the
27 following ~~priorities~~ categories for allocating grants:

- 1 (a) Critical habitat areas, including wetlands
2 acquisition, preservation, and restoration and acquisition and
3 easements of areas critical to rare or endangered species;
 - 4 (b) Surface water quality, including actions to preserve
5 lakes and streams from degradation;
 - 6 (c) Ground water quality, including fostering best
7 management practices as defined in section ~~46-656.07~~ 42 of this
8 act, actions to preserve ground water from degradation, and
9 remediation of soils or ground water; and
 - 10 (d) Development of recycling markets and reduction of
11 solid waste volume and toxicity.
- 12 (4) The board may refine and clarify these initial
13 ~~priorities~~ categories.

14 Sec. 103. Section 84-1411, Revised Statutes Supplement,
15 2002, is amended to read:

16 84-1411. (1) Each public body shall give reasonable
17 advance publicized notice of the time and place of each meeting by
18 a method designated by each public body and recorded in its
19 minutes. Such notice shall be transmitted to all members of the
20 public body and to the public. Such notice shall contain an agenda
21 of subjects known at the time of the publicized notice or a
22 statement that the agenda, which shall be kept continually current,
23 shall be readily available for public inspection at the principal
24 office of the public body during normal business hours. Except for
25 items of an emergency nature, the agenda shall not be altered later
26 than (a) twenty-four hours before the scheduled commencement of the
27 meeting or (b) forty-eight hours before the scheduled commencement

1 of a meeting of a city council or village board scheduled outside
2 the corporate limits of the municipality. The public body shall
3 have the right to modify the agenda to include items of an
4 emergency nature only at such public meeting.

5 (2) A meeting of a state agency, state board, state
6 commission, state council, or state committee, of an advisory
7 committee of any such state entity, of an organization created
8 under the Interlocal Cooperation Act, the Joint Public Agency Act,
9 or the Municipal Cooperative Financing Act, of the governing body
10 of a public power district having a chartered territory of more
11 than fifty counties in this state, or of the governing body of a
12 risk management pool or its advisory committees organized in
13 accordance with the Intergovernmental Risk Management Act may be
14 held by means of videoconferencing or, in the case of the Judicial
15 Resources Commission in those cases specified in section 24-1204,
16 by telephone conference, if:

- 17 (a) Reasonable advance publicized notice is given;
- 18 (b) Reasonable arrangements are made to accommodate the
19 public's right to attend, hear, and speak at the meeting, including
20 seating, recordation by audio or visual recording devices, and a

21 reasonable opportunity for input such as public comment or
 22 questions to at least the same extent as would be provided if
 23 videoconferencing or telephone conferencing was not used;
 24 (c) At least one copy of all documents being considered
 25 is available to the public at each site of the videoconference or
 26 telephone conference;

27 (d) At least one member of the state entity, advisory
 1 committee, or governing body is present at each site of the
 2 videoconference or telephone conference; and
 3 (e) No more than one-half of the state entity's, advisory
 4 committee's, or governing body's meetings in a calendar year are
 5 held by videoconference or telephone conference.
 6 Videoconferencing or telephone conferencing shall not be
 7 used to circumvent any of the public government purposes
 8 established in sections 84-1408 to 84-1414.

9 (3)(a) A meeting of the governing body of an entity
 10 formed under the Interlocal Cooperation Act or the Joint Public
 11 Agency Act or of the governing body of a risk management pool or
 12 its advisory committees organized in accordance with the
 13 Intergovernmental Risk Management Act may be held by telephone
 14 conference call if:

15 ~~(a)~~ (i) The territory represented by the member public
 16 agencies of the entity or pool covers more than one county;
 17 ~~(b)~~ (ii) Reasonable advance publicized notice is given
 18 which identifies each telephone conference location at which a
 19 member of the entity's or pool's governing body will be present;
 20 ~~(c)~~ (iii) All telephone conference meeting sites
 21 identified in the notice are located within public buildings used
 22 by members of the entity or pool or at a place which will
 23 accommodate the anticipated audience;

24 ~~(d)~~ (iv) Reasonable arrangements are made to accommodate
 25 the public's right to attend, hear, and speak at the meeting,
 26 including seating, recordation by audio recording devices, and a
 27 reasonable opportunity for input such as public comment or
 1 questions to at least the same extent as would be provided if a
 2 telephone conference call was not used;

3 ~~(e)~~ (v) At least one copy of all documents being
 4 considered is available to the public at each site of the telephone
 5 conference call;

6 ~~(f)~~ (vi) At least one member of the governing body of the
 7 entity or pool is present at each site of the telephone conference
 8 call identified in the public notice;

9 ~~(g)~~ (vii) The telephone conference call lasts no more
 10 than one hour; and

11 ~~(h)~~ (viii) No more than one-half of the entity's or
 12 pool's meetings in a calendar year are held by telephone conference
 13 call.

14 (b) A meeting of the Nebraska Environmental Trust Board
 15 may be held by telephone conference call if:

16 (i) Reasonable advance publicized notice is given which
17 identifies each telephone conference location at which a member of
18 the board will be present;

19 (ii) All telephone conference meeting sites identified in
20 the notice are located within public buildings used by members of
21 the board or at a place which will accommodate the anticipated
22 audience;

23 (iii) Reasonable arrangements are made to accommodate the
24 public's right to attend, hear, and speak at the meeting, including
25 seating, recordation by audio recording devices, and a reasonable
26 opportunity for input such as public comment or questions to at
27 least the same extent as would be provided if a telephone
1 conference call were not used;

2 (iv) At least one copy of all documents being considered
3 is available to the public at each site of the telephone conference
4 call;

5 (v) At least one member of the board is present at each
6 site of the telephone conference call identified in the public
7 notice;

8 (vi) The telephone conference call lasts no more than one
9 hour; and

10 (h) No more than one-half of the board's meetings in a
11 calendar year are held by telephone conference call.

12 (c) Nothing in this subsection shall prevent the
13 participation of consultants, members of the press, and other
14 nonmembers of the governing body at sites not identified in the
15 public notice. Telephone conference calls shall not be used to
16 circumvent any of the public government purposes established in
17 sections 84-1408 to 84-1414.

18 (4) The secretary or other designee of each public body
19 shall maintain a list of the news media requesting notification of
20 meetings and shall make reasonable efforts to provide advance
21 notification to them of the time and place of each meeting and the
22 subjects to be discussed at that meeting.

23 (5) When it is necessary to hold an emergency meeting
24 without reasonable advance public notice, the nature of the
25 emergency shall be stated in the minutes and any formal action
26 taken in such meeting shall pertain only to the emergency. Such
27 emergency meetings may be held by means of electronic or
1 telecommunication equipment. The provisions of subsection (4) of
2 this section shall be complied with in conducting emergency
3 meetings. Complete minutes of such emergency meetings specifying
4 the nature of the emergency and any formal action taken at the
5 meeting shall be made available to the public by no later than the
6 end of the next regular business day.

7 (6) A public body may allow a member of the public or any
8 other witness other than a member of the public body to appear
9 before the public body by means of video or telecommunications
10 equipment."

11 2. Amend the repealer, renumber the remaining sections,
12 and correct internal references accordingly.

Senator Schrock filed the following amendment to LB 962:
AM2849

(Amendments to Standing Committee amendments, AM2733)

1 1. Insert the following new sections:
2 "Sec. 3. Section 2-3225, Reissue Revised Statutes of
3 Nebraska, is amended to read:
4 2-3225. Each district shall have the power and authority
5 to levy a tax of not to exceed four and one-half cents on each one
6 hundred dollars of taxable valuation annually on all of the taxable
7 property within such district unless a higher levy is authorized
8 pursuant to section 77-3444. Each district shall also have the
9 power and authority to levy a tax equal to the dollar amount by
10 which its budgeted expenditures to administer and implement ground
11 water management activities and integrated management activities
12 under the Nebraska Ground Water Management and Protection Act
13 exceed its budgeted expenditures to administer and implement ground
14 water management activities and integrated management activities
15 for FY2003-04, not to exceed one cent on each one hundred dollars
16 of taxable valuation annually on all of the taxable property within
17 the district. The proceeds of such tax shall be used, together
18 with any other funds which the district may receive from any
19 source, for the operation of the district. When adopted by the
20 board, the levy shall be certified by the secretary to the county
21 clerk of each county which in whole or in part is included within
22 the district. Such levy shall be handled by the counties in the
23 same manner as other levies, and proceeds shall be remitted to the
1 district treasurer. Such levy shall not be considered a part of
2 the general county levy and shall not be considered in connection
3 with any limitation on levies of such counties.
4 Sec. 4. Section 13-520, Revised Statutes Supplement,
5 2002, is amended to read:
6 13-520. The limitations in section 13-519 shall not
7 apply to (1) restricted funds budgeted for capital improvements,
8 (2) restricted funds expended from a qualified sinking fund for
9 acquisition or replacement of tangible personal property with a
10 useful life of five years or more, (3) restricted funds pledged to
11 retire bonded indebtedness, used by a public airport to retire
12 interest-free loans from the Department of Aeronautics in lieu of
13 bonded indebtedness at a lower cost to the public airport, or used
14 to pay other financial instruments that are approved and agreed to
15 before July 1, 1999, in the same manner as bonds by a governing
16 body created under section 35-501, (4) restricted funds budgeted in
17 support of a service which is the subject of an agreement or a
18 modification of an existing agreement whether operated by one of
19 the parties to the agreement or by an independent joint entity or
20 joint public agency, (5) restricted funds budgeted to pay for

21 repairs to infrastructure damaged by a natural disaster which is
 22 declared a disaster emergency pursuant to the Emergency Management
 23 Act, ~~or~~ (6) restricted funds budgeted to pay for judgments, except
 24 judgments or orders from the Commission of Industrial Relations,
 25 obtained against a governmental unit which require or obligate a
 26 governmental unit to pay such judgment, to the extent such judgment
 27 is not paid by liability insurance coverage of a governmental unit,
 1 or (7) the dollar amount by which restricted funds budgeted by a
 2 natural resources district to administer and implement ground water
 3 management activities and integrated management activities under
 4 the Nebraska Ground Water Management and Protection Act exceed its
 5 budgeted expenditures to administer and implement ground water
 6 management activities and integrated management activities for
 7 FY2003-04.

8 Sec. 91. (1) The Water Resources Trust Fund is created.
 9 The State Treasurer shall credit to the fund such money as is
 10 specifically appropriated thereto by the Legislature and such
 11 funds, fees, donations, gifts, or bequests received by the
 12 Department of Natural Resources from any federal, state, public, or
 13 private source for expenditure for the purposes described in the
 14 Nebraska Ground Water Management and Protection Act. Money in the
 15 fund shall not be subject to any fiscal-year limitation or lapse
 16 provision of unexpended balance at the end of any fiscal year or
 17 biennium. Any money in the fund available for investment shall be
 18 invested by the state investment officer pursuant to the Nebraska
 19 Capital Expansion Act and the Nebraska State Funds Investment Act.

20 (2) The fund shall be administered by the department.
 21 The department shall adopt and promulgate rules and regulations
 22 regarding the allocation and expenditure of money from the fund.

23 (3) Money in the fund may be expended by the department
 24 for costs incurred by the department, by natural resources
 25 districts, or by other political subdivisions in (a) determining
 26 whether river basins, subbasins, or reaches are fully appropriated
 27 in accordance with section 51 of this act, (b) developing or
 1 implementing integrated management plans for such fully
 2 appropriated river basins, subbasins, or reaches or for river
 3 basins, subbasins, or reaches designated as over-appropriated in
 4 accordance with section 51 of this act, (c) developing or
 5 implementing integrated management plans in river basins,
 6 subbasins, or reaches which have not yet become either fully
 7 appropriated or over-appropriated, or (d) attaining state
 8 compliance with an interstate water compact or decree or other
 9 formal state contract or agreement.

10 (4) Except for funds paid to a political subdivision for
 11 forgoing or reducing its own water use or for implementing projects
 12 or programs intended to aid the state in complying with an
 13 interstate water compact or decree or other formal state contract
 14 or agreement, a political subdivision that receives funds from the
 15 fund shall provide, or cause to be provided, matching funds in an

16 amount at least equal to twenty percent of the amount received from
17 the fund by that natural resources district or political
18 subdivision. The department shall monitor programs and activities
19 funded by the fund to ensure that the required match is being
20 provided.

21 Sec. 102. Section 77-3442, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-3442. (1) Property tax levies for the support of
24 local governments for fiscal years beginning on or after July 1,
25 1998, shall be limited to the amounts set forth in this section
26 except as provided in section 77-3444.

27 (2)(a) Except as provided in subdivision (2)(b) of this
1 section, school districts and multiple-district school systems may
2 levy a maximum levy of (i) one dollar and five cents per one
3 hundred dollars of taxable valuation of property subject to the
4 levy for fiscal years 2003-04 and 2004-05 and (ii) one dollar per
5 one hundred dollars of taxable valuation of property subject to the
6 levy for all fiscal years except fiscal years 2003-04 and 2004-05.
7 Excluded from this limitation are amounts levied to pay for sums
8 agreed to be paid by a school district to certificated employees in
9 exchange for a voluntary termination of employment and amounts
10 levied to pay for special building funds and sinking funds
11 established for projects commenced prior to April 1, 1996, for
12 construction, expansion, or alteration of school district
13 buildings. For purposes of this subsection, commenced means any
14 action taken by the school board on the record which commits the
15 board to expend district funds in planning, constructing, or
16 carrying out the project.

17 (b) Federal aid school districts may exceed the maximum
18 levy prescribed by subdivision (2)(a) of this section only to the
19 extent necessary to qualify to receive federal aid pursuant to
20 Title VIII of Public Law 103-382, as such title existed on
21 September 1, 2001. For purposes of this subdivision, federal aid
22 school district means any school district which receives ten
23 percent or more of the revenue for its general fund budget from
24 federal government sources pursuant to Title VIII of Public Law
25 103-382, as such title existed on September 1, 2001.

26 (c) Beginning with school fiscal year 2002-03 through
27 school fiscal year 2004-05, school districts and multiple-district
1 school systems may, upon a three-fourths majority vote of the
2 school board of the school district, the board of the unified
3 system, or the school board of the high school district of the
4 multiple-district school system that is not a unified system,
5 exceed the maximum levy prescribed by subdivision (2)(a) of this
6 section in an amount equal to the net difference between the amount
7 of state aid that would have been provided under the Tax Equity and
8 Educational Opportunities Support Act without the changes made by
9 Laws 2002, LB 898, for the ensuing school fiscal year for the
10 school district or multiple-district school system and the amount

11 provided under the act as amended by Laws 2002, LB 898. The State
12 Department of Education shall certify to the school districts and
13 multiple-district school systems the amount by which the maximum
14 levy may be exceeded pursuant to subdivision (2)(c) of this section
15 on or before May 15, 2002, for school fiscal year 2002-03, June 30,
16 2003, for school fiscal year 2003-04, and February 15, 2004, for
17 school fiscal year 2004-05.

18 (3) Community colleges may levy a maximum levy on each
19 one hundred dollars of taxable property subject to the levy of
20 seven cents for fiscal year 2000-01 and each fiscal year
21 thereafter, plus amounts allowed under subsection (7) of section
22 85-1536.01.

23 (4) Natural resources districts may levy a maximum levy
24 of four and one-half cents per one hundred dollars of taxable
25 valuation of property subject to the levy. Natural resources
26 districts shall also have the power and authority to levy a tax
27 equal to the dollar amount by which their budgeted expenditures to
1 administer and implement ground water management activities and
2 integrated management activities under the Nebraska Ground Water
3 Management and Protection Act exceed their budgeted expenditures to
4 administer and implement ground water management activities and
5 integrated management activities for FY2003-04, not to exceed one
6 cent on each one hundred dollars of taxable valuation annually on
7 all of the taxable property within the district.

8 (5) Educational service units may levy a maximum levy of
9 one and one-half cents per one hundred dollars of taxable valuation
10 of property subject to the levy.

11 (6)(a) Incorporated cities and villages which are not
12 within the boundaries of a municipal county may levy a maximum levy
13 of forty-five cents per one hundred dollars of taxable valuation of
14 property subject to the levy plus an additional five cents per one
15 hundred dollars of taxable valuation to provide financing for the
16 municipality's share of revenue required under an agreement or
17 agreements executed pursuant to the Interlocal Cooperation Act or
18 the Joint Public Agency Act. The maximum levy shall include
19 amounts levied to pay for sums to support a library pursuant to
20 section 51-201, museum pursuant to section 51-501, visiting
21 community nurse, home health nurse, or home health agency pursuant
22 to section 71-1637, or statue, memorial, or monument pursuant to
23 section 80-202.

24 (b) Incorporated cities and villages which are within the
25 boundaries of a municipal county may levy a maximum levy of ninety
26 cents per one hundred dollars of taxable valuation of property
27 subject to the levy. The maximum levy shall include amounts paid
1 to a municipal county for county services, amounts levied to pay
2 for sums to support a library pursuant to section 51-201, a museum
3 pursuant to section 51-501, a visiting community nurse, home health
4 nurse, or home health agency pursuant to section 71-1637, or a
5 statue, memorial, or monument pursuant to section 80-202.

6 (7) Sanitary and improvement districts which have been in
7 existence for more than five years may levy a maximum levy of forty
8 cents per one hundred dollars of taxable valuation of property
9 subject to the levy, and sanitary and improvement districts which
10 have been in existence for five years or less shall not have a
11 maximum levy. Unconsolidated sanitary and improvement districts
12 which have been in existence for more than five years and are
13 located in a municipal county may levy a maximum of eighty-five
14 cents per hundred dollars of taxable valuation of property subject
15 to the levy.

16 (8) Counties may levy or authorize a maximum levy of
17 fifty cents per one hundred dollars of taxable valuation of
18 property subject to the levy, except that five cents per one
19 hundred dollars of taxable valuation of property subject to the
20 levy may only be levied to provide financing for the county's share
21 of revenue required under an agreement or agreements executed
22 pursuant to the Interlocal Cooperation Act or the Joint Public
23 Agency Act. The maximum levy shall include amounts levied to pay
24 for sums to support a library pursuant to section 51-201 or museum
25 pursuant to section 51-501. The county may allocate up to fifteen
26 cents of its authority to other political subdivisions subject to
27 allocation of property tax authority under subsection (1) of
1 section 77-3443 and not specifically covered in this section to
2 levy taxes as authorized by law which do not collectively exceed
3 fifteen cents per one hundred dollars of taxable valuation on any
4 parcel or item of taxable property. The county may allocate to one
5 or more other political subdivisions subject to allocation of
6 property tax authority by the county under subsection (1) of
7 section 77-3443 some or all of the county's five cents per one
8 hundred dollars of valuation authorized for support of an agreement
9 or agreements to be levied by the political subdivision for the
10 purpose of supporting that political subdivision's share of revenue
11 required under an agreement or agreements executed pursuant to the
12 Interlocal Cooperation Act or the Joint Public Agency Act. If an
13 allocation by a county would cause another county to exceed its
14 levy authority under this section, the second county may exceed the
15 levy authority in order to levy the amount allocated.

16 (9) Municipal counties may levy or authorize a maximum
17 levy of one dollar per one hundred dollars of taxable valuation of
18 property subject to the levy. The municipal county may allocate
19 levy authority to any political subdivision or entity subject to
20 allocation under section 77-3443.

21 (10) Property tax levies for judgments, except judgments
22 or orders from the Commission of Industrial Relations, obtained
23 against a political subdivision which require or obligate a
24 political subdivision to pay such judgment, to the extent such
25 judgment is not paid by liability insurance coverage of a political
26 subdivision, for preexisting lease-purchase contracts approved
27 prior to July 1, 1998, for bonded indebtedness approved according

1 to law and secured by a levy on property, and for payments by a
 2 public airport to retire interest-free loans from the Department of
 3 Aeronautics in lieu of bonded indebtedness at a lower cost to the
 4 public airport are not included in the levy limits established by
 5 this section.

6 (11) The limitations on tax levies provided in this
 7 section are to include all other general or special levies provided
 8 by law. Notwithstanding other provisions of law, the only
 9 exceptions to the limits in this section are those provided by or
 10 authorized by sections 77-3442 to 77-3444.

11 (12) Tax levies in excess of the limitations in this
 12 section shall be considered unauthorized levies under section
 13 77-1606 unless approved under section 77-3444.

14 (13) For purposes of sections 77-3442 to 77-3444,
 15 political subdivision means a political subdivision of this state
 16 and a county agricultural society.

17 Sec. 104. Sections 3, 4, 102, and 106 become operative
 18 July 1, 2004. This section and sections 105 and 109 become
 19 operative on their effective date. The other sections of this act
 20 become operative three calendar months after adjournment of this
 21 legislative session.

22 Sec. 106. Original sections 2-3225 and 77-3442, Reissue
 23 Revised Statutes of Nebraska, and section 13-520, Revised Statutes
 24 Supplement, 2002, are repealed.

25 Sec. 109. Since an emergency exists, this act takes
 26 effect when passed and approved according to law."

27 2. On page 62, line 11, strike "37 to 88" and insert "39
 1 to 91".

2 3. Renumber the remaining sections and correct internal
 3 references accordingly.

Senator Erdman filed the following amendment to LB 962:
 AM2850

(Amendments to Standing Committee amendments, AM2733)

1 1. On page 133, line 24, strike "a transfer for which a
 2 permit has" and insert "transfers for which permits have" and in
 3 line 26 after "act" insert "or pursuant to the Municipal and Rural
 4 Domestic Ground Water Transfers Permit Act".

5 2. On page 136, strike lines 10 through 13, show as
 6 stricken, and insert "Except as otherwise provided in this section,
 7 if the district adopts different controls for different categories
 8 of ground water use, those controls shall be consistent with
 9 section 46-613 and shall, for each such category, be uniform for
 10 all portions of the area which have substantially similar climatic,
 11 hydrologic, geologic, and soil conditions.".

Senator Connealy filed the following amendment to LB 879:
 AM2640

1 1. On page 4, line 11, strike "forty" and insert

2 "twenty-five".

Senator Vrtiska filed the following amendment to LB 838:
AM2718

- 1 1. Insert the following new sections:
- 2 "Sec. 3. (1) The Department of Motor Vehicles shall
- 3 design license plates to be known as Shriners Plates. The plates
- 4 shall include an inscription which includes a facsimile of the
- 5 Shriner emblems and across the bottom of the design the words
- 6 Shriners Help Children. The design shall be selected on the basis
- 7 of (a) enhancing the marketability of the plates and (b) limiting
- 8 the manufacturing cost of each plate to an amount less than or
- 9 equal to the amount charged for license plates pursuant to
- 10 subsection (5) of section 60-311. The department shall make
- 11 applications available for each type of plate when it is designed.
- 12 The department may adopt and promulgate rules and regulations to
- 13 carry out this section and section 4 of this act.
- 14 (2) One type of Shriners Plates shall be consecutively
- 15 numbered plates. The department shall:
- 16 (a) Number the plates consecutively beginning with the
- 17 number one, using numerals the size of which maximizes legibility
- 18 and limiting the numerals to five characters or less; and
- 19 (b) Not use a county designation or any characters other
- 20 than numbers on the plates.
- 21 (3) One type of Shriners Plates shall be personalized
- 22 message plates. Such plates shall be issued subject to the same
- 23 conditions specified for message plates in subsection (2) of
- 24 section 60-311.11, except that a maximum of five characters may be
- 1 used.
- 2 Sec. 4. (1) A person may apply to the Department of
- 3 Motor Vehicles for Shriners Plates in lieu of regular license
- 4 plates on an application prescribed and provided by the department
- 5 for any passenger vehicle, farm truck, self-propelled mobile home,
- 6 cabin trailer, or commercial truck registered for ten tons gross
- 7 weight or less pursuant to section 60-302. An applicant receiving
- 8 a Shriners Plate for a farm truck with a gross weight of over
- 9 sixteen tons or for a commercial truck or truck-tractor registered
- 10 for a gross weight of five tons or over shall affix the appropriate
- 11 tonnage sticker to the plate. The department shall make forms
- 12 available for such applications through the county treasurers or
- 13 designated county officials as provided in section 60-302.
- 14 (2)(a) Each application for initial issuance of
- 15 consecutively numbered Shriners Plates shall be accompanied by a
- 16 fee of fifteen dollars. An application for renewal of such plates
- 17 shall be accompanied by a fee of fifteen dollars. County
- 18 treasurers or designated county officials collecting fees for
- 19 renewals pursuant to this subdivision shall remit them to the State
- 20 Treasurer. The State Treasurer shall credit the fees for initial
- 21 issuance and renewal of such plates to the Department of Motor

22 Vehicles Cash Fund.

23 (b) Each application for initial issuance of personalized
 24 message Shriners Plates shall be accompanied by a fee of forty
 25 dollars. An application for renewal of such plates shall be
 26 accompanied by a fee of forty dollars. County treasurers or
 27 designated county officials collecting fees for renewals pursuant
 1 to this subdivision shall remit them to the State Treasurer. The
 2 State Treasurer shall credit the fees for initial issuance and
 3 renewal of such plates to the Department of Motor Vehicles Cash
 4 Fund.

5 (3) When the department receives an application for
 6 Shriners Plates which are authorized to be manufactured pursuant to
 7 section 3 of this act, the department shall deliver the plates to
 8 the county treasurer or designated county official of the county in
 9 which the vehicle is registered. The county treasurer or
 10 designated county official shall issue Shriners Plates in lieu of
 11 regular license plates when the applicant complies with the other
 12 provisions of law for registration of the vehicle. If Shriners
 13 Plates are lost, stolen, or mutilated, the licensee shall be issued
 14 replacement plates pursuant to section 60-324.

15 (4)(a) The owner of a vehicle bearing Shriners Plates may
 16 make application to the county treasurer or designated county
 17 official as provided in section 60-302 to have such plates
 18 transferred to a motor vehicle other than the vehicle for which
 19 such plates were originally purchased if such vehicle is owned by
 20 the owner of the plates.

21 (b) The owner may have the unused portion of the fee for
 22 the Shriners Plates credited to the other vehicle which will bear
 23 the plates at the rate of eight and one-third percent per month for
 24 each full month left in the registration period.

25 (c) Application for such transfer shall be accompanied by
 26 a fee of three dollars. Fees collected pursuant to this subsection
 27 shall be remitted to the State Treasurer for credit to the
 1 Department of Motor Vehicles Cash Fund.

2 (5) If the cost of manufacturing Shriners Plates at any
 3 time exceeds the amount charged for license plates pursuant to
 4 subsection (5) of section 60-311, any money to be credited to the
 5 Department of Motor Vehicles Cash Fund shall instead be credited
 6 first to the Highway Trust Fund in an amount equal to the
 7 difference between the manufacturing costs of Shriners Plates and
 8 the amount charged pursuant to subsection (5) of section 60-311
 9 with respect to such plates and the remainder shall be credited to
 10 the Department of Motor Vehicles Cash Fund."

11 2. On page 6, line 25; page 9, line 23; and page 11,
 12 line 18, strike "section 2" and insert "sections 2 and 4".

13 3. Renumber the remaining sections accordingly.

Senator Landis filed the following amendment to LB 962:
 AM2857

(Amendments to AM2785)

- 1 1. Insert the following new section:
- 2 "Sec. 101. Section 81-15,174, Revised Statutes
- 3 Supplement, 2003, is amended to read:
- 4 81-15,174. The Nebraska Environmental Trust Fund is
- 5 created. The fund shall be maintained in the state accounting
- 6 system as a cash fund. Except as otherwise provided in this
- 7 section, the fund shall be used to carry out the purposes of the
- 8 Nebraska Environmental Trust Act, including the payment of
- 9 administrative costs. The Legislature shall not divert money from
- 10 the Nebraska Environmental Trust Fund except upon a finding by the
- 11 Legislative Performance Audit Section of the Legislative Research
- 12 Division that the purposes and procedures outlined in the Nebraska
- 13 Environmental Trust Act are not being substantially accomplished by
- 14 the fund. Money in the fund shall include proceeds credited
- 15 pursuant to section 9-812 and proceeds designated by the board
- 16 pursuant to section 81-15,173. Any money in the fund available for
- 17 investment shall be invested by the state investment officer
- 18 pursuant to the Nebraska Capital Expansion Act and the Nebraska
- 19 State Funds Investment Act.
- 20 ~~The State Treasurer shall transfer nine hundred~~
- 21 ~~twenty five thousand dollars from the Nebraska Environmental Trust~~
- 22 ~~Fund to the Department of Natural Resources Water Issues Cash Fund,~~
- 23 ~~as administratively created pursuant to section 81-1111.04, on or~~
- 1 ~~after July 1, 2003, but no later than July 10, 2003."~~
- 2 2. Renumber the remaining sections, amend the repealer,
- 3 and correct internal references accordingly.

Senator Landis filed the following amendment to LB 1065:
AM2845

(Amendments to Standing Committee amendments, AM2644)

- 1 1. Insert the following new section:
- 2 "Sec. 17. Section 77-4103, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 77-4103. For purposes of the Employment and Investment
- 5 Growth Act, unless the context otherwise requires:
- 6 (1) Any term shall have the same meaning as used in
- 7 Chapter 77, article 27;
- 8 (2) Base year shall mean the year immediately preceding
- 9 the year during which the application was submitted;
- 10 (3) Base-year employee shall mean any individual who was
- 11 employed in Nebraska and subject to the Nebraska income tax on
- 12 compensation received from the taxpayer or its predecessors during
- 13 the base year and who is employed at the project;
- 14 (4) Compensation shall mean the wages and other payments
- 15 subject to withholding for federal income tax purposes;
- 16 (5) Entitlement period shall mean the year during which
- 17 the required increases in employment and investment were met or
- 18 exceeded, and the next six years;

19 (6) Equivalent employees shall mean the number of
20 employees computed by dividing the total hours paid in a year by
21 the product of forty times the number of weeks in a year;

22 (7) Investment shall mean the value of qualified property
23 incorporated into or used at the project. For qualified property
1 owned by the taxpayer, the value shall be the original cost of the
2 property. For qualified property rented by the taxpayer, the
3 average net annual rent shall be multiplied by the number of years
4 of the lease for which the taxpayer was originally bound, not to
5 exceed ten years or the end of the third year after the entitlement
6 period, whichever is earlier. The rental of land included in and
7 incidental to the leasing of a building shall not be excluded from
8 the computation;

9 (8) Motor vehicle shall mean any motor vehicle, trailer,
10 or semitrailer as defined in section 60-301 and subject to
11 licensing for operation on the highways;

12 (9) Nebraska employee shall mean an individual who is
13 either a resident or partial-year resident of Nebraska;

14 (10) Number of new employees shall mean the excess of the
15 number of equivalent employees employed at the project during a
16 year over the number of equivalent employees during the base year;

17 (11) Qualified business shall mean any business engaged
18 in the activities listed in subdivisions (b)(i) through (v) of this
19 subdivision or in the storage, warehousing, distribution,
20 transportation, or sale of tangible personal property. Qualified
21 business shall not include any business activity in which eighty
22 percent or more of the total sales are sales to the ultimate
23 consumer of food prepared for immediate consumption or are sales to
24 the ultimate consumer of tangible personal property which is not
25 (a) assembled, fabricated, manufactured, or processed by the
26 taxpayer or (b) used by the purchaser in any of the following
27 activities:

1 (i) The conducting of research, development, or testing
2 for scientific, agricultural, animal husbandry, food product, or
3 industrial purposes;

4 (ii) The performance of data processing,
5 telecommunication, insurance, or financial services. Financial
6 services for purposes of this subdivision shall only include
7 financial services provided by any financial institution subject to
8 tax under Chapter 77, article 38, or any person or entity licensed
9 by the Department of Banking and Finance or the Securities and
10 Exchange Commission;

11 (iii) The assembly, fabrication, manufacture, or
12 processing of tangible personal property;

13 (iv) The administrative management of any activities,
14 including headquarter facilities relating to such activities; or

15 (v) Any combination of the activities listed in this
16 subdivision;

17 (12) Qualified employee leasing company shall mean a

18 company which places all employees of a client-lessee on its
 19 payroll and leases such employees to the client-lessee on an
 20 ongoing basis for a fee and, by written agreement between the
 21 employee leasing company and a client-lessee, grants to the
 22 client-lessee input into the hiring and firing of the employees
 23 leased to the client-lessee;

24 (13) Qualified property shall mean any tangible property
 25 of a type subject to depreciation, amortization, or other recovery
 26 under the Internal Revenue Code of 1986, or the components of such
 27 property, that will be located and used at the project. Qualified
 1 property shall not include (a) aircraft, barges, motor vehicles,
 2 railroad rolling stock, or watercraft or (b) property that is
 3 rented by the taxpayer qualifying under the Employment and
 4 Investment Growth Act to another person;

5 (14) Related persons shall mean any corporations,
 6 partnerships, limited liability companies, or joint ventures which
 7 are or would otherwise be members of the same unitary group, if
 8 incorporated, or any persons who are considered to be related
 9 persons under either section 267(b) and (c) or section 707(b) of
 10 the Internal Revenue Code of 1986;

11 (15) Taxpayer shall mean any person subject to the sales
 12 and use taxes and either an income tax imposed by the Nebraska
 13 Revenue Act of 1967 or a franchise tax under sections 77-3801 to
 14 77-3807, any corporation, partnership, limited liability company,
 15 or joint venture that is or would otherwise be a member of the same
 16 unitary group, if incorporated, which is, or whose partners,
 17 members, or owners representing an ownership interest of at least
 18 ninety percent of such entity are, subject to such taxes, and any
 19 other partnership, limited liability company, S corporation, or
 20 joint venture when the partners, shareholders, or members
 21 representing an ownership interest of at least ninety percent of
 22 such entity are subject to such taxes; and

23 (16) Year shall mean the taxable year of the taxpayer.
 24 The changes made in this section by Laws 1997, LB 264,
 25 apply to investments made or employment on or after January 1,
 26 1997, and for all agreements in effect on or after January 1,
 27 1997."

1 2. Renumber the remaining sections accordingly.

Senator Beutler filed the following amendment to LB 962:
 AM2862

(Amendments to Standing Committee amendments, AM2733)

1 1. Insert the following new section:

2 "Sec. 97. (1) In addition to any other fees required by
 3 law, the Department of Natural Resources shall collect the
 4 following annual registration fees:

5 (a) For water wells used for irrigation as defined in
 6 rules and regulations of the department, for industrial purposes as
 7 defined in section 46-677, and for aquaculture as defined in

8 section 2-3804.01, fifty dollars; and
 9 (b) For water wells used by a public water supplier as
 10 defined in section 46-638 and for owners of a surface water
 11 appropriation, an amount equal to the total annual water used
 12 divided by the amount of water required to provide one and one-half
 13 acre-feet of water to one hundred thirty acres annually, multiplied
 14 by fifty dollars.
 15 (2) The fees required by this section are due September 1
 16 for each registered active water well of the types listed in
 17 subsection (1) of this section and each surface water appropriation
 18 in use during any part of the previous calendar year. Any water
 19 well or surface water appropriation for which such fee remains
 20 unpaid thirty days or more after the due date is subject to an
 21 additional late fee of twenty-five dollars per month or portion
 22 thereof for which the fee required pursuant to such subsection
 23 remains unpaid. The department may waive all or part of such late
 1 fee in the interest of fairness as the department determines."
 2 2. Renumber the remaining sections and correct internal
 3 references accordingly.

Senator Chambers filed the following amendment to LB 962:

FA1517

Amend FA1502

On page 1, in line 10 strike and show as stricken "Nebraska's" and insert "the state's"; in line 17 strike and show as stricken "this" and insert "the"; in lines 20 and 21 strike and show as stricken "of the State of Nebraska"; in line 21 strike and show as stricken "financially assist" and insert "provide financial assistance to".

VISITORS

Visitors to the Chamber were 50 students from St. Joseph Catholic School and Cedar Public School, Beatrice; and Jim Frager from Fairbury.

The Doctor of the Day was Dr. Rick Gustafson from Lincoln.

ADJOURNMENT

At 4:00 p.m., on a motion by Senator Wehrbein, the Legislature adjourned until 9:00 a.m., Wednesday, March 3, 2004.

Patrick J. O'Donnell
 Clerk of the Legislature

THIRTY-FIFTH DAY - MARCH 3, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 3, 2004

PRAYER

The prayer was offered by Pastor Ruth Henderson, Brownville and Nemaha United Methodist Churches, Brownville.

ROLL CALL

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

The roll was called and all members were present except Senator Johnson who was excused; and Senators Brashear, Brown, Byars, Cunningham, Janssen, Landis, Maxwell, McDonald, Mines, Quandahl, Schimek, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-fourth day was approved.

**STANDING COMMITTEE REPORTS
Education**

LEGISLATIVE BILL 1048. Placed on General File as amended.
Standing Committee amendment to LB 1048:
AM2851

- 1 1. Strike original sections 1 and 2 and insert the
- 2 following new sections:
- 3 "Section 1. (1) On or before September 1, 2004, the
- 4 secretary of the school board of each Class I school district shall
- 5 certify to each Class II, III, IV, and VI school district with
- 6 which territory within the boundaries of the Class I school
- 7 district is affiliated or of which territory within such boundaries
- 8 is a part:
- 9 (a) A statement of the highest grade offered by the Class
- 10 I school district; and
- 11 (b) A list of the former students of the Class I school
- 12 district who in school year 2000-01, 2001-02, or 2002-03 completed

13 the highest grade offered by the Class I school district.
14 (2) On or before October 1, 2004, the superintendent of
15 each Class II, III, IV, or VI school district receiving such list
16 of students shall certify to the Class I school district a modified
17 list specifying:
18 (a) The students, if any, who appear on the list provided
19 by the Class I school district pursuant to subsection (1) of this
20 section and who were enrolled in such Class II, III, IV, or VI
21 school district for any part of school year 2001-02, 2002-03, or
22 2003-04; and
23 (b) Additional students, if any, who were residents of
24 the Class I school district but who completed the highest grade
1 offered by the Class I school district as an enrollment option
2 student in the Class II, III, IV, or VI school district in school
3 year 2000-01, 2001-02, or 2002-03.
4 (3) The secretary of the school board of each Class I
5 school district shall determine a membership percentage for each
6 Class II, III, IV, or VI school district with which territory
7 within the boundaries of the Class I school district is affiliated
8 or of which territory within such boundaries is a part by dividing
9 the number of students specified by the Class II, III, IV, or VI
10 school district pursuant to subsection (2) of this section by the
11 total number of students specified by all Class II, III, IV, or VI
12 school districts with which territory within the boundaries of the
13 Class I school district is affiliated or of which territory within
14 such boundaries is a part. If a Class II, III, IV, or VI school
15 district fails to provide the modified list required pursuant to
16 subsection (2) of this section to a Class I school district on or
17 before October 1, 2004, such Class II, III, IV, or VI school
18 district shall be deemed to have had no such students to specify
19 pursuant to subsection (2) of this section and shall have a
20 membership percentage of zero percent.
21 (4) On or before November 1, 2004, the secretary of the
22 school board of each Class I school district shall certify to the
23 State Committee for the Reorganization of School Districts and to
24 each Class II, III, IV, or VI school districts with which territory
25 within the boundaries of the Class I school district is affiliated
26 or of which territory within such boundaries is a part a list of
27 all membership percentages calculated by the Class I school
1 district pursuant to subsection (3) of this section.
2 (5) The grades offered at an elementary attendance center
3 shall include any grade for which a student could enroll and
4 receive education at the elementary attendance center for the
5 specified school year.
6 Sec. 2. (1) Notwithstanding the provisions of any
7 affiliation agreements entered into by Class I school districts
8 prior to the operative date of this section, on or before December
9 1, 2004, the State Committee for the Reorganization of School
10 Districts shall enter an order dissolving any Class I school

11 district that does not comply with the requirements of subsection
12 (4) of section 1 of this act and attaching the territory of such
13 district to the Class II, III, IV, or VI school district with which
14 the territory is affiliated or of which the territory is a part.
15 The assets and liabilities of such district, except bonded
16 indebtedness as provided in subsection (2) of this section, shall
17 be distributed among the Class II, III, IV, or VI school districts
18 to which the territory has been attached in proportion to the
19 taxable valuation of the territory attached to such Class II, III,
20 IV, or VI school district.

21 (2) The territory obligated for the bonded indebtedness
22 of any Class I, II, III, IV, or VI school district approved prior
23 to June 15, 2005, shall not change as a result of an order issued
24 pursuant to this section.

25 (3) The State Committee for the Reorganization of School
26 Districts is not required to conduct public hearings prior to
27 issuing orders pursuant to this section.

1 (4) The effective date for all orders pursuant to this
2 section shall be June 15, 2005.

3 (5) The elementary attendance center for any Class I
4 school district dissolved pursuant to this section shall not be
5 subject to the provisions of section 35 of this act.

6 (6) For purposes of this section, to attach territory of
7 a Class I district dissolved pursuant to this section to a Class VI
8 district with which the territory is a part means to include the
9 territory in the new Class II or Class III school district formed
10 from the Class VI school district pursuant to subsection (5) of
11 section 3 of this act.

12 Sec. 3. (1) Notwithstanding the provisions of any
13 affiliation agreements entered into by Class I school districts
14 prior to the operative date of this section, the State Committee
15 for the Reorganization of School Districts shall issue orders, on
16 or before December 1, 2004, which dissolve and attach the territory
17 of each Class I school district, except as provided in section 2 of
18 this act, to one or more Class II, III, IV, or VI school districts
19 pursuant to one of the methods contained in subsection (3) of this
20 section. To attach territory of a Class I district dissolved
21 pursuant to this section to a Class VI district of which the
22 territory is a part means to include the territory in the Class II
23 or Class III school district formed from the Class VI school
24 district pursuant to subsection (5) of this section.

25 (2) On or before October 1, 2004, each Class I school
26 board may hold a public hearing regarding the dissolution of the
27 Class I school district and its attachment to one or more Class II,
1 III, IV, or VI school districts. On or before November 1, 2004,
2 each Class I school board that held a hearing pursuant to this
3 subsection may file with the State Committee for the Reorganization
4 of School Districts a statement of commitment to attach all of the
5 territory of the Class I district to one or more Class II, III, IV,

6 or VI school districts. Valid statements of commitment shall:

7 (a) Specify the Class II, III, IV, and VI school
8 districts to which the territory of the Class I school district
9 will be attached and the territory to be attached to each specified
10 school district; and

11 (b) Be approved by a majority of the members of the
12 school boards of: (i) The Class I school district; (ii) all Class
13 II, III, or IV school districts with which territory of the Class I
14 school district is affiliated; (iii) all Class VI school districts
15 of which territory of the Class I school district is a part; and
16 (iv) all Class II, III, IV, or VI school districts which will
17 receive territory from the Class I school district.

18 On or before September 1, 2004, the State Department of
19 Education may prescribe the form and required contents for
20 statements of commitment consistent with the requirements of this
21 subsection.

22 (3) Orders issued pursuant to subsection (1) of this
23 section shall dissolve each Class I school district and attach its
24 territory of as follows:

25 (a) If a valid statement of commitment was filed on or
26 before November 1, 2004, the territory of the Class I school
27 district shall be attached to one or more Class II, III, IV, or VI
1 school districts according to the statement of commitment;

2 (b) If a valid statement of commitment was not filed on
3 or before November 1, 2004, and the primary high school district
4 for the Class I school district as designated for school year
5 2004-05 pursuant to section 79-1083.02 has a membership percentage
6 of at least fifty percent as certified pursuant to subsection (4)
7 of section 1 of this act, the territory of the Class I school
8 district shall be attached to the Class II, III, IV, or VI school
9 district with which the territory is affiliated or a part; or

10 (c) If a valid statement of commitment was not filed on
11 or before November 1, 2004, and the primary high school district
12 for the Class I school district does not have a membership
13 percentage of at least fifty percent as certified pursuant to
14 subsection (4) of section 1 of this act:

15 (i) The territory of the Class I school district that is
16 affiliated with or a part of a Class II, III, IV, or VI school
17 district that has a membership percentage of at least twenty
18 percent shall be attached to such Class II, III, IV, or VI school
19 district; and

20 (ii) The territory of the Class I school district that is
21 affiliated with or a part of a Class II, III, IV, or VI school
22 district that has a membership percentage that is not at least
23 twenty percent shall be attached to the Class II, III, IV, or VI
24 school district which has the largest membership percentage for the
25 Class I school district.

26 (4) Orders issued pursuant to subsection (1) of this
27 section shall transfer all assets and liabilities of each Class I

- 1 school district, except bonded indebtedness as provided in
2 subsection (6) of this section, as follows:
- 3 (a) If the territory of the Class I school district is
4 attached pursuant to subdivision (3)(a) of this section, the assets
5 and liabilities of the Class I school district shall be transferred
6 to the Class II, III, IV, or VI school district which will receive
7 the largest percentage of the taxable valuation of the territory of
8 the Class I school district;
- 9 (b) If the territory of the Class I school district is
10 attached pursuant to subdivision (3)(b) of this section, the assets
11 and liabilities of the Class I school district shall be transferred
12 to the primary high school district as designated for school fiscal
13 year 2004-05 pursuant to section 79-1083.02; and
- 14 (c) If the territory of the Class I school district is
15 attached pursuant to subdivision (3)(c) of this section, the assets
16 and liabilities of the Class I school district shall be transferred
17 to the Class II, III, IV, or VI school district with the largest
18 membership percentage certified pursuant to subsection (4) of
19 section 1 of this act.
- 20 (5) On or before December 1, 2004, the State Committee
21 for the Reorganization of School Districts shall issue orders
22 classifying each Class VI school district into a new Class II or
23 Class III school district as defined in section 79-102. The
24 territory of Class I school districts ordered to be attached to a
25 Class VI school district pursuant to this section shall be attached
26 to the new Class II or Class III school district created from such
27 Class VI school district pursuant to this subsection. The existing
1 school board members of each Class VI school district as of June
2 15, 2005, shall continue as the school board members for the new
3 Class II or Class III school district created from such Class VI
4 school district until their terms expire and their successors are
5 elected and qualified.
- 6 (6) The territory obligated for the bonded indebtedness
7 of any Class I, II, III, IV, or VI school district approved by
8 legal voters prior to June 15, 2005, shall not change as a result
9 of an order issued pursuant to this section.
- 10 (7) The effective date for all orders pursuant to this
11 section shall be June 15, 2005.
- 12 (8) The State Committee for the Reorganization of School
13 Districts shall not be required to conduct public hearings prior to
14 issuing orders pursuant to this section.
- 15 Sec. 35. (1) Beginning June 15, 2005, the school board
16 of any Class II, III, IV, or V school district shall not take
17 action to close an elementary attendance center or to change the
18 elementary grades offered at an elementary attendance center if:
- 19 (a) The fall membership of the elementary attendance
20 center for the school year immediately preceding the first school
21 year in which the elementary attendance center would be closed or
22 the grades offered would be changed included a total number of

23 resident students that was at least two and one-half times the
24 number of grades offered at the elementary attendance center for
25 the school year in which the fall membership was measured; and
26 (b) The elementary attendance center is at least ten
27 miles from another elementary attendance center within the district
1 on a highway as defined in section 60-624 or the elementary
2 attendance center is the only elementary attendance center located
3 within the boundaries of an incorporated city or village.
4 (2) For elementary attendance centers not subject to
5 subsection (1) of this section, from June 15, 2005, until July 1,
6 2009, the school board of any Class II, III, IV, or V school
7 district shall not take action to close an elementary attendance
8 center or to change the grades offered at an elementary attendance
9 center without the approval of at least seventy-five percent of the
10 school board of the Class II, III, IV, or V school district if:
11 (a) The fall membership of the elementary attendance
12 center for the school year immediately preceding the first school
13 year in which the elementary attendance center would be closed or
14 the grades offered would be changed included a total number of
15 resident students that was at least two times the number of grades
16 offered at the elementary attendance center for the school year in
17 which the fall membership was measured;
18 (b) The elementary attendance center is at least ten
19 miles from another elementary attendance center within the district
20 on a highway as defined in section 60-624; or
21 (c) The elementary attendance center is the only
22 elementary attendance center located within the boundaries of an
23 incorporated city or village.
24 (3) The temporary relocation of some or all of the
25 students to an alternate elementary attendance center for a period
26 not to exceed two years shall not constitute the closing of an
27 elementary attendance center or a change in the grades offered at
1 such elementary attendance center. An alternate elementary
2 attendance center pursuant to this subsection shall not be subject
3 to subsection (1) or (2) of this section.
4 (4) The grades offered at the elementary attendance
5 center shall include any grade for which a student could enroll and
6 receive education at the elementary attendance center for the
7 specified school year.
8 (5) For purposes of this section:
9 (a) Elementary attendance center means a building in
10 which education was offered by a school district in one or more of
11 the grades kindergarten through grade four; and
12 (b) Resident students means students who reside within
13 the boundaries of the school district which contains the elementary
14 attendance center in the school year for which the students are
15 counted."
16 2. On page 15, lines 11 and 12, strike "I," and show as
17 stricken.

- 18 3. On page 16, line 5, after "existing" insert "Class
 19 II, III, IV, or V".
 20 4. On page 17, line 4, after "2" insert "or 3"; and in
 21 line 21 after "any" insert "Class II, III, IV, or V".
 22 5. On page 20, line 28, after "established" insert
 23 "Class II, III, IV, or V".
 24 6. On page 67, line 20, strike "35, 42, and 47" and
 25 insert "5, 37, 44, and 49"; in line 23 after "sections" insert
 26 "79-102,"; and in line 25 strike "79-102,".
 27 7. Renumber the remaining sections accordingly.

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.

Nebraska Educational Telecommunications Commission
 Stan Carpenter

VOTE: Aye: Senators Bourne, Byars, Maxwell, McDonald, Raikes, Schrock, and Stuhr. Nay: None. Absent: Senator Brashear.

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.

Coordinating Commission for Postsecondary Education
 Colleen Adam
 James O'Rourke
 Louis Pofahl
 Eric Seacrest

VOTE: Aye: Senators Bourne, Byars, Maxwell, McDonald, Raikes, Schrock, and Stuhr. Nay: None. Absent: Senator Brashear.

(Signed) Ron Raikes, Chairperson

MOTIONS - Approve Appointments

Senator Smith moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment found on page 791:

State Personnel Board
 Jeanne V. Ross

Voting in the affirmative, 29:

Aguilar	Erdman	Jones	Pederson, D.	Stuhr
Baker	Foley	Kremer	Price	Stuthman
Combs	Friend	Kruse	Raikes	Synowiecki
Connealy	Hartnett	Louden	Redfield	Thompson
Cudaback	Hudkins	Mossey	Schrock	Vrtiska
Engel	Jensen	Pedersen, Dw.	Smith	

Voting in the negative, 0.

Present and not voting, 7:

Beutler	Bromm	Chambers	Wehrbein
Bourne	Burling	Preister	

Excused and not voting, 13:

Brashear	Cunningham	Landis	Mines	Tyson
Brown	Janssen	Maxwell	Quandahl	
Byars	Johnson	McDonald	Schimek	

The appointment was confirmed with 29 ayes, 0 nays, 7 present and not voting, and 13 excused and not voting.

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointments found on page 727 and reconsidered on page 793:

Environmental Quality Council
 John T. Baker
 Debra McDowell

Senator Schrock requested a division of the question on the confirmation report.

The Chair sustained the division of the question.

The first division is as follows:

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment found on page 727 and reconsidered on page 793:

Environmental Quality Council
 John T. Baker

Voting in the affirmative, 32:

Aguilar	Engel	Louden	Quandahl	Synowiecki
Baker	Erdman	McDonald	Raikes	Tyson
Bromm	Foley	Mines	Redfield	Vrtiska
Burling	Friend	Mossey	Schrock	Wehrbein
Byars	Hudkins	Pedersen, Dw.	Smith	
Combs	Jones	Pederson, D.	Stuhr	
Cunningham	Kremer	Price	Stuthman	

Voting in the negative, 2:

Chambers Preister

Present and not voting, 10:

Beutler	Brashear	Hartnett	Jensen	Maxwell
Bourne	Cudaback	Janssen	Kruse	Thompson

Excused and not voting, 5:

Brown Connealy Johnson Landis Schimek

The appointment was confirmed with 32 ayes, 2 nays, 10 present and not voting, and 5 excused and not voting.

The second division is as follows:

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment found on page 727 and reconsidered on page 793:

Environmental Quality Council
Debra McDowell

Senator Schrock moved to recommit the appointment of Debra McDowell to the Natural Resources Committee for further consideration.

The Schrock motion prevailed with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 962. The first Standing Committee amendment, FA1502, found on page 817 and considered on page 818, was renewed.

Senator Chambers renewed his pending amendment, FA1517, found on page 842, to the first Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 19 ayes, 1 nay, and 29 not voting.

The Chambers amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

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

FA1518

Amend FA1502

On page 1, in line 12 strike and show as stricken "potential" and before "flood" insert "potential"

The Chambers amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

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

FA1519

Amend FA1502

On page 1 in line 11 before "abatement" insert "(a)"; in line 12 before "potential" insert "(b)" and before "reservation" insert "(c)"; in line 13 before "provision" insert "(d)"; in line 14 before "preservation" insert "(e)"; in line 15 before "protection" insert "(f)"; in line 16 before "provision" insert "(g)"; in line 17 before "provision" insert "(h)"; in line 19 before "conservation" insert "(i)" and before "protection" insert "(j)".

SENATOR JANSSEN PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 19 ayes, 1 nay, and 29 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 30:

Beutler	Engel	Kruse	Preister	Smith
Bourne	Foley	Landis	Price	Stuhr
Brown	Hartnett	Louden	Quandahl	Synowiecki
Chambers	Janssen	Mines	Raikes	Thompson
Combs	Jensen	Pedersen, Dw.	Redfield	Vrtiska
Connealy	Kremer	Pederson, D.	Schrock	Wehrbein

Voting in the negative, 1:

Schimek

Present and not voting, 12:

Aguilar	Cunningham	Hudkins	Mossey
Baker	Erdman	Maxwell	Stuthman
Burling	Friend	McDonald	Tyson

Excused and not voting, 6:

Brashear	Byars	Johnson
Bromm	Cudaback	Jones

The Chambers amendment was adopted with 30 ayes, 1 nay, 12 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 248. Introduced by Johnson, 37.

WHEREAS, as the career exploration process evolves, we have the responsibility of supplying comprehensive and relevant information to our Nebraska high school students, to help them in developing important educational and vocational goals; and

WHEREAS, the United States Department of Defense develops and administers the ASVAB Career Exploration Program to assess capabilities of young people about to enter the military; and

WHEREAS, the United States Department of Defense also offers this award-winning program to high schools throughout the United States, including the State of Nebraska, at no cost to the schools or students and without military obligation, providing one of the most widely used and highly regarded career development programs in the world; and

WHEREAS, the ASVAB Career Exploration Program contains state-of-the-art career exploration materials that are easily integrated into schools' career guidance programs; and

WHEREAS, the Exploring Careers: The ASVAB Career Exploration Guide helps students to identify, understand, and organize information about their interests, skills, and work-related values, then identify suitable occupations, to investigate and further explore through the use of a variety of career information resources; and

WHEREAS, nearly half of Nebraska high school students participate in the ASVAB Career Exploration Programs before graduation.

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

1. That the Legislature recognize the week of March 17-23, 2004, as ASVAB Career Exploration Program Week.

Laid over.

AMENDMENT - Print in Journal

Senator Preister filed the following amendment to LB 618:
AM0977

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. The Legislature finds that it is in the
- 4 public interest to:
- 5 (1) Encourage private investment in renewable energy
- 6 resources;
- 7 (2) Stimulate the economic growth of this state; and
- 8 (3) Enhance the continued diversification of the energy
- 9 resources used in this state.
- 10 Sec. 2. For purposes of this act:
- 11 (1) Customer-generator means a user of a net-metering
- 12 system;
- 13 (2) Electric supplier or supplier of electricity means
- 14 any legal entity supplying, producing, or distributing electricity
- 15 within the state for sale at wholesale or retail. Electric
- 16 supplier does not mean a customer-generator who is the primary user
- 17 of its own net-metering system;
- 18 (3) Local distribution system means the equipment and
- 19 facilities used for the distribution of electric energy to the
- 20 ultimate consumer thereof, whether or not such system is owned or
- 21 operated by the retail electric supplier;
- 22 (4) Local distribution utility means the owner or
- 23 operator of the local distribution system;
- 24 (5) Net metering means measuring the difference between
- 1 the electricity supplied by a retail electric supplier to the
- 2 customer-generator and the electricity generated by the
- 3 customer-generator which is fed back to the local distribution
- 4 system over the applicable billing period;
- 5 (6) Net-metering system means a facility for the
- 6 production of electrical energy that:
- 7 (a) Uses as its fuel either wind, solar, biomass, or
- 8 hydropower resources;
- 9 (b) Is located on the premises owned, operated, leased,
- 10 or otherwise controlled by the customer-generator;
- 11 (c) Connects with and operates in parallel with the local
- 12 distribution system; and
- 13 (d) Is intended primarily to offset part or all of the
- 14 customer-generator's requirements for electricity through the use
- 15 of net metering; and
- 16 (7) Retail electric supplier means any private power
- 17 supplier or marketer, public power district, electric cooperative,
- 18 or municipal electric utility that is engaged in the business of
- 19 supplying electric energy to the ultimate consumer thereof.
- 20 Sec. 3. A retail electric supplier:

- 21 (1) Shall offer to make available to each eligible
22 customer-generator that has installed a net-metering system an
23 energy meter or meters capable of registering the flow of
24 electricity in either direction;
- 25 (2) May, at its own expense and with the written consent
26 of the customer-generator, install additional metering equipment to
27 separately monitor the flow of electricity in each direction; and
- 1 (3) Shall not be required to provide local distribution
2 service to additional customer-generators after the date during any
3 calendar year on which the total generating capacity of all
4 customer-generators with net-metering systems served by that local
5 distribution utility is equal to or in excess of one percent of the
6 capacity necessary to meet the utility's average forecast aggregate
7 customer peak demand for that calendar year.
- 8 Sec. 4. (1) Consistent with the other provisions of this
9 act, the net energy measurement shall be calculated in the manner
10 provided in this section.
- 11 (2) The retail electric supplier shall measure the net
12 electricity produced or consumed during the billing period in
13 accordance with normal metering practices.
- 14 (3) If the electricity supplied by the retail electric
15 supplier exceeds the electricity generated by the
16 customer-generator and fed back to the local distribution system
17 during the billing period, the customer-generator shall be billed
18 for the net electricity supplied by the retail electric supplier in
19 accordance with normal metering practices.
- 20 (4) If the electricity generated by the
21 customer-generator exceeds the electricity supplied by the retail
22 electric supplier, the customer-generator:
- 23 (a) Shall be billed for the appropriate customer charges
24 for that month in accordance with subsection (6) of this section;
- 25 (b) Shall be credited for the excess kilowatt-hours
26 generated during the month, with the kilowatt-hour credit appearing
27 on the bill for the following month; and
- 1 (c) At the beginning of each calendar year, may sell any
2 remaining unused kilowatt-hour credit accumulated by the
3 customer-generator during the previous year to any electric
4 supplier that agrees to purchase such credit. In the absence of
5 any such purchase, the credit shall be assigned at no cost to the
6 retail electric supplier that supplied electricity to the
7 customer-generator at the end of the previous year.
- 8 (5) If the customer-generator is using a meter that
9 reflects the time of generation, such as the time-of-use or
10 real-time meter, the credit for excess kilowatt-hours generated by
11 the customer-generator and fed back to the local distribution
12 system shall be equal to the retail rate charged at the time of
13 such generation.
- 14 (6) A customer-generator shall pay the same rates, fees,
15 or other payments and be subject to the same conditions and

16 requirements as all other customers in the same rate-class.
 17 Specifically, the retail electric supplier and the local
 18 distribution utility may charge the customer-generator a minimum
 19 monthly fee that is the same as other customers in the same rate
 20 class but shall not charge the customer-generator any additional
 21 standby, capacity, demand, interconnection, or other fee or charge.
 22 Sec. 5. A net-metering system installed by a
 23 customer-generator shall meet all applicable safety and performance
 24 standards established by the National Electrical Code filed with
 25 the Secretary of State under subdivision (5) of section 81-2104,
 26 the Institute of Electrical and Electronics Engineers, and
 27 Underwriters Laboratories, Inc. No retail electric supplier or
 1 local distribution utility may require a customer-generator whose
 2 net-metering system meets the standards of this section to:
 3 (1) Comply with additional safety or performance
 4 standards;
 5 (2) Perform or pay for additional tests; or
 6 (3) Purchase additional liability insurance.
 7 Sec. 6. Section 70-1012, Reissue Revised Statutes of
 8 Nebraska, is amended to read:
 9 70-1012. Before any electric generation facilities or
 10 any transmission lines or related facilities carrying more than
 11 seven hundred volts are constructed or acquired by any supplier, an
 12 application, filed with the board and containing such information
 13 as the board shall prescribe, shall be approved by the board,
 14 except that such approval shall not be required (1) for the
 15 construction or acquisition of a transmission line extension or
 16 related facilities within a supplier's own service area or for the
 17 construction or acquisition of a line not exceeding one-half mile
 18 outside its own service area when all owners of electric lines
 19 located within one-half mile of the extension consent thereto in
 20 writing and such consents are filed with the board, (2) for any
 21 generation facility when the board finds that: (a) Such facility
 22 is being constructed or acquired to replace a generating plant
 23 owned by an individual municipality or registered group of
 24 municipalities with a capacity not greater than that of the plant
 25 being replaced, (b) such facility will generate less than
 26 twenty-five thousand kilowatts of electric energy at rated
 27 capacity, and (c) the applicant will not use the plant or
 1 transmission capacity to supply wholesale power to customers
 2 outside the applicant's existing retail service area or chartered
 3 territory, ~~or~~ (3) for acquisition of transmission lines or related
 4 facilities, within the state, carrying one hundred fifteen thousand
 5 volts or less, if the current owner of the transmission lines or
 6 related facilities notifies the board of the lines or facilities
 7 involved in the transaction and the parties to the transaction, or
 8 (4) for the construction of a net-metering system.
 9 Sec. 7. If any section in this act or any part of any
 10 section is declared invalid or unconstitutional, the declaration

- 11 shall not affect the validity or constitutionality of the remaining
12 portions.
13 Sec. 8. Original section 70-1012, Reissue Revised
14 Statutes of Nebraska, is repealed."

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 998. Placed on Select File as amended.
E & R amendment to LB 998:
AM7182

- 1 1. On page 1, line 2, strike "section 44-2824" and
- 2 insert "sections 44-2824 and 44-2855"; and in line 6 after the
- 3 semicolon insert "to harmonize provisions; to provide an operative
- 4 date;".

LEGISLATIVE BILL 998A. Placed on Select File.

(Signed) Ray Mossey, Chairperson

VISITORS

Visitors to the Chamber were 26 fourth-grade students and teacher from Arapahoe.

RECESS

At 12:00 p.m., on a motion by Senator Hartnett, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Johnson who was excused; and Senators Bromm, Brown, and Foley who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 962. Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1520

Amend FA1502

1. On page 2, in line 6 strike and show as stricken "State of Nebraska" and insert "state";

2. On page 3, in line 3 strike and show as stricken "for it"; in line 6 strike and show as stricken "some" and insert "a".

Pending.

STANDING COMMITTEE REPORTS Health and Human Services

LEGISLATIVE BILL 1083. Placed on General File as amended.
(Standing Committee amendment, AM2889, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Jim Jensen, Chairperson

Education

LEGISLATIVE BILL 1093. Placed on General File as amended.
(Standing Committee amendment, AM2792, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1104. Placed on General File as amended.
Standing Committee amendment to LB 1104:
AM2886

1 1. Strike original section 4.
2 2. On page 5, strike lines 24 to 26 and insert the
3 following new subsection:
4 "(6) After August 1, 2004, the State Committee for the
5 Reorganization of School Districts shall not approve or order into
6 effect any new unified system under this section. After August 1,
7 2005, the committee shall not approve and order into effect the
8 addition of school districts to a unified system. The committee
9 may approve and order into effect the continuation of a unified
10 system if the continuing unified system will consist of school
11 districts then participating in the unified system or of school
12 districts which remain in the unified system following the
13 withdrawal of one or more districts from the unified system. For
14 purposes of this subsection, a school district created as the
15 result of a consolidation involving at least one school district
16 then participating in the unified system shall be deemed to be a
17 school district then participating in the unified system.".

(Signed) Ron Raikes, Chairperson

General Affairs

LEGISLATIVE BILL 309. Placed on General File as amended.
Standing Committee amendment to LB 309:
AM2863

1 1. Strike original sections 30 and 31 and insert the

2 following new sections:

3 "Sec. 5. Section 9-304, Revised Statutes Supplement,
4 2002, is amended to read:

5 9-304. Allowable expenses shall mean:

- 6 (1) All costs associated with the purchasing, printing,
7 or manufacturing of any items to be used or distributed to
8 participants;
9 (2) All office expenses;
10 (3) All promotional expenses;
11 (4) All salaries of persons employed to operate the
12 lottery by the sale of pickle cards;
13 (5) Any rental or lease expense;
14 (6) Any fee paid to any person associated with the
15 operation of any lottery by the sale of pickle cards, including any
16 commission paid to a sales agent and any expense for which a sales
17 agent is reimbursed;
18 (7) Any delivery or shipping charge incurred by a
19 licensed organization in connection with the lottery by the sale of
20 pickle cards;

21 (8) Any license fees paid to the department to license
22 the organization, each utilization-of-funds member, and each sales
23 agent and any pickle card dispensing device registration fees paid
24 to the department to register devices utilized at the licensed
25 organization's designated premises or its bingo occasions; and
26 (9) Any repairs or maintenance of a pickle card
dispensing device ~~repairs or maintenance~~ or electronic pickle card
device paid by the licensed organization.

5 Sec. 22. Section 9-342, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 9-342. (1) Any organization licensed to conduct a
8 lottery by the sale of pickle cards shall purchase pickle card
9 units and electronic pickle card devices for such purposes from a
10 distributor and shall use the net profit from the sale of the
11 pickle cards for a lawful purpose.

12 (2) When any organization licensed to conduct a lottery
13 by the sale of pickle cards purchases pickle card units or
14 electronic pickle card devices from a distributor, such
15 organization shall provide the distributor with a copy of the
16 organization's license or other adequate identification indicating
17 that such organization has a valid license issued pursuant to
18 section 9-327.

19 (3) Only a person (a) licensed pursuant to section 9-327
20 as a utilization-of-funds member, (b) licensed pursuant to section
21 9-329 as a sales agent, (c) licensed pursuant to section 9-232.01
22 as a gaming manager, (d) designated as a bingo chairperson by an
23 organization licensed to conduct bingo pursuant to the Nebraska
24 Bingo Act, or (e) who serves as a manager for a licensed
25 organization which is exempt under section 501(c)(8), (c)(10), or
26 (c)(19) of the Internal Revenue Code shall order pickle card units,

27 or electronic pickle card devices from a distributor on behalf of
 1 the organization. Only a person licensed as a utilization-of-funds
 2 member shall purchase pickle card units from a distributor on
 3 behalf of the organization. No pickle card operator shall order or
 4 purchase any pickle card, ~~or~~ pickle card unit, or electronic pickle
 5 card device from a distributor.

6 Sec. 23. Section 9-343, Reissue Revised Statutes of
 7 Nebraska, is amended to read:

8 9-343. (1) A distributor shall maintain records of total
 9 sales of pickle card units and, within thirty days after the end of
 10 the calendar month or by the last day of the month following each
 11 monthly period, whichever comes first, shall report to the
 12 department, in a manner prescribed by the department, detailed
 13 information concerning each sale, which information shall include,
 14 but not be limited to, (a) the total number of pickle card units
 15 sold by such distributor, (b) the aggregate price for which such
 16 ~~cards~~ units will be sold by the purchasing organization, and (c)
 17 any other information the department deems necessary.

18 (2) A distributor shall maintain a record of the serial
 19 number of each pickle card unit sold and the corresponding state
 20 identification stamp number assigned to each unit. Such
 21 information shall be made available to the department upon request.

22 (3) A distributor shall maintain a detailed record of the
 23 sale, lease, or rental of each electronic pickle card device to
 24 include (a) the name and state identification number of the
 25 licensed organization purchasing, renting, or leasing the device,
 26 (b) the cost of the device to the licensed organization and the
 27 terms and conditions of any agreement entered into with the
 1 licensed organization for the purchase, lease, or rental of the
 2 device, and (c) any other information the department deems
 3 necessary.

4 Sec. 29. Section 9-347, Revised Statutes Supplement,
 5 2002, is amended to read:

6 9-347. (1) The gross proceeds of any lottery by the sale
 7 of pickle cards shall be used solely for lawful purposes, awarding
 8 of prizes, payment of the unit cost, any commission paid to a
 9 pickle card operator, allowable expenses, and allocations for bingo
 10 expenses as provided by subsection (5) of this section.

11 (2) Not less than sixty-five percent or more than eighty
 12 percent of the gross proceeds of any lottery by the sale of pickle
 13 cards shall be used for the awarding of prizes.

14 (3) Not more than eight percent of the definite profit of
 15 a pickle card unit shall be used by the licensed organization to
 16 pay the allowable expenses of operating a lottery by the sale of
 17 pickle cards, except that license fees paid to the department to
 18 license the organization, each utilization-of-funds member, and any
 19 sales agent and pickle card dispensing device and electronic pickle
 20 card device registration fees shall not be included in determining
 21 the eight-percent limitation on expenses and no portion of such

22 eight percent shall be used to pay any expenses associated with the
23 sale of pickle cards at a bingo occasion conducted pursuant to the
24 Nebraska Bingo Act, and of such eight percent not more than four
25 percent of the definite profit may be used by the licensed
26 organization for the payment of any commission, salary, or fee to a
27 sales agent in connection with the marketing, sale, and delivery of
1 a pickle card unit. When determining the eight percent of definite
2 profit that is permitted to pay the allowable expenses of operating
3 a lottery by the sale of pickle cards, the definite profit from the
4 sale of pickle cards at the organization's bingo occasions shall
5 not be included.

6 (4) Not more than thirty percent of the definite profit
7 of a pickle card unit shall be used by a licensed organization to
8 pay a pickle card operator a commission, fee, or salary for selling
9 individual pickle cards as opportunities for participation in a
10 lottery by the sale of pickle cards on behalf of the licensed
11 organization.

12 (5) An organization licensed to conduct bingo pursuant to
13 the Nebraska Bingo Act may allocate a portion of the expenses
14 associated with the conduct of its bingo occasions to its lottery
15 by the sale of pickle cards conducted at such bingo occasions.
16 Such allocation shall be based upon the percentage that pickle card
17 gross proceeds derived from the sale of pickle cards at the bingo
18 occasions represents to the total of bingo gross receipts and
19 pickle card gross proceeds derived from such bingo occasions for
20 the previous annual reporting period. An organization licensed to
21 conduct bingo that has not been previously licensed shall determine
22 such allocation based upon the percentage that pickle card gross
23 proceeds derived from the sale of pickle cards at the bingo
24 occasions represents to the total of bingo gross receipts and
25 pickle card gross proceeds derived from such bingo occasions for
26 the initial three consecutive calendar months of operation. The
27 total amount of expenses that may be allocated to the

1 organization's lottery by the sale of pickle cards shall be subject
2 to the limitations on bingo expenses as provided for in the
3 Nebraska Bingo Act with respect to the fourteen-percent expense
4 limitation and the fair-market-value limitation on the purchase,
5 rental, or lease of bingo equipment and the rental or lease of
6 personal property or of a premises for the conduct of bingo. No
7 expenses associated with the conduct of bingo may be paid directly
8 from the pickle card checking account. A licensed organization
9 which needs to allocate a portion of the expenses associated with
10 the conduct of its bingo occasions to its lottery by the sale of
11 pickle cards conducted at such bingo occasions to pay bingo
12 expenses as provided by this section shall transfer funds from the
13 pickle card checking account to the bingo checking account by a
14 check drawn on the pickle card checking account or by electronic
15 funds transfer.

16 Sec. 35. Section 77-3001, Reissue Revised Statutes of

17 Nebraska, is amended to read:

18 77-3001. For purposes of the Mechanical Amusement Device
19 Tax Act, unless the context otherwise requires:

20 (1) Person means an individual, partnership, limited
21 liability company, society, association, joint-stock company,
22 corporation, estate, receiver, lessee, trustee, assignee, referee,
23 or other person acting in a fiduciary or representative capacity,
24 whether appointed by a court or otherwise, and any combination of
25 individuals;

26 (2) Mechanical amusement device means any machine which,
27 upon insertion of a coin, currency, credit card, or substitute into
1 the machine, operates or may be operated or used for a game,
2 contest, or amusement of any description, such as, by way of
3 example, but not by way of limitation, pinball games, shuffleboard,
4 bowling games, radio-ray rifle games, baseball, football, racing,
5 boxing games, and coin-operated pool tables. Mechanical amusement
6 device also includes game and draw lotteries and coin-operated
7 automatic musical devices. The term does not mean vending machines
8 which dispense tangible personal property, devices located in
9 private homes for private use, pickle card dispensing devices or
10 electronic pickle card devices which are required to be registered
11 with the Department of Revenue pursuant to section 9-345.03, or
12 devices which are mechanically constructed in a manner that would
13 render their operation illegal under the laws of the State of
14 Nebraska;

15 (3) Operator means any person who operates a place of
16 business in which a machine or device owned by him or her is
17 physically located or any person who places and who either directly
18 or indirectly controls or manages any machine or device;

19 (4) Distributor means any person who sells, leases, or
20 delivers possession or custody of a machine or mechanical device to
21 operators thereof for a consideration either directly or indirectly
22 received;

23 (5) Whenever in the act, the words machine or device are
24 used, they refer to mechanical amusement device; and

25 (6) Whenever in the act, the words machine, device,
26 person, operator, or distributor are used, the words in the
27 singular include the plural and in the plural include the
1 singular."

2 2. On page 2, line 3, after "which" insert "(a)"; in
3 line 13 before the period insert "or (b) serves as a pickle card
4 technological aid which (i) contains a pickle card encrypted with a
5 bar code, reads the bar code encryption of such pickle card to
6 determine a winning or losing card, and then dispenses such card to
7 the person playing the machine, (ii) is unable to function without
8 containing pickle cards, and (iii) requires a person to open, pull,
9 detach, or otherwise remove one or more tabs from the card, board,
10 or ticket. If it is a winning pickle card, such card shall be
11 validated and redeemed by a cashier on the premises"; and in line

12 16 after the period insert "No electronic pickle card device
 13 authorized by this section shall determine chance or perform random
 14 generation.".

15 3. On page 17, strike beginning with "A" in line 7
 16 through "(c)" in line 12; in line 13 strike the new matter and
 17 reinstate the stricken matter; in line 20 strike the new matter;
 18 and in line 22 after "(9)" insert:

19 "(a) A pickle card operator who sells individual pickle
 20 cards by an electronic pickle card device may not purchase its own
 21 devices. Electronic pickle card devices shall be obtained from a
 22 licensed organization and shall be rented or leased at a rate of at
 23 least seventy-five dollars per month per device.

24 (b) The department may require a licensed organization or
 25 distributor to verify the purchase of an electronic pickle card
 26 device by providing such documentation as the department deems
 27 necessary. A licensed organization shall not provide electronic
 1 pickle card devices to a pickle card operator free of charge or at
 2 a rate less than seventy-five dollars per month per device. The
 3 department may also require a licensed organization or pickle card
 4 operator to provide such documentation as the department deems
 5 necessary to verify that a pickle card operator has leased or
 6 rented an electronic pickle card device for a rate of at least
 7 seventy-five dollars per month.

8 (10)".
 9 4. On page 18, line 20, before the period insert ",
 10 unless otherwise authorized by the department"; and in lines 23 and
 11 26 after "cards" insert "or electronic pickle card devices".

12 5. On page 19, line 3, after the period insert "No
 13 licensed organization shall accept or agree to accept anything of
 14 value from a distributor in exchange for an agreement or commitment
 15 by such licensed organization to exclusively sell electronic pickle
 16 card devices sold by such distributor."; in line 18 after "units"
 17 insert "or electronic pickle card devices"; and in line 27 after
 18 "or" insert "electronic pickle card".

19 6. On page 21, lines 14 and 17, after "units" insert "or
 20 electronic pickle card devices".

21 7. On page 23, line 9, after "device" insert "or which
 22 are encrypted with a bar code and are to be sold and played with
 23 the use of an electronic pickle card device".

24 8. On page 24, line 8, after "or" insert "electronic
 25 pickle card"; and after line 17 insert the following new
 26 subsection:

27 "(3) Nothing in this section shall prohibit a
 1 manufacturer from encrypting a pickle card with a bar code which
 2 enables such pickle card to be sold and played with the use of an
 3 electronic pickle card device.".

4 9. On page 25, line 28, strike the new matter.

5 10. On page 26, line 16, after "examining" insert "or
 6 testing"; and in line 18 after "examination" insert "or testing".

- 7 11. On page 28, strike lines 16 through 19.
 8 12. On page 29, strike lines 4 through 6 and insert an
 9 underscored period; and strike lines 20 through 28 and show the old
 10 matter as stricken.
 11 13. On page 30, strike lines 1 and 2 and show as
 12 stricken.
 13 14. On page 32, line 10, strike "or" and show as
 14 stricken and after "tickets" insert ", or electronic pickle cards".
 15 15. On page 33, line 1, before the period insert ",
 16 except that nothing in this section shall prohibit an electronic
 17 pickle card device from displaying whether a dispensed pickle card
 18 is a winning or losing card".
 19 16. On page 37, line 14, strike "and", show as stricken,
 20 and insert an underscored comma and after "units" insert ", and
 21 electronic pickle card devices"; in line 18 strike the second "or",
 22 show as stricken, and insert an underscored comma and after "units"
 23 insert ", or electronic pickle card devices"; in lines 20, 25, and
 24 27 strike "or", show as stricken, and insert an underscored comma
 25 and after "units" insert ", or electronic pickle card devices"; in
 26 line 21 strike "are", show as stricken, and insert "is"; and in
 27 line 22 strike "or", show as stricken, and insert an underscored
 1 comma and after "cards" insert ", or electronic pickle card
 2 devices".
 3 17. On page 49, line 25, after "9-340," insert "9-342,
 4 9-343,"; in line 26 strike "9-607" through "28-1101" and insert
 5 "28-1101, and 77-3001"; in line 27 after "9-301," insert "9-304,";
 6 and in line 28 after "9-346," insert "9-347,".
 7 18. Renumber the remaining sections accordingly.

(Signed) Ray Janssen, Chairperson

AMENDMENT - Print in Journal

Senator Raikes filed the following amendment to LB 1048:
 AM2891

(Amendments to Standing Committee amendments, AM2851)

- 1 1. On page 8, line 15, strike "Beginning" and insert
 2 "(a) From" and after "2005" insert ", through June 30, 2009"; in
 3 line 19 strike "(a)" and insert "(i)"; and in line 26 strike "(b)"
 4 and insert "(ii)".
 5 2. On page 9, after line 3, insert the following new
 6 subdivision:
 7 "(b) On and after July 1, 2009, the school board of any
 8 Class II, III, IV, or V school district may take action to close
 9 such elementary attendance center or to change the elementary
 10 grades offered at such elementary attendance center by an
 11 affirmative vote of not less than seventy-five percent of the
 12 members of such school board."; and in line 5 strike "until July 1"
 13 and insert "through June 30".

GENERAL FILE

LEGISLATIVE BILL 962. The Chambers pending amendment, FA1520, found in this day's Journal, to the first Standing Committee amendment, was renewed.

The Chambers amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Pending.

BILL ON FIRST READING

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

LEGISLATIVE BILL 1103A. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1103, Ninety-eighth Legislature, Second Session, 2004.

MOTION - Print in Journal

Senators Bromm and Wehrbein filed the following motion:

To suspend that portion of Rule 8, Sec. 5 that requires:

The Appropriations Committee to place appropriation bills on General File no later than the 40th legislative day in a 60 day session.

GENERAL FILE

LEGISLATIVE BILL 962. Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1521

Amend FA1502

On page 4, in lines 7 and 8 strike "provided by the owner of an appropriation or otherwise" and insert ". however"; in line 9 before "preliminary" insert "a" and strike "determinations" and insert "determination".

SENATOR SCHIMEK PRESIDING

Senator Chambers withdrew his amendment.

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

FA1522

Amend FA1502

On page 4, in lines 7 and 8 strike "provided by the owner of an appropriation or otherwise" and insert ", however".

Senator Chambers moved for a call of the house. The motion prevailed with 22 ayes, 1 nay, and 26 not voting.

The Chambers amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENTS - Print in Journal

Senators Beutler, Bourne, and Mines filed the following amendment to LB 962:

AM2875

(Amendments to Standing Committee amendments, AM2733)

- 1 1. Insert the following new sections:
- 2 "Sec. 97. (1) In addition to any other fees required by
- 3 law, the Department of Natural Resources shall collect the
- 4 following annual registration fees:
- 5 (a) For water wells used for irrigation as defined in
- 6 rules and regulations of the department, for industrial purposes as
- 7 defined in section 46-677, and for aquaculture as defined in
- 8 section 2-3804.01, fifty dollars; and
- 9 (b) For water wells used by a public water supplier as
- 10 defined in section 46-638 and for owners of a surface water
- 11 appropriation issued pursuant to section 46-233 for direct
- 12 consumptive use of natural flow or pursuant to section 46-242 for
- 13 consumptive use of storage water excluding, in both cases,
- 14 appropriations for induced ground water recharge, intentional
- 15 underground water storage, incidental underground water storage,
- 16 and instream appropriations, an amount equal to the total annual
- 17 water used divided by the amount of water required to provide one
- 18 and one-half acre-feet of water to one hundred thirty acres
- 19 annually, multiplied by fifty dollars.
- 20 (2) The fees required by this section are due September 1
- 21 for each registered active water well of the types listed in
- 22 subsection (1) of this section and each surface water appropriation
- 23 in use during any part of the previous calendar year. Any water
- 1 well or surface water appropriation for which such fee remains
- 2 unpaid thirty days or more after the due date is subject to an
- 3 additional late fee of twenty-five dollars per month or portion
- 4 thereof for which the fee required pursuant to such subsection
- 5 remains unpaid. The department may waive all or part of such late
- 6 fee in the interest of fairness as the department determines.
- 7 (3) Money collected pursuant to this section shall be

8 remitted to the State Treasurer for credit to the Water Resources
9 Trust Fund.
10 Sec. 98. (1) The Water Resources Trust Fund is created.
11 The State Treasurer shall credit to the fund fees collected
12 pursuant to section 97 of this act, such money as is specifically
13 appropriated thereto by the Legislature, and such funds, fees,
14 donations, gifts, or bequests received by the Department of Natural
15 Resources from any federal, state, public, or private source for
16 expenditure for the purposes described in the Nebraska Ground Water
17 Management and Protection Act. Any money in the fund available for
18 investment shall be invested by the state investment officer
19 pursuant to the Nebraska Capital Expansion Act and the Nebraska
20 State Funds Investment Act.
21 (2) The fund shall be administered by the department.
22 The department shall adopt and promulgate rules and regulations
23 regarding the allocation and expenditure of money from the fund.
24 (3) Money in the fund may be expended by the department
25 for costs incurred by the department, by natural resources
26 districts, or by other political subdivisions in (a) determining
27 whether river basins, subbasins, or reaches are fully appropriated
1 in accordance with section 51 of this act, (b) developing or
2 implementing integrated management plans for such fully
3 appropriated river basins, subbasins, or reaches or for river
4 basins, subbasins, or reaches designated as over-appropriated in
5 accordance with section 51 of this act, (c) developing or
6 implementing integrated management plans in river basins,
7 subbasins, or reaches which have not yet become either fully
8 appropriated or over-appropriated, or (d) attaining state
9 compliance with an interstate water compact or decree or other
10 formal state contract or agreement.
11 (4) Except for funds paid to a political subdivision for
12 forgoing or reducing its own water use or for implementing projects
13 or programs intended to aid the state in complying with an
14 interstate water compact or decree or other formal state contract
15 or agreement, a political subdivision that receives funds from the
16 fund shall provide, or cause to be provided, matching funds in an
17 amount at least equal to twenty percent of the amount received from
18 the fund by that natural resources district or political
19 subdivision. The department shall monitor programs and activities
20 funded by the fund to ensure that the required match is being
21 provided."
22 2. Renumber the remaining sections and correct internal
23 references accordingly.

Senator Friend filed the following amendment to LB 962:
AM2786

(Amendments to Standing Committee amendments, AM2733)

- 1 1. Insert the following new sections:
- 2 "Sec. 100. Section 81-3501, Reissue Revised Statutes of

3 Nebraska, is amended to read:

4 81-3501. Sections 81-3501 to 81-3541 and section 102 of
5 this act shall be known and may be cited as the Geologists
6 Regulation Act.

7 Sec. 101. Section 81-3503, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-3503. For purposes of the Geologists Regulation Act,
10 the definitions found in sections 81-3504 to 81-3519 and section
11 102 of this act shall be used.

12 Sec. 102. Geologist-intern means a person who has passed
13 an examination in the fundamentals of geology as provided in
14 section 81-3540.

15 Sec. 103. Section 81-3527, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-3527. (1) Application for licensure as a geologist or
18 enrollment as a geologist-intern shall be made on a form prescribed
19 and furnished by the board. It shall contain statements made under
20 oath showing the applicant's education and a detailed summary of
21 technical experience and shall include the names and complete
22 mailing addresses of the references, none of whom shall be members
23 of the board. The board may accept the verified information
1 contained in the National Association of State Boards of Geology
2 for applicants in lieu of the same information that is required on
3 the form prescribed and furnished by the board.

4 (2) Application, ~~and~~ licensure, and enrollment fees shall
5 be established by the board and shall accompany the application.
6 Original and reciprocal fees shall not exceed three hundred dollars
7 for licensure as geologist and one hundred dollars for enrollment
8 as geologist-intern and shall be in addition to the examination fee
9 which shall be set to recover the costs of the examination and its
10 administration.

11 (3) The certificate of authorization fee for
12 organizations shall be established by the board and shall accompany
13 the application. The fee shall not exceed three hundred dollars
14 per year.

15 (4) The fee for emeritus status shall be established by
16 the board and shall accompany the application. The fee shall not
17 exceed one hundred dollars per year.

18 (5) If the board denies the issuance of a certificate to
19 any applicant, including the application of an organization for a
20 certificate of authorization, the board shall retain the fee.

21 Sec. 104. Section 81-3529, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-3529. (1) The board shall issue to any applicant who,
24 on the basis of education, experience, and examination, has met the
25 requirements of the Geologists Regulation Act a certificate of
26 licensure giving the licensed geologist proper authority to carry
27 out the prerogatives of the act. The certificate of licensure
1 shall carry the designation Licensed Professional Geologist. The

2 certificate of licensure shall give the full name of the licensee
3 and the license number and shall be signed by the chairperson of
4 the board and the secretary of the board.

5 (2) The certificate shall be prima facie evidence that
6 the person is entitled to all rights, privileges, and
7 responsibilities of a professional geologist while the certificate
8 of licensure remains unrevoked and unexpired.

9 (3)(a) Each licensee authorized to practice geology must
10 obtain a seal. It shall be unlawful for a licensee to affix his or
11 her seal and signature or to permit his or her seal and signature
12 to be affixed to any document after the expiration of the
13 certificate of licensure or for the purpose of aiding or abetting
14 any other person to evade or attempt to evade any provisions of the
15 act.

16 (b) The seal may be a rubber stamp or may be generated
17 electronically. Whenever the seal is applied, the licensee's
18 written signature and the date shall be across the seal. No
19 further words or wording are required. Electronic signatures
20 applied to electronic seals shall be protected with an electronic
21 revision approval system. Documents without electronic revision
22 approval system protection that are transmitted electronically to a
23 client or a governmental agency shall have the seal removed from
24 the file. The electronic media shall have the following inserted
25 in lieu of the seal, signature, and date:

26 This document was originally issued and sealed by
27 (name of sealer), (license number), on (date of
1 sealing). This media should not be considered a
2 certified document.

3 (c) The seal, signature, and date shall be placed on all
4 technical submissions and calculations whenever presented to a
5 client or any public or governmental agency.

6 (d) The seal, signature, and date shall be placed on all
7 originals, copies, tracings, or other reproducible documents in
8 such a manner that the seal, signature, and date will be
9 reproduced. The application of the licensee's seal and signature
10 shall constitute certification that the work was done by the
11 licensee or under the licensee's control. In the case of multiple
12 sealings, the first or title page shall be sealed, signed, and
13 dated by all involved. In addition, each sheet shall be sealed,
14 signed, and dated by the licensee responsible for each sheet. In
15 the case of an organization, each sheet shall be sealed, signed,
16 and dated by the licensee involved. The geologist in responsible
17 charge shall sign, seal, and date the title or first sheet.

18 (e) In the case of a temporary permit issued to a
19 licensee of another state, the licensee shall use his or her state
20 of licensure seal and shall affix his or her signature and
21 temporary permit to all his or her work.

22 (f) The design of the seal shall be determined by the
23 board. The following information shall be on the seal: State of

24 Nebraska; licensee's name; licensee's license number; and the words
25 Professional Geologist.

26 (g) The board shall issue to any applicant who, in the
27 opinion of the board, has met the requirements of the act, an
1 enrollment card as geologist-intern which indicates that his or her
2 name has been recorded as such in the board office. The
3 geologist-intern enrollment card does not authorize the holder to
4 practice as a professional geologist.

5 Sec. 105. Section 81-3539, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-3539. Applications for licensure as a professional
8 geologist, ~~or~~ for temporary or reciprocal licensure, ~~or for~~
9 enrollment as a geologist-intern shall be on forms prescribed and
10 furnished by the board and shall be accompanied by the fee
11 established by the board. The requirements of subdivisions (1)
12 through (3) of this section may be considered by the board to be
13 fulfilled if the applicant maintains a current certificate of
14 licensure to practice geology issued pursuant to the authority of
15 any state or possession of the United States or the District of
16 Columbia based on requirements that do not conflict with the
17 Geologists Regulation Act and were of a standard not lower than
18 that specified in the applicable licensure law in effect in this
19 state at the time the certification was issued. The following
20 shall be considered as minimum evidence satisfactory to the board
21 that the applicant is qualified for licensure as a professional
22 geologist ~~or enrollment as a geologist-intern~~:

23 (1) The applicant is of good character and reputation and
24 submits four references with his or her application for licensure
25 as a professional geologist. Two of the references shall be
26 professional geologists having personal knowledge of his or her
27 geological experience ~~or, in the case of the application for~~
1 enrollment as a geologist-intern, acting only as character
2 references; - During the twelve-month period beginning on January
3 1, 1999, the board shall consider, for the purpose of application
4 references, as a professional geologist a person who meets the
5 education and experience requirements for licensure as a
6 professional geologist specified in the act;

7 (2) The applicant has successfully completed a minimum of
8 thirty semester hours or forty-five quarter hours of course work in
9 geology and has received a baccalaureate or advanced degree in
10 geology or a geologic specialty from a program accredited by an
11 organization recognized by the board; ~~- During the twelve-month~~
12 ~~period beginning on January 1, 1999, the board may waive the~~
13 ~~education requirements for a person who derives his or her~~
14 ~~livelihood from the practice of geology and who does not meet the~~
15 ~~academic requirements but who can demonstrate to the satisfaction~~
16 ~~of the board his or her competency and who has at least eight years~~
17 ~~of progressive experience in geologic work of a grade and character~~
18 ~~which indicates to the board that the applicant is qualified to~~

19 assume responsible charge of such work upon licensure as a
20 geologist;

21 (3) ~~Except as otherwise provided in subdivision (2) of~~
22 ~~this section, the~~ The applicant has a documented record of a
23 minimum of five years of progressive experience, obtained
24 subsequent to completion of the education requirements, in geologic
25 work of a grade and character which indicates to the board that the
26 applicant is qualified to assume responsible charge of such work
27 upon licensure as a geologist, except that no work experience is
1 required for enrollment as a geologist-intern; and

2 (4) The applicant has completed an examination covering
3 the fundamentals and practice of geology prescribed by the board.
4 Upon passing the fundamentals of geology examination, the applicant
5 may be enrolled as a geologist-intern. Upon passing the practice
6 of geology examination, the applicant shall be granted a
7 certificate of licensure to practice geology in this state if
8 otherwise qualified. ~~During the twelve-month period beginning~~
9 ~~January 1, 1999, the board shall waive the examination requirement~~
10 ~~for applicants qualified by education and experience.~~ A person who
11 holds a valid certificate of licensure to engage in the practice of
12 geology, issued pursuant to the authority of any state or
13 possession of the United States or the District of Columbia based
14 on requirements that do not conflict with the act and were of a
15 standard not lower than that specified in the applicable licensing
16 law in effect in this state at the time the certificate was issued,
17 may, upon application, be licensed without further examination.
18 Geologic teaching of advanced subjects and the design of geologic
19 research and projects in a college or university offering an
20 accredited geologic curriculum may be considered by the board as
21 geologic experience.

22 Sec. 106. Section 81-3540, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 81-3540. (1) The board shall direct the time and place
25 of geology examinations. The board shall determine the acceptable
26 grade on examinations.

27 (2) The examination shall be given in two sections as
1 follows:

2 (a) A fundamentals of geology examination designed to
3 test the academic preparation of the applicant in geology. At the
4 board's discretion, the examination may be taken at any time
5 following completion of the applicant's educational requirements.
6 Passing this examination qualifies the examinee for a
7 geologist-intern enrollment card, if all other requirements for
8 enrollment as a geologist-intern are met; and

9 (b) A principles and practice of geology examination
10 designed to test the applicant's ability to apply geologic
11 knowledge and to assume responsible charge of geologic work. The
12 geologic practice examination may be taken only after the applicant
13 has acquired the experience required for licensure as a geologist.

14 (3) A candidate failing one examination may apply for
15 reexamination, which may be granted upon payment of a fee
16 established by the board. In the event of a second failure, the
17 examinee may, at the discretion of the board, be required to appear
18 before the board with evidence of having acquired the necessary
19 additional knowledge to qualify before admission to the
20 examination.

21 (4) The board may prepare and adopt specifications for
22 the examinations. The specifications shall be published and be
23 available to any person interested in being licensed.

24 Sec. 107. Sections 100 to 106 and 109 of this act become
25 operative on January 1, 2005. The other sections of this act
26 become operative on their effective date.

27 Sec. 109. Original sections 81-3501, 81-3503, 81-3527,
1 81-3529, 81-3539, and 81-3540, Reissue Revised Statutes of
2 Nebraska, are repealed.".

3 2. Renumber the remaining sections accordingly.

UNANIMOUS CONSENT - Add Cointroducer

Senator Maxwell asked unanimous consent to have his name added as cointroducer to LB 1240. No objections. So ordered.

VISITORS

Visitors to the Chamber were 20 eighth-grade students and teacher from Grand Island Middle School Chamber Orchestra; and Jesse Watkins and Steve Smith from Scottsbluff and Dennis Strauch from Mitchell.

ADJOURNMENT

At 4:10 p.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Thursday, March 4, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-SIXTH DAY - MARCH 4, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 4, 2004

PRAYER

The prayer was offered by Pastor Bill Chase, Christian Church of Wakefield.

ROLL CALL

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

The roll was called and all members were present except Senators Beutler, Bromm, Brown, Burling, Combs, Cunningham, Hartnett, Johnson, Kremer, Landis, Maxwell, Preister, Price, Quandahl, and Vrtiska who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-fifth day was approved.

MOTIONS - Approve Appointments

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointments found on page 819:

Environmental Quality Council
Tom Miller
Donald Williams

Voting in the affirmative, 26:

Aguilar	Erdman	Mines	Schimek	Tyson
Brashear	Foley	Mossey	Schrock	Wehrbein
Byars	Friend	Pedersen, Dw.	Smith	
Connealy	Hudkins	Pederson, D.	Stuhr	
Cudaback	Jones	Raikes	Stuthman	
Engel	Louden	Redfield	Synowiecki	

Voting in the negative, 0.

Present and not voting, 7:

Baker	Chambers	Kruse	Thompson
Bourne	Jensen	McDonald	

Excused and not voting, 16:

Beutler	Combs	Johnson	Preister
Bromm	Cunningham	Kremer	Price
Brown	Hartnett	Landis	Quandahl
Burling	Janssen	Maxwell	Vrtiska

The appointments were confirmed with 26 ayes, 0 nays, 7 present and not voting, and 16 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment found on page 849:

Nebraska Educational Telecommunications Commission
Stan Carpenter

Voting in the affirmative, 27:

Aguilar	Erdman	Louden	Raikes	Synowiecki
Brashear	Foley	McDonald	Redfield	Tyson
Byars	Friend	Mines	Schimek	Wehrbein
Connealy	Hudkins	Mossey	Smith	
Cudaback	Jensen	Pedersen, Dw.	Stuhr	
Engel	Jones	Pederson, D.	Stuthman	

Voting in the negative, 0.

Present and not voting, 6:

Baker	Chambers	Schrock
Bourne	Kruse	Thompson

Excused and not voting, 16:

Beutler	Combs	Johnson	Preister
Bromm	Cunningham	Kremer	Price
Brown	Hartnett	Landis	Quandahl
Burling	Janssen	Maxwell	Vrtiska

The appointment was confirmed with 27 ayes, 0 nays, 6 present and not voting, and 16 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for

the confirmation of the following appointments found on page 849:

Coordinating Commission for Postsecondary Education

Colleen Adam

James O'Rourke

Louis Pofahl

Eric Seacrest

Voting in the affirmative, 26:

Aguilar	Friend	McDonald	Redfield	Synowiecki
Brashear	Hudkins	Mines	Schimek	Tyson
Byars	Jones	Mossey	Schrock	
Cudaback	Landis	Pedersen, Dw.	Smith	
Engel	Louden	Price	Stuhr	
Erdman	Maxwell	Raikes	Stuthman	

Voting in the negative, 0.

Present and not voting, 11:

Baker	Chambers	Jensen	Thompson
Beutler	Connealy	Kruse	Wehrbein
Bourne	Foley	Pederson, D.	

Excused and not voting, 12:

Bromm	Combs	Janssen	Preister
Brown	Cunningham	Johnson	Quandahl
Burling	Hartnett	Kremer	Vrtiska

The appointments were confirmed with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

MOTION - Suspend Rules

Senator Wehrbein renewed the Bromm-Wehrbein pending motion, found on page 865, to suspend that portion of Rule 8, Sec. 5 that requires:

The Appropriations Committee to place appropriation bills on General File no later than the 40th legislative day in a 60 day session.

Senator Wehrbein moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

The Bromm-Wehrbein motion to suspend the rules prevailed with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

BILL ON FIRST READING

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

LEGISLATIVE BILL 599A. Introduced by Tyson, 19.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 599, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

AMENDMENT - Print in Journal

Senator Landis filed the following amendment to LB 1017:
AM2896

(Amendments to Standing Committee amendments, AM2687)

- 1 1. On page 12, line 22, strike "income" and insert
- 2 "receipts"; and in line 24 after the new matter insert "Gross
- 3 receipts of a contractor does not include the cost of the raw land
- 4 or finished lot, impact fees, title insurance, property insurance,
- 5 lender fees, closing costs, inspection fees, or any taxes or fees
- 6 levied on the transfer of property.".
- 7 2. On page 42, line 9, after "(1)" insert "A contractor
- 8 shall purchase all building materials for resale."; and in line 20
- 9 strike "other" and show as stricken.
- 10 3. On page 43, strike beginning with "The" in line 11
- 11 through "The" in line 12 and insert "For any construction project
- 12 that is exempt from sales tax under this section, the".
- 13 4. On page 45, line 5, strike "labor purchased", show as
- 14 stricken, and insert "project".

GENERAL FILE

LEGISLATIVE BILL 962. The first Standing Committee amendment, FA1502, found on page 817 and considered on pages 818 and 851, was renewed.

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

FA1523

Amend FA1502

On page 4, in line 10 strike "some" and insert "a" and strike "purposes" and insert "purpose"; in line 13 strike "there is no reason known to" and after "department" insert "knows of no reason"; in lines 13 and 14 strike "would constitute" and insert "constitutes"; in line 18 strike "determinations" and insert "determination"; in line 23 strike "or" and insert "and any"; in line 22 strike "also".

Senator Chambers withdrew his amendment.

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

FA1524

Amend FA1502

On page 4, in line 10 strike "some" and insert "a" and strike "purposes" and insert "purpose"; in line 13 strike "there is no reason known to" and after "department" insert "knows of no reason"; in lines 13 and 14 strike "would constitute" and insert "constitutes"; in line 23 strike "or" and insert "and any owner"; in line 22 strike "also".

The Chambers amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

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

FA1525

Amend FA1502

On page 5, in line 4 strike "may be accompanied by" and insert "include"; in line 17 strike "as" and insert "that".

The Chambers amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

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

FA1526

Amend FA1502

On page 5, in line 27; page 6, in line 5; page 14, in line 27 strike "cancelled" and insert "canceled".

The Chambers amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Pending.

STANDING COMMITTEE REPORTS

Urban Affairs

LEGISLATIVE BILL 432. Indefinitely postponed.

(Signed) D. Paul Hartnett, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 960. Placed on General File as amended.

Standing Committee amendment to LB 960:

AM2817

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

3 "Section 1. Section 84-1501, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 84-1501. (1) The Public Employees Retirement Board is
6 hereby established. ~~Such~~
7 (2) Prior to January 1, 2005, the board shall consist of
8 seven appointed members and the state investment officer as a
9 nonvoting, ex officio member. Three of the appointed members shall
10 be participants in the retirement systems administered by the
11 board, one of the appointed members shall be a participant in such
12 retirement systems who has retired, and three of the appointed
13 members shall not be employees of the State of Nebraska or any of
14 its political subdivisions. Appointments to such board shall be
15 made by the Governor subject to the approval of the Legislature.
16 All appointed members shall be citizens of the State of Nebraska.
17 The three appointed members who are not employees of the State of
18 Nebraska or any of its political subdivisions shall have at least
19 ten years of experience in the management of a public or private
20 organization or have at least five years of experience in the field
21 of actuarial analysis or the administration of an employee benefit
22 plan. The members serving on March 27, 1997, shall serve for the
23 remainder of their five-year terms which will be extended until the
24 date on which the successor's appointment is effective. For
1 members whose terms begin on January 1, 2000, one shall serve a
2 three-year term and one shall serve a four-year term or until a
3 successor has been appointed and qualified. For members whose
4 terms begin on January 1, 2001, one shall serve a four-year term
5 and two shall serve five-year terms, or until a successor has been
6 appointed and qualified.

7 (3)(a) Beginning January 1, 2005, the board shall consist
8 of eight appointed members as described in this subsection and the
9 state investment officer as a nonvoting, ex officio member. Six of
10 the appointed members shall be participants in the retirement
11 systems administered by the board, and two of the appointed members
12 (i) shall not be an employee of the State of Nebraska or any of its
13 political subdivisions and (ii) shall have at least ten years of
14 experience in the management of a public or private organization or
15 have at least five years of experience in the field of actuarial
16 analysis or the administration of an employee benefit plan. On and
17 after January 1, 2005, any person who is appointed to the board and
18 who is not an employee of the State of Nebraska or any of its
19 subdivisions shall not own any funds which are administered by the
20 board.

21 (b) On January 1, 2005, the six appointed members who are
22 participants in the systems shall be as follows:

23 (i) Two of the appointed members shall be participants in
24 the School Retirement System of the State of Nebraska and shall
25 include one active administrator and one active teacher as provided
26 in this subdivision. On January 1, 2005, the member of the board
27 who had been a member of the School Retirement System of the State

1 of Nebraska prior to such date shall continue in such position as
 2 the member representing the School Retirement System of the State
 3 of Nebraska until such member's term expires. A school
 4 administrator shall be appointed as a member of the board when the
 5 term of the first member of the board expires who was appointed
 6 prior to January 1, 2005, and who was not an employee of the State
 7 of Nebraska or any of its political subdivisions;
 8 (ii) One of the appointed members shall be a participant
 9 in the Nebraska Judges Retirement System, either as an active or
 10 retired member. On January 1, 2005, the member of the board who
 11 had been a member of the Nebraska Judges Retirement System prior to
 12 such date shall continue in such position as the member
 13 representing the Nebraska Judges Retirement System until such
 14 member's term expires;
 15 (iii) One of the appointed members shall be a participant
 16 in the Nebraska State Patrol Retirement System, either as an active
 17 or retired member. Such member's term shall begin on January 1,
 18 2005;
 19 (iv) One of the appointed members shall be an active
 20 participant in the Retirement System for Nebraska Counties. On
 21 January 1, 2005, the member of the board who had been a member of
 22 the Retirement System for Nebraska Counties prior to such date
 23 shall continue in such position as the member representing the
 24 Retirement System for Nebraska Counties until such member's term
 25 expires; and
 26 (v) One of the appointed members shall be an active
 27 participant in the State Employees Retirement System of the State
 1 of Nebraska. On January 1, 2005, the member of the board who had
 2 been a member of the State Employees Retirement System prior to
 3 such date shall continue in such position as the member
 4 representing the State Employees Retirement System until such
 5 member's term expires.
 6 (c) Appointments to the board on and after January 1,
 7 2005, shall be made by the Governor and shall be subject to the
 8 approval of the Legislature. All appointed members shall be
 9 citizens of the State of Nebraska.
 10 (4) All members appointed on and after January 1, 2002,
 11 shall serve for terms of five years or until a successor has been
 12 appointed and qualified. The members of the board shall be
 13 reimbursed for their actual and necessary expenses as provided in
 14 sections 81-1174 to 81-1177. The appointed members of the board
 15 may be removed by the Governor for cause after notice and an
 16 opportunity to be heard."

LEGISLATIVE BILL 1013. Placed on General File as amended.

Standing Committee amendment to LB 1013:

AM2861

- 1 1. On page 2, lines 17 and 20, after "and" insert "if he
- 2 or she commenced his or her employment after January 1, 1984, his

3 or her"; and in line 22 after the period insert "Upon the direction
 4 of the city, firefighters employed on January 1, 1984, may have the
 5 option to allocate their employer account to various investment
 6 options or combinations of investment options in any proportion,
 7 including full allocation, in any investment option offered by the
 8 plan.".

LEGISLATIVE BILL 1115. Indefinitely postponed.

(Signed) Elaine Stuhr, Chairperson

VISITORS

Visitors to the Chamber were Tom Moser from Hartington; 27 kindergarten through eighth-grade students and teacher from Abie and Bruno Public Schools; 41 twelfth-grade students and teacher from Aurora; nurses from the liaison group Nebraska Nurses organization; members from Lithuania as part of the Open World Program at the Library of Congress; and 50 seventh- and eighth-grade students and teachers from Sunrise and Horizon Middle Schools, Kearney.

RECESS

At 12:02 p.m., on a motion by Senator Hartnett, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator McDonald who was excused; and Senators Byars, Cunningham, Johnson, Landis, Mines, Price, Raikes, and Vrtiska who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 962. Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1527

Amend FA1502

On page 6, in line 2 after "appropriation" put a comma and strike "that" and insert "such"; in line 4 strike "for the department to conclude" and insert "to support the conclusion"; in line 7 strike "the" and insert "such" and strike "agreeing".

The Chambers amendment was adopted with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

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

FA1528

Amend FA1502

On page 8, in line 16 strike "personally" and insert "by personal service"; in line 19 strike "arrive at" and insert "reach"

Senator Chambers moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 45:

Aguilar	Chambers	Hudkins	Mines	Schrock
Baker	Combs	Janssen	Mossey	Smith
Beutler	Cudaback	Jensen	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Jones	Pederson, D.	Stuthman
Brashear	Engel	Kremer	Preister	Synowiecki
Bromm	Erdman	Kruse	Price	Thompson
Brown	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Redfield	Vrtiska
Byars	Hartnett	Maxwell	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Connealy	Johnson	McDonald	Raikes
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The Chambers amendment was adopted with 45 ayes, 0 nays, and 4 excused and not voting.

The Chair declared the call raised.

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

FA1529

Amend FA1502

On page 8, in lines 25 and 26; and on page 9, in lines 1, 2 and 4 strike "being".

The Chambers amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

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

FA1530

Amend FA1502

On page 9, in line 6 strike "is" and insert "are", and strike "by" and insert "to"; in line 8 strike "personally" and insert "by personal service"; in line 10 strike "shown" and insert "listed"; in line 11 put a comma after "involved"; in line 13 strike "is" and insert "are"

The Chambers amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

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

FA1531

Amend FA1502

1. On page 9, in line 15 strike "the"; in line 16 strike "Nebraska"; in lines 18 and 19 strike "any Nebraska County which contains" and insert "each county containing"; in line 26 strike "a" and insert "each".
2. On page 10, in line 6 strike and show as stricken "one" and insert "person"; in line 8 strike and show as stricken "someone interested" and insert "an interested person".

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

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

FA1532

Amend FA1502

1. On page 13, in line 12 strike "dictates" and insert "principles";
2. On page 14, in line 27 strike "cancelled" and insert "canceled";
3. On page 15, in line 7 strike "that" and insert "such"

The Chambers amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Senator Beutler asked unanimous consent to bracket LB 962 until Tuesday, March 9, 2004. No objections. So ordered.

BILL ON FIRST READING

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

LEGISLATIVE BILL 1231A. Introduced by Hartnett, 45.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1231, Ninety-eighth Legislature, Second Session, 2004.

GENERAL FILE

LEGISLATIVE RESOLUTION 209CA. Read. Considered.

SENATOR VRTISKA PRESIDING

The Standing Committee amendment, AM2346, found on page 501, was considered.

Senator Landis withdrew his pending amendment, AM2752, found on page 748.

Senator Landis renewed his pending amendment, AM2822, found on page 779, to the Standing Committee amendment.

Senator Chambers offered the following motion:
Bracket until April 15, 2004.

Pending.

STANDING COMMITTEE REPORTS
Nebraska Retirement Systems

LEGISLATIVE BILL 1030. Placed on General File.

LEGISLATIVE BILL 1097. Placed on General File as amended.
(Standing Committee amendment, AM2868, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Elaine Stuhr, Chairperson

VISITORS

Visitors to the Chamber were Randy and Elizabeth Basnett from Ravenna; and 9 eighth-grade students and teacher from St. Patrick's School, Lincoln.

The Doctor of the Day was Dr. Bradley Hupp from Albion.

ADJOURNMENT

At 4:49 p.m., on a motion by Senator Hartnett, the Legislature adjourned until 9:00 a.m., Friday, March 5, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-SEVENTH DAY - MARCH 5, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, March 5, 2004

PRAYER

The prayer was offered by Pastor Greg Volzke, Christ Lutheran Church, Juniata.

ROLL CALL

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

The roll was called and all members were present except Senator Hartnett who was excused; and Senators Bromm, Brown, Combs, Cunningham, Engel, Dw. Pedersen, Quandahl, and Wehrbein who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-sixth day was approved.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 4, 2004, 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

American Communications Group, Inc.
YMCA of Nebraska

Cutshall & Associates
Wheatland Industries, LLC

O'Hara, Lindsay & Associates, Inc.
City of Hastings
City of Norfolk

Motorola, Inc. (Withdrawn 03/02/2004)

COMMUNICATIONS

Received petitions from the Douglas County Board of Commissioners adopted on January 6, 2004.

Received petitions from the Douglas County Board of Commissioners adopted on January 13, 2004.

Received petitions from the Douglas County Board of Commissioners adopted on January 27, 2004.

Received petitions from the Douglas County Board of Commissioners adopted on February 3, 2004.

Received petitions from the Douglas County Board of Commissioners adopted on February 10, 2004.

Received petition from the Nance County adopted on February 24, 2004.

MOTION - Approve Appointment

Senator Stuhr moved the adoption of the Nebraska Retirement Systems Committee report for the confirmation of the following appointment found on page 816:

Public Employees Retirement Board
Dale L. Kahla

Voting in the affirmative, 25:

Aguilar	Erdman	Johnson	Mines	Schrock
Bourne	Foley	Kremer	Mossey	Stuhr
Byars	Friend	Louden	Pederson, D.	Stuthman
Connealy	Janssen	Maxwell	Raikes	Synowiecki
Cudaback	Jensen	McDonald	Schimek	Tyson

Voting in the negative, 0.

Present and not voting, 15:

Baker	Burling	Jones	Preister	Smith
Beutler	Chambers	Kruse	Price	Thompson
Brashear	Hudkins	Landis	Redfield	Vrtiska

Excused and not voting, 9:

Bromm	Combs	Engel	Pedersen, Dw.	Wehrbein
Brown	Cunningham	Hartnett	Quandahl	

The appointment was confirmed with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

GENERAL FILE

LEGISLATIVE RESOLUTION 209CA. Senator Chambers renewed his pending motion, found on page 883, to bracket until April 15, 2004.

SPEAKER BROMM PRESIDING

Senator Chambers withdrew his motion to bracket.

Pending.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 244 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 244.

GENERAL FILE

LEGISLATIVE RESOLUTION 209CA. The Landis pending amendment, AM2822, found on page 779 and considered on page 883, to the Standing Committee amendment, was renewed.

Senator D. Pederson offered the following motion:
Bracket LR 209CA until April 15, 2004.

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

Senator Thompson moved for a call of the house. The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

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

Voting in the affirmative, 32:

Aguilar	Cudaback	Jones	Pedersen, Dw.	Stuthman
Baker	Cunningham	Kremer	Pederson, D.	Synowiecki
Beutler	Engel	Kruse	Quandahl	Thompson
Brashear	Foley	Landis	Raikes	Wehrbein
Byars	Hudkins	Maxwell	Redfield	
Combs	Janssen	Mines	Schrock	
Connealy	Johnson	Mossey	Stuhr	

Voting in the negative, 10:

Bourne	Burling	Erdman	Preister	Tyson
Brown	Chambers	Louden	Smith	Vrtiska

Present and not voting, 5:

Bromm	Friend	Jensen	Price	Schimek
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Excused and not voting, 2:

Hartnett	McDonald
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The motion to cease debate prevailed with 32 ayes, 10 nays, 5 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Thompson moved for a call of the house. The motion prevailed with 35 ayes, 1 nay, and 13 not voting.

Senator Landis requested a roll call vote on the D. Pederson motion to bracket.

Voting in the affirmative, 6:

Aguilar	Raikes	Thompson
Pederson, D.	Redfield	Tyson

Voting in the negative, 33:

Baker	Combs	Hudkins	Maxwell	Smith
Beutler	Connealy	Janssen	Mines	Stuhr
Brashear	Cudaback	Johnson	Mossey	Stuthman
Bromm	Cunningham	Jones	Pedersen, Dw.	Vrtiska
Burling	Erdman	Kremer	Price	Wehrbein
Byars	Foley	Landis	Schimek	
Chambers	Friend	Louden	Schrock	

Present and not voting, 9:

Bourne	Engel	Kruse	Preister	Synowiecki
Brown	Jensen	McDonald	Quandahl	

Excused and not voting, 1:

Hartnett

The D. Pederson motion to bracket failed with 6 ayes, 33 nays, 9 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENTS - Print in Journal

Senator Foley filed the following amendment to LB 1005:
AM2623

- 1 1. Insert the following new section:
- 2 "Sec. 79. Section 71-5707, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-5707. (1) No person shall smoke in a public place or
- 5 at a public meeting except in designated smoking areas. This
- 6 prohibition does not apply in cases in which an entire room or hall
- 7 is used for a private social function and seating arrangements are
- 8 under the control of the sponsor of the function and not of the
- 9 proprietor or person in charge of such room or hall.
- 10 (2) With respect to factories, warehouses, and similar
- 11 places of work not usually frequented by the general public, the
- 12 Department of Health and Human Services Regulation and Licensure
- 13 shall, in consultation with the Department of Labor, establish
- 14 rules to restrict or prohibit smoking in those places of work where
- 15 the close proximity of workers or the inadequacy of ventilation
- 16 causes smoke pollution detrimental to the health and comfort of
- 17 nonsmoking employees.
- 18 (3) No person shall smoke at a site where child care
- 19 programs required to be licensed under section 71-1911 are
- 20 provided. ~~This prohibition does not apply if the child care~~
- 21 ~~program is located in the home of the provider~~ This prohibition
- 22 applies to a child care program located in the home of the provider
- 23 only during times one or more client's children are present in any
- 24 part of the home.
- 1 (4) Smoking is prohibited in all vehicles owned or leased
- 2 by the state and in all buildings, and the area within ten feet of
- 3 any entrance of such buildings, which are owned, leased, or
- 4 occupied by the state except as provided in subsections (5), (6),
- 5 and (7) of this section.
- 6 (5) The following buildings or areas within buildings in
- 7 which persons reside or lodge may be exempt from this section: (a)

8 Nebraska veterans homes established pursuant to section 80-315; (b)
 9 private residences; (c) facilities and institutions under the
 10 control of the Department of Health and Human Services; and (d)
 11 overnight lodging facilities and buildings managed by the Game and
 12 Parks Commission, but no more than twenty-five percent of the
 13 overnight lodging facilities at each park location shall permit
 14 smoking.

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

20 (7) Smoking may be permitted in no more than forty
 21 percent of the residential housing rooms or units owned or leased
 22 on each campus under the control of the Board of Regents of the
 23 University of Nebraska or the Board of Trustees of the Nebraska
 24 State Colleges."

25 2. On page 94, line 27, after "71-5668," insert
 26 "71-5707,".

27 3. Renumber the remaining sections accordingly.

Senator Cunningham filed the following amendment to LB 1005:
 AM2910

1 1. Strike original sections 73, 75, and 76 and insert
 2 the following new sections:
 3 "Sec. 73. Section 71-5651, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 71-5651. (1) The Legislature finds that (a) residents of
 6 rural Nebraska frequently encounter difficulties in obtaining
 7 medical care due to the lack of health care providers, facilities,
 8 and services, (b) many rural communities experience problems in
 9 recruiting and retaining health care providers, (c) rural residents
 10 are often required to travel long distances in order to obtain
 11 health care services, (d) elderly and uninsured persons constitute
 12 a high proportion of the population in rural Nebraska, (e) many
 13 rural hospitals are experiencing declining patient revenue and are
 14 being forced to reconsider the scope and nature of the health care
 15 services they provide, (f) the physical and economic stresses of
 16 rural living can lead to an increased need for mental health
 17 services in rural Nebraska, (g) the conditions described in this
 18 section can lead to situations in which residents of rural Nebraska
 19 receive a lower level of health care services than their urban
 20 counterparts, and (h) some of the conditions described in this
 21 subsection also exist in underserved portions of metropolitan areas
 22 within the state.
 23 (2) The Legislature further finds that the health care
 24 industry is a vital component of the economic base of many rural
 1 communities and that the maintenance and enhancement of this
 2 industry can play a significant role in efforts to further the

3 economic development of rural communities.

4 (3) The Legislature further finds that the inherent
5 limitations imposed upon health care delivery mechanisms by the
6 rural environment can be partially overcome through a greater
7 emphasis on the development of health care systems that emphasize
8 the linkage and integration of health care resources in neighboring
9 communities as well as the development of new resources.

10 (4) The Legislature further finds that postsecondary
11 education of medical, dental, and mental health professionals is
12 important to the welfare of the state. The Legislature further
13 recognizes and declares that the state can help alleviate the
14 problems of maldistribution and shortages of medical, dental, and
15 mental health personnel through programs offering financial
16 incentives to practice in areas of shortage.

17 Sec. 74. Section 71-5652, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-5652. The purposes of the Rural Health Systems and
20 Professional Incentive Act ~~shall be~~ are to (1) create the Nebraska
21 Rural Health Advisory Commission and establish its powers and
22 duties, (2) establish a student loan program that will provide
23 financial incentives to medical, dental, master's level and
24 doctorate-level mental health, and physician assistant students who
25 agree to practice their profession in a designated health
26 profession shortage area within Nebraska, and (3) establish a loan
27 repayment program that will require community matching funds and
1 will provide financial incentives to eligible ~~public~~ health
2 professionals who agree to practice their profession in a
3 designated health profession shortage area within Nebraska.

4 Sec. 75. Section 71-5653, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-5653. For purposes of the Rural Health Systems and
7 Professional Incentive Act:

8 (1) Approved medical specialty means family practice,
9 general practice, general internal medicine, general pediatrics,
10 general surgery, obstetrics/gynecology, and psychiatry;

11 (2) Approved dental specialty means general practice,
12 pediatric dentistry, and oral surgery;

13 (3) Approved mental health practice program means an
14 approved educational program consisting of a master's or doctorate
15 degree with the focus being primarily therapeutic mental health and
16 meeting the educational requirements for licensure in mental health
17 practice or psychology by the Department of Health and Human
18 Services Regulation and Licensure;

19 (4) Commission means the Nebraska Rural Health Advisory
20 Commission;

21 ~~(4)~~ (5) Department means the Department of Health and
22 Human Services;

23 ~~(5)~~ (6) Doctorate-level mental health student means a
24 graduate student enrolled in or accepted for enrollment in an

25 approved mental health practice program leading to a doctorate
 26 degree and meeting the educational requirements for licensure in
 27 psychology by the Department of Health and Human Services

1 Regulation and Licensure:

2 ~~(7)~~ (8) Full-time practice means a minimum of forty hours per
 3 week;

4 ~~(6)~~ (8) Health care means both somatic and mental health
 5 care services;

6 ~~(7)~~ (9) Master's level mental health student means a
 7 graduate student enrolled in or accepted for enrollment in an
 8 approved mental health practice program leading to a master's
 9 degree and meeting the educational requirements for licensure in
 10 mental health practice by the Department of Health and Human
 11 Services Regulation and Licensure;

12 ~~(10)~~ (11) Office means the Office of Rural Health;

13 ~~(8)~~ (11) Qualified educational debts means government and
 14 commercial loans obtained by students for postsecondary education
 15 tuition, other educational expenses, and reasonable living
 16 expenses, as determined by the department, but does not include
 17 loans received under the act or the Nebraska Medical Student
 18 Assistance Act; and

19 ~~(9)~~ (12) Rural means located within any county in
 20 Nebraska having a population of less than fifteen thousand
 21 inhabitants and not included within a metropolitan statistical area
 22 as defined by the United States Department of Commerce, Bureau of
 23 the Census.

24 Sec. 77. Section 71-5661, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

26 71-5661. (1) The financial incentives provided by the
 27 Rural Health Systems and Professional Incentive Act shall consist
 1 of (a) student loans to eligible students for attendance at an
 2 eligible school as determined pursuant to section 71-5662 and (b)
 3 the repayment of qualified educational debts owed by eligible
 4 health professionals as determined pursuant to such section. Funds
 5 for such incentives shall be appropriated from the General Fund to
 6 the department for such purposes.

7 (2) The Rural Health Professional Incentive Fund is
 8 created. The fund shall be used to carry out the purposes of the
 9 act. Money credited pursuant to section 71-5670.01 and payments
 10 received pursuant to sections 71-5666 and 71-5668 shall be remitted
 11 to the State Treasurer for credit to the fund. Any money in the
 12 fund available for investment shall be invested by the state
 13 investment officer pursuant to the Nebraska Capital Expansion Act
 14 and the Nebraska State Funds Investment Act.

15 Sec. 78. Section 71-5662, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 71-5662. (1) To be eligible for a student loan under the
 18 Rural Health Systems and Professional Incentive Act, an applicant
 19 or a recipient shall be enrolled or accepted for enrollment in an

20 accredited medical or dental education program or physician
 21 assistant education program or an approved mental health practice
 22 program in Nebraska.

23 (2) To be eligible for loan repayment under the act, an
 24 applicant or a recipient shall be a pharmacist, a dentist, a
 25 physical therapist, an occupational therapist, a mental health
 26 practitioner, a psychologist licensed under the requirements of
 27 section 71-1,206.15 or the equivalent thereof, an advanced practice
 1 registered nurse, a physician assistant, or a physician in an
 2 approved specialty and shall be licensed ~~or certified~~ to practice
 3 in Nebraska, not be enrolled in a residency program, not be
 4 practicing under a provisional or temporary license, and enter
 5 practice in a designated health profession shortage area in
 6 Nebraska.

7 Sec. 79. Section 71-5663, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 71-5663. (1) The amount of financial assistance provided
 10 through student loans pursuant to the Rural Health Systems and
 11 Professional Incentive Act shall be limited to twenty thousand
 12 dollars for each recipient for each academic year and shall not
 13 exceed eighty thousand dollars per medical, ~~or dental,~~ or
 14 doctorate-level mental health student or twenty thousand dollars
 15 per master's level mental health or physician assistant student.

16 (2) The amount of financial assistance provided by the
 17 state through loan repayments pursuant to the act (a) for
 18 physicians, dentists, and ~~clinical~~ psychologists shall be limited
 19 to ten thousand dollars per recipient per year of full-time
 20 practice in a designated health profession shortage area and shall
 21 not exceed thirty thousand dollars per recipient and (b) for
 22 physician assistants, advanced practice registered nurses,
 23 pharmacists, physical therapists, occupational therapists, and
 24 ~~master's level mental health professionals~~ mental health
 25 practitioners shall be limited to five thousand dollars per
 26 recipient per year of full-time practice in a designated health
 27 profession shortage area and shall not exceed fifteen thousand
 1 dollars per recipient.

2 Sec. 81. Section 71-5666, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 71-5666. Each student loan recipient shall execute an
 5 agreement with the state. Such agreement shall include the
 6 following terms, as appropriate:

7 (1) The borrower agrees to practice the equivalent of one
 8 year of full-time practice of an approved specialty in a designated
 9 health profession shortage area in Nebraska for each year of
 10 education for which a loan is received and agrees to accept
 11 medicaid patients in his or her practice;

12 (2) If the borrower practices an approved specialty in a
 13 designated health profession shortage area in Nebraska, the loan
 14 shall be forgiven as provided in this section. Practice in a

15 designated area shall commence within three months of the
 16 completion of formal education, which may include a period not to
 17 exceed five years to complete specialty training in an approved
 18 specialty. The commission may approve exceptions to the
 19 three-month restriction upon showing good cause. Loan forgiveness
 20 shall occur on a quarterly basis, with completion of the equivalent
 21 of three months of full-time practice resulting in the cancellation
 22 of one-fourth of the annual loan amount;

23 (3) If the borrower practices an approved specialty in
 24 Nebraska but not in a designated health profession shortage area,
 25 practices a specialty other than an approved specialty in Nebraska,
 26 or practices outside Nebraska, the borrower shall repay one hundred
 27 percent of the outstanding loan principal with interest at a rate
 1 of twenty-four percent simple interest per year from the date the
 2 loan was granted. Such repayment shall commence within six months
 3 of the completion of formal education, which may include a period
 4 not to exceed five years to complete specialty training in an
 5 approved specialty, and shall be completed within a period not to
 6 exceed twice the number of years for which loans were awarded;

7 (4) If a borrower who is a medical, ~~or~~ dental, or
 8 doctorate-level mental health student determines during the first
 9 or second year of medical, ~~or~~ dental, or doctorate-level mental
 10 health education that his or her commitment to the loan program
 11 cannot be honored, the borrower may repay the outstanding loan
 12 principal, plus six percent simple interest per year from the date
 13 the loan was granted, prior to graduation from medical or dental
 14 school or a mental health practice program without further penalty
 15 or obligation. Master's level mental health and physician
 16 physician assistant student loan recipients shall not be eligible
 17 for this provision;

18 (5) If the borrower discontinues the course of study for
 19 which the loan was granted, the borrower shall repay one hundred
 20 percent of the outstanding loan principal. Such repayment shall
 21 commence within six months of the date of discontinuation of the
 22 course of study and shall be completed within a period of time not
 23 to exceed the number of years for which loans were awarded; and

24 (6) In the event of a borrower's total and permanent
 25 disability or death, the unpaid debt accrued under the Rural Health
 26 Systems and Professional Incentive Act shall be canceled.

27 Sec. 86. Sections 1 to 72, 83 to 85, 88, and 89 of this
 1 act become operative three calendar months after the adjournment of
 2 this legislative session. The other sections of this act become
 3 operative on their effective date.

4 Sec. 87. Original sections 71-5651 to 71-5654, 71-5661
 5 to 71-5663, 71-5665, 71-5666, and 71-5668, Reissue Revised Statutes
 6 of Nebraska, are repealed.

7 Sec. 90. Since an emergency exists, this act takes
 8 effect when passed and approved according to law."

9 2. On page 94, strike beginning with "71-5652" in line

10 26 through the first comma in line 27.

11 3. Renumber the remaining sections accordingly.

Senator Schrock filed the following amendment to LB 962:
AM2916

(Amendments to Standing Committee amendments, AM2733)

- 1 1. Strike original section 99 and insert the following
2 new sections:
3 "Sec. 99. Section 81-15,173, Revised Statutes
4 Supplement, 2002, is amended to read:
5 81-15,173. The board shall have and may exercise the
6 following powers and duties:
7 (1) Adopt bylaws to govern the proceedings of the board;
8 (2) Keep records, conduct hearings, and adopt and
9 promulgate rules and regulations to carry out its duties and
10 implement the Nebraska Environmental Trust Act;
11 (3) Contract with the Game and Parks Commission for
12 administrative support; ~~and with governmental agencies for~~
13 ~~technical assistance;~~
14 (4) Contract with governmental and private agencies to
15 receive technical assistance and services;
16 ~~(5) Contract with governmental and private agencies to~~
17 ~~provide technical assistance and services;~~
18 (6) Establish environmental ~~priorities~~ categories for use
19 of the funds and develop an appropriate rating system for each
20 category;
21 ~~(5) (7) Establish ad hoc advisory boards and~~
22 ~~subcommittees;~~
23 ~~(6) (8) Sponsor or assist environmental proposals~~
1 pertaining to the environmental ~~priorities~~ categories of the board,
2 including issuing grants to agencies, organizations, and persons
3 engaged in the purposes of the trust;
4 ~~(7) (9) Cooperate with or assist any unit of the state,~~
5 any political subdivision, or any private, public, or federal
6 agency, foundation, or person in furtherance of the purposes of the
7 trust;
8 ~~(8) (10) Acquire and dispose of personal property in~~
9 furtherance of the purposes of the trust; and
10 ~~(9) (11) Apply for or accept any gift, grant, bequest,~~
11 royalty, or donation, designate the fund to which it will be
12 credited, and expend the proceeds in furtherance of the purposes of
13 the trust.
14 Sec. 100. Section 81-15,175, Revised Statutes
15 Supplement, 2002, is amended to read:
16 81-15,175. (1) The board may make an annual allocation
17 each fiscal year from the Nebraska Environmental Trust Fund to the
18 Nebraska Environmental Endowment Fund as provided in section
19 81-15,174.01. The board shall make annual allocations from the
20 Nebraska Environmental Trust Fund and may make annual allocations

21 each fiscal year from the Nebraska Environmental Endowment Fund for
 22 projects which conform to the environmental priorities categories
 23 of the board established pursuant to section 81-15,176 and to the
 24 extent the board determines those projects to have merit. The
 25 board shall establish ~~an annual calendar~~ a calendar annually for
 26 receiving and evaluating proposals and awarding grants. To
 27 evaluate the economic, financial, and technical feasibility of
 1 proposals, the board may establish subcommittees, request or
 2 contract for assistance, or establish advisory groups. Private
 3 citizens serving on advisory groups shall be reimbursed for their
 4 actual and necessary expenses pursuant to sections 81-1174 to
 5 81-1177.

6 (2) The board shall establish ~~a rating system~~ rating
 7 systems for ranking proposals which meet the board's environmental
 8 priorities categories and other criteria. The rating ~~system~~
 9 systems shall include, but not be limited to, the following
 10 considerations:

11 (a) Conformance with priorities categories established
 12 pursuant to section 81-15,176;

13 (b) Amount of funds committed from other funding sources;

14 (c) Encouragement of public-private partnerships;

15 (d) Geographic mix of projects over time;

16 (e) Cost-effectiveness and economic impact;

17 (f) Direct environmental impact; and

18 (g) Environmental benefit to the general public and the
 19 long-term nature of such public benefit.

20 (3) The board may establish a subcommittee to rate grant
 21 applications. If the board uses a subcommittee, the subcommittee
 22 shall (a) use the rating ~~system~~ systems established by the board
 23 under subsection (2) of this section, (b) assign a numeric value to
 24 each rating criterion, combine these values into a total score for
 25 each application, and rank the applications by the total scores,
 26 (c) recommend an amount of funding for each application, which
 27 amount may be more or less than the requested amount, and (d)

1 submit the ranked list and recommended funding to the board for its
 2 approval or disapproval. A motion to deviate from the
 3 subcommittee's recommendations must specify the reason for doing so
 4 and be adopted with an affirmative vote of not fewer than eight
 5 members of the board.

6 (4) The board may commit funds to multiyear projects,
 7 subject to available funds and appropriations. No commitment shall
 8 exceed three years without formal action by the board to renew the
 9 grant or contract. Multiyear commitments may be exempt from the
 10 rating process except for the initial application and requests to
 11 renew the commitment.

12 (5) The board shall adopt and promulgate rules and
 13 regulations and publish guidelines governing allocations from the
 14 fund. The board shall conduct annual reviews of existing projects
 15 for compliance with project goals and grant requirements.

16 (6) Every five years the board may evaluate the long-term
17 effects of the projects it funds. The evaluation may assess a
18 sample of such projects. The board may hire an independent
19 consultant to conduct the evaluation and may report the evaluation
20 findings to the Legislature and the Governor.

21 Sec. 101. Section 81-15,176, Revised Statutes
22 Supplement, 2002, is amended to read:

23 81-15,176. (1) Subject to subsection (3) of this
24 section, the board shall establish environmental ~~priorities for~~
25 categories of projects eligible for funding by the trust. The
26 board, after allowing opportunity for public comment, shall
27 designate as ~~priorities~~ categories those environmental goals which
1 most affect the natural physical and biological environment in
2 Nebraska, including the air, land, ground water and surface water,
3 flora and fauna, prairies and forests, wildlife and wildlife
4 habitat, and areas of aesthetic or scenic values. In designating
5 environmental ~~priorities~~ categories, the board shall attempt to
6 focus on the areas which promise the greatest opportunities for
7 effective action to achieve and preserve the future environmental
8 quality in the state. The board shall establish ~~priorities~~
9 categories for five-year periods beginning July 1, 1995. The board
10 may establish annual priorities within the five-year categories. ~~;~~
11 ~~except that the board may make annual modifications to refine and~~
12 ~~clarify its priorities.~~ The board shall provide for public
13 involvement in developing the ~~priorities~~ categories for such
14 five-year periods; ~~including and any priorities within these~~
15 categories, including, but not limited to, public meetings in each
16 of the three congressional districts.

17 (2) The board shall establish criteria for determining
18 the eligibility of projects for grant assistance, which criteria
19 shall include the following:

20 (a) The grants shall not provide direct assistance to
21 regulatory programs or to implement actions mandated by regulations
22 except remediation;

23 (b) No more than sixty percent of grant allocations in
24 any year shall assist remediation of soils or ground water, and no
25 grants for this purpose shall occur unless all other available
26 sources of funding are, in the opinion of the board, being
27 substantially utilized;

1 (c) The grants shall not pay for projects which provide
2 primarily private benefits or relieve private liability for
3 environmental damage;

4 (d) The grants shall not pay for projects which have
5 direct beneficiaries who could afford the costs of the benefits
6 without experiencing serious financial hardship;

7 (e) The grants should assist those projects which offer
8 the greatest environmental benefits relative to cost;

9 (f) The grants should assist those projects which provide
10 clear and direct environmental benefits;

11 (g) The grants should assist those projects which will
 12 make a real contribution to achieving the board's environmental
 13 ~~priorities categories~~;

14 (h) The grants should assist those projects which offer
 15 the greatest public benefits; and

16 (i) The grants shall not pay for land or easements
 17 acquired without the full and express consent of the landowner.

18 (3) Until the first five-year ~~priorities categories~~
 19 become effective on July 1, 1995, the board shall observe the
 20 following ~~priorities categories~~ for allocating grants:

21 (a) Critical habitat areas, including wetlands
 22 acquisition, preservation, and restoration and acquisition and
 23 easements of areas critical to rare or endangered species;

24 (b) Surface water quality, including actions to preserve
 25 lakes and streams from degradation;

26 (c) Ground water quality, including fostering best
 27 management practices as defined in section ~~46-656.07 42~~ of this
 1 act, actions to preserve ground water from degradation, and
 2 remediation of soils or ground water; and

3 (d) Development of recycling markets and reduction of
 4 solid waste volume and toxicity.

5 (4) The board may refine and clarify these initial
 6 ~~priorities categories~~."

7 2. Amend the repealer, renumber the remaining sections,
 8 and correct internal references accordingly.

GENERAL FILE

LEGISLATIVE RESOLUTION 209CA. The Landis pending amendment, AM2822, found on page 779 and considered on page 883 and in this day's Journal, to the Standing Committee amendment, was renewed.

SENATOR ENGEL PRESIDING

Senator Tyson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Landis amendment was adopted with 25 ayes, 3 nays, 17 present and not voting, and 4 excused and not voting.

Senator Louden renewed his pending amendment, AM2828, found on page 824, to the Standing Committee amendment.

Senator Erdman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Louden moved for a call of the house. The motion prevailed with 23

ayes, 0 nays, and 26 not voting.

Senator Louden requested a roll call vote on his amendment.

Senator Mines requested the roll call vote be taken in reverse order.

Voting in the affirmative, 11:

Bourne	Jensen	Mines	Smith
Chambers	Jones	Quandahl	Tyson
Erdman	Louden	Redfield	

Voting in the negative, 12:

Beutler	Hudkins	Landis	Schimek
Byars	Janssen	Mossey	Schrock
Foley	Johnson	Raikes	Thompson

Present and not voting, 21:

Aguilar	Burling	Friend	Pedersen, Dw.	Vrtiska
Baker	Combs	Kremer	Preister	
Brashear	Cudaback	Kruse	Stuhr	
Bromm	Cunningham	Maxwell	Stuthman	
Brown	Engel	McDonald	Synowiecki	

Excused and not voting, 5:

Connealy	Hartnett	Pederson, D.	Price	Wehrbein
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The Louden amendment lost with 11 ayes, 12 nays, 21 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment, AM2346, found on page 501 and considered on page 883, as amended, was renewed.

SPEAKER BROMM PRESIDING

Pending.

SELECT FILE

LEGISLATIVE BILL 16. E & R amendment, AM7178, found on page 803, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 625. Advanced to E & R for engrossment.

LEGISLATIVE BILL 878. Advanced to E & R for engrossment.

LEGISLATIVE BILL 961. Advanced to E & R for engrossment.

LEGISLATIVE BILL 835. E & R amendment, AM7176, found on page 807, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 836. E & R amendment, AM7177, found on page 807, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 821. Advanced to E & R for engrossment.

LEGISLATIVE BILL 937. Advanced to E & R for engrossment.

LEGISLATIVE BILL 820. Advanced to E & R for engrossment.

LEGISLATIVE BILL 927. Advanced to E & R for engrossment.

SENATOR CUDABACK PRESIDING

LEGISLATIVE BILL 936. Advanced to E & R for engrossment.

LEGISLATIVE BILL 915. Advanced to E & R for engrossment.

LEGISLATIVE BILL 818. Senator Erdman renewed his pending amendment, FA1501, found on page 801.

The Erdman amendment was adopted with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 911. Advanced to E & R for engrossment.

LEGISLATIVE RESOLUTION 211CA. Advanced to E & R for engrossment.

LEGISLATIVE BILL 947. E & R amendment, AM7179, found on page 807, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 950. Advanced to E & R for engrossment.

LEGISLATIVE BILL 1069. Advanced to E & R for engrossment.

LEGISLATIVE BILL 940. E & R amendment, AM7181, found on page 807, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1033. E & R amendment, AM7180, found on page 807, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1179. Advanced to E & R for engrossment.

MOTION - Return LB 560 to Select File

Senator Baker moved to return LB 560 to Select File for his specific pending amendment, AM2589, found on page 620.

The Baker motion to return prevailed with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 560. The Baker specific pending amendment, AM2589, found on page 620, was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 75. Senator Hudkins renewed her pending amendment, AM2320, found on page 410.

The Hudkins amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Senator Brown offered the following amendment:

FA1533

Amend AM2221

On page 1, line 13 after 'candidate' insert 'who has not passed a background investigation'

Senator Brown moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

The Brown amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 479. E & R amendment, AM7164, printed separately and referred to on page 422, was adopted.

Senator Baker renewed his pending amendment, AM2713, found on page 686.

Senator Baker moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Senator Baker requested a roll call vote on his amendment.

Voting in the affirmative, 26:

Baker	Chambers	Jensen	Redfield	Vrtiska
Beutler	Combs	Kremer	Schimek	Wehrbein
Bromm	Engel	Kruse	Schrock	
Brown	Foley	Landis	Stuhr	
Burling	Friend	Pedersen, Dw.	Stuthman	
Byars	Hudkins	Raikes	Thompson	

Voting in the negative, 2:

Cunningham Erdman

Present and not voting, 13:

Aguilar	Janssen	McDonald	Price	Synowiecki
Bourne	Johnson	Mossey	Quandahl	
Cudaback	Maxwell	Pederson, D.	Smith	

Excused and not voting, 8:

Brashear	Hartnett	Louden	Preister
Connealy	Jones	Mines	Tyson

The Baker amendment was adopted with 26 ayes, 2 nays, 13 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORTS **Government, Military and Veterans Affairs**

The Government, Military and Veterans Affairs 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.

Accountability and Disclosure Commission

Marilee A. Fredrickson
 Andre R. Barry
 Gary Rosacker

VOTE: Aye: Senators Aguilar, Burling, Combs, McDonald, Schimek, Smith, and Vrtiska. Nay: None. Absent: Senator Brown.

The Government, Military and Veterans Affairs 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.

State Emergency Response Commission
 Christine Bleich
 Richard Christensen
 Steven Wood

VOTE: Aye: Senators Aguilar, Burling, Combs, McDonald, Schimek, Smith, and Vrtiska. Nay: None. Absent: Senator Brown.

(Signed) DiAnna R. Schimek, Chairperson

BILLS ON FIRST READING

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

LEGISLATIVE BILL 485A. Introduced by Janssen, 15; Cunningham, 40; Friend, 10; Mossey, 3; Schimek, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 485, Ninety-eighth Legislature, Second Session, 2004.

LEGISLATIVE BILL 1083A. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1083, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

RESOLUTIONS

LEGISLATIVE RESOLUTION 249. Introduced by Hudkins, 21.

WHEREAS, Douglas Gregory Johnson of Troop 42, Malcolm, Nebraska, within the Cornhusker Council, Boy Scouts of America, earned the rank of Eagle Scout, the highest advancement rank in Scouting, on January 22, 2004; and

WHEREAS, the rank of Eagle Scout was bestowed by the Boy Scouts of America in recognition of Douglas Gregory Johnson's years of hard work,

selfless dedication, and commitment to both the organization and the community at large, as well as the steadfastness and determination that he has displayed in carrying out his Scouting duties and responsibilities; and

WHEREAS, in the course of attaining the rank of Eagle Scout, Douglas Gregory Johnson earned thirty-two merit badges and, for a community service project, obtained a much-needed new sign for the local Malcolm United Methodist Church; and

WHEREAS, only 1.2 million boys have achieved the rank of Eagle Scout since 1911 and only 2 in 100 that join the Boy Scouts, or 0.5% of the male population, earned an Eagle Scout badge; and

WHEREAS, Douglas Gregory Johnson joins the ranks of such great Eagle Scouts as Gerald Ford, the 36th President of the United States, professional baseball legend Henry "Hank" Aaron, Pulitzer Prize-winning author Wallace Stegner, astronaut Neil Armstrong, the first man on the moon, journalist Walter Cronkite, current Secretary of Defense Donald H. Rumsfeld, Apollo astronaut James A. Lovell, Jr., and Togo D. West, Jr., former Secretary of the Army and Secretary of Veterans Affairs; and

WHEREAS, in realizing his goal of becoming an Eagle Scout, Douglas Gregory Johnson has excelled in pursuing and exemplifying the essential goals of Scouting, citizenship training, character development, and personal fitness, as well as leadership, service, and outdoor skills, and will be honored for these accomplishments at a recognition ceremony to be held on March 28, 2004.

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

1. That the Legislature congratulates Douglas Gregory Johnson on his achievement of the elite rank of Eagle Scout in the Boy Scouts of America and recognizes his outstanding community service in Malcolm.

2. That a copy of this resolution be sent to Douglas Gregory Johnson and his family.

Laid over.

LEGISLATIVE RESOLUTION 250. Introduced by Byars, 30.

WHEREAS, Charles "Bud" Pentz was born in Joliet, Illinois, on April 13, 1916, and died on February 29, 2004; and

WHEREAS, Mr. Pentz was a well-known and respected broadcaster for more than 35 years and was the owner/operator of the radio station KWBE from the early 1950s and started KMAZ in 1962; and

WHEREAS, Mr. Pentz was inducted into the Nebraska Broadcasters Association Hall of Fame in 1977 and received the Nebraska Broadcast Pioneer Award for extraordinary leadership in the broadcasting business and support of broadcast education in 2002; and

WHEREAS, Mr. Pentz was an active member of various community organizations in Beatrice and Nebraska until 1987.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND

SESSION:

1. That the Legislature extends its sympathies to Mr. Pentz's wife, Mrs. Dorothy Pentz, his daughter Jana Pentz-McBride, and his family for their loss.

2. That a copy of this resolution be sent to Mrs. Dorothy Pentz and Ms. Jana Pentz-McBride.

Laid over.

AMENDMENTS - Print in Journal

Senator Quandahl filed the following amendment to LB 999:
AM2933

- 1 1. Strike original section 4.
- 2 2. On page 33, line 17, strike "and"; and in line 22
- 3 after "state" insert "; and
- 4 (10) A credit card bank shall provide for the insurance
- 5 of deposits as described in subdivision (1)(a) of section 8-702".
- 6 3. On page 58, line 27, strike "8-208,".
- 7 4. In the Standing Committee amendments, AM2339:
- 8 a. Strike section 29;
- 9 b. On page 31, line 17, after "deposit" insert "or time
- 10 deposits"; and in line 26 after "deposit" insert "or time deposit";
- 11 and
- 12 c. On page 32, line 2, after "deposit" insert "or time
- 13 deposits"; and in line 14 strike "30-3897,".
- 14 5. Renumber the remaining sections and correct internal
- 15 references accordingly.

Senator Brown filed the following amendment to LB 139:
AM2930

(Amendments to AM2593)

- 1 1. On page 2, line 13, after "(6)" insert "This section
- 2 shall not apply to United States Department of Transportation
- 3 workplace drug and alcohol testing programs for entities subject to
- 4 14 C.F.R. part 121, 46 C.F.R. parts 4, 5, and 16, 49 C.F.R. part
- 5 199, 49 C.F.R. part 219, 49 C.F.R. part 382, and 49 C.F.R. part
- 6 655, as such parts existed on the effective date of this act, or to
- 7 drug and alcohol tests conducted pursuant to 49 C.F.R. part 40, as
- 8 such part existed on the effective date of this act.
- 9 (7)".

Senator Beutler filed the following amendment to LB 999:
AM2899

(Amendments to Standing Committee amendments, AM2339)

- 1 1. On page 18, line 7, after "offer" insert ". If" and
- 2 strike ", and if" and show as stricken; and in line 10 after
- 3 "bidder" insert ", except that notice of the sale shall be given
- 4 again in the same manner as the original notice of sale was

5 required to be given".

VISITORS

Visitors to the Chamber were 17 fourth- through ninth-grade students and teacher from Cornerstone Christian School, Lincoln; Superior Junior High band from Superior; James Loye from Bellevue; 20 students and parents from Cornerstone Christian Academy and Cornerstone Baptist Church, Lincoln; 15 second- through fifth-grade home school students from Beatrice; 46 fourth-grade students and teachers from Eagle; 24 eighth-grade students and teacher from Helen Hyatt Middle School, Lincoln; and Helen Marie Pfister, Anna Marie Pfister, Bob Juhlin, and Gerry Juhlin from Newcastle.

ADJOURNMENT

At 1:41 p.m., on a motion by Senator Vrtiska, the Legislature adjourned until 9:00 a.m., Monday, March 8, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-EIGHTH DAY - MARCH 8, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, March 8, 2004

PRAYER

The prayer was offered by Pastor William Bertrand, St. Paul's Lutheran Church, Concord, and Immanuel Lutheran Church, Wakefield.

ROLL CALL

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

The roll was called and all members were present except Senator Schrock who was excused; and Senators Aguilar, Combs, Hudkins, and Kremer who were excused until they arrive.

SPEAKER BROMM PRESIDING**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-seventh day was approved.

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

The following bills were correctly engrossed: LBs 16, 625, 835, 878, and 961.

(Signed) Ray Mossey, Chairperson

GENERAL FILE

LEGISLATIVE RESOLUTION 209CA. The Standing Committee amendment, AM2346, found on page 501 and considered on pages 883 and 899, as amended, was renewed.

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 245 and 246 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 245 and 246.

GENERAL FILE

LEGISLATIVE RESOLUTION 209CA. The Standing Committee amendment, AM2346, found on page 501 and considered on pages 883, 899, and in this day's Journal, as amended, was renewed.

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

AM2953

(Amendments to Standing Committee amendments, AM2346)

- 1 1. On page 1, line 10, after "used" insert "primarily
- 2 for competitive grants to political subdivisions and private
- 3 entities to conserve, enhance, and restore the natural, physical,
- 4 and biological environment of Nebraska, for related transfers to
- 5 the Nebraska Environmental Endowment Fund, and for related
- 6 administrative expenses".

Senator Preister withdrew his amendment.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

The Standing Committee amendment, as amended, was adopted with 27 ayes, 4 nays, 13 present and not voting, and 5 excused and not voting.

Senator Chambers offered the following amendment:

FA1534

Page 2, in line 18 strike "State Fair Board" and insert "Health and Human Services System for establishment and implementation of a treatment program for HIV/AIDS";

Page 3, in line 14 strike "Nebraska State Fair" and insert "treatment of HIV/AIDS"

Senator Chambers moved for a call of the house. The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 4:

Chambers	Jensen	Louden	Raikes
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Voting in the negative, 22:

Bromm	Erdman	Kruse	Price	Vrtiska
Burling	Friend	Landis	Redfield	Wehrbein
Byars	Hudkins	Maxwell	Smith	
Cudaback	Janssen	Mossey	Stuhr	
Engel	Jones	Pedersen, Dw.	Stuthman	

Present and not voting, 17:

Baker	Brown	McDonald	Quandahl	Tyson
Beutler	Foley	Mines	Schimek	
Bourne	Hartnett	Pederson, D.	Synowiecki	
Brashear	Johnson	Preister	Thompson	

Excused and not voting, 6:

Aguilar	Connealy	Kremer
Combs	Cunningham	Schrock

The Chambers amendment lost with 4 ayes, 22 nays, 17 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORT

General Affairs

LEGISLATIVE BILL 1109. Placed on General File as amended.
Standing Committee amendment to LB 1109:
AM2927

1 1. On page 2, line 18, strike "care"; and in line 24
2 after "year" insert "and no more than thirty-five percent of such
3 principal is used in any period of ten consecutive fiscal years.
4 (3) Nothing in this section shall be construed to limit
5 the use of any money that comes to the city or village by gift or
6 devise or otherwise that is not designated to be credited to the
7 perpetual fund or that allows greater use for purchase or
8 development of additional land to be used for cemetery purposes".
9 2. On page 3, line 12, after "year" insert "and no more
10 than thirty-five percent of the principal is used in any period of
11 ten consecutive fiscal years"; in line 20 after "designate" insert

12 "as long as no more than twenty-five percent of the principal is so
 13 used in any fiscal year and no more than thirty-five percent of the
 14 principal is used in any period of ten consecutive fiscal years";

15 and after line 23 insert:

16 "(5) Nothing in this section shall be construed to limit
 17 the use of any money that comes to the city by donation, bequest,
 18 or otherwise that is not designated to be credited to the perpetual
 19 fund or that allows greater use for purchase or development of
 20 additional land to be used for cemetery purposes.".

21 3. On page 5, line 4, after "year" insert "and no more
 22 than thirty-five percent of such principal is used in any period of
 23 ten consecutive fiscal years.

24 (4) Nothing in this section shall be construed to limit
 1 the use of any money that comes to the city or village by gift or
 2 devise or otherwise that is not designated to be credited to the
 3 perpetual fund or that allows greater use for purchase or
 4 development of additional land to be used for cemetery purposes".

(Signed) Ray Janssen, Chairperson

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bills and resolution were correctly engrossed: LBs 818, 820, 821, 836, 911, 915, 927, 936, 937, 947, 950, 1069, and LR 211CA.

ER9106

Enrollment and Review Change to LB 818

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

1. On page 1, line 3, "eliminate" has been struck and "change" inserted.

ER9107

Enrollment and Review Change to LB 836

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

1. On page 4, line 21, "who are" has been struck.
2. On page 5, line 5, "department" has been struck and "Department of Agriculture" inserted; and in line 9 "they" has been struck and "the producer" inserted.

(Signed) Ray Mossey, Chairperson

AMENDMENT - Print in Journal

Senator Smith filed the following amendment to LB 232:
AM2172

- 1 1. On page 3, line 1, strike "2004" and insert "2005";
- 2 in line 2 strike "2008" and insert "2009"; and in line 28 strike
- 3 "2005" and insert "2006".

ATTORNEY GENERAL'S OPINIONOpinion # 04007

DATE: March 8, 2004

SUBJECT: LB 1179; Circumvention Of The Public Meetings Statutes By Electronic Communication; Electronic Communications As Public Records.

REQUESTED BY: Senator Nancy Thompson
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Dale A. Comer, Assistant Attorney General

LB 1179 would amend several portions of the Nebraska Public Meetings Statutes, Neb. Rev. Stat. §§ 84-1408 through 84-1414 (1999, Cum. Supp. 2002), to specifically prohibit the use of e-mails, faxes and other electronic communication to circumvent the public government purposes of those laws. For example, Section 2 of LB 1179 would add the new language underlined below to § 84-1411 (3) (h):

Telephone conference calls, e-mails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in sections 84-1408 to 84-1414.

You state that concerns regarding the applicability of Legislative Bill 1179 have been raised with you by city officials who might be impacted by passage of the bill. Consequently, you have posed two questions to us, which we will discuss below.

Question No. 1: "Will [passage of] LB 1179, Section 2(3)(h) mean that a member of a city council cannot communicate by e-mails, faxes or other electronic communication with a number of members constituting a quorum of the city council without violating the open meeting statutes?"

At the present time, § 84-1410 (4) provides, in pertinent part: "[n]o closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the requirements of such sections [the Public Meetings Statutes]." Similarly, §§ 84-1411 (2) and 84-1411 (3) currently prohibit the use of videoconferencing and telephone conferencing to circumvent any of the public government purposes established by the Public Meetings Statutes. As a result, passage of LB 1179 would simply broaden the number of activities subject to the circumvention prohibition set out in current law. Under those circumstances, we will begin our response to your initial question with a discussion of the law in this area under the present statutes.

We are aware of no Nebraska cases which directly address the provisions of the Public Meetings Statutes prohibiting circumvention of those statutes by certain types of electronic communication. However, absent anything to the contrary, statutory language is to be given its plain and ordinary meaning. *Spradlin v. Dairyland Ins. Co.*, 263 Neb. 521, 641 N.W.2d 356 (2002). In that regard, "circumvent" may be defined as "to surround or to circle around," or "to get the better of or prevent from happening by craft or ingenuity." WEBSTER'S NEW WORLD DICTIONARY 259 (2nd College Ed. 1982). In addition, the language in § 84-1410 (4) pertaining to circumvention of the Public Meetings Statutes was added to that statute by 1983 Neb. Laws LB 43, and the legislative history of that bill makes it clear that intent is a necessary element of the prohibited conduct. For example, the following exchange occurred during the committee hearings on LB 43:

SENATOR LANDIS: This then would be, would have to be a knowing, intentional act. Social gathering would have to be used to circumvent and here when you say be used to circumvent, you imply the intent to circumvent the open meetings law. Is that not accurate?

SENATOR HOAGLAND: Well, I hate to make any definitive statements with respect to legislative intent, Senator Landis, but and again I think we should consult with Mr. Peterson on that issue but it would be my sense that, yes, that some sort of intent to circumvent the law would need to be part of the proof.

Committee Records on LB 43, 88th Neb. Leg., 1st Sess. 5 (Jan. 27, 1983). As a result, it appears to us that the circumvention prohibition in the current statutes involves some element of intent or purposeful action on behalf of members of a public body. Whether such intent to circumvent exists in a particular instance is a factual determination which must be resolved on a case-by-case basis.

We have also previously cautioned against "extensive" correspondence among members of a public body which might constitute actionable conduct in circumvention of the Public Meetings Statutes. Op. Att'y Gen No. 94035 (May 11, 1994). Consistent with that opinion, we have generally taken the position, for enforcement purposes, that a minimal exchange of

correspondence or minimal electronic communication among members of a public body does not trigger the existing circumvention prohibitions. Our analysis in that regard has focused on the intent of the members of the public body as evidenced, at least in part, by the extent of the communication which occurred. In that context, the involvement of a quorum of the public body at issue simply provides further potential evidence of an intent to circumvent.

Based upon the discussion above, we believe that, under current law, members of a public body can communicate with other members of that body by electronic means, even if that communication is directed to a quorum of the body, so long as there is no course of communication which becomes sufficiently involved so as to evidence an intent or purpose to circumvent the Public Meetings Statutes. In that context, LB 1179 would simply add new electronic activities to the currently existing circumvention prohibitions. Therefore, in our view, the passage of LB 1179, Section 2(3)(h) would not prohibit a member of a public body from communicating on a topic with other members of that body by e-mails, faxes or other electronic communication, even if that communication was directed to a quorum of the public body at issue. On the other hand, if that communication elicited responses and further communications, then at some point, it would be possible to argue that the public body was intentionally using electronic communications to circumvent the Public Meetings Statutes.

Question No. 2: "Does LB 1179, and its' interpretation and applicability, provide that e-mails, faxes or other electronic communications between elected officials and elected officials and governmental staff constitute public records accessible by the general public?"

The Public Meetings Statutes contain few references to public records, and it does not appear to us that the language of LB 1179 amending those statutes would make e-mails, faxes or records of other electronic communications public records subject to disclosure to the general public. However, the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (1999, Cum. Supp. 2002), do govern access to public records in Nebraska, and § 84-712.01 (1) defines a "public record" to include:

. . . all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.

(Emphasis added). Under the definition of public record in § 84-712.01 (1) and the Public Records Statutes generally, we believe that e-mails, faxes or records of other electronic communications between elected officials and

between elected officials and governmental staff are public records which are subject to disclosure to the general public, unless there is a specific statute in each instance which allows particular electronic materials to be kept confidential.

Sincerely yours,
 JON BRUNING
 Attorney General
 (Signed) Dale A. Comer
 Assistant Attorney General

cc. Patrick J. O'Donnell
 Clerk of the Legislature
 05-233-21

GENERAL FILE

LEGISLATIVE RESOLUTION 209CA. Senator Chambers offered the following amendment:

FA1541

Strike and show as stricken subsections (2) and (3) of Section 1;

On page 3, in line 11 strike beginning with "require" through "gambling" in line 15, and insert "eliminate the state lottery".

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

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 10:

Chambers	Foley	Louden	Quandahl	Smith
Erdman	Jensen	Price	Redfield	Tyson

Voting in the negative, 15:

Bromm	Hartnett	Johnson	Maxwell	Pedersen, Dw.
Byars	Hudkins	Jones	Mines	Synowiecki
Engel	Janssen	Landis	Mossey	Thompson

Present and not voting, 19:

Aguilar	Brown	Friend	Preister	Stuthman
Baker	Burling	Kruse	Raikes	Vrtiska
Beutler	Combs	McDonald	Schimek	Wehrbein
Bourne	Cudaback	Pederson, D.	Stuhr	

Excused and not voting, 5:

Brashear	Connealy	Cunningham	Kremer	Schrock
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The Chambers amendment lost with 10 ayes, 15 nays, 19 present and not voting, and 5 excused and not voting.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 30 ayes, 2 nays, and 17 not voting.

Senator Chambers requested a roll call vote on the advancement of the resolution.

Voting in the affirmative, 30:

Baker	Byars	Hudkins	Maxwell	Price
Beutler	Combs	Janssen	McDonald	Schimek
Bourne	Cudaback	Johnson	Mines	Stuhr
Brashear	Cunningham	Jones	Mossey	Stuthman
Bromm	Friend	Kruse	Pedersen, Dw.	Vrtiska
Brown	Hartnett	Landis	Preister	Wehrbein

Voting in the negative, 14:

Aguilar	Erdman	Pederson, D.	Redfield	Thompson
Burling	Foley	Quandahl	Smith	Tyson
Chambers	Louden	Raikes	Synowiecki	

Present and not voting, 2:

Engel	Jensen
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Excused and not voting, 3:

Connealy	Kremer	Schrock
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Advanced to E & R for review with 30 ayes, 14 nays, 2 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 1185:
AM2911

(Amendments to Standing Committee amendments, AM2485)

- 1 1. Insert the following sections:
- 2 "Section 1. Section 44-1984, Revised Statutes
- 3 Supplement, 2002, is amended to read:
- 4 44-1984. (1) No insurer that transacts any line of
- 5 business other than title insurance shall be eligible for the

6 issuance or renewal of a certificate of authority to transact the
7 business of title insurance in this state nor shall title insurance
8 be transacted, underwritten, or issued by any insurer transacting
9 or authorized to transact any other line of business.

10 (2)(a) Notwithstanding subsection (1) of this section,
11 and to the extent such coverage is lawful within this state, a
12 title insurer shall issue closing or settlement protection covering
13 a proposed insured if the title insurer issues a title insurance
14 commitment or title insurance policy. Such closing or settlement
15 protection shall conform to the terms of coverage and form of
16 instrument as required by the director and shall indemnify a
17 proposed insured solely against loss of settlement funds only
18 because of the following acts of a title insurer's named title
19 insurance agent:

20 (i) Theft of settlement funds; and

21 (ii) Failure to comply with written closing instructions
22 by the proposed insured when agreed to by the title insurance agent
23 relating to title insurance coverage.

1 (b) The director may prescribe or approve a required
2 charge for providing the coverage.

3 (c) A title insurer shall not provide any other coverage
4 which purports to indemnify against improper acts or omissions of a
5 person with regard to escrow, settlement, or closing services.

6 Sec. 2. Section 44-1993, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 44-1993. (1) A title insurer shall not accept title
9 insurance business from a title insurance agent unless there is in
10 force a written contract between the parties which sets forth the
11 responsibilities of each party and, when both parties share
12 responsibility for a particular function, specifies the division of
13 responsibilities.

14 (2) For each title insurance agent under contract with a
15 title insurer, the title insurer shall have on file a statement of
16 financial condition of each title insurance agent as of the end of
17 the previous calendar year setting forth an income statement of
18 title insurance business done during the preceding year and a
19 balance sheet showing the condition of its affairs as of the prior
20 December 31 certified by the title insurance agent as being a true
21 and accurate representation of the title insurance agent's
22 financial condition. Attorneys actively engaged in the practice of
23 law, other than that related to title insurance business, are
24 exempt from the requirements of this subsection.

25 (3) A title insurer shall, at least annually, conduct an
26 onsite review of the underwriting, claims, and escrow practices of
27 the title insurance agent which shall include a review of the title
1 insurance agent's title insurance policy form inventory and
2 processing operations. If the title insurance agent does not
3 maintain separate financial institution or trust accounts for each
4 title insurer it represents, the title insurer shall verify that

5 the funds held on its behalf are reasonably ascertainable from the
6 books of account and records of the title insurance agent.

7 (4) Within thirty days after executing or terminating a
8 contract with a title insurance agent, a title insurer shall
9 provide written notification of the appointment or termination and
10 the reason for termination to the director. Notices of appointment
11 of a title insurance agent shall be made on a form prescribed or
12 approved by the director.

13 (5) A title insurer shall maintain an inventory of all
14 title insurance policy forms or title insurance policy numbers
15 allocated to each title insurance agent.

16 (6) A title insurer shall have on file proof that each
17 title insurance agent is licensed by this state.

18 (7) A title insurer shall establish the underwriting
19 guidelines and, when applicable, limitations on title claims
20 settlement authority to be incorporated into contracts with its
21 title insurance agents.

22 (8)(a) A title insurer is liable for the defalcation,
23 conversion, or misappropriation by a title insurance agent
24 appointed by or under written contract with such title insurer of
25 escrow, settlement, closing, or security deposit funds handled by
26 such title insurance agent in contemplation of or in conjunction
1 with the issuance of a title insurance commitment or title
2 insurance policy by such title insurer. However, if no such title
3 insurance commitment or title insurance policy was issued, each
4 title insurer which appointed or maintained a written contract with
5 such title insurance agent at the time of the discovery of the
6 defalcation, conversion, or misappropriation shares in the
7 liability for the defalcation, conversion, or misappropriation in
8 the same proportion that the premium remitted to the title insurer
9 by such title insurance agent during the twelve-month period
10 immediately preceding the date of the discovery of the defalcation,
11 conversion, or misappropriation bears to the total premium remitted
12 to all title insurers by such title insurance agent during the
13 twelve-month period immediately preceding the date of the discovery
14 of the defalcation, conversion, or misappropriation.

15 (b) For purposes of this subsection, title insurance
16 agent includes (i) a person with whom a title insurer maintains a
17 title insurance agency agreement and (ii) an employer or employee
18 of a title insurance agent or of a person with whom a title insurer
19 maintains a title insurance agency agreement.

20 Sec. 3. Section 44-19,106, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 44-19,106. Sections 44-19,106 to 44-19,123 and section 5
23 of this act shall be known and may be cited as the Title Insurance
24 Agent Act.

25 Sec. 4. Section 44-19,116, Revised Statutes Supplement,
26 2002, is amended to read:

44-19,116. (1)(a) A title insurance agent may operate as

27 an escrow, security, settlement, or closing agent subject to the
1 requirements of subdivisions (b) through ~~(e)~~ (f) of this
2 subsection.

3 (b) All funds deposited with the title insurance agent in
4 connection with an escrow, settlement, closing, or security deposit
5 shall be submitted for collection to or deposited in a separate
6 fiduciary trust account or accounts in a qualified financial
7 institution no later than the close of the next business day in
8 accordance with the following requirements:

9 (i) The funds shall be the property of the person or
10 persons entitled to them under the provisions of the escrow,
11 settlement, security deposit, or closing agreement and shall be
12 segregated for each depository by escrow, settlement, security
13 deposit, or closing in the records of the title insurance agent in
14 a manner that permits the funds to be identified on an individual
15 basis; and

16 (ii) The funds shall be applied only in accordance with
17 the terms of the individual instructions or agreements under which
18 the funds were accepted.

19 (c) Funds held in an escrow account shall be disbursed
20 only pursuant to a written instruction or agreement specifying how
21 and to whom such funds may be disbursed.

22 (d) Funds held in a security deposit account shall be
23 disbursed only pursuant to a written agreement specifying:

24 (i) What actions the indemnitor shall take to satisfy his
25 or her obligation under the agreement;

26 (ii) The duties of the title insurance agent with respect
27 to disposition of the funds held, including a requirement to
1 maintain evidence of the disposition of the title exception before
2 any balance may be paid over to the depositing party or his or her
3 designee; and

4 (iii) Any other provisions the director may require.

5 (e)(i) Disbursements may be made out of an escrow,
6 settlement, or closing account only if funds in an amount at least
7 equal to the disbursement have first been received and if the funds
8 received are in one of the following forms:

9 (A) Lawful money of the United States;

10 (B) Wired funds when unconditionally held by the title
11 insurance agent;

12 (C) Cashier's checks, certified checks, bank money
13 orders, or teller's checks issued by a federally insured financial
14 institution and unconditionally held by the title insurance agent;
15 and

16 (D) United States treasury checks, federal reserve bank
17 checks, federal home loan bank checks, and State of Nebraska
18 warrants.

19 (ii) For purposes of this subdivision, federally insured
20 financial institution means an institution in which monetary
21 deposits are insured by the Federal Deposit Insurance Corporation

22 or National Credit Union Administration.

23 (f) A title agent who holds funds relating to an exchange
 24 under section 1031 of the Internal Revenue Code shall provide
 25 written disclosure, at or before closing, to the person whose funds
 26 are being held, on a separate paper with no other information on
 27 the paper, which states that:

1 (i) Such services performed by a title insurance agent
 2 are not regulated by the Department of Banking and Finance, the
 3 Department of Insurance, or any other agency of the State of
 4 Nebraska or by any agency of the United States Government;
 5 (ii) The safety and security of such funds is not
 6 guaranteed by any agency of the State of Nebraska or of the United
 7 States Government or otherwise protected by law; and
 8 (iii) The owner of such funds should satisfy himself or
 9 herself as to the safety and security of such funds.

10 ~~(2) On and after January 1, 2004, every title insurance~~
 11 ~~agent shall have an annual audit made of its escrow, settlement,~~
 12 ~~closing, and security deposit accounts, conducted by a certified~~
 13 ~~public accountant on a calendar year basis at its expense within~~
 14 ~~ninety days after the close of the previous calendar year. The~~
 15 ~~title insurance agent shall provide a copy of the audit report to~~
 16 ~~each title insurer which it represents. The director may adopt and~~
 17 ~~promulgate rules and regulations setting forth the minimum~~
 18 ~~threshold level at which an audit would be required, the standards~~
 19 ~~of audit, and the form of audit report required. The director may~~
 20 ~~also require a title insurance agent to provide a copy of its audit~~
 21 ~~report to the director. Title insurance agents who are attorneys~~
 22 ~~and who issue title insurance policies as part of their legal~~
 23 ~~representation of clients are exempt from the requirements of this~~
 24 ~~subsection. However, the title insurer may, at its expense,~~
 25 ~~conduct or cause to be conducted an annual audit of the escrow,~~
 26 ~~settlement, closing, and security deposit accounts of the attorney.~~
 27 ~~Attorneys who are exclusively in the business of title insurance~~
 1 ~~are not exempt from the requirements of this subsection.~~

2 ~~(3) If the title insurance agent is appointed by two or~~
 3 ~~more title insurers and maintains fiduciary trust accounts in~~
 4 ~~connection with providing escrow, closing, or settlement services,~~
 5 ~~the title insurance agent shall allow each title insurer reasonable~~
 6 ~~access to the accounts and any or all of the supporting account~~
 7 ~~information in order to ascertain the safety and security of the~~
 8 ~~funds held by the title insurance agent.~~

9 ~~(4) (3) Nothing in the Title Insurance Agent Act shall be~~
 10 ~~deemed to prohibit the recording of documents prior to the time~~
 11 ~~funds are available for disbursement with respect to a transaction~~
 12 ~~if all parties consent to the transaction in writing.~~

13 ~~(5) (4) Nothing in this section is intended to amend,~~
 14 ~~alter, or supersede other sections of the act or the laws of this~~
 15 ~~state or the United States regarding an escrow holder's duties and~~
 16 ~~obligations.~~

17 ~~(6)~~ (5) The director may prescribe a standard agreement
 18 for escrow, settlement, closing, or security deposit funds.
 19 Sec. 5. Whenever the director has reasonable cause to
 20 believe that a title insurance agent is violating the Title
 21 Insurance Agent Act or any rules and regulations adopted and
 22 promulgated thereunder, the director may, without notice, and
 23 before a hearing, issue a summary cease and desist order. At the
 24 same time the order is issued, the director shall serve notice to
 25 the title insurance agent of the reasons for such order and that
 26 the title insurance agent may request a hearing in writing within
 27 ten business days after receipt of the order. If a hearing is
 1 requested, the director shall schedule a hearing within ten
 2 business days after receipt of the request. The hearing shall be
 3 conducted in accordance with the Administrative Procedure Act. If
 4 a hearing is not requested and none is ordered by the director, the
 5 order shall remain in effect until modified or vacated by the
 6 director. Any title insurance agent aggrieved by a final order of
 7 the director may appeal the order. The appeal shall be in
 8 accordance with the Administrative Procedure Act. In the event of
 9 noncompliance with a summary cease and desist order, the director
 10 may cause a complaint to be filed in the district court to enforce
 11 the order.
 12 Sec. 11. The following sections are outright repealed:
 13 Sections 76-261 to 76-263 and 76-265, Reissue Revised Statutes of
 14 Nebraska."
 15 2. On page 13, line 17, after "sections" insert "44-1993
 16 and 44-19,106, Reissue Revised Statutes of Nebraska, sections
 17 44-1984, 44-19,116,".
 18 3. Renumber the remaining sections accordingly.

Senator Raikes filed the following amendment to LB 1160:
 AM2937

(Amendments to Standing Committee amendments, AM2768)

- 1 1. On page 2, line 6, after the period insert "The
 2 resolution must be adopted before July 25 and it will affect the
 3 time for hearing protests for that year only."; and in line 9 after
 4 "77-1504.01" insert "for that year".

RESOLUTION

LEGISLATIVE RESOLUTION 251. Introduced by Engel, 17.

WHEREAS, the South Sioux City girls' basketball team is the champion of the 2004 Class B Girls' State Basketball Tournament, repeating its championship successes of 1995, 1996, 1997, 1998, 2000, 2001, 2002, and 2003; and

WHEREAS, the 47-37 win over the talented number two Omaha Skutt team in the final game capped the Lady Cardinals' Girls' Class B State Basketball Championship; and

WHEREAS, head coach Kelly Flynn, who guided the South Sioux City girls' basketball team, became the first nine-time champion in Nebraska girls' basketball history and extended its winning streak against Nebraska teams to 39 games; and

WHEREAS, throughout the year the South Sioux City Lady Cardinals have complemented their talents with the characteristics of sportswomanship, determination, and diligence; and

WHEREAS, the South Sioux City Lady Cardinals are positive role models for young athletes in the community and throughout the region; and

WHEREAS, such a team achievement is made possible not only by individual members' performance and coaching guidance, but also through the support of teachers, administrators, and parents.

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

1. That the Legislature recognizes and congratulates the South Sioux City Lady Cardinals basketball team and its coaches, parents, and supporters.

2. That a copy of this resolution be sent to the South Sioux City Lady Cardinals' basketball team head coach Kelly Flynn.

Laid over.

VISITORS

Visitors to the Chamber were high school students and teacher from Creighton; statewide group of Women Involved in Farm Economics; and 40 Girl Scouts from western Nebraska.

RECESS

At 12:03 p.m., on a motion by Senator Janssen, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Schrock who was excused; and Senators Brashear, Foley, and Landis who were excused until they arrive.

SPEAKER BROMM PRESIDING

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 940, 1033, and 1179.

(Signed) Ray Mossey, Chairperson

AMENDMENTS - Print in Journal

Senators Stuhr, Raikes, and Redfield filed the following amendment to LB 868:

AM2950

(Amendments to Standing Committee amendments, AM2598)

- 1 1. Strike sections 1 and 2 and insert the following new
2 sections:
3 "Section 1. Section 79-201, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 79-201. (1) For purposes of this section:
6 (a) Prior to July 1, 2005, a child is of mandatory
7 attendance age if the child (i) has reached seven years of age,
8 (ii) did not reach sixteen years of age prior to the effective date
9 of this act, and (iii) has not reached eighteen years of age; and
10 (b) On and after July 1, 2005, a child is of mandatory
11 attendance age if the child (i) will reach six years of age prior
12 to January 1 of the current school year, (ii) did not reach sixteen
13 years of age prior to the effective date of this act, and (iii) has
14 not reached eighteen years of age.
15 (2) Except as provided in section 79-202 subsection (3)
16 of this section, every person residing in a school district within
17 the State of Nebraska who has legal or actual charge or control of
18 any child who is not less than seven years of age and not more than
19 sixteen years of age or who is younger than seven years of age and
20 is of mandatory attendance age or is enrolled in any a public
21 school shall cause such child to enroll in, if such child is not
22 enrolled, and attend regularly the a public, private,
23 denominational, or parochial day schools school which meet meets
24 the requirements for legal operation prescribed in Chapter 79 or a
25 school which elects pursuant to section 79-1601 not to meet
26 accreditation or approval requirements each day that such schools
27 are school is open and in session, except when excused by school
28 authorities or when illness or severe weather conditions make
29 attendance impossible or impracticable.
30 (3) Subsection (2) of this section does not apply in the
31 case of any child who:
32 (a) Has obtained a high school diploma by meeting the

10 graduation requirements established in section 79-729;
 11 (b) Has completed the program of instruction offered by a
 12 school which elects pursuant to section 79-1601 not to meet
 13 accreditation or approval requirements;
 14 (c) Has reached the age of eighteen years;
 15 (d) Has reached the age of sixteen years and such child's
 16 parent or guardian has signed a notarized waiver on a waiver form
 17 provided by the school;
 18 (e) Will reach six years of age prior to January 1 of the
 19 current school year, but will not reach seven years of age prior to
 20 January 1 of the current school year, and such child's parent or
 21 guardian has signed an affidavit stating that the child is
 22 participating in an education program that the parent or guardian
 23 believes will prepare the child to enter grade one for the
 24 following school year; or

25 (f) Will not reach six years of age prior to January 1 of
 26 the current school year and such child was enrolled in a public
 27 school and has discontinued the enrollment according to the policy
 1 of the school board adopted pursuant to subsection (4) of section
 2 79-214. ; unless such child has graduated from high school. Any
 3 person with legal or actual charge or control of a child younger
 4 than seven years of age who is enrolled in a public school may
 5 discontinue the enrollment of such child pursuant to the policy of
 6 the school board. All school boards shall adopt policies allowing
 7 discontinuation of the enrollment of students younger than seven
 8 years of age and specifying the procedures therefor.
 9 The school term shall be as provided in section 79-214.

10 Sec. 2. Section 79-214, Reissue Revised Statutes of
 11 Nebraska, is amended to read:

12 79-214. (1) Except as provided in subsection (2) of this
 13 section, the school board of any school district shall not admit
 14 any child into the kindergarten or beginner grade of any school of
 15 such school district unless such child has reached the age of five
 16 years or will reach such age on or before October 15 of the current
 17 school year for school years prior to school year 2005-06 and
 18 before September 1 of the current year for school year 2005-06 and
 19 each school year thereafter.

20 (2) The board may admit a child who will reach the age of
 21 five ~~between~~ years of age on or after October 16 and on or before
 22 February 1 of the current school year for school years prior to
 23 school year 2005-06 and on or after September 1 and on or before
 24 December 31 of the current school year for school year 2005-06 and
 25 each school year thereafter if the parent or guardian requests such
 26 entrance and provides an affidavit stating that (a) the child
 27 attended kindergarten in another jurisdiction in the current school
 1 year, (b) the family anticipates relocation to another jurisdiction
 2 that would allow admission within the current school year, or (c)
 3 the child has demonstrated through recognized assessment procedures
 4 approved by the board that he or she is capable of carrying the

5 work of kindergarten or the beginner grade.

6 (3) The board shall comply with the requirements of
7 subsection (2) of section 43-2007 and shall require evidence of a
8 physical examination by a physician, a physician assistant, or an
9 advanced practice registered nurse within six months prior to the
10 entrance of a child into the beginner grade and the seventh grade
11 or, in the case of a transfer from out of state, to any other grade
12 of the local school, except that no such physical examination shall
13 be required of any child whose parent or guardian objects in
14 writing. The cost of such physical examination shall be borne by
15 the parent or guardian of each child who is examined.

16 (4) The board shall adopt policies allowing
17 discontinuation of the enrollment of students who will not reach
18 six years of age prior to January 1 of the current school year and
19 specifying the procedures therefor.

20 Sec. 4. The following section is outright repealed:

21 Section 79-202, Reissue Revised Statutes of Nebraska.".

Senators Jensen and Redfield filed the following amendment to LB 1083:
AM2951

(Amendments to Standing Committee amendments, AM2889)

1 1. Insert the following new section:

2 "Sec. 30. Section 58-706, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 58-706. The following activities are eligible for
5 assistance from the Affordable Housing Trust Fund:

6 (1) New construction, rehabilitation, or acquisition of
7 housing to assist low-income and very low-income families;

8 (2) Matching funds for new construction, rehabilitation,
9 or acquisition of housing units to assist low-income and very
10 low-income families;

11 (3) Technical assistance, design and finance services,
12 and consultation for eligible nonprofit community or
13 neighborhood-based organizations involved in the creation of
14 affordable housing;

15 (4) Matching funds for operating costs for housing
16 assistance groups or organizations when such grant or loan will
17 substantially increase the recipient's ability to produce
18 affordable housing;

19 (5) Mortgage insurance guarantees for eligible projects;

20 (6) Acquisition of housing units for the purpose of
21 preservation of housing to assist low-income or very low-income
22 families;

23 (7) Projects making affordable housing more accessible to
1 families with elderly members or members who have disabilities;

2 (8) Projects providing housing in areas determined by the
3 Department of Economic Development to be of critical importance for
4 the continued economic development and economic well-being of the
5 community and where, as determined by the department, a shortage of

- 6 affordable housing exists;
 7 (9) Infrastructure projects necessary for the development
 8 of affordable housing;
 9 (10) Downpayment and closing cost assistance; ~~and~~
 10 (11) Housing education programs developed in conjunction
 11 with affordable housing projects. The education programs must be
 12 directed toward:
 13 (a) Preparing potential home buyers to purchase
 14 affordable housing and postpurchase education;
 15 (b) Target audiences eligible to utilize the services of
 16 housing assistance groups or organizations; and
 17 (c) Developers interested in the rehabilitation,
 18 acquisition, or construction of affordable housing; and
 19 (12) Rental assistance for chronically mentally ill
 20 individuals."
 21 2. Amend the operative date and repealer sections so
 22 that the section added by this amendment becomes operative on its
 23 effective date.
 24 3. Renumber the remaining sections accordingly.

SELECT FILE

LEGISLATIVE RESOLUTION 14CA. The first Schimek pending amendment, FA1483, found on page 724, to the Smith pending amendment, AM2670, was renewed.

Senator Schimek asked unanimous consent to withdraw her first pending amendment, FA1483, found on page 724, and the balance of the original undivided amendment, FA1480, found on page 724, and replace it with the Schimek-Brown substitute amendment, AM2917.

Senator Smith objected.

Senator Schimek moved to withdraw her first pending amendment, FA1483, found on page 724, and the balance of the original undivided amendment, FA1480, found on page 724, and replace it with the Schimek-Brown substitute amendment, AM2917.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion failed with 24 ayes, 6 nays, and 19 not voting.

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

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

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

Voting in the affirmative, 32:

Aguilar	Byars	Hartnett	McDonald	Stuthman
Baker	Combs	Hudkins	Mines	Synowiecki
Beutler	Connealy	Janssen	Mossey	Thompson
Bourne	Cudaback	Johnson	Pederson, D.	Wehrbein
Brashear	Cunningham	Kruse	Preister	
Bromm	Engel	Landis	Raikes	
Brown	Friend	Maxwell	Schimek	

Voting in the negative, 10:

Burling	Erdman	Kremer	Quandahl	Stuhr
Chambers	Jones	Price	Smith	Tyson

Present and not voting, 5:

Jensen	Louden	Pedersen, Dw.	Redfield	Vrtiska
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Excused and not voting, 2:

Foley	Schrock
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The motion to cease debate prevailed with 32 ayes, 10 nays, 5 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The Schimek motion to substitute prevailed with 29 ayes, 7 nays, 11 present and not voting, and 2 excused and not voting.

Senators Schimek and Brown offered the following substitute amendment to the Smith pending amendment:

AM2917

(Amendments to AM2670)

- 1 1. Strike amendments 1 and 2 and insert the following
- 2 new amendments:
- 3 "1. On page 2, line 22, strike 'eight' and insert 'two'
- 4 and after the period insert 'Subsequent to the initial legislative
- 5 authorization of any casino location, the voters of the county in
- 6 which such casino location is authorized shall either approve or
- 7 disapprove casino gaming in such county.'; and in line 23 after
- 8 'the' insert 'authorization.'; and in line 24 strike 'at' through
- 9 'locations' and insert 'whether casino gaming is authorized under
- 10 this section or by initiative measure'.
- 11 2. On page 3, line 2, strike 'eight' and insert 'two';
- 12 in line 3 after 'locations' insert 'subject to approval by voters
- 13 in the affected counties' and after 'the' insert 'authorization.';

14 and in line 4 strike 'at such locations'."

Senator Smith requested a division of the question on the Schimek-Brown amendment.

The Chair sustained the division of the question.

The first Schimek-Brown amendment, to the Smith pending amendment, is as follows:

FA1548

(Amendments to AM2670)

- 1 1. Strike amendments 1 and 2 and insert the following
- 2 new amendments:
- 3 "1. On page 2, line 22, strike 'eight' and insert 'two'
- 11 2. On page 3, line 2, strike 'eight' and insert 'two';

Senator Smith requested a ruling of the Chair on whether the Schimek-Brown amendment, FA1548, is germane to the Smith pending amendment.

The Chair ruled the Schimek-Brown amendment, FA1548, is not germane to the Smith pending amendment.

Senator Schimek challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Senator Schimek withdrew her motion to overrule the Chair.

The second Schimek-Brown amendment, to the Smith pending amendment, is as follows:

FA1549

(Amendments to AM2670)

- 1 1. Strike amendments 1 and 2 and insert the following
- 2 new amendments:
- 4 and after the period insert 'Subsequent to the initial legislative
- 5 authorization of any casino location, the voters of the county in
- 6 which such casino location is authorized shall either approve or
- 7 disapprove casino gaming in such county.';
- 12 in line 3 after 'locations' insert 'subject to approval by voters
- 13 in the affected counties'

Senator Schimek offered the following motion:

Invoke cloture on LR 14CA, pursuant to Rule 7, Section 10.

Senator Beutler moved for a call of the house. The motion prevailed with 29 ayes, 1 nay, and 19 not voting.

Senator Beutler requested a roll call vote on the motion to invoke cloture.

Senator Smith requested the roll call vote be taken in reverse order.

Voting in the affirmative, 32:

Aguilar	Byars	Hartnett	Mines	Stuthman
Baker	Combs	Janssen	Mossey	Synowiecki
Beutler	Connealy	Johnson	Pederson, D.	Thompson
Bourne	Cudaback	Kruse	Preister	Wehrbein
Brashear	Cunningham	Landis	Raikes	
Bromm	Engel	Maxwell	Redfield	
Brown	Friend	McDonald	Schimek	

Voting in the negative, 12:

Burling	Foley	Jones	Smith
Chambers	Hudkins	Kremer	Stuhr
Erdman	Jensen	Price	Tyson

Present and not voting, 4:

Louden	Pedersen, Dw.	Quandahl	Vrtiska
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Excused and not voting, 1:

Schrock

The Schimek motion to invoke cloture failed with 32 ayes, 12 nays, 4 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 999:
AM2959

- 1 1. Strike original section 4.
- 2 2. On page 33, line 17, strike "and"; and in line 22
- 3 after "state" insert "; and
- 4 (10) A credit card bank shall provide for the insurance
- 5 of deposits as described in subdivision (1)(a) of section 8-702".
- 6 3. On page 58, line 27, strike "8-208,".
- 7 4. In the Standing Committee amendments, AM2339:
- 8 a. Strike section 29;
- 9 b. On page 18, line 7, after "offer" insert ". If" and
- 10 strike "," and if" and show as stricken; and in line 10 after
- 11 "bidder" insert ", except that notice of the sale shall be given
- 12 again in the same manner as the original notice of sale was
- 13 required to be given".
- 14 c. On page 31, line 17, after "deposit" insert "or time
- 15 deposits"; and in line 26 after "deposit" insert "or time deposit";

16 and

17 d. On page 32, line 2, after "deposit" insert "or time

18 deposits"; and in line 14 strike "30-3897,".

19 5. Renumber the remaining sections and correct internal

20 references accordingly.

Senators Beutler and Mines filed the following amendment to LB 962:
AM2955

(Amendments to Standing Committee amendments, AM2733)

1 1. Insert the following new sections:

2 "Sec. 97. (1) In addition to any other fees required by
3 law, the Department of Natural Resources shall collect the
4 following annual registration fees:

5 (a) For water wells used for irrigation as defined in
6 rules and regulations of the department, for industrial purposes as
7 defined in section 46-677, and for aquaculture as defined in
8 section 2-3804.01, fifty dollars; and

9 (b) For water wells used by a public water supplier as
10 defined in section 46-638 and for owners of a surface water
11 appropriation issued pursuant to section 46-233 for direct
12 consumptive use of natural flow or pursuant to section 46-242 for
13 consumptive use of storage water excluding, in both cases,
14 appropriations for induced ground water recharge, intentional
15 underground water storage, incidental underground water storage,
16 and instream appropriations, an amount equal to the total annual
17 water used divided by the amount of water required to provide one
18 and one-half acre-feet of water to one hundred thirty acres
19 annually, multiplied by fifty dollars, but in no case shall the
20 annual fee under this subdivision be less than fifty dollars.

21 (2) The fees required by this section are due September 1
22 for each registered active water well of the types listed in
23 subsection (1) of this section and each surface water appropriation
24 in use during any part of the previous calendar year. Any water
25 well or surface water appropriation for which such fee remains
26 unpaid thirty days or more after the due date is subject to an
27 additional late fee of twenty-five dollars per month or portion
28 thereof for which the fee required pursuant to such subsection
29 remains unpaid. The department may waive all or part of such late
30 fee in the interest of fairness as the department determines.

31 (3) Money collected pursuant to this section shall be
32 remitted to the State Treasurer for credit to the Water Resources
33 Trust Fund.

34 Sec. 98. (1) The Water Resources Trust Fund is created.
35 The State Treasurer shall credit to the fund fees collected
36 pursuant to section 97 of this act, such money as is specifically
37 appropriated thereto by the Legislature, and such funds, fees,
38 donations, gifts, or bequests received by the Department of Natural
39 Resources from any federal, state, public, or private source for
40 expenditure for the purposes described in the Nebraska Ground Water

18 Management and Protection Act. Any money in the fund available for
 19 investment shall be invested by the state investment officer
 20 pursuant to the Nebraska Capital Expansion Act and the Nebraska
 21 State Funds Investment Act.

22 (2) The fund shall be administered by the department.

23 The department shall adopt and promulgate rules and regulations
 24 regarding the allocation and expenditure of money from the fund.

25 (3) Money in the fund may be expended by the department
 26 for costs incurred by the department, by natural resources
 27 districts, or by other political subdivisions in (a) determining
 1 whether river basins, subbasins, or reaches are fully appropriated
 2 in accordance with section 51 of this act, (b) developing or
 3 implementing integrated management plans for such fully
 4 appropriated river basins, subbasins, or reaches or for river
 5 basins, subbasins, or reaches designated as over-appropriated in
 6 accordance with section 51 of this act, (c) developing or
 7 implementing integrated management plans in river basins,
 8 subbasins, or reaches which have not yet become either fully
 9 appropriated or over-appropriated, or (d) attaining state
 10 compliance with an interstate water compact or decree or other
 11 formal state contract or agreement.

12 (4) Except for funds paid to a political subdivision for
 13 forgoing or reducing its own water use or for implementing projects
 14 or programs intended to aid the state in complying with an
 15 interstate water compact or decree or other formal state contract
 16 or agreement, a political subdivision that receives funds from the
 17 fund shall provide, or cause to be provided, matching funds in an
 18 amount at least equal to twenty percent of the amount received from
 19 the fund by that natural resources district or political
 20 subdivision. The department shall monitor programs and activities
 21 funded by the fund to ensure that the required match is being
 22 provided."

23 2. Renumber the remaining sections and correct internal
 24 references accordingly.

Senator Baker filed the following amendment to LB 559:
 AM2936

(Amendments to Final Reading copy)

1 1. On page 6, lines 9 and 23, strike "or a state
 2 identification card" and show as stricken; and strike line 21 and
 3 insert "an operator's license.".
 4 2. On page 33, line 2, after "(3)" insert "(a) Except
 5 for an individual under the age of eighteen years, each individual
 6 applying for a state identification card shall furnish two forms of
 7 proof of identification described in section 60-484.
 8 (b) Any individual under the age of eighteen years
 9 applying for a state identification card shall provide a certified
 10 copy of his or her birth certificate or a certified birth
 11 registration and one other form of proof of identification

12 described in section 60-484. In lieu of a certified copy of a
 13 birth certificate or a certified birth registration, the applicant
 14 shall furnish two other reliable forms of documentation providing
 15 proof of his or her identity and age accompanied by a certification
 16 signed by a parent or guardian explaining the inability to produce
 17 a copy of a birth certificate or certified birth registration. The
 18 applicant may be required to furnish proof to the examiner that the
 19 parent or guardian signing the certification is in fact the parent
 20 or guardian of such applicant.
 21 (c) Any individual who presents a valid Nebraska
 22 operator's license or Nebraska state identification card may
 23 present that document for identification for issuance of a state
 1 identification card.
 2 (4)"; in line 14 strike "(4)", show as stricken, and
 3 insert "(5)"; and in line 17 strike "(5)" and insert "(6)".

SELECT FILE

LEGISLATIVE BILL 906. Senator Jensen asked unanimous consent to withdraw the balance of the divided Jensen-Stuhr amendment, AM2748, found on page 710. No objections. So ordered.

Senators Stuhr, Bourne, and Jensen offered the following amendment: (Amendment, AM2963, is printed separately and available in the Bill Room, Room 1104.)

Senator Stuhr offered the following amendment to the Stuhr et al. pending amendment:
 AM2973

(Amendments to AM2963)

- 1 1. On page 25, line 23, after the period insert "Nothing
- 2 in this section shall be construed to require the performance of
- 3 body art on a person under eighteen years of age."

SENATOR CUDABACK PRESIDING

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

Senator Stuhr requested a roll call vote on her amendment.

Voting in the affirmative, 40:

Baker	Connealy	Jensen	Pedersen, Dw.	Smith
Bourne	Cudaback	Jones	Pederson, D.	Stuhr
Bromm	Cunningham	Kremer	Preister	Stuthman
Brown	Erdman	Kruse	Price	Synowiecki
Burling	Foley	Louden	Quandahl	Thompson
Byars	Friend	McDonald	Raikes	Tyson
Chambers	Hartnett	Mines	Redfield	Vrtiska
Combs	Hudkins	Mossey	Schimek	Wehrbein

Voting in the negative, 0.

Present and not voting, 2:

Janssen Maxwell

Excused and not voting, 7:

Aguilar	Brashear	Johnson	Schrock
Beutler	Engel	Landis	

The Stuhr amendment was adopted with 40 ayes, 0 nays, 2 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENTS - Print in Journal

Senator Stuhr filed the following amendment to LB 906:
AM2972

(Amendments to AM2963)

- 1 1. On page 25, strike line 27.
- 2 2. On page 26, line 1, strike "otherwise to".

Senator Byars filed the following amendment to LB 841:
AM2965

- 1 1. Insert the following new sections:
- 2 "Sec. 2. Sections 2 to 10 of this act shall be known and
- 3 may be cited as the ICF/MR Reimbursement Protection Act.
- 4 Sec. 3. For purposes of the ICF/MR Reimbursement
- 5 Protection Act:
- 6 (1) Department means the Department of Health and Human
- 7 Services Finance and Support;
- 8 (2) Intermediate care facility for the mentally retarded
- 9 has the definition found in section 71-421;
- 10 (3) Medicaid program means the medical assistance program
- 11 established pursuant to sections 68-1018 to 68-1025; and
- 12 (4) Net revenue means the revenue paid to an intermediate

13 care facility for the mentally retarded for resident care, room,
14 board, and services less contractual adjustments and does not
15 include revenue from sources other than operations, including, but
16 not limited to, interest and guest meals.

17 Sec. 4. (1) Each intermediate care facility for the
18 mentally retarded shall pay a tax equal to six percent of its net
19 revenue for the most recent State of Nebraska fiscal year.

20 (2) Taxes collected under this section shall be remitted
21 to the State Treasurer for credit to the ICF/MR Reimbursement
22 Protection Fund.

23 (3) Taxes collected pursuant to this section shall be
24 reported on a separate line on the cost report of the intermediate
1 care facility for the mentally retarded, regardless of how such
2 costs are reported on any other cost report or income statement.
3 The department shall recognize such tax as an allowable cost within
4 the state plan for reimbursement of intermediate care facilities
5 for the mentally retarded which participate in the medicaid
6 program. The tax shall be a direct pass-through and shall not be
7 subject to cost limitations.

8 Sec. 5. (1) The ICF/MR Reimbursement Protection Fund is
9 created. Any money in the fund available for investment shall be
10 invested by the state investment officer pursuant to the Nebraska
11 Capital Expansion Act and the Nebraska State Funds Investment Act.
12 Interest and income earned by the fund shall be credited to the
13 fund.

14 (2) After reimbursement of the department's
15 administrative expenses up to fifty-five thousand dollars and the
16 payment of the cost of the tax, sixty-six percent of the money in
17 the fund each year, including matching federal financial
18 participation, shall be used by the department solely for the
19 purpose of increasing payments under the medicaid program to
20 intermediate care facilities for the mentally retarded
21 participating in such program. Such payments shall be made in a
22 uniform fashion based on the medicaid resident days for each
23 facility. Money in the fund not required for payment to
24 intermediate care facilities for the mentally retarded shall be
25 used by the department for payment to providers of community-based
26 services for persons with developmental disabilities.

27 Sec. 6. (1) On or before July 1, 2004, the department
1 shall submit an application to the Centers for Medicare and
2 Medicaid Services of the United States Department of Health and
3 Human Services amending the state medicaid plan to provide for
4 utilization of money in the ICF/MR Reimbursement Protection Fund to
5 uniformly increase medicaid payments to intermediate care
6 facilities for the mentally retarded.

7 (2) The tax imposed under section 4 of this act is not
8 due and payable until such amendment to the state medicaid plan is
9 approved by the Centers for Medicare and Medicaid Services.

10 Sec. 7. (1) Collection of the tax imposed by section 4

11 of this act shall be discontinued if:

12 (a) The amendment to the state medicaid plan described in
 13 section 6 of this act is disapproved by the Centers for Medicare
 14 and Medicaid Services;

15 (b) The department reduces rates paid to intermediate
 16 care facilities for the mentally retarded to an amount less than
 17 the rates effective September 1, 2003; or

18 (c) The department or any other state agency attempts to
 19 utilize the money in the ICF/MR Reimbursement Protection Fund for
 20 any use other than uses permitted pursuant to the ICF/MR
 21 Reimbursement Protection Act.

22 (2) If collection of the tax is discontinued as provided
 23 in subsection (1) of this section, all money in the fund shall be
 24 returned to the intermediate care facilities for the mentally
 25 retarded from which the tax was collected on the same basis as the
 26 tax was assessed.

27 Sec. 8. (1) An intermediate care facility for the
 1 mentally retarded that fails to pay the tax required by section 4
 2 of this act shall be subject to a penalty of five hundred dollars
 3 per day of delinquency. The total amount of the penalty assessed
 4 under this section shall not exceed five percent of the tax due
 5 from the intermediate care facility for the mentally retarded for
 6 the year for which the tax is assessed.

7 (2) Penalties shall be collected by the department and
 8 remitted to the State Treasurer for credit to the permanent school
 9 fund.

10 Sec. 9. An intermediate care facility for the mentally
 11 retarded that has paid a tax that is not required by section 4 of
 12 this act may file a claim for refund with the department. The
 13 department may by rule and regulation establish procedures for
 14 filing and consideration of such claims.

15 Sec. 10. The department may adopt and promulgate rules
 16 and regulations to carry out the ICF/MR Reimbursement Protection
 17 Act.

18 Sec. 13. Since an emergency exists, this act takes
 19 effect when passed and approved according to law."

20 2. On page 4, line 8, strike "This act becomes" and
 21 insert "Sections 1 and 12 of this act become" and after the period
 22 insert "The other sections of this act become operative on their
 23 effective date."

24 3. Renumber the remaining sections accordingly.

Senator Chambers filed the following amendment to LB 906:
 FA1551

Amend AM2963

On page 7, in line 13 strike "or medical"

UNANIMOUS CONSENT - Add Cointroducers

Senators Byars, Johnson, Maxwell, and Stuthman asked unanimous consent to have their names added as cointroducers to LB 1083. No objections. So ordered.

VISITORS

Visitors to the Chamber were Renee Porter from Arnold, Patrick Gruber from Omaha, and members of the Governors Youth Advisory Council; 14 eighth-grade students from St. Mary's School, Lincoln; and Jacob Jaeschke, Jennifer Jaeschke, and Megan Anderson from Kearney.

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

ADJOURNMENT

At 4:33 p.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Tuesday, March 9, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

THIRTY-NINTH DAY - MARCH 9, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****THIRTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 9, 2004

PRAYER

The prayer was offered by Senator Combs.

ROLL CALL

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

The roll was called and all members were present except Senator Brashear who was excused; and Senators Aguilar, Bromm, Brown, Foley, Landis, Maxwell, Mossey, D. Pederson, and Schrock who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-eighth day was approved.

MOTIONS - Approve Appointments

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointments found on page 903:

State Emergency Response Commission
Christine Bleich
Richard Christensen
Steven Wood

Voting in the affirmative, 25:

Baker	Connealy	Friend	Kremer	Redfield
Bourne	Cudaback	Hartnett	Mines	Smith
Burling	Cunningham	Janssen	Preister	Stuthman
Byars	Engel	Johnson	Price	Vrtiska
Combs	Erdman	Jones	Quandahl	Wehrbein

Voting in the negative, 0.

Present and not voting, 14:

Beutler	Jensen	McDonald	Schimek	Thompson
Chambers	Kruse	Pedersen, Dw.	Stuhr	Tyson
Hudkins	Louden	Raikes	Synowiecki	

Excused and not voting, 10:

Aguilar	Bromm	Foley	Maxwell	Pederson, D.
Brashear	Brown	Landis	Mossey	Schrock

The appointments were confirmed with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointments found on page 902:

Accountability and Disclosure Commission

Marilee A. Fredrickson
 Andre R. Barry
 Gary Rosacker

Voting in the affirmative, 25:

Aguilar	Erdman	Kruse	Quandahl	Stuhr
Baker	Friend	Maxwell	Raikes	Stuthman
Bourne	Hartnett	Mines	Redfield	Synowiecki
Cudaback	Janssen	Preister	Schimek	Vrtiska
Engel	Kremer	Price	Smith	Wehrbein

Voting in the negative, 0.

Present and not voting, 15:

Beutler	Combs	Hudkins	Jones	Pedersen, Dw.
Byars	Connealy	Jensen	Louden	Schrock
Chambers	Cunningham	Johnson	McDonald	Thompson

Excused and not voting, 9:

Brashear	Brown	Foley	Mossey	Tyson
Bromm	Burling	Landis	Pederson, D.	

The appointments were confirmed with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 906. Senator Stuhr renewed her pending

amendment, AM2972, found on page 932, to the Stuhr et al. pending amendment, AM2963, printed separately and referred to on page 931.

The Stuhr amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Senator Chambers renewed his pending amendment, FA1551, found on page 934, to the Stuhr et al. pending amendment.

The Chambers amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Senator Chambers offered the following amendment to the Stuhr et al. pending amendment:

FA1552

Amend AM2963

P. 13, in line 8 strike "completion of education."

Senator Chambers withdrew his amendment.

Senator Stuhr offered the following amendment to the Stuhr et al. pending amendment:

FA1553

Amend AM2963

On Page 13 Line 7 – Strike "equivalent education" and insert "GED"
Strike Lines 8-20 and insert (d) Has submitted evidence of training or experience prescribed or approved by the board to ensure the protection of the public in performing the practices of body art for which the applicant is seeking licensure. (e) Has successfully completed an examination prescribed or approved by the board to test the applicant's knowledge of safety, sanitation, and sterilization techniques and infection control practices and requirements, except that the department may waive all or a portion of the examination for persons engaged in the practice of body art prior to April 1, 2005, upon submission of evidence satisfactory to the department.

The Stuhr amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

The Stuhr et al. pending amendment, AM2963, as amended, was renewed.

The Stuhr et al. amendment, as amended, was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Senator Jensen renewed the Jensen et al. pending amendment, AM2724, printed separately and referred to on page 715.

Senator Jensen withdrew the Jensen et al. amendment.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 906A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 969. E & R amendment, AM7171, printed separately and referred to on page 591, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 841. Senator Byars withdrew his pending amendments, AM2672 and AM2813, found on pages 728 and 787.

Senator Byars renewed his pending amendment, AM2965, found on page 932.

Senator Byars withdrew his amendment.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 986. E & R amendment, AM7172, found on page 591, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 986A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 963. E & R amendment, AM7174, found on page 704, was adopted.

Senator Vrtiska renewed his pending amendment, AM2717, found on page 704.

The Vrtiska amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 999. E & R amendment, AM7175, found on page 756, was adopted.

Senator Beutler withdrew the Beutler-Quandahl pending amendment, FA1471, found on page 664.

Senator Quandahl renewed his pending amendment, AM2778, found on page 792.

The Quandahl amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Senator Quandahl withdrew his pending amendment, AM2933, found on page 905.

Senator Beutler withdrew his pending amendment, AM2899, found on page 905.

Senator Beutler renewed his pending amendment, AM2959, found on page 928.

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

Senator Bourne offered the following amendment:
AM2839

- 1 1. Insert the following new section:
- 2 "Sec. 21. Section 9-701, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 9-701. (1) For purposes of this section:
- 5 (a) Gift enterprise ~~shall mean~~ means a contest, game of
- 6 chance, or game promotion which is conducted within the state or
- 7 throughout the state and other states in connection with the sale
- 8 of consumer or trade products or services solely as business
- 9 promotions and in which the elements of chance and prize are
- 10 present. Gift enterprise ~~shall does~~ not include any scheme using
- 11 the game of bingo or keno; any non-telecommunication-related,
- 12 player-activated electronic or electromechanical facsimile of any
- 13 game of chance; or any slot machine of any kind. A gift enterprise
- 14 shall not utilize pickle cards as defined in section 9-315.
- 15 Promotional game tickets may be utilized subject to the following:
- 16 (i) The tickets utilized shall be manufactured or
- 17 imprinted with the name of the operator on each ticket;
- 18 (ii) The tickets utilized shall not be manufactured with
- 19 a cost per play printed on them; and
- 20 (iii) The tickets utilized shall not be substantially
- 21 similar to any type of pickle card approved by the Department of
- 22 Revenue pursuant to section 9-332.01; and
- 23 (b) Operator ~~shall mean~~ means any person, firm,
- 24 corporation, association, governmental entity, or agent or employee
- 1 thereof who promotes, operates, or conducts a gift enterprise.
- 2 Operator ~~shall does~~ not include any nonprofit organization or any
- 3 agent or employee thereof, except that operator includes any credit
- 4 union chartered under state or federal law or any agent or employee
- 5 thereof who promotes, operates, or conducts a gift enterprise.
- 6 (2) Any operator may conduct a gift enterprise within
- 7 this state in accordance with this section.
- 8 (3) An operator shall not:
- 9 (a) Design, engage in, promote, or conduct a gift
- 10 enterprise in connection with the promotion or sale of consumer
- 11 products or services in which the winner may be unfairly

12 predetermined or the game may be manipulated or rigged;
13 (b) Arbitrarily remove, disqualify, disallow, or reject
14 any entry;
15 (c) Fail to award prizes offered;
16 (d) Print, publish, or circulate literature or
17 advertising material used in connection with such gift enterprise
18 which is false, deceptive, or misleading; or
19 (e) Require an entry fee, a payment or promise of payment
20 of any valuable consideration, or any other consideration as a
21 condition of entering a gift enterprise or winning a prize from the
22 gift enterprise, except that a contest, game of chance, or business
23 promotion may require, as a condition of participation, evidence of
24 the purchase of a product or service as long as the purchase price
25 charged for such product or service is not greater than it would
26 have been without the contest, game of chance, or business
27 promotion. For purposes of this section, consideration shall not
1 include (i) filling out an entry blank, (ii) entering by mail with
2 the purchase of postage at a cost no greater than the cost of
3 postage for a first-class letter weighing one ounce or less, or
4 (iii) entering by a telephone call to the operator of or for the
5 gift enterprise at a cost no greater than the cost of postage for a
6 first-class letter weighing one ounce or less. When the only
7 method of entry is by telephone, the cost to the entrant of the
8 telephone call shall not exceed the cost of postage for a
9 first-class letter weighing one ounce or less for any reason,
10 including (A) whether any communication occurred during the call
11 which was not related to the gift enterprise or (B) the fact that
12 the cost of the call to the operator was greater than the cost to
13 the entrant allowed under this section.
14 (4)(a) The Department of Revenue may adopt and promulgate
15 rules and regulations necessary to carry out the operation of gift
16 enterprises.
17 (b) Whenever the department has reason to believe that a
18 gift enterprise is being operated in violation of this section or
19 the department's rules and regulations, it may bring an action in
20 the district court of Lancaster County in the name of and on behalf
21 of the people of the State of Nebraska against the operator of the
22 gift enterprise to enjoin the continued operation of such gift
23 enterprise anywhere in the state.
24 (5)(a) Any person, firm, corporation, association, or
25 agent or employee thereof who engages in any unlawful acts or
26 practices pursuant to this section or violates any of the rules and
27 regulations promulgated pursuant to this section shall be guilty of
1 a Class II misdemeanor.
2 (b) Any person, firm, corporation, association, or agent
3 or employee thereof who violates any provision of this section or
4 any of the rules and regulations promulgated pursuant to this
5 section shall be liable to pay a civil penalty of not more than one
6 thousand dollars imposed by the district court of Lancaster County

7 for each such violation which shall accrue to the permanent school
8 fund. Each day of continued violation shall constitute a separate
9 offense or violation for purposes of this section.

10 (6) In all proceedings initiated in any court or
11 otherwise under this section, the Attorney General or appropriate
12 county attorney shall prosecute and defend all such proceedings.

13 (7) This section shall not apply to any activity
14 authorized and regulated under the Nebraska Bingo Act, the Nebraska
15 County and City Lottery Act, the Nebraska Lottery and Raffle Act,
16 the Nebraska Pickle Card Lottery Act, or the Nebraska Small Lottery
17 and Raffle Act."

18 2. Renumber the remaining sections and correct internal
19 references accordingly.

20 3. Correct the operative date and repealer sections so
21 that the section added by this amendment becomes operative three
22 calendar months after adjournment of this legislative session.

The Bourne amendment was adopted with 27 ayes, 1 nay, 17 present and not
voting, and 4 excused and not voting.

Senator Chambers offered the following amendment:

FA1554

Add a new section: "Any death sentence which is carried out pursuant to
law, shall be carried out in the lobby of the largest bank in the state."

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 252. Introduced by Combs, 32.

WHEREAS, the Exeter-Milligan girls' basketball team is the champion of
the 2004 Class D-1 Girls' State Basketball Tournament; and

WHEREAS, the 57-46 win over the talented Elm Creek team in the final
game capped the Lady Timberwolves' Girls Class D-1 State Basketball
Championship; and

WHEREAS, the Lady Timberwolves' 28-0 season equaled the best win-
loss record in the history of Nebraska girls' basketball; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic
achievements of the youth of our state which is the result of not only the
individual team members' performance and coaching excellence, but also the
support of teachers, administrators, and parents.

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

1. That the Legislature recognizes and congratulates the Exeter-Milligan
Lady Timberwolves' basketball team and its coaches, parents, and
supporters.

2. That a copy of this resolution be sent to the Exeter-Milligan Lady

Timberwolves' basketball team head coach Jason Arbuck.

Laid over.

NOTICE OF COMMITTEE HEARING
Natural Resources
Room 1525

Friday, April 2, 2004

8:45 a.m.

Robert Krohn - Nebraska Environmental Trust Board

(Signed) Ed Schrock, Chairperson

AMENDMENT - Print in Journal

Senator Schrock filed the following amendment to LB 962:

(Amendment, AM2984, is printed separately and available in the Bill Room, Room 1104.)

VISITORS

Visitors to the Chamber were 36 students and teacher from North Bend Elementary School; home school students and leader from Norfolk; 16 fourth- through eighth-grade students, teacher, and sponsors from R-7 School; Lois Maly, Clara Karpisek, Rose Morton, Mary Hart, and Joyce Drozda from Lincoln; and Andrew Spader from Waco and Charlotte Luethje from Roca.

RECESS

At 11:45 a.m., on a motion by Senator Preister, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Brashear who was excused; and Senators Bromm, Engel, Erdman, Preister, and Price who were excused until they arrive.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 75, 560, and 560A.

ER9096

Enrollment and Review Change to LB 560

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

1. In the Baker amendment, AM2589, sections 48 and 49 have been renumbered as sections 42 and 43, respectively.
2. In the Baker amendment, AM2490:
 - a. Sections 41, 42, 44, 47, 49, and 51 have been renumbered as sections 35, 36, 38, 41, 45, and 47, respectively;
 - b. On page 12, line 12, "2002" has been struck and "2003" inserted; and
 - c. On page 15, line 15, "48, and 51" and all amendments thereto have been struck and "44, and 47" inserted.
3. On page 1, the matter beginning with "sections" in line 2 through line 16 has been struck and "sections 37-1201, 60-6,324, 60-1805, and 81-8,219, Reissue Revised Statutes of Nebraska, sections 13-910, 30-24,125, 37-1291, 60-108, 60-110, 60-111.01, 60-129, 60-302.05, 60-308, 60-311.01, 60-484.02, 60-1901, 60-1904, and 60-1907, Revised Statutes Supplement, 2002, and sections 60-106, 60-139, 60-301, 60-311.02, 60-364, 60-462.01, and 60-483, Revised Statutes Supplement, 2003; to provide for transfer of certificates of title in certain decedents' estates; to provide for salvage and nontransferable certificates of title for motorboats; to provide for disposition of abandoned motorboats; to change provisions relating to the State Boat Act, assembled all-terrain vehicle and minibike certificates of title, motor vehicle certificates of title and registration, salvage branded certificates of title, and registration of snowmobiles and camper units; to redefine terms; to change fees for motor vehicle record requests; to adopt updated federal regulations; to provide for the release of certain driver's license information; to provide powers and duties related to abandoned all-terrain vehicles and minibikes; to provide penalties; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

(Signed) Ray Mossey, Chairperson

GENERAL FILE

LEGISLATIVE BILL 888. Title read. Considered.

The Standing Committee amendment, AM2429, found on page 531, was considered.

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

FA1535

Amend AM2429

Strike lines 1 and 14.

Senator Chambers withdrew his amendment.

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

FA1536

Amend AM2429

In line 10 strike "Once" and insert "After".

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

The Standing Committee amendment, as amended, was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

Senator Chambers offered the following amendment:

FA1537

On page 5, in line 4 strike "Nebraska" and "the"; in line 14 strike "leaving the state to pay for imported".

Senator Chambers asked unanimous consent to withdraw his pending amendment, FA1537, found in this day's Journal, and replace it with his substitute amendment, FA1555. No objections. So ordered.

FA1555

On page 5, in line 4 strike "Nebraska" and "the"; in line 14 strike "leaving the state to pay for imported" and insert "expended to import".

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

Senator Chambers offered the following amendment:

FA1538

On page 5, in line 7 before "to" insert "(a)"; in line 9 before "to" insert "(b)"; in line 10 before "to" insert "(c)"; in line 11 before "to" insert "(d)"; in line 12 insert "(e)"; in line 13 before second "to" insert "(f)"; in line 15 before first "to" insert "(g)" and before second "to" insert "(h)"; in line 16 before "to" insert "(i)".

The Chambers amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Senator Chambers offered the following amendment:

FA1539

On page 5, in lines 23, 24 and 28; on page 6, in lines 3, 12, 15, 21 and 26; on page 7, in line 6 strike and show as stricken "shall mean" and insert "means"; on page 7, in line 4 strike "shall mean" and insert "means".

The Chambers amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Senator Chambers offered the following amendment:

FA1540

On page 7, in line 5 strike and show as stricken "and"; in line 8 strike the period and insert " and"; after line 8 insert "(11) Equivalent or equivalent code means standards that meet or exceed the requirements of the Nebraska Energy Code."

The Chambers amendment was adopted with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

Senator Chambers offered the following amendment:

FA1542

On page 7, in line 17 strike and show as stricken "will be considered" and insert "shall be deemed"; in line 19 strike and show as stricken "found" and insert "deemed"; on page 10, in line 28 strike and show as stricken "considered" and insert "deemed"

The Chambers amendment was adopted with 26 ayes, 0 nays, 22 present and not voting, and 1 excused and not voting.

Senator Chambers offered the following amendment:

FA1543

On page 8, in lines 1 and 2 strike and show as stricken "The" and insert "Such"; in line 9 strike and show as stricken "finds" and insert "determines".

The Chambers amendment was adopted with 29 ayes, 0 nays, 19 present and not voting, and 1 excused and not voting.

Senator Chambers offered the following amendment:

FA1544

1. On page 11, in line 1 strike and show as stricken "would" and insert "does"; in line 15 strike "that" and insert "such".

2. On page 12, in line 3 strike and show as stricken "of" and insert "to provide".

The Chambers amendment was adopted with 29 ayes, 0 nays, 19 present and not voting, and 1 excused and not voting.

Senators Landis and Hartnett offered the following amendment:

AM2957

1 1. Insert the following new sections:

2 "Section 1. Section 13-2802, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 13-2802. Whenever creation of a municipal county is

5 proposed involving a city of the metropolitan class, the

6 interjurisdictional planning commission shall include in its plan a

7 recommendation with regard to the territory within which any

8 metropolitan utilities district shall have and may exercise the
 9 power of eminent domain pursuant to subsection (2) of section
 10 14-2116. The plan shall further include a recommendation with
 11 regard to the territory which shall be deemed to be within the
 12 corporate boundary limits or extraterritorial zoning jurisdiction
 13 of a municipality or a municipality dissolved by the creation of
 14 the municipal county for purposes of ~~sections 57-1301 to 57-1307~~
 15 the State Natural Gas Regulation Act. The question of creation of
 16 the municipal county shall not be submitted to a vote under section
 17 13-2810 until a law adopting the provisions required by this
 18 section has been enacted.

19 Sec. 2. Section 66-1801, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 66-1801. Sections 66-1801 to 66-1857 and sections 5 to
 22 10 of this act shall be known and may be cited as the State Natural
 23 Gas Regulation Act.

24 Sec. 3. Section 66-1804, Reissue Revised Statutes of
 1 Nebraska, is amended to read:

2 66-1804. (1) The commission shall have full power,
 3 authority, and jurisdiction to regulate natural gas public
 4 utilities and may do all things necessary and convenient for the
 5 exercise of such power, authority, and jurisdiction. Except as
 6 provided in the Nebraska Natural Gas Pipeline Safety Act of 1969,
 7 and notwithstanding any other provision of law, such power,
 8 authority, and jurisdiction shall extend to, but not be limited to,
 9 all matters encompassed within the State Natural Gas Regulation
 10 Act, ~~and sections 57-1301 to 57-1307.~~

11 (2) The State Natural Gas Regulation Act and all grants
 12 of power, authority, and jurisdiction in the act made to the
 13 commission shall be liberally construed, and all incidental powers
 14 necessary to carry into effect the provisions of the act are
 15 expressly granted to and conferred upon the commission.

16 Sec. 4. Section 66-1852, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 66-1852. (1) Except as provided in sections 5 to 10 of
 19 this act, ~~57-1301 to 57-1307 as those statutes govern~~
 20 ~~jurisdictional utilities and metropolitan utilities districts~~, no
 21 person, public or private, shall extend duplicative or redundant
 22 natural gas mains or other natural gas services into any area which
 23 has existing natural gas utility infrastructure or where a contract
 24 has been entered into for the placement of natural gas utility
 25 infrastructure.

26 (2) This section shall not apply in any area in which two
 27 or more jurisdictional utilities share authority to provide natural
 1 gas within the same territory under franchises issued by the same
 2 city.

3 Sec. 5. (1) Except as provided in subsection (2) of this
 4 section, the initial boundaries of the exclusive service areas of
 5 jurisdictional utilities, cities, and metropolitan utilities

6 districts shall extend to any location at which any jurisdictional
7 utility, city, and metropolitan utilities district was providing
8 natural gas service to customers on January 1, 2004.

9 (2) Where two or more jurisdictional utilities are
10 providing natural gas service to customers within the same area
11 pursuant to franchise agreements with the same city, such
12 jurisdictional utilities shall share service territories in such
13 city.

14 Sec. 6. Except as provided in sections 8 and 9 of this
15 act, the formal boundaries of the exclusive service areas of
16 jurisdictional utilities, cities, or metropolitan utilities
17 districts shall be established by the commission upon the following
18 basis:

19 (1) For any city owning, maintaining, and operating a
20 natural gas distribution system, the exclusive service area for the
21 city shall be its initial service area boundaries and all the
22 territory within the corporate boundaries of the city and its
23 extraterritorial zoning jurisdiction as established by its
24 governing body pursuant to state law as such extraterritorial
25 zoning jurisdiction existed on January 1, 2004, and as such
26 jurisdiction may be extended on such basis from time to time, when
27 the city formally expresses its intention to provide natural gas
1 service and evidences such intent;

2 (2) For any metropolitan utilities district, the
3 exclusive service area for the district shall be all the territory
4 within the initial service area boundaries of the district and all
5 the territory where the district provides natural gas service
6 within the entire corporate boundaries of any city and shall extend
7 to the extraterritorial zoning jurisdiction of any such city as
8 established by its governing body pursuant to state law as such
9 extraterritorial zoning jurisdiction existed on January 1, 2004,
10 and as such jurisdiction may be extended on such basis from time to
11 time; and

12 (3) For any jurisdictional utility, the exclusive service
13 area for the utility shall be the initial service area boundaries
14 of the area within which the utility provided natural gas service
15 on January 1, 2004, and any area into which it has extended such
16 service subsequent to such date as authorized or recognized by the
17 commission.

18 Sec. 7. (1) Within ninety days following the operative
19 date of this section, each jurisdictional utility, city, and
20 metropolitan utilities district shall file with the commission a
21 detailed map or maps of its exclusive service area as it exists on
22 January 1, 2004, drawn to a scale of not less than one inch per
23 mile or drawn to a larger scale, if required for clarity, showing
24 the location of its natural gas pipelines and related facilities as
25 of January 1, 2004. The commission may require that such maps be
26 updated as often as the commission deems reasonably necessary to
27 carry out its responsibilities under the State Natural Gas

1 Regulation Act.

2 (2) The commission shall prepare or cause to be prepared
3 a composite map of this state showing the exclusive service areas
4 of jurisdictional utilities, cities, and metropolitan utilities
5 districts as submitted by such entities pursuant to this section.

6 (3) The form and detail of all maps shall be determined
7 by the commission.

8 Sec. 8. (1) The initial exclusive service area
9 boundaries for each jurisdictional utility, city, or metropolitan
10 utilities district shall be shown by the maps filed in accordance
11 with section 7 of this act. After notice and hearing provided to
12 the affected jurisdictional utilities, cities, or metropolitan
13 utilities districts, the commission by order shall thereafter
14 modify those boundaries where necessary to recognize changed
15 situations and circumstances as set forth in the State Natural Gas
16 Regulation Act as they arise or have arisen since January 1, 2004.

17 (2) When an exclusive service area is modified by the
18 commission to transfer areas including then existing customers then
19 served by the facilities of another jurisdictional utility, city,
20 or metropolitan utilities district, unless a voluntary exchange of
21 facilities is agreed upon by the parties involved and approved by
22 the commission, the commission shall require the transfer of the
23 facilities presently serving these customers, subject to any other
24 relevant provisions of law.

25 (3) Contracts between jurisdictional utilities, cities,
26 or metropolitan utilities districts to designate exclusive service
27 areas and customers to be served by any of those entities or for
1 the exchange of customers between these entities, when approved by
2 the commission, shall be valid and enforceable and shall be
3 incorporated into the appropriate exclusive service areas
4 established pursuant to subsection (1) of this section. The
5 commission shall approve a contract if it finds that the contract
6 will eliminate or avoid unnecessary duplication of facilities, will
7 provide adequate natural gas service to all areas and customers
8 affected, will promote the efficient and economical use and
9 development of the natural gas systems of the contracting natural
10 gas utilities, and is in the public interest.

11 (4) Except in accordance with the provisions of a
12 customer choice program or other unbundling program approved by the
13 commission or as otherwise permitted in the State Natural Gas
14 Regulation Act, a jurisdictional utility, city, or metropolitan
15 utilities district shall not serve or offer to serve natural gas
16 customers in an exclusive service area assigned to another natural
17 gas utility and a jurisdictional utility, city, or metropolitan
18 utilities district shall not construct facilities to serve natural
19 gas customers in an exclusive service area assigned to another such
20 jurisdictional utility, city, or metropolitan utilities district.
21 The state, a jurisdictional utility, or any other person who is
22 injured or threatened with injury by conduct prohibited by this

23 section may initiate a contested case proceeding with the
24 commission. Upon finding a violation of this section, the
25 commission shall order appropriate corrective action, including
26 discontinuance of the unlawful service to natural gas customers,
27 removal of the unlawful facilities, and any combination of such
1 remedies, or any other disposition the commission deems just and
2 reasonable.

3 Sec. 9. Following the establishment of exclusive service
4 areas pursuant to section 7 of this act, a jurisdictional utility,
5 city, or metropolitan utilities district shall not construct or
6 extend facilities into any area not presently within the exclusive
7 service area of a jurisdictional utility, city, or metropolitan
8 utilities district, or furnish natural gas service to a prospective
9 customer not then being served by a jurisdictional utility, city,
10 or metropolitan utilities district, except upon application to the
11 commission for a modification of its existing exclusive service
12 area. The commission shall, following a hearing on the matter,
13 determine whether it is in the public interest for the applying
14 jurisdictional utility, city, or metropolitan utilities district or
15 another such utility, city, or district to serve the area and in
16 doing so, the commission shall be guided by a balance of the
17 following factors:

18 (1) The expressed preferences of residents or landowners
19 in the area regarding their choice for a natural gas service
20 provider;

21 (2) The proximity of then existing natural gas mains to
22 the area, including the length of time such lines have been in
23 existence;

24 (3) The orderly development of natural gas utility
25 infrastructure as a whole;

26 (4) The impact of granting the application on then
27 existing and future ratepayers of natural gas utilities;

1 (5) The economic feasibility of service by the utility to
2 projected customers within the area;

3 (6) The elimination and prevention of duplicative or
4 redundant natural gas mains and facilities supplying the area;

5 (7) The willingness and good faith intent of the natural
6 gas utility to provide adequate and dependable service in the area
7 to be assigned; and

8 (8) Whether the customers in the area have the right to
9 vote for the natural gas rate and service quality regulator for the
10 area.

11 Sec. 10. A jurisdictional utility, city, or metropolitan
12 utilities district shall furnish retail service, upon application,
13 to any person within its exclusive service area if it is
14 economically feasible to service and supply the person. The
15 natural gas service shall be furnished by the jurisdictional
16 utility, city, or metropolitan utilities district within a
17 reasonable time after application is made.

18 Sec. 14. Section 75-109.01, Reissue Revised Statutes of
 19 Nebraska, is amended to read:
 20 75-109.01. Except as otherwise specifically provided by
 21 law, the Public Service Commission shall have jurisdiction, as
 22 prescribed, over the following subjects:
 23 (1) Common carriers, generally, pursuant to sections
 24 75-101 to 75-158;
 25 (2) Grain pursuant to the Grain Dealer Act and the Grain
 26 Warehouse Act and sections 89-1,104 to 89-1,108;
 27 (3) Manufactured homes and recreational vehicles pursuant
 1 to the Uniform Standard Code for Manufactured Homes and
 2 Recreational Vehicles;
 3 (4) Modular housing units pursuant to the Nebraska
 4 Uniform Standards for Modular Housing Units Act;
 5 (5) Motor carrier registration and safety pursuant to
 6 sections 75-301 to 75-322, 75-369.03, 75-370, 75-371, 75-383, and
 7 75-384;
 8 (6) Pipeline carriers and rights-of-way pursuant to the
 9 State Natural Gas Regulation Act and sections ~~57-1301 to 57-1307~~
 10 ~~and~~ 75-501 to 75-503;
 11 (7) Railroad carrier safety pursuant to sections 74-918,
 12 74-919, 74-1323, and 75-401 to 75-430;
 13 (8) Telecommunications carriers pursuant to the Automatic
 14 Dialing-Announcing Devices Act, the Emergency Telephone
 15 Communications Systems Act, the Enhanced Wireless 911 Services Act,
 16 the Intrastate Pay-Per-Call Regulation Act, the Nebraska
 17 Telecommunications Regulation Act, the Nebraska Telecommunications
 18 Universal Service Fund Act, the Telecommunications Relay System
 19 Act, the Telephone Consumer Slamming Prevention Act, and sections
 20 86-574 to 86-580;
 21 (9) Transmission lines and rights-of-way pursuant to
 22 sections 70-301 and 75-702 to 75-724;
 23 (10) Water service pursuant to the Water Service
 24 Regulation Act; and
 25 (11) Jurisdictional utilities governed by the State
 26 Natural Gas Regulation Act. If the provisions of Chapter 75 are
 27 inconsistent with the provisions of the State Natural Gas
 1 Regulation Act, the provisions of the State Natural Gas Regulation
 2 Act control.
 3 Sec. 30. The following sections are outright repealed:
 4 Sections 57-1301 to 57-1307, Revised Statutes Supplement, 2002."
 5 2. Renumber the remaining sections and correct internal
 6 references accordingly and correct the operative date and the
 7 repealer so that the sections added by this amendment become
 8 operative three calendar months after the adjournment of this
 9 legislative session.

Senator Landis withdrew the Landis-Hartnett amendment.

Advanced to E & R for review with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

SELECT COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE RESOLUTION 209CA. Placed on Select File as amended.

E & R amendment to LR 209CA:
AM7183

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. At the general election in November 2004 the
- 4 following proposed amendment to the Constitution of Nebraska shall
- 5 be submitted to the electors of the State of Nebraska for approval
- 6 or rejection:
- 7 To amend Article III, section 24:
- 8 III-24 "(1) Except as provided in this section, the
- 9 Legislature shall not authorize any game of chance or any lottery
- 10 or gift enterprise when the consideration for a chance to
- 11 participate involves the payment of money for the purchase of
- 12 property, services, or a chance or admission ticket or requires an
- 13 expenditure of substantial effort or time.
- 14 (2) The Legislature may authorize and regulate a state
- 15 lottery pursuant to subsection (3) of this section and other
- 16 lotteries, raffles, and gift enterprises which are intended solely
- 17 as business promotions or the proceeds of which are to be used
- 18 solely for charitable or community betterment purposes without
- 19 profit to the promoter of such lotteries, raffles, or gift
- 20 enterprises.
- 21 (3)(a) The Legislature may establish a lottery to be
- 22 operated and regulated by the State of Nebraska. The proceeds of
- 23 the lottery shall be appropriated by the Legislature for the costs
- 24 of establishing and maintaining the lottery and for ~~other~~ the
- 1 following purposes, as directed by the Legislature:
- 2 (i) The first five hundred thousand dollars after the
- 3 payment of prizes and operating expenses shall be transferred to
- 4 the Compulsive Gamblers Assistance Fund;
- 5 (ii) Forty-four and one-half percent of the money
- 6 remaining after the payment of prizes and operating expenses and
- 7 the initial transfer to the Compulsive Gamblers Assistance Fund
- 8 shall be transferred to the Nebraska Environmental Trust Fund to be
- 9 used as provided in the Nebraska Environmental Trust Act;
- 10 (iii) Forty-four and one-half percent of the money
- 11 remaining after the payment of prizes and operating expenses and
- 12 the initial transfer to the Compulsive Gamblers Assistance Fund
- 13 shall be used for education as the Legislature may direct;
- 14 (iv) Ten percent of the money remaining after the payment
- 15 of prizes and operating expenses and the initial transfer to the

16 Compulsive Gamblers Assistance Fund shall be transferred to the
 17 Nebraska State Fair Board. If the Nebraska State Fair ceases
 18 operations, ten percent of the money remaining after the payment of
 19 prizes and operating expenses and the initial transfer to the
 20 Compulsive Gamblers Assistance Fund shall be transferred to the
 21 General Fund; and

22 (v) One percent of the money remaining after the payment
 23 of prizes and operating expenses and the initial transfer to the
 24 Compulsive Gamblers Assistance Fund shall be transferred to the
 25 Compulsive Gamblers Assistance Fund.

26 (b) No lottery game shall be conducted as part of the
 27 lottery unless the type of game has been approved by a majority of
 1 the members of the Legislature.

2 (4) Nothing in this section shall be construed to
 3 prohibit (a) the enactment of laws providing for the licensing and
 4 regulation of wagering on the results of horseraces, wherever run,
 5 either within or outside of the state, by the parimutuel method,
 6 when such wagering is conducted by licensees within a licensed
 7 racetrack enclosure or (b) the enactment of laws providing for the
 8 licensing and regulation of bingo games conducted by nonprofit
 9 associations which have been in existence for a period of five
 10 years immediately preceding the application for license, except
 11 that bingo games cannot be conducted by agents or lessees of such
 12 associations on a percentage basis."

13 Sec. 2. The proposed amendment shall be submitted to the
 14 electors in the manner prescribed by the Constitution of Nebraska,
 15 Article XVI, section 1, with the following ballot language:

16 "A constitutional amendment to require the proceeds of
 17 the lottery operated and regulated by the State of
 18 Nebraska to be appropriated by the Legislature for the
 19 costs of the lottery, the Nebraska Environmental Trust
 20 Fund, education, the Nebraska State Fair Board, and the
 21 Compulsive Gamblers Assistance Fund.

22 For
 23 Against".

(Signed) Ray Mossey, Chairperson

MESSAGES FROM THE GOVERNOR

March 4, 2004

President, Speaker Bromm
 and Members of the Legislature
 State Capitol Building
 Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Please withdraw Michael Ongerth's name from confirmation to the Nebraska Transit and Rail Advisory Council, due to his term expiration.

Thank you.

Sincerely,
(Signed) Mike Johanns
Governor

web/

March 4, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska Transit and Rail Advisory Council.

APPOINTEE:

*Roberto Munguia, 201 N 7th, Lincoln NE 68501

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

*Reappointments

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Munguia, Roberto - Nebraska Transit and Rail Advisory Council -
Transportation and Telecommunications

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

RESOLUTION

LEGISLATIVE RESOLUTION 253. Introduced by Cunningham, 40; Jones, 43.

WHEREAS, on March 6, 2004, the Chambers girls' basketball team won the 2004 Class D-2 State Basketball Tournament championship; and

WHEREAS, the Coyotes defeated Banner County in an exciting 48-46 game to win the 2004 state championship; and

WHEREAS, this is the fifth girls' state basketball championship won by Chambers; and

WHEREAS, Coaches John and Sandy Miller and the Coyotes displayed superior sportsmanship and exemplified hard work, dedication, and discipline throughout the season; and

WHEREAS, such team achievement is made possible not only by individual members' performances and coaching guidance, but also through the support of teachers, administrators, and parents.

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

1. That the Legislature recognizes and congratulates the Chambers girls' basketball team and Coaches John and Sandy Miller for their outstanding accomplishment.

2. That a copy of this resolution be sent to the Chambers girls' basketball team and head Coach John Miller.

Laid over.

AMENDMENTS - Print in Journal

Senator Jensen filed the following amendment to LB 1091:
AM2983

1 1. Insert the following new section:
2 "Sec. 4. Section 71-7608, Reissue Revised Statutes of
3 Nebraska, is amended to read:
4 71-7608. The Nebraska Tobacco Settlement Trust Fund is
5 created. The fund shall include any settlement payments or other
6 revenue received by the State of Nebraska in connection with any
7 tobacco-related litigation to which the State of Nebraska is a
8 party. The Department of Health and Human Services Finance and
9 Support shall remit such revenue to the State Treasurer for credit
10 to the fund, except that of such revenue received on or after April
11 1, 2004, two million five hundred thousand dollars shall be
12 credited annually to the Tobacco Prevention and Control Cash Fund.
13 Subject to the terms and conditions of such litigation, money from
14 the Nebraska Tobacco Settlement Trust Fund shall be transferred to
15 the Nebraska Health Care Cash Fund as provided in section 71-7611.
16 Any money in the Nebraska Tobacco Settlement Trust Fund available
17 for investment shall be invested by the state investment officer

18 pursuant to the Nebraska Capital Expansion Act and the Nebraska
19 State Funds Investment Act.".

20 2. On page 22, line 11, after "sections" insert

21 "71-7608,".

22 3. Renumber the remaining sections accordingly.

Senators Jensen and Byars filed the following amendment to LB 1005:
AM3011

(Amendments to Standing Committee amendments, AM2347)

1 1. Strike amendments 1 and 2 and insert the following

2 new amendments:

3 "1. Strike original sections 30 and 48 and insert the

4 following new sections:

5 'Sec. 30. Section 71-409, Reissue Revised Statutes of

6 Nebraska, is amended to read:

7 71-409. Critical access hospital means a facility (1)

8 with ~~up to fifteen~~ acute care inpatient beds where care or

9 treatment is provided on an outpatient basis or on an inpatient

10 basis to persons for an average period of not more than ninety-six

11 hours and emergency services are provided on a twenty-four-hour

12 basis and (2) which has formal agreements with at least one

13 hospital and other appropriate providers for services such as

14 patient referral and transfer, communications systems, provision of

15 emergency and nonemergency transportation, and backup medical and

16 emergency services. A facility licensed as a critical access

17 hospital as of January 1, 2004, shall have no more than twenty-five

18 acute care inpatient beds, and any other facility licensed as a

19 critical access hospital shall have no more than fifteen acute care

20 inpatient beds.

21 Sec. 48. Section 71-1914, Reissue Revised Statutes of

22 Nebraska, is amended to read:

23 71-1914. (1) The department shall be the state's

1 coordinating agency for ~~regulating~~ licensure and regulation of

2 programs in this state in order to (a) provide efficient services

3 pursuant to ~~sections 71-1908 to 71-1917~~ the Child Care Licensing

4 Act, (b) avoid duplication of services, and (c) prevent an

5 unnecessary number of inspections of any program. The department

6 may request cooperation and assistance from local and state

7 agencies and such agencies shall promptly respond. The extent of

8 an agency's cooperation may be included in the report to the

9 Legislature pursuant to section 71-1917.

10 (2) A city, village, or county may adopt rules,

11 regulations, or ordinances establishing physical well-being and

12 safety standards for ~~providers of~~ programs whether or not ~~such~~

13 ~~providers~~ the persons providing such programs are subject to

14 licensure under section 71-1911. ~~If a city, village, or county~~

15 ~~adopts any rules, regulations, or ordinances establishing physical~~

16 ~~well-being and safety standards for providers subject to licensure~~

17 ~~under section 71-1911, (a) such~~ Such rules, regulations, or

18 ordinances shall be ~~identical to~~ as stringent as or more stringent
 19 than the department's rules and regulations for licensed providers
 20 licensees pursuant to the Child Care Licensing Act, sections
 21 71-1908 to 71-1917, except that a city, village, or county which
 22 has rules, regulations, or ordinances in effect on July 10, 1984,
 23 which apply to programs furnished for two or three children from
 24 different families may continue to license providers of such
 25 programs, and (b) the The city, village, or county adopting such
 26 rules, regulations, or ordinances and the department shall
 27 coordinate the inspection and supervision of licensed providers
 1 licensees to avoid duplication of inspections. If the applicant is
 2 an individual, the application form for providers of such programs
 3 shall include the applicant's social security number. A city,
 4 village, or county shall report any violation of its such rules,
 5 regulations, or ordinances regulating providers subject to be
 6 licensure to the director, who may cause a written charge to be
 7 brought pursuant to section 71-1915. The city, village, or county
 8 may administer and enforce its such rules, regulations, and
 9 ordinances. Enforcement of provisions of the Child Care Licensing
 10 Act or rules or regulations adopted and promulgated under the act
 11 establishing physical well being and safety standards for providers
 12 of programs, except that the exclusive sanction for the violation
 13 of any rules, regulations, and ordinances regulating providers
 14 subject to licensure pursuant to section 71-1911 shall be by the
 15 department pursuant to section 71-1915 sections 56 to 60 of this
 16 act.

17 Sec. 82. Sections 1 to 29, 31 to 81, 84, and 85 of this
 18 act become operative three calendar months after adjournment of
 19 this legislative session. The other sections of this act become
 20 operative on their effective date.

21 Sec. 83. Original section 71-409, Reissue Revised
 22 Statutes of Nebraska, is repealed.

23 Sec. 86. Since an emergency exists, this act takes
 24 effect when passed and approved according to law.'

25 2. Strike beginning with page 51, line 13, through page
 26 52, line 16, and insert the following new subsection:

27 '(3) Before the foster care placement of any child in
 1 Nebraska by the Department of Health and Human Services on and
 2 after the effective date of this act, the department shall require
 3 a national criminal history record information check of the
 4 prospective foster parent of such child and each member of such
 5 prospective foster parent's household who is eighteen years of age
 6 or older. The department shall provide two sets of legible
 7 fingerprints for such persons to the Nebraska State Patrol for
 8 submission to the Federal Bureau of Investigation. The Nebraska
 9 State Patrol shall conduct a criminal history record information
 10 check of such persons and shall submit such fingerprints to the
 11 Federal Bureau of Investigation for a national criminal history
 12 record information check. The criminal history record information

13 check shall include information from federal repositories of such
 14 information and repositories of such information in other states if
 15 authorized by federal law. The Nebraska State Patrol shall issue a
 16 report of the results of such criminal history record information
 17 check to the department. The department shall pay a fee to the
 18 Nebraska State Patrol for conducting such check. Information
 19 received from the criminal history record information check
 20 required under this subsection shall be used solely for the purpose
 21 of evaluating and confirming information provided by such persons
 22 for providing foster care or for the finalization of an adoption.
 23 A child may be placed in foster care by the department prior to the
 24 completion of a criminal history record information check under
 25 this subsection in emergency situations as determined by the
 26 department.'

27 3. On page 75, strike lines 4 through 7 and insert the

1 following new subdivision:

2 '(4) Local health officer means (a) the health director
 3 of a local public health department as defined in section 71-1626
 4 or (b) the medical advisor to the board of health of a county,
 5 city, or village;'."

6 2. Renumber the remaining amendment accordingly.

Senator Mines filed the following amendment to LB 999:
 AM2981

(Amendments to Standing Committee amendments, AM2339)

1 1. On page 10, strike lines 7 through 21, show the old
 2 matter as stricken, and insert the following new subsection:
 3 "(e)(1) The following transactions shall not be presumed
 4 to be affected by a conflict between the personal and fiduciary
 5 interests of a trustee if the transaction and any investment made
 6 pursuant to the transaction complies with the prudent investor rule
 7 set forth in sections 30-3883 to 30-3889:
 8 (A) an investment by a trustee in securities of an
 9 investment company or investment trust to which the trustee, or its
 10 affiliates, provides services in a capacity other than as trustee;
 11 or
 12 (B) the placing of securities transactions by a trustee
 13 through a securities broker that is part of the same company as the
 14 trustee, is owned by the trustee, or is affiliated with the
 15 trustee.
 16 (2) In addition to its compensation for acting as
 17 trustee, the trustee or its affiliates may be compensated for (A)
 18 any transactions made or services provided under subdivision (1)(A)
 19 of this subsection if the trustee at least annually notifies the
 20 persons entitled under section 30-3878 to receive a copy of the
 21 trustee's annual report of the rate and method by which that
 22 compensation was determined and (B) any transaction made under
 23 subdivision (1)(B) of this subsection if the transaction is
 1 executed on the most favorable terms and conditions generally

2 available considering among other things, the size of the order,
 3 the trading characteristics of the securities involved, speed of
 4 the transaction, execution price, price improvement opportunities,
 5 liquidity, and the value of research provided, execution
 6 capabilities, commission rate, financial responsibility, and
 7 responsiveness of the broker."

Senator Jensen filed the following amendment to LB 1005:
 (Amendment, AM2835, is printed separately and available in the Bill Room,
 Room 1104.)

Senator Synowiecki filed the following amendment to LB 559:
 AM2962

(Amendments to Final Reading copy)

- 1 1. Strike section 5.
- 2 2. On page 1, line 4; and page 39, line 18, strike
- 3 "60-486,".
- 4 3. On page 7, after line 6, insert the following new
- 5 subsection:
- 6 "(7) If a person is not able to legally acquire a social
- 7 security number, such person may present to the department a valid
- 8 United States-based identification as approved by the director in
- 9 lieu of a social security number."
- 10 4. On page 33, strike lines 17 through 28 and insert the
- 11 following new subsection:
- 12 "(5) If a person is not able to legally acquire a social
- 13 security number, such person may present to the Department of Motor
- 14 Vehicles a valid United States-based identification as approved by
- 15 the director in lieu of a social security number."
- 16 5. On page 34, strike lines 1 through 13.
- 17 6. Renumber the remaining sections and correct internal
- 18 references accordingly.

Senator Landis filed the following amendment to LB 1008:
 AM2479

(Amendments to Standing Committee amendments, AM2295)

- 1 1. Insert the following new section:
- 2 "Sec. 3. Section 23-114.01, Revised Statutes Supplement,
- 3 2003, is amended to read:
- 4 23-114.01. (1) In order to avail itself of the powers
- 5 conferred by section 23-114, the county board shall appoint a
- 6 planning commission to be known as the county planning commission.
- 7 The members of the commission shall be residents of the county to
- 8 be planned and shall be appointed with due consideration to
- 9 geographical and population factors. Since the primary focus of
- 10 concern and control in county planning and land-use regulatory
- 11 programs is the unincorporated area, a majority of the members of
- 12 the commission shall be residents of unincorporated areas, except
- 13 that this requirement shall not apply to joint planning

14 commissions. Members of the commission shall hold no county or
15 municipal office, except that a member may also be a member of a
16 city, village, or other type of planning commission. The term of
17 each member shall be three years, except that approximately
18 one-third of the members of the first commission shall serve for
19 terms of one year, one-third for terms of two years, and one-third
20 for terms of three years. All members shall hold office until
21 their successors are appointed. Members of the commission may be
22 removed by a majority vote of the county board for inefficiency,
23 neglect of duty, or malfeasance in office or other good and
1 sufficient cause upon written charges being filed with the county
2 board and after a public hearing has been held regarding such
3 charges. Vacancies occurring otherwise than through the expiration
4 of terms shall be filled for the unexpired terms by individuals
5 appointed by the county board. Members of the commission shall be
6 compensated for their actual and necessary expenses incurred in
7 connection with their duties in an amount to be fixed by the county
8 board. Reimbursement for mileage shall be made at the rate
9 provided in section 81-1176. Each county board may provide a per
10 diem payment for members of the commission of not to exceed fifteen
11 dollars for each day that each such member attends meetings of the
12 commission or is engaged in matters concerning the commission, but
13 no member shall receive more than one thousand dollars in any one
14 year. Such per diem payments shall be in addition to and separate
15 from compensation for expenses.

16 (2) The commission: (a) Shall prepare and adopt as its
17 policy statement a comprehensive development plan and such
18 implemental means as a capital improvement program, subdivision
19 regulations, building codes, and a zoning resolution; (b) shall
20 consult with and advise public officials and agencies, public
21 utilities, civic organizations, educational institutions, and
22 citizens relating to the promulgation of implemental programs; (c)
23 may delegate authority to any of the groups named in subdivision
24 (b) of this subsection to conduct studies and make surveys for the
25 commission; and (d) shall make preliminary reports on its findings
26 and hold public hearings before submitting its final reports. The
27 county board shall not hold its public meetings or take action on
1 matters relating to the comprehensive development plan, capital
2 improvements, building codes, subdivision development, or zoning
3 until it has received the recommendations of the commission.

4 (3) The commission may, with the consent of the governing
5 body, in its own name: Make and enter into contracts with public or
6 private bodies; receive contributions, bequests, gifts, or grants
7 of funds from public or private sources; expend the funds
8 appropriated to it by the county board; employ agents and
9 employees; and acquire, hold, and dispose of property. The
10 commission may, on its own authority: Make arrangements consistent
11 with its program; conduct or sponsor special studies or planning
12 work for any public body or appropriate agency; receive grants,

13 remuneration, or reimbursement for such studies or work; and at its
14 public hearings, summon witnesses, administer oaths, and compel the
15 giving of testimony.

16 (4) In all counties in the state, the county planning
17 commission may grant conditional uses or special exceptions to
18 property owners for the use of their property if the county board
19 of commissioners or supervisors has officially and generally
20 authorized the commission to exercise such powers and has approved
21 the standards and procedures the commission adopted for equitably
22 and judiciously granting such conditional uses or special
23 exceptions. The granting of a conditional use permit or special
24 exception shall only allow property owners to put their property to
25 a special use if it is among those uses specifically identified in
26 the county zoning regulations as classifications of uses which may
27 require special conditions or requirements to be met by the owners
1 before a use permit or building permit is authorized. The
2 applicant for a conditional use permit or special exception for a
3 livestock operation specifically identified in the county zoning
4 regulations as a classification of use which may require special
5 conditions or requirements to be met within an area of a county
6 zoned for agricultural use may request a determination of the
7 special conditions or requirements to be imposed by the county
8 planning commission or by the county board of commissioners or
9 supervisors if the board has not authorized the commission to
10 exercise such authority. Upon request the commission or board
11 shall issue such determination of the special conditions or
12 requirements to be imposed in a timely manner. Such special
13 conditions or requirements to be imposed may include, but are not
14 limited to, the submission of information that may be separately
15 provided to state or federal agencies in applying to obtain the
16 applicable state and federal permits. The commission or the board
17 may request and review, prior to making a determination of the
18 special conditions or requirements to be imposed, reasonable
19 information relevant to the conditional use or special exception.
20 If a determination of the special conditions or requirements to be
21 imposed has been made, final permit approval may be withheld
22 subject only to a final review by the commission or county board to
23 determine whether there is a substantial change in the applicant's
24 proposed use of the property upon which the determination was based
25 and that the applicant has met, or will meet, the special
26 conditions or requirements imposed in the determination. For
27 purposes of this section, substantial change shall include any
1 significant alteration in the original application including a
2 significant change in the design or location of buildings or
3 facilities, in waste disposal methods or facilities, or in
4 capacity.

5 (5) The power to grant conditional uses or special
6 exceptions as set forth in subsection (4) of this section shall be
7 the exclusive authority of the commission, except that the county

8 board of commissioners or supervisors may choose to retain for
 9 itself the power to grant conditional uses or special exceptions
 10 for those classifications of uses specified in the county zoning
 11 regulations. The county board of commissioners or supervisors may
 12 exercise such power if it has formally adopted standards and
 13 procedures for granting such conditional uses or special exceptions
 14 in a manner that is equitable and which will promote the public
 15 interest. An appeal of a decision by the county planning
 16 commission or county board of commissioners or supervisors
 17 regarding a conditional use or special exception shall be made to
 18 the district court.

19 (6) Whenever a county planning commission or county board
 20 is authorized to grant conditional uses or special exceptions
 21 pursuant to subsection (4) or (5) of this section, the planning
 22 commission or county board shall, with its decision to grant or
 23 deny a conditional use permit or special exception, issue a
 24 statement of factual findings arising from the record of
 25 proceedings that support the granting or denial of the conditional
 26 use permit or special exception. If a county planning commission's
 27 role is advisory to the county board, the county planning
 1 commission shall submit such statement with its recommendation to
 2 the county board as to whether to approve or deny a conditional use
 3 permit or special exception."

4 2. On page 1, lines 12 through 14, strike the new matter
 5 and insert "The board of adjustment shall have no authority to
 6 hear and decide appeals regarding conditional use permits or
 7 special exceptions which may be granted pursuant to section
 8 23-114.01".

9 3. On page 3, lines 11 through 14, strike the new
 10 matter; and in line 17 after "23-168.03" insert "; and in line 15
 11 after the comma insert 'and section 23-114.01, Revised Statutes
 12 Supplement, 2003,'."

13 4. Renumber the remaining sections accordingly.

RESOLUTION

LEGISLATIVE RESOLUTION 254. Introduced by Stuthman, 22.

WHEREAS, the Scotus Central Catholic girls' basketball team is the champion of the 2004 Class C-1 Girls' State Basketball Tournament; and

WHEREAS, the 40-34 win over the talented Norfolk Catholic team in the final game capped the Lady Shamrocks' Girls Class C-1 State Basketball Tournament; and

WHEREAS, this is the fourth state title under the guidance of Scotus coach Sean Wickham; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state which is the result of the individual team members' performance and coaching excellence and the support of teachers, administrators, and parents.

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

1. That the Legislature recognizes and congratulates the Scotus Central Catholic girls' basketball team and Coach Sean Wickham.

2. That a copy of this resolution be sent to Scotus Central Catholic girls' basketball team head coach Sean Wickham.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 868. Title read. Considered.

The Standing Committee amendment, AM2598, found on page 618, was considered.

Senator Stuhr withdrew the Stuhr et al. pending amendment, AM2950, found on page 922.

Senators Stuhr, Raikes, and Redfield offered the following amendment to the Standing Committee amendment:

AM2960

(Amendments to Standing Committee amendments, AM2598)

- 1 1. Strike sections 1 and 2 and insert the following new
 2 sections:
 3 "Section 1. Section 79-201, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 79-201. (1) For purposes of this section:
 6 (a) Prior to July 1, 2005, a child is of mandatory
 7 attendance age if the child (i) has reached seven years of age,
 8 (ii) did not reach sixteen years of age prior to the effective date
 9 of this act, and (iii) has not reached eighteen years of age; and
 10 (b) On and after July 1, 2005, a child is of mandatory
 11 attendance age if the child (i) will reach six years of age prior
 12 to January 1 of the current school year, (ii) did not reach sixteen
 13 years of age prior to the effective date of this act, and (iii) has
 14 not reached eighteen years of age.
 15 (2) Except as provided in section 79-202 subsection (3)
 16 of this section, every person residing in a school district within
 17 the State of Nebraska who has legal or actual charge or control of
 18 any child who is not less than seven years of age and not more than
 19 sixteen years of age or who is younger than seven years of age and
 20 is of mandatory attendance age or is enrolled in any a public
 21 school shall cause such child to enroll in, if such child is not
 22 enrolled, and attend regularly the a public, private,
 23 denominational, or parochial day schools school which meet meets
 1 the requirements for legal operation prescribed in Chapter 79 or a
 2 school which elects pursuant to section 79-1601 not to meet

3 accreditation or approval requirements each day that such schools
 4 are school is open and in session, except when excused by school
 5 authorities or when illness or severe weather conditions make
 6 attendance impossible or impracticable.

7 (3) Subsection (2) of this section does not apply in the
 8 case of any child who:

9 (a) Has obtained a high school diploma by meeting the
 10 graduation requirements established in section 79-729;

11 (b) Has completed the program of instruction offered by a
 12 school which elects pursuant to section 79-1601 not to meet
 13 accreditation or approval requirements;

14 (c) Has reached the age of eighteen years;

15 (d) Has reached the age of sixteen years and such child's
 16 parent or guardian has signed a notarized waiver on a waiver form
 17 provided by the school;

18 (e) Will reach six years of age prior to January 1 of the
 19 current school year, but will not reach seven years of age prior to
 20 January 1 of the current school year, and such child's parent or
 21 guardian has signed an affidavit stating that the child is
 22 participating in an education program that the parent or guardian
 23 believes will prepare the child to enter grade one for the
 24 following school year; or

25 (f) Will not reach six years of age prior to January 1 of
 26 the current school year and such child was enrolled in a public
 27 school and has discontinued the enrollment according to the policy
 1 of the school board adopted pursuant to subsection (4) of section
 2 79-214, ~~unless such child has graduated from high school. Any~~
 3 person with legal or actual charge or control of a child younger
 4 than seven years of age who is enrolled in a public school may
 5 discontinue the enrollment of such child pursuant to the policy of
 6 the school board. All school boards shall adopt policies allowing
 7 discontinuation of the enrollment of students younger than seven
 8 years of age and specifying the procedures therefor.

9 The school term shall be as provided in section 79-211.

10 Sec. 2. Section 79-214, Reissue Revised Statutes of

11 Nebraska, is amended to read:

12 79-214. (1) Except as provided in subsection (2) of this
 13 section, the school board of any school district shall not admit
 14 any child into the kindergarten or beginner grade of any school of
 15 such school district unless such child has reached the age of five
 16 years or will reach such age on or before October 15 of the current
 17 school year for school years prior to school year 2005-06 and
 18 before September 1 of the current year for school year 2005-06 and
 19 each school year thereafter.

20 (2) The board may admit a child who will reach the age of
 21 five ~~between~~ years of age on or after October 16 and on or before
 22 February 1 of the current school year for school years prior to
 23 school year 2005-06 and on or after September 1 and on or before
 24 December 31 of the current school year for school year 2005-06 and

25 each school year thereafter if the parent or guardian requests such
 26 entrance and provides an affidavit stating that (a) the child
 27 attended kindergarten in another jurisdiction in the current school
 1 year, (b) the family anticipates relocation to another jurisdiction
 2 that would allow admission within the current school year, or (c)
 3 the child has demonstrated through ~~recognized~~ assessment procedures
 4 approved by the board that he or she is capable of carrying the
 5 work of kindergarten or the beginner grade.

6 (3) The board shall comply with the requirements of
 7 subsection (2) of section 43-2007 and shall require evidence of a
 8 physical examination by a physician, a physician assistant, or an
 9 advanced practice registered nurse within six months prior to the
 10 entrance of a child into the beginner grade and the seventh grade
 11 or, in the case of a transfer from out of state, to any other grade
 12 of the local school, except that no such physical examination shall
 13 be required of any child whose parent or guardian objects in
 14 writing. The cost of such physical examination shall be borne by
 15 the parent or guardian of each child who is examined.

16 (4) The board shall adopt policies allowing
 17 discontinuation of the enrollment of students who will not reach
 18 six years of age prior to January 1 of the current school year and
 19 specifying the procedures therefor.

20 Sec. 4. The following section is outright repealed:

21 Section 79-202, Reissue Revised Statutes of Nebraska.".

SPEAKER BROMM PRESIDING

SENATOR JANSSEN PRESIDING

Pending.

STANDING COMMITTEE REPORTS **Transportation and Telecommunications**

LEGISLATIVE BILL 1056. Indefinitely postponed.

LEGISLATIVE BILL 1205. Indefinitely postponed.

(Signed) Tom Baker, Chairperson

AMENDMENTS - Print in Journal

Senator Brown filed the following amendment to LR 209CA:
 AM2977

(Amendments to E & R amendments, AM7183)

- 1 1. Insert the following new section:
- 2 "Sec. 2. At the general election in November 2004 the
- 3 following proposed amendment to the Constitution of Nebraska shall
- 4 be submitted to the electors of the State of Nebraska for approval
- 5 or rejection:

6 To amend Article III, section 24:

7 III-24 "(1) Except as provided in this section, the
8 Legislature shall not authorize any game of chance or any lottery
9 or gift enterprise when the consideration for a chance to
10 participate involves the payment of money for the purchase of
11 property, services, or a chance or admission ticket or requires an
12 expenditure of substantial effort or time.

13 (2) The Legislature may authorize and regulate a state
14 lottery pursuant to subsection (3) of this section and other
15 lotteries, raffles, and gift enterprises which are intended solely
16 as business promotions or the proceeds of which are to be used
17 solely for charitable or community betterment purposes without
18 profit to the promoter of such lotteries, raffles, or gift
19 enterprises.

20 (3) The Legislature may establish a lottery to be
21 operated and regulated by the State of Nebraska. The proceeds of
22 the lottery shall be appropriated by the Legislature for the costs
23 of establishing and maintaining the lottery and for other purposes
1 as directed by the Legislature. No lottery game shall be conducted
2 as part of the lottery unless the type of game has been approved by
3 a majority of the members of the Legislature.

4 (4) Nothing in this section shall be construed to
5 prohibit (a) the enactment of laws providing for the licensing and
6 regulation of wagering on the results of horseraces, wherever run,
7 either within or outside of the state, by the parimutuel method,
8 when such wagering is conducted by licensees within a licensed
9 racetrack enclosure or (b) the enactment of laws providing for the
10 licensing and regulation of bingo games conducted by nonprofit
11 associations which have been in existence for a period of five
12 years immediately preceding the application for license, except
13 that bingo games cannot be conducted by agents or lessees of such
14 associations on a percentage basis.

15 (5)(a) For purposes of this subsection, casino gaming
16 includes games of chance played for money, credit, or any
17 representative of value using cards; dice; equipment;
18 player-activated electronic, video, or mechanical gaming devices;
19 and other methods authorized by the Legislature.

20 (b) Nothing in the Constitution of Nebraska shall be
21 construed to prohibit or restrict casino gaming as authorized by
22 the Legislature at up to three casino locations. Subsequent to the
23 initial legislative authorization of any casino location, the
24 voters of the county in which such casino location is authorized
25 shall either approve or disapprove casino gaming in such county.
26 Only the Legislature may provide for the authorization, operation,
27 regulation, and taxation of casino gaming whether casino gaming is
1 authorized under this section or by initiative measure."

2 2. On page 3, line 23, after the first period insert the
3 following new matter: "A constitutional amendment to define casino
4 gaming and to permit the Legislature to authorize up to three

5 casino locations subject to approval by voters in the affected
 6 counties and provide for the authorization, operation, regulation,
 7 and taxation of casino gaming.
 8 For
 9 Against".
 10 3. Renumber the remaining section accordingly.

Senator Foley filed the following amendment to LB 1005:
 AM2928

1 1. Insert the following new section:
 2 "Sec. 81. Section 71-8611, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 71-8611. For the purpose of providing blind persons with
 5 remunerative employment, enlarging the economic opportunities of
 6 blind persons, and stimulating blind persons to greater efforts in
 7 striving to make themselves self-supporting, the commission shall
 8 administer and operate vending facilities programs pursuant to the
 9 federal Randolph-Sheppard Act, as amended, 20 U.S.C. 107 et seq.
 10 Blind persons licensed by the commission pursuant to its rules and
 11 regulations are authorized to operate vending facilities in any
 12 federally owned building or on any federally owned or controlled
 13 property, in any state-owned building or on any ~~state-owned or~~
 14 ~~controlled property owned or controlled by the state,~~ or on any
 15 property owned or controlled by any county, city, or municipally
 16 owned or controlled property municipality with the approval of the
 17 local governing body, when, in the judgment of the director of the
 18 commission, such vending facilities may be properly and
 19 satisfactorily operated by blind persons. With respect to vending
 20 facilities in any state-owned building or on any property owned or
 21 controlled by the state, priority shall be given to blind persons,
 22 except that this shall not apply to the Game and Parks Commission
 23 or the University of Nebraska. This priority shall only be given
 24 if the bid submitted is comparable in price to the other bids
 1 submitted and the qualifications and capabilities of the vendors
 2 bidding for a contract are found to be similar to the other
 3 bidders."
 4 2. On page 94, line 27, strike "and 71-6735" and insert
 5 "71-6735, and 71-8611".
 6 3. Renumber the remaining sections accordingly.

Senator Quandahl filed the following amendment to LB 155:
 AM2848

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. Section 76-238, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 76-238. (1) All deeds, mortgages, and other instruments
 6 of writing which are required to be or which under the laws of this
 7 state may be recorded, shall take effect and be in force from and

8 after the time of delivering ~~the same~~ such instruments to the
 9 register of deeds for recording, and not before, as to all
 10 creditors and subsequent purchasers in good faith without notice,
 11 All ; and all such deeds, mortgages and other instruments shall be
 12 adjudged are void as to all such creditors and subsequent
 13 purchasers without notice whose deeds, mortgages, or other
 14 instruments ~~shall be first recorded~~ are recorded prior to such
 15 instruments. However, ; PROVIDED, that such deeds, mortgages and
 16 other instruments shall be are valid between the parties to the
 17 instrument.

18 (2) For purposes of this section, possession of
 19 agricultural real estate or residential real estate by a party
 20 related to the owner of record of the real estate within the third
 21 degree of consanguinity or affinity shall not serve as notice to a
 22 creditor or subsequent purchaser in any case in which such party is
 23 claiming rights in such real estate pursuant to a lease (a) entered
 24 into on or after the effective date of this act; (b) purporting to
 1 extend beyond a term of one year; and (c) which has not satisfied
 2 the requirements of section 76-211, unless the creditor or
 3 subsequent purchaser, in advance of recording a deed, mortgage, or
 4 other instrument, has received a written copy of such lease.

5 (3) For purposes of this section:
 6 (a) Agricultural products includes grain and feed crops;
 7 forages and sod crops; and animal production, including breeding,
 8 feeding, or grazing of cattle, horses, swine, sheep, goats, bees,
 9 or poultry;
 10 (b) Agricultural real estate means land which is
 11 primarily used for the production of agricultural products,
 12 including waste land lying in or adjacent to and in common
 13 ownership with land used for the production of agricultural
 14 products;

15 (c) Related within the third degree of consanguinity or
 16 affinity includes parents, grandparents, great-grandparents,
 17 children, grandchildren, great-grandchildren, brothers, sisters,
 18 uncles, aunts, nephews, nieces, and spouses of the same and any
 19 partnership, limited liability company, or corporation in which all
 20 of the partners, members, or shareholders are related within the
 21 third degree of consanguinity or affinity; and

22 (d) Residential real estate means real estate containing
 23 not more than four units designed for use for residential purposes.
 24 A condominium unit that is otherwise residential real estate
 25 remains so even though the condominium development contains more
 26 than four dwelling units or units for nonresidential purposes.

27 Sec. 2. Original section 76-238, Reissue Revised
 1 Statutes of Nebraska, is repealed."

Senator Janssen filed the following amendment to LR 11CA:
 AM3031

(Amendments to Final Reading copy)

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 "Section 1. At the general election in November 2004 the
4 following proposed amendment to the Constitution of Nebraska shall
5 be submitted to the electors of the State of Nebraska for approval
6 or rejection:
7 To amend Article III, section 24:
8 III-24 "(1) Except as provided in this section, the
9 Legislature shall not authorize any game of chance or any lottery
10 or gift enterprise when the consideration for a chance to
11 participate involves the payment of money for the purchase of
12 property, services, or a chance or admission ticket or requires an
13 expenditure of substantial effort or time.
14 (2) The Legislature may authorize and regulate a state
15 lottery pursuant to subsection (3) of this section and other
16 lotteries, raffles, and gift enterprises which are intended solely
17 as business promotions or the proceeds of which are to be used
18 solely for charitable or community betterment purposes without
19 profit to the promoter of such lotteries, raffles, or gift
20 enterprises.
21 (3) The Legislature may establish a lottery to be
22 operated and regulated by the State of Nebraska. The proceeds of
23 the lottery shall be appropriated by the Legislature for the costs
24 of establishing and maintaining the lottery and for other purposes
25 as directed by the Legislature. No lottery game shall be conducted
26 as part of the lottery unless the type of game has been approved by
a majority of the members of the Legislature.
5 (4) Nothing in this section shall be construed to
6 prohibit (a) the enactment of laws providing for the licensing and
7 regulation of wagering on the results of horseraces, wherever run,
8 either within or outside of the state, by the parimutuel method,
9 when such wagering is conducted by licensees within a licensed
10 racetrack enclosure or (b) the enactment of laws providing for the
11 licensing and regulation of bingo games conducted by nonprofit
12 associations which have been in existence for a period of five
13 years immediately preceding the application for license, except
14 that bingo games cannot be conducted by agents or lessees of such
15 associations on a percentage basis.
16 (5)(a) For purposes of this subsection, casino gaming
17 includes games of chance played for money, credit, or any
18 representative of value using cards; dice; equipment;
19 player-activated electronic, video, or mechanical gaming devices;
20 and other methods authorized by the Legislature.
21 (b) Nothing in the Constitution of Nebraska shall be
22 construed to prohibit or restrict casino gaming as authorized by
23 the Legislature at up to two casino locations. Subsequent to the
24 initial legislative authorization of any casino location, the
25 voters of the county in which such casino location is authorized
26 shall either approve or disapprove casino gaming in such county.

27 Only the Legislature may provide for the authorization, operation,
 1 regulation, and taxation of casino gaming whether casino gaming is
 2 authorized under this section or by initiative measure."
 3 Sec. 2. The proposed amendment shall be submitted to the
 4 electors in the manner prescribed by the Constitution of Nebraska,
 5 Article XVI, section 1, with the following ballot language:
 6 "A constitutional amendment to define casino gaming and
 7 to permit the Legislature to authorize up to two casino
 8 locations subject to approval by voters in the affected
 9 counties and provide for the authorization, operation,
 10 regulation, and taxation of casino gaming.
 11 For
 12 Against".

Senator Schrock filed the following amendment to LB 916:
 AM3030

(Amendments to Standing Committee amendments, AM2826)

- 1 1. On page 6, line 25, strike "an" and insert "a
 2 single".

NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications
 Room 1113

Monday, March 22, 2004

1:00 p.m.

Roberto Munguia - Nebraska Transit and Rail Advisory Council

(Signed) Tom Baker, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Synowiecki asked unanimous consent to have his name added as cointroducer to LB 1083. No objections. So ordered.

VISITORS

Visitors to the Chamber were Senator Johnson's daughter and granddaughter, Lynn and Nicole Fleming, from Omaha; and 30 students and sponsors from Leadership Kearney.

ADJOURNMENT

At 4:34 p.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Wednesday, March 10, 2004.

Patrick J. O'Donnell
 Clerk of the Legislature

FORTIETH DAY - MARCH 10, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 10, 2004

PRAYER

The prayer was offered by Senator Vrtiska.

ROLL CALL

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

The roll was called and all members were present except Senators Bromm and Engel who were excused; and Senators Brown, D. Pederson, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-ninth day was approved.

NOTICE OF COMMITTEE HEARING

Nebraska Retirement Systems
Room 1525

Thursday, March 18, 2004 12:15 p.m.
Annual Report - Nebraska Public Employees Retirement Systems
Annual Report - State Investment Council

(Signed) Elaine Stuhr, Chairperson

SELECT FILE

LEGISLATIVE BILL 999. Senator Chambers withdrew his pending amendment, FA1554, found on page 943.

Senator Mines renewed his pending amendment, AM2981, found on page 959.

Senator Mines withdrew his amendment.

Senator Quandahl offered the following amendment:

AM2282

- 1 1. On page 3, line 16, after "(3)" insert "state or
- 2 federal credit unions if the word bank or any derivative thereof is
- 3 used as any part of the description of any business activity, (4)";
- 4 in line 18 strike "(4)" and insert "(5)"; in line 21 strike "(5)"
- 5 and insert "(6)"; and in line 25 strike "(6)" and insert "(7)".

The Quandahl amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 869. Title read. Considered.

The Standing Committee amendment, AM2611, found on page 627, was adopted with 26 ayes, 1 nay, 17 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 27 ayes, 1 nay, 16 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 1005. Title read. Considered.

The Standing Committee amendment, AM2347, found on page 470, was considered.

Senator Jensen renewed the Jensen-Byars pending amendment, AM3011, found on page 957, to the Standing Committee amendment.

The Jensen-Byars amendment was adopted with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

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

(Amendment, AM3047, is printed separately and available in the Bill Room, Room 1104.)

The Byars amendment was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

Senator Foley renewed his pending amendment, AM2623, found on page 889.

The Foley amendment was adopted with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Senator Cunningham renewed his pending amendment, AM2910, found on page 890.

The Cunningham amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Senator Jensen renewed his pending amendment, AM2835, printed separately and referred to on page 960.

SENATOR JANSSEN PRESIDING

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

The Jensen amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator Foley renewed his pending amendment, AM2928, found on page 968.

SENATOR CUDABACK PRESIDING

The Foley amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

ANNOUNCEMENT

Senator Landis announced the Revenue Committee will hold an executive session Wednesday, March 10, 2004, at 12:00 p.m., in Room 1524.

AMENDMENTS - Print in Journal

Senator Janssen filed the following amendment to LB 973:
AM3032

(Amendments to Standing Committee amendments, AM2384)

- 1 1. Strike section 47 and insert the following new
- 2 sections:
- 3 "Sec. 13. Section 77-1345, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 77-1345. (1) Any taxpayer seeking special valuation
- 6 under section 77-1344 shall make application to the county assessor

7 on or before June 30 of the first year in which such valuation is
8 requested.

9 (2)(a) The application shall be made upon forms
10 prescribed by the Property Tax Administrator and available from the
11 county assessor and shall include such information as may
12 reasonably be required to determine the eligibility of the
13 applicant and the land.

14 (b) The application shall be signed by any one of the
15 following:

16 (i) The taxpayer;

17 (ii) Any person of legal age duly authorized in writing
18 to sign an application on behalf of the taxpayer; or

19 (iii) The guardian or conservator of a taxpayer or the
20 executor or administrator of a taxpayer's estate.

21 (c) The assessor shall not approve an application signed
22 by a person whose authority to sign is not a matter of public
23 record unless there is filed with the assessor a true copy of the
1 deed, contract of sale, power of attorney, lease, or other
2 appropriate instrument evidencing the signer's interest or
3 authority.

4 (3) If the county board of equalization takes action
5 pursuant to section 77-1504 or 77-1507, the taxpayer may file an
6 application for special valuation within thirty days after the
7 mailing of the valuation notice issued by the county board of
8 equalization pursuant to section 77-1504 or 77-1507.

9 Sec. 48. Section 79-1016, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 79-1016. (1) On or before August 25, the county assessor
12 shall certify to the Property Tax Administrator the total taxable
13 value by school district in the county for the current assessment
14 year on forms prescribed by the Property Tax Administrator. The
15 county assessor may amend the filing for changes made to the
16 taxable valuation of the school district in the county if errors on
17 the original certification are discovered. Amendments shall be
18 certified to the Property Tax Administrator on or before September
19 30.

20 (2) On or before October 10, the Property Tax
21 Administrator shall compute and certify to the State Department of
22 Education the adjusted valuation for the current assessment year
23 for each class of property in each school district and each local
24 system. The adjusted valuation of property for each school
25 district and each local system, for purposes of determining state
26 aid pursuant to the Tax Equity and Educational Opportunities
27 Support Act, shall reflect as nearly as possible state aid value as
1 defined in subsection ~~(2)~~ (3) of this section. The Property Tax
2 Administrator shall ~~also~~ notify each school district and each local
3 system of its adjusted valuation for the current assessment year by
4 class of property on or before October 10. Establishment of the
5 adjusted valuation shall be based on the taxable value certified by

6 the county assessor for each school district in the county adjusted
7 by the determination of the level of value for each school district
8 from an analysis of the comprehensive assessment ratio study or
9 other studies developed by the Property Tax Administrator, in
10 compliance with professionally accepted mass appraisal techniques,
11 as required by section 77-1327. The Property Tax Administrator
12 shall adopt and promulgate rules and regulations setting forth
13 standards for the determination of level of value for school aid
14 purposes.

15 ~~(2)~~ (3) For purposes of this section, state aid value
16 means:

17 (a) For real property other than agricultural and
18 horticultural land, one hundred percent of market actual value;
19 (b) For agricultural and horticultural land, eighty
20 percent of market actual value as provided in sections 77-1359 to
21 77-1363. For agricultural and horticultural land that receives
22 special valuation pursuant to section 77-1344, one hundred eighty
23 percent of special valuation as defined in section 77-1343; and
24 (c) For personal property, the net book value as defined
25 in section 77-120.

26 ~~(3)~~ (4) On or before November 10, any local system may
27 file with the Property Tax Administrator written objections to the
1 adjusted valuations prepared by the Property Tax Administrator,
2 stating the reasons why such adjusted valuations are not the
3 valuations required by subsection ~~(2)~~ (3) of this section. The
4 Property Tax Administrator shall fix a time for a hearing. Either
5 party shall be permitted to introduce any evidence in reference
6 thereto. On or before January 1, the Property Tax Administrator
7 shall enter an order modifying or declining to modify, in whole or
8 in part, the adjusted valuations and shall certify the order to the
9 State Department of Education. Modification by the Property Tax
10 Administrator shall be based upon the evidence introduced at
11 hearing and shall not be limited to the modification requested in
12 the written objections or at hearing. The final determination of
13 the Property Tax Administrator may be appealed to the Tax
14 Equalization and Review Commission in accordance with the Tax
15 Equalization and Review Commission Act.

16 ~~(4)~~ (5) On or before November 10, any local system or
17 county official may file with the Property Tax Administrator a
18 written request for a nonappealable correction of the adjusted
19 valuation due to clerical error or, for agricultural and
20 horticultural land, assessed value changes by reason of land
21 qualified or disqualified for special use valuation pursuant to
22 sections 77-1343 to 77-1348. For purposes of this subsection,
23 clerical error means transposition of numbers, allocation of value
24 to the wrong school district, mathematical error, and omitted
25 value. On or before the following January 1, the Property Tax
26 Administrator shall approve or deny the request and, if approved,
27 certify the corrected adjusted valuations resulting from such

1 action to the State Department of Education.
 2 (6) On or before June 30 of the year following the
 3 certification of adjusted valuation pursuant to subsection (2) of
 4 this section, any local system or county official may file with the
 5 Property Tax Administrator a written request for a nonappealable
 6 correction of the adjusted valuation due to changes to the tax list
 7 that change the assessed value of taxable property. Upon the
 8 filing of the written request, the Property Tax Administrator shall
 9 require the county assessor to recertify the taxable valuation by
 10 school district in the county on forms prescribed by the Property
 11 Tax Administrator. The recertified valuation shall be the
 12 valuation that was certified on the tax list, pursuant to section
 13 77-1613, increased or decreased by changes to the tax list that
 14 change the assessed value of taxable property in the school
 15 district in the county in the prior assessment year. On or before
 16 the following July 31, the Property Tax Administrator shall approve
 17 or deny the request and, if approved, certify the corrected
 18 adjusted valuations resulting from such action to the State
 19 Department of Education.

20 ~~(7)~~ ~~(5)~~ No injunction shall be granted restraining the
 21 distribution of state aid based upon the adjusted valuations
 22 pursuant to this section.

23 ~~(6)~~ ~~(8)~~ A school district whose state aid is to be
 24 calculated pursuant to subsection ~~(4)~~ ~~(5)~~ of this section and whose
 25 state aid payment is postponed as a result of failure to calculate
 26 state aid pursuant to such subsection may apply to the state board
 27 for lump-sum payment of such postponed state aid. Such application
 1 may be for any amount up to one hundred percent of the postponed
 2 state aid. The state board may grant the entire amount applied for
 3 or any portion of such amount. The state board shall notify the
 4 Director of Administrative Services of the amount of funds to be
 5 paid in a lump sum and the reduced amount of the monthly payments.
 6 The Director of Administrative Services shall, at the time of the
 7 next state aid payment made pursuant to section 79-1022, draw a
 8 warrant for the lump-sum amount from appropriated funds and forward
 9 such warrant to the district.

10 Sec. 49. Section 79-1022, Reissue Revised Statutes of
 11 Nebraska, is amended to read:

12 79-1022. (1) On or before June 15, 2003, and on or
 13 before February 1 for each year thereafter, the department shall
 14 determine the amounts to be distributed to each local system and
 15 each district pursuant to the Tax Equity and Educational
 16 Opportunities Support Act and shall certify the amounts to the
 17 Director of Administrative Services, the Auditor of Public
 18 Accounts, and each district. The amount to be distributed to each
 19 district from the amount certified for a local system shall be
 20 proportional based on the weighted formula students attributed to
 21 each district in the local system. On or before June 15, 2003, and
 22 on or before February 1 for each year thereafter, the department

23 shall report the necessary funding level to the Governor, the
 24 Appropriations Committee of the Legislature, and the Education
 25 Committee of the Legislature. Certified state aid amounts shall be
 26 shown as budgeted non-property-tax receipts and deducted prior to
 27 calculating the property tax request in the district's general fund
 1 budget statement as provided to the Auditor of Public Accounts
 2 pursuant to section 79-1024.

3 (2) Except as provided in subsection (3) of this section
 4 and subsection ~~(6)~~ (8) of section 79-1016 and section 79-1033, the
 5 amounts certified pursuant to subsection (1) of this section shall
 6 be distributed in ten as nearly as possible equal payments on the
 7 last business day of each month beginning in September of each
 8 ensuing school fiscal year and ending in June of the following
 9 year, except that when a school district is to receive a monthly
 10 payment of less than one thousand dollars, such payment shall be
 11 one lump-sum payment on the last business day of December during
 12 the ensuing school fiscal year.

13 (3) For school fiscal year 2002-03, except as provided in
 14 subsection ~~(6)~~ (8) of section 79-1016 and section 79-1033, the
 15 amounts certified pursuant to subsection (1) of this section shall
 16 be distributed according to the payment schedule in this subsection
 17 on the last business day of each month listed, except that when a
 18 school district is to receive ten thousand dollars or less, such
 19 payment shall be one lump-sum payment on the last business day of
 20 December. The amount distributed each month shall be equal to the
 21 amount certified pursuant to subsection (1) of this section
 22 multiplied by the applicable percentage, rounded to the nearest
 23 cent. The percentages are:

24 (a) For September, October, November, and December, seven
 25 and seven-tenths percent;

26 (b) For January, February, March, and April, ten percent;
 27 and

1 (c) For May and June, fourteen and six-tenths percent."

2 2. Insert the following new amendment:

3 "2. On page 3, line 10, strike 'disapproval', show as
 4 stricken, and insert 'denial'; in line 11 after the period insert
 5 'The protest shall be in writing and filed with the county clerk.';
 6 and after line 20 insert the following new subsection:

7 '(4) If the county board of equalization takes action
 8 pursuant to section 77-1504 or 77-1507 and the taxpayer filed an
 9 application for special valuation pursuant to subsection (3) of
 10 section 77-1345, the county assessor shall approve or deny the
 11 application within fifteen days after the filing of the application
 12 and issue notice of the approval or denial as prescribed in
 13 subsection (1) of this section. If the application is denied, the
 14 applicant may protest the denial to the county board of
 15 equalization within thirty days after the mailing of the notice of
 16 the action of the county assessor. The protest shall be in writing
 17 and filed with the county clerk. The county board of equalization

18 shall decide the protest within thirty days after the filing of the
 19 protest by the applicant. The applicant may appeal the decision of
 20 the county board of equalization to the Tax Equalization and Review
 21 Commission in accordance with section 77-5013 within thirty days
 22 after the date of the decision.'."

23 3. Renumber the remaining sections and correct internal
 24 references accordingly and correct the repealer so that the
 25 sections added by this amendment become operative on their
 26 effective date with the emergency clause.

Senator Redfield filed the following amendment to LB 1185:
 AM2997

(Amendments to Standing Committee amendments, AM2485)

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 44-371, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 44-371. (1)~~(a)~~ All proceeds, cash values, and benefits
- 5 accruing under any annuity contract, under any policy or
- 6 certificate of life insurance payable upon the death of the insured
- 7 to a beneficiary other than the estate of the insured, or under any
- 8 accident or health insurance policy shall be exempt from
- 9 attachment, garnishment, or other legal or equitable process and
- 10 from all claims of creditors of the insured and of the beneficiary
- 11 if related to the insured by blood or marriage, unless a written
- 12 assignment to the contrary has been obtained by the claimant.
- 13 ~~(b) This subsection shall not apply to an individual's~~
- 14 ~~aggregate interests greater than ten thousand dollars on all loan~~
- 15 ~~values or cash values of all matured or unmatured life insurance~~
- 16 ~~contracts or to all proceeds, cash values, or benefits accruing~~
- 17 ~~under all annuity contracts owned by such individual.~~
- 18 ~~Notwithstanding anything in this subdivision to the contrary, the~~
- 19 ~~aggregate exemptions any person may claim under this subdivision~~
- 20 ~~and subdivision (2)(b) of section 44-1089 shall not exceed ten~~
- 21 ~~thousand dollars.~~
- 22 ~~(c) No insurance company shall be liable or responsible~~
- 23 ~~to any person to determine or ascertain the aggregate total of life~~
- 1 insurance policy or annuity contract loan values, cash values,
- 2 proceeds, or benefits for any policyholder or annuitant.
- 3 (2) Notwithstanding subsection (1) of this section, an
- 4 individual's interest in all loan values or cash values of all
- 5 matured or unmatured life insurance contracts or policies and in
- 6 all proceeds, cash values, or benefits accruing under all annuity
- 7 contracts owned by such individual shall not be exempt from
- 8 attachment, garnishment, or other legal or equitable process or
- 9 from any other claims of creditors of the insured and of the
- 10 beneficiary if related to the insured by blood or marriage, to the
- 11 extent that the loan value or cash value of any matured or
- 12 unmatured life insurance contract or the proceeds, cash values, or
- 13 benefits accruing under any annuity contract was established or

14 increased through contributions, premiums, or any other payments
15 made within three years prior to bankruptcy or within three years
16 prior to entry against the individual of a money judgment which
17 thereafter becomes final. An insurance company shall not be liable
18 or responsible to any person to determine or ascertain the
19 existence or identity of any such creditors prior to payment of any
20 such loan values, cash values, proceeds, or benefits.

21 (3) Notwithstanding subsection (1) of this section,
22 proceeds, cash values, and benefits accruing under any annuity
23 contract or under any policy or certificate of life insurance
24 payable upon the death of the insured to a beneficiary other than
25 the estate of the insured shall not be exempt from attachment,
26 garnishment, or other legal or equitable process by a judgment
27 creditor of the beneficiary if the judgment against the beneficiary
1 was based on, arose from, or was related to an act, transaction, or
2 course of conduct for which the beneficiary has been convicted by
3 any court of a crime punishable only by life imprisonment or death.
4 No insurance company shall be liable or responsible to any person
5 to determine or ascertain the existence or identity of any such
6 judgment creditor prior to payment of any such proceeds, cash
7 values, or benefits. This subsection shall apply to any judgment
8 rendered on or after January 1, 1995, irrespective of when the
9 criminal conviction is or was rendered and irrespective of whether
10 proceedings for attachment, garnishment, or other legal or
11 equitable process were pending on March 14, 1997.

12 Sec. 2. Section 44-1089, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 44-1089. (1) No noninsurance benefit, charity, relief,
15 or aid to be paid, provided, or rendered by any society shall be
16 liable to attachment, garnishment, or other process, or to be
17 seized, taken, appropriated, or applied by any legal or equitable
18 process or operation of law to pay any debt or liability of a
19 member or beneficiary, or any other person who may have a right
20 thereunder, either before or after payment by the society.

21 (2)(a) All proceeds, cash values, and benefits accruing
22 under any annuity contract, under any policy or certificate of life
23 insurance payable upon the death of the insured to a beneficiary
24 other than the estate of the insured, or under any accident or
25 health insurance policy shall be exempt from attachment,
26 garnishment, or other legal or equitable process and from all
27 claims of creditors of the insured and of the beneficiary if
1 related to the insured by blood or marriage, unless a written
2 assignment to the contrary has been obtained by the claimant.

3 (b) ~~This subsection shall not apply to an individual's~~
4 ~~aggregate interests greater than ten thousand dollars on all loan~~
5 ~~values or cash values of all matured or unmatured life insurance~~
6 ~~contracts or to all proceeds, cash values, or benefits accruing~~
7 ~~under all annuity contracts owned by such individual.~~
8 ~~Notwithstanding anything in this subdivision to the contrary, the~~

9 aggregate exemptions any person may claim under subdivision (1)(b)
 10 of section 44-371 and this subdivision shall not exceed ten
 11 thousand dollars.

12 (c) ~~No fraternal benefit society shall be liable or~~
 13 ~~responsible to any person to determine or ascertain the aggregate~~
 14 ~~total of policy or certificate of life insurance or annuity~~
 15 ~~contract loan values, cash values, proceeds, or benefits for any~~
 16 ~~policy or certificate owner or annuitant.~~

17 (3) Notwithstanding subsection (2) of this section, an
 18 individual's interest in all loan values or cash values of all
 19 matured or unmatured life insurance contracts or policies and in
 20 all proceeds, cash values, or benefits accruing under all annuity
 21 contracts owned by such individual shall not be exempt from
 22 attachment, garnishment, or other legal or equitable process or
 23 from any other claims of creditors of the insured and of the
 24 beneficiary if related to the insured by blood or marriage, to the
 25 extent that the loan value or cash value of any matured or
 26 unmatured life insurance contract or the proceeds, cash values, or
 27 benefits accruing under any annuity contract was established or
 1 increased through contributions, premiums, or any other payments
 2 made within three years prior to bankruptcy or within three years
 3 prior to entry against the individual of a money judgment which
 4 thereafter becomes final. A fraternal benefit society shall not be
 5 liable or responsible to any person to determine or ascertain the
 6 existence or identity of any such creditors prior to payment of any
 7 such loan values, cash values, proceeds, or benefits.

8 (4) Notwithstanding subsection (2) of this section,
 9 proceeds, cash values, and benefits accruing under any annuity
 10 contract or under any policy or certificate of life insurance
 11 payable upon the death of the insured to a beneficiary other than
 12 the estate of the insured shall not be exempt from attachment,
 13 garnishment, or other legal or equitable process by a judgment
 14 creditor of the beneficiary if the judgment against the beneficiary
 15 was based on, arose from, or was related to an act, transaction, or
 16 course of conduct for which the beneficiary has been convicted by
 17 any court of a crime punishable only by life imprisonment or death.
 18 No fraternal benefit society shall be liable or responsible to any
 19 person to determine or ascertain the existence or identity of any
 20 such judgment creditor prior to payment of any such proceeds, cash
 21 values, or benefits. This subsection shall apply to any judgment
 22 rendered on or after January 1, 1995, irrespective of when the
 23 criminal conviction is or was rendered and irrespective of whether
 24 proceedings for attachment, garnishment, or other legal or
 25 equitable process were pending on March 14, 1997."

26 2. On page 13, line 17, after "Original" insert
 27 "sections 44-371 and 44-1089, Reissue Revised Statutes of
 1 Nebraska,".

2 3. Renumber the remaining sections accordingly.

Senator Erdman filed the following amendment to LB 824:
AM2890

- 1 1. On page 3, line 22, after "aviation" insert "as
- 2 defined for the purpose of this section by the department by rule
- 3 and regulation".

Senator Mines filed the following amendment to LB 1176:
(Amendment, AM3022, is printed separately and available in the Bill Room,
Room 1104.)

VISITORS

Visitors to the Chamber were 80 fourth-grade students, teachers, and Senator Cudaback's cousin, Seth Mackie, from Hamlow Elementary School, Waverly.

RECESS

At 11:43 a.m., on a motion by Senator Erdman, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Bromm and Engel who were excused; and Senators Jones and Preister who were excused until they arrive.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 841, 906, 906A, 963, 969, 986, and 986A.

ER9108

Enrollment and Review Change to LB 906

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

1. On page 1, lines 2 through 9 and all amendments thereto have been struck and "71-162, 71-340 to 71-343, 71-364, 71-376, 71-377, 71-386, 71-396, 71-397, 71-398, 71-3,100, 71-3,105, 71-3,106, 71-3,169, 71-3,170, 71-3,174, 71-3,177, and 71-3,179, Reissue Revised Statutes of Nebraska; to

provide for licensure and regulation of body branding, body piercing, permanent color technology, and tattooing; to change and provide penalties; to harmonize provisions; and to repeal the original sections." inserted.

ER9109

Enrollment and Review Change to LB 963

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

1. In the E & R amendments, AM7174, on page 10, the matter beginning with the last comma in line 13 through "Act" in line 15 has been struck.

(Signed) Ray Mossey, Chairperson

AMENDMENTS - Print in Journal

Senators Snowowiecki, Byars, Jensen, and Johnson filed the following amendment to LB 1005:

AM3039

- 1 1. Insert the following new sections:
- 2 "Sec. 7. Section 71-185.03, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-185.03. (1) The department upon recommendation of the
- 5 Board of Dentistry shall issue a faculty license to any person who
- 6 meets the requirements of subsection (4) or (5) of this section. A
- 7 faculty licensee may practice dentistry only as a faculty member at
- 8 a dental education institution in the State of Nebraska accredited
- 9 by the Commission on Dental Accreditation of the American Dental
- 10 Association, the Commission on Dental Accreditation of Canada, or
- 11 similar organization as determined by the board and may teach
- 12 dentistry, conduct research, and participate in an institutionally
- 13 administered faculty practice only at such dental education
- 14 institution. A faculty licensee eligible for licensure under
- 15 subsection (5) of this section shall limit his or her practice to
- 16 the clinical discipline in which he or she has received
- 17 postgraduate education at an accredited dental education
- 18 institution.
- 19 (2) Any person who desires a faculty license shall make a
- 20 written application to the department. The application shall
- 21 include information regarding the applicant's professional
- 22 qualifications, experience, and licensure. The application shall
- 23 be accompanied by a copy of the applicant's dental degree, any
- 24 other degrees or certificates for postgraduate education of the
- 1 applicant, the required fee, and certification from the dean of an
- 2 accredited dental education institution in the State of Nebraska
- 3 that the applicant has a contract to be employed as a full-time
- 4 faculty member at such institution.
- 5 (3) A faculty license shall expire at the same time and

6 be subject to the same renewal requirements as a regular dental
7 license, except that such license shall remain valid and may only
8 be renewed if:

9 (a) The faculty licensee remains employed as a full-time
10 faculty member of an accredited dental education institution in the
11 State of Nebraska; and

12 (b) The faculty licensee demonstrates continuing clinical
13 competency if required by the board.

14 (4) An individual who graduated from an accredited dental
15 education institution shall be eligible for a faculty license if he
16 or she:

17 (a) Has a license to practice dentistry in some other
18 state in the United States or a Canadian province;

19 (b) Has a contract to be employed as a full-time faculty
20 member at an accredited dental education institution in the State
21 of Nebraska;

22 (c) Passes a jurisprudence examination administered by
23 the Board of Dentistry; and

24 (d) Agrees to demonstrate continuing clinical competency
25 as a condition of renewal if required by the board.

26 (5) An individual who graduated from a nonaccredited
27 dental education institution shall be eligible for a faculty
1 license if he or she:

2 (a) Has completed at least two years of postgraduate
3 education at an accredited dental education institution and
4 received a certificate or degree from such institution;

5 (b) Has a contract to be employed as a full-time faculty
6 member at an accredited dental education institution in the State
7 of Nebraska;

8 (c) Passes a jurisprudence examination administered by
9 the Board of Dentistry;

10 (d) Agrees to demonstrate continuing clinical competency
11 as a condition of renewal if required by the board; and

12 (e) Has passed Part I and Part II of the National Board
13 Dental Examinations or its equivalent as determined by the Board of
14 Dentistry.

15 Sec. 8. Section 71-190, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-190. (1) No person owning, operating, or conducting
18 any place where dental work of any kind is done or contracted for,
19 shall employ or permit any unlicensed dentist to practice dentistry
20 in such place.

21 (2) No person shall coerce or attempt to coerce a
22 licensed dentist to practice dentistry in any manner contrary to
23 the standards of acceptable and prevailing practice of the dental
24 profession. Any dentist subjected to such coercion or attempted
25 coercion has a cause of action against the person and may recover
26 his or her damages and reasonable attorney's fees.

27 (3) Violation of this section by a health care

- 1 professional regulated pursuant to the Uniform Licensing Law may be
 2 considered evidence of an act of unprofessional conduct.
 3 (4) Violation of this section by a person not regulated
 4 under the Uniform Licensing Law is a Class III misdemeanor."
 5 2. Amend the repealer, renumber the remaining sections,
 6 and correct internal references accordingly.

Senator Erdman filed the following amendment to LB 841:
 AM3046

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
 2 "Sec. 4. The following section is outright repealed:
 3 Section 77-2704.37, Reissue Revised Statutes of Nebraska."
 4 2. On page 1, strike lines 4 and 5 and insert
 5 "exemptions; to eliminate a filing requirement; to provide an
 6 operative date; to repeal the original section; and to outright
 7 repeal section 77-2704.37, Reissue Revised Statutes of Nebraska."

GENERAL FILE

LEGISLATIVE BILL 868. The Standing Committee amendment, AM2598, found on page 618 and considered on page 964, was renewed.

The Stuhr et al. pending amendment, AM2960, found on page 964, to the Standing Committee amendment, was renewed.

Senator Chambers offered the following motion:
 Recommit to Education Committee.

Senator Chambers withdrew his motion.

Senator Stuhr withdrew the Stuhr et al. amendment, AM2960.

Senators Stuhr, Raikes, and Redfield offered the following amendment to the Standing Committee amendment:

AM3056

(Amendments to Standing Committee amendments, AM2598)

- 1 1. Strike sections 1 and 2 and insert the following new
 2 sections:
 3 "Section 1. Section 79-201, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 79-201. (1) For purposes of this section:
 6 (a) Prior to July 1, 2005, a child is of mandatory
 7 attendance age if the child (i) has reached seven years of age,
 8 (ii) did not reach sixteen years of age prior to the effective date
 9 of this act, and (iii) has not reached eighteen years of age; and
 10 (b) On and after July 1, 2005, a child is of mandatory
 11 attendance age if the child (i) will reach six years of age prior
 12 to January 1 of the current school year, (ii) did not reach sixteen

13 years of age prior to the effective date of this act, and (iii) has
 14 not reached eighteen years of age.

15 (2) Except as provided in ~~section 79-202~~ subsection (3)
 16 of this section, every person residing in a school district within
 17 the State of Nebraska who has legal or actual charge or control of
 18 any child who is ~~not less than seven years of age and not more than~~
 19 ~~sixteen years of age or who is younger than seven years of age and~~
 20 is of mandatory attendance age or is enrolled in ~~any~~ a public
 21 school shall cause such child to enroll in, if such child is not
 22 enrolled, and attend regularly ~~the~~ a public, private,
 23 ~~denominational, or parochial day schools~~ school which ~~meet~~ meets
 1 the requirements for legal operation prescribed in Chapter 79 or a
 2 school which elects pursuant to section 79-1601 not to meet
 3 accreditation or approval requirements each day that such ~~schools~~
 4 ~~are~~ school is open and in session, except when excused by school
 5 authorities or when illness or severe weather conditions make
 6 attendance impossible or impracticable.

7 (3) Subsection (2) of this section does not apply in the
 8 case of any child who:

9 (a) Has obtained a high school diploma by meeting the
 10 graduation requirements established in section 79-729;

11 (b) Has completed the program of instruction offered by a
 12 school which elects pursuant to section 79-1601 not to meet
 13 accreditation or approval requirements;

14 (c) Has reached the age of eighteen years;

15 (d) Has reached the age of sixteen years and such child's
 16 parent or guardian has signed a notarized waiver on a waiver form
 17 provided by the school;

18 (e) Will reach six years of age prior to January 1 of the
 19 current school year, but will not reach seven years of age prior to
 20 January 1 of the current school year, and such child's parent or
 21 guardian has signed an affidavit stating that the child is
 22 participating in an education program that the parent or guardian
 23 believes will prepare the child to enter grade one for the
 24 following school year; or

25 (f) Will not reach six years of age prior to January 1 of
 26 the current school year and such child was enrolled in a public
 27 school and has discontinued the enrollment according to the policy
 1 of the school board adopted pursuant to subsection (4) of section
 2 79-214.

3 (4) The board shall adopt policies allowing
 4 discontinuation of the enrollment of students who will not reach
 5 six years of age prior to January 1 of the current school year and
 6 specifying the procedures therefor. ~~;~~ unless such child has
 7 graduated from high school. Any person with legal or actual charge
 8 or control of a child younger than seven years of age who is
 9 enrolled in a public school may discontinue the enrollment of such
 10 child pursuant to the policy of the school board. All school
 11 boards shall adopt policies allowing discontinuation of the

12 enrollment of students younger than seven years of age and
 13 specifying the procedures therefor.
 14 ~~The school term shall be as provided in section 79-211.~~
 15 Sec. 3. The following section is outright repealed:
 16 Section 79-202, Reissue Revised Statutes of Nebraska."

The Stuhr et al. amendment was adopted with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 25 ayes, 3 nays, 14 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 599. Title read. Considered.

The Standing Committee amendment, AM2502, printed separately and referred to on page 665, was considered.

SENATOR SCHIMEK PRESIDING

SENATOR CUDABACK PRESIDING

Pending.

SELECT COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 888. Placed on Select File as amended.
 (E & R amendment, AM7184, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 869. Placed on Select File as amended.
 E & R amendment to LB 869:
 AM7185

- 1 1. On page 1, line 2, after the second comma insert
- 2 "2-10,117,;" and in line 5 strike "a fund" and insert "and
- 3 eliminate funds; to provide for a grant program".
- 4 2. On page 2, line 25, strike "include", show as
- 5 stricken, and insert "includes".
- 6 3. On page 5, line 16, strike "State Auditor" and insert
- 7 "Auditor of Public Accounts".
- 8 4. On page 12, line 28, strike "Book".

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORT
Transportation and Telecommunications

LEGISLATIVE BILL 863. Placed on General File as amended.
(Standing Committee amendment, AM2756, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Tom Baker, Chairperson

AMENDMENTS - Print in Journal

Senator Preister filed the following amendment to LB 916:
AM3035

(Amendments to Standing Committee amendments, AM2826)

- 1 1. On page 23, line 24, strike "For permits," and insert
- 2 "A copy of the nutrient management plan and supporting
- 3 documentation shall be kept on file at the department and, at least
- 4 annually, the operator of the animal feeding operation shall update
- 5 any changes made to the nutrient management plan. The contents
- 6 of".

Senator Beutler filed the following amendment to LB 916:
AM3037

(Amendments to Standing Committee amendments, AM2826)

- 1 1. On page 3, line 22, after "times" insert "with
- 2 reasonable notice to the property owners".

Senator Schrock filed the following amendment to LB 1065:
AM3055

(Amendments to Standing Committee amendments, AM2644)

- 1 1. Strike section 13.
- 2 2. Renumber the remaining sections and correct internal
- 3 references accordingly.

MOTION - Adjournment

Senator McDonald moved to adjourn until 9:00 a.m., Thursday, March 11, 2004. The motion failed with 2 ayes, 18 nays, 14 present and not voting, and 15 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 599. The Standing Committee amendment, AM2502, printed separately and referred to on page 665 and considered in this day's Journal, was renewed.

The Standing Committee amendment was adopted with 29 ayes, 0 nays, 6 present and not voting, and 14 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 7 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 599A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

VISITORS

Visitors to the Chamber were students from the Waverly High School Leadership Academy; and Jim Lawson from Gering.

ADJOURNMENT

At 4:18 p.m., on a motion by Senator Wehrbein, the Legislature adjourned until 9:00 a.m., Thursday, March 11, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-FIRST DAY - MARCH 11, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 11, 2004

PRAYER

The prayer was offered by Senator Kruse.

ROLL CALL

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

The roll was called and all members were present except Senators Aguilar, Bromm, Engel, and Louden who were excused; and Senators Maxwell, McDonald, Mossey, Smith, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fortieth day was approved.

MESSAGE FROM THE GOVERNOR

March 11, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Child Abuse Prevention Fund Board.

APPOINTEE:

Elba Cera, 15107 Summerwood Dr, Omaha NE 68137

The aforementioned name is respectfully submitted for your consideration.

Sincerely,

(Signed) Mike Johanns
Governor

web/

Enclosure

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 10, 2004, 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

Schmit Industries, Inc.
Platte Valley Fuel Ethanol

REPORT

The following report was received by the Legislature:

Roads, Department of

Board of Public Roads Classifications and Standards Minutes for January 2004

COMMUNICATION

Received petition from the Douglas County Board of Commissioners adopted on March 9, 2004.

AMENDMENTS - Print in Journal

Senator D. Pederson filed the following amendment to LB 998:
AM2887

- 1 1. Insert the following new sections:
- 2 "Sec. 2. Section 44-2825, Revised Statutes Supplement,
- 3 2003, is amended to read:
- 4 44-2825. (1) The total amount recoverable under the
- 5 Nebraska Hospital-Medical Liability Act from any and all health
- 6 care providers and the Excess Liability Fund for any occurrence
- 7 resulting in any injury or death of a patient may not exceed (a)
- 8 five hundred thousand dollars for any occurrence on or before
- 9 December 31, 1984, (b) one million dollars for any occurrence after
- 10 December 31, 1984, and on or before December 31, 1992, (c) one
- 11 million two hundred fifty thousand dollars for any occurrence after
- 12 December 31, 1992, and on or before December 31, 2003, and (d) one
- 13 million seven hundred fifty thousand dollars for any occurrence

14 after December 31, 2003.

15 (2) A health care provider qualified under the act shall
16 not be liable to any patient or his or her representative who is
17 covered by the act for an amount in excess of ~~two~~ five hundred
18 thousand dollars for all claims or causes of action arising from
19 any occurrence during the period that the act is effective with
20 reference to such patient.

21 (3) Subject to the overall limits from all sources as
22 provided in subsection (1) of this section, any amount due from a
23 judgment or settlement which is in excess of the total liability of
24 all liable health care providers shall be paid from the Excess

1 Liability Fund pursuant to sections 44-2831 to 44-2833.

2 Sec. 7. Section 44-2832, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 44-2832. (1) The Director of Administrative Services
5 shall issue a warrant drawn on the fund in the amount of each claim
6 submitted by the director. All claims against the fund shall be
7 made on a voucher or other appropriate request by the director
8 after he or she has received:

9 (a) A certified copy of a final judgment in excess of ~~two~~
10 five hundred thousand dollars against a health care provider and in
11 excess of the amount recoverable from all health care providers;

12 (b) A certified copy of a court-approved settlement in
13 excess of ~~two~~ five hundred thousand dollars against a health care
14 provider and in excess of the amount recoverable from all health
15 care providers; or

16 (c) In case of claims based on primary insurance issued
17 by the risk manager under sections 44-2837 to 44-2839, a certified
18 copy of a final judgment or court-approved settlement requiring
19 payment from the fund.

20 (2) The amount paid from the fund for excess liability
21 when added to the payments by all health care providers may not
22 exceed the maximum amount recoverable pursuant to subsection (1) of
23 section 44-2825. The amount paid from the fund on account of a
24 primary insurance policy issued by the risk manager to a health
25 care provider under sections 44-2837 to 44-2839 may not exceed ~~two~~
26 five hundred thousand dollars for any one occurrence covered by
27 such policy under any circumstances.

1 Sec. 8. Section 44-2833, Revised Statutes Supplement,
2 2002, is amended to read:

3 44-2833. (1) If the insurer of a health care provider
4 shall agree to settle its liability on a claim against its insured
5 by payment of its policy limits of ~~two~~ five hundred thousand
6 dollars and the claimant shall demand an amount in excess thereof
7 for a complete and final release and if no other health care
8 provider is involved, the procedures prescribed in this section
9 shall be followed.

10 (2) A motion shall be filed by the claimant with the
11 court in which the action is pending against the health care

12 provider or, if no action is pending, the claimant shall file a
 13 complaint in one of the district courts of the State of Nebraska,
 14 seeking approval of an agreed settlement, if any, or demanding
 15 payment of damages from the Excess Liability Fund.

16 (3) A copy of such motion or complaint shall be served on
 17 the director, the health care provider, and the health care
 18 provider's insurer and shall contain sufficient information to
 19 inform the parties concerning the nature of the claim and the
 20 additional amount demanded. The health care provider and his or
 21 her insurer shall have a right to intervene and participate in the
 22 proceedings.

23 (4) The director, with the consent of the health care
 24 provider, may agree to a settlement with the claimant from the
 25 Excess Liability Fund. Either the director or the health care
 26 provider may file written objections to the payment of the amount
 27 demanded. The agreement or objections to the payment demanded
 1 shall be filed within twenty days after the motion or complaint is
 2 filed.

3 (5) After the motion or complaint, agreement, and
 4 objections, if any, have been filed, the judge shall set the matter
 5 for trial as soon as practicable. The court shall give notice of
 6 the trial to the claimant, the health care provider, and the
 7 director.

8 (6) At the trial, the director, the claimant, and the
 9 health care provider may introduce relevant evidence to enable the
 10 court to determine whether or not the settlement should be approved
 11 if it has been submitted on agreement without objections. If the
 12 director, the health care provider, and the claimant shall be
 13 unable to agree on the amount, if any, to be paid out of the Excess
 14 Liability Fund, the amount of claimant's damages, if any, in excess
 15 of the ~~two~~ five hundred thousand dollars already paid by the
 16 insurer of the health care provider shall be determined at trial.

17 (7) The court shall determine the amount for which the
 18 fund is liable and render a finding and judgment accordingly. In
 19 approving a settlement or determining the amount, if any, to be
 20 paid from the Excess Liability Fund in such a case, the court shall
 21 consider the liability of the health care provider as admitted and
 22 established by evidence.

23 (8) Any settlement approved by the court may not be
 24 appealed. Any judgment of the court fixing damages recoverable in
 25 any such contested proceeding shall be appealable pursuant to the
 26 rules governing appeals in any other civil case."

27 2. On page 8, line 4, strike "section 44-2824" and all
 1 amendments thereto and insert "sections 44-2824, 44-2832, and
 2 44-2855"; and in line 5 after the first comma insert "section
 3 44-2833, Revised Statutes Supplement, 2002," and after "sections"
 4 insert "44-2825,".

5 3. In AM2697, on page 1, line 2, before the new matter
 6 insert "(1)"; in line 6 after the period insert paraphrasing and

- 7 "(2)"; after line 9 insert the following new subsection:
 8 "(3) The changes made to sections 44-2825, 44-2832, and
 9 44-2833 by this legislative bill apply commencing with policies
 10 issued or renewed and risk-loss trust years which commence after
 11 the operative date of this act."; and in line 12 strike "5" and
 12 insert "6".
 13 4. Renumber the remaining sections accordingly.

Senator Jones filed the following amendment to LB 1048:
 AM3044

(Amendments to Standing Committee amendments, AM2851)

- 1 1. On page 8, strike beginning with the colon in line 18
 2 through "The" in line 26 and insert "the".

Senator Jones filed the following amendment to LB 1048:
 AM3045

(Amendments to Standing Committee amendments, AM2851)

- 1 1. On page 8, line 26; and page 9, line 18, strike "ten"
 2 and insert "five".

Senator Jones filed the following amendment to LB 1048:
 AM3042

- 1 1. Insert the following new section:
 2 "Sec. 35. Each member of the board of a Class I school
 3 district dissolved and attached to a Class II, III, IV, or VI
 4 school district pursuant to sections 1 to 3 of this act shall have
 5 the option to automatically become a member of the board of the
 6 Class II, III, IV, or VI district to which the property owned by
 7 such board member is attached. He or she shall exercise such
 8 option by notifying in writing the secretary of the school board of
 9 such Class II, III, IV, or VI district. If the member exercises
 10 such option, he or she shall serve on the board of such Class II,
 11 III, IV, or VI school district for two years or until the date on
 12 which his or her term as a member of the Class I school board would
 13 have expired, whichever occurs later.".
 14 2. In the Standing Committee amendments, AM2851,
 15 renumber section 35 as section 36.
 16 3. Amend the operative date section so that the section
 17 added by this legislative bill becomes operative on its effective
 18 date.
 19 4. Renumber the remaining sections and correct internal
 20 references accordingly.

Senator Jones filed the following amendment to LB 1048:
 AM3043

- 1 1. Insert the following new section:
 2 "Sec. 4. When a Class I school district is dissolved and
 3 merged into a Class II, III, IV, or VI school district pursuant to
 4 sections 1 to 3 of this act, the school board of the Class II, III,

5 IV, or VI school district to which territory containing an
6 attendance center building of the former Class I school district is
7 attached shall keep such building open as a community meeting
8 place, shall maintain the building in a condition that allows it to
9 be safely used for such purpose, and shall not charge any rent or
10 fee for the use of such building. The board may establish a policy
11 containing reasonable requirements with respect to the use of such
12 building."

13 2. Amend the operative date section so that the section
 14 added by this legislative bill becomes operative on its effective
 15 date.

16 3. Renumber the remaining sections and correct internal
 17 references accordingly.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 16.

A BILL FOR AN ACT relating to business entities; to amend sections 21-2204, 21-2209, 21-2607, 21-2631, 21-2639, 67-454, 67-456, and 67-458, Reissue Revised Statutes of Nebraska; to change filing requirements for businesses engaged in professional services as prescribed; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 40:

Baker	Combs	Hudkins	Mines	Schimek
Beutler	Connealy	Janssen	Pedersen, Dw.	Schrock
Bourne	Cudaback	Jensen	Pederson, D.	Stuhr
Brashear	Cunningham	Johnson	Preister	Stuthman
Brown	Erdman	Jones	Price	Synowiecki
Burling	Foley	Kremer	Quandahl	Thompson
Byars	Friend	Kruse	Raikes	Vrtiska
Chambers	Hartnett	Landis	Redfield	Wehrbein

Voting in the negative, 0.

Excused and not voting, 9:

Aguilar	Engel	Maxwell	Mossey	Tyson
Bromm	Louden	McDonald	Smith	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 625 to Select File

Senator Brown moved to return LB 625 to Select File for the following specific amendment:

FA1556

Strike the enacting clause.

Senator Brown withdrew her motion to return.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 625. Senator Brown requested to pass over.

MOTION - Return LB 818 to Select File

Senator Chambers moved to return LB 818 to Select File for the following specific amendment:

FA1557

Strike the enacting clause.

Senator Chambers withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 818.

A BILL FOR AN ACT relating to the Women's Health Initiative Advisory Council; to amend section 71-702, Reissue Revised Statutes of Nebraska; to clarify provisions; to change a termination date; and to repeal the original section.

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

Voting in the affirmative, 38:

Baker	Combs	Jensen	Pedersen, Dw.	Stuhr
Beutler	Connealy	Johnson	Pederson, D.	Stuthman
Bourne	Cudaback	Jones	Preister	Synowiecki
Brashear	Cunningham	Kremer	Price	Thompson
Brown	Foley	Kruse	Raikes	Vrtiska
Burling	Hartnett	Landis	Redfield	Wehrbein
Byars	Hudkins	Mines	Schimek	
Chambers	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Present and not voting, 3:

Erdman	Friend	Quandahl
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Excused and not voting, 8:

Aguilar	Engel	Maxwell	Smith
Bromm	Louden	McDonald	Tyson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed.

LEGISLATIVE BILL 820. With Emergency.

A BILL FOR AN ACT relating to recall elections; to amend section 32-1306, Reissue Revised Statutes of Nebraska, and section 32-1303, Revised Statutes Supplement, 2003; to change provisions relating to providing notice; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 41:

Baker	Connealy	Jensen	Preister	Synowiecki
Beutler	Cudaback	Johnson	Price	Thompson
Bourne	Cunningham	Jones	Quandahl	Tyson
Brashear	Erdman	Kremer	Raikes	Vrtiska
Brown	Foley	Kruse	Redfield	Wehrbein
Burling	Friend	Mines	Schimek	
Byars	Hartnett	Mossey	Schrock	
Chambers	Hudkins	Pedersen, Dw.	Stuhr	
Combs	Janssen	Pederson, D.	Stuthman	

Voting in the negative, 0.

Present and not voting, 1:

Landis

Excused and not voting, 7:

Aguilar	Engel	Maxwell	Smith
Bromm	Louden	McDonald	

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 821 with 36 ayes, 2 nays, 4 present and not voting, and 7 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 821.

A BILL FOR AN ACT relating to the Open Meetings Act; to amend sections 2-261, 28-731, 58-230, 66-1619, 71-121, 71-3406, 71-5176, 71-5705, 71-6224, 72-1704, 74-1308, 77-5005, 79-317, 79-554, 79-560, 79-561, 79-814.01, 79-832, 79-1239, 81-1505.03, 81-15,217, 81-1712, 84-1408 to 84-1410, 84-1414, 84-1502, 85-104, and 85-1502, Reissue Revised Statutes of Nebraska, sections 2-101, 2-238, 13-2515, 13-2517, 13-2801, 13-2812, 16-1037, 46-2,120, 50-307, 84-1411, 84-1412, 86-327, and 86-413, Revised Statutes Supplement, 2002, and sections 25-2937 and 39-1108, Revised Statutes Supplement, 2003; to name the act; to provide for applicability of the act; to redefine terms; to change penalty provisions; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 42:

Baker	Connealy	Jensen	Pederson, D.	Stuthman
Beutler	Cudaback	Johnson	Preister	Synowiecki
Bourne	Cunningham	Jones	Price	Thompson
Brashear	Erdman	Kremer	Quandahl	Tyson
Brown	Foley	Kruse	Raikes	Vrtiska
Burling	Friend	Landis	Redfield	Wehrbein
Byars	Hartnett	Mines	Schimek	
Chambers	Hudkins	Mossey	Schrock	
Combs	Janssen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Excused and not voting, 7:

Aguilar	Engel	Maxwell	Smith
Bromm	Louden	McDonald	

A constitutional majority having voted in the affirmative, the bill was

declared passed and the title agreed to.

The following bills were read and put upon final passage:

LEGISLATIVE BILL 835.

A BILL FOR AN ACT relating to agriculture; to amend sections 81-2,165, 81-2,166, 81-2,167, 81-2,170, 81-2,171, 81-2,173, and 81-2,174, Reissue Revised Statutes of Nebraska; to change and eliminate provisions of the Nebraska Apiary Act; to repeal the original sections; and to outright repeal sections 81-2,172 and 81-2,177.01, Reissue Revised Statutes of Nebraska.

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

Voting in the affirmative, 39:

Baker	Connealy	Janssen	Pedersen, Dw.	Schrock
Bourne	Cudaback	Jensen	Pederson, D.	Stuhr
Brashear	Cunningham	Johnson	Preister	Stuthman
Brown	Erdman	Jones	Price	Synowiecki
Burling	Foley	Kremer	Quandahl	Thompson
Byars	Friend	Kruse	Raikes	Vrtiska
Chambers	Hartnett	Mines	Redfield	Wehrbein
Combs	Hudkins	Mossey	Schimek	

Voting in the negative, 0.

Present and not voting, 3:

Beutler	Landis	Tyson
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Excused and not voting, 7:

Aguilar	Engel	Maxwell	Smith
Bromm	Louden	McDonald	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 836. With Emergency.

A BILL FOR AN ACT relating to the Dairy Industry Development Act; to amend section 2-3951, Reissue Revised Statutes of Nebraska, and section 2-3948, Revised Statutes Supplement, 2002; to change provisions relating to board members; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; to outright repeal section 2-3964, Reissue Revised Statutes of Nebraska, and sections 2-3952, 2-3952.01, 2-3953, and 2-3954, Revised Statutes Supplement, 2002; and to declare an emergency.

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

Voting in the affirmative, 41:

Baker	Connealy	Jensen	Preister	Synowiecki
Beutler	Cudaback	Johnson	Price	Thompson
Bourne	Cunningham	Jones	Quandahl	Tyson
Brashear	Erdman	Kremer	Raikes	Vrtiska
Brown	Foley	Landis	Redfield	Wehrbein
Burling	Friend	Mines	Schimek	
Byars	Hartnett	Mossey	Schrock	
Chambers	Hudkins	Pedersen, Dw.	Stuhr	
Combs	Janssen	Pederson, D.	Stuthman	

Voting in the negative, 0.

Present and not voting, 1:

Kruse

Excused and not voting, 7:

Aguilar	Engel	Maxwell	Smith
Bromm	Louden	McDonald	

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

LEGISLATIVE BILL 878. With Emergency.

A BILL FOR AN ACT relating to motor carriers; to amend sections 75-363 and 75-364, Reissue Revised Statutes of Nebraska; to adopt updated federal Motor Carrier Safety Regulations and federal Hazardous Material Regulations; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 42:

Baker	Connealy	Jensen	Pederson, D.	Stuthman
Beutler	Cudaback	Johnson	Preister	Synowiecki
Bourne	Cunningham	Jones	Price	Thompson
Brashear	Erdman	Kremer	Quandahl	Tyson
Brown	Foley	Kruse	Raikes	Vrtiska
Burling	Friend	Landis	Redfield	Wehrbein
Byars	Hartnett	Mines	Schimek	
Chambers	Hudkins	Mossey	Schrock	
Combs	Janssen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Excused and not voting, 7:

Aguilar	Engel	Maxwell	Smith
Bromm	Louden	McDonald	

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

LEGISLATIVE BILL 911. With Emergency.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-529, Revised Statutes Supplement, 2002; to change provisions relating to proof of financial responsibility; to repeal the original section; and to declare an emergency.

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

Voting in the affirmative, 41:

Baker	Connealy	Jensen	Pederson, D.	Synowiecki
Beutler	Cudaback	Johnson	Preister	Thompson
Bourne	Cunningham	Jones	Price	Tyson
Brashear	Erdman	Kremer	Quandahl	Vrtiska
Brown	Foley	Kruse	Raikes	Wehrbein
Burling	Friend	Landis	Schimek	
Byars	Hartnett	Mines	Schrock	
Chambers	Hudkins	Mossey	Stuhr	
Combs	Janssen	Pedersen, Dw.	Stuthman	

Voting in the negative, 0.

Present and not voting, 1:

Redfield

Excused and not voting, 7:

Aguilar	Engel	Maxwell	Smith
Bromm	Louden	McDonald	

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

LEGISLATIVE BILL 915.

A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend section 84-902, Reissue Revised Statutes of Nebraska; to change provisions relating to filings by state agencies; and to repeal the original section.

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

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 927.

A BILL FOR AN ACT relating to municipal elections; to amend section 32-404, Reissue Revised Statutes of Nebraska; to eliminate municipal election laws applicable to certain municipalities; to harmonize provisions; to repeal the original section; and to outright repeal sections 19-3001 to 19-3003, 19-3005, 19-3006, 19-3007.01, 19-3011 to 19-3032, 19-3034, 19-3037, and 19-3040 to 19-3050, Reissue Revised Statutes of Nebraska, and section 19-3051, Revised Statutes Supplement, 2002.

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

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 936.

A BILL FOR AN ACT relating to libraries; to amend section 51-213, Reissue Revised Statutes of Nebraska; to change annual report requirements; and to repeal the original section.

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

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 937.

A BILL FOR AN ACT relating to cities of the first class; to amend section 16-696, Reissue Revised Statutes of Nebraska; to change voting provisions for the board of park commissioners; to harmonize provisions; and to repeal the original section.

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

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 940. With Emergency.

A BILL FOR AN ACT relating to state government; to amend section 81-8,271.01, Reissue Revised Statutes of Nebraska, and section 43-260, Revised Statutes Supplement, 2002; to eliminate certain task forces, a commission, an implementation team, an advisory committee, a board, a center, and a fund and related provisions; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; to outright repeal sections 51-602, 51-605 to 51-607, 66-1350, 68-1725.01, 74-922 to 74-925,

and 83-4,148 to 83-4,152, Reissue Revised Statutes of Nebraska, and sections 2-5201, 32-121, 43-3601 to 43-3603, 46-1302, 46-1303, 48-2401, 48-2402, 50-301 to 50-309, 51-601, 51-603, 51-604, and 81-2013.01 to 81-2013.04, Revised Statutes Supplement, 2002; and to declare an emergency.

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

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

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

LEGISLATIVE BILL 947.

A BILL FOR AN ACT relating to amusement ride permits; to amend section 48-1805, Reissue Revised Statutes of Nebraska; to change the expiration date for permits; to provide an operative date; and to repeal the original section.

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

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 950.

A BILL FOR AN ACT relating to the New Hire Reporting Act; to amend section 48-2303, Reissue Revised Statutes of Nebraska; to change report requirements; to provide an operative date; and to repeal the original section.

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

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 961.

A BILL FOR AN ACT relating to the School Employees Retirement Act; to amend section 79-907, Reissue Revised Statutes of Nebraska; to change a mailing requirement for statements of information; to harmonize provisions; and to repeal the original section.

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

Voting in the affirmative, 42:

Baker	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	
Connealy	Jensen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 1033. With Emergency.

A BILL FOR AN ACT relating to the Athletic Advisory Committee; to amend section 81-8,139.01, Reissue Revised Statutes of Nebraska; to change membership; to repeal the original section; and to declare an emergency.

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

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

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

LEGISLATIVE BILL 1069. With Emergency.

A BILL FOR AN ACT relating to licensing of professions; to amend section 81-3451, Reissue Revised Statutes of Nebraska; to change provisions relating to engineers; to repeal the original section; and to declare an emergency.

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

Voting in the affirmative, 42:

Baker	Connealy	Johnson	Pederson, D.	Stuthman
Beutler	Cudaback	Jones	Preister	Synowiecki
Bourne	Cunningham	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Maxwell	Redfield	Wehrbein
Byars	Hudkins	Mines	Schimek	
Chambers	Janssen	Mossey	Schrock	
Combs	Jensen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 1:

Hartnett

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

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

LEGISLATIVE BILL 1179.

A BILL FOR AN ACT relating to public meetings; to amend section 84-1410, Reissue Revised Statutes of Nebraska, and section 84-1411, Revised Statutes Supplement, 2002; to change provisions relating to electronic communications; and to repeal the original sections.

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

Voting in the affirmative, 39:

Baker	Combs	Hudkins	Mines	Redfield
Beutler	Connealy	Janssen	Mossey	Schimek
Bourne	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Brashear	Cunningham	Jones	Pederson, D.	Stuthman
Brown	Erdman	Kremer	Preister	Thompson
Burling	Foley	Kruse	Price	Tyson
Byars	Friend	Landis	Quandahl	Vrtiska
Chambers	Hartnett	Maxwell	Raikes	

Voting in the negative, 0.

Present and not voting, 4:

Jensen	Schrock	Synowiecki	Wehrbein
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Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LR 211CA to Select File

Senator Erdman moved to return LR 211CA to Select File for the following

specific amendment:
AM3069

(Amendments to Final Reading copy)

1 1. Insert the following new sections:
2 "Sec. 2. At the general election in November 2004 the
3 following proposed amendment to the Constitution of Nebraska shall
4 be submitted to the electors of the State of Nebraska for approval
5 or rejection:
6 To amend Article VIII, section 1, and add a new section
7 14 to Article VIII:
8 VIII-1 "The necessary revenue of the state and its
9 governmental subdivisions shall be raised by taxation in such
10 manner as the Legislature may direct if the electors of the
11 affected jurisdiction approve such increased tax rates or new taxes
12 on income, property, or purchases of goods and services subject to
13 section 14 of this article. Notwithstanding Article I, section 16,
14 Article III, section 18, or Article VIII, section 4, of this
15 Constitution or any other provision of this Constitution to the
16 contrary: (1) Taxes shall be levied by valuation uniformly and
17 proportionately upon all real property and franchises as defined by
18 the Legislature except as otherwise provided in or permitted by
19 this Constitution; (2) tangible personal property, as defined by
20 the Legislature, not exempted by this Constitution or by
21 legislation, shall all be taxed at depreciated cost using the same
22 depreciation method with reasonable class lives, as determined by
23 the Legislature, or shall all be taxed by valuation uniformly and
1 proportionately; (3) the Legislature may provide for a different
2 method of taxing motor vehicles and may also establish a separate
3 class of motor vehicles consisting of those owned and held for
4 resale by motor vehicle dealers which shall be taxed in the manner
5 and to the extent provided by the Legislature and may also
6 establish a separate class for trucks, trailers, semitrailers,
7 truck-tractors, or combinations thereof, consisting of those owned
8 by residents and nonresidents of this state, and operating in
9 interstate commerce, and may provide reciprocal and proportionate
10 taxation of such vehicles. The tax proceeds from motor vehicles
11 taxed in each county shall be allocated to the county and the
12 cities, villages, and school districts of such county; (4) the
13 Legislature may provide that agricultural land and horticultural
14 land, as defined by the Legislature, shall constitute a separate
15 and distinct class of property for purposes of taxation and may
16 provide for a different method of taxing agricultural land and
17 horticultural land which results in values that are not uniform and
18 proportionate with all other real property and franchises but which
19 results in values that are uniform and proportionate upon all
20 property within the class of agricultural land and horticultural
21 land; (5) the Legislature may enact laws to provide that the value
22 of land actively devoted to agricultural or horticultural use shall
23 for property tax purposes be that value which such land has for

24 agricultural or horticultural use without regard to any value which
25 such land might have for other purposes or uses; (6) the
26 Legislature may prescribe standards and methods for the
27 determination of the value of real property at uniform and
1 proportionate values; (7) in furtherance of the purposes for which
2 such a law of the United States has been adopted, whenever there
3 exists a law of the United States which is intended to protect a
4 specifically designated type, use, user, or owner of property or
5 franchise from discriminatory state or local taxation, such
6 property or franchise shall constitute a separate class of property
7 or franchise under the laws of the State of Nebraska, and such
8 property or franchise may not be taken into consideration in
9 determining whether taxes are levied by valuation uniformly or
10 proportionately upon any property or franchise, and the Legislature
11 may enact laws which statutorily recognize such class and which tax
12 or exempt from taxation such class of property or franchise in such
13 manner as it determines; and (8) the Legislature may provide that
14 livestock shall constitute a separate and distinct class of
15 property for purposes of taxation and may further provide for
16 reciprocal and proportionate taxation of livestock located in this
17 state for only part of a year. Each actual property tax rate
18 levied for a governmental subdivision shall be the same for all
19 classes of taxed property and franchises. Taxes uniform as to
20 class of property or the ownership or use thereof may be levied by
21 valuation or otherwise upon classes of intangible property as the
22 Legislature may determine, and such intangible property held in
23 trust or otherwise for the purpose of funding pension,
24 profit-sharing, or other employee benefit plans as defined by the
25 Legislature may be declared exempt from taxation. Taxes other than
26 property taxes may be authorized by law. Existing revenue laws
27 shall continue in effect until changed by the Legislature."

1 VIII-14 "Any increase in tax rates existing on January 1,
2 2005, or new taxes on income, property, or purchases of goods and
3 services adopted by the Legislature or any governmental subdivision
4 of the state on or after January 1, 2005, shall be placed before
5 the electors at an election for approval before the tax rate
6 increase or new tax becomes effective. If the tax is a statewide
7 tax, the proposed tax rate increase or new tax shall be submitted
8 to the electors of the state. If the tax is a local tax, the
9 proposed tax rate increase or new tax shall be submitted to the
10 electors of the governmental subdivision. If a majority of votes
11 cast are in favor of the proposed tax rate increase or new tax, it
12 shall become effective. If a majority of votes cast are not in
13 favor of the proposed tax rate increase or new tax, it shall not
14 become effective. Property tax increases due to a voter-approved
15 bond issue or a tax levy limitation override are exempt from the
16 voter approval requirement of this section."

17 Sec. 4. The proposed amendment shall be submitted to the
18 electors in the manner prescribed by the Constitution of Nebraska,

19 Article XVI, section 1, with the following ballot language:
 20 "A constitutional amendment to require elector approval
 21 of increases in tax rates or new taxes on and after
 22 January 1, 2005.
 23 For
 24 Against".
 25 2. Renumber the remaining section accordingly.

Senator Hudkins requested a ruling of the Chair on whether the Erdman amendment is germane to the resolution.

The Chair ruled the Erdman amendment is not germane to the resolution.

Senator Erdman withdrew his motion to return.

RESOLUTION ON FINAL READING

The following resolution was read and put upon final passage:

LEGISLATIVE RESOLUTION 211CA.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, sections 10 and 14:

III-10 "Beginning with the year 1975, regular sessions of the Legislature shall be held annually, commencing at 10 a.m. on the first Wednesday after the first Monday in January of each year. The duration of regular sessions held shall not exceed ninety legislative days in odd-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature, and shall not exceed sixty legislative days in even-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature. Bills and resolutions under consideration by the Legislature upon adjournment of a regular session held in an odd-numbered year may be considered at the next regular session, as if there had been no such adjournment. ~~The Lieutenant Governor shall preside, but shall vote only when the Legislature is equally divided.~~

A majority of the members elected to the Legislature shall constitute a quorum. ~~The~~ ~~;~~ ~~the~~ Legislature shall determine the rules of its proceedings, shall ~~and~~ be the judge of the election, returns, and qualifications of its members, and shall choose its own officers, including a Speaker to preside, ~~when the Lieutenant Governor shall be absent, incapacitated, or shall act as Governor.~~

No member shall be expelled except by a vote of two-thirds of all members elected to the Legislature, and no member shall be twice expelled for the same offense. The Legislature may punish by imprisonment any person not a member thereof who shall be guilty of disrespect to the

Legislature by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior."

III-14 "Every bill and resolution shall be read by title when introduced, and a printed copy thereof provided for the use of each member. The bill and all amendments thereto shall be printed and presented before the vote is taken upon its final passage and shall be read at large unless three-fifths of all the members elected to the Legislature vote not to read the bill and all amendments at large. No vote upon the final passage of any bill shall be taken until five legislative days after its introduction nor until it has been on file for final reading and passage for at least one legislative day. No bill shall contain more than one subject, and the subject shall be clearly expressed in the title. No law shall be amended unless the new act contains the section or sections as amended and the section or sections so amended shall be repealed. The ~~Lieutenant Governor, or the Speaker if acting as presiding officer,~~ shall sign, in the presence of the Legislature while it is in session and capable of transacting business, all bills and resolutions passed by the Legislature."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to remove the Lieutenant Governor and designate the Speaker as presiding officer of the Legislature.

For

Against".

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

Voting in the affirmative, 42:

Baker	Connealy	Jensen	Pederson, D.	Stuthman
Beutler	Cudaback	Johnson	Preister	Synowiecki
Bourne	Cunningham	Jones	Price	Thompson
Brashear	Erdman	Kremer	Quandahl	Tyson
Brown	Foley	Kruse	Raikes	Vrtiska
Burling	Friend	Maxwell	Redfield	Wehrbein
Byars	Hartnett	Mines	Schimek	
Chambers	Hudkins	Mossey	Schrock	
Combs	Janssen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 1:

Landis

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional three-fifths majority having voted in the affirmative, the resolution was declared passed for the general election.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 75.

A BILL FOR AN ACT relating to sheriffs; to amend section 23-1701.01, Reissue Revised Statutes of Nebraska; to change eligibility requirements for office; and to repeal the original section.

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

Voting in the affirmative, 41:

Baker	Cunningham	Jones	Preister	Synowiecki
Beutler	Erdman	Kremer	Price	Thompson
Bourne	Foley	Kruse	Quandahl	Tyson
Brashear	Friend	Landis	Raikes	Vrtiska
Brown	Hartnett	Maxwell	Redfield	Wehrbein
Byars	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	
Connealy	Jensen	Pedersen, Dw.	Stuhr	
Cudaback	Johnson	Pederson, D.	Stuthman	

Voting in the negative, 0.

Present and not voting, 2:

Burling	Chambers
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Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 279.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-308, Revised Statutes Supplement, 2002, and sections 60-311

and 60-320, Revised Statutes Supplement, 2003; to provide for six-year issuance of license plates; to change provisions relating to record keeping; to change fees; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 40:

Baker	Connealy	Janssen	Mines	Schimek
Beutler	Cudaback	Jensen	Mossey	Stuhr
Bourne	Cunningham	Johnson	Pedersen, Dw.	Stuthman
Brashear	Erdman	Jones	Preister	Synowiecki
Burling	Foley	Kremer	Price	Thompson
Byars	Friend	Kruse	Quandahl	Tyson
Chambers	Hartnett	Landis	Raikes	Vrtiska
Combs	Hudkins	Maxwell	Redfield	Wehrbein

Voting in the negative, 3:

Brown	Pederson, D.	Schrock
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Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 279A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 279, Ninety-eighth Legislature, Second Session, 2004; and to provide for transfers.

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

Voting in the affirmative, 39:

Baker	Cudaback	Jensen	Mossey	Stuhr
Bourne	Cunningham	Johnson	Pedersen, Dw.	Stuthman
Brashear	Erdman	Jones	Preister	Synowiecki
Burling	Foley	Kremer	Price	Thompson
Byars	Friend	Kruse	Quandahl	Tyson
Chambers	Hartnett	Landis	Raikes	Vrtiska
Combs	Hudkins	Maxwell	Redfield	Wehrbein
Connealy	Janssen	Mines	Schimek	

Voting in the negative, 2:

Brown Pederson, D.

Present and not voting, 2:

Beutler Schrock

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 323.

A BILL FOR AN ACT relating to political subdivisions; to amend section 23-272, Reissue Revised Statutes of Nebraska, and section 32-608, Revised Statutes Supplement, 2003; to change provisions relating to regular meetings of certain county boards and payment of filing fees for certain candidates; to provide operative dates; and to repeal the original sections.

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

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 560 with 35 ayes, 2 nays, 6 present and not voting, and 6 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 560. With Emergency.

A BILL FOR AN ACT relating to the Department of Motor Vehicles; to amend sections 37-1201, 60-6,324, 60-1805, and 81-8,219, Reissue Revised Statutes of Nebraska, sections 13-910, 30-24,125, 37-1291, 60-108, 60-110, 60-111.01, 60-129, 60-302.05, 60-308, 60-311.01, 60-484.02, 60-1901, 60-1904, and 60-1907, Revised Statutes Supplement, 2002, and sections 60-106, 60-139, 60-301, 60-311.02, 60-364, 60-462.01, and 60-483, Revised Statutes Supplement, 2003; to provide for transfer of certificates of title in certain decedents' estates; to provide for salvage and nontransferable certificates of title for motorboats; to provide for disposition of abandoned motorboats; to change provisions relating to the State Boat Act, assembled all-terrain vehicle and minibike certificates of title, motor vehicle certificates of title and registration, salvage branded certificates of title, and registration of snowmobiles and camper units; to redefine terms; to change fees for motor vehicle record requests; to adopt updated federal regulations; to provide for the release of certain driver's license information; to provide powers and duties related to abandoned all-terrain vehicles and minibikes; to provide penalties; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 560A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 560, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 42:

Baker	Cudaback	Johnson	Pederson, D.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	
Connealy	Jensen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 1:

Bourne

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

WITHDRAW - Amendment to LB 449

Senator Chambers withdrew his pending amendment, FA1492, found on page 792, to LB 449.

BILLS ON FINAL READING**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 449 with 37 ayes, 2 nays, 4 present and not voting, and 6 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 449.

A BILL FOR AN ACT relating to the environment; to amend sections 81-15,181 to 81-15,186, Reissue Revised Statutes of Nebraska, sections 81-1505 and 81-1532, Revised Statutes Supplement, 2002, and section 81-15,248, Revised Statutes Supplement, 2003; to define and redefine terms; to change provisions relating to environmental rules and regulations and air pollution fees; to create a fund; to change provisions of the Remedial Action Plan Monitoring Act; to change provisions relating to system construction and registration under the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 42:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Synowiecki
Bourne	Cunningham	Jones	Preister	Thompson
Brashear	Erdman	Kremer	Price	Tyson
Brown	Foley	Kruse	Quandahl	Vrtiska
Burling	Friend	Landis	Raikes	Wehrbein
Byars	Hartnett	Maxwell	Redfield	
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Stuthman

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 449A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 449, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 42:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Synowiecki
Bourne	Cunningham	Jones	Preister	Thompson
Brashear	Erdman	Kremer	Price	Tyson
Brown	Foley	Kruse	Quandahl	Vrtiska
Burling	Friend	Landis	Raikes	Wehrbein
Byars	Hartnett	Maxwell	Redfield	
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Stuthman

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

ANNOUNCEMENT

The Chair announced today is Senator Raikes' birthday.

GENERAL FILE

LEGISLATIVE BILL 315. Title read. Considered.

The Standing Committee amendment, AM1034, found on page 1181, First

Session, 2003, 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 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 837. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 824. Title read. Considered.

Senator Erdman renewed his pending amendment, AM2890, found on page 983.

The Erdman amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 997. Title read. Considered.

The Standing Committee amendment, AM2293, found on page 397, was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Senator Beutler offered the following amendment:

AM3061

- 1 1. On page 2, line 27; and page 5, line 2, after "by"
- 2 insert "conspicuously".

The Beutler amendment was adopted with 25 ayes, 0 nays, 18 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.

STANDING COMMITTEE REPORTS

Judiciary

The Judiciary 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.

Crime Victim's Reparations Committee

Scott Arnold

Scot Ford

VOTE: Aye: Senators Brashear, Chambers, Foley, Mines, Mossey, Dw. Pedersen, Quandahl, and Tyson. Nay: None. Absent: None.

The Judiciary 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.

Community Corrections Council

Scot Adams
William Burgess
Catherine Cook
Aileen Gruendel
Julie Hippen
Robert Lindemeier
Joe Kelly

VOTE: Aye: Senators Brashear, Chambers, Foley, Mines, Mossey, Dw. Pedersen, Quandahl, and Tyson. Nay: None. Absent: None.

The Judiciary 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.

Board of Parole

James Pearson
Kenneth J. Vampola

VOTE: Aye: Senators Brashear, Chambers, Foley, Mines, Mossey, Dw. Pedersen, Quandahl, and Tyson. Nay: None. Absent: None.

LEGISLATIVE BILL 203. Placed on General File.

LEGISLATIVE BILL 670. Placed on General File.

LEGISLATIVE BILL 788. Placed on General File.

LEGISLATIVE BILL 1085. Placed on General File.

LEGISLATIVE BILL 1101. Placed on General File.

LEGISLATIVE BILL 875. Placed on General File as amended.

Standing Committee amendment to LB 875:

AM2871

1 1. Insert the following new section:

2 "Section 1. Section 28-1463.05, Reissue Revised Statutes

3 of Nebraska, is amended to read:

4 28-1463.05. (1) It shall be unlawful for a person to

5 knowingly possess with intent to rent, sell, deliver, distribute,

6 trade, or provide to any person any visual depiction of sexually

7 explicit conduct which has a child as one of its participants or

8 portrayed observers.

9 (2) Any person who violates this section shall be guilty

10 of a Class ~~IV~~ IIIA felony for each offense."

11 2. On page 3, line 23, after "Original" insert "section
12 28-1463.05, Reissue Revised Statutes of Nebraska, and"; and in line
13 24 strike "is" and insert "are".

14 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 876. Placed on General File as amended.

(Standing Committee amendment, AM2883, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 887. Placed on General File as amended.

Standing Committee amendment to LB 887:

AM2618

1 1. On page 2, line 4, strike the new matter; and strike
2 beginning with "or" in line 20 through line 26 and insert "or (b)
3 fifty percent of the appellant's net worth. If an appellee proves
4 by a preponderance of the evidence that an appellant is dissipating
5 or diverting assets outside the ordinary course of business to
6 avoid the payment of a judgment, the court may enter any orders
7 necessary to protect the appellee and require the appellant to
8 provide a bond, deposit of the United States Government bonds, or
9 cash deposit up to and including the amount required under
10 subdivision (1)(a) of this section.".

11 2. On page 3, lines 14 and 23; and page 4, line 7,
12 strike beginning with "not" through "dollars" and insert "not
13 exceeding fifty percent of the appellant's net worth".

LEGISLATIVE BILL 943. Placed on General File as amended.

Standing Committee amendment to LB 943:

AM2935

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

3 "Section 1. Section 28-101, Revised Statutes Supplement,
4 2002, is amended to read:

5 28-101. Sections 28-101 to 28-1348 and sections 2 and 3
6 of this act shall be known and may be cited as the Nebraska
7 Criminal Code.

8 Sec. 2. (1) A person commits the offense of
9 strangulation if the person knowingly or intentionally impedes the
10 normal breathing or circulation of the blood of another person by
11 applying pressure on the throat or neck of the other person.

12 (2) Except as provided in subsection (3) of this section,
13 strangulation is a Class IV felony.

14 (3) Strangulation is a Class III felony if:

15 (a) The person used or attempted to use a dangerous
16 instrument while committing the offense;

17 (b) The person caused serious bodily injury to the other
18 person while committing the offense; or

19 (c) The person has been previously convicted of

20 strangulation.

21 (4) It is an affirmative defense that an act constituting
22 strangulation was the result of a legitimate medical procedure.

23 Sec. 3. (1) No person shall knowingly solicit, coax,

24 entice, or lure or attempt to solicit, coax, entice, or lure (a) a
1 child sixteen years of age or younger or (b) a peace officer who is
2 believed by such person to be a child sixteen years of age or
3 younger, by means of a computer as that term is defined in section
4 28-1343, to engage in an act which would be in violation of
5 sections 28-317 to 28-321.

6 (2) A person who violates this section is guilty of a
7 Class III felony. If a person who violates this section has
8 previously been convicted of a violation of this section or section
9 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, or 28-317
10 to 28-321, the person is guilty of a Class II felony.

11 Sec. 4. Section 28-318, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 28-318. As used in sections 28-317 to 28-321, unless the
14 context otherwise requires:

15 (1) Actor means a person accused of sexual assault;

16 (2) Intimate parts means the genital area, groin, inner
17 thighs, buttocks, or breasts;

18 (3) Past sexual behavior means sexual behavior other than
19 the sexual behavior upon which the sexual assault is alleged;

20 (4) Serious personal injury means great bodily injury or
21 disfigurement, extreme mental anguish or mental trauma, pregnancy,
22 disease, or loss or impairment of a sexual or reproductive organ;

23 (5) Sexual contact means the intentional touching of the
24 victim's sexual or intimate parts or the intentional touching of
25 the victim's clothing covering the immediate area of the victim's
26 sexual or intimate parts. Sexual contact shall also mean the
27 touching by the victim of the actor's sexual or intimate parts or
1 the clothing covering the immediate area of the actor's sexual or
2 intimate parts when such touching is intentionally caused by the
3 actor. Sexual contact shall include only such conduct which can be
4 reasonably construed as being for the purpose of sexual arousal or
5 gratification of either party. Sexual contact shall also include
6 the touching of a child with the actor's sexual or intimate parts
7 on any part of the child's body for purposes of sexual assault of a
8 child under section 28-320.01;

9 (6) Sexual penetration means sexual intercourse in its
10 ordinary meaning, cunnilingus, fellatio, anal intercourse, or any
11 intrusion, however slight, of any part of the actor's or victim's
12 body or any object manipulated by the actor into the genital or
13 anal openings of the victim's body which can be reasonably
14 construed as being for nonmedical or nonhealth purposes. Sexual
15 penetration shall not require emission of semen;

16 (7) Victim means the person alleging to have been
17 sexually assaulted;

18 (8) Without consent means:

19 (a)(i) The victim was compelled to submit due to the use
20 of force or threat of force or coercion, or (ii) the victim
21 expressed a lack of consent through words, or (iii) the victim
22 expressed a lack of consent through conduct, or (iv) the consent,
23 if any was actually given, was the result of the actor's deception
24 as to the identity of the actor or the nature or purpose of the act
25 on the part of the actor;

26 (b) The victim need only resist, either verbally or
27 physically, so as to make the victim's refusal to consent genuine
1 and real and so as to reasonably make known to the actor the
2 victim's refusal to consent; and

3 (c) A victim need not resist verbally or physically where
4 it would be useless or futile to do so; and

5 (9) Force or threat of force means (a) the use of
6 physical force which overcomes the victim's resistance or (b) the
7 threat of physical force, express or implied, against the victim or
8 a third person that places the victim in fear of death or in fear
9 of serious personal injury to the victim or a third person where
10 the victim reasonably believes that the actor has the present or
11 future ability to execute the threat.

12 Sec. 5. Section 28-1463.05, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 28-1463.05. (1) It shall be unlawful for a person to
15 knowingly possess with intent to rent, sell, deliver, distribute,
16 trade, or provide to any person any visual depiction of sexually
17 explicit conduct which has a child as one of its participants or
18 portrayed observers.

19 (2) Any person who violates this section shall be guilty
20 of a Class ~~IV~~ IIIA felony for each offense.

21 Sec. 7. Section 29-4003, Revised Statutes Supplement,
22 2002, is amended to read:

23 29-4003. (1) Except as provided in subsection (2) of
24 this section, the Sex Offender Registration Act shall apply to any
25 person who on or after January 1, 1997:

26 (a) Pleads guilty to or is found guilty of:

27 (i) Kidnapping of a minor pursuant to section 28-313,
1 except when the person is the parent of the minor and was not
2 convicted of any other offense in this section;

3 (ii) False imprisonment of a minor pursuant to section
4 28-314 or 28-315;

5 (iii) Sexual assault pursuant to section 28-319 or
6 28-320;

7 (iv) Sexual assault of a child pursuant to section
8 28-320.01;

9 (v) Sexual assault of a vulnerable adult pursuant to
10 subdivision (1)(c) of section 28-386;

11 (vi) Incest of a minor pursuant to section 28-703;

12 (vii) Pandering of a minor pursuant to section 28-802;

- 13 (viii) Visual depiction of sexually explicit conduct of a
 14 child pursuant to section 28-1463.03 or 28-1463.05;
- 15 (ix) Knowingly possessing any visual depiction of
 16 sexually explicit conduct which has a child as one of its
 17 participants or portrayed observers pursuant to section 28-813.01;
 18 ~~(x)~~ Criminal child enticement pursuant to section 28-311;
 19 ~~or~~
- 20 ~~(x)~~ (xi) Child enticement by means of a computer pursuant
 21 to section 3 of this act; or
 22 (xii) Attempt, solicitation, or conspiracy to commit an
 23 offense listed in subdivisions (1)(a)(i) through ~~(1)(a)(ix)~~
 24 (1)(a)(xi) of this section;
- 25 (b) Enters the state and has pleaded guilty to or has
 26 been found guilty of any offense that is substantially equivalent
 27 to a registrable offense under subdivision (1)(a) of this section
 1 by any state, territory, commonwealth, or other jurisdiction of the
 2 United States, by the United States Government, or by court martial
 3 or other military tribunal; or
- 4 (c) Is incarcerated in a jail, a penal or correctional
 5 facility, or any other public or private institution or is under
 6 probation or parole as a result of pleading guilty to or being
 7 found guilty of a registrable offense under subdivision (1)(a) or
 8 (b) of this section prior to January 1, 1997.
- 9 (2) In the case of a person convicted of a violation of
 10 section 28-311, 28-313, 28-314, or 28-315, the convicted person
 11 shall be subject to the Sex Offender Registration Act, unless the
 12 sentencing court determines at the time of sentencing, in light of
 13 all the facts, that the convicted person is not subject to the act.
 14 The sentencing court shall make such determination part of the
 15 sentencing order.
- 16 (3) A person appealing a conviction of a registrable
 17 offense under this section shall be required to comply with the act
 18 during the appeals process.
- 19 Sec. 8. Original sections 28-318, 28-1463.05, and
 20 29-110, Reissue Revised Statutes of Nebraska, and sections 28-101
 21 and 29-4003, Revised Statutes Supplement, 2002, are repealed.
- 22 Sec. 9. Since an emergency exists, this act takes effect
 23 when passed and approved according to law."
- 24 2. On page 5, after line 5, insert the following new
 25 subsection:
- 26 "(10) The changes made to this section by this
 27 legislative bill shall apply to offenses committed prior to the
 1 effective date of this act for which the statute of limitations has
 2 not expired as of such date and to offenses committed on or after
 3 such date."
- 4 3. Renumber the remaining section accordingly.

LEGISLATIVE BILL 987. Placed on General File as amended.
 Standing Committee amendment to LB 987:

AM2633

1 1. On page 2, line 8, strike "(a)"; strike beginning
 2 with the last "or" in line 8 through "person" in line 9; and in
 3 line 20 after "procedure" insert "or a legitimate law enforcement
 4 procedure utilized by a peace officer to subdue or restrain another
 5 person within the scope of such peace officer's official duties".

LEGISLATIVE BILL 1012. Placed on General File as amended.

Standing Committee amendment to LB 1012:

AM2956

1 1. Strike the original section and insert the following
 2 new section:
 3 "Section 1. (1) Any person who owns, maintains, or
 4 installs anhydrous ammonia equipment, uses anhydrous ammonia for
 5 any lawful purpose, sells anhydrous ammonia for any lawful
 6 purposes, or transports anhydrous ammonia in a manner prescribed by
 7 law shall not be liable to any person who tampers with, or assists
 8 in tampering with, such anhydrous ammonia, or such anhydrous
 9 ammonia equipment, for personal injury, wrongful death, or any
 10 other economic or noneconomic damages arising out of such
 11 tampering, unless such liability is a result of the willful,
 12 wanton, reckless, or intentional acts or omissions of such person.
 13 (2) For purposes of this section:
 14 (a) Anhydrous ammonia equipment means any equipment used
 15 in the application of anhydrous ammonia for agricultural purposes
 16 that meets all applicable safety requirements established by state
 17 and federal statutes and regulations or any container or storage
 18 facility used to store anhydrous ammonia in a manner that meets all
 19 applicable safety requirements established by state and federal
 20 statutes and regulations; and
 21 (b) Tampering with anhydrous ammonia means intentionally,
 22 knowingly, and unlawfully gaining access or attempting to gain
 23 access to anhydrous ammonia or anhydrous ammonia equipment."

LEGISLATIVE BILL 1046. Placed on General File as amended.

Standing Committee amendment to LB 1046:

AM2907

1 1. Strike the original section and insert the following
 2 new section:
 3 "Section 1. (1) Any manufacturer, distributor, or seller
 4 of a food or nonalcoholic beverage intended for human consumption
 5 shall not be subject to civil liability for personal injury or
 6 wrongful death based on an individual's consumption of food or
 7 nonalcoholic beverage in cases in which liability is premised upon
 8 the individual's weight gain or obesity alleged to be the result of
 9 his or her long-term consumption of a particular kind or type of
 10 food or nonalcoholic beverage.
 11 (2) For purposes of this section, long-term consumption
 12 means the cumulative effect of the consumption of a particular kind

13 or type of food or nonalcoholic beverage and not the effect of a
14 single instance of consumption.

15 (3) This section shall not apply to:

16 (a) A claim that a manufacturer, distributor, or seller
17 of a food or nonalcoholic beverage intended for human consumption
18 knowingly violated a federal or state statute applicable to the
19 manufacturing, marketing, distribution, advertisement, labeling, or
20 sale of the food or nonalcoholic beverage, and the violation was
21 the proximate cause of the weight gain or obesity;

22 (b) A claim for breach of contract or express warranty in
23 connection with the purchase of food or nonalcoholic beverages; or

24 (c) A claim regarding the sale of food that is
1 adulterated under the Federal Food, Drug, and Cosmetic Act, 21
2 U.S.C. 342.

3 (4) This section is applicable to all claims existing or
4 actions pending or filed on or after the effective date of this
5 act, unless a trial or retrial with regard to the civil action has
6 commenced as of the effective date of this act."

LEGISLATIVE BILL 1058. Placed on General File as amended.

Standing Committee amendment to LB 1058:

AM2882

1 1. On page 2, line 23, after "any" insert "reasonably
2 foreseeable"; and in line 24 strike "such towing" and insert "the
3 hookup, towing, or disengagement of the motor vehicle to or from
4 the towing vehicle".

LEGISLATIVE BILL 1182. Placed on General File as amended.

Standing Committee amendment to LB 1182:

AM2853

1 1. On page 2, line 12, after "may" insert ", after
2 consultation with a representative sampling of the lawyers of the
3 judicial district".

LEGISLATIVE BILL 1207. Placed on General File as amended.

Standing Committee amendment to LB 1207:

AM2906

1 1. Insert the following new sections:

2 "Sec. 4. In bankruptcy and in the collection of a money
3 judgment, the full amount of any federal or state earned income tax
4 credit refund shall be exempt from attachment, garnishment, or
5 other legal or equitable process and from all claims of creditors.

6 Sec. 5. Section 25-1565, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 25-1565. ~~When an execution against the property of a~~ At
9 any time after the entry of judgment against the judgment debtor,
10 or one of several debtors in the same judgment, is issued to the
11 sheriff of a county where the debtor resides, or if the debtor does
12 not reside in the state, to the sheriff of the county where the

13 judgment was rendered, or a transcript of a judgment has been
 14 filed, and is returned unsatisfied in whole or in part action, the
 15 judgment creditor is entitled to an order from the county court or
 16 the district court of the county ~~to~~ (1) in which the ~~execution was~~
 17 ~~issued~~ debtor resides, (2) if the debtor does not reside in the
 18 state, where judgment was rendered, or (3) in which a transcript of
 19 judgment has been filed, requiring the debtor to appear and answer
 20 concerning his or her property before the judge of such court or a
 21 referee appointed by the judge of such court at a time and place
 22 specified in the order within the county to which the ~~execution~~
 23 order was issued.

24 Sec. 6. Section 25-1916, Revised Statutes Supplement,
 1 2002, is amended to read:

2 25-1916. No appeal in any case shall operate as a
 3 supersedeas unless the appellant or appellants within thirty days
 4 after the entry of such judgment, decree, or final order execute to
 5 the adverse party a bond with one or more sureties, make a deposit
 6 of United States Government bonds with the clerk, or in lieu
 7 thereof make a cash deposit with the clerk for the benefit of the
 8 adverse party as follows:

9 (1) When the judgment, decree, or final order appealed
 10 from directs the payment of money, the bond, ~~deposit of~~ ~~or~~ United
 11 States Government bonds, ~~or cash deposit shall be the lesser of (a)~~
 12 ~~in~~ the amount of the judgment, decree, or final order and the
 13 taxable court costs in the district court, plus the estimated
 14 amount of interest that will accrue on the judgment, decree, or
 15 final order between its date and the final determination of the
 16 cause in the Court of Appeals or Supreme Court and the estimated
 17 amount of the costs of appeal, such estimated interest to accrue
 18 and estimated court costs to be determined by the trial court, ~~such~~
 19 ~~supersedeas~~ or (b) fifty percent of the appellant's net worth. If
 20 an appellee proves by a preponderance of the evidence that an
 21 appellant is dissipating or diverting assets outside the ordinary
 22 course of business to avoid the payment of a judgment, the court
 23 may enter any orders necessary to protect the appellee and require
 24 the appellant to provide a bond, deposit of the United States
 25 Government bonds, or cash deposit up to and including the amount
 26 required under subdivision (1)(a) of this section.

27 Such bond, United States Government bond, or cash deposit
 1 ~~to~~ shall be conditioned that the appellant or appellants will
 2 prosecute such appeal without delay and pay all condemnation money
 3 and costs which may be found against him, her, or them on the final
 4 determination of the cause in the Court of Appeals or Supreme
 5 Court. When ; ~~except that when~~ a cash deposit is made, United
 6 States Government bonds are deposited, or a bond is provided; which
 7 is written by a corporate surety company authorized to do business
 8 within the State of Nebraska; ~~which~~ and the cash deposit, United
 9 States Government bond, or supersedeas bond is approved by the
 10 trial court in which the judgment was rendered and filed in the

11 court, the general lien of the judgment shall be dissolved;
12 (2) When the judgment, decree, or final order directs the
13 execution of a conveyance or other instrument, the bond, deposit of
14 United States Government bonds, or cash deposit shall be in such
15 sum, not exceeding fifty percent of the appellant's net worth, as
16 shall be prescribed by the district court, or judge thereof in
17 vacation, conditioned that the appellant or appellants will
18 prosecute such appeal without delay and will abide and perform the
19 judgment or decree rendered or final order which shall be made by
20 the Court of Appeals or Supreme Court in the cause;

21 (3) When the judgment, decree, or order directs the sale
22 or delivery of possession of real estate, the bond, deposit of
23 United States Government bonds, or cash deposit shall be in such
24 sum, not exceeding fifty percent of the appellant's net worth, as
25 the court, or judge thereof in vacation, shall prescribe,
26 conditioned that the appellant or appellants will prosecute such
27 appeal without delay, will not during the pendency of such appeal
1 commit or suffer to be committed any waste upon such real estate,
2 and will pay all costs and all rents or damages to such real estate
3 which may accrue during the pendency of such appeal and until the
4 appellee is legally restored thereto; and

5 (4) When the judgment, decree, or final order dissolves
6 or modifies any order of injunction which has been or hereafter may
7 be granted, the supersedeas bond, deposit of United States
8 Government bonds, or cash deposit shall be in such reasonable sum,
9 not exceeding fifty percent of the appellant's net worth, as the
10 court or judge thereof in vacation shall prescribe, conditioned
11 that the appellant or appellants will prosecute such appeal without
12 delay and will pay all costs which may be found against him, her,
13 or them on the final determination of the cause in the Court of
14 Appeals or Supreme Court. ~~Such~~ ~~and such~~ supersedeas bond,
15 deposit of United States Government bonds, or cash deposit shall
16 stay the doing of the act or acts sought to be restrained by the
17 suit and continue such injunction in force until the case is heard
18 and finally determined in the Court of Appeals or Supreme Court.
19 The undertaking given upon the allowance of the injunction shall be
20 and remain in effect until it is finally decided whether or not the
21 injunction ought to have been granted.

22 The changes made to this section by this legislative bill
23 shall apply to all cases pending on or filed on or after the
24 effective date of this act.

25 Sec. 7. Section 25-21,223, Revised Statutes Supplement,
26 2003, is amended to read:

27 25-21,223. The summons shall be issued and directed with
1 a copy of the complaint attached to the summons, shall state the
2 cause of the complaint, the time and place of trial of the action
3 for possession, and the answer day for other causes of action, and
4 shall notify the defendant that if he or she fails to appear
5 judgment shall be entered against him or her. The summons may be

6 served and returned as ~~in other cases or by any person~~ provided in
7 sections 25-505.01 to 25-516.01, except that the summons shall be
8 served within three days, excluding nonjudicial days, from the date
9 of its issuance and shall be returnable within five days, excluding
10 nonjudicial days, from the date of its issuance. If service cannot
11 be made with reasonable diligence under such sections, service may
12 be made by any person by leaving a copy of the summons at the
13 detained premises and mailing a copy by first-class mail to the
14 defendant's last-known address. The person making the service
15 shall file with the court an affidavit stating with particularity
16 the manner in which he or she made the service and, if service was
17 not made as provided in sections 25-505.01 to 25-516.01, the
18 reasons why service under such sections was unsuccessful. Trial of
19 the action for possession shall be held not less than ten nor more
20 than fourteen days after the date of issuance of the summons.

21 Sec. 12. Section 25-2301.02, Revised Statutes

22 Supplement, 2002, is amended to read:

23 25-2301.02. (1) An application to proceed in forma

24 pauperis shall be granted unless there is an objection that the

25 party filing the application: (a) Has sufficient funds to pay

26 costs, fees, or security or (b) is asserting legal positions which

27 are frivolous or malicious. The objection to the application shall

1 be made within thirty days after the filing of the application or

2 at any time if the ground for the objection is that the initial

3 application was fraudulent. Such objection may be made by the

4 court on its own motion or on the motion of any interested person.

5 The motion objecting to the application shall specifically set

6 forth the grounds of the objection. An evidentiary hearing shall

7 be conducted on the objection unless the objection is by the court

8 on its own motion on the grounds that the applicant is asserting

9 legal positions which are frivolous or malicious. If no hearing is

10 held, the court shall provide a written statement of its reasons,

11 findings, and conclusions for denial of the applicant's application

12 to proceed in forma pauperis which shall become a part of the

13 record of the proceeding. If an objection is sustained, the party

14 filing the application shall have thirty days after the ruling or

15 issuance of the statement to proceed with an action or appeal upon

16 payment of fees, costs, or security notwithstanding the subsequent

17 expiration of any statute of limitations or deadline for appeal.

18 In any event, the court shall not deny an application on the basis

19 that the appellant's legal positions are frivolous or malicious if

20 to do so would deny a defendant his or her constitutional right to

21 appeal in a felony case.

22 (2) In the event that an application to proceed in forma

23 pauperis is denied and an appeal is taken therefrom, the aggrieved

24 party may make application for a transcript of the hearing on in

25 forma pauperis eligibility. Upon such application, the court shall

26 order the transcript to be prepared and the cost shall be paid by

27 the county in the same manner as other claims are paid. The

1 appellate court shall review the decision denying in forma pauperis
 2 eligibility de novo on the record based on the transcript of the
 3 hearing or the written statement of the court.
 4 Sec. 39. The Revisor of Statutes shall assign section 4
 5 of this act to Chapter 25, article 15."
 6 2. On page 18, line 10, strike "that the".
 7 3. On page 35, line 14, after "sections" insert
 8 "25-1565, "; in line 18 strike "and"; in line 19 after the third
 9 comma insert "25-1916," and before "25-2740" insert "25-2301.02,";
 10 and in line 20 before "are" insert "and section 25-21,223, Revised
 11 Statutes Supplement, 2003,".
 12 4. Renumber the remaining sections accordingly.

(Signed) Kermit A. Brashear, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Cera, Elba - Child Abuse Prevention Fund Board - Health and Human Services

(Signed) Pat Engel, Chairperson
 Legislative Council, Executive Board

GENERAL FILE

LEGISLATIVE BILL 890. Title read. Considered.

The Standing Committee amendment, AM2327, found on page 416, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 845. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 884. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 980. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 1099. Title read. Considered.

The Standing Committee amendment, AM2345, found on page 437, was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 955. Title read. Considered.

The Standing Committee amendment, AM2365, found on page 461, was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 902. Title read. Considered.

Senators Wehrbein and Beutler offered the following amendment:
AM3070

- 1 1. On page 2, lines 12 and 13, strike "a member of the
- 2 Legislative Council" and insert "the Legislative Performance Audit
- 3 Committee in the course of the committee's official duties and".

The Wehrbein-Beutler amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 939. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 832. Title read. Considered.

Senator Schrock withdrew his pending amendment, AM2673, found on page 654.

Senator Schrock offered the following amendment:
AM3067

- 1 1. Strike section 1.
- 2 2. On page 2, lines 20 and 22, strike "technical

3 assistance and services" and insert "services and technical
4 assistance".

5 3. Amend the repealer and renumber the remaining
6 sections accordingly.

The Schrock amendment was adopted with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 10 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 914. Title read. Considered.

The Standing Committee amendment, AM2363, found on page 501, was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 846. Title read. Considered.

Senator Beutler offered the following amendment:

FA1558

On page 2, line 13 strike 'trustee' and 'settlor'

The Beutler amendment was adopted with 26 ayes, 0 nays, 9 present and not voting, and 14 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 1004. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 1002. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 819. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

LEGISLATIVE BILL 1118. Title read. Considered.

The Standing Committee amendment, AM2494, found on page 582, lost with 0 ayes, 17 nays, 17 present and not voting, and 15 excused and not voting.

Senator Beutler withdrew his pending amendment, AM2424, found on page 497.

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

Advanced to E & R for review with 25 ayes, 0 nays, 9 present and not voting, and 15 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 1107. Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 7 present and not voting, and 15 excused and not voting.

LEGISLATIVE BILL 1149. Title read. Considered.

Senator Baker offered the following amendment:

AM3054

- 1 1. Strike original section 2 and insert the following
- 2 new section:
- 3 "Sec. 4. The following section is outright repealed:
- 4 Section 37-528, Revised Statutes Supplement, 2002."
- 5 2. On page 6, strike beginning with "section" in line 5
- 6 through the first comma in line 6.
- 7 3. Renumber the remaining sections accordingly.

The Baker amendment was adopted with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

LEGISLATIVE BILL 826. Title read. Considered.

The Standing Committee amendment, AM2606, found on page 615, was adopted with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

LEGISLATIVE BILL 727. Title read. Considered.

The Standing Committee amendment, AM2571, found on page 628, was adopted with 29 ayes, 0 nays, 7 present and not voting, and 13 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 8 present and not voting, and 13 excused and not voting.

RESOLUTIONS

LEGISLATIVE RESOLUTION 255. Introduced by Stuhr, 24.

PURPOSE: The purpose of this study is to examine the creation of a medical COLA-type retirement benefit for retired members of the School Retirement System of the State of Nebraska. The study will examine the adequacy of benefits for retired members of the retirement system, and the effect of adopting a medical COLA retirement benefit to address benefit inadequacies, if any.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 256. Introduced by Stuhr, 24.

PURPOSE: The purpose of this study is to examine the creation of Internal Revenue Code Section 401(A)-type annuities by school boards or boards of education, and the impact of such annuities on the collection of social security and on the retirement benefits under the School Retirement System of the State of Nebraska. The study will examine the effect of the Internal Revenue Code provisions upon the retirement system and how such annuities may affect retirement benefits.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENTS - Print in Journal

Senators Bourne and Synowiecki filed the following amendment to LB 559:
AM3051

(Amendments to Final Reading copy)

- 1 1. On page 9, lines 10 and 24, strike "IV felony" and
2 insert "I misdemeanor".

Senator Cunningham filed the following amendment to LB 1005:
(Amendment, AM3034, is printed separately and available in the Bill Room,
Room 1104.)

UNANIMOUS CONSENT - Add Cointroducer

Senator Price asked unanimous consent to have her name added as
cointroducer to LB 1002. No objections. So ordered.

VISITORS

Visitors to the Chamber were Girl Scout Cadet Troop 158 and leader from
Maxwell and Gothenburg; Jean Muckel, Doris Galbraith, Lillian Dudley,
and June Fritz from Crete; 62 fourth-grade students and teacher from
Ashland-Greenwood Elementary School; 44 fourth-grade students and
teacher from Crete Elementary School; Dr. Bill Palmer from Omaha; 66
fourth-grade students and teacher from Crete Elementary School; and Kory,
Kyle, and Larry Pesek from Omaha.

The Doctor of the Day was Dr. Jaime Dodge from Callaway.

ADJOURNMENT

At 1:37 p.m., on a motion by Senator Price, the Legislature adjourned until
9:00 a.m., Tuesday, March 16, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-SECOND DAY - MARCH 16, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 16, 2004

PRAYER

The prayer was offered by Pastor Steve Eggum, First Baptist Church, Tekamah.

ROLL CALL

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

The roll was called and all members were present except Senator Landis who was excused; and Senators Brashear, Bromm, Brown, Byars, and Mines who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-first day was approved.

**SELECT COMMITTEE REPORTS
Enrollment and Review**

LEGISLATIVE BILL 1005. Placed on Select File as amended.
(E & R amendment, AM7186, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 868. Placed on Select File as amended.
E & R amendment to LB 868:
AM7187

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 79-201, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 79-201. (1) For purposes of this section:
- 6 (a) Prior to July 1, 2005, a child is of mandatory
- 7 attendance age if the child (i) has reached seven years of age,
- 8 (ii) did not reach sixteen years of age prior to the effective date
- 9 of this act, and (iii) has not reached eighteen years of age; and

10 (b) On and after July 1, 2005, a child is of mandatory
 11 attendance age if the child (i) will reach six years of age prior
 12 to January 1 of the current school year, (ii) did not reach sixteen
 13 years of age prior to the effective date of this act, and (iii) has
 14 not reached eighteen years of age.
 15 (2) Except as provided in ~~section 79-202~~ subsection (3)
 16 of this section, every person residing in a school district within
 17 the State of Nebraska who has legal or actual charge or control of
 18 any child who is ~~not less than seven years of age and not more than~~
 19 sixteen years of age or who is younger than seven years of age and
 20 is of mandatory attendance age or is enrolled in ~~any~~ a public
 21 school shall cause such child to enroll in, if such child is not
 22 enrolled, and attend regularly ~~the~~ a public, private,
 23 denominational, or parochial day ~~schools~~ school which ~~meet~~ meets
 24 the requirements for legal operation prescribed in Chapter 79, or a
 1 school which elects pursuant to section 79-1601 not to meet
 2 accreditation or approval requirements, each day that such ~~schools~~
 3 ~~are~~ school is open and in session, except when excused by school
 4 authorities or when illness or severe weather conditions make
 5 attendance impossible or impracticable.
 6 (3) Subsection (2) of this section does not apply in the
 7 case of any child who:
 8 (a) Has obtained a high school diploma by meeting the
 9 graduation requirements established in section 79-729;
 10 (b) Has completed the program of instruction offered by a
 11 school which elects pursuant to section 79-1601 not to meet
 12 accreditation or approval requirements;
 13 (c) Has reached the age of eighteen years;
 14 (d) Has reached the age of sixteen years and such child's
 15 parent or guardian has signed a notarized waiver on a waiver form
 16 provided by the school;
 17 (e) Will reach six years of age prior to January 1 of the
 18 current school year, but will not reach seven years of age prior to
 19 January 1 of the current school year, and such child's parent or
 20 guardian has signed an affidavit stating that the child is
 21 participating in an education program that the parent or guardian
 22 believes will prepare the child to enter grade one for the
 23 following school year; or
 24 (f) Will not reach six years of age prior to January 1 of
 25 the current school year and such child was enrolled in a public
 26 school and has discontinued the enrollment according to the policy
 27 of the school board adopted pursuant to subsection (4) of this
 1 section.
 2 (4) The board shall adopt policies allowing
 3 discontinuation of the enrollment of students who will not reach
 4 six years of age prior to January 1 of the current school year and
 5 specifying the procedures therefor. ; ~~unless such child has~~
 6 graduated from high school. Any person with legal or actual charge
 7 or control of a child younger than seven years of age who is

8 enrolled in a public school may discontinue the enrollment of such
 9 child pursuant to the policy of the school board. All school
 10 boards shall adopt policies allowing discontinuation of the
 11 enrollment of students younger than seven years of age and
 12 specifying the procedures therefor.

13 The school term shall be as provided in section 79-211.

14 Sec. 2. Original section 79-201, Reissue Revised
 15 Statutes of Nebraska, is repealed.

16 Sec. 3. The following section is outright repealed:

17 Section 79-202, Reissue Revised Statutes of Nebraska."

18 2. On page 1, strike beginning with "sections" in line 1
 19 through line 4 and insert "section 79-201, Reissue Revised Statutes
 20 of Nebraska; to change and eliminate provisions relating to
 21 compulsory education and truancy; to harmonize provisions; to
 22 repeal the original section; and to outright repeal section 79-202,
 23 Reissue Revised Statutes of Nebraska."

LEGISLATIVE BILL 599. Placed on Select File as amended.

E & R amendment to LB 599:

AM7188

1 1. In the Standing Committee amendment, AM2502:

2 a. Renumber section 4 as section 5 and renumber section
 3 5 as section 4;

4 b. On page 4, line 20; and page 7, line 18, strike
 5 "act", show as stricken, and insert "Engineers and Architects
 6 Regulation Act"; and

7 c. On page 8, line 7, strike "(8)", show as stricken,
 8 and insert "(9)".

9 2. On page 1, strike beginning with "section" in line 1
 10 through "2002" in line 4 and insert "sections 81-3445 and 81-3451,
 11 Reissue Revised Statutes of Nebraska, sections 2-3256 and 81-3449,
 12 Revised Statutes Supplement, 2002, and section 81-3453, Revised
 13 Statutes Supplement, 2003"; and in line 5 after the semicolon
 14 insert "to change eligibility requirements for the engineering
 15 examination;".

LEGISLATIVE BILL 599A. Placed on Select File.

LEGISLATIVE BILL 315. Placed on Select File as amended.

E & R amendment to LB 315:

AM7189

1 1. Strike the original sections and all amendments

2 thereto and insert the following new sections:

3 "Section 1. Section 33-133, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 33-133. Except as otherwise provided in this section,
 6 notaries public may charge and collect fees as follows: For each
 7 protest, one dollar; for recording the same, two dollars; for each
 8 notice of protest, two dollars; for taking affidavits and seal, two

9 dollars; for administering oath or affirmation, two dollars; ~~for~~
 10 ~~taking deposition, for each one hundred words contained in such~~
 11 ~~deposition and in the certificate, one dollar and no more;~~ for each
 12 certificate and seal, five dollars; for taking acknowledgment of
 13 deed or other instrument, five dollars; and for each mile traveled
 14 in serving notice, mileage at the rate provided in section 81-1176.
 15 An employee of the state or its political subdivisions may not
 16 charge the fees prescribed in this section if his or her
 17 governmental employer paid the commission and bonding fees required
 18 of notaries public.

19 Sec. 2. Section 64-101, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 ~~64-101. (1) The Governor is hereby authorized to~~
 22 Secretary of State may appoint and commission such number of
 23 persons to the office of notary public as he ~~shall deem~~ or she
 24 deems necessary.

1 (2) There shall be one class of such appointments which
 2 shall be valid in the entire state and referred to as general
 3 notaries public.

4 (3) The term effective date, as used with reference to a
 5 commission of a notary public, shall mean the date of the
 6 commission unless the commission ~~shall state~~ states when it goes
 7 into effect, in which event that date shall be the effective date.

8 (4) A general commission may refer to the office as
 9 notary public and shall contain a provision showing that the person
 10 therein named is authorized to act as a notary public anywhere
 11 within the State of Nebraska or, in lieu thereof, may contain the
 12 word general or refer to the office as general notary public.

13 (5) No person shall be appointed a notary public unless
 14 ~~his or her application is accompanied by the petition of at least~~
 15 ~~twenty-five legal voters of the county in which he or she resides.~~
 16 he or she has taken and passed a written examination on the duties
 17 and obligations of a notary public as provided in section 3 of this
 18 act.

19 (6) No appointment shall be made if such applicant has
 20 been convicted of a felony or other crime involving fraud or
 21 dishonesty.

22 (7) No appointment shall be made until such applicant
 23 ~~shall have~~ has attained the age of nineteen years nor unless such
 24 applicant ~~shall certify~~ certifies to the ~~Governor~~ Secretary of
 25 State under oath that he or she has carefully read and understands
 26 the laws relating to the duties of notaries public and will, if
 27 commissioned, faithfully discharge the duties pertaining to ~~said~~
 1 the office and keep records according to law.

2 (7) (8) Each person appointed a notary public shall hold
 3 office for a term of four years from the effective date of his or
 4 her commission unless sooner removed.

5 Sec. 3. The written examination required by section
 6 64-101 shall be developed and administered by the Secretary of

7 State and shall consist of questions relating to laws, procedures,
8 and ethics for notaries public. All applicants for commission as a
9 notary public on and after the effective date of this act shall be
10 required to take and pass the examination prior to being
11 commissioned.

12 Sec. 4. Section 64-102, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 64-102. Any person may apply for a commission
15 authorizing the applicant to act as a notary public anywhere in the
16 State of Nebraska, and thereupon the ~~Governor~~ Secretary of State
17 may, at his or her discretion, issue a commission authorizing such
18 notary public to act as such anywhere in the State of Nebraska. A
19 general commission shall not authorize the holder thereof to act as
20 a notary public anywhere in the State of Nebraska until a bond in
21 the sum of ~~ten~~ fifteen thousand dollars, with an incorporated
22 surety company as surety, has been executed and approved by and
23 filed in the office of the Secretary of State. Upon the filing of
24 such bond with the Secretary of State and the issuance of such
25 commission, such notary public shall be authorized and empowered to
26 perform any and all the duties of a notary public in any and all
27 the counties in the State of Nebraska. Such bond shall be
1 conditioned for the faithful performance of the duties of such
2 office. Such person so appointed to the office of notary public
3 shall make oath or affirmation, to be endorsed on such bond, and
4 subscribed by him or her before some officer authorized by law to
5 administer oaths, and by him or her certified thereon, that he or
6 she will support the Constitution of the United States and the
7 Constitution of ~~the State of~~ Nebraska; and will faithfully and
8 impartially discharge and perform the duties of the office of
9 notary public.

10 Sec. 5. Section 64-103, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 64-103. When any person is appointed to the office of
13 notary public, the ~~Governor~~ Secretary of State shall cause his or
14 her signature or a facsimile thereof to be affixed to the
15 commission and ~~deliver the same to the Secretary of State. Upon~~
16 ~~the receipt of the commission by the secretary,~~ he or she shall
17 affix thereto the great seal of the state. Upon the filing and
18 approval of the bond, as provided for in section 64-102, the
19 Secretary of State shall mail or deliver the commission to the
20 applicant. The form and format of the commission shall be
21 prescribed by the Secretary of State, ~~on behalf of the Governor.~~

22 Sec. 6. (1) A notary public shall not perform any
23 notarial act as authorized by Chapter 64, articles 1 and 2, if the
24 principal:

25 (a) Is not in the presence of the notary public at the
26 time of the notarial act; and

27 (b) Is not personally known to the notary public or
1 identified by the notary public through satisfactory evidence.

2 (2) For purposes of this section:

3 (a) Identified by the notary public through satisfactory
4 evidence means identification of an individual based on:

5 (i) At least one document issued by a government agency
6 that is current and that bears the photographic image of the
7 individual's face and signature and a physical description of the
8 individual, except that a properly stamped passport without a
9 physical description is satisfactory evidence; or

10 (ii) The oath or affirmation of one credible witness
11 unaffected by the document or transaction to be notarized who is
12 personally known to the notary public and who personally knows the
13 individual, or the oaths or affirmations of two credible witnesses
14 unaffected by the document or transaction to be notarized who each
15 personally knows the individual and shows to the notary public
16 documentary identification as described in subdivision (a)(i) of
17 this subsection; and

18 (b) Personal knowledge of identity or personally known
19 means familiarity with an individual resulting from interactions
20 with that individual over a period of time sufficient to dispel any
21 reasonable uncertainty that the individual has the identity
22 claimed.

23 Sec. 7. A notary public is disqualified from performing
24 a notarial act as authorized by Chapter 64, articles 1 and 2, if
25 the notary:

26 (1) Will receive as a direct or indirect result any
27 commission, fee, advantage, right, title, interest, cash, property,
1 or other consideration exceeding in value the fees specified in
2 section 33-133, except that licensed real estate agents and brokers
3 and employees of licensed and regulated professional organizations,
4 sole proprietorships, or other business organizations, including,
5 but not limited to, attorneys, financial institutions, and
6 accounting firms, shall be exempt from this subdivision; or

7 (2) Is a spouse, ancestor, descendant, or sibling of the
8 principal, including in-law, step, or half relatives.

9 Sec. 8. (1) A notary public may certify the affixation
10 of a signature by mark on a document presented for notarization if:

11 (a) The mark is affixed in the presence of the notary
12 public and of two witnesses unaffected by the document;

13 (b) Both witnesses sign their own names beside the mark;

14 (c) The notary public writes below the mark: "Mark
15 affixed by (name of signer by mark) in presence of (names and
16 addresses of witnesses) and undersigned notary public"; and

17 (d) The notary public notarizes the signature by mark
18 through an acknowledgment, jurat, or signature witnessing.

19 (2) A notary public may sign the name of a person
20 physically unable to sign or make a mark on a document presented
21 for notarization if:

22 (a) The person directs the notary public to do so in the
23 presence of two witnesses unaffected by the document;

- 24 (b) The notary public signs the person's name in the
25 presence of the person and the witnesses;
- 26 (c) Both witnesses sign their own names beside the
27 signature;
- 1 (d) The notary public writes below the signature:
2 "Signature affixed by notary public in the presence of (names and
3 addresses of person and two witnesses)"; and
- 4 (e) The notary public notarizes the signature through an
5 acknowledgment, jurat, or signature witnessing.
- 6 Sec. 9. (1) A notary public who is not an attorney shall
7 not engage in the unauthorized practice of law as provided in this
8 section.
- 9 (2) If notarial certificate wording is not provided or
10 indicated for a document, a notary public who is not an attorney
11 shall not determine the type of notarial act or certificate to be
12 used.
- 13 (3) A notary public who is not an attorney shall not
14 assist another person in drafting, completing, selecting, or
15 understanding a document or transaction requiring a notarial act.
- 16 (4) A notary public who is not an attorney shall not
17 claim to have powers, qualifications, rights, or privileges that
18 the office of notary public does not provide, including the power
19 to counsel on immigration matters.
- 20 (5) A notary public who is not an attorney and who
21 advertises notarial services in a language other than English shall
22 include in any advertisement, notice, letterhead, or sign a
23 statement prominently displayed in the same language as follows:
24 "I am not an attorney and have no authority to give advice on
25 immigration or other legal matters".
- 26 (6) A notary public who is not an attorney may not use
27 the term notario publico or any equivalent non-English term in any
1 business card, advertisement, notice, or sign.
- 2 (7) This section does not preclude a notary public who is
3 duly qualified, trained, or experienced in a particular industry or
4 professional field from selecting, drafting, completing, or
5 advising on a document or certificate related to a matter within
6 that industry or field.
- 7 (8) A violation of any of the provisions of this section
8 shall be considered the unauthorized practice of law and subject to
9 the penalties provided in section 7-101.
- 10 Sec. 10. A notary public shall notify the Secretary of
11 State of any change of his or her residence no later than
12 forty-five days after such change. Information provided on the
13 change-of-address form shall include the notary public's name as it
14 appears on his or her commission, the date the commission expires,
15 and the notary public's new address. The Secretary of State shall
16 prescribe forms consistent with the requirements of this section.
- 17 Sec. 11. Section 64-113, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 64-113. (1) Whenever charges of malfeasance in office
 20 ~~shall be~~ are preferred to the ~~Governor~~ Secretary of State against
 21 any notary public in this state, or whenever the ~~Governor shall~~
 22 ~~have~~ Secretary of State has reasonable cause to believe any notary
 23 public in this state is guilty of acts of malfeasance in office, ~~he~~
 24 the Secretary of State may appoint any disinterested person, not
 25 related by consanguinity to either the notary public or person
 26 preferring the charges, and authorized by law to take testimony of
 27 witnesses by deposition, to notify such notary public to appear
 1 before him or her on a day and at an hour certain, after at least
 2 ten days from the day of service of such notice. ~~He~~ Such appointee
 3 may summon witnesses, in the manner provided by section 64-108, to
 4 appear ~~before him~~ at the time specified in ~~said~~ the notice, and he
 5 or she may take the testimony of such witnesses in writing, in the
 6 same manner as is by law provided for taking depositions, and
 7 certify the same to the ~~Governor~~ Secretary of State. The notary
 8 public may appear, at such time and place, and cross-examine
 9 witnesses; and produce witnesses in his or her behalf, which
 10 cross-examination and testimony shall be likewise certified to the
 11 ~~Governor~~ Secretary of State. Upon the receipt of such examination,
 12 duly certified in the manner prescribed for taking depositions to
 13 be used in suits in the district courts of this state, the ~~Governor~~
 14 Secretary of State shall examine the same, and if therefrom he or
 15 she is ~~shall be~~ satisfied that the charges are substantially
 16 proved, he or she may remove the person charged from the office of
 17 notary public or temporarily revoke such person's commission.
 18 Within ~~thirty fifteen~~ thirty days ~~from after~~ after such removal or revocation
 19 and notice thereof, such notary public shall deposit, with the
 20 Secretary of State, ~~his~~ the commission as notary public and
 21 notarial seal. The commission shall be canceled or temporarily
 22 revoked by the Secretary of State. ~~Thereafter such~~ A person so
 23 removed from office shall be forever disqualified from holding the
 24 office of notary public. A person whose commission is temporarily
 25 revoked shall be returned his or her commission and seal upon
 26 completion of the revocation period and passing the examination
 27 described in section 3 of this act. The fees for taking such
 1 testimony shall be paid by the state at the same rate as fees for
 2 taking depositions by notaries public. The failure of the notary
 3 public to deposit his or her commission and seal with the Secretary
 4 of State as required by this section shall subject him or her to a
 5 penalty of ~~two hundred~~ one thousand dollars, to be recovered in the
 6 name of the state.

7 (2) For purposes of this section, malfeasance in office
 8 means, while serving as a notary public, (a) failure to follow the
 9 requirements and procedures for notarial acts provided for in
 10 Chapter 64, articles 1 and 2, or (b) being convicted of a felony or
 11 other crime involving fraud or dishonesty.

12 Sec. 12. Section 64-210, Reissue Revised Statutes of
 13 Nebraska, is amended to read:

14 64-210. (1) Each notary public, before performing any
 15 duties of his or her office, shall provide himself or herself with
 16 an official seal on which shall appear the words State of Nebraska,
 17 General Notary or State of Nebraska, General Notarial, and his or
 18 her name, and in addition, at his or her option, the date of
 19 expiration of his or her commission. ~~A~~ ; ~~PROVIDED~~, a notary public
 20 may use the initial letters of his or her first name and middle
 21 name. A notary public shall authenticate all his or her official
 22 acts with such seal. Under his or her official signature, on all
 23 certificates of authentication made by him or her, ~~he~~ a notary
 24 public shall write, stamp, or otherwise show the date when his or
 25 her term of office as such notary public will expire if such date
 26 of expiration is not engraved on the seal.

27 (2) The official seal of a notary public ~~shall be~~ ~~may be~~
 1 ~~either an engraved or ink stamp seal with which he or she shall~~
 2 ~~authenticate all of his or her official acts. ; PROVIDED, that~~
 3 ~~every notary who receives a commission, either new or renewal, on~~
 4 ~~or after January 1, 1972, shall use an ink stamp seal to~~
 5 ~~authenticate any instrument.~~

6 Sec. 13. The Revisor of Statutes shall assign sections 3
 7 and 6 to 10 of this act to Chapter 64, article 1.

8 Sec. 14. Original sections 33-133, 64-101 to 64-103,
 9 64-113, and 64-210, Reissue Revised Statutes of Nebraska, are
 10 repealed."

11 2. On page 1, line 2, strike ", 64-102" and insert "to
 12 64-103"; and in line 4 after "to" insert "fees,".

LEGISLATIVE BILL 837. Placed on Select File.

LEGISLATIVE BILL 824. Placed on Select File.

LEGISLATIVE BILL 997. Placed on Select File.

LEGISLATIVE BILL 890. Placed on Select File as amended.

E & R amendment to LB 890:

AM7190

1 1. On page 3, lines 1 and 2, after "as" insert "a".

LEGISLATIVE BILL 845. Placed on Select File.

LEGISLATIVE BILL 884. Placed on Select File as amended.

E & R amendment to LB 884:

AM7194

1 1. On page 25, line 17; page 38, line 10; page 40, line
 2 14; and page 41, line 2, strike "said", show as stricken, and
 3 insert "such".

4 2. On page 37, line 18, after "commissions" insert an
 5 underscored comma.

6 3. On page 38, line 6, strike the comma and show as
 7 stricken.

8 4. On page 40, lines 11 and 12, strike "or equivalent

9 commercial insurance policies"; in line 15 strike the underscored 10 comma; and in lines 20 and 21, strike "sections 84-1201 to 11 84-1220", show as stricken, and insert "the Records Management 12 Act".

LEGISLATIVE BILL 980. Placed on Select File as amended.
E & R amendment to LB 980:
AM7192

- 1 1. On page 3, line 20, strike the first comma.

LEGISLATIVE BILL 1099. Placed on Select File.

LEGISLATIVE BILL 955. Placed on Select File as amended.
E & R amendment to LB 955:
AM7193

- 1 1. On page 1, strike beginning with the comma in line 1 2 through the first comma in line 2; and in line 4 strike beginning 3 with the first comma through the last comma.

LEGISLATIVE BILL 902. Placed on Select File.

LEGISLATIVE BILL 939. Placed on Select File.

LEGISLATIVE BILL 832. Placed on Select File as amended.
E & R amendment to LB 832:
AM7191

- 1 1. On page 1, strike beginning with "section" in line 2 2 through the first "and" in line 3.

LEGISLATIVE BILL 914. Placed on Select File.

Correctly Engrossed

The following bill was correctly engrossed: LB 999.

ER9110

Enrollment and Review Change to LB 999

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

1. In the Bourne amendment, AM2839, section 21 has been renumbered as section 20.
2. In the Quandahl amendment, AM2778, section 57 has been renumbered as section 56.
3. In the E & R amendments, AM7175:
 - a. On page 1, line 16, "9-701," has been inserted after the third comma; in line 19 "8-208," has been struck; and in line 23 "30-3897," has been struck; and
 - b. On page 2, lines 1 and 2, "trust companies," has been struck; in line 3

"gift enterprises," has been inserted after the second comma; in line 5 "Codes" has been struck and "Code" inserted; in line 12 "to eliminate currency transaction reporting provisions;" has been inserted after the second semicolon; and in line 13 "to outright repeal sections 8-1801 to 8-1807, Reissue Revised Statutes of Nebraska;" has been inserted after the second semicolon.

4. In the Standing Committee amendment, AM2339, on page 32, line 20, "32 to 43, and 55" has been struck and "31 to 42, and 54" inserted; and in line 21 "30 and 56" has been struck and "29 and 55" inserted.

5. On page 17, line 14, "19" has been struck and "18" inserted.

6. On page 30, line 1, "18" has been struck and "17" inserted; and in line 2 "18 to 20" has been struck and "17 to 19" inserted.

7. On page 31, line 16; and page 33, line 26, "18" has been struck and "17" inserted.

8. On page 58, line 19, "4, 6" has been struck and "5" inserted; and in line 25 "9-701," has been inserted after the last comma.

(Signed) Ray Mossey, Chairperson

GENERAL FILE

LEGISLATIVE BILL 916. Title read. Considered.

The Standing Committee amendment, AM2826, printed separately and referred to on page 818, was considered.

Senator Schrock renewed his pending amendment, AM3030, found on page 971, to the Standing Committee amendment.

The Schrock amendment was adopted with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

Pending.

STANDING COMMITTEE REPORTS

Appropriations

LEGISLATIVE BILL 917. Placed on General File.

LEGISLATIVE BILL 1144. Placed on General File.

LEGISLATIVE BILL 1071. Placed on General File as amended.

Standing Committee amendment to LB 1071:

AM2999

1 1. Insert the following new section:

2 "Sec. 2. Section 85-1415, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 85-1415. Consistent with the authority granted to the

5 Legislature pursuant to Article XIII, section 1, of the

6 Constitution of Nebraska, the commission shall review all capital

7 construction projects proposed by the Board of Regents of the
8 University of Nebraska and the Board of Trustees of the Nebraska
9 State Colleges pursuant to sections 85-404 and 85-408 and by any
10 nonprofit corporation created by the Board of Regents of the
11 University of Nebraska or the Board of Trustees of the Nebraska
12 State Colleges when (a) state general funds, (b) funds received by
13 the University of Nebraska or any state college for the purposes of
14 reimbursing overhead costs and expenses in connection with any
15 federal or other grant or contract, (c) tuition, or (d) the state's
16 operating investment pool investment income constitute all or any
17 part of the funds used for the repayment of all or any part of the
18 bonds of such nonprofit corporation. Such boards shall submit all
19 such projects, including applicable financing plans, to the
20 commission for review. Within sixty days from the date of
21 submission of a proposed project, the commission shall take action
22 by recommending that the Legislature or the Executive Board of the
23 Legislative Council either approve or disapprove the project.
24 Following such action by the commission, each such proposed project
1 together with the commission's recommendation of approval or
2 disapproval shall be submitted by the board concerned to the
3 Legislature or, ~~as applicable under sections 85-404 and 85-408,~~ to
4 the Executive Board of the Legislative Council. The Legislature
5 or, ~~as applicable under sections 85-404 and 85-408 if the~~
6 Legislature is not in session, the Executive Board of the
7 Legislative Council shall thereafter take action to approve or
8 disapprove the proposed project. ~~All projects authorized prior to~~
9 ~~January 1, 1992, shall be deemed approved."~~
10 2. On page 4, line 10, strike "section 21-1928" and
11 insert "sections 21-1928 and 85-1415"; and in line 11 strike "is"
12 and insert "are".
13 3. Renumber the remaining section accordingly.

LEGISLATIVE BILL 1089. Placed on General File as amended.
(Standing Committee amendment, AM3033, is printed separately and
available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1090. Placed on General File as amended.
Standing Committee amendment to LB 1090:
AM3068

1 1. Insert the following new sections:
2 "Section 1. Section 81-179, Reissue Revised Statutes of
3 Nebraska, is amended to read:
4 81-179. (1) There is hereby created under the control of
5 the Governor, for allocation to building renewal projects of the
6 various agencies, a fund to be known as the Building Renewal
7 Allocation Fund. The fund shall contain the revenue from the
8 special privilege tax as provided in section 77-2602, the interest
9 income as provided in section 84-613, and such other money as is
10 appropriated by the Legislature. Such appropriation is declared to

11 consist of building renewal funds which shall be kept separate and
 12 distinct from the program continuation funds and project
 13 construction funds.

14 (2) Separate subfunds, subprograms, projects, or accounts
 15 shall be established to separately account for any expenditures on
 16 state buildings or facilities to comply with the federal Americans
 17 with Disabilities Act of 1990. A minimal amount of the funds
 18 contained in the subfunds, subprograms, projects, or accounts may
 19 be used for planning and evaluation of buildings and facilities.

20 (3) The budget division of the Department of
 21 Administrative Services may administratively transfer funds to
 22 appropriate accounting entities to correctly account for the
 23 operating expenditures. A separate fund, cash fund, project, or
 24 other account may be administratively established for such purpose.

1 (4) Any money in the fund available for investment shall
 2 be invested by the state investment officer pursuant to the
 3 Nebraska Capital Expansion Act and the Nebraska State Funds
 4 Investment Act.

5 Sec. 3. Section 84-613, Reissue Revised Statutes of
 6 Nebraska, is amended to read:

7 84-613. Any money in the Cash Reserve Fund available for
 8 investment shall be invested by the state investment officer
 9 pursuant to the Nebraska Capital Expansion Act and the Nebraska
 10 State Funds Investment Act. ~~Any~~ Until July 1, 2007, any interest
 11 earned by the fund shall accrue to the General Fund. Commencing
 12 July 1, 2007, any interest earned by the Cash Reserve Fund shall
 13 accrue to the Building Renewal Allocation Fund."

14 2. On page 3, strike beginning with line 3 through "(5)"
 15 in line 6 and show the old matter as stricken; in line 9 strike
 16 "(6)" and insert "(5)"; in line 10 strike "three", show as
 17 stricken, and insert "twenty-six"; in line 12 strike "(7)" and
 18 insert "(6)"; in line 18 strike "(8)" and insert "(7)"; in line 23
 19 strike "(9)" and insert "(8)"; and in line 28 strike "(10)" and
 20 insert "(9)".

21 3. On page 4, line 14, after "Original" insert "sections
 22 81-179 and 84-613, Reissue Revised Statutes of Nebraska, and"; and
 23 in line 15 strike "is" and insert "are".

24 4. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 1091. Placed on General File as amended.
 Standing Committee amendment to LB 1091:
 AM3075

1 1. Insert the following new section:

2 "Sec. 4. Section 71-7607, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 71-7607. (1) The Nebraska Medicaid Intergovernmental
 5 Trust Fund is created. The fund shall include revenue received
 6 from governmental nursing facilities receiving payments for nursing
 7 facility services under the medical assistance program established

8 pursuant to section 68-1018. The Department of Health and Human
 9 Services Finance and Support shall remit such revenue to the State
 10 Treasurer for credit to the fund. The department shall adopt and
 11 promulgate rules and regulations to establish procedures for
 12 participation by governmental nursing facilities and for the
 13 receipt of such revenue under this section. Money from the
 14 Nebraska Medicaid Intergovernmental Trust Fund shall be transferred
 15 to the Nebraska Health Care Cash Fund as provided in section
 16 71-7611.

17 (2) The department may use revenue in the Nebraska
 18 Medicaid Intergovernmental Trust Fund to offset any unanticipated
 19 reductions in medicaid funds received under this section.

20 (3) For FY2003-04 and FY2004-05, transfers may be made
 21 from the fund to the Department of Health and Human Services Cash
 22 Fund, the Behavioral Health Services Fund, and the Attorney General
 23 Child Protection Cash Fund at the direction of the Legislature to
 24 fund child welfare and protection activities and emergency
 1 protective services. The Department of Administrative Services
 2 shall administratively create the Attorney General Protection Cash
 3 Fund to be administered by the Office of the Attorney General for
 4 the purpose of receiving fund transfers to assist with the
 5 prosecution of crimes against children.

6 (4) The State Treasurer shall transfer \$2,220,000 from
 7 the Nebraska Medicaid Intergovernmental Trust Fund to the
 8 Department of Health and Human Services Cash Fund on or before May
 9 1, 2004. The State Treasurer shall transfer \$5,420,000 from the
 10 Nebraska Medicaid Intergovernmental Trust Fund to the Department of
 11 Health and Human Services Cash Fund on or before July 15, 2004.
 12 The State Treasurer shall transfer \$80,000 from the Nebraska
 13 Medicaid Intergovernmental Trust Fund to the Attorney General
 14 Protection Cash Fund on or before May 1, 2004. The State Treasurer
 15 shall transfer \$80,000 from the Nebraska Medicaid Intergovernmental
 16 Trust Fund to the Attorney General Protection Cash Fund on or
 17 before July 15, 2004.

18 (5) Any money in the ~~fund~~ Nebraska Medicaid
 19 Intergovernmental Trust Fund available for investment shall be
 20 invested by the state investment officer pursuant to the Nebraska
 21 Capital Expansion Act and the Nebraska State Funds Investment
 22 Act."

23 2. On page 2, line 17, after the period insert "The
 24 State Treasurer shall transfer five million dollars from the State
 25 Lottery Operation Trust Fund to the General Fund within fifteen
 26 days after July 1, 2004.".

27 3. On page 4, lines 1 and 8, strike "2003-04 and
 1 2004-05", show as stricken, and insert "2003-04, 2004-05, 2005-06,
 2 and 2006-07"; and strike lines 11 through 15 and insert the
 3 following new paragraph:
 4 "At the direction of the budget administrator of the
 5 Department of Administrative Services, the State Treasurer shall

6 transfer available unobligated balances existing in the Education
 7 Innovation Fund to the General Fund on or before July 15, 2005, in
 8 such amounts as determined by the budget administrator, to include:
 9 Any unobligated money remaining as of June 30, 2004, and June 30,
 10 2005, in the Education Innovation Fund, appropriated for the
 11 Excellence in Education Council; investment income credited to the
 12 fund; and unobligated grant fund money returned to the state for
 13 credit to the Education Innovation Fund."
 14 4. On page 22, line 11, after "sections" insert
 15 "71-7607,".
 16 5. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 1092. Placed on General File as amended.
 (Standing Committee amendment, AM2921, is printed separately and
 available in the Bill Room, Room 1104.)

(Signed) Roger R. Wehrbein, Chairperson

AMENDMENTS - Print in Journal

Senator Hartnett filed the following amendment to LB 379:
 AM3073

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 77-2715.02, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 77-2715.02. (1) Whenever the primary rate is changed by
- 6 the Legislature under section 77-2715.01, the Tax Commissioner
- 7 shall update the rate schedules required in subsection (2) of this
- 8 section to reflect the new primary rate and shall publish such
- 9 updated schedules.
- 10 (2) The following rate schedules are hereby established
- 11 for the Nebraska individual income tax and shall be in the
- 12 following form:
- 13 (a) The income amounts for columns A and E shall be:
- 14 (i) \$0, \$2,400, \$17,000, and \$26,500, for single returns;
- 15 (ii) \$0, \$4,000, \$30,000, and \$46,750, for married filing
- 16 joint returns;
- 17 (iii) \$0, \$3,800, \$24,000, and \$35,000, for
- 18 head-of-household returns;
- 19 (iv) \$0, \$2,000, \$15,000, and \$23,375, for married filing
- 20 separate returns; and
- 21 (v) \$0, \$500, \$4,700, and \$15,150, for estates and
- 22 trusts;
- 23 (b) The amount in column C shall be the total amount of
- 24 the tax imposed on income less than the amount in column A;
- 1 (c) The amount in column D shall be the rate on the
- 2 income in excess of the amount in column E;
- 3 (d) For taxable years beginning or deemed to begin before

4 January 1, 2003, under the Internal Revenue Code of 1986, as
 5 amended, the primary rate set by the Legislature shall be
 6 multiplied by the following factors to compute the tax rates for
 7 column D. The factors for the brackets, from lowest to highest
 8 bracket, shall be .6784, .9432, 1.3541, and 1.8054;

9 (e) For taxable years beginning or deemed to begin on or
 10 after January 1, 2003, and before January 1, 2004, and for taxable
 11 years beginning or deemed to begin on or after January 1, 2006,
 12 under the Internal Revenue Code of 1986, as amended, the primary
 13 rate set by the Legislature shall be multiplied by the following
 14 factors to compute the tax rates for column D. The factors for the
 15 brackets, from lowest to highest bracket, shall be .6932, .9646,
 16 1.3846, and 1.848;

17 (f) For taxable years beginning or deemed to begin on or
 18 after January 1, 2004, and before January 1, 2006, under the
 19 Internal Revenue Code of 1986, as amended, the primary rate set by
 20 the Legislature shall be multiplied by the following factors to
 21 compute the tax rates for column D. The factors for the brackets,
 22 from lowest to highest bracket, shall be .708, .986, 1.415, and
 23 1.89;

24 (g) The amounts for column C shall be rounded to the
 25 nearest dollar, and the amounts in column D shall be rounded to
 26 hundredths of one percent; and

27 ~~(g)~~ (h) One rate schedule shall be established for each
 1 federal filing status.

2 (3) The tax rate schedules shall use the format set forth
 3 in this subsection.

4	A	B	C	D	E
5	Taxable income	but not	pay	plus	of the
6	over	over			amount over

7 (4) The tax rate applied to other federal taxes included
 8 in the computation of the Nebraska individual income tax shall be
 9 eight times the primary rate.

10 (5) The Tax Commissioner shall prepare, from the rate
 11 schedules, tax tables which can be used by a majority of the
 12 taxpayers to determine their Nebraska tax liability. The design of
 13 the tax tables shall be determined by the Tax Commissioner. The
 14 size of the tax table brackets may change as the level of income
 15 changes. The difference in tax between two tax table brackets
 16 shall not exceed fifteen dollars. The Tax Commissioner may build
 17 the personal exemption credit and standard deduction amounts into
 18 the tax tables.

19 (6) The Tax Commissioner may require by rule and
 20 regulation that all taxpayers shall use the tax tables if their
 21 income is less than the maximum income included in the tax tables.

22 Sec. 2. Original section 77-2715.02, Reissue Revised
 23 Statutes of Nebraska, is repealed."

Senator Jensen filed the following amendment to LB 1083:

(Amendment, AM3102, is printed separately and available in the Bill Room, Room 1104.)

EXPLANATION OF VOTES

Had I been present, I would have voted "aye" on final passage of LBs 16, 75, 279, 279A, 323, 449, 449A, 560, 560A, 818, 820, 821, 835, 836, 878, 911, 915, 927, 936, 937, 940, 947, 950, 961, 1033, 1069, 1179, and LR 211CA.

(Signed) Vickie D. McDonald

RESOLUTION

LEGISLATIVE RESOLUTION 257. Introduced by Raikes, 25.

WHEREAS, the Lincoln East girls' basketball team is the champion of the 2004 Class A Girls' State Basketball Tournament; and

WHEREAS, the Lady Spartans' victory in the state championship game capped a 24-1 season and secured the third girls' state basketball championship in school history; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state which is the result of the individual team members' performance and coaching excellence and the support of teachers, administrators, and parents.

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

1. That the Legislature recognizes and congratulates the Lincoln East girls' basketball team and its coaches, parents, and supporters.

2. That a copy of this resolution be sent to the Lincoln East girls' basketball team and its head coach, Todd Mitmesser.

Laid over.

ANNOUNCEMENT

The Chair announced today is Senator Brashear's birthday.

GENERAL FILE

LEGISLATIVE BILL 916. Senator Preister asked unanimous consent to withdraw his pending amendment, AM3035, found on page 989, and replace it with his substitute amendment, AM3168, to the Standing Committee amendment. No objections. So ordered.

AM3168

(Amendments to Standing Committee amendments, AM2826)

1. On page 23, line 24, after the period insert "A copy

2 of the nutrient management plan and supporting documentation shall
3 continuously be kept on file at the department, and at least
4 annually the operator shall update any changes made to the nutrient
5 management plan. The department shall require an operator
6 submitting an application for construction approval or major
7 modification to submit a plan that contains, at a minimum, the
8 information which the department required to be included in all
9 nutrient management plans on January 1, 2004."

SPEAKER BROMM PRESIDING

Senator Preister withdrew his amendment.

Senator Beutler withdrew his pending amendment, AM3037, found on page 989.

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

AM3064

(Amendments to Standing Committee amendments, AM2826)

- 1 1. Insert the following new section:
- 2 "Section 1. Section 13-2042, Revised Statutes
- 3 Supplement, 2003, is amended to read:
- 4 13-2042. (1) A disposal fee of one dollar and
- 5 twenty-five cents is imposed for each six cubic yards of
- 6 uncompacted solid waste, one dollar and twenty-five cents for each
- 7 three cubic yards of compacted solid waste, or one dollar and
- 8 twenty-five cents per ton of solid waste disposed of at landfills
- 9 regulated by the department. Each operator of a landfill disposal
- 10 facility shall make the fee payment quarterly. The fee shall be
- 11 paid quarterly to the department on or before the forty-fifth day
- 12 following the end of each quarter. For purposes of this section,
- 13 landfill has the same definition as municipal solid waste landfill
- 14 unit in 40 C.F.R. part 258, subpart A, section 258.2.
- 15 (2) Each fee payment shall be accompanied by a form
- 16 prepared and furnished by the department and completed by the
- 17 permitholder. The form shall state the total volume of solid waste
- 18 disposed of at that facility during the payment period and shall
- 19 provide any other information deemed necessary by the department.
- 20 The form shall be signed by the permitholder.
- 21 (3) If a permitholder fails to make a timely payment of
- 22 the fee, he or she shall pay interest on the unpaid amount at the
- 23 rate specified in section 45-104.02, as such rate may from time to
- 1 time be adjusted.
- 2 (4) This section shall not apply to a site used solely
- 3 for the reclamation of land through the introduction of landscaping
- 4 rubble or inert material.
- 5 (5) Fifty percent of the total of such fees collected in
- 6 each quarter shall be remitted to the State Treasurer for credit to

7 the Integrated Solid Waste Management Cash Fund and shall be used
8 by the department to cover the direct and indirect costs of
9 responding to spills or other environmental emergencies, of
10 regulating, investigating, remediating, and monitoring facilities
11 during and after operation of facilities, or of performance of
12 regulated activities under the Integrated Solid Waste Management
13 Act, the Nebraska Litter Reduction and Recycling Act, the Livestock
14 Waste Management Act, and the Waste Reduction and Recycling
15 Incentive Act. The department may seek recovery of expenses paid
16 from the fund for responding to spills or other environmental
17 emergencies or for investigation, remediation, and monitoring of a
18 facility from any person who owned, operated, or used the facility
19 in violation of the Integrated Solid Waste Management Act, the
20 Nebraska Litter Reduction and Recycling Act, the Livestock Waste
21 Management Act, and the Waste Reduction and Recycling Incentive Act
22 in a civil action filed in the district court of Lancaster County.

23 Of the amount credited to the Integrated Solid Waste Management
24 Cash Fund, the department may disburse amounts to political
25 subdivisions for costs incurred in response to and remediation of
26 any solid waste disposed of or abandoned at dump sites or discrete
27 locations along public roadways or ditches and on any contiguous
1 area affected by such disposal or abandonment. Such reimbursement
2 shall be by application to the department on forms prescribed by
3 the department. The department shall prepare and make available a
4 schedule of eligible costs and application procedures which may
5 include a requirement of a demonstration of preventive measures to
6 be taken to discourage future dumping. The department may not
7 disburse to political subdivisions an amount which in the aggregate
8 exceeds five percent of total revenue from the disposal fees
9 collected pursuant to this section in the preceding fiscal year.
10 These disbursements shall be made on a fiscal-year basis, and
11 applications received after funds for this purpose have been
12 exhausted may be eligible during the next fiscal year but are not
13 an obligation of the state. Any eligible costs incurred by a
14 political subdivision which are not funded due to a lack of funds
15 shall not be considered an obligation of the state. In disbursing
16 funds under this section, the director shall make efforts to ensure
17 equal geographic distribution throughout the state and may deny
18 reimbursements in order to accomplish this goal.

19 (6) The remaining fifty percent of the total of such fees
20 collected per quarter shall be remitted to the State Treasurer for
21 credit to the Waste Reduction and Recycling Incentive Fund. For
22 purposes of determining the total fees collected, any amount of
23 fees rebated pursuant to section 13-2042.01 shall be included as if
24 the fees had not been rebated, and the amount of the fees rebated
25 pursuant to such section shall be deducted from the amount to be
26 credited to the Waste Reduction and Recycling Incentive Fund.

27 (7) The council shall adopt and promulgate rules and
1 regulations for the distribution of grants under subsection (6) of

2 this section from the proceeds of the fees imposed by this section
 3 to counties, municipalities, and agencies for the purposes of
 4 planning and implementing facilities and systems to further the
 5 goals of the Integrated Solid Waste Management Act. The fees
 6 collected pursuant to this section shall not be used as grant
 7 proceeds to fund landfill closure site assessments, closure,
 8 monitoring, or investigative or corrective action costs for
 9 existing landfills or landfills already closed prior to July 15,
 10 1992. The rules and regulations shall base the awarding of grants
 11 on a project's reflection of the integrated solid waste management
 12 policy and hierarchy established in section 13-2018, the proposed
 13 amount of local matching funds, and community need.".

14 2. Correct the operative date and repealer sections so
 15 that the section added by this amendment becomes operative on its
 16 effective date.

17 3. Renumber the remaining sections and correct internal
 18 references accordingly.

The Beutler amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Senator Schrock offered the following amendment to the Standing Committee amendment:
 AM3085

(Amendments to Standing Committee amendments, AM2826)

- 1 1. Strike sections 1 to 5 and 25 to 27.
- 2 2. On page 9, line 14; and page 15, line 25, strike
- 3 "operative date of this section" and insert "effective date of this
- 4 act".
- 5 3. Renumber the remaining sections and correct internal
- 6 references accordingly.

The Schrock amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Senator Beutler offered the following amendment to the Standing Committee amendment:
 AM3104

(Amendments to Standing Committee amendments, AM2826)

- 1 1. On page 6, line 11, after the period insert "(1)";
- 2 and after line 13 insert the following new subsection:
- 3 "(2) The department shall implement the regulations
- 4 required for state programs as identified in 40 C.F.R. 123.25, as
- 5 such regulation existed on January 1, 2004.".

The Beutler amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

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

AM3170

(Amendments to Standing Committee amendments, AM2826)

- 1 1. On page 19, line 15, after "if" insert "the applicant
2 or permittee has not met all relevant zoning or ordinance
3 requirements as determined by the county board or boards pursuant
4 to subsection (4) of section 54-2411, or if".
- 5 2. On page 21, line 25, strike "Within", show as
6 stricken, and insert "Unless a county board has requested up to a
7 thirty-day extension to determine whether an applicant has met all
8 relevant zoning or ordinance requirements, within".
- 9 3. On page 22, after line 10 insert the following new
10 subsection:
11 "(4)(a) Within thirty days after receipt of notice from
12 the department, the county board or boards, or their designees, of
13 the counties in which the livestock waste control facility or
14 animal feeding operation is to be located shall notify the
15 department whether there are any zoning or ordinance requirements
16 which may be applicable to the proposed applicant's permit,
17 construction approval, or application for major modification.
18 Within ten business days of receiving notification by the county
19 board or boards, the department shall mail a complete copy or
20 copies of the application to the board or boards. A county board
21 may request up to a thirty-day extension to determine whether or
22 not the applicant has met all relevant zoning or ordinance
23 requirements. The extension shall be granted by the department and
1 shall extend the period after the close of the comment period to up
2 to seventy days, at which time the department shall make a decision
3 to approve or deny the permit. Within fourteen days of taking
4 final action to determine whether the applicant has met all
5 relevant zoning or ordinance requirements, the count board or
6 boards shall send to the department a certified letter conveying
7 its decision.
8 (b) The department may approve an application for a
9 permit, construction approval, or major modification of an
10 application if the applicant has met all local zoning requirements,
11 as evidenced by receipt of a certified letter from the county board
12 or boards as required in this subsection. If the department does
13 not receive a certified letter from the board or boards then that
14 condition for issuance of a permit is deemed to be waived."

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 247, 248, 249, 250, and 251 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 247, 248, 249, 250, and 251.

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 16, 818, 820e, 821, 835, 836e, 878e, 911e, 915, 927, 936, 937, 940e, 947, 950, 961, 1033e, 1069e, 1179, 75, 279, 279A, 323, 560e, 560A, 449, 449A, and LR 211CA.

STANDING COMMITTEE REPORTS**Health and Human Services**

LEGISLATIVE BILL 710. Placed on General File as amended. (Standing Committee amendment, AM2161, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Jim Jensen, Chairperson

Nebraska Retirement Systems

LEGISLATIVE BILL 120. Indefinitely postponed.

(Signed) Elaine Stuhr, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 258. Introduced by Vrtiska, 1.

WHEREAS, the Falls City Sacred Heart boys' basketball team is the champion of the 2004 Class D-1 Boys' State Basketball Tournament; and

WHEREAS, the Irish's victory in the state championship capped a winning streak of seventeen games won by an average of more than twenty-one points, including three wins over teams from higher classes; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state which is the result of the individual team members' performance, coaching excellence, and the support of teachers, administrators, and parents.

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

1. That the Legislature recognizes and congratulates the Falls City Sacred

Heart boys' basketball team and coaching staff.

2. That a copy of this resolution be sent to the Falls City Sacred Heart boys' basketball team and head coach Doug Goltz.

Laid over.

AMENDMENTS - Print in Journal

Senator Wehrbein filed the following amendment to LB 1093:
AM3027

(Amendments to Standing Committee amendments, AM2792)

- 1 1. On page 1, line 11, reinstate the stricken matter;
- 2 and strike line 13, show the old matter as stricken, and insert
- 3 "levy for fiscal years 2003-04 and 2004-05, (ii) one dollar and ten
- 4 cents per one hundred dollars of taxable valuation of property
- 5 subject to the levy for fiscal years 2005-06, 2006-07, and 2007-08,
- 6 and (iii)".

Senator Byars filed the following amendment to LB 845:
AM3095

- 1 1. On page 7, line 11, strike "the association promptly
- 2 mail" and insert "a prompt mailing of"; in line 13 strike
- 3 "association" and before the comma insert "affecting such
- 4 time-share use owners"; and in line 14 strike "association" and
- 5 insert "managing agent".

Senator Redfield filed the following amendment to LB 1083:
AM3059

(Amendments to Standing Committee amendments, AM2889)

- 1 1. Insert the following new sections:
- 2 "Sec. 30. Section 58-703, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 58-703. The Affordable Housing Trust Fund is created.
- 5 The fund shall receive money pursuant to sections 8-1120 and 76-903
- 6 and may include revenue from sources recommended by the housing
- 7 advisory committee established in section 58-704, appropriations
- 8 from the Legislature, grants, private contributions, repayment of
- 9 loans, and all other sources, except that before appropriations
- 10 from the General Fund may be used as a revenue source for the
- 11 Affordable Housing Trust Fund or for administrative costs of the
- 12 Department of Economic Development in administering the fund, such
- 13 use must be specifically authorized by a separate legislative bill
- 14 passed in a legislative session subsequent to the Ninety-fourth
- 15 Legislature, Second Session, 1996. Any initial appropriation from
- 16 the General Fund which is used as a revenue source for the
- 17 Affordable Housing Trust Fund or for administrative costs shall be
- 18 in an appropriations bill which does not contain appropriations for
- 19 other programs. The department as part of its comprehensive
- 20 housing affordability strategy shall administer the Affordable

21 Housing Trust Fund. Transfers may be made from the Affordable
22 Housing Trust Fund to the General Fund at the direction of the
23 Legislature. The State Treasurer shall make transfers from the
24 Affordable Housing Trust Fund to the General Fund according to the
25 following schedule: (1) \$1,500,000 on or after July 1, 2004, but
26 no later than July 10, 2004; (2) \$1,500,000 on or after July 1,
27 2005, but no later than July 10, 2005; and (3) \$1,500,000 on or
28 after July 1, 2006, but no later than July 10, 2006.

29 Sec. 31. Section 58-706, Reissue Revised Statutes of
30 Nebraska, is amended to read:

31 58-706. The following activities are eligible for
32 assistance from the Affordable Housing Trust Fund:

33 (1) New construction, rehabilitation, or acquisition of
34 housing to assist low-income and very low-income families;

35 (2) Matching funds for new construction, rehabilitation,
36 or acquisition of housing units to assist low-income and very
37 low-income families;

38 (3) Technical assistance, design and finance services,
39 and consultation for eligible nonprofit community or
40 neighborhood-based organizations involved in the creation of
41 affordable housing;

42 (4) Matching funds for operating costs for housing
43 assistance groups or organizations when such grant or loan will
44 substantially increase the recipient's ability to produce
45 affordable housing;

46 (5) Mortgage insurance guarantees for eligible projects;

47 (6) Acquisition of housing units for the purpose of
48 preservation of housing to assist low-income or very low-income
49 families;

50 (7) Projects making affordable housing more accessible to
51 families with elderly members or members who have disabilities;

52 (8) Projects providing housing in areas determined by the
53 Department of Economic Development to be of critical importance for
54 the continued economic development and economic well-being of the
55 community and where, as determined by the department, a shortage of
56 affordable housing exists;

57 (9) Infrastructure projects necessary for the development
58 of affordable housing;

59 (10) Downpayment and closing cost assistance; ~~and~~

60 (11) Housing education programs developed in conjunction
61 with affordable housing projects. The education programs must be
62 directed toward:

63 (a) Preparing potential home buyers to purchase
64 affordable housing and postpurchase education;

65 (b) Target audiences eligible to utilize the services of
66 housing assistance groups or organizations; and

67 (c) Developers interested in the rehabilitation,
68 acquisition, or construction of affordable housing; ~~and~~

69 (12) Rental assistance for adults with serious mental

20 illness.".

- 21 2. Amend the operative date and repealer sections so
- 22 that the sections added by this amendment become operative on their
- 23 effective date with the emergency clause.
- 24 3. Renumber the remaining sections accordingly.

Senators Quandahl, Foley, Jensen, Johnson, Louden, Mines, Redfield, and Tyson filed the following amendment to LB 1047:
(Amendment, AM3088, is printed separately and available in the Bill Room, Room 1104.)

RESOLUTION

LEGISLATIVE RESOLUTION 259. Introduced by Brown, 6; Hartnett, 45; Maxwell, 9; Tyson, 19.

WHEREAS, on February 21, 2004, the Creighton Preparatory School Academic Decathlon Team won the 2004 Academic Decathlon State Championship; and

WHEREAS, this is the third state championship won by Creighton Preparatory School and its first since 1995; and

WHEREAS, the Creighton Preparatory School Academic Decathlon Team displayed superior sportsmanship and exemplified hard work, dedication, and discipline throughout the season; and

WHEREAS, such team achievement is made possible not only by individual members' performances and coaching guidance, but also through the support of teachers, volunteers, administrators, and parents; and

WHEREAS, the Creighton Preparatory School Academic Decathlon Team will be representing the State of Nebraska at the National Academic Decathlon competition in April 2004, in Boise, Idaho.

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

1. That the Legislature recognizes and congratulates the Creighton Preparatory School Academic Decathlon Team and its coaches for their outstanding accomplishment.

2. That the Legislature wishes the Creighton Preparatory School the best of luck as it represents the State of Nebraska at the national competition in Boise, Idaho.

3. That a copy of this resolution be sent to the Creighton Preparatory School Academic Decathlon Team, head coach Jeannie Brayman, and Creighton Preparatory School President Rev. Tom Merkel, S.J.

Laid over.

VISITORS

Visitors to the Chamber were Pastor Larry DeMoss and Jane DeMoss from Broken Bow and Senator Jones' wife, Patricia, from Eddyville; Monica and

Luis Duarte from Orontina, Costa Rica, and Kathleen McCallister, Mike, Jason, and Kelsey McGee from Omaha; 75 fifth-grade students and teachers from Calvert Elementary School, Lincoln; Chuck Woodside from Minden; and Mike Morris, Brenda Christensen, Wells, Greta, and Tatum Morris from Omaha.

RECESS

At 12:00 p.m., on a motion by Senator Hartnett, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Landis and Stuthman who were excused; and Senators Bromm, Brown, Burling, Byars, Connealy, Cunningham, Hartnett, Jensen, Johnson, and Tyson who were excused until they arrive.

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 16, 2004, at 12:25 p.m. were the following: LBs 16, 818, 820e, 821, 835, 836e, 878e, 911e, 915, 927, 936, 937, 940e, 947, 950, 961, 1033e, 1069e, 1179, 75, 279, 279A, 323, 560e, 560A, 449, and 449A.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

PRESENTED TO THE SECRETARY OF STATE

Presented to the Secretary of State on March 16, 2004, at 12:15 p.m. was the following: LR 211CA.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

GENERAL FILE

LEGISLATIVE BILL 916. Senator Schimek withdrew her pending amendment, AM3170, found in this day's Journal.

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

FA1564

Amend AM2826

On page 7 in line 16 strike "economically"

Senator Chambers moved for a call of the house. The motion prevailed with 8 ayes, 1 nay, and 40 not voting.

The Chambers amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 846. Placed on Select File as amended.

E & R amendment to LB 846:

AM7195

- 1 1. Strike original section 1 and all amendments thereto
 2 and insert the following new section:
 3 "Section 1. Section 60-311.14, Revised Statutes
 4 Supplement, 2002, is amended to read:
 5 60-311.14. (1) The Department of Motor Vehicles shall,
 6 without the payment of any fee except the taxes and fees required
 7 by sections 60-311, 60-3002, and 60-3007, issue license plates for
 8 one motor vehicle not used for hire and a license plate for one
 9 motorcycle not used for hire to:
 10 (a) Any ~~any~~ permanently handicapped or disabled person as
 11 defined in section 18-1738 or his or her parent, legal guardian,
 12 foster parent, or agent upon application and proof of a permanent
 13 handicap or disability; or
 14 (b) A trust which owns the motor vehicle or motorcycle if
 15 a designated beneficiary of the trust qualifies under subdivision
 16 (a) of this subsection.
 17 Beginning January 1, 2005, an application and proof of
 18 disability in the form and with the information required by section
 19 18-1738 shall be filed before license plates are issued or reissued
 20 pursuant to this section.
 21 (2) The license plate or plates shall carry the
 22 internationally accepted wheelchair symbol, which symbol is a
 23 representation of a person seated in a wheelchair surrounded by a
 24 border six units wide by seven units high, and such other letters
 1 or numbers as the Director of Motor Vehicles prescribes. Such
 2 license plate or plates shall be used by such person in lieu of the
 3 usual license plate or plates."

LEGISLATIVE BILL 1004. Placed on Select File.

LEGISLATIVE BILL 1002. Placed on Select File.

LEGISLATIVE BILL 819. Placed on Select File as amended.

E & R amendment to LB 819:

AM7198

- 1 1. On page 2, line 6, strike "division" and insert
- 2 "Department of Administrative Services".

LEGISLATIVE BILL 1118. Placed on Select File as amended.

E & R amendment to LB 1118:

AM7197

- 1 1. On page 6, line 10, strike "subsection" and insert
- 2 "subdivision".

LEGISLATIVE BILL 1107. Placed on Select File.**LEGISLATIVE BILL 1149.** Placed on Select File as amended.

E & R amendment to LB 1149:

AM7200

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 37-455, Revised Statutes Supplement,
- 4 2003, is amended to read:
- 5 37-455. (1) The commission may issue a limited permit
- 6 for deer, antelope, wild turkey, or elk to a person who is a
- 7 qualifying landowner or leaseholder and his or her immediate family
- 8 as described in this section. A permit shall be valid during the
- 9 predetermined period established by the commission pursuant to
- 10 sections 37-447 to 37-450, 37-452, 37-456, or 37-457. Upon receipt
- 11 of an application in proper form as prescribed by the rules and
- 12 regulations of the commission, the commission may issue (a) a
- 13 limited deer, antelope, or wild turkey permit valid for hunting on
- 14 all of the land which is owned or leased by the qualifying
- 15 landowner or leaseholder if such lands are identified in the
- 16 application or (b) a limited elk permit valid for hunting on the
- 17 entire elk management unit of which the land of the qualifying
- 18 landowner or leaseholder included in the application is a part.
- 19 (2)(a) The commission shall adopt and promulgate rules
- 20 and regulations prescribing procedures and forms and create
- 21 requirements for documentation by an applicant or permittee to
- 22 determine whether the applicant or permittee is a Nebraska resident
- 23 and is a qualifying landowner or leaseholder of the described
- 24 property or is a member of the immediate family of and residing in
- 1 the same household as such qualifying landowner or leaseholder.
- 2 Only a person who is a qualifying landowner or leaseholder and such
- 3 person's immediate family residing in the same household as such
- 4 qualifying landowner or leaseholder may apply for a limited permit.
- 5 For purposes of this section, immediate family means and is limited
- 6 to a husband and wife and their children.
- 7 (b) The conditions applicable to permits issued pursuant
- 8 to sections 37-447 to 37-450, 37-452, 37-456, or 37-457, whichever

9 is appropriate, shall apply to limited permits issued pursuant to
10 this section, except that the commission may adopt and promulgate
11 rules and regulations for species harvest allocation pertaining to
12 the sex and age of the species harvested which are different for a
13 limited permit than for other hunting permits. For purposes of
14 this section, white-tailed deer and mule deer shall be treated as
15 one species.

16 (3)(a) To qualify for a limited permit to hunt deer or
17 antelope, the applicant shall be a Nebraska resident who owns or
18 leases eighty acres or more of farm or ranch land for agricultural
19 purposes or a member of such person's immediate family residing in
20 the same household. The number of limited permits issued annually
21 per species for each farm or ranch shall not exceed the total
22 acreage of the farm or ranch divided by eighty. An applicant may
23 apply for no more than one permit per species per year. The fee
24 for a limited permit to hunt deer or antelope shall be one-half the
25 fee for the regular permit for such species.

26 (b) A nonresident of Nebraska who owns three hundred
27 twenty acres or more of farm or ranch land in the State of Nebraska
1 for agricultural purposes or a member of such person's immediate
2 family residing in the same household may apply for a limited deer
3 permit. Only one limited deer permit per three hundred twenty
4 acres may be issued annually under this subdivision. The fee for
5 such a permit to hunt deer shall be one-half the fee for a
6 nonresident permit to hunt deer.

7 (c) The commission may adopt and promulgate rules and
8 regulations providing for the issuance of an additional limited
9 deer permit to a qualified individual for the taking of a deer
10 without antlers at a fee equal to or less than the fee for the
11 original limited permit.

12 (4)(a) To qualify for a limited permit to hunt wild
13 turkey, the applicant shall be a Nebraska resident who owns or
14 leases eighty acres or more of farm or ranch land for agricultural
15 purposes or a member of such person's immediate family residing in
16 the same household. The number of limited permits issued annually
17 per season for each farm or ranch shall not exceed the total
18 acreage of the farm or ranch divided by eighty. An applicant may
19 apply for no more than one limited permit per season. The fee for
20 a limited permit to hunt wild turkey shall be one-half the fee for
21 the regular permit to hunt wild turkey.

22 (b) A nonresident of Nebraska who owns three hundred
23 twenty acres or more of farm or ranch land in the State of Nebraska
24 for agricultural purposes or a member of such person's immediate
25 family residing in the same household may apply for a limited
26 permit to hunt wild turkey during the spring wild turkey season.
27 Only one limited wild turkey permit per three hundred twenty acres
1 may be issued annually under this subdivision. The fee for such a
2 permit to hunt shall be one-half the fee for a nonresident permit
3 to hunt wild turkey.

4 (5) To qualify for a limited permit to hunt elk, (a) the
 5 applicant shall be (i) a Nebraska resident who owns three hundred
 6 twenty acres or more of farm or ranch land for agricultural
 7 purposes, (ii) a Nebraska resident who leases three hundred twenty
 8 acres or more of farm or ranch land for agricultural purposes and
 9 resides on such property, or (iii) a member of such owner or
 10 lessee's immediate family residing in the same household and (b)
 11 the qualifying farm or ranch land of the applicant shall be within
 12 an area designated as an elk management zone by the commission in
 13 its rules and regulations. An applicant shall not be issued a
 14 limited elk permit more than once every three years, and the
 15 commission may give preference to a person who did not receive a
 16 limited elk permit or specified type of limited elk permit during
 17 the previous years. The fee for a limited permit to hunt elk shall
 18 be one-fifth the fee for the regular permit to hunt elk.

19 Sec. 2. Section 37-530, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 37-530. Any ~~deer or antelope~~ wildlife species as
 22 designated by the commission accidentally killed by a motor vehicle
 23 on a public highway in this state, unless seized and confiscated
 24 pursuant to sections 37-619 to 37-621, shall, when salvageable, be
 25 disposed of as determined by the commission or its designee.

26 Sec. 3. Original section 37-530, Reissue Revised
 27 Statutes of Nebraska, and section 37-455, Revised Statutes
 1 Supplement, 2003, are repealed.

2 Sec. 4. The following section is outright repealed:
 3 Section 37-528, Revised Statutes Supplement, 2002."
 4 2. On page 1, strike beginning with "section" in line 2
 5 through line 9 and insert "and section 37-455, Revised Statutes
 6 Supplement, 2003; to provide for nonresident permits to hunt wild
 7 turkey; to provide powers and duties for the Game and Parks
 8 Commission relating to wildlife killed on public highways; to
 9 eliminate a restriction on hunting certain wild animals; to
 10 eliminate a penalty; to repeal the original sections; and to
 11 outright repeal section 37-528, Revised Statutes Supplement,
 12 2002.".

LEGISLATIVE BILL 826. Placed on Select File as amended.

E & R amendment to LB 826:

AM7196

1 1. On page 1, line 1, strike "sections" and insert
 2 "section"; in line 2 strike "and 61-206"; and strike beginning with
 3 "duties" in line 5 through "duties" in line 7 and insert "and
 4 change powers and duties for the Department of Natural Resources
 5 and the Game and Parks Commission; to provide for rules and
 6 regulations and appeal procedures; to harmonize provisions; to
 7 provide a duty".

LEGISLATIVE BILL 727. Placed on Select File as amended.

E & R amendment to LB 727:

AM7199

- 1 1. On page 1, strike beginning with the first comma in
- 2 line 2 through line 8 and insert "; to provide for use of the
- 3 Federal Write-In Absentee Ballot; to provide for facsimile
- 4 transmission of certain ballots and related documents; and to
- 5 repeal the original section."

(Signed) Ray Mossey, Chairperson

GENERAL FILE

LEGISLATIVE BILL 916. Senator Beutler offered the following amendment to the Standing Committee amendment:

AM3114

(Amendments to Standing Committee amendments, AM2826)

- 1 1. On page 18, strike beginning with "This" in line 6
- 2 through line 7 and insert "The department shall annually review and
- 3 adjust the fee structure in this section to ensure that fees are
- 4 adequate to meet at least thirty percent of the program costs from
- 5 the previous fiscal year."; and strike lines 16 through 27 and show
- 6 the old matter as stricken.
- 7 2. On page 19, strike lines 1 through 5 and show the old
- 8 matter as stricken.

Pending.

AMENDMENT - Print in Journal

Senator Foley filed the following amendment to LB 1089:

AM3100

(Amendments to Standing Committee amendments, AM3033)

- 1 1. Strike original section 1.
- 2 2. Renumber the remaining sections accordingly.

BILL ON FIRST READING

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

LEGISLATIVE BILL 1084A. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1084, Ninety-eighth Legislature, Second Session, 2004.

GENERAL FILE

LEGISLATIVE BILL 973. Title read. Considered.

The Standing Committee amendment, AM2384, printed separately and referred to on page 480, was considered.

Senator Janssen renewed his pending amendment, AM3032, found on page 975, to the Standing Committee amendment.

SENATOR WEHRBEIN PRESIDING

The Janssen amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Pending.

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 916:
AM3118

(Amendments to Standing Committee amendments, AM2826)

- 1 1. On page 27, strike beginning with "Two" in line 16
- 2 through the period in line 19.

Senator Chambers filed the following amendment to LB 916:
FA1565

Amend AM2826

On page 9 in line 16 strike the second "for"

Senator Preister filed the following amendment to LB 916:
AM3191

(Amendments to Standing Committee amendments, AM2826)

- 1 1. On page 23, line 24, after the period insert "A copy
- 2 of the nutrient management plan and supporting documentation shall
- 3 continuously be kept on file at the department, and at least
- 4 annually the operator shall update changes made to the nutrient
- 5 management plan as required pursuant to rules and regulations
- 6 adopted and promulgated by the council. The department shall
- 7 require an operator submitting an application for construction
- 8 approval or major modification to submit a plan that contains, at a
- 9 minimum, the information which the department required to be
- 10 included in all nutrient management plans on January 1, 2004."
- 11 2. On page 26, line 11, strike "and" and insert an
- 12 underscored comma; and in line 13 after "approval" insert ", and a
- 13 description of the types of changes made to the nutrient management
- 14 plan required to be updated pursuant to section 18 of this act".

Senator Jones filed the following amendment to LB 916:
AM2952

(Amendments to Standing Committee amendments, AM2826)

- 1 1. On page 13, line 13, after the semicolon insert "or";
- 2 in line 14 after "existing" insert "permitted"; and strike
- 3 beginning with "modifies" in line 14 through the period in line 21
- 4 and insert "requests a permit modification and the department
- 5 determines that the proposed modification will not degrade the cold
- 6 water class A stream.
- 7 (3) The department may deny or restrict an application,
- 8 transfer, or modification of a permit based upon the potential for
- 9 degradation of a cold water class A stream."

Senator Chambers filed the following amendments to LB 916:

FA1566

Amend AM2826

On page 9, in line 11 strike "substantial".

FA1567

Amend AM2826

On page 9, in line 16 strike "is applied for" and insert "or construction approval application is submitted".

FA1568

Amend AM2826

1. On page 20, in lines 8 and 11 strike "The" and show as stricken and insert "Such"; in line 10 strike "enable" and show as stricken and insert "authorize"; in line 19 before "counties" insert "county or".
2. On page 21, in line 13 strike "Once" and insert "After".

FA1569

Amend AM2826

On page 20 in line 24 strike "regarding" and insert "assessing and evaluating".

FA1570

Amend AM2826

On page 19 in line 14 strike "may" and insert "shall".

Senator Quandahl filed the following amendment to LB 999:

AM3079

(Amendments to Final Reading copy)

- 1 1. Strike section 1.
- 2 2. On page 1, line 6, strike "8-113,"; and in lines 12
- 3 and 13 strike "bank names,".
- 4 3. On page 17, line 6, strike "18" and insert "17".
- 5 4. On page 29, line 22; page 31, line 9; and page 33,
- 6 line 21, strike "17" and insert "16".
- 7 5. On page 29, line 23, strike "17 to 19" and insert "16
- 8 to 18".
- 9 6. On page 91, line 19, strike "2, 5 to 20, 31 to 42,

- 10 and 54" and insert "4 to 19, 30 to 41, and 53"; and in line 21
 11 strike "24 to 29 and 55" and insert "23 to 28 and 54".
 12 7. On page 92, line 3, strike "8-113".
 13 8. Renumber the remaining sections accordingly.

Senator Cunningham filed the following amendment to LB 1005:
 (Amendment, AM3187, is printed separately and available in the Bill Room,
 Room 1104.)

Senator McDonald filed the following amendments to LB 1048:
 AM3122

- 1 1. On page 67, line 21, strike "2005" and insert "2006";
 2 and in line 22 strike "their effective date" and insert "fifteen
 3 calendar months after adjournment of this legislative session".

AM3123

(Amendments to Standing Committee amendments, AM2851)

- 1 1. On page 8, line 15, strike "Beginning" and insert
 2 "Before June 15, 2005, the school board of any Class II, III, IV,
 3 or V school district shall not close or change the elementary
 4 grades offered at any elementary attendance center.
 5 (2) On and after June 15, 2005, the school board of any
 6 Class II, III, IV, or V school district shall not close or change
 7 the elementary grades offered at an elementary attendance center if
 8 the per pupil cost of such elementary attendance center based on
 9 average daily attendance is not more than one thousand five hundred
 10 dollars above the statewide average per pupil cost calculated by
 11 the State Department of Education for school year 2003-04.
 12 (3) On and after"; in line 17 strike "an elementary
 13 attendance center"; and in line 18 after "center" insert "having a
 14 per pupil cost based on average daily attendance of not more than
 15 one thousand five hundred dollars above the statewide average per
 16 pupil cost calculated by the department for school year 2003-04".
 17 2. On page 9, strike beginning with "(2)" in line 4
 18 through "(1)" in line 5 and insert "(4) For elementary attendance
 19 centers with a per pupil cost based on average daily attendance of
 20 more than one thousand five hundred dollars above the statewide
 21 average per pupil cost calculated by the State Department of
 22 Education for school year 2003-04 and which are not subject to
 23 subsection (3)"; and in line 24 strike "(3)" and insert "(5)".
 1 3. On page 10, line 3, strike "(1) or (2)" and insert
 2 "(3) or (4)"; in line 4 strike "(4)" and insert "(6)"; and in line
 3 8 strike "(5)" and insert "(7)".

AM3124

(Amendments to Standing Committee amendments, AM2851)

- 1 1. On page 10, line 12, after "means" insert "(i)"; and
 2 in line 15 after "counted" insert "and (ii) option students
 3 enrolled in and attending such elementary attendance center in such

4 school year".

AM3125

(Amendments to Standing Committee amendments, AM2851)

- 1 1. On page 8, line 23, strike "resident" and strike "and
- 2 one-half".

AM3136

(Amendments to Standing Committee amendments, AM2851)

- 1 1. On page 9, strike beginning with "For" in line 4
- 2 through "(3)" in line 24.
- 3 2. On page 10, line 3, strike "or (2)"; in line 4 strike
- 4 "(4)" and insert "(3)"; and in line 8 strike "(5)" and insert
- 5 "(4)".

AM3127

(Amendments to Standing Committee amendments, AM2851)

- 1 1. On page 8, line 15, strike "Beginning" through "2005"
- 2 and insert "(1) Before July 1, 2009, the school board of a Class
- 3 II, III, IV, or V school district shall not close or change the
- 4 elementary grades offered at any elementary attendance center.
- 5 (2) On and after July 1, 2009".
- 6 2. On page 9, line 4, strike "(2)" and insert "(3)"; in
- 7 line 5 strike "(1)" and insert "(2)" and strike "from" through
- 8 "until" and insert "on and after"; and in line 24 strike "(3)" and
- 9 insert "(4)".
- 10 3. On page 10, line 3, strike "(1) or (2)" and insert
- 11 "(2) or (3)"; in line 4 strike "(4)" and insert "(5)"; and in line
- 12 8 strike "(5)" and insert "(6)".

AM3128

(Amendments to Standing Committee amendments, AM2851)

- 1 1. Insert the following new section:
- 2 "Sec. 36. Closure of any attendance center by a Class
- 3 II, III, IV, or V school district on or after the operative date of
- 4 this section shall require the affirmative vote of three-fifths of
- 5 the eligible voters in such district. For purposes of this
- 6 section, eligible voter includes any eligible voter residing within
- 7 the boundaries of the district as established by an order of the
- 8 State Committee for the Reorganization of School Districts under
- 9 section 2 or 3 of this act.".
- 10 2. On page 10, line 25, strike "37, 44, and 49" and
- 11 insert "38, 45, and 50".
- 12 3. Renumber the remaining sections accordingly.

AM3129

(Amendments to Standing Committee amendments, AM2851)

- 1 1. Insert the following new section:
- 2 "Sec. 35. When a Class I school district is dissolved

3 and its territory is attached to a Class II, III, IV, or V school
 4 district pursuant to an order under section 2 or 3 of this act, one
 5 school board member in addition to the number of members required
 6 by law for such Class II, III, IV, or V school district shall be
 7 elected at the first statewide general election following the
 8 school year in which such order becomes effective. Members elected
 9 under this section and their successors shall reside in the
 10 territory of any Class I school district dissolved and attached to
 11 such Class II, III, IV, or V school district pursuant to such
 12 order. For purposes of this section, in the case of a Class IV or
 13 Class V school district, all territory attached to such district
 14 pursuant to such order shall constitute one election district.
 15 Members elected under this subsection shall meet the qualifications
 16 found in section 79-543 and shall serve for terms of four years and
 17 until their successors are elected and qualified."
 18 2. On page 10, line 25, strike "37, 44, and 49" and
 19 insert "38, 45, and 50".
 20 3. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 973. Senator Beutler offered the following amendment:

AM3094

1 1. Insert the following new section:
 2 "Sec. 14. Section 77-1348, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 77-1348. (1) Whenever land which has received special
 5 valuation becomes disqualified for such special valuation, the
 6 assessor shall notify the taxpayer and there shall be added to the
 7 tax extended against the land on the respective property tax roll
 8 or rolls, to be collected and distributed in the same manner as
 9 other taxes levied upon real property, an amount equal to the sum
 10 of the following:
 11 (a) If the land was disqualified for special valuation
 12 before the levy date of the year of disqualification, the total
 13 amount by which the taxes assessed against the land would have been
 14 increased if it had been valued at its recapture value during the
 15 last three or lesser number of years in which such special
 16 valuation was in effect for the land, and, if the land was
 17 disqualified on or after the levy date of the year of
 18 disqualification, the total amount by which the taxes assessed
 19 against the land would have increased if it had been valued at its
 20 recapture value during the last four or lesser number of years in
 21 which special valuation was in effect for the land; and
 22 (b) Interest upon the amounts of additional tax from each
 23 year included in subdivision (1)(a) of this section at the rate of
 24 six percent from the dates at which such additional taxes would
 1 have been payable if no special valuation had been in effect

2 through sixty days after the notice sent pursuant to subsection (1)
 3 of this section. Upon expiration of the sixty days, the additional
 4 taxes and interest shall be delinquent and interest shall accrue at
 5 the rate provided in section 45-104.01 until paid.

6 (2) In cases when the designation of special valuation is
 7 removed as a result of a sale or transfer described in subdivision
 8 (2) or (3) of section 77-1347 other than an acquisition described
 9 in subsection (3) of this section, the lien for such increased
 10 taxes and interest shall attach as of the day preceding such sale
 11 or transfer.

12 (3) The provisions of subsection (1) of this section do
 13 not apply if:

14 (a) ~~The~~ the land was acquired by eminent domain;

15 (b) ~~The or if the~~ land is owned by a public entity and is
 16 disqualified from special valuation because it is being used or is
 17 being developed for use in a public purpose or is exchanged for
 18 other property to be used or developed for use in a public purpose;
 19 or

20 (c) The land is donated to an organization exempt from
 21 taxation under 501(c)(3) of the Internal Revenue Code or to the
 22 state or its political subdivisions and will be used by the
 23 organization, state, or political subdivision for a public,
 24 educational, religious, charitable, or cemetery purpose under
 25 section 77-202."

26 2. Renumber the remaining sections and correct internal
 27 references and the repealer accordingly.

Senator Beutler withdrew his amendment.

Advanced to E & R for review with 30 ayes, 0 nays, 14 present and not
 voting, and 5 excused and not voting.

LEGISLATIVE BILL 944. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not
 voting, and 6 excused and not voting.

LEGISLATIVE BILL 1084. Title read. Considered.

The Standing Committee amendment, AM2590, printed separately and
 referred to on page 645, was considered.

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

AM3099

(Amendments to Standing Committee amendments, AM2590)

1 1. On page 14, line 22, strike "Class IV" and insert

2 "Class III"; and in line 25 strike "Class I misdemeanor" and insert

3 "Class IV felony".

4 2. On page 15, line 2, strike "Class II" and insert
 5 "Class I"; in line 3 strike beginning with "less" through "dollars"
 6 and insert "two hundred dollars or more, but is less than five
 7 hundred dollars"; and after line 3 insert the following new
 8 subsection:
 9 "(5) A violation of subsection (1) of this section is a
 10 Class II misdemeanor when the amount of payments illegally claimed,
 11 paid, or received is less than two hundred dollars.".

Senator Chambers offered the following motion:
 Recommit to the Health and Human Services Committee.

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

The Chambers motion to recommit failed with 4 ayes, 20 nays, 10 present and not voting, and 15 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
 Reconsider vote to recommit to committee.

Pending.

AMENDMENTS - Print in Journal

Senator Brown filed the following amendment to LR 209CA:
 AM3048

(Amendments to E & R amendments, AM7183)

1 1. Insert the following new section:
 2 "Sec. 2. At the general election in November 2004 the
 3 following proposed amendment to the Constitution of Nebraska shall
 4 be submitted to the electors of the State of Nebraska for approval
 5 or rejection:
 6 To amend Article III, section 24:
 7 III-24 "(1) Except as provided in this section, the
 8 Legislature shall not authorize any game of chance or any lottery
 9 or gift enterprise when the consideration for a chance to
 10 participate involves the payment of money for the purchase of
 11 property, services, or a chance or admission ticket or requires an
 12 expenditure of substantial effort or time.
 13 (2) The Legislature may authorize and regulate a state
 14 lottery pursuant to subsection (3) of this section and other
 15 lotteries, raffles, and gift enterprises which are intended solely
 16 as business promotions or the proceeds of which are to be used
 17 solely for charitable or community betterment purposes without
 18 profit to the promoter of such lotteries, raffles, or gift
 19 enterprises.

20 (3) The Legislature may establish a lottery to be
 21 operated and regulated by the State of Nebraska. The proceeds of
 22 the lottery shall be appropriated by the Legislature for the costs
 23 of establishing and maintaining the lottery and for other purposes
 1 as directed by the Legislature. No lottery game shall be conducted
 2 as part of the lottery unless the type of game has been approved by
 3 a majority of the members of the Legislature.

4 (4) Nothing in this section shall be construed to
 5 prohibit (a) the enactment of laws providing for the licensing and
 6 regulation of wagering on the results of horseraces, wherever run,
 7 either within or outside of the state, by the parimutuel method,
 8 when such wagering is conducted by licensees within a licensed
 9 racetrack enclosure or (b) the enactment of laws providing for the
 10 licensing and regulation of bingo games conducted by nonprofit
 11 associations which have been in existence for a period of five
 12 years immediately preceding the application for license, except
 13 that bingo games cannot be conducted by agents or lessees of such
 14 associations on a percentage basis.

15 (5)(a) For purposes of this subsection, casino gaming
 16 includes games of chance played for money, credit, or any
 17 representative of value using cards; dice; equipment;
 18 player-activated electronic, video, or mechanical gaming devices;
 19 and other methods authorized by the Legislature.

20 (b) Nothing in the Constitution of Nebraska shall be
 21 construed to prohibit or restrict casino gaming as authorized by
 22 the Legislature at up to two casino locations. The Legislature
 23 shall authorize only one of such locations in the second
 24 congressional district as it existed in 2004. Subsequent to the
 25 initial legislative authorization of any casino location, the
 26 voters of the county in which such casino location is authorized
 27 shall either approve or disapprove casino gaming in such county.
 1 Only the Legislature may provide for the authorization, operation,
 2 regulation, and taxation of casino gaming whether casino gaming is
 3 authorized under this section or by initiative measure."

4 2. On page 3, line 23, after the first period insert the
 5 following new matter: "A constitutional amendment to define casino
 6 gaming and to permit the Legislature to authorize up to two casino
 7 locations subject to approval by voters in the affected counties
 8 and provide for the authorization, operation, regulation, and
 9 taxation of casino gaming.

10 For
 11 Against".

12 3. Renumber the remaining section accordingly.

Senator Bourne filed the following amendment to LB 906:
 AM3179

(Amendments to Final Reading copy)

1 1. On page 13, line 18, strike "GED" and insert "general
 2 educational development certificate, except that the department

3 shall waive the education requirement for persons engaged in the
4 practice of body art prior to April 1, 2005, upon submission of
5 evidence satisfactory to the department".

MOTION - Adjournment

Senator Janssen moved to adjourn. The motion prevailed with 13 ayes, 7 nays, 7 present and not voting, and 22 excused and not voting, and at 5:33 p.m., the Legislature adjourned until 9:00 a.m., Wednesday, March 17, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-THIRD DAY - MARCH 17, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 17, 2004

PRAYER

The prayer was offered by Senator Burling.

ROLL CALL

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

The roll was called and all members were present except Senators Bromm, Brown, Hudkins, Landis, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-second day was approved.

MOTIONS - Approve Appointments

Senator Brashear moved the adoption of the Judiciary Committee report for the confirmation of the following appointments found on page 1022:

Crime Victim's Reparations Committee
Scott Arnold
Scot Ford

Voting in the affirmative, 32:

Aguilar	Cunningham	Jones	Quandahl	Synowiecki
Baker	Erdman	Kremer	Raikes	Thompson
Brashear	Foley	McDonald	Redfield	Vrtiska
Byars	Friend	Mines	Schimek	Wehrbein
Combs	Hartnett	Mossey	Schrock	
Connealy	Jensen	Pedersen, Dw.	Smith	
Cudaback	Johnson	Price	Stuhr	

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Chambers	Kruse	Pederson, D.
Bourne	Engel	Louden	Preister
Burling	Janssen	Maxwell	Stuthman

Excused and not voting, 5:

Bromm	Brown	Hudkins	Landis	Tyson
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The appointments were confirmed with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Senator Brashear moved the adoption of the Judiciary Committee report for the confirmation of the following appointments found on page 1023:

Board of Parole

James Pearson

Kenneth J. Vampola

Voting in the affirmative, 34:

Aguilar	Cudaback	Jensen	McDonald	Schimek
Baker	Cunningham	Johnson	Mines	Smith
Brashear	Engel	Jones	Mossey	Stuhr
Brown	Erdman	Kremer	Pedersen, Dw.	Synowiecki
Byars	Foley	Kruse	Pederson, D.	Vrtiska
Combs	Friend	Louden	Quandahl	Wehrbein
Connealy	Janssen	Maxwell	Redfield	

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Burling	Preister	Schrock
Bourne	Chambers	Price	Stuthman
Bromm	Hartnett	Raikes	Thompson

Excused and not voting, 3:

Hudkins	Landis	Tyson
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The appointments were confirmed with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Senator Brashear moved the adoption of the Judiciary Committee report for the confirmation of the following appointments found on page 1023:

Community Corrections Council

Scot Adams

William Burgess

Catherine Cook

Aileen Gruendel
 Julie Hippen
 Robert Lindemeier
 Joe Kelly

Voting in the affirmative, 35:

Aguilar	Combs	Janssen	Maxwell	Redfield
Baker	Cudaback	Jensen	McDonald	Schimek
Bourne	Cunningham	Johnson	Mines	Smith
Brashear	Engel	Jones	Mossey	Stuhr
Brown	Erdman	Kremer	Pedersen, Dw.	Synowiecki
Burling	Foley	Kruse	Quandahl	Vrtiska
Byars	Hudkins	Louden	Raikes	Wehrbein

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Connealy	Pederson, D.	Schrock
Bromm	Friend	Preister	Stuthman
Chambers	Hartnett	Price	Thompson

Excused and not voting, 2:

Landis Tyson

The appointments were confirmed with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

AMENDMENT - Print in Journal

Senator Redfield filed the following amendment to LB 868:
 AM3096

(Amendments to E & R amendments, AM7187)

- 1 1. On page 1, line 12; page 2, lines 18 and 25; and page
- 2 3, line 4, strike "current" and insert "then-current".
- 3 2. On page 2, line 15, delete both occurrences of
- 4 "waiver" and before "on" insert "release discontinuing the
- 5 enrollment of the child"; in line 17 after "(e)" insert "(i)"; in
- 6 line 19 strike "the current" and insert "such" and strike "and" and
- 7 insert "(ii)"; in line 23 after "year" insert ", and (iii) such
- 8 affidavit has been filed by the parent or guardian with the school
- 9 district in which the child resides;
- 10 (f)(i) Will reach six years of age prior to January 1 of
- 11 the then-current school year but has not reached seven years of
- 12 age, (ii) such child's parent or guardian has signed an affidavit
- 13 stating that the parent or guardian intends for the child to
- 14 participate in a school which has elected or will elect pursuant to

15 section 79-1601 not to meet accreditation or approval requirements
 16 and the parent or guardian intends to provide the Commissioner of
 17 Education with a statement pursuant to subsection (3) of section
 18 79-1601 on or before the child's seventh birthday, and (iii) such
 19 affidavit has been filed by the parent or guardian with the school
 20 district in which the child resides"; and in line 24 strike "(f)"
 21 and insert "(g)".

RESOLUTION

LEGISLATIVE RESOLUTION 260. Introduced by Foley, 29.

WHEREAS, the Lincoln Pius X High School boys' basketball team won the 2004 Class B Boys' State High School Basketball Championship with a sixty-four to thirty-eight victory over Ralston High School; and

WHEREAS, in the title game, the Thunderbolts shot 61.1 percent from the field and allowed Ralston only sixteen points in the first half; and

WHEREAS, Lincoln Pius X advanced through the tournament as a number seven seed, defeating number two seed Beatrice, number six seed Blair, and number one seed Ralston; and

WHEREAS, Pius X beat Ralston for the championship after having lost to the top-ranked Rams earlier in the season; and

WHEREAS, the team completed its season with a record of fifteen wins and eight losses; and

WHEREAS, the team showed great heart and resolve in battling back from a string of early season losses to finish the season with seven straight wins over highly ranked opponents; and

WHEREAS, with this title victory, Lincoln Pius X won its fifth state championship in boys' basketball; and

WHEREAS, Lincoln Pius X has played for the state championship eleven times in the school's history and its last championship victory came in 2000; and

WHEREAS, this was Coach Ray Forycki's tenth season at Lincoln Pius X where he has won two state titles; and

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

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

1. That the Legislature recognizes and congratulates the Lincoln Pius X Thunderbolts boys' basketball team for its exemplary effort this season and for its performance in the Boys' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Ray Forycki and Lincoln Pius X High School.

Laid over.

BILL ON FIRST READING

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

LEGISLATIVE BILL 863A. Introduced by Baker, 44.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 863, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

GENERAL FILE

LEGISLATIVE BILL 962. The first Standing Committee amendment, FA1502, found on page 817 and considered on pages 818, 851, and 876, as amended, was renewed.

The first Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

The second Standing Committee amendment is as follows:
FA1504

23 Sec. 11. Section 46-241, Revised Statutes Supplement,
24 2003, is amended to read:

25 46-241. (1) Every person intending to construct and
26 operate a storage reservoir for irrigation or any other beneficial
27 purpose or intending to construct and operate a facility for
1 intentional underground water storage and recovery shall, except as
2 provided in subsections (2) and (3) of this section and section
3 46-243, make an application to the department upon the prescribed
4 form and provide such plans, drawings, and specifications as are
5 necessary to comply with section 46-257. Such application shall be
6 filed and proceedings had thereunder in the same manner and under
7 the same rules and regulations as other applications. Upon the
8 approval of such application under this section and any approval
9 required by section 46-257, the applicant shall have the right to
10 construct and impound in such reservoir, or store in and recover
11 from such underground water storage facility, all water not
12 otherwise appropriated and any appropriated water not needed for
13 immediate use, to construct and operate necessary ditches for the
14 purpose of conducting water to such storage reservoir or facility,
15 and to condemn land for such reservoir, ditches, or other facility.
16 The procedure to condemn property shall be exercised in the manner
17 set forth in sections 76-704 to 76-724.

18 (2) Any person intending to construct an on-channel
19 reservoir with a water storage impounding capacity of less than
20 fifteen acre-feet measured below the crest of the lowest open
21 outlet or overflow shall be exempt from subsection (1) of this
22 section as long as there will be (a) no diversion or withdrawal of

23 water from the reservoir for any purpose other than for watering
 24 range livestock and (b) no release of water from the reservoir ~~for~~
 25 ~~the purpose of to provide~~ water for a downstream diversion or
 26 withdrawal for any purpose other than for watering range livestock.
 27 This subsection does not exempt any person from the requirements of

1 section 46-257 or 54-2412.

2 (3) Any person intending to construct a reservoir,
 3 holding pond, or lagoon for the sole purpose of holding, managing,
 4 or disposing of animal or human waste shall be exempt from
 5 subsection (1) of this section. This subsection does not exempt
 6 any person from any requirements of section 46-233, 46-257, or
 7 54-2412.

8 (4) Every person intending to modify or rehabilitate an
 9 existing storage reservoir so that its impounding capacity is to be
 10 increased shall comply with subsection (1) of this section.

11 (5) The owner of a storage reservoir or facility shall be
 12 liable for all damages arising from leakage or overflow of the
 13 water therefrom or from the breaking of the embankment of such
 14 reservoir. The owner or possessor of a reservoir or intentional
 15 underground water storage facility does not have the right to store
 16 water in such reservoir or facility during the time that such water
 17 is required in ditches for direct irrigation or for any reservoir
 18 or facility holding a senior right. Every person who owns,
 19 controls, or operates a reservoir or intentional underground water
 20 storage facility, except political subdivisions of this state,
 21 shall be required to pass through the outlets of such reservoir or
 22 facility, whether presently existing or hereafter constructed, a
 23 portion of the measured inflows to furnish water for livestock in
 24 such amounts and at such times as directed by the department to
 25 meet the requirements for such purposes as determined by the
 26 department, except that a reservoir or facility owner shall not be
 27 required to release water for this purpose which has been legally
 1 stored. Any dam shall be constructed in accordance with section
 2 46-257, and the outlet works shall be installed so that water may
 3 be released in compliance with this section. The requirement for
 4 outlet works may be waived by the department upon a showing of good
 5 cause. Whenever any person diverts water from a public stream and
 6 returns it into the same stream, he or she may take out the same
 7 amount of water, less a reasonable deduction for losses in transit,
 8 to be determined by the department, if no prior appropriator for
 9 beneficial use is prejudiced by such diversion.

10 (6) An application for storage and recovery of water
 11 intentionally stored underground may be made only by an
 12 appropriator of record who shows, by documentary evidence,
 13 sufficient interest in the underground water storage facility to
 14 entitle the applicant to the water requested.

The second Standing Committee amendment was adopted with 27 ayes, 0
 nays, 15 present and not voting, and 7 excused and not voting.

The third Standing Committee amendment is as follows:
(FA1505 consists of Sections 13 through 22 of the Standing Committee amendment.)

The third Standing Committee amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

The fourth Standing Committee amendment is as follows:
FA1506

15 Sec. 25. Section 46-2,112, Revised Statutes Supplement,
16 2002, is amended to read:
17 46-2,112. ~~The director shall set a time and place for~~
18 ~~hearing every fifteen years from the date a~~ A permit to appropriate
19 water for instream flows shall be subject to review every fifteen
20 years after it is granted. Notice of the hearing a pending review
21 shall be given to the parties to the original application and shall
22 be published in a newspaper published or of general circulation in
23 the area involved at least once each week for three consecutive
24 weeks, the last publication to be not less than seven days prior to
25 the hearing later than fourteen years and ten months after the
26 permit was granted or after the date of the director's action
1 following the last such review, whichever is later. The notice
2 shall state that any interested person may file comments relating
3 to the review of the instream appropriation or may request a
4 hearing to present evidence relevant to such review. Any such
5 comments or request for hearing shall be filed in the headquarters
6 office of the department within six weeks after the date of final
7 publication of the notice. If request by any interested person,
8 the director shall schedule a hearing. The purpose of the hearing
9 shall be to receive evidence regarding whether the water
10 appropriated under the permit still provides the beneficial uses
11 for which the permit was granted and whether the permit is still in
12 the public interest. The hearing shall proceed under the
13 rebuttable presumption that the appropriation continues to provide
14 the beneficial uses for which the permit was granted and that the
15 appropriation is in the public interest. After the hearing, the
16 director may by order modify or cancel, in whole or in part, the
17 instream appropriation.

17 Sec. 26. Section 46-2,119, Revised Statutes Supplement,
18 2002, is amended to read:
19 46-2,119. Instream appropriations shall be administered
20 in the same manner as prescribed by Chapter 46, article 2, for
21 other appropriations. ~~Reservoirs ; except that existing reservoirs~~
22 shall not be required by the director to release, for the benefit
23 of an instream appropriation, water previously impounded in
24 accordance with section 46-241 or 46-243. Reservoirs with storage
25 rights senior to an instream appropriation shall not be required to
26 pass, for the benefit of that instream appropriation, inflows that

27 could be stored by such reservoir if the instream appropriation
 1 were not in effect. Notwithstanding subsection (5) of section
 2 46-241, a reservoir with storage rights senior to an instream
 3 appropriation also shall not be required to pass inflows for
 4 downstream direct irrigation if the appropriation for direct
 5 irrigation is junior to and would be denied water because of that
 6 instream appropriation. ~~impounded water for instream~~
 7 appropriations. Instream flow appropriations shall not be superior
 8 to existing storage rights as provided in section 46-241. Instream
 9 appropriations may be canceled as provided in section 46-229.04
 10 sections 46-229.02 to 46-229.05.

11 Sec. 27. Section 46-2,127, Reissue Revised Statutes of
 12 Nebraska, is amended to read:
 13 46-2,127. After obtaining approval of an application for
 14 transfer and map pursuant to sections 46-2,122 to 46-2,126, the
 15 board of directors of any irrigation district, reclamation
 16 district, public power and irrigation district, rural water
 17 district, or mutual irrigation or canal company may transfer an
 18 appropriation of water distributed for agricultural purposes from a
 19 tract or tracts of land within the district or served by the
 20 company to another tract or tracts of land within the boundaries of
 21 the district or served by the company if:

22 (1) The district or company finds that the transferring
 23 tract of land has received and had water, delivered by the district
 24 or company pursuant to a valid ~~water~~ appropriation, beneficially
 25 applied in (a) at least one of the preceding ~~three~~ five consecutive
 26 years or (b) ~~at least one of the preceding ten consecutive years if~~
 27 ~~the district or company finds~~ that there has been sufficient cause

1 for nonuse in the same manner as provided in section 46-229.04;

2 (2) The owner of the land to which the water
 3 appropriation is attached consents in writing to the transfer of
 4 the appropriation from his or her tract of land;

5 (3) The water appropriation, or portion thereof, proposed
 6 to be transferred has not been transferred by the board of
 7 directors of the district or company in the previous four years;

8 (4) The water allotment on the receiving tract of land
 9 will not exceed the amount that can be beneficially used for the
 10 purposes for which the appropriation was made and will not exceed
 11 the least amount of water that experience may indicate is
 12 necessary, in the exercise of good husbandry, for the production of
 13 crops; and

14 (5) After the transfer, the aggregate water use within
 15 the district or company will not exceed the aggregate water
 16 appropriation held by the district or company for the benefit of
 17 owners of land to which the water appropriations are attached.

The fourth Standing Committee amendment was adopted with 26 ayes, 0
 nays, 15 present and not voting, and 8 excused and not voting.

The fifth Standing Committee amendment is as follows:

FA1507

18 Sec. 28. Section 46-2,132, Revised Statutes Supplement,

19 2002, is amended to read:

20 46-2,132. (1) The members of the Water Policy Task Force

21 shall include: (a) Twenty irrigators, with at least one irrigator

22 from each of the state's thirteen river basins, giving

23 consideration to maintaining a balance between surface water users

24 and ground water users. Three irrigators shall be selected from

25 the Republican River Basin, two irrigators shall be selected from

26 the North Platte River Basin, two irrigators shall be selected from

27 the middle Platte River Basin, two irrigators shall be selected

1 from the Loup River Basin, two irrigators shall be selected from

2 the Elkhorn River Basin, two irrigators shall be selected from the

3 Big Blue River Basin, one irrigator shall be selected from the

4 South Platte River Basin, one irrigator shall be selected from the

5 lower Platte River Basin, one irrigator shall be selected from the

6 Little Blue River Basin, one irrigator shall be selected from the

7 Nemaha River Basin, one irrigator shall be selected from the

8 Niobrara River Basin, one irrigator shall be selected from the

9 White Hat River Basin, and one irrigator shall be selected from the

10 Missouri tributaries basin; (b) three representatives from

11 differing agricultural organizations; (c) three representatives

12 from differing environmental organizations; (d) two representatives

13 from differing recreational organizations; (e) three

14 representatives to represent the state at large; (f) five

15 representatives suggested for the Governor's consideration by the

16 Nebraska Association of Resources Districts; (g) four

17 representatives suggested for the Governor's consideration by the

18 Nebraska Power Association; (h) five representatives suggested for

19 the Governor's consideration by the League of Nebraska

20 Municipalities, with consideration given to maintaining a balance

21 between larger and smaller municipalities; and (i) such other

22 members as the Governor deems appropriate to provide the task force

23 with adequate and balanced representation. The Governor shall

24 notify the Legislature upon completion of the appointments.

25 (2) Additional members of the task force shall be: (a)

26 One representative from the Department of Natural Resources to

27 coordinate as appropriate with other state agencies; (b) one

1 representative from the Attorney General's office; (c) the

2 chairperson of the Natural Resources Committee of the Legislature;

3 and (d) the vice chairperson of the Natural Resources Committee of

4 the Legislature. Other members of the Legislature may participate

5 as desired.

6 (3) If any member of the task force is unable to serve

7 for any reason, the Governor shall appoint a successor to such

8 member. The successor shall represent the same constituency as the

9 member such successor replaces.

10 Sec. 29. Section 46-2,135, Revised Statutes Supplement,

11 2002, is amended to read:

12 46-2,135. The Water Policy Task Force shall meet at
13 least ~~four times~~ twice each year to consider the proposals and
14 recommendations of the executive committee and any other additional
15 times as the executive committee determines to be necessary to
16 accomplish the objectives established in section 46-2,131.

The fifth Standing Committee amendment was adopted with 26 ayes, 0
nays, 15 present and not voting, and 8 excused and not voting.

The sixth Standing Committee amendment is as follows:

FA1508

17 Sec. 30. Section 46-601.01, Revised Statutes Supplement,
18 2002, is amended to read:

19 46-601.01. For purposes of Chapter 46, article 6:

20 (1) Water well means any excavation that is drilled,
21 cored, bored, washed, driven, dug, jetted, or otherwise constructed
22 for the purpose of exploring for ground water, monitoring ground
23 water, utilizing the geothermal properties of the ground, obtaining
24 hydrogeologic information, or extracting water from or injecting
25 ~~water fluid~~ as defined in section 81-1502 into the underground
26 water reservoir. Water well does not include any excavation made
27 for obtaining or prospecting for oil or natural gas or for

1 inserting media to repressure oil or natural gas bearing formations
2 regulated by the Nebraska Oil and Gas Conservation Commission; and

3 (2) Common carrier means any carrier of water including a
4 pipe, canal, ditch, or other means of piping or adjoining water for
5 irrigation purposes.

6 Sec. 31. Section 46-602, Revised Statutes Supplement,
7 2003, is amended to read:

8 46-602. (1) Each water well completed in this state on
9 or after July 1, 2001, excluding test holes and dewatering wells to
10 be used for less than ninety days, shall be registered with the
11 Department of Natural Resources as provided in this section within
12 sixty days after completion of construction of the water well. The
13 water well contractor as defined in section 46-1213 constructing
14 the water well, or the owner of the water well if the owner
15 constructed the water well, shall file the registration on a form
16 made available by the department and shall also file with the
17 department the information from the well log required pursuant to
18 section 46-1241. The department shall, by January 1, 2002, provide
19 water well contractors with the option of filing such registration
20 forms electronically. No signature shall be required on forms
21 filed electronically. The fee required by subsection (3) of
22 section 46-1224 shall be the source of funds for any required fee
23 to a contractor which provides the on-line services for such
24 registration. Any discount in the amount paid the state by a
25 credit card, charge card, or debit card company or a third-party
26 merchant bank for such registration fees shall be deducted from the

27 portion of the registration fee collected pursuant to section
1 46-1224.

2 (2)(a) If the newly constructed water well is a
3 replacement water well, the registration number of the water well
4 it replaces, if applicable, and the date the original water well
5 was or will be decommissioned shall be included on the registration
6 form. For purposes of this section, replacement water well means a
7 water well which (i) replaces an abandoned water well within three
8 years after the last operation of the abandoned water well or
9 replaces a water well that will not be used after construction of
10 the new water well and the original water well will be abandoned
11 within one year after such construction and (ii) is constructed to
12 provide water to the same tract of land served by the water well
13 being replaced.

14 (b) No water well shall be registered as a replacement
15 water well until the Department of Natural Resources has received a
16 properly completed notice of abandonment for the water well being
17 replaced. Such notice shall be completed by (i) the water well
18 contractor as defined in section 46-1213 who decommissions the
19 water well, (ii) the pump installation contractor as defined in
20 section 46-1209 who decommissions the water well, or (iii) the
21 owner if the owner decommissions a driven sandpoint well which is
22 on land owned by him or her for farming, ranching, or agricultural
23 purposes or as his or her place of abode. The Department of Health
24 and Human Services Regulation and Licensure shall, by rule and
25 regulation, determine which contractor or owner shall be
26 responsible for such notice in situations in which more than one
27 contractor or owner may be required to provide notice under this
1 subsection.

2 (3) For a series of two or more water wells completed and
3 pumped into a common carrier as part of a single site plan for
4 irrigation purposes, a registration form and a detailed site plan
5 shall be filed for each water well. The registration form shall
6 include the registration numbers of other water wells included in
7 the series if such water wells are already registered.

8 (4) A series of water wells completed for purposes of
9 installation of a ground heat exchanger for a structure for
10 utilizing the geothermal properties of the ground shall be
11 considered as one water well. One registration form and a detailed
12 site plan shall be filed for each such series.

13 (5) One registration form shall be required along with a
14 detailed site plan which shows the location of each such water well
15 in the site and a log from each such water well for water wells
16 constructed as part of a single site plan for (a) monitoring ground
17 water, obtaining hydrogeologic information, or extracting
18 contaminants from the ground, (b) water wells constructed as part
19 of remedial action approved by the Department of Environmental
20 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and
21 (c) water well owners who have a permit issued pursuant to the

22 Industrial Ground Water Regulatory Act and also have an underground
23 injection control permit issued by the Department of Environmental
24 Quality.

25 (6) The department shall be notified by the owner of any
26 change in the ownership of a water well required to be registered
27 under this section. Notification shall be in such form and include
1 such evidence of ownership as the Director of Natural Resources by
2 rule and regulation directs. The department shall use such notice
3 to update the registration on file. The department shall not
4 collect a fee for the filing of the notice.

5 (7) The water well contractor or pump installation
6 contractor responsible therefor shall notify the department on a
7 form provided by the department of any pump installation or any
8 modifications to the construction of the water well or pump, after
9 the initial registration of the well. A water well owner shall
10 notify the department on a form provided by the department of any
11 other changes or any inaccuracies in recorded water well
12 information, including, but not limited to, changes in use. The
13 department shall not collect a fee for the filing of the notice.

14 (8) Whenever a water well becomes an illegal water well
15 as defined in section ~~46-656.07~~ 42 of this act, the owner of the
16 water well shall either correct the deficiency that causes the well
17 to be an illegal water well or shall cause the proper
18 decommissioning of the water well in accordance with rules and
19 regulations adopted pursuant to the Water Well Standards and
20 Contractors' Licensing Act. The water well contractor who
21 decommissions the water well, the pump installation contractor who
22 decommissions the water well, or the owner if the owner
23 decommissions a driven sandpoint well which is on land owned by him
24 or her for farming, ranching, or agricultural purposes or as his or
25 her place of abode, shall provide a properly completed notice of
26 abandonment to the Department of Natural Resources within sixty
27 days. The Department of Health and Human Services Regulation and
1 Licensure shall, by rule and regulation, determine which contractor
2 or owner shall be responsible for such notice in situations in
3 which more than one contractor or owner may be required to provide
4 notice under this subsection. The Department of Natural Resources
5 shall not collect a fee for the filing of the notice.

6 (9) Except for water wells which are used solely for
7 domestic purposes and were constructed before September 9, 1993,
8 and for test holes and dewatering wells used for less than ninety
9 days, each water well which was completed in this state before July
10 1, 2001, and which is not registered on that date shall be an
11 illegal water well until it is registered with the Department of
12 Natural Resources. Such registration shall be completed by a water
13 well contractor or by the current owner of the water well, shall be
14 on forms provided by the department, and shall provide as much of
15 the information required by subsections (1) through (5) of this
16 section for registration of a new water well as is possible at the

17 time of registration.

18 (10) Water wells which are or were used solely for
19 injecting any fluid other than water into the underground water
20 reservoir, which were constructed before the effective date of this
21 act, and which have not been properly decommissioned on or before
22 the effective date of this act shall be registered on or before
23 July 1, 2005.

21 Sec. 93. Section 46-1207.01, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 46-1207.01. (1) Illegal water well shall mean any water
24 well which has not been properly decommissioned and which meets any
25 of the following conditions:

26 (a) The water well is in such a condition that it cannot
27 be placed in active or inactive status;

1 (b) Any necessary operating equipment has been removed
2 and the well has not been placed in inactive status;

3 (c) The water well is in such a state of disrepair that
4 continued use for the purpose for which it was constructed is
5 impractical;

6 (d) The water well was constructed after October 1, 1986,
7 but not constructed by a licensed water well contractor or by an
8 individual on land owned by him or her and used by him or her for
9 farming, ranching, or agricultural purposes or as his or her place
10 of abode;

11 (e) The water well poses a health or safety hazard; ~~or~~

12 (f) The water well is an illegal water well in accordance
13 with section ~~46-656.07~~ 42 of this act; or

14 (g) The water well has been constructed after October 1,
15 1986, and such well is not in compliance with the standards
16 developed under the Water Well Standards and Contractors' Licensing
17 Act.

18 (2) Whenever the department classifies a water well as an
19 illegal water well, the landowner may petition the department to
20 reclassify the water well as an active status water well, an
21 inactive status water well, or an abandoned water well.

22 Sec. 94. Section 46-1207.02, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 46-1207.02. Inactive status water well shall mean a
25 water well that is in a good state of repair and for which the
26 owner has provided evidence of intent for future use by maintaining
27 the water well in a manner which meets the following requirements:

1 (1) The water well does not allow impairment of the water
2 quality in the water well or of the ground water encountered by the
3 water well;

4 (2) The top of the water well or water well casing has a
5 water-tight welded or threaded cover or some other water-tight
6 means to prevent its removal without the use of equipment or tools
7 to prevent unauthorized access, to prevent a safety hazard to
8 humans and animals, and to prevent illegal disposal of wastes or

9 contaminants into the water well;
 10 (3) All entrances and discharge piping to the water well
 11 are effectively sealed to prevent the entrance of contaminants; and
 12 ~~(3)~~ (4) The water well is marked so as to be easily
 13 visible and located and is labeled or otherwise marked so as to be
 14 easily identified as a water well and the area surrounding the
 15 water well is kept clear of brush, debris, and waste material.

16 Sec. 95. Section 46-1212, Reissue Revised Statutes of
 17 Nebraska, is amended to read:
 18 46-1212. Water well shall mean any excavation that is
 19 drilled, cored, bored, washed, driven, dug, jetted, or otherwise
 20 constructed for the purpose of exploring for ground water,
 21 monitoring ground water, utilizing the geothermal properties of the
 22 ground, obtaining hydrogeologic information, or extracting water
 23 from or injecting ~~water~~ fluid as defined in section 81-1502 into
 24 the underground water reservoir. Water well shall not include any
 25 excavation made for obtaining or prospecting for oil or natural gas
 26 or for inserting media to repressure oil or natural gas bearing
 27 formations regulated by the Nebraska Oil and Gas Conservation
 1 Commission.

2 Sec. 96. Section 46-1228, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 46-1228. The department shall have (1) authority to
 5 inspect water wells constructed, water wells decommissioned, and
 6 water well locations, (2) access to ~~such~~ water wells and
 7 accompanying pumps and pumping equipment at all reasonable times,
 8 and (3) power of inspection in regard to the construction and
 9 decommissioning of all water wells.

The sixth Standing Committee amendment was adopted with 25 ayes, 0
 nays, 16 present and not voting, and 8 excused and not voting.

The seventh Standing Committee amendment is as follows:
 FA1509

24 Sec. 32. Section 46-609, Reissue Revised Statutes of
 25 Nebraska, is amended to read:
 26 46-609. (1) ~~No~~ Except as otherwise provided by this
 27 section or section 46-610, no irrigation water well shall be
 1 drilled upon any land in this state within six hundred feet of any
 2 registered irrigation water well ~~except (a) any water well the~~
 3 ~~water from which is used solely for domestic, culinary, stock use~~
 4 ~~on a ranch or farm, or the watering of lawns and gardens for family~~
 5 ~~use or profit where the area to be irrigated does not exceed two~~
 6 ~~acres, (b) as provided in section 46-610, and (c) that any~~
 7 ~~irrigation water well which replaces an irrigation water well and~~
 8 ~~no existing non-irrigation water well within six hundred feet of~~
 9 any registered irrigation water well shall be used for irrigation
 10 purposes. Such spacing requirement shall not apply to (a) any well
 11 used to irrigate two acres or less or (b) any replacement

12 irrigation water well if it is drilled within fifty feet of the
13 irrigation water well being replaced and if the water well being
14 replaced was drilled prior to September 20, 1957, and which is less
15 than six hundred feet from a registered irrigation water well,
16 shall be drilled within fifty feet of the old water well.

17 (2) The spacing protection of subsection (1) of this
18 section shall apply to an unregistered water well for a period of
19 ~~thirty~~ sixty days after completion of such water well.

20 Sec. 33. Section 46-613.02, Revised Statutes Supplement,
21 2002, is amended to read:

22 46-613.02. Any person violating any provision of
23 sections 46-601 to 46-613.01 or furnishing false information under
24 such sections shall be guilty of a Class IV misdemeanor. ~~The~~
25 ~~Department of Natural Resources may enforce such sections by~~
26 ~~instituting proceedings, actions, and prosecutions~~ Each day of a
27 violation may be considered a separate offense. The Attorney
General and the county attorneys may pursue appropriate proceedings
pursuant to this section when notified by the Director of Natural
Resources that such a violation has occurred.

4 Sec. 34. Section 46-651, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 46-651. (1) Except as provided in section 46-653 or
7 46-654, (a) no irrigation or industrial water well or water well of
8 any other public water supplier shall be drilled within one
9 thousand feet of any registered water well of any public water
10 supplier, (b) no water well of any such public water supplier shall
11 be drilled within one thousand feet of any registered irrigation or
12 industrial water well, (c) no irrigation water well shall be
13 drilled within one thousand feet of a registered industrial water
14 well, and (d) no industrial water well shall be drilled within one
15 thousand feet of a registered irrigation or industrial water well.
16 Such prohibitions shall not apply to water wells owned by the same
17 person.

18 (2) An existing water well for which a change in the
19 intended use is proposed shall be subject to any spacing
20 requirement in subsection (1) of this section that would apply to
21 the drilling of a new water well at the same location for the new
22 use intended.

23 (3) The well-spacing protection of ~~subsection (1)~~
24 ~~subsections (1) and (2)~~ of this section shall apply to an
25 unregistered water well for a period of only ~~thirty~~ sixty days
26 following completion of such water well.

27 (4) The spacing requirements in subsection (1) of this
section shall not apply to any replacement water well if that water
well is drilled within fifty feet of the water well being replaced
and if the water well being replaced was drilled prior to the
effective date of this act, was in compliance with any applicable
spacing statute when drilled, and is less than one thousand feet
from the registered water well for which spacing protection is

7 provided.

8 Sec. 35. Section 46-653, Revised Statutes Supplement,
 9 2002, is amended to read:
 10 46-653. Any person may apply to the Director of Natural
 11 Resources for a special permit to drill or to change the intended
 12 use of a water well with regard to the spacing requirements of
 13 section 46-651. Such application shall be on a form prescribed and
 14 furnished by the director and shall contain a statement of the
 15 precise location of the water well or proposed water well, facts
 16 justifying the request for such special permit, the size or
 17 proposed size of such water well, expressed in gallons per minute,
 18 to the extent that capacity is susceptible of advance
 19 determination, and, if applicable, the name of the person who is
 20 actually going to drill the water well. A separate application
 21 shall be submitted for each water well for which a special permit
 22 is sought, and each application shall be accompanied by a fee of
 23 twelve dollars and fifty cents which shall be remitted to the State
 24 Treasurer for credit to the General Fund. When considering the
 25 approval or rejection of any such application, the director shall
 26 consider the facts offered as justification of the need for special
 27 permit, the known ground water supply, and such other pertinent
 1 information as may be available. Such application may be approved
 2 or disapproved in whole or in part and the special permit issued or
 3 refused accordingly.

13 Sec. 43. Section 46-656.08, Reissue Revised Statutes of
 14 Nebraska, is amended to read:
 15 ~~46-656.08.~~ Regardless of whether or not any portion of a
 16 district has been designated as a management area, in order to
 17 administer and enforce the Nebraska Ground Water Management and
 18 Protection Act and to effectuate the policy of the state to
 19 conserve ground water resources, a district may:

20 (1) Adopt and promulgate rules and regulations necessary
 21 to discharge the administrative duties assigned in the act;
 22 (2) Require such reports from ground water users as may
 23 be necessary;

24 (3) Require meters to be placed on any water wells for
 25 the purpose of acquiring water use data;

26 (4) Require decommissioning of water wells that are not
 27 properly classified as active status water wells as defined in
 1 section 46-1204.02 or inactive status water wells as defined in
 2 section 46-1207.02;

3 (5) Conduct investigations and cooperate or contract with
 4 agencies of the United States, agencies or political subdivisions
 5 of this state, public or private corporations, or any association
 6 or individual on any matter relevant to the administration of the
 7 act;

8 ~~(5)~~ (6) Report to and consult with the Department of
 9 Environmental Quality on all matters concerning the entry of
 10 contamination or contaminating materials into ground water

11 supplies; and

12 ~~(6)~~ (7) Issue cease and desist orders, following ten
13 days' notice to the person affected stating the contemplated action
14 and in general the grounds for the action and following reasonable
15 opportunity to be heard, to enforce any of the provisions of the
16 act or of orders or permits issued pursuant to the act, to initiate
17 suits to enforce the provisions of orders issued pursuant to the
18 act, and to restrain the construction of illegal water wells or the
19 withdrawal or use of water from illegal water wells.

20 Before any rule or regulation is adopted pursuant to this
21 section, a public hearing shall be held within the district.
22 Notice of the hearing shall be given as provided in section 79 of
23 this act.

10 Sec. 81. Section 46-656.10, Revised Statutes Supplement,
11 2003, is amended to read:

12 ~~46-656.10.~~ (1) Any person who violates a cease and
13 desist order issued by a district pursuant to section ~~46-656.08~~ 43
14 of this act shall be subject to a civil penalty of not less than
15 one thousand dollars and not more than five thousand dollars for
16 each day an intentional violation occurs. In assessing the amount
17 of the civil penalty, the court shall consider the degree and
18 extent of the violation, the size of the operation, whether the
19 violator has been previously convicted or subjected to a civil
20 penalty under this section, and any economic benefit derived from
21 noncompliance. Any civil penalty assessed and unpaid shall
22 constitute a debt to the state which may be collected in the manner
23 of a lien foreclosure or sued for and recovered in a proper form of
24 action in the name of the state in the district court of the county
25 in which the violator resides or owns property. The court shall,
26 within thirty days after receipt, remit the civil penalty to the
27 State Treasurer for credit to the permanent school fund.

1 (2)(a) Prior to issuing a cease and desist order against
2 a public water supplier as defined in section 46-638, the district
3 shall consult with the Attorney General. If the Attorney General
4 determines that the district does not have sufficient grounds to
5 issue a cease and desist order, the district shall abide by such
6 determination and shall not issue a cease and desist order. The
7 Attorney General shall have exclusive authority to enforce actions
8 under this subsection.

9 (b) Any determination as to whether a water well is
10 properly registered under sections 46-602 to 46-604 or whether a
11 water well is properly permitted under the Municipal and Rural
12 Domestic Ground Water Transfers Permit Act shall be made by the
13 Department of Natural Resources.

14 (3) When the Attorney General, a county attorney, or a
15 private attorney brings an action on behalf of a district to
16 recover a civil penalty under this section, the district shall
17 recover the costs of the action if a civil penalty is awarded. Any
18 recovered costs of the action shall be: (a) Remitted to the State

19 Treasurer for credit to the Department of Justice Natural Resources
 20 Enforcement Fund if the action is brought by the Attorney General;
 21 (b) credited to the applicable county fund if the action is brought
 22 by the county attorney; and (c) remitted to the district if the
 23 action is brought by the district's private attorney.
 24 (4) The Department of Justice Natural Resources
 25 Enforcement Fund is created. The fund shall consist of money
 26 credited pursuant to subsection (3) of this section. Money in the
 27 fund shall be used to reimburse the office of the Attorney General
 1 for the costs incurred in enforcing this section. Any money in the
 2 fund available for investment shall be invested by the state
 3 investment officer pursuant to the Nebraska Capital Expansion Act
 4 and the Nebraska State Funds Investment Act.

The seventh Standing Committee amendment was adopted with 26 ayes, 0
 nays, 15 present and not voting, and 8 excused and not voting.

The eighth Standing Committee amendment is as follows:

FA1510

4 Sec. 36. (1) A public water supplier as defined in
 5 section 46-638 may obtain protection for a public water supply
 6 wellfield from encroachment from other water wells by filing with
 7 the Department of Natural Resources a notice of intent to consider
 8 a wellfield. The notice of intent shall include:

9 (a) The legal description of the land being considered as
 10 a public water supply wellfield; and

11 (b) Written consent of the owner of the land considered
 12 for a public water supply wellfield, allowing the public water
 13 supplier to conduct an evaluation as to whether such land is
 14 suitable for a public water supply wellfield.

15 (2) A notice of intent filed under this section shall be
 16 limited to a contiguous tract of land. No public water supplier
 17 shall have more than three notices of intent under this section on
 18 file with the department at any one time.

19 (3) A notice of intent filed under this section shall
 20 expire one year after the date of filing and may be renewed for one
 21 additional year by filing with the department a notice of renewal
 22 of the original notice of intent filed under this section before
 23 expiration of the original notice of intent.

24 (4) At the time a notice of intent or a notice of renewal
 25 is filed with the department, the public water supplier shall:

26 (a) Provide a copy of the notice to the owners of land
 27 adjoining the land being considered for a wellfield;

1 (b) Provide a copy of the notice to the natural resources
 2 district or districts within which the land being considered for a
 3 wellfield is located; and

4 (c) Publish a copy of the notice in a newspaper of
 5 general circulation in the area in which the wellfield is being
 6 considered.

7 (5)(a) Except as provided in subdivisions (b) and (c) of
8 this subsection, during the time that a notice of intent under this
9 section is in effect, no person may drill or construct a water
10 well, as defined in section 46-601.01, within the following number
11 of feet of the boundaries of the land described in the notice of
12 intent, whichever is greater:
13 (i) One thousand feet; or
14 (ii) The maximum number of feet specified in any
15 applicable regulations of a natural resources district that a well
16 of a public water supplier must be spaced from another well.
17 (b) Any person who, at least one hundred eighty days
18 prior to filing a notice of intent, obtained a valid permit from a
19 natural resources district to drill or construct a water well
20 within the area subject to the protection provided by this section
21 is not prohibited from drilling or constructing a water well.
22 (c) The public water supplier may waive the protection
23 provided by this section and allow a person to drill or construct a
24 new or replacement water well within the area subject to the
25 protection provided by this section.
26 (6) Within thirty days after the public water supplier
27 reaches a determination that the land described in a particular
1 notice of intent is not suitable for a public water supply
2 wellfield, the public water supplier shall notify the Department of
3 Natural Resources, the owner of the land described in the notice of
4 intent, and the owners of the contiguous tracts of land of such
5 determination. Upon receipt by the department of the notice of
6 such determination, the notice of intent that contains the
7 description of such tract of land shall terminate immediately,
8 notwithstanding any other provision of this section.

The eighth Standing Committee amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

The ninth Standing Committee amendment is as follows:
(FA1511 consists of Sections 37 through 42 and 45 through 48 of the Standing Committee amendment.)

The ninth Standing Committee amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

The tenth Standing Committee amendment is as follows:
(FA1512 consists of Sections 49 through 56, 75, 79, 80, and 91 of the Standing Committee amendment.)

Senator Erdman withdrew his pending amendment, AM2850, found on page 836.

The tenth Standing Committee amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

The eleventh Standing Committee amendment is as follows:
FA1513

5 Sec. 78. Section 46-656.24, Revised Statutes Supplement,
6 2003, is amended to read:
7 ~~46-656.24. (1) Whenever a natural resources district~~
8 ~~pursuant to subsection (16) of section 46-656.28 has temporarily~~
9 ~~suspended the drilling of new wells in all or part of the district~~
10 ~~has been stayed pursuant to section 50 of this act, ground water~~
11 ~~withdrawn outside the affected area shall not be transported for~~
12 ~~use inside such area unless (a) such withdrawal and transport began~~
13 ~~before the temporary suspension stay took effect, (b) the water is~~
14 ~~used solely for domestic purposes, or (c) such withdrawal and~~
15 ~~transport is approved in advance by the district imposing the~~
16 ~~temporary suspension in which the stay is in effect and, if the~~
17 ~~water is withdrawn in another natural resources district, by the~~
18 ~~other district.~~

19 (2) Whenever a natural resources district pursuant to
20 subdivision ~~(1)(k)~~ (1)(m) of section ~~46-656.25~~ 75 of this act has
21 closed all or part of the district to the issuance of additional
22 well permits, ground water withdrawn outside the affected area
23 shall not be transported for use inside such area unless (a) such
24 withdrawal and transport began before the affected area was closed
25 to the issuance of additional well permits, (b) the water is used
26 solely for domestic purposes, or (c) such withdrawal and transport
27 is approved in advance by the district that closed the affected
1 area to additional well permits and, if the water is withdrawn in
2 another natural resources district, by the other district.

3 (3) If a proposed withdrawal and transport of water under
4 subsection (1) or (2) of this section is intended for municipal
5 purposes, the natural resources district shall approve the
6 withdrawal and transport of ground water into the affected area
7 when a public water supplier providing water for municipal purposes
8 receives a permit from the Department of Natural Resources pursuant
9 to the Municipal and Rural Domestic Ground Water Transfers Permit
10 Act.

Senator Jones moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The eleventh Standing Committee amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

The twelfth Standing Committee amendment is as follows:
FA1514

9 Sec. 92. (1) Any person intending to withdraw ground
10 water from any water well located in the State of Nebraska,
11 transport that water off the overlying land, and use it to augment

12 water supplies in any Nebraska wetland or natural stream for the
13 purpose of benefiting fish or wildlife or producing other
14 environmental or recreational benefits may do so only if the
15 natural resources district in which the water well is or would be
16 located allows withdrawals and transport for such purposes and only
17 after applying for and obtaining a permit from such natural
18 resources district. An application for any such permit shall be
19 accompanied by a nonrefundable fee of fifty dollars payable to such
20 district. Such permit shall be in addition to any permit required
21 pursuant to section 71 of this act.

22 (2) Prior to taking action on an application pursuant to
23 this section, the district shall provide an opportunity for public
24 comment on such application at a regular or special board meeting
25 for which advance published notice of the meeting and the agenda
26 therefor have been given consistent with sections 84-1408 to
27 84-1414.

1 (3) In determining whether to grant a permit under this
2 section, the board of directors for the natural resources district
3 shall consider:

4 (a) Whether the proposed use is a beneficial use of
5 ground water;

6 (b) The availability to the applicant of alternative
7 sources of surface water or ground water for the proposed
8 withdrawal, transport, and use;

9 (c) Any negative effect of the proposed withdrawal,
10 transport, and use on ground water supplies needed to meet present
11 or reasonable future demands for water in the area of the proposed
12 withdrawal, transport, and use, to comply with any interstate
13 compact or decree, or to fulfill the provisions of any other formal
14 state contract or agreement;

15 (d) Any negative effect of the proposed withdrawal,
16 transport, and use on surface water supplies needed to meet present
17 or reasonable future demands for water within the state, to comply
18 with any interstate compact or decree, or to fulfill the provisions
19 of any other formal state contract or agreement;

20 (e) Any adverse environmental effect of the proposed
21 withdrawal, transport, and use of the ground water;

22 (f) The cumulative effects of the proposed withdrawal,
23 transport, and use relative to the matters listed in subdivisions
24 (3)(c) through (e) of this section when considered in conjunction
25 with all other withdrawals, transports, and uses subject to this
26 section;

27 (g) Whether the proposed withdrawal, transport, and use
1 is consistent with the district's ground water quantity and quality
2 management plan and with any integrated management plan previously
3 adopted or being considered for adoption in accordance with
4 sections 49 to 55 of this act; and

5 (h) Any other factors consistent with the purposes of
6 this section which the board of directors deems relevant to protect

7 the interests of the state and its citizens.
 8 (4) Issuance of a permit shall be conditioned on the
 9 applicant's compliance with the rules and regulations of the
 10 natural resources district from which the water is to be withdrawn
 11 and, if the location where the water is to be used to produce the
 12 intended benefits is in a different natural resources district,
 13 with the rules and regulations of that natural resources district.
 14 The board of directors may include such reasonable conditions on
 15 the proposed withdrawal, transport, and use as it deems necessary
 16 to carry out the purposes of this section.
 17 (5) The applicant shall be required to provide access to
 18 his or her property at reasonable times for purposes of inspection
 19 by officials of any district where the water is to be withdrawn or
 20 to be used.

The twelfth Standing Committee amendment was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

The thirteenth Standing Committee amendment is as follows:
 (FA1515 consists of Sections 23, 24, 44, 57 through 74, 76, 77, 82 through 90, and 97 through 102 of the Standing Committee amendment.)

Senator Schrock asked unanimous consent to withdraw his pending amendment, AM2785, found on page 824, and replace it with his substitute amendment, AM3199, to the thirteenth Standing Committee amendment. No objections. So ordered.
 AM3199

(Amendments to Standing Committee amendments, AM2733)

1 1. Strike section 99 and insert the following new
 2 sections:
 3 "Sec. 3. Section 2-3225, Reissue Revised Statutes of
 4 Nebraska, is amended to read:
 5 2-3225. Each district shall have the power and authority
 6 to levy a tax of not to exceed four and one-half cents on each one
 7 hundred dollars of taxable valuation annually on all of the taxable
 8 property within such district unless a higher levy is authorized
 9 pursuant to section 77-3444. Each district shall also have the
 10 power and authority to levy a tax equal to the dollar amount by
 11 which its budgeted expenditures to administer and implement ground
 12 water management activities and integrated management activities
 13 under the Nebraska Ground Water Management and Protection Act
 14 exceed its budgeted expenditures to administer and implement ground
 15 water management activities and integrated management activities
 16 for FY2003-04, not to exceed one cent on each one hundred dollars
 17 of taxable valuation annually on all of the taxable property within
 18 the district. The proceeds of such tax shall be used, together
 19 with any other funds which the district may receive from any
 20 source, for the operation of the district. When adopted by the
 21 board, the levy shall be certified by the secretary to the county

22 clerk of each county which in whole or in part is included within
23 the district. Such levy shall be handled by the counties in the
1 same manner as other levies, and proceeds shall be remitted to the
2 district treasurer. Such levy shall not be considered a part of
3 the general county levy and shall not be considered in connection
4 with any limitation on levies of such counties.

5 Sec. 4. Section 13-520, Revised Statutes Supplement,
6 2002, is amended to read:

7 13-520. The limitations in section 13-519 shall not
8 apply to (1) restricted funds budgeted for capital improvements,
9 (2) restricted funds expended from a qualified sinking fund for
10 acquisition or replacement of tangible personal property with a
11 useful life of five years or more, (3) restricted funds pledged to
12 retire bonded indebtedness, used by a public airport to retire
13 bonded indebtedness at a lower cost to the public airport, or used
14 to pay other financial instruments that are approved and agreed to
15 before July 1, 1999, in the same manner as bonds by a governing
16 body created under section 35-501, (4) restricted funds budgeted in
17 support of a service which is the subject of an agreement or a
18 modification of an existing agreement whether operated by one of
19 the parties to the agreement or by an independent joint entity or
20 joint public agency, (5) restricted funds budgeted to pay for
21 repairs to infrastructure damaged by a natural disaster which is
22 declared a disaster emergency pursuant to the Emergency Management
23 Act, ~~or~~ (6) restricted funds budgeted to pay for judgments, except
24 judgments or orders from the Commission of Industrial Relations,
25 obtained against a governmental unit which require or obligate a
26 governmental unit to pay such judgment, to the extent such judgment
27 is not paid by liability insurance coverage of a governmental unit,
1 or (7) the dollar amount by which restricted funds budgeted by a
2 natural resources district to administer and implement ground water
3 management activities and integrated management activities under
4 the Nebraska Ground Water Management and Protection Act exceed its
5 budgeted expenditures to administer and implement ground water
6 management activities and integrated management activities for
7 FY2003-04.

9 Sec. 91. (1) The Water Resources Trust Fund is created.
10 The State Treasurer shall credit to the fund such money as is
11 specifically appropriated thereto by the Legislature and such
12 funds, fees, donations, gifts, or bequests received by the
13 Department of Natural Resources from any federal, state, public, or
14 private source for expenditure for the purposes described in the
15 Nebraska Ground Water Management and Protection Act. Money in the
16 fund shall not be subject to any fiscal-year limitation or lapse
17 provision of unexpended balance at the end of any fiscal year or
18 biennium. Any money in the fund available for investment shall be
19 invested by the state investment officer pursuant to the Nebraska
20 Capital Expansion Act and the Nebraska State Funds Investment Act.

21 (2) The fund shall be administered by the department.
22 The department shall adopt and promulgate rules and regulations
23 regarding the allocation and expenditure of money from the fund.
24 (3) Money in the fund may be expended by the department
25 for costs incurred by the department, by natural resources
26 districts, or by other political subdivisions in (a) determining
27 whether river basins, subbasins, or reaches are fully appropriated
1 in accordance with section 51 of this act, (b) developing or
2 implementing integrated management plans for such fully
3 appropriated river basins, subbasins, or reaches or for river
4 basins, subbasins, or reaches designated as over-appropriated in
5 accordance with section 51 of this act, (c) developing or
6 implementing integrated management plans in river basins,
7 subbasins, or reaches which have not yet become either fully
8 appropriated or over-appropriated, or (d) attaining state
9 compliance with an interstate water compact or decree or other
10 formal state contract or agreement.
11 (4) Except for funds paid to a political subdivision for
12 forgoing or reducing its own water use or for implementing projects
13 or programs intended to aid the state in complying with an
14 interstate water compact or decree or other formal state contract
15 or agreement, a political subdivision that receives funds from the
16 fund shall provide, or cause to be provided, matching funds in an
17 amount at least equal to twenty percent of the amount received from
18 the fund by that natural resources district or political
19 subdivision. The department shall monitor programs and activities
20 funded by the fund to ensure that the required match is being
21 provided.

22 Sec. 102. Section 77-3442, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-3442. (1) Property tax levies for the support of
25 local governments for fiscal years beginning on or after July 1,
26 1998, shall be limited to the amounts set forth in this section
27 except as provided in section 77-3444.

1 (2)(a) Except as provided in subdivision (2)(b) of this
2 section, school districts and multiple-district school systems may
3 levy a maximum levy of (i) one dollar and five cents per one
4 hundred dollars of taxable valuation of property subject to the
5 levy for fiscal years 2003-04 and 2004-05 and (ii) one dollar per
6 one hundred dollars of taxable valuation of property subject to the
7 levy for all fiscal years except fiscal years 2003-04 and 2004-05.
8 Excluded from this limitation are amounts levied to pay for sums
9 agreed to be paid by a school district to certificated employees in
10 exchange for a voluntary termination of employment and amounts
11 levied to pay for special building funds and sinking funds
12 established for projects commenced prior to April 1, 1996, for
13 construction, expansion, or alteration of school district
14 buildings. For purposes of this subsection, commenced means any
15 action taken by the school board on the record which commits the

16 board to expend district funds in planning, constructing, or
17 carrying out the project.

18 (b) Federal aid school districts may exceed the maximum
19 levy prescribed by subdivision (2)(a) of this section only to the
20 extent necessary to qualify to receive federal aid pursuant to
21 Title VIII of Public Law 103-382, as such title existed on
22 September 1, 2001. For purposes of this subdivision, federal aid
23 school district means any school district which receives ten
24 percent or more of the revenue for its general fund budget from
25 federal government sources pursuant to Title VIII of Public Law
26 103-382, as such title existed on September 1, 2001.

27 (c) Beginning with school fiscal year 2002-03 through
1 school fiscal year 2004-05, school districts and multiple-district
2 school systems may, upon a three-fourths majority vote of the
3 school board of the school district, the board of the unified
4 system, or the school board of the high school district of the
5 multiple-district school system that is not a unified system,
6 exceed the maximum levy prescribed by subdivision (2)(a) of this
7 section in an amount equal to the net difference between the amount
8 of state aid that would have been provided under the Tax Equity and
9 Educational Opportunities Support Act without the changes made by
10 Laws 2002, LB 898, for the ensuing school fiscal year for the
11 school district or multiple-district school system and the amount
12 provided under the act as amended by Laws 2002, LB 898. The State
13 Department of Education shall certify to the school districts and
14 multiple-district school systems the amount by which the maximum
15 levy may be exceeded pursuant to subdivision (2)(c) of this section
16 on or before May 15, 2002, for school fiscal year 2002-03, June 30,
17 2003, for school fiscal year 2003-04, and February 15, 2004, for
18 school fiscal year 2004-05.

19 (3) Community colleges may levy a maximum levy on each
20 one hundred dollars of taxable property subject to the levy of
21 seven cents for fiscal year 2000-01 and each fiscal year
22 thereafter, plus amounts allowed under subsection (7) of section
23 85-1536.01.

24 (4) Natural resources districts may levy a maximum levy
25 of four and one-half cents per one hundred dollars of taxable
26 valuation of property subject to the levy. Natural resources
27 districts shall also have the power and authority to levy a tax
1 equal to the dollar amount by which their budgeted expenditures to
2 administer and implement ground water management activities and
3 integrated management activities under the Nebraska Ground Water
4 Management and Protection Act exceed their budgeted expenditures to
5 administer and implement ground water management activities and
6 integrated management activities for FY2003-04, not to exceed one
7 cent on each one hundred dollars of taxable valuation annually on
8 all of the taxable property within the district.

9 (5) Educational service units may levy a maximum levy of
10 one and one-half cents per one hundred dollars of taxable valuation

11 of property subject to the levy.

12 (6)(a) Incorporated cities and villages which are not
13 within the boundaries of a municipal county may levy a maximum levy
14 of forty-five cents per one hundred dollars of taxable valuation of
15 property subject to the levy plus an additional five cents per one
16 hundred dollars of taxable valuation to provide financing for the
17 municipality's share of revenue required under an agreement or
18 agreements executed pursuant to the Interlocal Cooperation Act or
19 the Joint Public Agency Act. The maximum levy shall include
20 amounts levied to pay for sums to support a library pursuant to
21 section 51-201, museum pursuant to section 51-501, visiting
22 community nurse, home health nurse, or home health agency pursuant
23 to section 71-1637, or statue, memorial, or monument pursuant to
24 section 80-202.

25 (b) Incorporated cities and villages which are within the
26 boundaries of a municipal county may levy a maximum levy of ninety
27 cents per one hundred dollars of taxable valuation of property

1 subject to the levy. The maximum levy shall include amounts paid
2 to a municipal county for county services, amounts levied to pay
3 for sums to support a library pursuant to section 51-201, a museum
4 pursuant to section 51-501, a visiting community nurse, home health
5 nurse, or home health agency pursuant to section 71-1637, or a
6 statue, memorial, or monument pursuant to section 80-202.

7 (7) Sanitary and improvement districts which have been in
8 existence for more than five years may levy a maximum levy of forty
9 cents per one hundred dollars of taxable valuation of property
10 subject to the levy, and sanitary and improvement districts which
11 have been in existence for five years or less shall not have a
12 maximum levy. Unconsolidated sanitary and improvement districts
13 which have been in existence for more than five years and are
14 located in a municipal county may levy a maximum of eighty-five
15 cents per hundred dollars of taxable valuation of property subject
16 to the levy.

17 (8) Counties may levy or authorize a maximum levy of
18 fifty cents per one hundred dollars of taxable valuation of
19 property subject to the levy, except that five cents per one
20 hundred dollars of taxable valuation of property subject to the
21 levy may only be levied to provide financing for the county's share
22 of revenue required under an agreement or agreements executed
23 pursuant to the Interlocal Cooperation Act or the Joint Public
24 Agency Act. The maximum levy shall include amounts levied to pay
25 for sums to support a library pursuant to section 51-201 or museum
26 pursuant to section 51-501. The county may allocate up to fifteen
27 cents of its authority to other political subdivisions subject to
1 allocation of property tax authority under subsection (1) of
2 section 77-3443 and not specifically covered in this section to
3 levy taxes as authorized by law which do not collectively exceed
4 fifteen cents per one hundred dollars of taxable valuation on any
5 parcel or item of taxable property. The county may allocate to one

6 or more other political subdivisions subject to allocation of
7 property tax authority by the county under subsection (1) of
8 section 77-3443 some or all of the county's five cents per one
9 hundred dollars of valuation authorized for support of an agreement
10 or agreements to be levied by the political subdivision for the
11 purpose of supporting that political subdivision's share of revenue
12 required under an agreement or agreements executed pursuant to the
13 Interlocal Cooperation Act or the Joint Public Agency Act. If an
14 allocation by a county would cause another county to exceed its
15 levy authority under this section, the second county may exceed the
16 levy authority in order to levy the amount allocated.

17 (9) Municipal counties may levy or authorize a maximum
18 levy of one dollar per one hundred dollars of taxable valuation of
19 property subject to the levy. The municipal county may allocate
20 levy authority to any political subdivision or entity subject to
21 allocation under section 77-3443.

22 (10) Property tax levies for judgments, except judgments
23 or orders from the Commission of Industrial Relations, obtained
24 against a political subdivision which require or obligate a
25 political subdivision to pay such judgment, to the extent such
26 judgment is not paid by liability insurance coverage of a political
27 subdivision, for preexisting lease-purchase contracts approved
1 prior to July 1, 1998, for bonded indebtedness approved according
2 to law and secured by a levy on property, and for payments by a
3 public airport to retire interest-free loans from the Department of
4 Aeronautics in lieu of bonded indebtedness at a lower cost to the
5 public airport are not included in the levy limits established by
6 this section.

7 (11) The limitations on tax levies provided in this
8 section are to include all other general or special levies provided
9 by law. Notwithstanding other provisions of law, the only
10 exceptions to the limits in this section are those provided by or
11 authorized by sections 77-3442 to 77-3444.

12 (12) Tax levies in excess of the limitations in this
13 section shall be considered unauthorized levies under section
14 77-1606 unless approved under section 77-3444.

15 (13) For purposes of sections 77-3442 to 77-3444,
16 political subdivision means a political subdivision of this state
17 and a county agricultural society.

18 Sec. 103. Sections 3, 4, 91, 102, and 105 of this act
19 become operative July 1, 2004. This section and sections 104 and
20 108 of this act become operative on their effective date. The
21 other sections of this act become operative three calendar months
22 after adjournment of this legislative session.

23 Sec. 105. Original sections 2-3225 and 77-3442, Reissue
24 Revised Statutes of Nebraska, and section 13-520, Revised Statutes
25 Supplement, 2002, are repealed.

26 Sec. 108. Since an emergency exists, this act takes
27 effect when passed and approved according to law."

- 1 2. On page 62, line 11, strike "37 to 88" and insert "39
2 to 91".
- 3 3. On page 133, line 24, strike "a transfer for which a
4 permit has" and insert "transfers for which permits have" and in
5 line 26 after "act" insert "or pursuant to the Municipal and Rural
6 Domestic Ground Water Transfers Permit Act".
- 7 4. On page 136, strike lines 10 through 13, show as
8 stricken, and insert "Except as otherwise provided in this section,
9 if the district adopts different controls for different categories
10 of ground water use, those controls shall be consistent with
11 section 46-613 and shall, for each such category, be uniform for
12 all portions of the area which have substantially similar climatic,
13 hydrologic, geologic, and soil conditions.".
- 14 5. On page 161, line 20, strike "46-678.01, and
15 81-15,176" and insert "and 46-678.01".
- 16 6. Renumber the remaining sections and correct internal
17 references accordingly.

Senator Schrock moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

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

Voting in the affirmative, 25:

Baker	Chambers	Hartnett	Kruse	Schimek
Beutler	Combs	Jensen	Landis	Schrock
Bromm	Cudaback	Johnson	Pederson, D.	Stuhr
Burling	Engel	Jones	Preister	Tyson
Byars	Erdman	Kremer	Raikes	Wehrbein

Voting in the negative, 8:

Bourne	Hudkins	Maxwell	Stuthman
Connealy	Louden	Smith	Synowiecki

Present and not voting, 11:

Aguilar	Foley	Mines	Quandahl
Brown	Friend	Mossey	Redfield
Cunningham	Janssen	Pedersen, Dw.	

Excused and not voting, 5:

Brashear	McDonald	Price	Thompson	Vrtiska
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The Schrock amendment was adopted with 25 ayes, 8 nays, 11 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Landis withdrew his pending amendment, AM2857, found on page 838.

Senator Schrock withdrew his pending amendment, AM2916, found on page 895.

The thirteenth Standing Committee amendment, as amended, was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Senator Schrock withdrew his pending amendment, AM2849, found on page 831.

Senator Beutler withdrew his pending amendment, AM2862, found on page 841.

Senator Beutler withdrew the Beutler et al. pending amendment, AM2875, found on page 866.

Senator Friend withdrew his pending amendment, AM2786, found on page 867.

Senator Beutler withdrew the Beutler-Mines pending amendment, AM2955, found on page 929.

Senator Schrock withdrew his pending amendment, AM2984, printed separately and referred to on page 944.

Advanced to E & R for review with 31 ayes, 1 nay, 13 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 962A. Title read. Considered.

Senator Beutler offered the following amendment:
AM3204

- 1 1. Strike the original section and insert the following
- 2 new section:
- 3 "Section 1. There is hereby appropriated \$1,500,000 from
- 4 the General Fund for FY2004-05 to the Department of Natural
- 5 Resources, for Program 310, to aid in carrying out the provisions
- 6 of Legislative Bill 962, Ninety-eighth Legislature, Second Session,
- 7 2004.
- 8 It is the intent of the Legislature that the
- 9 appropriations to this program be used to implement the
- 10 recommendations of the Water Policy Task Force. Expenditures from
- 11 this program shall not be restricted to state aid if other

12 expenditures are necessary to fulfill the recommendations of the 13 Water Policy Task Force."

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

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 23:

Aguilar	Connealy	Janssen	Mines	Schrock
Beutler	Cudaback	Johnson	Pederson, D.	Stuhr
Bromm	Engel	Kremer	Preister	Wehrbein
Byars	Foley	Kruse	Price	
Chambers	Hartnett	Landis	Schimek	

Voting in the negative, 13:

Bourne	Hudkins	Raikes	Stuthman	Vrtiska
Burling	Jensen	Redfield	Synowiecki	
Erdman	Pedersen, Dw.	Smith	Tyson	

Present and not voting, 10:

Baker	Cunningham	Jones	Maxwell	Mossey
Combs	Friend	Louden	McDonald	Quandahl

Excused and not voting, 3:

Brashear	Brown	Thompson
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The Beutler amendment lost with 23 ayes, 13 nays, 10 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Jones offered the following motion:
Reconsider the Beutler amendment, AM3204.

The Jones motion to reconsider prevailed with 26 ayes, 7 nays, 11 present and not voting, and 5 excused and not voting.

The Beutler amendment, AM3204, found in this day's Journal, was reconsidered.

The Beutler amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 14 present and not

voting, and 5 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 261. Introduced by Hartnett, 45.

WHEREAS, the Bellevue West boys' basketball team is the champion of the 2004 Class A Boys' State Basketball Tournament; and

WHEREAS, the 70-51 win over the talented Omaha Westside Warriors team in the final game capped Bellevue West's Boys Class A State Basketball Tournament; and

WHEREAS, this is Bellevue West's second state title under the guidance of Coach Doug Woodard; and

WHEREAS, such a team achievement is made possible not only by individual members' performance and coaching guidance, but also through the support of teachers, administrators, and parents.

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

1. That the Legislature recognizes and congratulates the Bellevue West boys' basketball team and its coaches, parents, and supporters.

2. That a copy of this resolution be sent to the Bellevue West boy's basketball team and head coach Doug Woodard.

Laid over.

BILL ON FIRST READING

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

LEGISLATIVE BILL 914A. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 914, Ninety-eighth Legislature, Second Session, 2004.

STANDING COMMITTEE REPORT **Health and Human Services**

LEGISLATIVE BILL 297. Placed on General File as amended.

Standing Committee amendment to LB 297:

AM3185

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 83-1202.01, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 83-1202.01. The Legislature finds that present state
- 6 appropriations on behalf of community-based services to persons
- 7 with developmental disabilities are ~~twenty-nine million dollars~~

8 below the amount which has been identified by the Department of
 9 Public Institutions as being the minimum necessary inadequate to
 10 pay the reasonable costs of providing such services to all
 11 Nebraskans who are eligible to receive them. ~~Of that total,~~
 12 ~~eighteen million dollars is required to bring services to an~~
 13 ~~estimated one thousand one hundred fifty persons who are~~
 14 ~~presently waiting for services and eleven million dollars is~~
 15 ~~required to pay employees of community-based providers of services~~
 16 ~~on a parity with employees performing essentially the same tasks in~~
 17 ~~state institutions.~~

18 The It is the intent of the Legislature also finds that
 19 increasing the present appropriation by the required amount in a
 20 single budget period is not feasible but that the state must pursue
 21 full funding of community-based developmental disability programs
 22 in a reasonable timeframe. Although Nebraska is presently
 23 committed to the goal of providing services to all eligible persons
 24 by July 1, 1996, and that the Legislature finds that a more
 1 realistic goal is July 1, 2000, and hereby commits commit itself
 2 and the state to attaining that the goal of providing services to
 3 all eligible persons by July 1, 2010.

4 Sec. 2. Section 83-1209, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 83-1209. To carry out the policies and purposes of the

7 Developmental Disabilities Services Act, the director shall:

8 (1) Ensure effective management by (a) determining

9 whether applicants are eligible for specialized services, (b)

10 authorizing service delivery for eligible persons, (c) ensuring

11 that services are available, accessible, and coordinated, (d)

12 ensuring that eligible persons have their needs assessed by a team

13 process, have individual program plans developed by a team process

14 to address assessed needs, which plans incorporate the input of the

15 individual and the family, and have services delivered in

16 accordance with the program plan, (e) having the amount of funding

17 for specialized services determined by an objective assessment

18 process as developed in subsection (3) of section 83-1216. (f)

19 providing information and referral services to persons with

20 developmental disabilities and their families, (f) ~~coordinating~~

21 local services networks, (g) promoting the development of pilot

22 projects of high quality, cost-efficient services provided by

23 specialized programs, and (h) administering the Beatrice State

24 Developmental Center;

25 (2) Ensure a coordinated statewide response by (a)

26 developing a comprehensive and integrated statewide plan for

27 specialized services to persons with developmental disabilities in

1 conjunction with state and local officials, designated advocates

2 for such persons, service providers, and the general public, (b)

3 reporting biennially to the Legislature, the Governor, service

4 providers, and the public on persons served and progress made

5 toward meeting requirements of the plan, and (c) creating a

6 statewide registry of persons eligible for specialized services;
7 (3) Ensure specialized services which are efficient and
8 individualized by (a) developing a written policy which ensures the
9 adequate and equitable distribution of fiscal resources based upon
10 a consistent rationale for reimbursement that allows funding to
11 follow service recipients as their service needs change and which
12 also includes a plan for funding shortfalls and (b) administering
13 all state and federal funds as may be allowed by law used by
14 specialized programs in the state;

15 (4) Ensure maximum quality of services by (a) developing
16 a due process mechanism for resolution of disputes, (b)
17 coordinating the development of review teams designed to enhance
18 the quality of specialized services, (c) developing certification
19 and accreditation requirements for service providers, (d) providing
20 technical assistance to local service providers, and (e) providing
21 eligible persons, their families, and the designated protection and
22 advocacy system authorized pursuant to the Developmental
23 Disabilities Assistance and Bill of Rights Act, 42 U.S.C. ~~6000~~
24 15001 et seq., with copies of all reports resulting from surveys of
25 providers of specialized services conducted as part of the
26 certification and accreditation process; and

27 (5) Establish and staff a developmental disabilities
1 division which shall assist in carrying out the policies and
2 purposes of the Developmental Disabilities Services Act.

3 Sec. 3, Section 83-1216, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 83-1216. (1) ~~Beginning July 1, 1995, persons determined~~
6 ~~to be eligible for specialized services who on or after September~~
7 ~~6, 1993, Eligible persons who graduate from high school, or reach~~
8 ~~the age of twenty-one years, or are currently receiving services~~
9 shall receive specialized services in accordance with the
10 Developmental Disabilities Services Act. The amount of funding for
11 any person receiving services shall be determined using an
12 objective assessment process developed by the plan in subsection
13 (3) of this section.

14 (2) ~~On or after July 1, 1995, the~~ The department shall
15 provide directly or by contract service coordination to ~~each person~~
16 Nebraska residents found to be eligible for specialized services.

17 (3) It is the intent of the Legislature that ~~beginning by~~
18 July 1, ~~2000~~ 2010, all persons determined to be eligible for
19 services shall receive services in accordance with the act. The
20 department shall establish a workgroup including representatives
21 from the department, the Advisory Committee on Developmental
22 Disabilities, the Developmental Disabilities Planning Council,
23 consumers, families, consumer advocacy organizations, developmental
24 disabilities service providers, and other interested parties. On
25 or before December 1, ~~1994,~~ 2004, the department, in consultation
26 with the workgroup, shall submit a report to the Legislature and
27 the Governor ~~as to the number of persons anticipated to be served,~~

1 ~~what services would be needed, how the services would be developed,~~
 2 ~~and the cost of serving all eligible persons~~ for the development
 3 and provision of needed specialized services to implement such
 4 intent. Such plan shall provide for, but shall not be limited to:
 5 (a) The adequate and equitable distribution of available funding
 6 for the provision of specialized services pursuant to an objective
 7 assessment process; (b) the incremental statewide implementation of
 8 such process for the provision of specialized services; and (c) the
 9 projected number of persons who will likely become eligible for
 10 specialized services under the act during the next calendar year.
 11 The workgroup shall terminate upon submission of such plan or on
 12 December 1, 2004, whichever occurs earlier.

13 (4) It is the intent of the Legislature that the
 14 ~~Department of Health and Human Services~~ department take all
 15 possible steps to maximize funding in order to implement
 16 subsections (1) and (2) of this section prior to the date these
 17 subsections become entitlements. ~~It is the intent of the~~
 18 ~~Legislature that~~ All Nebraska residents eligible for funding for
 19 specialized services under the Developmental Disabilities Services
 20 Act shall apply for and accept any federal medicaid benefits for
 21 which they may be eligible and benefits from other funding sources
 22 within the ~~Department of Health and Human Services~~ department, the
 23 State Department of Education, specifically including the Division
 24 of Rehabilitation Services, and other agencies ~~be utilized~~ to the
 25 maximum extent possible.

26 Sec. 4. Section 83-1217, Reissue Revised Statutes of
 27 Nebraska, is amended to read:

1 83-1217. ~~After July 1, 1992, the~~ The department shall
 2 contract for specialized services and shall only contract with
 3 specialized programs which meet certification and accreditation
 4 requirements. In order to be certified, each program shall:
 5 (1) Have an internal quality assurance process;
 6 (2) Have a program evaluation component;
 7 (3) Have a complaint mechanism for persons with
 8 developmental disabilities and their families;
 9 (4) Have a process to ensure direct and open
 10 communication with the department;
 11 (5) Develop, implement, and regularly evaluate a plan to
 12 ensure retention of quality employees and prevent staff turnover;
 13 (6) Have measures to enhance staff training and
 14 development;
 15 (7) ~~By July 1, 1992, be~~ Be governed by a local governing
 16 board or have an advisory committee, the membership of which
 17 consists of (a) county commissioners or other locally elected
 18 officials, (b) persons with developmental disabilities or members
 19 of their families, and (c) persons who are not elected officials,
 20 persons with developmental disabilities, or family members of
 21 persons with developmental disabilities. At least one-third of the
 22 membership shall be persons with developmental disabilities or

23 members of their families. No more than one-third of the
24 membership shall be elected officials, and no more than one-third
25 of the membership shall be persons who are not elected officials,
26 persons with developmental disabilities, or family members of
27 persons with developmental disabilities;

1 (8) Meet accreditation standards developed by the
2 department;

3 (9) Require a criminal history record information check
4 of all employees hired on or after September 13, 1997, who work
5 directly with clients receiving services and who are not licensed
6 or certified as members of their profession; and

7 (10) Meet any other certification requirements developed
8 by the department to further the purposes of the Developmental
9 Disabilities Services Act.

10 Sec. 5. Section 83-1219, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 83-1219. A person with developmental disabilities or his
13 or her parent or guardian may initiate a hearing on matters related
14 to the initiation, change, or termination of or the refusal to
15 initiate, change, or terminate the determination of eligibility for
16 specialized services or the evaluation or placement of the person
17 or the provision of specialized services or records relating
18 thereto. A copy of the procedures specified in rules and
19 regulations of the department for complaints and hearings under
20 this section shall be provided to such persons who are receiving
21 ~~specialized services as of September 6, 1994,~~ or their parents or
22 ~~guardians, and thereafter upon initial consideration of the~~
23 ~~provision of services.~~ The hearing shall be initiated by filing a
24 petition with the department.

25 Sec. 6. Section 83-1224, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 83-1224. (1) Any party aggrieved by the findings,
1 conclusions, or final decision and order of the hearing officer
2 shall be entitled to judicial review under this section. Any party
3 of record also may seek enforcement of the final decision and order
4 of the hearing officer pursuant to this section.

5 (2) Proceedings for judicial review shall be instituted
6 by filing a petition in the district court of ~~the county of~~
7 ~~residence of the person with developmental disabilities~~ Lancaster
8 County within thirty days after service of the final decision and
9 order on the party seeking such review. All parties of record
10 shall be made parties to the proceedings. The court, in its
11 discretion, may permit other interested parties to intervene.

12 (3) The filing of a petition for judicial review to such
13 district court shall operate to stay the enforcement of the final
14 decision and order of the hearing officer. While judicial
15 proceedings are pending in district court and unless the parties
16 otherwise agree, the person with developmental disabilities shall
17 remain in his or her current placement. If the health or safety of

18 the person with developmental disabilities or of other persons
 19 would be endangered by delaying a change in placement, the service
 20 provider may make such change without prejudice to the rights of
 21 any party.

22 (4) Within ~~fifteen~~ thirty days after receiving
 23 notification that a petition for judicial review has been filed or,
 24 if good cause is shown, within such further time as the court may
 25 allow, the department shall prepare and transmit to the court a
 26 certified transcript of the proceedings before the hearing officer.
 27 ~~Any deposition or exhibit introduced before the hearing officer~~
 1 ~~shall, upon demand of the party who introduced such deposition or~~
 2 ~~exhibit, be returned to such party for use in the review~~
 3 ~~proceedings.~~

4 (5) Judicial review shall be ~~conducted by the court~~
 5 ~~without a jury~~ heard de novo on the record. The court shall
 6 receive the records of the administrative proceedings, ~~hear~~
 7 ~~additional evidence at the request of a party~~, base its decision on
 8 the preponderance of the evidence, and grant such relief as the
 9 court determines is appropriate. The district court may affirm,
 10 reverse, or modify the decision of the hearing officer, or remand
 11 the case to the hearing officer for further proceedings, including
 12 the receipt of additional evidence, for good cause shown.

13 (6) An aggrieved party may secure a review of any final
 14 judgment of the district court under this section by appeal to the
 15 Court of Appeals. Such appeal shall be taken in the manner
 16 provided by law for appeals in civil cases and shall be heard de
 17 novo on the record.

18 (7) When no petition for judicial review or other civil
 19 action is filed within thirty days after service of the final
 20 decision and order on all of the parties, the hearing officer's
 21 final decision and order shall become effective. Proceedings for
 22 enforcement of a hearing officer's final decision and order shall
 23 be instituted by filing a petition for appropriate relief in the
 24 district court of ~~the county of residence of the person with~~
 25 ~~developmental disabilities~~ Lancaster County within one year after
 26 the date of the hearing officer's final decision and order.

27 Sec. 7. Original sections 83-1202.01, 83-1209, 83-1216,
 1 83-1217, 83-1219, and 83-1224, Reissue Revised Statutes of
 2 Nebraska, are repealed.

3 Sec. 8. Since an emergency exists, this act takes effect
 4 when passed and approved according to law.".

(Signed) Jim Jensen, Chairperson

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 962:
 AM3202

(Amendments to FA1510)

1 1. On page 61, strike lines 14 through 16 and insert the
 2 following new subdivision:
 3 "(ii) The maximum number of feet necessary to protect the
 4 municipal well field as determined by the appropriate natural
 5 resources district based upon the best available science, except
 6 that if the board of the appropriate natural resources district is
 7 not elected in accordance with the principle of one person, one
 8 vote then the spacing distance shall be determined by the public
 9 water supplier based upon the best available science.".

Senator Wehrbein filed the following amendment to LB 962:

AM3004

(Amendments to Standing Committee amendments, AM2733)

1 1. Insert the following new section:
 2 "Sec. 98. Section 81-15,174, Revised Statutes
 3 Supplement, 2003, is amended to read:
 4 81-15,174. The Nebraska Environmental Trust Fund is
 5 created. The fund shall be maintained in the state accounting
 6 system as a cash fund. Except as otherwise provided in this
 7 section, the fund shall be used to carry out the purposes of the
 8 Nebraska Environmental Trust Act, including the payment of
 9 administrative costs. Money in the fund shall include proceeds
 10 credited pursuant to section 9-812 and proceeds designated by the
 11 board pursuant to section 81-15,173. Any money in the fund
 12 available for investment shall be invested by the state investment
 13 officer pursuant to the Nebraska Capital Expansion Act and the
 14 Nebraska State Funds Investment Act.
 15 The State Treasurer shall transfer nine hundred
 16 twenty-five thousand dollars from the Nebraska Environmental Trust
 17 Fund to the Department of Natural Resources Water Issues Cash Fund,
 18 as administratively created pursuant to section 81-1111.04, on or
 19 after July 1, 2003, but no later than July 10, 2003.
 20 The State Treasurer shall make transfers from the
 21 Nebraska Environmental Trust Fund to the Water Resources Trust Fund
 22 according to the following schedule: (1) Two million five hundred
 23 thousand dollars on or after July 1, 2004, but no later than July
 1 10, 2004; (2) two million five hundred thousand dollars on or after
 2 July 1, 2005, but no later than July 10, 2005; and (3) two million
 3 five hundred thousand dollars on or after July 1, 2006, but no
 4 later than July 10, 2006.".
 5 2. Amend the repealer, renumber the remaining sections,
 6 and correct internal references accordingly.

Senator Wehrbein filed the following amendment to LB 962A:

AM3005

1 1. On page 2, line 2, strike "General" and insert "Water
 2 Resources Trust" and strike "\$4,500,000" and insert "\$2,500,000";
 3 and in line 3 strike "General" and insert "Water Resources Trust".

Senators Synowiecki, Byars, Jensen, and Johnson filed the following amendment to LB 1005:
AM3173

(Amendments to E & R amendments, AM7186)

- 1 1. Insert the following new sections:
- 2 "Sec. 9. Section 71-185.03, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-185.03. (1) The department upon recommendation of the
- 5 Board of Dentistry shall issue a faculty license to any person who
- 6 meets the requirements of subsection (4) or (5) of this section. A
- 7 faculty licensee may practice dentistry only as a faculty member at
- 8 a dental education institution in the State of Nebraska accredited
- 9 by the Commission on Dental Accreditation of the American Dental
- 10 Association, the Commission on Dental Accreditation of Canada, or
- 11 similar organization as determined by the board and may teach
- 12 dentistry, conduct research, and participate in an institutionally
- 13 administered faculty practice only at such dental education
- 14 institution. A faculty licensee eligible for licensure under
- 15 subsection (5) of this section shall limit his or her practice to
- 16 the clinical discipline in which he or she has received
- 17 postgraduate education at an accredited dental education
- 18 institution.
- 19 (2) Any person who desires a faculty license shall make a
- 20 written application to the department. The application shall
- 21 include information regarding the applicant's professional
- 22 qualifications, experience, and licensure. The application shall
- 23 be accompanied by a copy of the applicant's dental degree, any
- 1 other degrees or certificates for postgraduate education of the
- 2 applicant, the required fee, and certification from the dean of an
- 3 accredited dental education institution in the State of Nebraska
- 4 that the applicant has a contract to be employed as a full-time
- 5 faculty member at such institution.
- 6 (3) A faculty license shall expire at the same time and
- 7 be subject to the same renewal requirements as a regular dental
- 8 license, except that such license shall remain valid and may only
- 9 be renewed if:
- 10 (a) The faculty licensee remains employed as a full-time
- 11 faculty member of an accredited dental education institution in the
- 12 State of Nebraska; and
- 13 (b) The faculty licensee demonstrates continuing clinical
- 14 competency if required by the board.
- 15 (4) An individual who graduated from an accredited dental
- 16 education institution shall be eligible for a faculty license if he
- 17 or she:
- 18 (a) Has a license to practice dentistry in some other
- 19 state in the United States or a Canadian province;
- 20 (b) Has a contract to be employed as a full-time faculty
- 21 member at an accredited dental education institution in the State
- 22 of Nebraska;

- 23 (c) Passes a jurisprudence examination administered by
 24 the Board of Dentistry; and
 25 (d) Agrees to demonstrate continuing clinical competency
 26 as a condition of renewal if required by the board.
 27 (5) An individual who graduated from a nonaccredited
 1 dental education institution shall be eligible for a faculty
 2 license if he or she:
 3 (a) Has completed at least two years of postgraduate
 4 education at an accredited dental education institution and
 5 received a certificate or degree from such institution;
 6 (b) Has a contract to be employed as a full-time faculty
 7 member at an accredited dental education institution in the State
 8 of Nebraska;
 9 (c) Passes a jurisprudence examination administered by
 10 the Board of Dentistry;
 11 (d) Agrees to demonstrate continuing clinical competency
 12 as a condition of renewal if required by the board; and
 13 (e) Has passed Part I and Part II of the National Board
 14 Dental Examinations or its equivalent as determined by the Board of
 15 Dentistry.

16 Sec. 10. Section 71-190, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 71-190. (1) No person owning, operating, or conducting
 19 any place where dental work of any kind is done or contracted for,
 20 shall employ or permit any unlicensed dentist to practice dentistry
 21 in such place.

22 (2) No person shall coerce or attempt to coerce a
 23 licensed dentist to practice dentistry in any manner contrary to
 24 the standards of acceptable and prevailing practice of the dental
 25 profession. Any dentist subjected to such coercion or attempted
 26 coercion has a cause of action against the person and may recover
 27 his or her damages and reasonable attorney's fees.

1 (3) Violation of this section by a health care
 2 professional regulated pursuant to the Uniform Licensing Law may be
 3 considered evidence of an act of unprofessional conduct.

4 (4) Violation of this section by a person not regulated
 5 under the Uniform Licensing Law is a Class III misdemeanor."

6 2. Amend the repealer, renumber the remaining sections,
 7 and correct internal references accordingly.

Senator Wehrbein filed the following amendment to LB 1071:
 AM3203

(Amendments to Standing Committee amendments, AM2999)

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

3 "Section 1. Section 85-1415, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 85-1415. Consistent with the authority granted to the
 6 Legislature pursuant to Article XIII, section 1, of the

7 Constitution of Nebraska, the commission shall review all capital
 8 construction projects proposed by the Board of Regents of the
 9 University of Nebraska and the Board of Trustees of the Nebraska
 10 State Colleges pursuant to sections 85-404 and 85-408 and by any
 11 nonprofit corporation created by the Board of Regents of the
 12 University of Nebraska or the Board of Trustees of the Nebraska
 13 State Colleges when (a) state general funds, (b) funds received by
 14 the University of Nebraska or any state college for the purposes of
 15 reimbursing overhead costs and expenses in connection with any
 16 federal or other grant or contract, (c) tuition, or (d) the state's
 17 operating investment pool investment income constitute all or any
 18 part of the funds used for the repayment of all or any part of the
 19 bonds of such nonprofit corporation. Such boards shall submit all
 20 such projects, including applicable financing plans, to the
 21 commission for review. Within sixty days from the date of
 22 submission of a proposed project, the commission shall take action
 23 by recommending that the Legislature or the Executive Board of the
 1 Legislative Council either approve or disapprove the project.
 2 Following such action by the commission, each such proposed project
 3 together with the commission's recommendation of approval or
 4 disapproval shall be submitted by the board concerned to the
 5 Legislature or, as applicable under sections 85-404 and 85-408, to
 6 the Executive Board of the Legislative Council. The Legislature
 7 or, as applicable under sections 85-404 and 85-408 if the
 8 Legislature is not in session, the Executive Board of the
 9 Legislative Council shall thereafter take action to approve or
 10 disapprove the proposed project. ~~All projects authorized prior to~~
 11 ~~January 1, 1992, shall be deemed approved.~~
 12 Sec. 2. Original section 85-1415, Reissue Revised
 13 Statutes of Nebraska, is repealed."

Senator Synowiecki filed the following amendment to LB 888:
 AM3076

(Amendments to E & R amendments, AM7184)

- 1 1. On page 9, line 24, after "Code" insert "regarding
- 2 all or any specific classes of buildings".

VISITORS

Visitors to the Chamber were 8 students and 4 advisors from Columbus Junior City Council Legislative Day, Columbus; Senator McDonald's daughter and family, Shelly, Gary, Lauren, and Austin Pair from Dallas, Texas; Laura Ebke, Dr. John Fero, Ron Sack, and Sandy Rosenboen from Crete; 44 fourth-grade students and teachers from Hayward Elementary School, Nebraska City; 24 fourth-grade students and teacher from Fairview Elementary School, Bellevue; and 16 student senators and sponsors from District 47.

RECESS

At 11:58 a.m., on a motion by Speaker Bromm, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Engel, Landis, and Smith who were excused until they arrive.

AMENDMENT - Print in Journal

Senators Hartnett, Combs, Connealy, Friend, Janssen, Landis, and Schimek filed the following amendment to LB 499:
AM3077

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 66-1850, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 66-1850. (1) The State Natural Gas Regulation Act shall
- 6 not be enforced retroactively before May 31, 2003. A rate filing
- 7 made pursuant to the provisions of the Municipal Natural Gas
- 8 Regulation Act prior to such date shall be governed by the act by
- 9 its terms as in effect on the date of the filing. The enactment
- 10 into law of the State Natural Gas Regulation Act shall not have the
- 11 effect of releasing or waiving any right of action by the state,
- 12 any body corporate and politic, municipal corporation, person, or
- 13 corporation, pending on May 31, 2003, for any right which may have
- 14 arisen or accrued under the Municipal Natural Gas Regulation Act.
- 15 (2) The rates, terms and conditions of service, and rate
- 16 areas of a jurisdictional utility in effect on or before May 31,
- 17 2003, shall remain in effect after May 31, 2003, and shall be
- 18 treated as if approved and adopted by the commission pursuant to
- 19 the State Natural Gas Regulation Act.
- 20 (3) The rate areas established pursuant to the Municipal
- 21 Natural Gas Regulation Act and in effect on May 31, 2003, shall be
- 22 the initial rate areas in effect under the State Natural Gas
- 23 Regulation Act. Each jurisdictional utility shall file with the
- 24 commission a map showing the boundaries of such areas and
- 1 intervening and adjacent rural territories served within such rate
- 2 areas.
- 3 (4) Except as provided in subsection (5) of this section,
- 4 following the filing of maps pursuant to subsection (3) of this
- 5 section, a jurisdictional utility may file with the commission a

6 revised map or maps of any affected rate areas reflecting changes
 7 in the boundaries of one or more of the initially filed rate areas
 8 and such changes shall become effective upon filing. The
 9 commission may, upon its own initiative or upon complaint, review
 10 such rate area boundaries and, following notice and hearing, reject
 11 or modify proposed changes upon the basis that the proposed changes
 12 in boundaries are unduly preferential, unjustly discriminatory, or
 13 not just and reasonable.

14 (5) A rate area containing a city of the primary class
 15 shall not be changed to include any other city until after June 1,
 16 2007.

17 (6) The commission may waive application of the
 18 definition of high-volume ratepayer for all ratepayers who (a)
 19 prior to the effective date of this act obtained natural gas
 20 service from a jurisdictional utility pursuant to subsection (3) of
 21 former section 19-4604, as such section existed prior to May 24,
 22 2003, and (b) whose current consumption of natural gas would
 23 qualify such ratepayers to receive natural gas service pursuant to
 24 such former section if the section had not been repealed. All
 25 ratepayers meeting such criteria may be treated as high-volume
 26 ratepayers pursuant to the State Natural Gas Regulation Act. The
 27 authority granted pursuant to this subsection and any such waiver
 1 shall expire on June 1, 2007.

2 Sec. 2. Section 66-1852, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 66-1852. (1) Except as provided in sections 57-1301 to
 5 57-1307 as those statutes govern jurisdictional utilities and
 6 metropolitan utilities districts, no person, public or private,
 7 shall extend duplicative or redundant natural gas mains or other
 8 natural gas services or extend natural gas service at retail into
 9 any area which has existing natural gas utility infrastructure or
 10 where a contract has been entered into for the placement of natural
 11 gas utility infrastructure.

12 (2) This section shall not apply to jurisdictional
 13 utilities in any area in which two or more such jurisdictional
 14 utilities share authority to provide natural gas within the same
 15 territory under franchises issued by the same city.

16 Sec. 3. Original sections 66-1850 and 66-1852, Reissue
 17 Revised Statutes of Nebraska, are repealed.

18 Sec. 4. Since an emergency exists, this act takes effect
 19 when passed and approved according to law."

GENERAL FILE

LEGISLATIVE BILL 1083. Title read. Considered.

The Standing Committee amendment, AM2889, printed separately and referred to on page 858, was considered.

SPEAKER BROMM PRESIDING

Senator Connealy requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:
FA1573

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Sections 1 to 20 of this act shall be known
- 4 and may be cited as the Nebraska Behavioral Health Services Act.
- 5 Sec. 2. The purposes of the Nebraska Behavioral Health
- 6 Services Act are to: (1) Reorganize statutes relating to the
- 7 provision of publicly funded behavioral health services; (2)
- 8 provide for the organization and administration of the public
- 9 behavioral health system within the department; (3) rename mental
- 10 health regions as behavioral health regions; (4) provide for the
- 11 naming of regional behavioral health authorities and ongoing
- 12 activities of regional governing boards; (5) reorganize and rename
- 13 the State Mental Health Planning and Evaluation Council, the State
- 14 Alcoholism and Drug Abuse Advisory Committee, and the Nebraska
- 15 Advisory Commission on Compulsive Gambling and create the State
- 16 Behavioral Health Council; (6) change and add provisions relating
- 17 to development of community-based behavioral health services and
- 18 funding for behavioral health services; and (7) authorize the
- 19 closure of regional centers.
- 20 Sec. 3. The purposes of the public behavioral health
- 21 system are to ensure:
- 22 (1) The public safety and the health and safety of
- 23 persons with behavioral health disorders;
- 24 (2) Statewide access to behavioral health services,
- 1 including, but not limited to, (a) adequate availability of
- 2 behavioral health professionals, programs, and facilities, (b) an
- 3 appropriate array of community-based services and continuum of
- 4 care, and (c) integration and coordination of behavioral health
- 5 services with primary health care services;
- 6 (3) High quality behavioral health services, including,
- 7 but not limited to, (a) services that are research-based and
- 8 consumer-focused, (b) services that emphasize beneficial treatment
- 9 outcomes and recovery, with appropriate treatment planning, case
- 10 management, community support, and consumer peer support, (c)
- 11 appropriate regulation of behavioral health professionals,
- 12 programs, and facilities, and (d) consumer involvement as a
- 13 priority in all aspects of service planning and delivery; and
- 14 (4) Cost-effective behavioral health services, including,
- 15 but not limited to, (a) services that are efficiently managed and
- 16 supported with appropriate planning and information, (b) services

17 that emphasize prevention, early detection, and early intervention,
18 (c) services that are provided in the least restrictive environment
19 consistent with the consumer's clinical diagnosis and plan of
20 treatment, and (d) funding that is fully integrated and allocated
21 to support the consumer and his or her plan of treatment.

22 Sec. 4. For purposes of the Nebraska Behavioral Health
23 Services Act:

24 (1) Administrator means the administrator of the
25 division;

26 (2) Behavioral health disorder means mental illness or
27 alcoholism, drug abuse, problem gambling, or other addictive
1 disorder;

2 (3) Behavioral health region means a behavioral health
3 region established in section 7 of this act;

4 (4) Behavioral health services means services, including,
5 but not limited to, consumer-provided services, support services,
6 inpatient and outpatient services, and residential and
7 nonresidential services, provided for the prevention, diagnosis,
8 and treatment of behavioral health disorders and the rehabilitation
9 and recovery of persons with such disorders;

10 (5) Community-based behavioral health services or
11 community-based services means behavioral health services that are
12 not provided at a regional center;

13 (6) Department means the Department of Health and Human
14 Services;

15 (7) Director means the Director of Health and Human
16 Services;

17 (8) Division means the Division of Behavioral Health
18 Services of the department;

19 (9) Nebraska Health and Human Services System means the
20 Department of Health and Human Services, the Department of Health
21 and Human Services Regulation and Licensure, and the Department of
22 Health and Human Services Finance and Support;

23 (10) Policy Cabinet means the Policy Cabinet of the
24 Nebraska Health and Human Services System established in section
25 81-3009;

26 (11) Public behavioral health system means the statewide
27 array of behavioral health services for children and adults
1 provided by the public sector or private sector and supported in
2 whole or in part with funding received and administered by the
3 Nebraska Health and Human Services System, including behavioral
4 health services provided under the medical assistance program
5 established in section 68-1018;

6 (12) Regional center means one of the state hospitals for
7 the mentally ill designated in section 83-305; and

8 (13) Regional center behavioral health services or
9 regional center services means behavioral health services provided
10 at a regional center.

11 Sec. 5. (1) The Division of Behavioral Health Services

12 is established within the department. The division shall establish
13 and maintain a separate budget and shall separately account for all
14 revenue and expenditures.

15 (2) The administrator of the division shall be appointed
16 by the Governor and confirmed by a majority of the members of the
17 Legislature. The administrator shall report to the director and
18 shall be responsible for the administration and management of the
19 division. The director shall appoint a chief clinical officer and
20 a program administrator for consumer affairs for the division. The
21 chief clinical officer shall be a board-certified psychiatrist and
22 shall serve as the medical director for the division and all
23 facilities and programs operated by the division. The program
24 administrator for consumer affairs shall be a consumer or former
25 consumer of behavioral health services and shall have specialized
26 knowledge, experience, or expertise relating to consumer-directed
27 behavioral health services, behavioral health delivery systems, and
1 advocacy on behalf of consumers of behavioral health services and
2 their families. The chief clinical officer and the program
3 administrator for consumer affairs shall report to the
4 administrator of the division. The Governor and the director shall
5 conduct a search for qualified candidates and shall solicit and
6 consider recommendations from interested parties for such positions
7 prior to making such appointments.

8 (3) The administrator of the division shall establish and
9 maintain an office of consumer affairs within the division. The
10 program administrator for consumer affairs shall be responsible for
11 the administration and management of the office.

12 Sec. 6. (1) The division shall act as the chief
13 behavioral health authority for the State of Nebraska and shall
14 direct the administration and coordination of the public behavioral
15 health system, including, but not limited to: (a) Administration
16 and management of the division, regional centers, and any other
17 facilities and programs operated by the division; (b) integration
18 and coordination of the public behavioral health system; (c)
19 comprehensive statewide planning for the provision of an
20 appropriate array of community-based behavioral health services and
21 continuum of care; (d) coordination and oversight of regional
22 behavioral health authorities, including approval of regional
23 budgets and audits of regional behavioral health authorities; (e)
24 development and management of data and information systems; (f)
25 prioritization and approval of all expenditures of funds received
26 and administered by the division, including the establishment of
27 rates to be paid and reimbursement methodologies for behavioral
1 health services and fees to be paid by consumers of such services;
2 (g) coordination with the Department of Health and Human Services
3 Regulation and Licensure in the licensure and regulation of
4 behavioral health professionals, programs, and facilities; (h)
5 audits of behavioral health programs and services; and (i)
6 promotion of activities in research and education to improve the

7 quality of behavioral health services, recruitment and retention of
8 behavioral health professionals, and access to behavioral health
9 programs and services.

10 (2) The department shall adopt and promulgate rules and
11 regulations to carry out the Nebraska Behavioral Health Services
12 Act.

13 Sec. 7. Six behavioral health regions are established,
14 consisting of the following counties:

15 (1) Region 1 shall consist of Sioux, Dawes, Box Butte,
16 Sheridan, Scotts Bluff, Morrill, Garden, Banner, Kimball, Cheyenne,
17 and Deuel counties;

18 (2) Region 2 shall consist of Grant, Hooker, Thomas,
19 Arthur, McPherson, Logan, Keith, Lincoln, Perkins, Chase, Hayes,
20 Frontier, Dawson, Gosper, Dundy, Hitchcock, and Red Willow
21 counties;

22 (3) Region 3 shall consist of Blaine, Loup, Garfield,
23 Wheeler, Custer, Valley, Greeley, Sherman, Howard, Buffalo, Hall,
24 Phelps, Kearney, Adams, Clay, Furnas, Harlan, Hamilton, Merrick,
25 Franklin, Webster, and Nuckolls counties;

26 (4) Region 4 shall consist of Cherry, Keya Paha, Boyd,
27 Brown, Rock, Holt, Knox, Cedar, Dixon, Dakota, Thurston, Wayne,
1 Pierce, Antelope, Boone, Nance, Madison, Stanton, Cuming, Burt,
2 Colfax, and Platte counties;

3 (5) Region 5 shall consist of Polk, Butler, Saunders,
4 Seward, Lancaster, Otoe, Fillmore, Saline, Thayer, Jefferson, Gage,
5 Johnson, Nemaha, Pawnee, York, and Richardson counties; and

6 (6) Region 6 shall consist of Dodge, Washington, Douglas,
7 Sarpy, and Cass counties.

8 Sec. 8. (1) A regional behavioral health authority shall
9 be established in each behavioral health region by counties acting
10 under provisions of the Interlocal Cooperation Act. Each regional
11 behavioral health authority shall be governed by a regional
12 governing board consisting of one county board member from each
13 county in the region. Board members shall serve for staggered
14 terms of three years and until their successors are appointed and
15 qualified. Board members shall serve without compensation but
16 shall be reimbursed for their actual and necessary expenses as
17 provided in sections 81-1174 to 81-1177.

18 (2) The regional governing board shall appoint a regional
19 administrator who shall be responsible for the administration and
20 management of the regional behavioral health authority. Each
21 regional behavioral health authority shall encourage and facilitate
22 the involvement of consumers in all aspects of service planning and
23 delivery within the region and shall coordinate such activities
24 with the office of consumer affairs within the division. Each
25 regional behavioral health authority shall establish and utilize a
26 regional advisory committee consisting of consumers, providers, and
27 other interested parties and may establish and utilize such other
1 task forces, subcommittees, or other committees as it deems

2 necessary and appropriate to carry out its duties under this
3 section.

4 (3) Each county in a behavioral health region shall
5 provide funding for the operation of the behavioral health
6 authority in the region in an amount to be determined by the
7 regional governing board of such authority in consultation with all
8 counties in the region. Each regional behavioral health authority
9 shall provide funding for the provision of behavioral health
10 services in the region in an amount equal to one dollar for every
11 three dollars from the General Fund. The division shall annually
12 certify the amount of matching funds to be provided. At least
13 forty percent of such amount shall consist of local and county tax
14 revenue, and the remainder shall consist of other nonfederal
15 sources. Any General Funds transferred from regional centers for
16 the provision of community-based behavioral health services after
17 the operative date of this section shall be excluded from any
18 calculation of county matching funds under this section.

19 Sec. 9. (1) Each regional behavioral health authority
20 shall be responsible to the division for the administration and
21 coordination of the public behavioral health system within the
22 behavioral health region pursuant to rules and regulations adopted
23 and promulgated by the department, including, but not limited to,
24 (a) administration and management of the regional behavioral health
25 authority, (b) integration and coordination of the public
26 behavioral health system within the behavioral health region, (c)
27 comprehensive planning for the provision of an appropriate array of
1 community-based behavioral health services and continuum of care
2 for the region, (d) submission for approval by the division of an
3 annual budget and a proposed plan for the funding and
4 administration of publicly funded behavioral health services within
5 the region, (e) submission of annual reports and other reports as
6 required by the division, (f) initiation and oversight of contracts
7 for the provision of publicly funded behavioral health services,
8 and (g) coordination with the division in conducting audits of
9 publicly funded behavioral health programs and services.

10 (2) Except for services being provided by a regional
11 behavioral health authority on the operative date of this section
12 under applicable state law in effect prior to such date, no
13 regional behavioral health authority shall provide behavioral
14 health services funded in whole or in part with revenue received
15 and administered by the division under the Nebraska Behavioral
16 Health Services Act unless:

17 (a) There has been a public competitive bidding process
18 for such services;

19 (b) There are no qualified and willing providers to
20 provide such services; and

21 (c) The regional behavioral health authority receives
22 written authorization from the administrator and enters into a
23 contract with the division to provide such services.

24 (3) Each regional behavioral health authority shall
 25 comply with all applicable rules and regulations of the department
 26 relating to the provision of behavioral health services by such
 27 authority, including, but not limited to, rules and regulations
 1 which (a) establish definitions of conflicts of interest for
 2 regional behavioral health authorities and procedures in the event
 3 such conflicts arise, (b) establish uniform and equitable public
 4 bidding procedures for such services, and (c) require each regional
 5 behavioral health authority to establish and maintain a separate
 6 budget and administration and separately account for all revenue
 7 and expenditures relating to the provision of such services.

Senator D. Pederson offered the following amendment to the first Standing Committee amendment:

FA1571

Amend AM2889

On page 8, line 20, strike the words "to the division"

On page 10, line 6, strike the words "and administration".

SENATOR JANSSEN PRESIDING

Senator Byars moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 5 nays, and 18 not voting.

The D. Pederson amendment was adopted with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

SENATOR CUDABACK PRESIDING

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 3 nays, and 20 not voting.

The first Standing Committee amendment, as amended, was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

The second Standing Committee amendment is as follows:

FA1574

1 1. Strike the original sections and insert the following
 2 new sections:
 8 Sec. 10. (1) The division shall encourage and facilitate
 9 the statewide development and provision of an appropriate array of
 10 community-based behavioral health services and continuum of care
 11 for the purposes of (a) providing greater access to such services
 12 and improved outcomes for consumers of such services and (b)
 13 reducing the necessity and demand for regional center behavioral
 14 health services.

- 15 (2) The division is authorized to reduce or discontinue
 16 regional center behavioral health services or cease the operation
 17 of a regional center if (a) appropriate community-based behavioral
 18 health services or other regional center services are available for
 19 every person receiving regional center services that would be
 20 affected by such reduction, discontinuation, or closure and (b) no
 21 further commitments, admissions, or readmissions for such services
 22 are required due to the availability of community-based behavioral
 23 health services or other regional center services to replace such
 24 services. The division shall inform the Governor and the
 25 Legislature of any intended reduction, discontinuation, or closure
 26 under this section and shall provide detailed documentation of the
 27 community-based behavioral health services or other regional center
 1 services that are being utilized to replace services that would be
 2 affected by the intended reduction, discontinuation, or closure.
- 3 (3) All funding related to the provision of regional
 4 center services that are reduced or discontinued under this section
 5 shall be reallocated and expended by the division for purposes
 6 related to the statewide development and provision of
 7 community-based behavioral health services.
- 8 (4) The division may establish state-operated
 9 community-based behavioral health services to replace regional
 10 center services that are reduced or discontinued under this
 11 section. The division shall provide regional center employees with
 12 appropriate training and support to transition such employees into
 13 positions as may be necessary for the provision of such
 14 state-operated services.
- 15 (5) The provisions of this section are self-executing and
 16 require no further authorization or other enabling legislation.

Senator Tyson offered the following amendment to the second Standing Committee amendment:

AM3211

(Amendments to Standing Committee amendments, AM2889)

- 1 1. On page 11, line 2, after the underscored period
 2 insert "Such community-based services shall have been in operation
 3 for not less than six months. If the Governor concurs with the
 4 findings of the division, he or she shall submit legislation during
 5 the next regular session of the Legislature to authorize the
 6 Governor to close not more than two regional centers.".

Pending.

STANDING COMMITTEE REPORTS Nebraska Retirement Systems

LEGISLATIVE BILL 679. Placed on General File as amended.

(Standing Committee amendment, AM3053, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1208. Indefinitely postponed.

(Signed) Elaine Stuhr, Chairperson

AMENDMENTS - Print in Journal

Senator Brown filed the following amendment to LR 209CA:
AM3213

(Amendments to E & R amendments, AM7183)

- 1 1. Insert the following new section:
- 2 "Sec. 2. At the general election in November 2004 the
- 3 following proposed amendment to the Constitution of Nebraska shall
- 4 be submitted to the electors of the State of Nebraska for approval
- 5 or rejection:
- 6 To amend Article III, section 24:
- 7 III-24 "(1) Except as provided in this section, the
- 8 Legislature shall not authorize any game of chance or any lottery
- 9 or gift enterprise when the consideration for a chance to
- 10 participate involves the payment of money for the purchase of
- 11 property, services, or a chance or admission ticket or requires an
- 12 expenditure of substantial effort or time.
- 13 (2) The Legislature may authorize and regulate a state
- 14 lottery pursuant to subsection (3) of this section and other
- 15 lotteries, raffles, and gift enterprises which are intended solely
- 16 as business promotions or the proceeds of which are to be used
- 17 solely for charitable or community betterment purposes without
- 18 profit to the promoter of such lotteries, raffles, or gift
- 19 enterprises.
- 20 (3) The Legislature may establish a lottery to be
- 21 operated and regulated by the State of Nebraska. The proceeds of
- 22 the lottery shall be appropriated by the Legislature for the costs
- 23 of establishing and maintaining the lottery and for other purposes
- 1 as directed by the Legislature. No lottery game shall be conducted
- 2 as part of the lottery unless the type of game has been approved by
- 3 a majority of the members of the Legislature.
- 4 (4) Nothing in this section shall be construed to
- 5 prohibit (a) the enactment of laws providing for the licensing and
- 6 regulation of wagering on the results of horseraces, wherever run,
- 7 either within or outside of the state, by the parimutuel method,
- 8 when such wagering is conducted by licensees within a licensed
- 9 racetrack enclosure or (b) the enactment of laws providing for the
- 10 licensing and regulation of bingo games conducted by nonprofit
- 11 associations which have been in existence for a period of five
- 12 years immediately preceding the application for license, except
- 13 that bingo games cannot be conducted by agents or lessees of such
- 14 associations on a percentage basis.
- 15 (5)(a) For purposes of this subsection, casino gaming
- 16 includes games of chance played for money, credit, or any

- 17 representative of value using cards; dice; equipment;
 18 player-activated electronic, video, or mechanical gaming devices;
 19 and other methods authorized by the Legislature.
 20 (b) Nothing in the Constitution of Nebraska shall be
 21 construed to prohibit or restrict casino gaming as authorized by
 22 the Legislature at up to two casino locations. The Legislature
 23 shall authorize only one of such locations in a county which
 24 contains a city of the metropolitan class. Subsequent to the
 25 initial legislative authorization of any casino location, the
 26 voters of the county in which such casino location is authorized
 27 shall either approve or disapprove casino gaming in such county.
 1 Only the Legislature may provide for the authorization, operation,
 2 regulation, and taxation of casino gaming whether casino gaming is
 3 authorized under this section or by initiative measure."
 4 2. On page 3, line 13, strike "amendment" and insert
 5 "amendments"; and in line 23 after the first period insert the
 6 following new matter:
 7 "A constitutional amendment to define casino gaming and
 8 to permit the Legislature to authorize up to two casino
 9 locations subject to approval by voters in the affected
 10 counties and provide for the authorization, operation,
 11 regulation, and taxation of casino gaming.
 12 For
 13 Against".
 14 3. Renumber the remaining section accordingly.

Senator Hudkins filed the following amendments to LB 1048:
 AM3164

(Amendments to Standing Committee amendments, AM2851)

- 1 1. On page 8, line 25, strike "and".
- 2 2. On page 9, line 3, after "village" insert "; and
- 3 (c) Not less than ten percent of the students attending
- 4 the elementary attendance center are members of a racial minority".

AM3151

- 1 1. On page 5, line 26; and page 6, line 10, after
- 2 "resident" insert "and option".

AM3150

- 1 1. On page 5, line 26; and page 6, line 10, strike
- 2 "school year" and insert "three consecutive school years".

AM3159

(Amendments to Standing Committee amendments, AM2851)

- 1 1. On page 5, strike beginning with "members" in line 11
- 2 through "(iv)" in line 16 and insert "voters of the Class I school
- 3 district and"; and in line 17 after "district" insert "at a
- 4 special, primary, or general election held after June 15, 2005".

GENERAL FILE

LEGISLATIVE BILL 1083. The Tyson pending amendment, AM3211, found in this day's Journal, to the second Standing Committee amendment, was renewed.

Senator Thompson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

The Tyson amendment lost with 10 ayes, 23 nays, 13 present and not voting, and 3 excused and not voting.

Pending.

AMENDMENTS - Print in Journal

Senator Wehrbein filed the following amendment to LB 1083A:
AM3065

1 1. Strike original section 1 and insert the following
2 new section:
3 "Section 1. There is hereby appropriated (1) \$1,328,190
4 from the Nebraska Health Care Cash Fund for FY2003-04, (2)
5 \$4,671,810 from the Nebraska Health Care Cash Fund, \$2,500,000 from
6 the Behavioral Health Services Fund, and \$1,845,240 from federal
7 funds for FY2004-05, and (3) \$2,500,000 from the General Fund for
8 FY2005-06 to the Department of Health and Human Services Finance
9 and Support, for Program 38, to aid in carrying out the provisions
10 of Legislative Bill 1083, Ninety-eighth Legislature, Second
11 Session, 2004.
12 There is included in the appropriation to this program
13 \$2,500,000 Cash Funds for FY2004-05 and \$2,500,000 General Funds
14 for FY2005-06 as state aid for the maintenance and treatment of
15 persons in emergency protective custody.
16 The State Treasurer shall transfer \$2,500,000 from the
17 Nebraska Medicaid Intergovernmental Trust Fund to the Behavioral
18 Health Services Fund on or before July 15, 2004.
19 There is included in the appropriation to this program
20 \$1,328,190 Cash Funds for FY2003-04 and \$4,671,810 Cash Funds and
21 \$1,845,240 federal funds for FY2004-05 as state aid to develop or
22 provide community-based behavioral health services."

Senator Wehrbein filed the following amendment to LB 1083A:
AM3009

1 1. Insert the following new sections:
2 "Sec. 4. Laws 2003, LB 407, section 220, is amended to
3 read:
4 Sec. 220. AGENCY NO. 72 -- DEPARTMENT OF ECONOMIC
5 DEVELOPMENT

6	Program No. 601 - Community and Rural Development		
7		FY2003-04	FY2004-05
8	<u>GENERAL FUND</u>	498,303	504,927
9	<u>CASH FUND</u>	4,094,873	5,097,079
10	<u>FEDERAL FUND est.</u>	22,746,210	22,774,701
11	<u>PROGRAM TOTAL</u>	27,339,386	28,376,707
12	<u>GENERAL FUND</u>	498,303	504,927
13	<u>CASH FUND</u>	4,094,873	6,097,079
14	<u>FEDERAL FUND est.</u>	22,746,210	22,774,701
15	<u>PROGRAM TOTAL</u>	27,339,386	29,376,707
16	<u>SALARY LIMIT</u>	695,325	709,109

17 There is included in the appropriation to this program
 18 for FY2003-04 \$250,000 General Funds, \$4,000,000 Cash Funds, and
 19 \$21,499,700 Federal Funds estimate for state aid, which shall only
 20 be used for such purpose. There is included in the appropriation
 21 to this program for FY2004-05 ~~\$250,000~~ \$243,750 General Funds,
 22 ~~\$5,000,000~~ \$6,000,000 Cash Funds, and \$21,499,700 Federal Funds
 23 estimate for state aid, which shall only be used for such purpose.

24 Of the \$6,000,000 Cash Funds earmarked for state aid for FY2004-05,
 1 the Department of Economic Development, in coordination with the
 2 Department of Health and Human Services, shall allocate up to
 3 \$2,000,000 for housing-related costs for persons with chronic
 4 mental illness.

5 Sec. 5. Original Laws 2003, LB 407, section 220, is
 6 repealed."

7 2. Insert underscoring in the original sections.

8 3. Renumber the remaining section accordingly.

Senator Loudon filed the following amendment to LR 209CA:
 AM3212

(Amendments to E & R amendments, AM7183)

- 1 1. Insert the following new section:
- 2 "Sec. 2. At the general election in November 2004 the
- 3 following proposed amendment to the Constitution of Nebraska shall
- 4 be submitted to the electors of the State of Nebraska for approval
- 5 or rejection:
- 6 To amend Article III, section 24:
- 7 III-24 "(1) Except as provided in this section, the
- 8 Legislature shall not authorize any game of chance or any lottery
- 9 or gift enterprise when the consideration for a chance to
- 10 participate involves the payment of money for the purchase of
- 11 property, services, or a chance or admission ticket or requires an
- 12 expenditure of substantial effort or time.
- 13 (2) The Legislature may authorize and regulate a state
- 14 lottery pursuant to subsection (3) of this section and other
- 15 lotteries, raffles, and gift enterprises which are intended solely
- 16 as business promotions or the proceeds of which are to be used
- 17 solely for charitable or community betterment purposes without
- 18 profit to the promoter of such lotteries, raffles, or gift

19 enterprises.

20 (3) The Legislature may establish a lottery to be
 21 operated and regulated by the State of Nebraska. The proceeds of
 22 the lottery shall be appropriated by the Legislature for the costs
 23 of establishing and maintaining the lottery and for other purposes
 1 as directed by the Legislature. No lottery game shall be conducted
 2 as part of the lottery unless the type of game has been approved by
 3 a majority of the members of the Legislature.

4 (4) Nothing in this section shall be construed to
 5 prohibit (a) the enactment of laws providing for the licensing and
 6 regulation of wagering on the results of horseraces, wherever run,
 7 either within or outside of the state, by the parimutuel method,
 8 when such wagering is conducted by licensees within a licensed
 9 racetrack enclosure or (b) the enactment of laws providing for the
 10 licensing and regulation of bingo games conducted by nonprofit
 11 associations which have been in existence for a period of five
 12 years immediately preceding the application for license, except
 13 that bingo games cannot be conducted by agents or lessees of such
 14 associations on a percentage basis.

15 (5)(a) For purposes of this subsection, casino gaming
 16 includes games of chance played for money, credit, or any
 17 representative of value using cards; dice; equipment;
 18 player-activated electronic, video, or mechanical gaming devices;
 19 and other methods authorized by the Legislature.

20 (b) Nothing in the Constitution of Nebraska shall be
 21 construed to prohibit or restrict casino gaming as authorized by
 22 the Legislature. Before casino gaming is authorized in any county,
 23 the voters of the county shall either approve or disapprove casino
 24 gaming in such county. Only the Legislature may provide for the
 25 authorization, operation, regulation, and taxation of casino gaming
 26 whether casino gaming is authorized under this section or by
 27 initiative measure."

1 2. On page 3, line 13, strike "amendment" and insert
 2 "amendments"; and in line 23 after the first period insert the
 3 following new matter:

4 "A constitutional amendment to define casino gaming and
 5 to permit the Legislature to authorize casino gaming
 6 subject to approval by voters in the affected counties
 7 and provide for the authorization, operation, regulation,
 8 and taxation of casino gaming.

9 For
 10 Against".

11 3. Renumber the remaining section accordingly.

Senator Connealy filed the following amendments to LB 1083:
 AM3218

(Amendments to FA1574)

1 1. On page 10, strike beginning with "(1)" in line 8
 2 through line 14.

AM3219

(Amendments to FA1574)

1. On page 11, strike lines 3 through 7.

AM3220

(Amendments to FA1574)

1. On page 11, strike lines 8 through 14.

AM3221

(Amendments to FA1574)

1. On page 10, strike lines 15 through 27.
2. On page 11, strike lines 1, 2, 15, and 16.

ANNOUNCEMENT

Senator Baker announced the Transportation and Telecommunications Committee will hold an executive session Thursday, March 18, 2004, at 9:30 a.m., under the south balcony.

ADJOURNMENT

At 4:28 p.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Thursday, March 18, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-FOURTH DAY - MARCH 18, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 18, 2004

PRAYER

The prayer was offered by retired Pastor Bill Arnold, United Methodist Church, Holdrege.

ROLL CALL

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

The roll was called and all members were present except Senators Brown and Landis who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-third day was approved.

AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 599:
AM3091

(Amendments to AM2502)

1 1. Strike sections 1 and 2 and all amendments thereto
2 and insert the following new sections:
3 "Section 1. Section 2-3256, Revised Statutes Supplement,
4 2002, is amended to read:
5 2-3256. All design or construction by a district of
6 structural works costing more than ~~eighty~~ eighty-six thousand
7 dollars shall be under the supervision of a licensed engineer
8 except as otherwise provided in the Engineers and Architects
9 Regulation Act. The Board of Engineers and Architects shall adjust
10 the dollar amount in this section every fifth year commencing July
11 1, 2009. The adjusted amount shall be equal to the then current
12 amount adjusted by the cumulative percentage change in the Consumer
13 Price Index for All Urban Consumers published by the Federal Bureau
14 of Labor Statistics for the five-year period preceding the
15 adjustment date. The amount shall be rounded to the next highest

16 one-thousand-dollar amount.

17 Sec. 2. Section 81-3445, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-3445. Except as otherwise provided in this section
20 and sections 81-3449 to 81-3453, the state and its political
21 subdivisions shall not engage in the construction of any public
22 works involving architecture or engineering unless the plans,
23 specifications, and estimates have been prepared and the
1 construction has been observed by an architect, a professional
2 engineer, or a person under the direct supervision of an architect,
3 professional engineer, or those under the direct supervision of an
4 architect or professional engineer. ~~This except that this~~ section
5 shall not apply to any public work in which the contemplated
6 expenditure for the complete project does not exceed ~~eighty~~
7 eighty-six thousand dollars. The board shall adjust the dollar
8 amount in this section every fifth year commencing July 1, 2009.
9 The adjusted amount shall be equal to the then current amount
10 adjusted by the cumulative percentage change in the Consumer Price
11 Index for All Urban Consumers published by the Federal Bureau of
12 Labor Statistics for the five-year period preceding the adjustment
13 date. The amount shall be rounded to the next highest
14 one-thousand-dollar amount."

15 2. On page 3, line 7; and page 7, line 6, strike

16 "eighty", show as stricken, and insert "eighty-six".

17 3. On page 3, lines 8 to 10; and page 7, lines 7 to 9,

18 strike the new matter and insert "The board shall adjust the

19 dollar amount in this subdivision every fifth year commencing July

20 1, 2009. The adjusted amount shall be equal to the then current

21 amount adjusted by the cumulative percentage change in the Consumer

22 Price Index for All Urban Consumers published by the Federal Bureau

23 of Labor Statistics for the five-year period preceding the

24 adjustment date. The amount shall be rounded to the next highest

25 one-thousand-dollar amount".

GENERAL FILE

LEGISLATIVE BILL 1089. Title read. Considered.

The Standing Committee amendment, AM3033, printed separately and referred to on page 1050, was considered.

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

AM3216

(Amendments to Standing Committee amendments, AM3033)

1 1. Strike section 166.

2 2. On page 191, line 10, strike "173" and insert "172".

3 3. Renumber the remaining sections accordingly.

SPEAKER BROMM PRESIDING

Pending.

BILL ON FIRST READING

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

LEGISLATIVE BILL 1005A. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1005, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

STANDING COMMITTEE REPORTS
Judiciary

LEGISLATIVE BILL 850. Placed on General File as amended.
Standing Committee amendment to LB 850:
AM3195

- 1 1. Strike original section 6.
- 2 2. On page 2, strike lines 7 through 22 and insert:
- 3 "(a) Intentionally, knowingly, or recklessly causes
- 4 bodily injury to his or her intimate partner; or
- 5 (b) Places, by physical menace, his or her intimate
- 6 partner in fear of imminent bodily injury.
- 7 (2) A person commits the offense of domestic assault in
- 8 the second degree if he or she:
- 9 (a) Intentionally or knowingly causes bodily injury to
- 10 his or her intimate partner with a dangerous instrument; or
- 11 (b) Recklessly causes serious bodily injury to his or her
- 12 intimate partner with a dangerous instrument.
- 13 (3) A person commits the offense of domestic assault in
- 14 the first degree if he or she intentionally or knowingly causes
- 15 serious bodily injury to his or her intimate partner."
- 16 3. On page 3, strike lines 11 through 22 and insert "a
- 17 spouse; former spouse; persons who have a child in common whether
- 18 or not they have been married or lived together at any time; and
- 19 persons who are or were involved in a dating relationship. For
- 20 purposes of this subsection, dating relationship means frequent,
- 21 intimate associations primarily characterized by the expectation of
- 22 affectional or sexual involvement. The term does not include a
- 23 casual relationship or an ordinary association between persons in a
- 24 business or social context."; and in line 25 strike the new matter
- 1 and reinstate the stricken matter.
- 2 4. On page 4, lines 24 and 25, strike "an intimate or
- 3 sexual" and insert "a dating"; and strike beginning with "In" in
- 4 line 26 through line 28 and insert "For purposes of this section,
- 5 dating relationship means frequent, intimate associations primarily

- 6 characterized by the expectation of affectional or sexual
 7 involvement. The term does not include a casual relationship or an
 8 ordinary association between persons in a business or social
 9 context".
- 10 5. On page 5, strike beginning with the first
 11 "relationship" in line 1 through "parties" in line 2; and in line 4
 12 after "officer" insert ", in lieu of issuing a citation,".
- 13 6. On page 7, line 11, after "abuse" insert "as defined
 14 in section 42-903".
- 15 7. On page 8, lines 12 and 13, strike "an intimate or
 16 sexual" and insert "a dating"; and strike beginning with "In" in
 17 line 14 through "parties" in line 19 and insert "For purposes of
 18 this subdivision, dating relationship means frequent, intimate
 19 associations primarily characterized by the expectation of
 20 affectional or sexual involvement. The term does not include a
 21 casual relationship or an ordinary association between persons in a
 22 business or social context".
- 23 8. On page 10, line 1, strike ", 29-901.01,".
- 24 9. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 958. Placed on General File as amended.
 Standing Committee amendment to LB 958:
 AM3226

- 1 1. Strike the original sections and insert the following
 2 new sections:
- 3 "Section 1. Section 28-101, Revised Statutes Supplement,
 4 2003, is amended to read:
- 5 28-101. Sections 28-101 to 28-1350 and sections 2 to 7
 6 of this act shall be known and may be cited as the Nebraska
 7 Criminal Code.
- 8 Sec. 2. Sections 2 to 7 of this act shall be known and
 9 may be cited as the Assault of an Unborn Child Act.
- 10 Sec. 3. For purposes of the Assault of an Unborn Child
 11 Act:
- 12 (1) Serious bodily injury means bodily injury which
 13 involves a substantial risk of death, or which involves a
 14 substantial risk of serious permanent disfigurement, or protracted
 15 loss or impairment of the function of any part or organ of the
 16 body; and
- 17 (2) Unborn child means an individual member of the
 18 species Homo sapiens at any stage of development in utero.
- 19 Sec. 4. (1) A person commits the offense of assault of
 20 an unborn child in the first degree if he or she intentionally or
 21 knowingly causes serious bodily injury to an unborn child.
- 22 (2) Assault of an unborn child in the first degree is a
 23 Class IIIA felony.
- 24 Sec. 5. (1) A person commits the offense of assault of
 1 an unborn child in the second degree if he or she recklessly causes
 2 serious bodily injury to an unborn child with a dangerous

3 instrument.
 4 (2) Assault of an unborn child in the second degree is a
 5 Class IV felony.
 6 Sec. 6. Any person who, while operating a motor vehicle
 7 in violation of section 60-6,196 or 60-6,197, proximately causes
 8 serious bodily injury to an unborn child is guilty of a Class I
 9 misdemeanor and the court shall, as part of the judgment of
 10 conviction, order the person not to drive any motor vehicle for any
 11 purpose for a period of at least sixty days and not more than
 12 fifteen years from the date ordered by the court and shall order
 13 that the operator's license of such person be revoked for the same
 14 period.
 15 Sec. 7. The Assault of an Unborn Child Act does not
 16 apply to an act or conduct causing or contributing to the serious
 17 bodily injury of an unborn child when the act or conduct is:
 18 (1) Committed or engaged in by the mother of the unborn
 19 child;
 20 (2) Any medical procedure performed with the consent of
 21 the mother; or
 22 (3) Dispensing a drug or device in accordance with law or
 23 administering a drug or device prescribed in accordance with law.
 24 Sec. 8. Original section 28-101, Revised Statutes
 25 Supplement, 2003, is repealed.
 26 Sec. 9. Since an emergency exists, this act takes effect
 27 when passed and approved according to law."

LEGISLATIVE BILL 1162. Placed on General File as amended.
 Standing Committee amendment to LB 1162:
 AM3193

1 1. Strike the original sections and insert the following
 2 new sections:
 3 "Section 1. Section 20-503, Revised Statutes Supplement,
 4 2002, is amended to read:
 5 20-503. For purposes of sections 20-501 to 20-505:
 6 (1) Disparate treatment means differential treatment of
 7 persons on the basis of race, color, or national origin;
 8 (2) Motor vehicle stop means any stop of a motor vehicle,
 9 except for any motor truck, truck-tractor, semitrailer, trailer, or
 10 towed vehicle required to stop at any state weighing station or
 11 portable scale; and
 12 (3) Racial profiling means detaining an individual or
 13 conducting a motor vehicle stop based upon disparate treatment of
 14 an individual.
 15 Sec. 2. Section 20-504, Revised Statutes Supplement,
 16 2002, is amended to read:
 17 20-504. (1) On or before January 1, 2002, the Nebraska
 18 State Patrol, the county sheriffs, all city and village police
 19 departments, and any other law enforcement agency in this state
 20 shall adopt a written policy that prohibits the detention of any

21 person or a motor vehicle stop when such action is motivated by
22 racial profiling and the action would constitute a violation of the
23 civil rights of the person.

24 (2) With respect to a motor vehicle stop, on and after

1 January 1, 2002, the Nebraska State Patrol, the county sheriffs,
2 all city and village police departments, and any other law
3 enforcement agency in this state shall record and retain the
4 following information using the form developed and promulgated
5 pursuant to section 20-505:

6 (a) The number of motor vehicle stops;

7 (b) The characteristics of race or ethnicity of the
8 person stopped. The identification of such characteristics shall
9 be based on the observation and perception of the law enforcement
10 officer responsible for reporting the motor vehicle stop and the
11 information shall not be required to be provided by the person
12 stopped;

13 (c) If the stop is for a law violation, the nature of the
14 alleged law violation that resulted in the motor vehicle stop;

15 (d) Whether a warning or citation was issued, an arrest
16 made, or a search conducted as a result of the motor vehicle stop.
17 Search does not include a search incident to arrest or an inventory
18 search; and

19 (e) Any additional information that the Nebraska State
20 Patrol, the county sheriffs, all city and village police
21 departments, or any other law enforcement agency in this state, as
22 the case may be, deems appropriate.

23 (3) The Nebraska Commission on Law Enforcement and
24 Criminal Justice may develop a uniform system for receiving
25 allegations of racial profiling. The Nebraska State Patrol, the
26 county sheriffs, all city and village police departments, and any
27 other law enforcement agency in this state shall provide to the
1 commission (a) a copy of each allegation of racial profiling
2 received and (b) written notification of the review and disposition
3 of such allegation. No information revealing the identity of the
4 law enforcement officer involved in the stop shall be used,
5 transmitted, or disclosed in violation of any collective bargaining
6 agreement provision or personnel rule under which such law
7 enforcement officer is employed. No information revealing the
8 identity of the complainant shall be used, transmitted, or
9 disclosed in the form alleging racial profiling.

10 (4) Any law enforcement officer who in good faith records
11 information on a motor vehicle stop pursuant to this section shall
12 not be held civilly liable for the act of recording such
13 information unless the law enforcement officer's conduct was
14 unreasonable or reckless or in some way contrary to law.

15 (5) On or before October 1, 2002, and annually thereafter
16 until January 1, ~~2004~~ 2007, the Nebraska State Patrol, the county
17 sheriffs, all city and village police departments, and all other
18 law enforcement agencies in this state shall provide to the

19 commission, in such form as the commission prescribes, a summary
 20 report of the information recorded pursuant to subsection (2) of
 21 this section.

22 (6) On and after January 1, 2002, and until January 1,
 23 ~~2004~~ 2007, the commission may, within the limits of its existing
 24 appropriations, provide for a review of the prevalence and
 25 disposition of motor vehicle stops based on racial profiling and
 26 allegations reported pursuant to this section. The results of such
 27 review shall be reported annually to the Governor and the
 1 Legislature beginning on or before April 1, 2004, until April 1,
 2 2007.

3 Sec. 3. Section 81-1413, Revised Statutes Supplement,
 4 2002, is amended to read:

5 81-1413. Tuition, fees, and such other expenses incurred
 6 in the pre-certification and certification training of applicants
 7 shall be the responsibility of the person or his or her sponsoring
 8 agency, except that through ~~June 30, 2005~~ January 1, 2007, such
 9 expenses may be financed by the training center through other
 10 appropriated funds as determined by the council in order to
 11 transition to a tuition-based system.

12 Sec. 4. Section 81-1438, Reissue Revised Statutes of
 13 Nebraska, is amended to read:

14 81-1438. The governing body of any county or city of
 15 this state other than (1) a county containing a city of the
 16 metropolitan or primary class or (2) a city of the metropolitan or
 17 primary class may establish a law enforcement reserve force.
 18 Members of such force shall be appointed at the discretion of the
 19 governing body. The governing body may limit the size of such
 20 reserve force.

21 Sec. 5. Original section 81-1438, Reissue Revised
 22 Statutes of Nebraska, and sections 20-503, 20-504, and 81-1413,
 23 Revised Statutes Supplement, 2002, are repealed.

24 Sec. 6. Since an emergency exists, this act takes effect
 25 when passed and approved according to law."

LEGISLATIVE BILL 1213. Placed on General File as amended.
 Standing Committee amendment to LB 1213:
 AM2924

1 1. Insert the following new section:
 2 "Section 1. Section 20-503, Revised Statutes Supplement,
 3 2002, is amended to read:
 4 20-503. For purposes of sections 20-501 to 20-505:
 5 (1) Disparate treatment means differential treatment of
 6 persons on the basis of race, color, or national origin;
 7 (2) Motor vehicle stop means any stop of a motor vehicle,
 8 except for any motor truck, truck-tractor, semitrailer, trailer, or
 9 towed vehicle required to stop at any state weighing station or
 10 portable scale; and
 11 (3) Racial profiling means detaining an individual or

12 conducting a motor vehicle stop based upon disparate treatment of
13 an individual."

14 2. On page 4, line 11, strike "section" and insert

15 "sections 20-503 and"; and in line 12 strike "is" and insert "are".

16 3. Renumber the remaining sections accordingly.

(Signed) Kermit A. Brashear, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 919. Placed on General File.

(Signed) Tom Baker, Chairperson

AMENDMENTS - Print in Journal

Senator Schrock filed the following amendment to LB 1012:
AM3182

(Amendments to Standing Committee amendments, AM2956)

1 1. Insert the following new section:

2 "Sec. 2. (1) A liquefied petroleum gas customer in this
3 state shall provide written notice to his or her liquefied
4 petroleum gas supplier of any installation, modification, repair,
5 or servicing of his or her liquefied petroleum gas system by any
6 person other than the liquefied petroleum gas supplier.

7 (2) A retailer, handler, wholesaler, or transporter
8 engaged in this state in the business of selling liquefied
9 petroleum gas at retail or in the business of handling or
10 transporting liquefied petroleum gas over the highways of this
11 state, and any employees thereof, shall not be liable for damages
12 for injury to persons or property that result from any occurrence
13 caused by the installation, modification, repair, or servicing of a
14 liquefied petroleum gas system by any other person unless the
15 retailer, handler, wholesaler, or transporter had inspected the
16 system prior to the system being placed back into service.

17 (3)(a) The liability limitation in subsection (2) of this
18 section applies only if the liquefied petroleum gas customer had
19 notice of this section. Notice shall be provided by mailing or
20 otherwise providing to the customer or leaving at the customer's
21 residence a notice as described in subdivision (b) of this
22 subsection by a retailer, handler, wholesaler, or transporter
23 engaged in this state in the business of selling liquefied
1 petroleum gas at retail or in the business of handling or
2 transporting liquefied petroleum gas over the highways of this
3 state.

4 (b) The form of the notice shall be developed by the
5 Propane Education and Research Council and distributed by the
6 council to all Nebraska liquefied petroleum gas retailers,
7 handlers, wholesalers, and transporters. The notice shall include

8 the statutory reference to this section as well as a description of
 9 the law and any additional information the council believes
 10 necessary.".

Senator Loudon filed the following amendments to LB 1048:

AM3018

- 1 1. Insert the following new section:
- 2 "Sec. 38. Notwithstanding the provisions of sections
- 3 79-824 to 79-849, the school board of each school district shall
- 4 review the employment of each permanent certificated teacher in any
- 5 of grades kindergarten through twelve in the district not less
- 6 often than every ten years to determine whether or not such teacher
- 7 shall continue to be employed by the district."
- 8 2. Amend the operative date section so that the section
- 9 added by this amendment becomes operative on its effective date.
- 10 3. Renumber the remaining sections and correct internal
- 11 references accordingly.

AM3019

- 1 1. On page 56, line 6, after "(2)" insert "The amount to
- 2 be distributed to each school district as determined pursuant to
- 3 subsection (1) of this section shall be reduced by a percentage
- 4 equivalent to the district's dropout percentage as reported by such
- 5 district pursuant to section 79-527.
- 6 (3)".

AM3020

- 1 1. Insert the following new section:
- 2 "Sec. 48. Any Class IV or Class V school district
- 3 reporting a dropout rate greater than fifteen percent pursuant to
- 4 section 79-527 shall be divided into as many Class III school
- 5 districts as the population of the Class IV or Class V district
- 6 requires. Such division shall be effective on or before the
- 7 beginning of the school year immediately following the school year
- 8 in which the Class IV or Class V district reports such dropout
- 9 rate."
- 10 2. Amend the operative date section so that the section
- 11 added by this amendment becomes operative on its effective date.
- 12 3. Renumber the remaining sections and correct internal
- 13 references accordingly.

RESOLUTIONS

LEGISLATIVE RESOLUTION 262. Introduced by Baker, 44.

PURPOSE: The purpose of this study is to examine matters and issues within the jurisdiction of the Transportation and Telecommunications Committee of the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 263. Introduced by Baker, 44.

PURPOSE: The purpose of this resolution is to study the feasibility of a system for issuing certificates of title for continuation motor vehicles. The study shall include all applicable federal rules and regulations regarding motor vehicles. The study shall also examine policy implications raised by a continuation title and an examination of other states' statutes that allow a similar title. Taxation of such a motor vehicle shall be considered. Statutory changes may be recommended.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 264. Introduced by Baker, 44.

PURPOSE: The purpose of this study is to examine the issues surrounding the regulation of wireless telecommunications companies by the Public Service Commission.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 265. Introduced by Baker, 44.

PURPOSE: The purpose of this resolution is to study state law as it pertains to maximum load limits for vehicles and trailers, permissible loads by permit, and distribution of fees from such permits. The weight, height, width, and length limits shall also be reviewed, with consideration of safety, impact on roads, appropriateness of fees, length of permit periods, movement of mobile equipment, and tire size and type. The study shall also examine the exemptions to maximum limits. The applicability of a federal moratorium against increasing limits on "extra-long" vehicles and the ability of the state to alter such statutes shall be considered and studied. In addition, the study shall consider the current permits required by the state and by local jurisdictions and the availability of that information to the public.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 1089. The Chambers pending amendment, AM3216, found in this day's Journal, to the Standing Committee amendment, was renewed.

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 252, 253, and 254 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 252, 253, and 254.

GENERAL FILE

LEGISLATIVE BILL 1089. The Chambers pending amendment, AM3216, found in this day's Journal, to the Standing Committee amendment, was renewed.

SENATOR SCHIMEK PRESIDING

Senator Chambers offered the following motion:
Bracket until April 15, 2004.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 266. Introduced by Baker, 44; Wehrbein, 2.

PURPOSE: The purpose of this resolution is to study the issues surrounding motor vehicle registration, including the penalties for late registration and the distribution of fees. This study shall also examine the statutory penalties imposed by other states and potential solutions for reducing the number of motor vehicles that are not registered. This study shall examine law enforcement issues relative to motor vehicle registration.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENT - Print in Journal

Senator Schimek filed the following amendment to LB 1083:
AM3224

(Amendments to FA1574)

- 1 1. On page 11, line 2, after the period insert "Any
- 2 closure under this section shall first be approved by a majority
- 3 vote of the Legislature.".

VISITORS

Visitors to the Chamber were 17 member of Leadership Columbus; 40 third- and fourth-grade students and teachers from Sterling; Roger Olson, Lloyd Wright, and Connie Carstens from Blair; 34 fourth-grade students and teacher from St. Cecilia Grade School, Omaha; and 40 fourth-grade students and teachers from Meadows Elementary School, Omaha.

RECESS

At 12:01 p.m., on a motion by Senator Jones, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Burling and Engel who were excused; and Senators Beutler, Bromm, Brown, Quandahl, Tyson, and Vrtiska who were excused until they arrive.

STANDING COMMITTEE REPORT
Urban Affairs

LEGISLATIVE BILL 1052. Placed on General File as amended.
Standing Committee amendment to LB 1052:
AM3078

- 1 1. Strike original section 1 and insert the following
- 2 new section:
- 3 "Section 1. Section 35-514, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 35-514. (1) Any territory which is outside the limits of
- 6 any incorporated city may be annexed to an adjacent district in the
- 7 manner provided in this section, whether or not the territory is in
- 8 an existing rural or suburban fire protection district.
- 9 (2) The proceedings for the annexation may be initiated
- 10 by either (a) the presentation to the county clerk of a petition
- 11 signed by sixty percent or more of the registered voters who are
- 12 residing within the boundaries of the territory to be annexed
- 13 stating the desires and purposes of such petitioners or (b) the
- 14 presentation to the county clerk of certified copies of resolutions
- 15 passed by the board of directors of the annexing district and any
- 16 other district from which the property would be annexed supporting
- 17 the proposed annexation. The petition or resolutions shall contain
- 18 a description of the boundaries of the territory proposed to be
- 19 annexed. The petition or resolutions shall be accompanied by a map
- 20 or plat and a deposit for publication costs.
- 21 (3) The county clerk shall verify the petition as
- 22 provided in section 32-631 and determine and certify whether or not
- 23 such petition or resolution complies with the requirements of
- 24 subsection (2) of this section and that the persons signing the
- 1 petition appear to reside at the addresses indicated by such
- 2 petition. Thereafter, the county clerk shall forward any petition,
- 3 map or plat, and certificate to the board of directors of the

4 districts concerned.

5 (4) Within thirty days after receiving the petition, map
6 or plat, and certificate of the county clerk, in accordance with
7 subsection (3) of this section, from the county clerk, the board of
8 directors of all affected districts shall transmit the same to the
9 proper county board, accompanied by a report in writing approving
10 or disapproving the proposal contained in the petition, or
11 approving such proposal in part and disapproving it in part. If
12 the annexation is proposed by resolutions of the affected
13 districts, the resolutions shall be transmitted to the proper
14 county board.

15 (5) The county board shall promptly designate a time and
16 place for a hearing upon the annexation. Notice of such hearing
17 shall be given by publication two weeks in a newspaper of general
18 circulation in the county, the last publication appearing at least
19 seven days prior to the hearing. The notice shall be addressed to
20 "all registered voters residing in the following boundaries" and
21 shall include a description of the proposed boundaries as set forth
22 in the petition or resolutions. At such hearing, any person shall
23 have the opportunity to be heard respecting the proposed
24 annexation.

25 (6) The county board shall, within forty-five days after
26 the hearing referred to in subsection (5) of this section,
27 determine whether such territory should be annexed and shall fix
1 the boundaries of the territory to be annexed. No annexation shall
2 be approved which would leave any district with less than the
3 minimum valuation of two million eight hundred sixty thousand
4 dollars. The determination of the county board shall be set forth
5 in a written order which shall describe the boundaries determined
6 upon and shall be filed in the office of the county clerk.

7 (7) Any area annexed from a rural or suburban fire
8 protection district, except areas duly incorporated within the
9 boundaries of a municipality, shall be subject to assessment and be
10 otherwise chargeable for the payment and discharge of all the
11 obligations of the rural or suburban fire protection district
12 outstanding at the time of the filing of the petition or resolution
13 for the annexation of the area as fully as though the area had not
14 been annexed. All procedures which could be used to compel the
15 annexed area, except for areas duly incorporated within the
16 boundaries of a municipality, to pay its portion of the outstanding
17 obligations had the annexation not occurred may be used to compel
18 such payment. Areas duly incorporated within the boundaries of a
19 municipality shall be automatically annexed from the boundaries of
20 the district notwithstanding the provisions of section 31-766 and
21 shall not be subject to further tax levy or other charges by the
22 district. The municipality shall be responsible to pay the
23 district for its share of a division of the assets, liabilities,
24 maintenance, or other obligations of the district proportionate to
25 the valuation of the portion of the district annexed to the

26 valuation of the portion of the district remaining following
 27 annexation and shall assume responsibility for providing fire and
 1 rescue service to the annexed areas, ~~except that before the~~
 2 ~~annexation is complete, the municipality shall assume and pay that~~
 3 ~~portion of all outstanding obligations of the district which would~~
 4 ~~otherwise constitute an obligation of the area annexed or~~
 5 ~~incorporated. An area annexed from a rural or suburban fire~~
 6 protection district shall not be subject to assessment or otherwise
 7 chargeable for any obligation of any nature or kind incurred by the
 8 district after the annexation of the area from the district."

(Signed) D. Paul Hartnett, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1089. The Chambers pending motion, found in this day's Journal, to bracket until April 15, 2004, was renewed.

Senator Chambers withdrew his motion to bracket.

The Chambers pending amendment, AM3216, found in this day's Journal, to the Standing Committee amendment, was renewed.

SENATOR JANSSEN PRESIDING

Senator Tyson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

The Chambers amendment was adopted with 27 ayes, 2 nays, 14 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment, AM3033, printed separately and referred to on page 1050 and considered in this day's Journal, as amended, was renewed.

The Standing Committee amendment, as amended, was adopted with 27 ayes, 4 nays, 12 present and not voting, and 6 excused and not voting.

SENATOR CUDABACK PRESIDING

Senator Wehrbein moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

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

Voting in the affirmative, 25:

Aguilar	Combs	Johnson	Louden	Schrock
Baker	Cudaback	Jones	Pederson, D.	Synowiecki
Beutler	Hudkins	Kremer	Price	Tyson
Brown	Janssen	Kruse	Raikes	Vrtiska
Byars	Jensen	Landis	Schimek	Wehrbein

Voting in the negative, 6:

Bourne	Foley	Preister
Erdman	Pedersen, Dw.	Smith

Present and not voting, 10:

Chambers	Cunningham	Maxwell	Mossey	Redfield
Connealy	Friend	McDonald	Quandahl	Stuthman

Excused and not voting, 8:

Brashear	Burling	Hartnett	Stuhr
Bromm	Engel	Mines	Thompson

Advanced to E & R for review with 25 ayes, 6 nays, 10 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

NOTICE OF COMMITTEE HEARINGS
Health and Human Services
 Room 1510

Tuesday, March 30, 2004

1:15 p.m.

Dale Baker - Child Abuse Prevention Fund Board (rehearing)

Elba Cera - Child Abuse Prevention Fund Board

Earl Rudolph - Board of Emergency Medical Services (rehearing)

Pamela J. Duin - Commission for the Deaf and Hard of Hearing

Barbara J. Woodhead - Commission for the Deaf and Hard of Hearing

(Signed) Jim Jensen, Chairperson

Natural Resources
 Room 1525

Friday, April 2, 2004

8:30 a.m.

James R. Gohl - Nebraska Oil and Gas Conservation Commission

(Signed) Ed Schrock, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1090. Title read. Considered.

The Standing Committee amendment, AM3068, found on page 1050, was adopted with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

Pending.

UNANIMOUS CONSENT - Add Cointroducer

Senator Chambers asked unanimous consent to have his name added as cointroducer to LB 379. No objections. So ordered.

UNANIMOUS CONSENT - Time Change

Senator Schrock asked unanimous consent to permit the Natural Resources Committee to begin the hearing scheduled for Friday, April 2, 2004, at 8:30 a.m. rather than 8:45 a.m. No objections. So ordered.

VISITORS

Visitors to the Chamber were 18 fourth-grade students and teacher from Lindsay Holy Family School, Lindsay.

ADJOURNMENT

At 4:36 p.m., on a motion by Senator Chambers, the Legislature adjourned until 9:00 a.m., Friday, March 19, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-FIFTH DAY - MARCH 19, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, March 19, 2004

PRAYER

The prayer was offered by Pastor Paul Witt, St. Mary's Catholic Church, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senator Burling who was excused; and Senators Bromm, Brown, Cunningham, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-fourth day was approved.

**SELECT COMMITTEE REPORTS
Enrollment and Review**

LEGISLATIVE BILL 973. Placed on Select File as amended.
(E & R amendment, AM7201, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 944. Placed on Select File.

(Signed) Ray Mossey, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1090. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 1091. Title read. Considered.

The Standing Committee amendment, AM3075, found on page 1051, was considered.

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

AM3232

(Amendments to Standing Committee amendments, AM3075)

- 1 1. On page 2, line 27, strike "lines 1 and 8" and insert
- 2 "line 1".
- 3 2. On page 3, line 2, after the semicolon insert "in
- 4 line 10 after the period insert 'For fiscal years 2005-06 and
- 5 2006-07, the Education Innovation Fund shall be allocated as
- 6 follows: The first one million dollars each fiscal year shall be
- 7 allocated by the Governor, and the remaining amount shall be
- 8 allocated to the General Fund after operating expenses for the
- 9 Excellence in Education Council are deducted.';"

Pending.

ANNOUNCEMENT

The Chair announced today is Senator Bromm's birthday.

GENERAL FILE

LEGISLATIVE BILL 1091. The Raikes pending amendment, AM3232, found in this day's Journal, to the Standing Committee amendment, was renewed.

SENATOR CUDABACK PRESIDING

Senator Raikes withdrew his amendment.

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

The Standing Committee amendment was adopted with 37 ayes, 1 nay, 9 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Jensen renewed his pending amendment, AM2983, found on page 956.

Pending.

LEGISLATIVE BILL 1047. Title read. Considered.

The Standing Committee amendment, AM2298, found on page 423, was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Senator Redfield withdrew her pending amendment, AM2378, found on page 481.

Senator Quandahl renewed the Quandahl et al. pending amendment, AM3088, printed separately and referred to on page 1063.

The Quandahl et al. amendment was adopted with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

RESOLUTIONS

LEGISLATIVE RESOLUTION 267. Introduced by Aguilar, 35.

PURPOSE: LB 849 was introduced during the Ninety-eighth Legislature, Second Session, 2004, to guarantee consumers a choice of automotive repair shops for reasonably priced repairs without suffering a financial penalty from their insurer. The bill would have required that an insurer not recommend any particular repair shop unless a referral is requested by the claimant or the claimant has been informed of his or her right to choose his or her own repair shop and would have prohibited an insurer from asking a claimant who has already chosen a repair shop, to select a different repair shop. The bill further provided that any insurer that, by policy, suggests or recommends a motor vehicle be repaired at a particular automotive repair shop shall (a) prominently disclose such contractual provision at the time the insurance is applied for and (b) if the claimant elects a shop of his or her choice, the insurer shall not limit or discount the reasonable repair costs based on charges that would have been incurred had the vehicle been repaired by the insurer's chosen automotive repair shop.

The purpose of this study is to examine issues related to LB 849 and related current law.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 268. Introduced by Landis, 46.

PURPOSE: The purpose of this resolution is to study whether Nebraska should enact the Uniform Securities Act as promulgated by the National Conference of Commissioners on Uniform State Laws in 2002. In order to carry out the purpose of this resolution, the committee should seek and consider the input of the Department of Banking and Finance and interested persons as it deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

MESSAGE FROM THE GOVERNOR

March 19, 2004

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 16, 75, 279, 279A, 323, 449, 449A, 560e, 560A, 818, 820e, 821, 835, 836e, 878e, 911e, 915, 927, 936, 937, 940e, 947, 950, 961, 1033e, 1069e, and 1179 were received in my office on March 16, 2004.

These bills were signed and delivered to the Secretary of State on March 19, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

AMENDMENTS - Print in Journal

Senator Tyson filed the following amendment to LB 599:
AM3244

(Amendments to AM2502)

- 1 1. On page 1, line 8, after "regulation" insert "adopted
- 2 pursuant to the Negotiated Rulemaking Act".

- 3 2. On page 2, line 1, after "regulations" insert
 4 "adopted pursuant to the Negotiated Rulemaking Act".
 5 3. On page 2, lines 14 and 25; page 3, line 5; page 6,
 6 lines 13 and 24; and page 7, line 4, after "Act" insert "but shall
 7 not exceed the Type V, column B, limitations set forth by the
 8 allowable height and building areas table in the state building
 9 code adopted in section 71-6403".

Senator Johnson filed the following amendment to LB 1099:

AM3093

- 1 1. On page 4, line 2, strike "four dollars" and insert
 2 "three dollars and fifty cents".

Senator Wehrbein filed the following amendment to LB 1089:

AM3263

(Amendments to Standing Committee amendments, AM3033)

- 1 1. Insert the following new section:
 2 "Sec. 166. Laws 2003, LB 407, section 173, is amended to
 3 read:
 4 Sec. 173. AGENCY NO. 52 -- STATE BOARD OF AGRICULTURE
 5 Program No. 539 - State Board of Agriculture
 6

	FY2003-04	FY2004-05
7 GENERAL FUND	-0-	-0-
8 PROGRAM TOTAL	-0-	-0-
9 <u>GENERAL FUND</u>	<u>-0-</u>	<u>306,208</u>
10 <u>PROGRAM TOTAL</u>	<u>-0-</u>	<u>306,208</u> ".

 11 2. Correct the repealer accordingly.
 12 3. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 1091. The Jensen pending amendment, AM2983, found on page 956 and considered in this day's Journal, was renewed.

SPEAKER BROMM PRESIDING

The Jensen amendment was adopted with 26 ayes, 4 nays, 9 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 1092. Title read. Considered.

The Standing Committee amendment, AM2921, printed separately and referred to on page 1053, was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 13 present and not

voting, and 10 excused and not voting.

LEGISLATIVE BILL 514. Title read. Considered.

The Standing Committee amendment, AM2706, found on page 795, was adopted with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 5 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 917. Title read. Considered.

SENATOR CUDABACK PRESIDING

Advanced to E & R for review with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 1144. Title read. Considered.

Senator Kruse offered the following amendment:
AM3242

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 13-1214, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 13-1214. The department shall certify biennially the
- 5 amount of ~~money necessary to fully fund the state's portion of the~~
- 6 ~~intercity bus system assistance~~ eligible for funding program
- 7 ~~established~~ under section 13-1213."
- 8 2. On page 2, strike beginning with "money" in line 4
- 9 through "of" in line 5, show as stricken, and insert "operating
- 10 costs eligible for funding under".
- 11 3. On page 7, line 8, strike the first "the"; and in
- 12 line 20 after "13-1210" insert ", 13-1214,".
- 13 4. Renumber the remaining sections accordingly.

The Kruse amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 1071. Title read. Considered.

The Standing Committee amendment, AM2999, found on page 1049, was considered.

Senator Wehrbein renewed his pending amendment, AM3203, found on page 1117, to the Standing Committee amendment.

The Wehrbein amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 297. Title read. Considered.

The Standing Committee amendment, AM3185, found on page 1109, was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

AMENDMENTS - Print in Journal

Senators Vrtiska and Hartnett filed the following amendment to LB 1241:
AM3256

(Amendments to Standing Committee amendments, AM2818)

- 1 1. In page 1, line 6, strike "9,006.74" and insert
- 2 "5,019.54"; and in line 9 strike "16,786.24" and insert
- 3 "12,799.04".

Senator Vrtiska filed the following amendment to LB 1241:
AM3257

(Amendments to Standing Committee amendments, AM2818)

- 1 1. On page 1, line 11, before "Tort" insert "Tort Claim
- 2 No. 01-663 and Tort Claim No. 01-770, against the Department of
- 3 Roads, pay to Joseph S. Daly and St. Paul Fire and Marine Company,
- 4 10404 Essex Court, Suite 100, Omaha, NE 68114, out of the
- 5 Department of Roads Operations Cash Fund. 200,000.00".
- 6 2. On page 5, line 25, strike "4,795,893.30" and insert
- 7 "4,995,893.30"; and in line 26 strike "4,908,657.69" and insert
- 8 "5,108,657.69".

Senator Landis filed the following amendment to LB 1083:
AM3262

(Amendments to FA1574)

- 1 1. On page 10, line 15, strike "is authorized to" and
- 2 insert "may"; in line 17 after "center" insert "only"; in line 18
- 3 after "center" insert "behavioral health"; and in line 24 after
- 4 "services" insert ", except that the division shall not cease the
- 5 operation of any regional center unless the Executive Board of the
- 6 Legislative Council by two-thirds vote of its members provides

7 legislative approval to close a regional center or centers".

Senator Landis filed the following amendment to LB 973:
(Amendment, AM3225, is printed separately and available in the Bill Room,
Room 1104.)

RESOLUTIONS

LEGISLATIVE RESOLUTION 269. Introduced by Loudon, 49.

PURPOSE: The purpose of this resolution is to study issues regarding the availability and affordability of liability insurance coverage for persons engaged in equine activities as defined in section 25-21,250.

In order to carry out the purpose of this resolution, the committee should seek and consider as it deems necessary and beneficial the input of interested persons and should request the assistance of the Department of Insurance in the compilation and analysis of pertinent data and information from relevant sources.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 270. Introduced by Loudon, 49.

PURPOSE: The purpose of this resolution is to study issues regarding the affordability of workers' compensation coverage for smaller agriculturally related businesses and enterprises that are assigned risk employers as defined in and subject to section 48-146.01.

In order to carry out the purpose of this resolution, the committee should seek and consider as it deems necessary and beneficial the input of interested persons and should request the assistance of the Department of Insurance in the compilation and analysis of pertinent data and information from relevant sources.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative

Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 271. Introduced by Smith, 48.

WHEREAS, the 2004 Minatare High School LifeSmarts Team comprised of Heather Kreiling, Russ Thayer, Desi Arends, Josh Garza, and Daniel Sandoz recently won the state competition held in Kearney, Nebraska; and

WHEREAS, the 2004 team victory is the third State LifeSmarts Competition won in a row by the Minatare High School LifeSmarts Team and for the third year in a row the team has won the honor of representing the State of Nebraska at the National LifeSmarts Competition in Chicago in April, 2004; and

WHEREAS, the LifeSmarts program bills itself as "the ultimate consumer challenge" having been created by the National Consumers League to develop and strengthen the consumer and marketplace skills of high school students before they begin their lives as adult citizens; and

WHEREAS, Coach Candace Frey and the members of the 2004 Minatare High School LifeSmarts Team deserve recognition and commendation not only for winning the 2004 state competition but also for perpetuating a tradition of excellence established by the previous Minatare LifeSmarts teams; and

WHEREAS, the accomplishments of the 2004 Minatare High School LifeSmarts state champions and the two preceding Minatare LifeSmarts state champions are a testament to the skill, talent, hard work, and determination of the teams, the excellent coaching, and the unwavering support of Minatare High School's parents, students, teachers, staff, and administration.

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

1. That the Legislature congratulates the members of the 2003-2004 Minatare High School LifeSmarts Team and their coach, Candace Frey, for their outstanding accomplishment.

2. That a copy of this resolution be sent to Minatare High School LifeSmarts Team and Coach Candace Frey.

Laid over.

REPORTS

The following reports were received by the Legislature:

Fiscal Office, Legislative

Re-certification of General Fund net receipts for fiscal year beginning July 1, 2003. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced

February 27, 2004

Property Assessment and Taxation, Department of
2003 Annual Report

Retirement Systems, Public Employees

2004 Annual Report to the Legislative Retirement Committee

Revenue, Department of

Employment and Investment Growth Act, Employment Expansion and Investment Incentive Act (including Enterprise Zone Act), Quality Jobs Act, Rural Economic Opportunities Act, and Invest Nebraska Act (LB 775, LB 1124, LB 608, LB 829, LB 936, and LB 620)

Re-certification of General Fund net receipts for fiscal year beginning July 1, 2003. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced February 27, 2004

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 18, 2004, 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

McNally-Schuller, Lynne
Horsemen Benevolent & Protective Association

VISITORS

Visitors to the Chamber were 42 fourth-grade students and teachers from Southern Elementary School, Blue Springs; 25 eighth-grade students and teacher from Lexington; 50 fourth-grade students and teachers from Pershing Elementary School, Lexington; Paul Borzekofski from Wymore; Landon Haack from Dix; 30 members of First Baptist Church from Kearney; 33 fourth-grade students and teacher from Messiah Lutheran School, Lincoln; 14 second- through eighth-grade students, teachers, and sponsors from St. Agnes School, Alliance; and Adina Choat from St. Edward.

ADJOURNMENT

At 1:53 p.m., on a motion by Senator Raikes, the Legislature adjourned until 9:00 a.m., Monday, March 22, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-SIXTH DAY - MARCH 22, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, March 22, 2004

PRAYER

The prayer was offered by Senator Kruse.

ROLL CALL

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

The roll was called and all members were present except Senator Byars who was excused; and Senators Brown, Burling, Combs, Hartnett, Landis, Mines, Price, and Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-fifth day was approved.

RESOLUTION

LEGISLATIVE RESOLUTION 272. Introduced by Thompson, 14.

WHEREAS, on March 2, 2004, City of Papillion firefighters were dispatched to a house fire; and

WHEREAS, upon arrival they found the home heavily charged with smoke and were told that an elderly woman was trapped inside the home; and

WHEREAS, facing intense smoke and fire conditions and overcoming serious obstacles, several Papillion firefighters were able to make their way to the woman who was then rescued but did not have a pulse and wasn't breathing; and

WHEREAS, life saving procedures were initiated and the woman regained a pulse and survived the fire; and

WHEREAS, the Papillion firefighters involved in this heroic rescue included Todd Remmers, Paul Rupp, Jason Schendt, Mike McKulsky, and Jeff Strawn. These firefighters should be recognized for their courageous actions and bravery.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature recognizes and congratulates these dedicated public servants for their heroic actions
2. That a copy of this resolution be sent to the Papillion Fire Department.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 1093. Title read. Considered.

The Standing Committee amendment, AM2792, printed separately and referred to on page 858, was considered.

Senator Wehrbein renewed his pending amendment, AM3027, found on page 1061, to the Standing Committee amendment.

SENATOR CUDABACK PRESIDING

Pending.

AMENDMENTS - Print in Journal

Senator Kremer filed the following amendment to LB 1103:
AM3194

(Amendments to Standing Committee amendments, AM2815)

- 1 1. On page 1, line 14, after "(4)" insert "Dealer means
- 2 any person, not a market agency, engaged in the business of buying
- 3 or selling in commerce livestock, either on his or her own account
- 4 or as the employee or agent of the vendor or purchaser;
- 5 (5)"; in line 15 strike "(5)" and insert "(6)"; in line
- 6 20 strike "(6)" and insert "(7) Market agency means any person
- 7 engaged in the business of (a) buying or selling in commerce
- 8 livestock on a commission basis or (b) furnishing stockyard
- 9 services;
- 10 (8)".
- 11 2. On page 2, line 12, after "year" insert "and is not a
- 12 dealer or market agency".
- 13 3. On page 6, line 19, strike "and"; and in line 24
- 14 before the period insert "; and
- 15 (7) Assure that any responsibilities assigned pursuant to
- 16 section 5 of this act are carried out in accordance with the
- 17 purposes of the act".
- 18 4. On page 7, strike beginning with "Assure" in line 3
- 19 through "(3)" in line 6; and in line 8 strike "(4)" and insert
- 20 "(3)".
- 21 5. On page 10, line 19, after "Development" insert
- 22 "Cash"; and in line 25 strike "authorize the transfer of" and

23 insert "expend".

1 6. On page 11, line 13, strike beginning with "The" in
 2 line 13 through "becomes" in line 14 and insert "Sections 6 and 14
 3 of this act become operative on their effective date. The other
 4 sections of this act become".

Senators Bourne and Bromm filed the following amendment to LB 850:
 AM3265

1 1. Insert the following new sections:
 2 "Sec. 12. The Legislature finds that because of the fear
 3 and stigma that often results from crimes of sexual assault or
 4 domestic violence, and because of the risk of retaliatory violence
 5 by the perpetrator, many victims hesitate to seek help even when it
 6 is available at no cost to them. Without assurances that
 7 communications made while receiving assistance in overcoming the
 8 adverse effects of a sexual assault or domestic violence situation
 9 will be confidential and protected from disclosure, victims will be
 10 even more reluctant to seek assistance or to confide openly to
 11 their advocates and to explore legal and social remedies fully. As
 12 a result, victims may fail to receive needed vital care and
 13 counseling and thus lack the support, resources, and information
 14 necessary to recover from the crime, to report the crime, to assist
 15 in the prosecution of the crime, to participate effectively in the
 16 justice system, to achieve legal protections, and to prevent future
 17 sexual assaults and domestic violence. This is a matter of
 18 statewide concern, and the prevention of violence is for the
 19 protection of the health, safety, and welfare of the public.
 20 Sec. 13. For purposes of sections 12 to 15 of this act:
 21 (1) Advocate means any employee or supervised volunteer
 22 of a domestic violence and sexual assault victim assistance program
 23 or of any other agency, business, or organization that is not
 24 affiliated with a law enforcement or prosecutor's office, whose
 1 primary purpose is assisting domestic violence and sexual assault
 2 victims, and who has completed at least twenty hours of training
 3 provided by the program for which the person is working or
 4 volunteering or by the Nebraska Domestic Violence and Sexual
 5 Assault Coalition. The training shall include, but not be limited
 6 to, the dynamics of victimization, substantive laws relating to
 7 violent crime, sexual assault, and domestic violence, crisis
 8 intervention techniques, communication skills, working with diverse
 9 populations, an overview of the state criminal justice system,
 10 information regarding pertinent hospital procedures, and
 11 information regarding state and community resources for victims of
 12 crime;
 13 (2) Victim means a person who communicates with an
 14 advocate for assistance in overcoming the adverse effects of
 15 domestic violence or sexual assault; and
 16 (3) Confidential communication means any written or
 17 spoken information exchanged between a victim and an advocate in

18 private or in the presence of a third party who is necessary to
19 facilitate communication or further the advocacy process and which
20 is disclosed to the advocate for the purposes of overcoming the
21 adverse effects of domestic violence or sexual assault.
22 Sec. 14. (1) A victim, an advocate without the consent
23 of the victim, a third party as described in subdivision (3) of
24 section 13 of this act without the consent of the victim, or a
25 minor or incapacitated victim without the consent of a custodial
26 guardian or a guardian ad litem appointed upon application of
27 either party, shall not be compelled to give testimony or to
1 produce records concerning a confidential communication for any
2 purpose in any criminal, civil, legislative, administrative, or
3 other proceeding, except as follows:
4 (a) The party seeking disclosure of a confidential
5 communication shall file a motion that sets forth specifically the
6 issues on which disclosure is sought and enumerates the reasons why
7 the party is seeking disclosure and why disclosure is necessary,
8 accompanied by an affidavit or affidavits containing specific
9 information which establishes that the confidential communication
10 constitutes relevant and material evidence in the case; and
11 (b) If the party seeking disclosure has complied with
12 subdivision (a) of this subsection, the court or a hearing officer
13 shall review the confidential communication in camera and out of
14 the presence and hearing of all persons, except the victim, the
15 advocate, and any other person the victim is willing to have
16 present, to determine whether a failure to disclose the
17 confidential communication would violate the constitutional rights
18 of the party seeking disclosure.
19 (2) An advocate or a victim cannot be compelled to
20 provide testimony in any criminal, civil, legislative,
21 administrative, or other proceeding that would identify the name,
22 address, location, or telephone number of a safe house, abuse
23 shelter, or other facility that provided temporary emergency
24 shelter to the victim of the offense that is the subject of the
25 proceeding unless the facility is a party to the proceeding.
26 Sec. 15. (1) A victim does not waive the protections
27 afforded by sections 12 to 15 of this act by testifying in court
1 about the offense, except that:
2 (a) If the victim partially discloses the contents of a
3 confidential communication in the course of testifying, then either
4 party may request the court to rule that justice requires the
5 protections sections 12 to 15 of this act be waived to the extent
6 the protections apply to that portion of the confidential
7 communication; and
8 (b) Any waiver shall apply only to the extent necessary
9 to require any witness to respond to counsel's questions concerning
10 a confidential communication that is relevant to the case.
11 (2) An advocate cannot waive the protections afforded a
12 victim under sections 12 to 15 of this act. However, if a victim

13 brings suit against an advocate or the agency, business, or
14 organization in which the advocate was employed or served as a
15 volunteer at the time of the advocacy relationship, the advocate
16 may testify or produce records regarding confidential
17 communications with the victim and is not in violation of sections
18 12 to 15 of this act.
19 (3) Sections 12 to 15 of this act shall not relieve an
20 advocate of any duty to report suspected adult abuse or neglect as
21 required by section 28-372, suspected child abuse or neglect as
22 required by section 28-711, or any other legal duty to report a
23 criminal or unlawful act.
24 (4) Sections 12 to 15 of this act shall not be construed
25 to limit any other testimonial privilege available to any person
26 under the laws of this state."
27 2. Renumber the remaining sections accordingly.

RESOLUTION

LEGISLATIVE RESOLUTION 273. Introduced by Bromm, 23.

PURPOSE: The purpose of this study is to convene a task force, representative of the parties at interest, to examine the recommendations of the National Academy of Sciences report entitled Reducing Underage Drinking: A Collective Responsibility, and determine how those recommendations can be implemented in Nebraska.

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

1. That a committee composed of members from the General Affairs Committee, the Transportation and Telecommunications Committee, and the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall convene and chair a task force made up of members of the underage drinking prevention, education, law enforcement, traffic safety, and health care fields which will meet to consider how to implement the recommendations made by the National Academy of Sciences to reduce underage drinking among Nebraska's youth.

3. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

VISITORS

Visitors to the Chamber were 6 students of Leadership Tomorrow from the Sidney area; Jim Nissen from Lincoln and Joy and Averi Nissen from Omaha; and representatives of the Council of Catholic Women from across

the state.

RECESS

At 12:00 p.m., on a motion by Senator Hartnett, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Byars who was excused; and Senator Bromm who was excused until he arrives.

GENERAL FILE

LEGISLATIVE BILL 1093. The Wehrbein pending amendment, AM3027, found on page 1061 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

Senator Erdman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

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

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

Voting in the affirmative, 15:

Aguilar	Engel	Kruse	Pederson, D.	Redfield
Brown	Jensen	Landis	Price	Synowiecki
Cudaback	Johnson	Mines	Raikes	Wehrbein

Voting in the negative, 31:

Baker	Connealy	Janssen	Pedersen, Dw.	Thompson
Beutler	Cunningham	Jones	Preister	Tyson
Bourne	Erdman	Kremer	Quandahl	Vrtiska
Brashear	Foley	Louden	Schimek	
Burling	Friend	Maxwell	Smith	
Chambers	Hartnett	McDonald	Stuhr	
Combs	Hudkins	Mossey	Stuthman	

Present and not voting, 1:

Schrock

Excused and not voting, 2:

Bromm Byars

The Wehrbein amendment lost with 15 ayes, 31 nays, 1 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

SELECT COMMITTEE REPORTS Enrollment and Review

LEGISLATIVE BILL 1089. Placed on Select File as amended.

E & R amendment to LB 1089:

AM7208

- 1 1. In the Standing Committee amendments, AM3033:
- 2 a. On page 3, lines 12 and 13, after "General" insert
- 3 "Child";
- 4 b. On page 5, line 26, before the comma insert "of the
- 5 Department of Administrative Services";
- 6 c. On page 78, line 24, strike "289,068,264" and insert
- 7 "281,668,264";
- 8 d. On page 125, line 23, after "optometry" insert
- 9 "student"; and
- 10 e. On page 186, line 21, strike "date", show as
- 11 stricken, and insert "dates".
- 12 2. On page 1, strike beginning with "sections" in line 2
- 13 through "prescribed" in line 15 and insert "section 1; Laws 2003,
- 14 LB 403A, sections 2 and 3; Laws 2003, LB 404, sections 6, 7, 9 to
- 15 18, and 20; Laws 2003, LB 406, sections 30 and 43; Laws 2003, LB
- 16 407, sections 9 to 12, 14 to 17, 19 to 34, 37 to 42, 44 to 48, 50
- 17 to 53, 55, 56, 58 to 61, 63 to 66, 68 to 76, 78 to 88, 90 to 93, 95
- 18 to 103, 108, 109, 111 to 113, 115, 117, 120, 122 to 126, 128 to
- 19 130, 132, 133, 135 to 137, 139 to 143, 145 to 152, 154 to 168, 170
- 20 to 172, 175 to 179, 181, 184 to 194, 196 to 201, 204 to 207, 212 to
- 21 216, 218 to 222, 225 to 235, 237 to 240, 242, 243, 246, 247, 249,
- 22 250, 251, 253, 256 to 258, 260 to 262, and 267; Laws 2003, LB 574A,
- 23 sections 1 and 2; Laws 2003, LB 626A, section 2; and Laws 2003, LB
- 24 760A, section 3; to define terms; to provide, change, and eliminate
- 1 provisions relating to appropriations".

LEGISLATIVE BILL 1090. Placed on Select File as amended.

E & R amendment to LB 1090:

AM7202

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 "Section 1. Section 81-179, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 81-179. (1) There is hereby created under the control of
6 the Governor, for allocation to building renewal projects of the
7 various agencies, a fund to be known as the Building Renewal
8 Allocation Fund. The fund shall contain the revenue from the
9 special privilege tax as provided in section 77-2602, the interest
10 income as provided in section 84-613, and such other money as is
11 appropriated by the Legislature. Such appropriation is declared to
12 consist of building renewal funds which shall be kept separate and
13 distinct from the program continuation funds and project
14 construction funds.
15 (2) Separate subfunds, subprograms, projects, or accounts
16 shall be established to separately account for any expenditures on
17 state buildings or facilities to comply with the federal Americans
18 with Disabilities Act of 1990. A minimal amount of the funds
19 contained in the subfunds, subprograms, projects, or accounts may
20 be used for planning and evaluation of buildings and facilities.
21 (3) The budget division of the Department of
22 Administrative Services may administratively transfer funds to
23 appropriate accounting entities to correctly account for the
24 operating expenditures. A separate fund, cash fund, project, or
25 other account may be administratively established for such purpose.
2 (4) Any money in the fund available for investment shall
3 be invested by the state investment officer pursuant to the
4 Nebraska Capital Expansion Act and the Nebraska State Funds
5 Investment Act.
6 Sec. 2. Section 84-612, Revised Statutes Supplement,
7 2003, is amended to read:
8 84-612. (1) There is hereby created within the state
9 treasury a fund known as the Cash Reserve Fund which shall be under
10 the direction of the State Treasurer. The fund shall only be used
11 pursuant to this section.
12 (2) The State Treasurer shall transfer funds from the
13 Cash Reserve Fund to the General Fund upon certification by the
14 Director of Administrative Services that the current cash balance
15 in the General Fund is inadequate to meet current obligations.
16 Such certification shall include the dollar amount to be
17 transferred. Any transfers made pursuant to this subsection shall
18 be reversed upon notification by the Director of Administrative
19 Services that sufficient funds are available.
20 (3) On July 23, 2001, the State Treasurer shall transfer
21 three hundred seventy thousand dollars from the Cash Reserve Fund
22 to the Municipal Natural Gas Regulation Revolving Loan Fund for
23 purposes of loaning to Nebraska communities that seek to review
24 natural gas rates. Any transfer made pursuant to this subsection
25 shall be reversed upon notification by the Director of Policy

26 Research that a sufficient court judgment has been obtained. Upon
 27 reversal, any money in excess of three hundred seventy thousand
 1 dollars shall be transferred to the Municipal Rate Negotiations
 2 Revolving Loan Fund.

3 ~~(4) Within fifteen days after July 1, 2002, the State~~

4 ~~Treasurer shall transfer twenty-two million five hundred thousand~~
 5 ~~dollars from the Cash Reserve Fund to the General Fund.~~

6 ~~(5) On or before June 16, 2003, the State Treasurer shall~~

7 ~~transfer sixty-four million nine hundred thousand dollars from the~~
 8 ~~Cash Reserve Fund to the General Fund.~~

9 ~~(6) On June 15, 2005, the State Treasurer shall transfer~~

10 ~~twenty-two million five hundred thousand dollars from the General~~
 11 ~~Fund to the Cash Reserve Fund.~~

12 ~~(7) On June 15, 2004, the State Treasurer shall transfer~~

13 ~~three million dollars from the Cash Reserve Fund to the General~~
 14 ~~Fund.~~

15 ~~(8) (5) On June 15, 2005, the State Treasurer shall~~

16 ~~transfer three twenty-six million dollars from the Cash Reserve~~
 17 ~~Fund to the General Fund.~~

18 ~~(9) (6) The State Treasurer, at the direction of the~~

19 ~~budget administrator of the budget division of the Department of~~
 20 ~~Administrative Services, shall transfer such amounts not to exceed~~

21 ~~five million seven hundred twenty-seven thousand seven hundred~~
 22 ~~seven dollars in total from the Cash Reserve Fund to the Nebraska~~

23 ~~Capital Construction Fund between July 1, 2003, and June 30, 2007.~~

24 ~~(10) (7) The State Treasurer, at the direction of the~~

25 ~~budget administrator, shall transfer an amount equal to the total~~
 26 ~~amount transferred pursuant to subsection (9) (6) of this section~~

27 ~~from the General Fund to the Cash Reserve Fund on or before June~~
 1 ~~30, 2008.~~

2 ~~(11) (8) In addition to receiving transfers from other~~

3 ~~funds, the Cash Reserve Fund shall receive federal funds received~~
 4 ~~by the State of Nebraska for undesignated general government~~

5 ~~purposes, federal revenue sharing, or general fiscal relief of the~~
 6 ~~state.~~

7 (9) The State Treasurer, at the direction of the budget

8 administrator of the budget division of the Department of

9 Administrative Services, shall transfer fifty-eight million one

10 hundred ninety-one thousand eight hundred sixty-two dollars from
 11 the Cash Reserve Fund to the General Fund on or before June 30,

12 2004. There is included in this subsection a transfer of

13 fifty-eight million one hundred ninety-one thousand eight hundred

14 sixty-two dollars of federal payments made to the State of Nebraska

15 under the Jobs and Growth Tax Relief Reconciliation Act of 2003 to

16 the General Fund for purposes of providing essential government

17 services such as health care and education as appropriated from the

18 General Fund for fiscal year 2003-04 in Laws 2003, LB 407.

19 Sec. 3. Section 84-613, Reissue Revised Statutes of

20 Nebraska, is amended to read:

21 84-613. Any money in the Cash Reserve Fund available for
 22 investment shall be invested by the state investment officer
 23 pursuant to the Nebraska Capital Expansion Act and the Nebraska
 24 State Funds Investment Act. ~~Any~~ Until July 1, 2007, any interest
 25 earned by the fund shall accrue to the General Fund. Commencing
 26 July 1, 2007, any interest earned by the Cash Reserve Fund shall
 27 accrue to the Building Renewal Allocation Fund.

1 Sec. 4. Original sections 81-179 and 84-613, Reissue
 2 Revised Statutes of Nebraska, and section 84-612, Revised Statutes
 3 Supplement, 2003, are repealed.

4 Sec. 5. Since an emergency exists, this act takes effect
 5 when passed and approved according to law."

6 2. On page 1, line 1, after "amend" insert "sections
 7 81-179 and 84-613, Reissue Revised Statutes of Nebraska, and"; and
 8 strike beginning with "transfer" in line 2 through "section" in
 9 line 4 and insert "change provisions relating to the Building
 10 Renewal Allocation Fund; to change and eliminate provisions
 11 relating to the Cash Reserve Fund; to repeal the original
 12 sections".

LEGISLATIVE BILL 1091. Placed on Select File as amended.

(E & R amendment, AM7203, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1092. Placed on Select File as amended.

E & R amendment to LB 1092:

AM7205

1 1. In the Standing Committee amendments, AM2921, on page
 2 16, line 15, after "Committee" insert "of the Legislature".

3 2. On page 1, strike beginning with "the" in line 1
 4 through line 5 and insert "state buildings; to amend sections
 5 81-181, 81-188.01 to 81-188.06, and 81-1108.22, Reissue Revised
 6 Statutes of Nebraska, and section 81-1108.15, Revised Statutes
 7 Supplement, 2002; to change and eliminate reporting and funding
 8 provisions relating to the Deferred Building Renewal Act; to
 9 provide a duty for the state building division of the Department of
 10 Administrative Services; to eliminate an office space request
 11 requirement; to prohibit the sale of the Ferguson House; to
 12 harmonize provisions; to repeal the original sections; and to
 13 declare an emergency."

LEGISLATIVE BILL 514. Placed on Select File as amended.

E & R amendment to LB 514:

AM7207

1 1. On page 1, line 3, after the semicolon insert "to
 2 provide an operative date;".

LEGISLATIVE BILL 917. Placed on Select File.

LEGISLATIVE BILL 1144. Placed on Select File as amended.

E & R amendment to LB 1144:

AM7206

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:
3 "Section 1. Section 13-1210, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 13-1210. The Department of Roads shall annually certify
6 the amount of ~~money which is necessary to fully fund the state's~~
7 ~~portion of operating costs eligible for funding under the Nebraska~~
8 public transportation assistance program established under section
9 13-1209. ~~The State Treasurer shall monthly transfer from the~~
10 ~~Highway Trust Fund to the Highway Cash Fund one-twelfth of the~~
11 ~~difference between the amount appropriated for the Nebraska public~~
12 ~~transportation assistance program and the amount necessary to fully~~
13 ~~fund the state's portion of the Nebraska public transportation~~
14 ~~assistance program, except that the annual amount transferred by~~
15 ~~the State Treasurer pursuant to this section shall not exceed one~~
16 ~~million dollars.~~

17 Sec. 2. Section 13-1214, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 13-1214. The department shall certify biennially the
20 amount of ~~money necessary to fully fund the state's portion of the~~
21 ~~intercity bus system assistance eligible for funding program~~
22 ~~established under section 13-1213.~~

23 Sec. 3. Section 39-2215, Revised Statutes Supplement,
24 2003, is amended to read:

1 39-2215. (1) There is hereby created in the state
2 treasury a special fund to be known as the Highway Trust Fund.
3 (2) All funds credited to the Highway Trust Fund pursuant
4 to sections 66-4,140, 66-4,147, 66-669, and 66-6,108, and related
5 penalties and interest, shall be allocated as provided in such
6 sections. The State Treasurer shall make the transfer to the
7 General Fund required by section 66-499.
8 (3) All other motor vehicle fuel taxes, diesel fuel
9 taxes, compressed fuel taxes, and alternative fuel taxes related to
10 highway use retained by the state, all motor vehicle registration
11 fees retained by the state other than those fees credited to the
12 State Recreation Road Fund pursuant to section 60-302, and other
13 highway-user taxes imposed by state law and allocated to the
14 Highway Trust Fund, except for the proceeds of the sales and use
15 taxes derived from motor vehicles, trailers, and semitrailers
16 credited to the fund pursuant to section 77-27,132, are hereby
17 irrevocably pledged for the terms of the bonds issued prior to
18 January 1, 1988, to the payment of the principal, interest, and
19 redemption premium, if any, of such bonds as they mature and become
20 due at maturity or prior redemption and for any reserves therefor
21 and shall, as received by the State Treasurer, be deposited in the
22 fund for such purpose.

23 (4) Of the money in the fund specified in subsection (3)
 24 of this section which is not required for the use specified in such
 25 subsection, (a) an amount equal to three dollars times the number
 26 of motorcycles registered during the previous month shall be placed
 27 in the Motorcycle Safety Education Fund, (b) an amount to be
 1 determined annually by the Legislature through the appropriations
 2 process may be transferred to the Motor Fuel Tax Enforcement and
 3 Collection Cash Fund for use as provided in section 66-738 on a
 4 monthly or other less frequent basis as determined by the
 5 appropriation language, (c) an amount to be determined annually by
 6 the Legislature through the appropriations process shall be
 7 transferred to the License Plate Cash Fund as needed to meet the
 8 current obligations associated with the manufacture of license
 9 plates and stickers or tabs provided for in sections 60-311,
 10 60-311.02, and 60-1804, as certified by the Director of Motor
 11 Vehicles, and (d) the remaining money may be used for the purchase
 12 for retirement of the bonds issued prior to January 1, 1988, in the
 13 open market.

14 (5) The State Treasurer shall monthly transfer, from the
 15 proceeds of the sales and use taxes credited to the Highway Trust
 16 Fund and any money remaining in the fund after the requirements of
 17 subsections (2) through (4) of this section are satisfied, ~~(a)~~
 18 thirty thousand dollars to the Grade Crossing Protection Fund, ~~;~~
 19 ~~(b) the amount calculated pursuant to section 13-1210 for financing~~
 20 ~~the operating costs of public transportation systems to the Highway~~
 21 ~~Cash Fund, and (c) each month beginning October 2002 through June~~
 22 ~~2003, one million six hundred thousand dollars to the Cash Reserve~~
 23 ~~Fund.~~

24 (6) Except as provided in subsection (7) of this section,
 25 the balance of the Highway Trust Fund shall be allocated
 26 fifty-three and one-third percent, less the amount provided for in
 27 section 39-847.01, to the Department of Roads, twenty-three and
 1 one-third percent, less the amount provided for in section
 2 39-847.01, to the various counties for road purposes, and
 3 twenty-three and one-third percent to the various municipalities
 4 for street purposes. If bonds are issued pursuant to subsection
 5 (2) of section 39-2223, the portion allocated to the Department of
 6 Roads shall be credited monthly to the Highway Restoration and
 7 Improvement Bond Fund, and if no bonds are issued pursuant to such
 8 subsection, the portion allocated to the department shall be
 9 credited monthly to the Highway Cash Fund. The portions allocated
 10 to the counties and municipalities shall be credited monthly to the
 11 Highway Allocation Fund and distributed monthly as provided by law.
 12 Vehicles accorded prorated registration pursuant to section 60-356
 13 shall not be included in any formula involving motor vehicle
 14 registrations used to determine the allocation and distribution of
 15 state funds for highway purposes to political subdivisions.

16 (7) If it is determined by December 20 of any year that a
 17 county will receive from its allocation of state-collected highway

18 revenue and from any funds relinquished to it by municipalities
19 within its boundaries an amount in such year which is less than
20 such county received in state-collected highway revenue in calendar
21 year 1969, based upon the 1976 tax rates for highway-user fuels and
22 registration fees, the Department of Roads shall notify the State
23 Treasurer that an amount equal to the sum necessary to provide such
24 county with funds equal to such county's 1969 highway allocation
25 for such year shall be transferred to such county from the Highway
26 Trust Fund. Such makeup funds shall be matched by the county as
27 provided in sections 39-2501 to 39-2510. The balance remaining in
1 the fund after such transfer shall then be reallocated as provided

2 in subsection (6) of this section.
3 (8) The State Treasurer shall disburse the money in the
4 Highway Trust Fund as directed by resolution of the commission.
5 All disbursements from the fund shall be made upon warrants drawn
6 by the Director of Administrative Services. Any money in the fund
7 available for investment shall be invested by the state investment
8 officer pursuant to the Nebraska Capital Expansion Act and the
9 Nebraska State Funds Investment Act and the earnings, if any,
10 credited to the fund.

11 Sec. 4. Section 66-4,100, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 66-4,100. The Highway Cash Fund and the Roads Operations
14 Cash Fund are hereby created. If bonds are issued pursuant to
15 subsection (2) of section 39-2223, the balance of the share of the
16 Highway Trust Fund allocated to the Department of Roads and
17 deposited into the Highway Restoration and Improvement Bond Fund as
18 provided in subsection (6) of section 39-2215 and the balance of
19 the money deposited in the Highway Restoration and Improvement Bond
20 Fund as provided in section 39-2215.01 shall be transferred by the
21 State Treasurer, on or before the last day of each month, to the
22 Highway Cash Fund. If no bonds are issued pursuant to subsection
23 (2) of section 39-2223, the share of the Highway Trust Fund
24 allocated to the Department of Roads shall be transferred by the
25 State Treasurer on or before the last day of each month to the
26 Highway Cash Fund.

27 The Legislature may direct the State Treasurer to
1 transfer funds from the Highway Cash Fund to the Roads Operations
2 Cash Fund. Both funds shall be expended by the department (1) for
3 acquiring real estate, road materials, equipment, and supplies to
4 be used in the construction, reconstruction, improvement, and
5 maintenance of state highways, (2) for the construction,
6 reconstruction, improvement, and maintenance of state highways,
7 including grading, drainage, structures, surfacing, roadside
8 development, landscaping, and other incidentals necessary for
9 proper completion and protection of state highways as the
10 department shall, after investigation, find and determine shall be
11 for the best interests of the highway system of the state, either
12 independent of or in conjunction with federal-aid money for highway

13 purposes, (3) for the share of the department of the cost of
 14 maintenance of state aid bridges, (4) for planning studies in
 15 conjunction with federal highway funds for the purpose of analyzing
 16 traffic problems and financial conditions and problems relating to
 17 state, county, township, municipal, federal, and all other roads in
 18 the state and for incidental costs in connection with the
 19 federal-aid grade crossing program for roads not on state highways,
 20 (5) for tests and research by the department or proportionate costs
 21 of membership, tests, and research of highway organizations when
 22 participated in by the highway departments of other states, ~~and~~ (6)
 23 for the payment of expenses and costs of the Board of Examiners for
 24 County Highway and City Street Superintendents as set forth in
 25 section 39-2310, and (7) for support of the public transportation
 26 assistance program established under section 13-1209 and the
 27 intercity bus system assistance program established under section
 1 13-1213.

2 Any money in the Highway Cash Fund and the Roads
 3 Operations Cash Fund not needed for current operations of the
 4 department shall, as directed by the Director-State Engineer to the
 5 State Treasurer, be invested by the state investment officer
 6 pursuant to the Nebraska Capital Expansion Act and the Nebraska
 7 State Funds Investment Act, subject to approval by the board of
 8 each investment. All income received as a result of such
 9 investment shall be placed in the Highway Cash Fund.
 10 Sec. 5. Original sections 13-1210, 13-1214, and
 11 66-4,100, Reissue Revised Statutes of Nebraska, and section
 12 39-2215, Revised Statutes Supplement, 2003, are repealed."
 13 2. On page 1, line 2, after "13-1210" insert "
 14 13-1214,".

(Signed) Ray Mossey, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 274. Introduced by Kremer, 34.

PURPOSE: On June 25, 2001, the United States Supreme Court ruled in *USDA v. United Foods* that mandatory assessments under the federal Mushroom Promotion, Research, and Consumer Information Act of 1990 violated first amendment protections of certain mushroom producers. Similar first amendment challenges to other federal commodity promotion programs have been litigated in other federal court venues and are now pending before the U.S. Supreme Court. The purpose of this study is to examine the implications of *USDA v. United Foods* and progeny federal court decisions for state commodity promotion programs funded through checkoff assessments against producers.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 275. Introduced by Kremer, 34.

PURPOSE: The purpose of this resolution is to examine the feasibility and desirability of federal assumption of the functions served by third-party tractor performance testing conducted at the Nebraska Tractor Testing Laboratory of the University of Nebraska-Lincoln that is currently a requirement unique to Nebraska. The study shall seek to engage state and national farm organizations, agricultural tractor manufacturers, agricultural equipment dealers, and other stakeholders. The study shall specifically explore whether there is support and incentive to develop a system of third-party performance verification applicable across the nation in order to better afford the benefits of third-party testing to consumers of agricultural tractors nationwide, to secure the role and financial viability of the Nebraska Tractor Testing Laboratory, to resolve continuing concerns over competitive disadvantages to Nebraska dealerships and producers, and to assure the continued participation and influence of manufacturers in the United States in forums governing international trade in agricultural tractors.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 1093. The Standing Committee amendment, AM2792, printed separately and referred to on page 858 and considered in this day's Journal, was considered.

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

FA1580

(Amendments to Standing Committee amendments, AM2792)

- 1 1. On page 1, line 11, reinstate the stricken matter;
- 2 and strike line 13, show the old matter as stricken, and insert
- 3 "levy for fiscal years 2003-04 and 2004-05, (ii) one dollar and seven

4 cents per one hundred dollars of taxable valuation of property
5 subject to the levy for fiscal years 2005-06, 2006-07, and 2007-08,
6 and (iii)".

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 3 nays, and 20 not voting.

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

Senator Chambers requested a record vote on his amendment.

Voting in the affirmative, 17:

Aguilar	Cudaback	Jensen	Price	Stuhr
Bromm	Engel	Johnson	Raikes	
Brown	Hartnett	Landis	Redfield	
Chambers	Janssen	Pederson, D.	Schrock	

Voting in the negative, 26:

Baker	Foley	Maxwell	Quandahl	Vrtiska
Beutler	Friend	McDonald	Schimek	Wehrbein
Bourne	Hudkins	Mines	Smith	
Burling	Jones	Mossey	Stuthman	
Cunningham	Kremer	Pedersen, Dw.	Synowiecki	
Erdman	Louden	Preister	Tyson	

Present and not voting, 2:

Combs	Kruse
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Excused and not voting, 4:

Brashear	Byars	Connealy	Thompson
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The Chambers amendment lost with 17 ayes, 26 nays, 2 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Wehrbein offered the following motion:
 Reconsider the adoption of the Chambers amendment, FA1580.

SENATOR SCHIMEK PRESIDING

SENATOR CUDABACK PRESIDING

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 1 nay, and 20 not voting.

Senator Wehrbein moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Senator Wehrbein requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 22:

Aguilar	Cudaback	Johnson	Raikes	Synowiecki
Bromm	Engel	Kruse	Redfield	Wehrbein
Brown	Hartnett	Mines	Schimek	
Burling	Janssen	Pederson, D.	Schrock	
Chambers	Jensen	Price	Stuhr	

Voting in the negative, 21:

Baker	Foley	Louden	Preister	Vrtiska
Beutler	Friend	Maxwell	Quandahl	
Connealy	Hudkins	McDonald	Smith	
Cunningham	Jones	Mossey	Stuthman	
Erdman	Kremer	Pedersen, Dw.	Tyson	

Present and not voting, 1:

Combs

Excused and not voting, 5:

Bourne	Brashear	Byars	Landis	Thompson
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The Wehrbein motion to reconsider failed with 22 ayes, 21 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 1071. Placed on Select File as amended.
 E & R amendment to LB 1071:
 AM7209

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 85-1415, Reissue Revised Statutes of

4 Nebraska, is amended to read:

5 85-1415. (1) Consistent with the authority granted to
 6 the Legislature pursuant to Article XIII, section 1, of the
 7 Constitution of Nebraska, the commission shall review all capital
 8 construction projects proposed by the Board of Regents of the
 9 University of Nebraska and the Board of Trustees of the Nebraska
 10 State Colleges pursuant to sections 85-404 and 85-408 and by any
 11 nonprofit corporation created by the Board of Regents of the
 12 University of Nebraska or the Board of Trustees of the Nebraska
 13 State Colleges when (a) state general funds, (b) funds received by
 14 the University of Nebraska or any state college for the purposes of
 15 reimbursing overhead costs and expenses in connection with any
 16 federal or other grant or contract, (c) tuition, or (d) the state's
 17 operating investment pool investment income constitute all or any
 18 part of the funds used for the repayment of all or any part of the
 19 bonds of such nonprofit corporation. Such boards shall submit all
 20 such projects, including applicable financing plans, to the
 21 commission for review.

22 (2) Within sixty days from the date of submission of a
 23 proposed project, the commission shall take action by recommending
 24 that the Legislature or the Executive Board of the Legislative
 1 Council either approve or disapprove the project. Following such
 2 action by the commission, each such proposed project together with
 3 the commission's recommendation of approval or disapproval shall be
 4 submitted by the board concerned to the Legislature or, as
 5 applicable under sections 85-404 and 85-408, to the Executive Board
 6 of the Legislative Council. The Legislature or, as applicable
 7 under sections 85-404 and 85-408 if the Legislature is not in
 8 session, the Executive Board of the Legislative Council shall
 9 thereafter take action to approve or disapprove the proposed
 10 project. All projects authorized prior to January 1, 1992, shall
 11 be deemed approved.

12 Sec. 2. Original section 85-1415, Reissue Revised
 13 Statutes of Nebraska, is repealed."

14 2. On page 1, strike beginning with "nonprofit" in line
 15 1 through line 5 and insert "the Coordinating Commission for
 16 Postsecondary Education; to amend section 85-1415, Reissue Revised
 17 Statutes of Nebraska; to provide for review by the commission of
 18 certain capital construction projects proposed by nonprofit
 19 corporations as prescribed; to harmonize provisions; to delete
 20 obsolete provisions; and to repeal the original section."

LEGISLATIVE BILL 297. Placed on Select File as amended.

E & R amendment to LB 297:

AM7210

1 1. In the Standing Committee amendments, AM3185, on page
 2 3, line 23, after "Act" insert "of 2000".

3 2. On page 1, strike lines 2 through 5 and insert "to

4 amend sections 83-1202.01, 83-1209, 83-1216, 83-1217, 83-1219, and

5 83-1224, Reissue Revised Statutes of Nebraska; to restate findings
 6 and intent; to provide and change powers and duties; to change
 7 provisions relating to funding for specialized services and
 8 judicial review and enforcement of certain orders under the act; to
 9 eliminate obsolete provisions; to harmonize provisions; to repeal
 10 the original sections; and to declare an emergency.".

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORT
Business and Labor

LEGISLATIVE BILL 930. Placed on General File.

(Signed) Floyd P. Vrtiska, Chairperson

AMENDMENTS - Print in Journal

Senators Redfield and Bourne filed the following amendment to LB 1089:
 AM3270

(Amendments to Standing Committee amendments, AM3033)

- 1 1. On page 1, line 1, strike "the original sections" and
 2 insert "original sections 1 to 34, 37, 38, 42, 43, 45, 47, 48, 53
 3 to 61, 63, 65 to 68, 71 to 77, 79 to 87, 90 to 96, 98 to 108, 110
 4 to 119, 125, 127 to 130, 132 to 134, 136, 144 to 153, 155, 159,
 5 160, 162 to 170, 174 to 177, 180 to 183, 186, 189, 193, 195, 196,
 6 198 to 200, 205, 206, 209, 210, 213, 215 to 217, 219 to 222, and
 7 224 to 234".
- 8 2. Strike sections 41, 42, 45, 47, 50, 52, 55 to 58, 68,
 9 70, 75, 76, 84, 94, 95, 103, 115, 117, 127 to 131, 133, 138, 142,
 10 144 to 150, 161, 163 to 165, 168, 177 to 179, 184, 185, 190, 191,
 11 193, 194, 196 to 198, 200, 203, 207 to 210, 213, 214, 218, 219,
 12 221, 225, and 228.
- 13 3. On page 31, line 16, strike "197,190" and insert
 14 "194,156"; and in line 18 strike "307,658" and insert "304,624".
- 15 4. On page 68, line 26, strike "47,094,263" and insert
 16 "46,432,783".
- 17 5. On page 69, line 5, strike "124,855,412" and insert
 18 "123,193,932".
- 19 6. On page 119, line 18, strike "442,627" and insert
 20 "440,394"; and in line 20 strike "454,413" and insert "452,180".
- 21 7. Renumber the remaining sections accordingly.

Senator Redfield filed the following amendment to LB 1089:
 AM3271

(Amendments to Standing Committee amendments, AM3033)

- 1 1. On page 25, line 21, strike "22,515,444" and insert
 2 "21,949,014"; and in line 26 strike "23,588,952" and insert
 3 "23,022,522".

4 2. On page 26, line 22, strike "16,156,619" and insert
 5 "15,665,188"; and in line 27 strike "16,927,395" and insert
 6 "16,435,964".

Senator Wehrbein filed the following amendment to LB 1091:
 AM3278

(Amendments to E & R amendments, AM7203)

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 81-504, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 81-504. The Attorney General may appoint a special
- 5 attorney to assist and advise the State Fire Marshal. The attorney
- 6 appointed for this purpose shall at all times be under the
- 7 supervision of the Attorney General, who shall fix his or her
- 8 compensation, which shall be paid wholly out of the ~~fund created~~
- 9 ~~under section 81-523 State Fire Marshal Cash Fund.~~"
- 10 2. On page 25, line 2, after the last comma insert
- 11 "81-504,".
- 12 3. Renumber the remaining sections accordingly.

STANDING COMMITTEE REPORT **Transportation and Telecommunications**

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Nebraska Transit and Rail Advisory Council

Allan Abbott
 Anne Boyle
 Duane Eitel
 Roger Figard
 David Gilfillan
 Georgia Janssen
 Steve McBeth
 Paul Mullen
 Thomas Mulligan
 Roberto Munguia
 Gary Ruegg

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

(Signed) Tom Baker, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 276. Introduced by Bromm, 23; Baker,

44.

WHEREAS, former Nebraska first lady Maxine Morrison, wife of former Governor Frank Morrison, died March 18, 2004; and

WHEREAS, Mrs. Morrison was born September 18, 1915, in Greeley, Nebraska. She spent her life as a teacher, musician, fashion director, real estate broker, and television and radio host; and

WHEREAS, Mrs. Morrison served as first lady of the state from 1961 to 1967; and

WHEREAS, Mrs. Morrison was a person who demonstrated inspiration, commitment, and determination. In addition to serving as first lady, she also was the Democratic nominee for Nebraska's Second District congressional seat in 1968. Her other honors include serving as chairwoman of the First Ladies of America and on the national board of directors for Arbor Day.

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

1. That the Legislature expresses its condolences to the family of Maxine Morrison.
2. That a copy of this resolution be sent to Mrs. Morrison's husband, former Governor Frank Morrison.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 1093. The Standing Committee amendment, AM2792, printed separately and referred to on page 858 and considered in this day's Journal, was renewed.

Senator Raikes moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Senator Chambers requested a roll call vote on the Standing Committee amendment.

Voting in the affirmative, 33:

Aguilar	Connealy	Jensen	Mines	Schrock
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Jones	Pederson, D.	Synowiecki
Bromm	Engel	Kremer	Price	Vrtiska
Brown	Foley	Kruse	Raikes	Wehrbein
Burling	Hartnett	Louden	Redfield	
Combs	Janssen	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 11:

Chambers	Hudkins	Preister	Stuthman
Erdman	Maxwell	Quandahl	Tyson
Friend	Mossey	Smith	

Excused and not voting, 5:

Bourne	Brashear	Byars	Landis	Thompson
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The Standing Committee amendment was adopted with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

Senator Chambers offered the following motion:
Indefinitely postpone LB 1093.

Senator Chambers moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Senator Chambers requested a roll call vote on his motion to indefinitely postpone.

Voting in the affirmative, 1:

Maxwell

Voting in the negative, 31:

Aguilar	Foley	Kremer	Preister	Synowiecki
Beutler	Hartnett	Kruse	Price	Vrtiska
Bromm	Hudkins	McDonald	Quandahl	Wehrbein
Burling	Janssen	Mines	Raikes	
Connealy	Jensen	Mossey	Redfield	
Cunningham	Johnson	Pedersen, Dw.	Schrock	
Engel	Jones	Pederson, D.	Stuhr	

Present and not voting, 8:

Baker	Chambers	Erdman	Louden
Brown	Cudaback	Friend	Tyson

Excused and not voting, 9:

Bourne	Byars	Landis	Smith	Thompson
Brashear	Combs	Schimek	Stuthman	

The Chambers motion to indefinitely postpone failed with 1 aye, 31 nays, 8 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
Reconsider the vote to indefinitely postpone.

SENATOR HARTNETT PRESIDING

Senator Chambers motion to reconsider failed with 2 ayes, 20 nays, 15 present and not voting, and 12 excused and not voting.

Senator Chambers offered the following motion:
Bracket until April 15, 2004.

Senator Chambers withdrew his motion.

Senator Raikes moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Advanced to E & R for review with 27 ayes, 3 nays, 6 present and not voting, and 13 excused and not voting.

The Chair declared the call raised.

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendment to LB 1241:
AM3276

- 1 1. On page 7, line 13, strike "41,936.53" and insert
- 2 "3,410.00".

Senator Vrtiska filed the following amendment to LB 1241:
AM3269

(Amendments to Standing Committee amendments, AM2818)

- 1 1. On page 1, strike beginning with "in" in line 9
- 2 through the semicolon in line 10 and insert "in line 26 strike
- 3 'Department of Roads Operation' and insert 'Roads Operations'; and
- 4 in line 11 before "Tort" insert "Tort Claim No. 01-663 and Tort
- 5 Claim No. 01-770, against the Department of Roads, pay to Joseph S.
- 6 Daly and St. Paul Fire and Marine Company, 10404 Essex Court, Suite
- 7 100, Omaha, NE 68114, out of the
- 8 Roads Operations Cash Fund. 200,000.00".
- 9 2. On page 1, lines 16 and 22 and 23; page 2, lines 6,
- 10 12, 18, and 24; page 3, lines 2, 10, 16, and 22; page 4, lines 2,
- 11 8, 14, 19, and 26; and page 5, lines 4 and 5, 10 and 11, 15 and 16,
- 12 and 22 and 23, strike "Department of Roads Operations" and insert
- 13 "Roads Operations".
- 14 3. On page 5, line 25, strike "4,795,893.30" and insert
- 15 "4,995,893.30"; and in line 26 strike "4,908,657.69" and insert
- 16 "5,108,657.69".

Senator Chambers filed the following amendment to LB 1046:

FA1581

Amend AM2907

Add a new section: "A manufacturer, distributor, or seller of skis or skiing equipment shall not be subject to civil liability for personal injury or wrongful death based on an individual's use of such equipment in the middle of Interstate 80 while vehicular traffic is present."

Senator Chambers filed the following amendment to LB 1046:

FA1582

Amend AM2907

Add a new section: "No child shall be subject to civil liability based on having been born one gender when such child's parents preferred a child of the opposite gender."

Senator Chambers filed the following amendment to LB 1046:

FA1583

Amend AM2907

Add a new section: "No producer, distributor or broadcaster of any televised advertisements, programs or features intended for general viewing shall be subject to civil liability when such liability is premised upon an individual's weight gain or obesity alleged to be the result of such individual's chronic viewing of such televised advertisements, programs or features while being sedentary or inactive".

Senator Jensen filed the following amendment to LB 1091:

AM3291

(Amendments to E & R amendments, AM7203)

- 1 1. On page 16, line 18, strike "2004" and insert "2005".

VISITORS

Visitors to the Chamber were 5 students and teacher from Sioux County District School 43; 18 Girl Scout Brownies and leader from Lincoln; and Gary Compton from Lincoln, Linda, Wesley, and Dylan Shuster from Colorado Springs, Colorado.

The Doctor of the Day was Dr. Ronald Craig from Lincoln.

ADJOURNMENT

At 5:22 p.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Tuesday, March 23, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-SEVENTH DAY - MARCH 23, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 23, 2004

PRAYER

The prayer was offered by Senator Redfield.

ROLL CALL

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

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Aguilar, Brashear, Byars, Maxwell, Mines, Price, and Schrock who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-sixth day was approved.

RESOLUTION

LEGISLATIVE RESOLUTION 277. Introduced by Hudkins, 21.

WHEREAS, Clark Lester Lacy of Troop 42, Malcolm, Nebraska, within the Cornhusker Council, Boy Scouts of America, earned the rank of Eagle Scout, the highest advancement rank in Scouting, on February 26, 2004; and

WHEREAS, the rank of Eagle Scout was bestowed by the Boy Scouts of America in recognition of Clark Lester Lacy's years of hard work, selfless dedication and commitment to both the organization and the community at large, as well as the steadfastness and determination that he has displayed in carrying out his Scouting duties and responsibilities; and

WHEREAS, in the course of earning the numerous merit badges required in order to attain the rank of Eagle Scout, Clark Lester Lacy carried out a community service project entailing the construction of a much-needed nature trail and bridge behind Malcolm High School in Malcolm, Nebraska; and

WHEREAS, only 1.2 million boys have achieved the rank of Eagle Scout since 1911, and only 2 in 100 that join the Boy Scouts, or 0.5% of the male population, earn an Eagle Scout badge; and

WHEREAS, Clark Lester Lacy joins the ranks of such great Eagle Scouts as Gerald Ford, the thirty-sixth president of the United States, professional baseball legend Henry "Hank" Aaron, Pulitzer Prize-winning author Wallace Stegner, astronaut Neil Armstrong, the first man on the moon, journalist Walter Cronkite, current Secretary of Defense Donald H. Rumsfeld, Apollo astronaut James A. Lovell, Jr., and Togo D. West, Jr., former Secretary of the Army and Secretary of Veterans Affairs.

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

1. That the Legislature congratulates Clark Lester Lacy on his achievement of the elite rank of Eagle Scout in the Boy Scouts of America and recognizes his outstanding community service in Malcolm, Nebraska.

2. That a copy of this resolution be sent to Clark Lester Lacy and his family.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 1005A. Title read. Considered.

Senator Jensen offered the following amendment:

AM3324

1. On page 2, line 16, strike "177" and insert "175".

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

Advanced to E & R for review with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 914A. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 1241. Title read. Considered.

The Standing Committee amendment, AM2818, found on page 798, was considered.

Senator Vrtiska renewed the Vrtiska-Hartnett pending amendment, AM3256, found on page 1159, to the Standing Committee amendment.

The Vrtiska-Hartnett amendment was adopted with 25 ayes, 1 nay, 18 present and not voting, and 5 excused and not voting.

Senator Vrtiska withdrew his pending amendment, AM3257, found on page

1159.

Senator Vrtiska renewed his pending amendment, AM3269, found on page 1185, to the Standing Committee amendment.

The Vrtiska amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

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

FA1584

Amend AM2818

Strike Claim No. 03-699, on Page 1, lines 3 through 6.

Senator Engel moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

The Wehrbein amendment was adopted with 31 ayes, 2 nays, 12 present and not voting, and 4 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Senator Chambers renewed his pending amendment, AM3276, found on page 1185.

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

Advanced to E & R for review with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

AMENDMENTS - Print in Journal

Senator Brown filed the following amendment to LB 625:
AM3215

(Amendments to Final Reading copy)

- 1 1. On page 2, line 24, strike "copies of all"; in line
- 2 25 strike "copies of"; and in line 26 after "investigation" insert
- 3 "as provided in subsections (2) and (3) of section 20-330".
- 4 2. On page 4, strike the new matter and reinstate the
- 5 stricken matter; and after line 7 insert the following new
- 6 subsection:
- 7 "(3) Notwithstanding subsection (1) of this section, in
- 8 any case in which the complaint is filed by the commission and
- 9 there is no aggrieved person, or in which a complaint is filed and
- 10 the only aggrieved person is a tester or a testing organization,
- 11 the commission shall provide to the respondent at any time, upon

12 request, copies of all information derived from an investigation
 13 and copies of any final investigative report relating to that
 14 investigation. All personal identification information of testers
 15 shall be removed from the copies provided. The commission may
 16 charge a fee, not to exceed actual cost, for copies provided under
 17 this subsection."

Senators Landis, Baker, Connealy, Hartnett, Janssen, Raikes, and Redfield filed the following amendment to LB 1017:
 (Amendment, AM3292, is printed separately and available in the Bill Room, Room 1104.)

Senators Landis, Baker, Bourne, Connealy, Hartnett, Janssen, Raikes, and Redfield filed the following amendment to LB 1017:
 AM3293

1 1. Strike section 77-2704.55 and all amendments thereto
 2 and insert the following new section:
 3 "Sec. 16. Section 77-2704.55, Reissue Revised Statutes
 4 of Nebraska, is amended to read:
 5 77-2704.55. (1) Sales and use taxes shall not be imposed
 6 on the gross receipts for the labor of a contractor as determined
 7 in subdivision (10)(e) of section 77-2701.16 purchased in
 8 connection with the following types of construction projects:
 9 (a) The first or original construction of a new
 10 structure, building, or unit;
 11 (b) ~~The addition of an entire room or floor to any~~
 12 ~~existing building;~~
 13 (c) ~~The completion of an unfinished portion of an~~
 14 ~~existing structure;~~
 15 (d) ~~The restoration, reconstruction, or replacement of a~~
 16 ~~structure damaged or destroyed by fire, flood, tornado, lightning,~~
 17 ~~explosion, ice storm, or other natural disaster;~~
 18 (e) The construction, repair, or annexation of any
 19 structure used for the generation, transmission, or distribution of
 20 electricity; or
 21 ~~(f) (c) The major addition, remodeling, restoration,~~
 22 ~~repair, or renovation of an existing structure or building or a~~
 23 ~~unit of an existing building described in subdivision (2)(e)(ii) of~~
 24 ~~this section. The exemption granted in this subdivision shall be~~
 1 ~~conditioned upon notice from the contractor to the Department of~~
 2 ~~Revenue of the nature of the project and an explanation of why the~~
 3 ~~renovation will qualify for the exemption that is a single~~
 4 ~~construction project of any type that costs at least forty percent~~
 5 ~~of the current assessed value of the existing structure or building~~
 6 ~~or unit of an existing building. For a project on a building other~~
 7 ~~than an existing dwelling designed for occupancy by one family or a~~
 8 ~~duplex designed for occupancy by two families, to qualify for this~~
 9 ~~exemption, the taxpayer must seek prior approval from the~~
 10 ~~department that the project, if substantially completed according~~

11 to designs, plans, specifications, or other materials submitted
 12 with the application to the department, meets the requirements for
 13 a major addition, remodeling, restoration, repair, or renovation
 14 under this subdivision and the labor performed in annexing the
 15 building materials to real estate will be exempt from tax. For a
 16 project on an existing dwelling designed for occupancy by one
 17 family or a duplex designed for occupancy by two families, the
 18 exemption may be granted either upon approval by the department
 19 that the project, if substantially completed according to designs,
 20 plans specifications, or other materials submitted with the
 21 application to the department, meets the requirements for a major
 22 addition, remodeling, restoration, repair, or renovation under this
 23 subdivision or notice from the contractor to the department of the
 24 nature of the project and an explanation of why the addition,
 25 remodeling, restoration, repair, or renovation will qualify for the
 26 exemption. Approval may be granted in accordance with the
 27 procedures set forth in subsection (4) of this section.

- 1 (2) For purposes of this section:
- 2 (a) Building means any freestanding structure annexed to
 3 land, enclosed within a roof and exterior walls, regardless of
 4 whether enclosed on all sides;
- 5 (b) ~~Building materials means items that will be annexed~~
 6 ~~to land or an improvement on land. Building materials do not~~
 7 ~~include tools, supplies, or items that will not be annexed;~~
- 8 (c) Contractor means any person who repairs property
 9 annexed to or who annexes property to real estate, including leased
 10 property, by attaching building materials to the improvement or
 11 annexed property being built or repaired. This includes the
 12 installation of fixtures and the repair of a building, structure,
 13 or fixture;
- 14 (d) Fixture means a piece of equipment that must be
 15 annexed to the building or structure in order to properly function,
 16 yet remains identifiable as a separate item;
- 17 (e) Major renovation of an existing building or a unit of
 18 an existing building means a single renovation project that:
- 19 (i) Increases the market value of the building or unit by
 20 at least one hundred percent; or
- 21 (ii) Entails the renovation of no less than seventy five
 22 percent of the square feet of the building or unit;
- 23 (f) Renovation means the rehabilitation, replacement, or
 24 reconfiguration of walls or fixtures. Mere replacement of floor
 25 coverings does not constitute renovation for purposes of
 26 subdivision (1)(f) of this section;
- 27 (g) Structure means any construction composed of parts
 1 arranged and fitted together in some way. Structure includes, but
 2 is not limited to, streets and roadways, street lighting, and
 3 sewers and waterlines; and
- 4 (h) (c) Unit means a physical portion of a building
 5 designated for separate ownership, rental, or occupancy.

6 (3) A taxpayer shall be entitled to a refund of any sales
7 tax paid ~~on construction, annexation, or repair labor for any major~~
8 ~~renovation described in subdivision (2)(e)(i) of this section on~~
9 ~~the gross receipts for the labor of a contractor for any major~~
10 ~~addition, remodeling, restoration, repair, or renovation described~~
11 ~~in this section.~~ The refund granted in this section shall be
12 conditioned upon filing a claim for the refund on a form developed
13 by the Tax Commissioner. The requirements imposed by the Tax
14 Commissioner shall be related to ensuring that the ~~labor purchased~~
15 ~~project~~ qualifies for the refund. Any information received
16 pursuant to the requirements of this subsection may be disclosed to
17 any tax official in this state. Any taxpayer who provides false
18 information on the forms required by the Tax Commissioner for
19 purposes of this subsection shall be subject to the penalties
20 provided in subsection (8) of section 77-2705.

21 (4)(a) A taxpayer may apply to the Tax Commissioner for
22 approval that a proposed construction project meets the
23 requirements for a major addition, remodeling, restoration, repair,
24 or renovation described in this section.

25 (b) The approval granted in this section shall be
26 conditioned upon filing an application on a form developed by the
27 Tax Commissioner with an application fee of five hundred dollars.
1 The application fee shall be remitted to the State Treasurer for
2 credit to the Department of Revenue Contractor Enforcement Fund.
3 The application shall be supported by designs, plans,
4 specifications, or other materials, signed by a licensed architect
5 or engineer, that indicate the extent of the addition, remodeling,
6 restoration, repair, or renovation, the work that is planned to be
7 performed, and the estimated cost of the project. The application
8 shall also be supported by a document showing the current assessed
9 value of the existing structure or building or unit of an existing
10 building. Any requirements imposed by the Tax Commissioner shall
11 be related to ensuring that the project qualifies for the exemption
12 so long as the project is completed in substantial conformity with
13 the designs, plans, specifications, or other materials submitted
14 with the application.

15 (c) The Tax Commissioner shall approve or deny the
16 application within sixty business days after receiving the
17 application. Within sixty days after the completion of the
18 renovation, a licensed architect or engineer shall certify to the
19 Tax Commissioner that the renovation was completed in substantial
20 conformity with the designs, plans, specifications, or other
21 materials submitted with the application or shall amend the
22 original application to describe the project as actually completed.

23 (d) Any information received pursuant to the requirements
24 of this subsection may be disclosed to any tax official in this
25 state. Any person who provides false information on the forms,
26 plans, specifications, and materials required by the Tax
27 Commissioner for purposes of this subsection shall be subject to

1 the penalties provided in subsection (8) of section 77-2705.
 2 (5) The provisions of this section shall not excuse any
 3 person from the obligation to collect sales tax on retail sales of
 4 property not annexed to real estate or from the obligation to pay
 5 the sales tax or remit the use tax on tools, services, and other
 6 materials consumed that are not annexed to real estate.
 7 (6) The Department of Revenue Contractor Enforcement Fund
 8 is created. Any money in the fund shall be invested by the state
 9 investment officer pursuant to the Nebraska Capital Expansion Act
 10 and the Nebraska State Funds Investment Act."

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 962. Placed on Select File as amended.
 (E & R amendment, AM7204, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 962A. Placed on Select File.

(Signed) Ray Mossey, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 278. Introduced by Schrock, 38.

PURPOSE: The Department of Natural Resources has jurisdiction over all dams in high hazard locations regardless of size or storage capacity and all other dams having a height of 25 feet or more or having a storage capacity of 50 acre-feet or more. The department insures that all jurisdictional dams are designed properly, taking into account downstream improvements which may directly impact on the assigned hazard classification of the dam and issues storage and use permits as appropriate. Nebraska has over 2,000 permitted dams built to the appropriate hazard classification at the time of construction with approximately 1,700 low-hazard dams, 250 significant hazard dams, and 100 high hazard dams. The construction of certain improvements, such as houses, businesses, roads, etc., downstream of existing dams can result in an upgrade of the hazard classification by the department if those improvements are in the area that would be flooded (breach inundation area) should the dam fail. Upgrading of the hazard classification by the department will result in an order to the owner of the dam requiring the owner of the dam to take "necessary action" to correct deficiencies and defects in order that the dam be operated and maintained in a safe condition. The Natural Resources Committee of the Legislature should study this issue in conjunction with the department, natural resources districts, the Nebraska Association of County Officials, the League of Municipalities, and others to develop a solution to keep downstream improvements from being located in potentially hazardous locations downstream of existing dams.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 1083. The second Standing Committee amendment, FA1574, found on page 1126, was renewed.

Senator Connealy withdrew his pending amendments, AM3218, AM3219, AM3220, and AM3221, found on pages 1132 and 1133.

Senator Schimek withdrew her pending amendment, AM3224, found on page 1146.

Senator Landis withdrew his pending amendment, AM3262, found on page 1159.

Senators Jensen, Bromm, Burling, Combs, Connealy, Cunningham, Johnson, and Tyson offered the following amendment to the second Standing Committee amendment:

AM3329

(Amendments to FA1574)

- 1 1. Strike section 10 and insert the following new
- 2 section:
- 3 "Sec. 10. (1) The division shall encourage and
- 4 facilitate the statewide development and provision of an
- 5 appropriate array of community-based behavioral health services and
- 6 continuum of care for the purposes of (a) providing greater access
- 7 to such services and improved outcomes for consumers of such
- 8 services, and (b) reducing the necessity and demand for regional
- 9 center behavioral health services.
- 10 (2) The division may reduce or discontinue regional
- 11 center behavioral health services only if (a) appropriate
- 12 community-based services or other regional center behavioral health
- 13 services are available for every person receiving the regional
- 14 center services that would be reduced or discontinued, (b) such
- 15 services possess sufficient capacity and capability to effectively
- 16 replace the service needs which otherwise would have been provided
- 17 at a regional center, and (c) no further commitments, admissions,
- 18 or readmissions for such services are required due to the

19 availability of community-based services or other regional center
20 services to replace such services.

21 (3) The division shall notify the Governor and the
22 Legislature of any intended reduction or discontinuation of
23 regional center services under this section. Such notice shall
1 include detailed documentation of the community-based services or
2 other regional center services that are being utilized to replace
3 such services. The Behavioral Health Oversight Commission of the
4 Legislature shall review such documentation and shall report to the
5 Governor and the Health and Human Services Committee of the
6 Legislature whether, in its opinion, the requirements of subsection
7 (2) of this section have been met with respect to such intended
8 reduction or discontinuation of regional center services and shall
9 enumerate the criteria used by the commission in making such
10 determination.

11 (4) As regional center services are reduced or
12 discontinued under this section, the division shall make
13 appropriate corresponding reductions in regional center personnel
14 and other expenditures related to the provision of such services.
15 All funding related to the provision of regional center services
16 that are reduced or discontinued under this section shall be
17 reallocated and expended by the division for purposes related to
18 the statewide development and provision of community-based
19 services.

20 (5) The division may establish state-operated
21 community-based services to replace regional center services that
22 are reduced or discontinued under this section. The division shall
23 provide regional center employees with appropriate training and
24 support to transition such employees into positions as may be
25 necessary for the provision of such state-operated services.

26 (6) When the occupancy of any regional center reaches
27 twenty percent or less of its licensed capacity, the division shall
1 notify the Governor and the Legislature of such fact. Upon such
2 notification, the division, with the approval of a majority of
3 members of the Executive Board of the Legislative Council, may
4 provide for the transfer of all remaining patients at such center
5 to appropriate community-based services or other regional center
6 services pursuant to this section and cease the operation of such
7 regional center.

8 (7) The provisions of this section are self-executing and
9 require no further authorization or other enabling legislation."

SPEAKER BROMM PRESIDING

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

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

The third Standing Committee amendment is as follows:
FA1575

- 1 1. Strike the original sections and insert the following
2 new sections:
- 17 Sec. 11. The division shall coordinate the integration
18 and management of all funds appropriated by the Legislature or
19 otherwise received by the Nebraska Health and Human Services System
20 from any other public or private source and designated by the
21 Policy Cabinet for the provision of behavioral health services to
22 ensure the statewide availability of an appropriate array of
23 community-based behavioral health services and continuum of care
24 and the allocation of such funds to support the consumer and his or
25 her plan of treatment.
- 26 Sec. 12. (1) The Behavioral Health Services Fund is
27 created. The fund shall be administered by the division and shall
1 contain cash funds appropriated by the Legislature or otherwise
2 received by the Nebraska Health and Human Services System for the
3 provision of behavioral health services from any other public or
4 private source and directed by the Policy Cabinet or the
5 Legislature for credit to the fund.
- 6 (2) The fund shall be used to encourage and facilitate
7 the statewide development and provision of community-based
8 behavioral health services, including, but not limited to, (a) the
9 provision of grants, loans, and other assistance for such purpose
10 and (b) reimbursement to providers of such services.
- 11 (3) Any money in the fund available for investment shall
12 be invested by the state investment officer pursuant to the
13 Nebraska Capital Expansion Act and the Nebraska State Funds
14 Investment Act.

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

The fourth Standing Committee amendment is as follows:
FA1576

- 1 1. Strike the original sections and insert the following
2 new sections:
- 15 Sec. 13. (1) The State Behavioral Health Council is
16 created. The council shall consist of (a) ten members of the State
17 Advisory Committee on Mental Health Services, (b) ten members of
18 the State Advisory Committee on Substance Abuse Services, and (c)
19 ten members of the State Advisory Committee on Problem Gambling and
20 Addiction Services as appointed pursuant to sections 14 to 16 of
21 this act. The Governor shall appoint three members from each such
22 committee to serve on the council and each committee shall select
23 seven of its members to serve on the council.
- 24 (2) Members of the council and such committees shall be
25 appointed for staggered terms of three years and until their

26 successors are appointed and qualified. Vacancies for any
27 unexpired term shall be filled in the same manner as provided for
1 the original appointment. Members shall serve without compensation
2 but shall be reimbursed for their actual and necessary expenses as
3 provided in sections 81-1174 to 81-1177. The council and each such
4 committee shall annually elect a chairperson and other officers
5 from among its members. No officer shall serve more than three
6 consecutive one-year terms in any one office.

7 (3) The council shall be responsible to the division and
8 shall (a) conduct regular meetings, (b) provide advice and
9 assistance to the division relating to the provision of behavioral
10 health services in the State of Nebraska, (c) promote the interests
11 of consumers of behavioral health services and their families, and
12 (d) report annually to the Governor and the Legislature.

13 Sec. 14. (1) The State Advisory Committee on Mental
14 Health Services is created. Members of the committee shall have a
15 demonstrated interest and commitment and specialized knowledge,
16 experience, or expertise relating to the provision of mental health
17 services in the State of Nebraska. The committee shall consist of
18 twenty-three members appointed by the Governor as follows: (a) One
19 regional governing board member, (b) one regional administrator,
20 (c) twelve consumers of behavioral health services or their family
21 members, (d) two providers of behavioral health services, (e) two
22 representatives from the State Department of Education, including
23 one representative from the Division of Vocational Rehabilitation
24 of the State Department of Education, (f) three representatives
25 from the Nebraska Health and Human Services System representing
26 mental health, social services, and medicaid, (g) one
27 representative from the Nebraska Commission on Law Enforcement and
1 Criminal Justice, and (h) one representative from the Housing
2 Office of the Community and Rural Development Division of the
3 Department of Economic Development.

4 (2) The committee shall be responsible to the State
5 Behavioral Health Council and shall (a) serve as the state's mental
6 health planning council as required by Public Law 102-321, (b)
7 conduct regular meetings, (c) provide advice and assistance to the
8 council and the division relating to the provision of mental health
9 services in the State of Nebraska, (d) promote the interests of
10 consumers and their families, (e) provide reports as requested by
11 the council or the division, and (f) engage in such other
12 activities as directed or authorized by the council.

13 Sec. 15. (1) The State Advisory Committee on Substance
14 Abuse Services is created. Members of the committee shall have a
15 demonstrated interest and commitment and specialized knowledge,
16 experience, or expertise relating to the provision of substance
17 abuse services in the State of Nebraska. The committee shall
18 consist of twelve members appointed by the Governor.

19 (2) The committee shall be responsible to the State
20 Behavioral Health Council and shall (a) conduct regular meetings,

21 (b) provide advice and assistance to the council and the division
22 relating to the provision of substance abuse services in the State
23 of Nebraska, (c) promote the interests of consumers and their
24 families, (d) provide reports as requested by the council or the
25 division, and (e) engage in such other activities as directed or
26 authorized by the council.

27 Sec. 16. (1) The State Advisory Committee on Problem
1 Gambling and Addiction Services is created. Members of the
2 committee shall have a demonstrated interest and commitment and
3 specialized knowledge, experience, or expertise relating to the
4 provision of problem gambling and addiction services in the State
5 of Nebraska. The committee shall consist of twelve members
6 appointed by the Governor.

7 (2) The committee shall be responsible to the State
8 Behavioral Health Council and shall (a) conduct regular meetings,
9 (b) provide advice and assistance to the council and the division
10 relating to the provision of problem gambling and addiction
11 services in the State of Nebraska, (c) evaluate applications for
12 funding from the Problem Gamblers Assistance Fund and make
13 recommendations relating to disbursements from the fund, (d)
14 promote the interests of consumers and their families, (e) provide
15 reports as requested by the council or the division, and (f) engage
16 in such other activities as directed or authorized by the council.

17 Sec. 17. Section 83-162.04, Revised Statutes Supplement,
18 2002, is amended to read:

19 83-162.04. The Compulsive Problem Gamblers Assistance
20 Fund is created. The fund shall include revenue transferred from
21 the State Lottery Operation Trust Fund under section 9-812 and the
22 Charitable Gaming Operations Fund under section 9-1,101 and any
23 other revenue received by the division for credit to the fund from
24 any other public or private source, including, but not limited to,
25 appropriations, grants, donations, gifts, devises, or bequests.
26 Any money in the Compulsive Gamblers Assistance Fund on the
27 operative date of this section shall be transferred to the Problem
1 Gamblers Assistance Fund on such date. The division shall
2 administer the fund for the treatment of compulsive problem
3 gamblers as recommended by the ~~commission~~ the State Advisory
4 Committee on Problem Gambling and Addiction Services established
5 under section 16 of this act and shall spend no more than ten
6 percent of the money appropriated to the fund for administrative
7 costs. In addition to money transferred to the fund from the State
8 Lottery Operation Trust Fund under section 9-812 and the Charitable
9 Gaming Operations Fund under section 9-1,101, the department is
10 authorized to accept for deposit in the Compulsive Gamblers
11 Assistance Fund funds, donations, gifts, devises, or bequests from
12 any federal, state, local, public, or private source to be used by
13 the division in the exercise of this authority under and in the
14 performance of its duties in carrying out the provisions of the
15 Alcoholism, Drug Abuse, and Addiction Services Act which relate to

16 ~~compulsive gambling.~~ The Director of Administrative Services shall
 17 draw warrants upon the ~~Compulsive Problem~~ Gamblers Assistance Fund
 18 upon the presentation of proper vouchers by the division. Money
 19 from the ~~Compulsive Problem~~ Gamblers Assistance Fund shall be used
 20 exclusively for the purpose of providing assistance to agencies,
 21 groups, organizations, and individuals that provide education,
 22 assistance, and counseling to individuals and families experiencing
 23 difficulty as a result of problem ~~or pathological~~ gambling, to
 24 promote the awareness of gamblers assistance programs, and to pay
 25 the costs and expenses of the division and the committee and the
 26 ~~commission~~ with regard to compulsive problem gambling. ~~Neither the~~
 27 ~~director of the division nor the~~ The division shall ~~not~~ provide any
 1 direct services to problem ~~or pathological~~ gamblers or their
 2 families. Funds appropriated from the ~~Compulsive Problem~~ Gamblers
 3 Assistance Fund shall not be granted or loaned to or administered
 4 by any ~~of the mental health regional governing boards created~~
 5 ~~pursuant to the Nebraska Comprehensive Community Mental Health~~
 6 ~~Services Act unless the mental health region~~ regional behavioral
 7 health authority unless the authority is a direct provider of
 8 ~~services dealing with the treatment of compulsive gambling a~~
 9 problem gamblers assistance program. Any money in the fund
 10 available for investment shall be invested by the state investment
 11 officer pursuant to the Nebraska Capital Expansion Act and the
 12 Nebraska State Funds Investment Act.

The fourth Standing Committee amendment was adopted with 35 ayes, 0
 nays, 10 present and not voting, and 4 excused and not voting.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 1005A. Placed on Select File.

LEGISLATIVE BILL 914A. Placed on Select File.

(Signed) Ray Mossey, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 279. Introduced by Janssen, 15; Mines,
 18.

WHEREAS, Council Bluff provided Nebraska its first national news two
 hundred years ago when it was reported that explorers Meriwether Lewis
 and William Clark had a friendly council with the first meeting of a forming
 Indian nation during the encampment of 1804 from July 30 through August
 2, 1804; and

WHEREAS, the recognition each one hundred years by the Legislature of

this very special event helps establish the importance of the meeting at Council Bluff. On the top of the bluff Lewis and Clark provided the name Council Bluff. At the base of the bluff, a ledge provided space for a four-day encampment site and a council meeting with local Native Americans. Although the original name of this prehistoric city of trade is not known, it was destined to be renamed Council Bluff.

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

1. That the Legislature acknowledges the bicentennial commemoration of the Meriwether Lewis and William Clark expedition in 1804.

Laid over.

MESSAGE FROM THE GOVERNOR

March 23, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed as Director of the Health and Human Services System.

APPOINTEE:

Nancy Montanez, 1853 Road 57, Potter NE 69156, 308-235-8976

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

VISITORS

Visitors to the Chamber were 44 fourth-grade students and teacher from York; Roland and Adelyne Koranda from Wahoo and Janet Koranda from Fremont; Jens Mertens from Duisburg, Germany; 48 fourth-grade students and teacher from Arlington; and Neil Rutledge from Lincoln Southeast High School.

RECESS

At 12:00 p.m., on a motion by Senator Janssen, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Bromm, Byars, Engel, Kruse, Landis, D. Pederson, Synowiecki, and Tyson who were excused until they arrive.

RESOLUTION

LEGISLATIVE RESOLUTION 280. Introduced by Kremer, 34.

PURPOSE: The study shall examine actions desirable at the state level to increase capabilities of the Bureau of Animal Industry of the Department of Agriculture and the state's livestock industry to prevent the introduction and proliferation of diseases of economic and human health concern in livestock in this state, including those activities relating to surveillance, regulatory compliance, animal identification and traceback, research, and eradication.

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

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

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 1083. The fifth Standing Committee amendment is as follows:

FA1577

1. Strike the original sections and insert the following
2 new sections:
- 13 Sec. 18. (1) The Behavioral Health Oversight Commission
14 of the Legislature is created. The commission shall consist of not
15 more than twenty members appointed by the chairperson of the Health
16 and Human Services Committee of the Legislature and confirmed by a
17 majority of members of the committee. Members of the commission

18 shall (a) include, but not be limited to, representatives of the
 19 Legislature, consumers and consumer advocacy organizations,
 20 behavioral health providers, the communities of Norfolk and
 21 Hastings, state employees, regional behavioral health authorities,
 22 mental health boards, and law enforcement, (b) possess a
 23 demonstrated interest and commitment and specialized knowledge,
 24 experience, or expertise relating to the provision of behavioral
 25 health services in the State of Nebraska, and (c) be broadly
 26 representative of all the behavioral health regions. Members of
 27 the commission shall serve without compensation but shall be
 1 reimbursed from the Nebraska Health Care Cash Fund for their actual
 2 and necessary expenses as provided in sections 81-1174 to 81-1177.
 3 (2) The commission, under the direction of and in
 4 consultation with the Health and Human Services Committee of the
 5 Legislature, shall oversee and support implementation of the
 6 Nebraska Behavioral Health Services Act and shall administer such
 7 funds as appropriated by the Legislature from the Nebraska Health
 8 Care Cash Fund and approved by the committee for such purpose. The
 9 commission may employ staff, enter into contracts, establish and
 10 utilize task forces and subcommittees, and perform such other
 11 activities as necessary and appropriate to carry out its duties
 12 under this section.
 13 (3) The commission and this section terminate on June 30,
 14 2008.

The fifth Standing Committee amendment was adopted with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

The sixth Standing Committee amendment is as follows:
 FA1578

1 1. Strike the original sections and insert the following
 2 new sections:
 15 Sec. 19. (1) The division shall prepare and submit a
 16 behavioral health implementation plan to the Governor and the
 17 Legislature on or before July 1, 2004.
 18 (2) The division shall communicate regularly with the
 19 Behavioral Health Oversight Commission and the Health and Human
 20 Services Committee of the Legislature and shall provide such
 21 reports and other information as requested by the commission or the
 22 committee during preparation of the plan. The commission shall
 23 review and provide written recommendations relating to the plan no
 24 later than October 1, 2004. The division shall provide written
 25 responses to such recommendations, including any proposed changes
 26 to the plan, no later than December 1, 2004.
 27 (3) The division shall immediately advise the committee
 1 and the commission of any proposed changes to the plan as submitted
 2 and shall provide monthly and other reports as requested by the
 3 committee or the commission during implementation of the plan.
 4 Sec. 20. The behavioral health implementation plan

5 required under section 19 of this act shall be consistent with the
6 Nebraska Behavioral Health Services Act and shall include, but not
7 be limited to, a detailed description of all completed, current,
8 and proposed activities by the division to:
9 (1) Select and appoint an administrator, chief clinical
10 officer, program administrator for consumer affairs, and other
11 staff within the division;
12 (2) Implement necessary and appropriate administrative
13 and other changes within the Nebraska Health and Human Services
14 System to carry out the Nebraska Behavioral Health Services Act;
15 (3) Describe and define the role and function of the
16 office of consumer affairs within the division;
17 (4) Describe and define the relationship between the
18 division and regional behavioral health authorities, including, but
19 not limited to, the nature and scope of the coordination and
20 oversight of such authorities by the division;
21 (5) Encourage and facilitate the statewide development
22 and provision of an appropriate array of community-based behavioral
23 health services and continuum of care for both children and adults
24 and the integration and coordination of such services with primary
25 health care services;
26 (6)(a) Identify persons currently receiving regional
1 center behavioral health services for whom community-based
2 behavioral health services would be appropriate, (b) provide for
3 the development and funding of appropriate community-based
4 behavioral health services for such persons in each behavioral
5 health region, (c) transition such persons from regional centers to
6 appropriate community-based behavioral health services, (d) reduce
7 new admissions and readmissions to regional centers, and (e)
8 establish criteria, procedures, and timelines for the closure of
9 the Norfolk Regional Center and the Hastings Regional Center and
10 policies and procedures for the recruitment, retention, training,
11 and support of regional center employees affected by such closures;
12 (7) Integrate all behavioral health funding within the
13 Nebraska Health and Human Services System and allocate such funding
14 to support the consumer and his or her plan of treatment;
15 (8) Establish (a) priorities for behavioral health
16 services and funding, (b) rates and reimbursement methodologies for
17 providers of behavioral health services and draft negotiated
18 rulemaking policies and procedures for the development and
19 implementation of such methodologies, and (c) fees to be paid by
20 consumers of behavioral health services, which fees shall not
21 exceed the actual costs of providing such services;
22 (9) Access additional public and private funding for the
23 provision of behavioral health services in each behavioral health
24 region, including additional federal funding through the medical
25 assistance program established in section 68-1018, and establish
26 programs and procedures for the provision of grants, loans, and
other assistance for the provision of such services;

- 27 (10) Encourage and facilitate activities of the State
1 Behavioral Health Council and the advisory committees making up
2 such council; and
3 (11) Promote activities in research and education to
4 improve the quality of behavioral health services, the recruitment
5 and retention of behavioral health professionals, and the
6 availability of behavioral health services.

The sixth Standing Committee amendment was adopted with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

The seventh Standing Committee amendment is as follows:
(FA1579 consists of Sections 21 through 45 of the Standing Committee amendment.)

Senator Jensen withdrew the Jensen-Redfield pending amendment, AM2951, found on page 924.

Senator Redfield renewed her pending amendment, AM3059, found on page 1061, to the seventh Standing Committee amendment.

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

Senator Jensen renewed his pending amendment, AM3102, printed separately and referred to on page 1055, to the seventh Standing Committee amendment.

The Jensen amendment was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

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

Senator Connealy withdrew his pending amendments, AM2235, AM2234, AM2225, AM2229, AM2224, AM2223, and AM2226, found on pages 303 and 304.

Senator Burling withdrew his pending amendments, AM2280, AM2286, AM2287, AM2288, AM2289, and AM2290, found on pages 376, 378, and 379.

Senator Jensen withdrew his pending amendment, AM2770, found on page 730.

Senator Cunningham withdrew his pending amendment, AM2780, found on page 738.

Advanced to E & R for review with 39 ayes, 1 nay, 6 present and not voting,

and 3 excused and not voting.

LEGISLATIVE BILL 1083A. Title read. Considered.

Senator Wehrbein renewed his pending amendment, AM3065, found on page 1130.

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

Senator Wehrbein renewed his pending amendment, AM3009, found on page 1130.

The Wehrbein amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 869. E & R amendment, AM7185, found on page 988, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1005. E & R amendment, AM7186, printed separately and referred to on page 1039, was adopted.

Senator Synowiecki asked unanimous consent to withdraw the Synowiecki et al. pending amendment, AM3039, found on page 984, and replace it with the Synowiecki et al. substitute pending amendment, AM3173, found on page 1116. No objections. So ordered.

The Synowiecki et al. amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Senator Cunningham withdrew his pending amendment, AM3034, printed separately and referred to on page 1038.

Senator Cunningham renewed his pending amendment, AM3187, printed separately and referred to on page 1072.

The Cunningham amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Senator Jensen offered the following amendment:
AM3134

(Amendments to E & R amendments, AM7186)

1 1. Insert the following new sections:
2 "Sec. 111. Section 71-6101, Reissue Revised Statutes of
3 Nebraska, is amended to read:
4 71-6101. Sections 71-6101 to 71-6115 and sections 114 to
5 119 and 121 of this act shall be known and may be cited as the
6 Occupational Therapy Practice Act.
7 Sec. 112. Section 71-6103, Reissue Revised Statutes of
8 Nebraska, is amended to read:
9 71-6103. For purposes of the Occupational Therapy
10 Practice Act, unless the context otherwise requires:
11 (1) Active license means the license of a person who is
12 acting, practicing, functioning, and working in compliance with the
13 requirements of a license;
14 (2) Association means a recognized national or state
15 association for occupational therapy;
16 (3) Board means the Board of Occupational Therapy
17 Practice established by section 71-6115;
18 (4) Credentialing means the process of obtaining state
19 approval to provide health care services or human services or to
20 change aspects of a current approval and includes, but is not
21 limited to, granting permission to use a protected title that
22 signifies that a person is qualified to provide the services within
23 the scope of practice of a profession;
24 (5) Deep thermal agent modalities means therapeutic
25 ultrasound and phonophoresis. Deep thermal agent modalities does
26 not include the use of diathermy or lasers;
27 (6) Department means the Department of Health and Human
28 Services Regulation and Licensure;
29 ~~(6) License means a license issued under the act;~~
30 ~~(7) Licensee means a person holding a license;~~
31 ~~(8) (7) Electrotherapeutic agent modalities means~~
32 neuromuscular electrical stimulation, transcutaneous electrical
33 nerve stimulation, and iontophoresis. Electrotherapeutic agent
34 modalities does not include the use of ultraviolet light;
35 (8) Mechanical devices means intermittent compression
36 devices. Mechanical devices does not include devices to perform
37 spinal traction;
38 (9) Occupational therapist means a person holding an
39 active license ~~as an occupational therapist to practice~~
40 occupational therapy;
41 ~~(9) (10)(a) Occupational therapy means the use of~~
42 purposeful activity with individuals who are limited by physical
43 injury or illness, psychosocial dysfunction, developmental or
44 learning disabilities, or the aging process in order to maximize
45 independence independent function, prevent further disability, and
46 achieve and maintain health and productivity.
47 (b) Occupational therapy encompasses evaluation,
48 treatment, and consultation and may include ~~teaching daily living~~
49 ~~skills, developing perceptual-motor skills and sensory integrative~~

27 functioning, developing prevocational capacities, designing,
 1 fabricating, or applying selected orthotic and prosthetic devices
 2 or selective adaptive equipment, using specifically designed
 3 therapeutic media and exercises to enhance functional performance,
 4 administering and interpreting tests such as manual muscle and
 5 range of motion, and adapting environments for the handicapped (i)
 6 remediation or restoration of performance abilities that are
 7 limited due to impairment in biological, physiological,
 8 psychological, or neurological processes, (ii) adaptation of task,
 9 process, or the environment, or the teaching of compensatory
 10 techniques, in order to enhance performance, (iii) disability
 11 prevention methods and techniques which facilitate the development
 12 or safe application of performance skills, and (iv) health
 13 promotion strategies and practices which enhance performance
 14 abilities;

15 ~~(10)~~ (11) Occupational therapy aide means a person who
 16 assists in the practice of occupational therapy, who works under
 17 the supervision of an occupational therapist, and whose activities
 18 require an understanding of occupational therapy but do not require
 19 professional or advanced training or licensure is not licensed by
 20 the board and who provides supportive services to occupational
 21 therapists and occupational therapy assistants;

22 ~~(11)~~ (12) Occupational therapy assistant means a person
 23 holding an active license to assist in the practice of occupational
 24 therapy;

25 (13) Physical agent modalities means modalities that
 26 produce a biophysiological response through the use of water,
 27 temperature, sound, electricity, or mechanical devices; and

1 (14) Superficial thermal agent modalities means hot
 2 packs, cold packs, ice, fluidotherapy, paraffin, water, and other
 3 commercially available superficial heating and cooling
 4 technologies, as an occupational therapy assistant; and

5 ~~(12) Person means any individual, partnership, limited~~
 6 ~~liability company, unincorporated organization, or corporate body.~~

7 Sec. 113. Section 71-6104, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 71-6104. No person may represent himself or herself to
 10 be a licensed occupational therapist or occupational therapy
 11 assistant unless he or she is licensed in accordance with the
 12 Occupational Therapy Practice Act. Nothing in such act shall be
 13 construed to prevent:

14 (1) Any person licensed in this state pursuant to Chapter
 15 71 from engaging in the profession or occupation for which he or
 16 she is licensed;

17 (2) The activities and services of any person employed as
 18 an occupational therapist or occupational therapy assistant by the
 19 armed forces, the United States Department of Veterans Affairs, or
 20 the United States Public Health Service if such person provides
 21 occupational therapy solely under the direction or control of the

22 organization by which he or she is employed;

23 (3) The activities and services of any person pursuing an
24 accredited course of study leading to a degree or certificate in
25 occupational therapy if such activities and services constitute a
26 part of a supervised course of study and if such a person is
27 designated by a title which clearly indicates his or her status as
1 a student or trainee;

2 (4) The activities and services of any person fulfilling
3 the supervised fieldwork experience requirements of sections
4 71-6106 and 71-6107 if such activities and services constitute a
5 part of the experience necessary to meet the requirements of such
6 sections; or

7 (5) ~~An unlicensed person from performing occupational
8 therapy; or~~

9 ~~(6)~~ Qualified members of other professions or
10 occupations, including, but not limited to, recreation specialists
11 or therapists, special education teachers, independent living
12 specialists, work adjustment trainers, caseworkers, and persons
13 pursuing courses of study leading to a degree or certification in
14 such fields, from doing work similar to occupational therapy which
15 is consistent with their training if they do not represent
16 themselves by any title or description to be occupational
17 therapists.

18 Sec. 114. An occupational therapy aide shall function
19 under the guidance and responsibility of an occupational therapist
20 and may be supervised by an occupational therapist or an
21 occupational therapy assistant for specifically selected routine
22 tasks for which the aide has been trained and has demonstrated
23 competence. The aide shall comply with supervision requirements
24 developed by the board. The board shall develop supervision
25 requirements for aides which are consistent with prevailing
26 professional standards.

27 Sec. 115. An occupational therapist may perform the
1 following services:

2 (1) Evaluate, develop, improve, sustain, or restore
3 skills in activities of daily living, work activities, or
4 productive activities, including instrumental activities of daily
5 living, and play and leisure activities;

6 (2) Evaluate, develop, remediate, or restore
7 sensorimotor, cognitive, or psychosocial components of performance;

8 (3) Design, fabricate, apply, or train in the use of
9 assistive technology or orthotic devices and train in the use of
10 prosthetic devices;

11 (4) Adapt environments and processes, including the
12 application of ergonomic principles, to enhance performance and
13 safety in daily life roles;

14 (5) If certified pursuant to section 119 of this act,
15 apply physical agent modalities as an adjunct to or in preparation
16 for engagement in occupations when applied by a practitioner who

17 has documented evidence of possessing the theoretical background
18 and technical skills for safe and competent use;

19 (6) Evaluate and provide intervention in collaboration
20 with the client, family, caregiver, or others;

21 (7) Educate the client, family, caregiver, or others in
22 carrying out appropriate nonskilled interventions; and

23 (8) Consult with groups, programs, organizations, or
24 communities to provide population-based services.

25 Sec. 116. An occupational therapy assistant may deliver
26 occupational therapy services enumerated in section 115 of this act
27 in collaboration with and under the supervision of an occupational
1 therapist.

2 Sec. 117. (1) An occupational therapist may accept a
3 referral from a licensed health care professional for the purpose
4 of evaluation and rehabilitative treatment which may include, but
5 not be limited to, consultation, rehabilitation, screening,
6 prevention, and patient education services.

7 (2) Referrals may be for an individual case or may be for
8 an established treatment program that includes occupational therapy
9 services. If programmatic, the individual shall meet the criteria
10 for admission to the program and protocol for the treatment program
11 shall be established by the treatment team members.

12 (3) Referrals shall be in writing, except that oral
13 referrals may be accepted if they are followed by a written and
14 signed request of the person making the referral within thirty days
15 after the day on which the patient consults with the occupational
16 therapist.

17 Sec. 118. The public may have direct access to
18 occupational therapy services.

19 Sec. 119. (1) In order to apply physical agent
20 modalities, an occupational therapist shall be certified pursuant
21 to this section. The department shall issue a certificate to an
22 occupational therapist to administer a physical agent modality if
23 the occupational therapist:

24 (a) Has successfully completed a training course approved
25 by the board and passed an examination approved by the board on the
26 physical agent modality;

27 (b) Is certified as a hand therapist by the Hand Therapy
1 Certification Commission or other equivalent entity recognized by
2 the board;

3 (c) Has a minimum of five years of experience in the use
4 of the physical agent modality and has passed an examination
5 approved by the board on the physical agent modality; or

6 (d) Has completed education during a basic educational
7 program which included demonstration of competencies for
8 application of the physical agent modality.

9 (2) The department shall issue a certificate to authorize
10 an occupational therapy assistant to set up and implement treatment
11 using superficial thermal agent modalities if the occupational

12 therapy assistant has successfully completed a training course
13 approved by the board and passed an examination approved by the
14 board. Such set up and implementation shall only be done under the
15 onsite supervision of an occupational therapist certified to
16 administer superficial thermal agent modalities.

17 (3) An occupational therapist shall not delegate
18 evaluation, reevaluation, treatment planning, and treatment goals
19 for physical agent modalities to an occupational therapy assistant.

20 Sec. 120. Section 71-6113, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-6113. (1)(a) Licenses issued under the Occupational
23 Therapy Practice Act shall be subject to biennial renewal and shall
24 expire August 1 of each even-numbered year unless renewed in the
25 manner provided by section 71-110 upon completion of the continuing
26 competency activities as required under subsection (2) of this
27 section and upon payment of the renewal fee established as provided
1 in section 71-162.

2 (b) A licensee whose license is revoked for nonpayment of
3 the biennial renewal fee as provided in section 71-110 may be
4 reinstated upon the recommendation of the board and the payment of
5 the required fees established as provided in section 71-162, except
6 that no reinstatement of a license may be granted more than five
7 years after its expiration.

8 (2)(a) Each Nebraska-licensed occupational therapist in
9 active practice within the State of Nebraska shall, on or before
10 August 1 of each even-numbered year, complete continuing competency
11 activities as required by the board ~~pursuant to section 71-6115~~ as
12 a prerequisite to renewal of his or her license.

13 (b) Each Nebraska-licensed occupational therapy assistant
14 in active practice within the State of Nebraska shall, on or before
15 August 1 of each even-numbered year, complete continuing competency
16 activities as required by the board ~~pursuant to section 71-6115~~ as
17 a prerequisite to renewal of his or her license.

18 (3) Every occupational therapist and occupational therapy
19 assistant shall provide documentation of completing such continuing
20 competency activities as required by the board.

21 The board shall biennially select, in a random manner, a
22 representative sample of the license renewal applications for audit
23 of compliance with continuing competency requirements.

24 (4) The department, on the recommendation of the board,
25 may waive continuing competency requirements, in part or in total,
26 for any two-year licensing period when a licensee submits
27 documentation that circumstances beyond his or her control

1 prevented completion of such requirements. Such circumstances
2 shall include situations in which:

3 (a) The licensee holds a Nebraska license but does not
4 reside or practice in Nebraska;

5 (b) The licensee has served in the regular armed forces
6 of the United States during part of the twenty-four months

7 immediately preceding the license renewal date;
8 (c) The licensee has submitted proof that he or she was
9 suffering from a serious or disabling illness or physical
10 disability which prevented completion of the required continuing
11 competency activities during the twenty-four months preceding the
12 license renewal date;

13 (d) The licensee has been initially licensed by the board
14 within the twenty-four months immediately preceding the license
15 renewal date; and

16 (e) The licensee has successfully completed two or more
17 semester hours of formal credit instruction biennially offered by
18 an accredited school or college which contributes to meeting the
19 requirements of an advanced degree in a postgraduate program
20 relating to occupational therapy.

21 Sec. 121. (1) The department, with the approval of the
22 board, shall adopt and promulgate rules and regulations necessary
23 to administer the Occupational Therapy Practice Act to protect the
24 public health, safety, and welfare and to insure, to the greatest
25 extent possible, the efficient, adequate, and safe practice of
26 occupational therapy.

27 (2) The rules and regulations shall include (a)
1 definitions of unprofessional conduct, (b) definitions of conflicts
2 of interest for members of the board and procedures in the case
3 such a conflict arises, (c) role delineation for occupational
4 therapy assistants, and (d) continuing competency requirements.
5 Continuing education is sufficient to meet continuing competency
6 requirements. Such requirements may also include, but not be
7 limited to, one or more of the continuing competency activities
8 listed in section 71-161.09 which a licensed person may select as
9 an alternative to continuing education.

10 (3) Except as provided in subsection (4) of this section,
11 the department, with the approval of the board, shall adopt and
12 promulgate rules and regulations to implement this legislative bill
13 and shall provide for the changes regarding scope of practice to be
14 implemented for licensees as soon as the rules and regulations
15 become effective.

16 (4) The board may adopt and promulgate rules and
17 regulations governing the training courses for an occupational
18 therapist to be certified to administer a physical agent modality.
19 The board may adopt and promulgate rules and regulations governing
20 the training course for an occupational therapy assistant to be
21 certified to set up and implement superficial thermal agent
22 modalities. In adopting such rules and regulations, the board
23 shall give consideration to the levels of training and experience
24 which are required, in the opinion of the board, to protect the
25 public health, safety, and welfare and to insure, to the greatest
26 extent possible, the efficient, adequate, and safe practice of
27 occupational therapy. Such rules and regulations shall include the
1 approval of examinations and the passing score for such

2 examinations for certification.

3 Sec. 122. Section 71-6115, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 71-6115. ~~(1)~~ The Board of Occupational Therapy Practice
6 is established. The board shall consist of at least four members
7 appointed by the State Board of Health, all of whom shall be
8 residents of this state. Any statewide association of occupational
9 therapists may submit a list of names of qualified persons from
10 which the State Board of Health may choose members of the Board of
11 Occupational Therapy Practice. Three of the persons appointed
12 shall have been engaged in rendering services to the public,
13 teaching, or research in occupational therapy for at least five
14 years immediately preceding their appointments. Two of the persons
15 appointed shall be occupational therapists and one shall be either
16 an occupational therapist or an occupational therapy assistant and
17 all shall be holders of active licenses issued under the
18 Occupational Therapy Practice Act during their terms. The fourth
19 member shall be a member of the public with an interest in the
20 rights of the consumers of health services. The members of the
21 board shall serve five-year terms, except that the initial members
22 of the board shall serve as follows: The member of the public
23 shall serve one year and the remaining members shall serve terms of
24 two, three, and four years as the State Board of Health shall
25 designate. The term of each member shall commence on December 1
26 following the expiration of the preceding term. No person shall
27 serve more than two full consecutive terms on the board. The State
1 Board of Health shall fill any vacancy for an unexpired term in the
2 same manner as the initial appointment. The members shall not
3 receive compensation but shall be reimbursed for their actual
4 expenses incurred while in the performance of their duties in the
5 same manner as state employees pursuant to sections 81-1174 to
6 81-1177. The board shall annually elect a chairperson and such
7 other officers as it deems necessary and shall meet at least once
8 per year or more as the department and board shall determine.
9 Members of the board may be removed from office on the grounds and
10 in the manner provided by section 71-118.

11 ~~(2) The board, with the approval of the department, shall~~
12 ~~adopt and promulgate rules and regulations necessary to administer~~
13 ~~the Occupational Therapy Practice Act. The rules and regulations~~
14 ~~shall include (a) definitions of unprofessional conduct, (b)~~
15 ~~definitions of conflicts of interest for members of the board and~~
16 ~~procedures in the case such a conflict arises, (c) role delineation~~
17 ~~for occupational therapy assistants, and (d) continuing competency~~
18 ~~requirements. Continuing education is sufficient to meet~~
19 ~~continuing competency requirements. Such requirements may also~~
20 ~~include, but not be limited to, one or more of the continuing~~
21 ~~competency activities listed in section 71-161.09 which a licensed~~
22 ~~person may select as an alternative to continuing education." .~~

23 2. Amend the operative date and repealer sections so

24 that the sections added by this amendment become operative three
25 calendar months after the adjournment of this legislative session.
26 3. Renumber the remaining sections accordingly.

The Jensen amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Senator Jensen offered the following amendment:
AM3135

(Amendments to E & R amendments, AM7186)

- 1 1. On page 67, line 8, strike "one or more", show as
- 2 stricken, and insert "a single county with a total population of
- 3 more than fifty thousand and not more than one hundred thousand
- 4 persons, with or without additional counties as part of the
- 5 department, or by at least three contiguous".

The Jensen amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1005A. Senator Cunningham offered the following amendment:
AM3344

- 1 1. On page 2, lines 15 and 16 strike "Regulation and
- 2 Licensure" and insert "Finance and Support".

The Cunningham amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 983. Title read. Considered.

Senator Connealy offered the following amendment:
FA1585
On page 75, line 20, strike "66-4,142".

Senator Connealy withdrew his amendment.

Advanced to E & R for review with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

SELECT COMMITTEE REPORT Enrollment and Review

LEGISLATIVE BILL 1047. Placed on Select File as amended.

(E & R amendment, AM7211, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Ray Mossey, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Montanez, Nancy - Director, Health and Human Services System - Health and Human Services

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

RESOLUTION

LEGISLATIVE RESOLUTION 281. Introduced by Redfield, 12.

PURPOSE: The purpose of this resolution is to study whether Nebraska should enact the Market Conduct Surveillance Model Law which has been proposed by the National Conference of Insurance Legislators and which has also been under discussion by the National Association of Insurance Commissioners. The model act would establish a statutory framework for coordinated state regulatory action regarding insurers' market conduct as it affects insurance consumers, policyholders, and claimants. In order to carry out the purpose of this resolution, the committee should seek and consider the input of the Department of Insurance and interested persons as it deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

SENATOR VRTISKA PRESIDING

GENERAL FILE

LEGISLATIVE BILL 1097. Title read. Considered.

The Standing Committee amendment, AM2868, printed separately and

referred to on page 883, was considered.

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

AM3198

(Amendments to Standing Committee amendments, AM2868)

- 1 1. On page 15, lines 7 and 8; and page 17, lines 10 and
- 2 11, strike "sixty-six and two-thirds" and insert "twenty-five".
- 3 2. On page 15, line 9; and page 17, line 12, strike
- 4 "thirty-three and one-third" and insert "seventy-five".
- 5 3. On page 15, line 12; and page 17, line 15, after
- 6 "children" insert "but in no case shall the benefit received by a
- 7 surviving spouse and dependent children residing with such spouse
- 8 be less than fifty percent of the amount of the officer's annuity".

The Stuhr amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 22 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 1207. Title read. Considered.

The Standing Committee amendment, AM2906, found on page 1029, was considered.

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

AM3343

(Amendments to Standing Committee amendments, AM2906)

- 1 1. On page 2, line 19, strike "or" and insert an
- 2 underscored comma and after "worth" insert ", or fifty million
- 3 dollars".
- 4 2. On page 3, lines 15 and 24; and page 4, line 9,
- 5 strike beginning with "fifty" through "worth" and insert "the
- 6 lesser of fifty percent of the appellant's net worth or fifty
- 7 million dollars".

The Brashear amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

SENATOR CUDABACK PRESIDING**LEGISLATIVE BILL 485.** Title read. Considered.

The Standing Committee amendment, AM0911, found on page 996, First Session, 2003, was adopted with 28 ayes, 1 nay, 18 present and not voting, and 2 excused and not voting.

Senator Janssen offered the following amendment:
AM3332

1 1. On page 47, line 11, strike "2004" and insert "2005".

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

Advanced to E & R for review with 30 ayes, 1 nay, 15 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 485A. Title read. Considered.

Advanced to E & R for review with 27 ayes, 2 nays, 17 present and not voting, and 3 excused and not voting.

NOTICE OF COMMITTEE HEARING
Health and Human Services
Room 1510

Tuesday, April 6, 2004

1:15 p.m.

Nancy Montanez - Director, Health and Human Services System

(Signed) Jim Jensen, Chairperson

AMENDMENT - Print in Journal

Senators Byars and Erdman filed the following amendment to LB 841:
AM3285

(Amendments to Final Reading copy)

- 1 1. Strike section 2 and insert the following new
- 2 sections:
- 3 "Sec. 2. Sections 2 to 10 of this act shall be known and
- 4 may be cited as the ICF/MR Reimbursement Protection Act.
- 5 Sec. 3. For purposes of the ICF/MR Reimbursement
- 6 Protection Act:
- 7 (1) Department means the Department of Health and Human
- 8 Services Finance and Support;
- 9 (2) Intermediate care facility for the mentally retarded
- 10 has the definition found in section 71-421;
- 11 (3) Medicaid program means the medical assistance program

12 established pursuant to sections 68-1018 to 68-1025; and
13 (4) Net revenue means the revenue paid to an intermediate
14 care facility for the mentally retarded for resident care, room,
15 board, and services less contractual adjustments and does not
16 include revenue from sources other than operations, including, but
17 not limited to, interest and guest meals.

18 Sec. 4. (1) Each intermediate care facility for the
19 mentally retarded shall pay a tax equal to six percent of its net
20 revenue for the most recent State of Nebraska fiscal year.

21 (2) Taxes collected under this section shall be remitted
22 to the State Treasurer for credit to the ICF/MR Reimbursement
23 Protection Fund.

1 (3) Taxes collected pursuant to this section shall be
2 reported on a separate line on the cost report of the intermediate
3 care facility for the mentally retarded, regardless of how such
4 costs are reported on any other cost report or income statement.
5 The department shall recognize such tax as an allowable cost within
6 the state plan for reimbursement of intermediate care facilities
7 for the mentally retarded which participate in the medicaid
8 program. The tax shall be a direct pass-through and shall not be
9 subject to cost limitations.

10 Sec. 5. (1) The ICF/MR Reimbursement Protection Fund is
11 created. Any money in the fund available for investment shall be
12 invested by the state investment officer pursuant to the Nebraska
13 Capital Expansion Act and the Nebraska State Funds Investment Act.
14 Interest and income earned by the fund shall be credited to the
15 fund.

16 (2) For fiscal year 2004-05, proceeds from the tax
17 imposed under section 4 of this act shall be allocated as follows:

18 (a) First, fifty-five thousand dollars to the department
19 for administration of the fund;

20 (b) Second, payment to intermediate care facilities for
21 the mentally retarded for the cost of the tax;

22 (c) Third, three hundred thousand dollars, in addition to
23 any federal medicaid matching funds, for increases in payments to
24 non-state-operated intermediate care facilities for the mentally
25 retarded which shall be such facilities' only increase in payments
26 for such fiscal year;

27 (d) Fourth, three hundred twelve thousand dollars, in
1 addition to any federal medicaid matching funds, for payment to
2 providers of community-based services for the purpose of reducing
3 the waiting list of persons with developmental disabilities; and

4 (e) Fifth, any money remaining in the fund after the
5 allocations required by subdivisions (2)(a) through (d) of this
6 section have been made shall be transferred to the General Fund.

7 (3) For FY2005-06 and each fiscal year thereafter,
8 proceeds from the tax imposed pursuant to section 4 of this act
9 shall be remitted to the State Treasurer for credit as follows:

10 (a) To the ICF/MR Reimbursement Protection Fund for

11 allocation as described in this subdivision: (i) Fifty-five
12 thousand dollars for administration of the fund; (ii) the amount
13 needed to reimburse intermediate care facilities for the mentally
14 retarded for the cost of the tax; (iii) three hundred thousand
15 dollars for payment of rates to non-state-operated intermediate
16 care facilities; and (iv) three hundred twelve thousand dollars for
17 community-based services for persons with developmental
18 disabilities; and

19 (b) To the General Fund: The remainder of the proceeds.

20 Sec. 6. (1) On or before July 1, 2004, the department
21 shall submit an application to the Centers for Medicare and
22 Medicaid Services of the United States Department of Health and
23 Human Services amending the state medicaid plan to provide for
24 utilization of money in the ICF/MR Reimbursement Protection Fund to
25 increase medicaid payments to intermediate care facilities for the
26 mentally retarded.

27 (2) The tax imposed under section 4 of this act is not
1 due and payable until such amendment to the state medicaid plan is
2 approved by the Centers for Medicare and Medicaid Services.

3 Sec. 7. (1) Collection of the tax imposed by section 4
4 of this act shall be discontinued if:

5 (a) The amendment to the state medicaid plan described in
6 section 6 of this act is disapproved by the Centers for Medicare
7 and Medicaid Services;

8 (b) The department reduces rates paid to intermediate
9 care facilities for the mentally retarded to an amount less than
10 the rates effective September 1, 2003; or

11 (c) The department or any other state agency attempts to
12 utilize the money in the ICF/MR Reimbursement Protection Fund for
13 any use other than uses permitted pursuant to the ICF/MR
14 Reimbursement Protection Act.

15 (2) If collection of the tax is discontinued as provided
16 in subsection (1) of this section, all money in the fund shall be
17 returned to the intermediate care facilities for the mentally
18 retarded from which the tax was collected on the same basis as the
19 tax was assessed.

20 Sec. 8. (1) An intermediate care facility for the
21 mentally retarded that fails to pay the tax required by section 4
22 of this act shall be subject to a penalty of five hundred dollars
23 per day of delinquency. The total amount of the penalty assessed
24 under this section shall not exceed five percent of the tax due
25 from the intermediate care facility for the mentally retarded for
26 the year for which the tax is assessed.

27 (2) Penalties shall be collected by the department and
1 remitted to the State Treasurer for credit to the permanent school
2 fund.

3 Sec. 9. An intermediate care facility for the mentally
4 retarded that has paid a tax that is not required by section 4 of
5 this act may file a claim for refund with the department. The

6 department may by rule and regulation establish procedures for
 7 filing and consideration of such claims.
 8 Sec. 10. The department may adopt and promulgate rules
 9 and regulations to carry out the ICF/MR Reimbursement Protection
 10 Act.
 11 Sec. 11. Sections 1, 12, and 13 of this act become
 12 operative on October 1, 2004. The other sections of this act
 13 become operative on their effective date.
 14 Sec. 13. The following section is outright repealed:
 15 Section 77-2704.37, Reissue Revised Statutes of Nebraska.
 16 Sec. 14. Since an emergency exists, this act takes
 17 effect when passed and approved according to law."
 18 2. On page 1, strike lines 4 and 5 and insert
 19 "exemptions; to adopt the ICF/MR Reimbursement Protection Act; to
 20 eliminate a filing requirement; to provide operative dates; to
 21 repeal the original section; to outright repeal section 77-2704.37,
 22 Reissue Revised Statutes of Nebraska; and to declare an
 23 emergency."

GENERAL FILE

LEGISLATIVE BILL 1162. Title read. Considered.

The Standing Committee amendment, AM3193, found on page 1139, was considered.

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

AM3352

(Amendments to Standing Committee amendments, AM3193)

- 1 1. On page 1, strike beginning with line 9 through
- 2 "scale" in line 10 and insert "except for a stop of a motor truck,
- 3 truck-tractor, semitrailer, trailer, or towed vehicle at a state
- 4 weighing station".
- 5 2. On page 2, line 1, after "2002," insert "and until
- 6 January 1, 2006".
- 7 3. On page 3, lines 16 and 23, strike "2007" and insert
- 8 "2006"; and in line 22 strike the second "January", show as
- 9 stricken, and insert "April".
- 10 4. On page 4, line 2, strike "2007" and insert "2006".

The Brashear amendment was adopted with 26 ayes, 1 nay, 20 present and not voting, and 2 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

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

LEGISLATIVE BILL 1045. Title read. Considered.

The Standing Committee amendment, AM2410, found on page 527, was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 943. Title read. Considered.

The Standing Committee amendment, AM2935, found on page 1024, was considered.

SENATOR SCHIMEK PRESIDING**SENATOR CUDABACK PRESIDING**

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

Advanced to E & R for review with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 1231. Title read. Considered.

The Standing Committee amendment, AM2782, found on page 768, 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 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 1231A. Title read. Considered.

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

LEGISLATIVE BILL 613. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 1048. Title read. Considered.

The Standing Committee amendment, AM2851, found on page 843, was considered.

Senator Jones offered the following motion:
Bracket until April 15, 2004.

SPEAKER BROMM PRESIDING

Pending.

AMENDMENTS - Print in Journal

Senator Brashear filed the following amendment to LB 1034:
AM3326

- 1 1. Insert the following new section:
- 2 "Section 1. Section 77-2101, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 77-2101. For purposes of sections 77-2101 to 77-2116:
- 5 (1) Estate tax means the tax due to the state under
- 6 section 77-2101.01;
- 7 (2) Generation-skipping transfer tax means the tax due to
- 8 the state under section 77-2101.02;
- 9 (3) Nebraska taxable estate means the federal taxable
- 10 estate, as determined under Chapter 11 of the Internal Revenue
- 11 Code, minus ~~one million dollars~~ an amount equal to the applicable
- 12 exclusion amount as provided in section 2010 of the Internal
- 13 Revenue Code of 1986, as amended, for the year in which decedent's
- 14 death occurs;
- 15 (4) Nebraska taxable transfer means the federal taxable
- 16 transfer, as determined under Chapter 13 of the Internal Revenue
- 17 Code, minus ~~one million dollars~~ an amount equal to the
- 18 generation-skipping tax exemption amount as provided in section
- 19 2631 of the Internal Revenue Code of 1986, as amended, for the year
- 20 in which the generation-skipping transfer occurs; and
- 21 (5) Transfer tax means the estate tax and
- 22 generation-skipping transfer tax."
- 23 2. On page 4, line 14, strike "section" and insert
- 24 "sections 77-2101 and"; and in line 15 strike "is" and insert
- 1 "are".
- 2 3. Renumber the remaining sections accordingly.

Senator Smith filed the following amendment to LB 1048:
AM3348

(Amendments to Standing Committee amendments, AM2851)

- 1 1. Strike section 35.

Senator Smith filed the following amendment to LB 1048:
AM3351

- 1 1. On page 7, lines 21 and 25; and page 8, lines 2 and
- 2 7, after "territory" insert "within the boundaries of a single
- 3 county".

Senator Smith filed the following amendment to LB 1048:
AM3349

1 1. Strike original sections 33, 44, and 45 and all
2 amendments thereto and insert the following new sections:
3 "Sec. 41. Section 79-1024, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 79-1024. (1) The department may require each district to
6 submit to the department a duplicate copy of such portions of the
7 district's budget statement as the Commissioner of Education
8 directs. The department may verify any data used to meet the
9 requirements of the Tax Equity and Educational Opportunities
10 Support Act. The Auditor of Public Accounts shall review each
11 district's budget statement for statutory compliance, make
12 necessary changes in the budget documents for districts to
13 effectuate the budget limitations imposed pursuant to sections
14 79-1023 to 79-1030, and notify the Commissioner of Education ~~(a)~~ of
15 any district failing to submit to the auditor the budget documents
16 required pursuant to this subsection by the date established in
17 subsection (1) of section 13-508 or failing to make any corrections
18 of errors in the documents pursuant to section 13-504 or 13-511,
19 ~~and (b) of any Class I district failing to submit the items~~
20 ~~required by this subsection to its high school districts by the~~
21 ~~date established in section 79-1083.03.~~
22 (2) If a school district fails to submit to the
23 department or the auditor the budget documents required pursuant to
24 subsection (1) of this section by the date established in
1 subsection (1) of section 13-508 or fails to make any corrections
2 of errors in the documents pursuant to section 13-504 or 13-511, ~~or~~
3 ~~a Class I district fails to submit the items required by subsection~~
4 ~~(1) of this section to its high school districts by the date~~
5 ~~established in section 79-1083.03,~~ the commissioner, upon
6 notification from the auditor or upon his or her own knowledge that
7 the required budget documents and any required corrections of
8 errors from any school district have not been properly filed in
9 accordance with the Nebraska Budget Act and after notice to the
10 district and an opportunity to be heard, shall direct that any
11 state aid granted pursuant to the Tax Equity and Educational
12 Opportunities Support Act be withheld until such time as the
13 required budget documents or corrections of errors are received by
14 the auditor and the department. In addition, the commissioner
15 shall direct the county treasurer to withhold all school money
16 belonging to the school district until such time as the
17 commissioner notifies the county treasurer of receipt of the
18 required budget documents or corrections of errors. The county
19 treasurer shall withhold such money. If the school district does
20 not comply with this section prior to the end of the state's
21 biennium following the biennium which included the fiscal year for
22 which state aid was calculated, the state aid funds shall revert to
23 the General Fund. The amount of any reverted funds shall be

24 included in data provided to the Governor in accordance with
 25 section 79-1031. The board of any district failing to submit to
 26 the department or the auditor the budget documents required
 27 pursuant to this section by the date established in subsection (1)
 1 of section 13-508 or failing to make any corrections of errors in
 2 the documents pursuant to section 13-504 or 13-511 ~~or the board of~~
 3 ~~a Class I district failing to submit the items required by~~
 4 ~~subsection (1) of this section to its high school districts by the~~
 5 ~~date established in section 79-1083.03~~ shall be liable to the
 6 school district for all school money which such district may lose
 7 by such failing.

8 Sec. 46. Section 79-10,124, Reissue Revised Statutes of
 9 Nebraska, is amended to read:

10 79-10,124. The amount of special tax levied under
 11 sections 79-10,122 to 79-10,125 shall not exceed five cents on each
 12 one hundred dollars upon the taxable value of all taxable property
 13 in the school district above the amount allowed by law for general
 14 school purposes when combined with the tax levied by a Class I
 15 district under section 79-10,110, and the total amount voted for
 16 the period of years shall not exceed five percent of the taxable
 17 valuation of the school district.

18 ~~For Class I districts, the school board of the primary~~
 19 ~~high school district designated pursuant to section 79-1083.02 must~~
 20 ~~approve any use of the special tax levied under sections 79-10,110~~
 21 ~~and 79-10,122 to 79-10,125 and provide written notification of such~~
 22 ~~approval to the Class I district school board."~~

23 2. On page 48, strike beginning with the comma in line 7
 24 through the comma in line 9 and show as stricken.

25 3. On page 68, line 1, strike "79-4,111"; in line 2
 26 after the third comma insert "and" and strike "and 79-1083.02,";
 27 and in line 6 strike "and" and after the last comma insert
 1 "79-4,111, 79-1083.02, and 79-1083.03,".

2 4. Amend the operative date section so that the sections
 3 added by this amendment become operative on their effective date.

4 5. Renumber the remaining sections and correct internal
 5 references accordingly.

Senator Quandahl filed the following amendment to LB 155:
 AM3363

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

3 "Section 1. Section 44-1984, Revised Statutes
 4 Supplement, 2002, is amended to read:

5 44-1984. (1) No insurer that transacts any line of
 6 business other than title insurance shall be eligible for the
 7 issuance or renewal of a certificate of authority to transact the
 8 business of title insurance in this state nor shall title insurance
 9 be transacted, underwritten, or issued by any insurer transacting
 10 or authorized to transact any other line of business.

11 (2)(a) Notwithstanding subsection (1) of this section,
12 and to the extent such coverage is lawful within this state, a
13 title insurer shall issue closing or settlement protection covering
14 a proposed insured if the title insurer issues a title insurance
15 commitment or title insurance policy. Such closing or settlement
16 protection shall conform to the terms of coverage and form of
17 instrument as required by the director and shall indemnify a
18 proposed insured solely against loss of settlement funds only
19 because of the following acts of a title insurer's named title
20 insurance agent:

21 (i) Theft of settlement funds; and

22 (ii) Failure to comply with written closing instructions

23 by the proposed insured when agreed to by the title insurance agent
24 relating to title insurance coverage.

1 (b) The director may prescribe or approve a required
2 charge for providing the coverage.

3 (c) A title insurer shall not provide any other coverage

4 which purports to indemnify against improper acts or omissions of a
5 person with regard to escrow, settlement, or closing services.

6 Sec. 2. Section 44-1993, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 44-1993. (1) A title insurer shall not accept title

9 insurance business from a title insurance agent unless there is in
10 force a written contract between the parties which sets forth the
11 responsibilities of each party and, when both parties share
12 responsibility for a particular function, specifies the division of
13 responsibilities.

14 (2) For each title insurance agent under contract with a
15 title insurer, the title insurer shall have on file a statement of
16 financial condition of each title insurance agent as of the end of
17 the previous calendar year setting forth an income statement of
18 title insurance business done during the preceding year and a
19 balance sheet showing the condition of its affairs as of the prior
20 December 31 certified by the title insurance agent as being a true
21 and accurate representation of the title insurance agent's
22 financial condition. Attorneys actively engaged in the practice of
23 law, other than that related to title insurance business, are
24 exempt from the requirements of this subsection.

25 (3) A title insurer shall, at least annually, conduct an
26 onsite review of the underwriting, claims, and escrow practices of
27 the title insurance agent which shall include a review of the title
1 insurance agent's title insurance policy form inventory and
2 processing operations. If the title insurance agent does not
3 maintain separate financial institution or trust accounts for each
4 title insurer it represents, the title insurer shall verify that
5 the funds held on its behalf are reasonably ascertainable from the
6 books of account and records of the title insurance agent.

7 (4) Within thirty days after executing or terminating a
8 contract with a title insurance agent, a title insurer shall

9 provide written notification of the appointment or termination and
10 the reason for termination to the director. Notices of appointment
11 of a title insurance agent shall be made on a form prescribed or
12 approved by the director.

13 (5) A title insurer shall maintain an inventory of all
14 title insurance policy forms or title insurance policy numbers
15 allocated to each title insurance agent.

16 (6) A title insurer shall have on file proof that each
17 title insurance agent is licensed by this state.

18 (7) A title insurer shall establish the underwriting
19 guidelines and, when applicable, limitations on title claims
20 settlement authority to be incorporated into contracts with its
21 title insurance agents.

22 (8)(a) A title insurer is liable for the defalcation,
23 conversion, or misappropriation by a title insurance agent
24 appointed by or under written contract with such title insurer of
25 escrow, settlement, closing, or security deposit funds handled by
26 such title insurance agent in contemplation of or in conjunction
27 with the issuance of a title insurance commitment or title
1 insurance policy by such title insurer. However, if no such title
2 insurance commitment or title insurance policy was issued, each
3 title insurer which appointed or maintained a written contract with
4 such title insurance agent at the time of the discovery of the
5 defalcation, conversion, or misappropriation shares in the
6 liability for the defalcation, conversion, or misappropriation in
7 the same proportion that the premium remitted to the title insurer
8 by such title insurance agent during the twelve-month period
9 immediately preceding the date of the discovery of the defalcation,
10 conversion, or misappropriation bears to the total premium remitted
11 to all title insurers by such title insurance agent during the
12 twelve-month period immediately preceding the date of the discovery
13 of the defalcation, conversion, or misappropriation.

14 (b) For purposes of this subsection, title insurance
15 agent includes (i) a person with whom a title insurer maintains a
16 title insurance agency agreement and (ii) an employer or employee
17 of a title insurance agent or of a person with whom a title insurer
18 maintains a title insurance agency agreement.

19 Sec. 3. Section 44-19,106, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 44-19,106. Sections 44-19,106 to 44-19,123 and section 5
22 of this act shall be known and may be cited as the Title Insurance
23 Agent Act.

24 Sec. 4. Section 44-19,116, Revised Statutes Supplement,
25 2002, is amended to read:

26 44-19,116. (1)(a) A title insurance agent may operate as
27 an escrow, security, settlement, or closing agent subject to the
1 requirements of subdivisions (b) through ~~(e)~~ (f) of this
2 subsection.

3 (b) All funds deposited with the title insurance agent in

4 connection with an escrow, settlement, closing, or security deposit
5 shall be submitted for collection to or deposited in a separate
6 fiduciary trust account or accounts in a qualified financial
7 institution no later than the close of the next business day in
8 accordance with the following requirements:

9 (i) The funds shall be the property of the person or
10 persons entitled to them under the provisions of the escrow,
11 settlement, security deposit, or closing agreement and shall be
12 segregated for each depository by escrow, settlement, security
13 deposit, or closing in the records of the title insurance agent in
14 a manner that permits the funds to be identified on an individual
15 basis; and
16 (ii) The funds shall be applied only in accordance with
17 the terms of the individual instructions or agreements under which
18 the funds were accepted.

19 (c) Funds held in an escrow account shall be disbursed
20 only pursuant to a written instruction or agreement specifying how
21 and to whom such funds may be disbursed.

22 (d) Funds held in a security deposit account shall be
23 disbursed only pursuant to a written agreement specifying:

24 (i) What actions the indemnitor shall take to satisfy his
25 or her obligation under the agreement;

26 (ii) The duties of the title insurance agent with respect
27 to disposition of the funds held, including a requirement to
1 maintain evidence of the disposition of the title exception before
2 any balance may be paid over to the depositing party or his or her
3 designee; and

4 (iii) Any other provisions the director may require.

5 (e)(i) Disbursements may be made out of an escrow,
6 settlement, or closing account only if funds in an amount at least
7 equal to the disbursement have first been received and if the funds
8 received are in one of the following forms:

9 (A) Lawful money of the United States;

10 (B) Wired funds when unconditionally held by the title
11 insurance agent;

12 (C) Cashier's checks, certified checks, bank money
13 orders, or teller's checks issued by a federally insured financial
14 institution and unconditionally held by the title insurance agent;
15 and

16 (D) United States treasury checks, federal reserve bank
17 checks, federal home loan bank checks, and State of Nebraska
18 warrants.

19 (ii) For purposes of this subdivision, federally insured
20 financial institution means an institution in which monetary
21 deposits are insured by the Federal Deposit Insurance Corporation
22 or National Credit Union Administration.

23 (f) A title agent who holds funds relating to an exchange
24 under section 1031 of the Internal Revenue Code shall provide
25 written disclosure, at or before closing, to the person whose funds

26 are being held, on a separate paper with no other information on
27 the paper, which states that:

- 1 (i) Such services performed by a title insurance agent
2 are not regulated by the Department of Banking and Finance, the
3 Department of Insurance, or any other agency of the State of
4 Nebraska or by any agency of the United States Government;
- 5 (ii) The safety and security of such funds is not
6 guaranteed by any agency of the State of Nebraska or of the United
7 States Government or otherwise protected by law; and
- 8 (iii) The owner of such funds should satisfy himself or
9 herself as to the safety and security of such funds.

10 (2) On and after January 1, 2004, every title insurance
11 agent shall have an annual audit made of its escrow, settlement,
12 closing, and security deposit accounts, conducted by a certified
13 public accountant on a calendar year basis at its expense within
14 ninety days after the close of the previous calendar year. The
15 title insurance agent shall provide a copy of the audit report to
16 each title insurer which it represents. The director may adopt and
17 promulgate rules and regulations setting forth the minimum
18 threshold level at which an audit would be required, the standards
19 of audit, and the form of audit report required. The director may
20 also require a title insurance agent to provide a copy of its audit
21 report to the director. Title insurance agents who are attorneys
22 and who issue title insurance policies as part of their legal
23 representation of clients are exempt from the requirements of this
24 subsection. However, the title insurer may, at its expense,
25 conduct or cause to be conducted an annual audit of the escrow,
26 settlement, closing, and security deposit accounts of the attorney.
27 Attorneys who are exclusively in the business of title insurance
1 are not exempt from the requirements of this subsection.

2 (3) If the title insurance agent is appointed by two or
3 more title insurers and maintains fiduciary trust accounts in
4 connection with providing escrow, closing, or settlement services,
5 the title insurance agent shall allow each title insurer reasonable
6 access to the accounts and any or all of the supporting account
7 information in order to ascertain the safety and security of the
8 funds held by the title insurance agent.

9 (4) Nothing in the Title Insurance Agent Act shall be
10 deemed to prohibit the recording of documents prior to the time
11 funds are available for disbursement with respect to a transaction
12 if all parties consent to the transaction in writing.

13 (5) Nothing in this section is intended to amend,
14 alter, or supersede other sections of the act or the laws of this
15 state or the United States regarding an escrow holder's duties and
16 obligations.

17 (6) The director may prescribe a standard agreement
18 for escrow, settlement, closing, or security deposit funds.

19 Sec. 5. Whenever the director has reasonable cause to
20 believe that a title insurance agent is violating the Title

21 Insurance Agent Act or any rules and regulations adopted and
 22 promulgated thereunder, the director may, without notice, and
 23 before a hearing, issue a summary cease and desist order. At the
 24 same time the order is issued, the director shall serve notice to
 25 the title insurance agent of the reasons for such order and that
 26 the title insurance agent may request a hearing in writing within
 27 ten business days after receipt of the order. If a hearing is
 1 requested, the director shall schedule a hearing within ten
 2 business days after receipt of the request. The hearing shall be
 3 conducted in accordance with the Administrative Procedure Act. If
 4 a hearing is not requested and none is ordered by the director, the
 5 order shall remain in effect until modified or vacated by the
 6 director. Any title insurance agent aggrieved by a final order of
 7 the director may appeal the order. The appeal shall be in
 8 accordance with the Administrative Procedure Act. In the event of
 9 noncompliance with a summary cease and desist order, the director
 10 may cause a complaint to be filed in the district court to enforce
 11 the order.

12 Sec. 6. Section 76-238, Reissue Revised Statutes of
 13 Nebraska, is amended to read:

14 76-238. (1) All deeds, mortgages, and other instruments
 15 of writing which are required to be or which under the laws of this
 16 state may be recorded, shall take effect and be in force from and
 17 after the time of delivering ~~the same~~ such instruments to the
 18 register of deeds for recording, and not before, as to all
 19 creditors and subsequent purchasers in good faith without notice,
 20 ~~All ; and all such deeds, mortgages and other instruments shall be~~
 21 ~~adjudged~~ are void as to all ~~such~~ creditors and subsequent
 22 purchasers without notice whose deeds, mortgages, or other
 23 instruments ~~shall be first recorded~~ are recorded prior to such
 24 instruments. However, ~~;~~ **PROVIDED**, that such ~~deeds, mortgages and~~
 25 ~~other~~ instruments ~~shall be~~ are valid between the parties to the
 26 instrument.

27 (2) For purposes of this section, possession of
 1 agricultural real estate or residential real estate by a party
 2 related to the owner of record of the real estate within the third
 3 degree of consanguinity or affinity shall not serve as notice to a
 4 creditor or subsequent purchaser in any case in which such party is
 5 claiming rights in such real estate pursuant to a lease (a) entered
 6 into on or after the effective date of this act; (b) purporting to
 7 extend beyond a term of one year; and (c) which has not satisfied
 8 the requirements of section 76-211, unless the creditor or
 9 subsequent purchaser, in advance of recording a deed, mortgage, or
 10 other instrument, has received a written copy of such lease.

11 (3) For purposes of this section:

12 (a) Agricultural products includes grain and feed crops;
 13 forages and sod crops; and animal production, including breeding,
 14 feeding, or grazing of cattle, horses, swine, sheep, goats, bees,
 15 or poultry;

16 (b) Agricultural real estate means land which is
 17 primarily used for the production of agricultural products,
 18 including waste land lying in or adjacent to and in common
 19 ownership with land used for the production of agricultural
 20 products;

21 (c) Related within the third degree of consanguinity or
 22 affinity includes parents, grandparents, great-grandparents,
 23 children, grandchildren, great-grandchildren, brothers, sisters,
 24 uncles, aunts, nephews, nieces, and spouses of the same and any
 25 partnership, limited liability company, or corporation in which all
 26 of the partners, members, or shareholders are related within the
 27 third degree of consanguinity or affinity; and

1 (d) Residential real estate means real estate containing
 2 not more than four units designed for use for residential purposes.
 3 A condominium unit that is otherwise residential real estate
 4 remains so even though the condominium development contains more
 5 than four dwelling units or units for nonresidential purposes.

6 Sec. 7. Original sections 44-1993, 44-19,106, and
 7 76-238, Reissue Revised Statutes of Nebraska, and sections 44-1984
 8 and 44-19,116, Revised Statutes Supplement, 2002, are repealed.

9 Sec. 8. The following sections are outright repealed:
 10 Sections 76-261 to 76-263 and 76-265, Reissue Revised Statutes of
 11 Nebraska.".

Senators Erdman and Schimek filed the following amendment to LB 962:
 AM3227

(Amendments to E & R amendments, AM7204)

- 1 1. Insert the following new section:
- 2 "Sec. 33. Sections 46-2,131 to 46-2,137 terminate
- 3 December 31, 2009."
- 4 2. Renumber the remaining sections and correct internal
- 5 references accordingly.

Senator Landis filed the following amendment to LB 973:
 (Amendment, AM3365, is printed separately and available in the Bill Room,
 Room 1104.)

UNANIMOUS CONSENT - Add Cointroducer

Senator Aguilar asked unanimous consent to have his name added as
 cointroducer to LB 613. No objections. So ordered.

VISITORS

Visitors to the Chamber were 17 twelfth-grade students and teacher from
 Cedar Rapids; Senator Burling's daughter, Darla Erickson and her husband,
 Ron Erickson, from Hastings; and Alan Baugh from Lincoln.

The Doctor of the Day was Dr. Hal Pumphrey from Lincoln.

ADJOURNMENT

At 6:57 p.m., on a motion by Senator Schrock, the Legislature adjourned until 9:00 a.m., Wednesday, March 24, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-EIGHTH DAY - MARCH 24, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 24, 2004

PRAYER

The prayer was offered by Pastor Jason Hanselman, Platte Valley Bible College, Scottsbluff.

ROLL CALL

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

The roll was called and all members were present except Senators Aguilar, Brown, Landis, Louden, D. Pederson, Raikes, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-seventh day was approved.

MOTION - Approve Appointments

Senator Baker moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointments found on page 1182:

Nebraska Transit and Rail Advisory Council

Allan Abbott
Anne Boyle
Duane Eitel
Roger Figard
David Gilfillan
Georgia Janssen
Steve McBeth
Paul Mullen
Thomas Mulligan
Roberto Munguia
Gary Ruegg

Voting in the affirmative, 31:

Baker	Erdman	Johnson	Price	Synowiecki
Bourne	Foley	Jones	Quandahl	Vrtiska
Burling	Friend	Kruse	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Combs	Hudkins	McDonald	Schrock	
Connealy	Janssen	Mines	Stuhr	
Cudaback	Jensen	Pedersen, Dw.	Stuthman	

Voting in the negative, 0.

Present and not voting, 11:

Beutler	Chambers	Kremer	Smith
Brashear	Cunningham	Mossey	Thompson
Bromm	Engel	Preister	

Excused and not voting, 7:

Aguilar	Landis	Pederson, D.	Tyson
Brown	Louden	Raikes	

The appointments were confirmed with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 973. E & R amendment, AM7201, printed separately and referred to on page 1153, was adopted.

Senator Beutler reoffered his amendment, AM3094, found on page 1074.

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

Senator Landis renewed his pending amendment, AM3225, printed separately and referred to on page 1160.

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

Senator Landis renewed his pending amendment, AM3365, printed separately and referred to on page 1229.

The Landis amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

BILL ON FIRST READING

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

LEGISLATIVE BILL 826A. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 826, Ninety-eighth Legislature, Second Session, 2004.

AMENDMENTS - Print in Journal

Senator Schrock filed the following amendment to LB 32:
AM3353

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. (1) Any city required by federal law to
- 4 develop, establish, and implement storm water management programs
- 5 and secure a storm water discharge permit under the National
- 6 Pollutant Discharge Elimination System created pursuant to the
- 7 federal Clean Water Act of 1977, 33 U.S.C. 1251 et seq., may
- 8 develop, establish, and implement storm water management programs
- 9 and projects as required by federal law and the capital
- 10 improvements required for such storm water management programs and
- 11 projects.
- 12 (2) Any city described in subsection (1) of this section
- 13 may acquire by gift, grant, purchase, or condemnation necessary
- 14 land for such storm water management programs and projects.
- 15 Sec. 2. For the purpose of developing, establishing, and
- 16 implementing storm water management programs and projects as
- 17 required by federal law and funding the capital improvements and
- 18 operation and maintenance costs of such storm water management
- 19 programs and projects, the expenditures of a city described in
- 20 section 1 of this act for such purposes shall not be subject to the
- 21 budgetary limitations specified in section 13-519. The amount
- 22 budgeted by such city for such purposes which is in excess of the
- 23 budgetary limitations specified in section 13-519 shall be placed
- 24 in a separate fund and shall not be used for any purpose other than
- 1 developing, establishing, and implementing storm water management
- 2 programs and projects as required by federal law and funding the
- 3 capital improvements and the operation and maintenance costs of
- 4 such storm water management programs and projects.
- 5 Sec. 3. A city described in section 1 of this act may
- 6 enter into a contract with any corporation organized under or
- 7 authorized by the laws of this state for the purpose of developing,
- 8 establishing, and implementing storm water management programs or
- 9 projects.
- 10 Sec. 4. In addition to other powers authorized by law,
- 11 the board of directors of a natural resources district encompassing

12 a city described in section 1 of this act may develop, establish,
 13 and implement storm water management programs and projects within
 14 the district and fund the capital improvements and the operation
 15 and maintenance costs of such storm water management programs and
 16 projects. The expenditures of a natural resources district for
 17 such purposes shall not be subject to the budgetary limitations
 18 specified in section 13-519. The amount budgeted by such natural
 19 resources district for such purposes which is in excess of the
 20 budgetary limitations specified in section 13-519 shall be placed
 21 in a separate fund and shall not be used for any purpose other than
 22 storm water management programs and projects, in cooperation with
 23 other public agencies.

24 Sec. 5. A city described in section 1 of this act and a
 25 natural resources district encompassing any such city may cooperate
 26 with each other, with counties, and with other public agencies as
 27 defined in section 13-803 in the development, establishment, and
 1 implementation of storm water management programs and projects.

2 Sec. 6. If any section of this act or any part of any
 3 section is declared invalid or unconstitutional, the declaration
 4 shall not affect the validity or constitutionality of the remaining
 5 portions.".

Senator Chambers filed the following amendments to LB 1046:

FA1587

Amend AM2907

Add a new section: "No manufacturer, distributor or seller of any motor vehicle shall be subject to civil liability based on receipt of a speeding citation by any driver of such a vehicle."

FA1588

Amend AM2907

Add a new section: "The Man in the Moon shall not be subject to civil liability based on any impairment or loss of vision resulting from a person gazing at a solar eclipse caused by the Moon passing between the Earth and the Sun."

FA1589

Amend AM2907

Add a new section: "No manufacturer, distributor or seller of reading glasses shall be subject to civil liability based on the continued inability of an illiterate person to read despite purchasing and wearing any of such reading glasses."

FA1590

Amend AM2907

Add a new section: "No meteorologist shall be subject to civil liability because, relying on such meteorologist's prediction of a bright, bright, sunshiny day, someone left a cake out in the rain and averred in an affidavit:

"I don't think that I can take it, 'cause it took so long to bake it; and I'll never have that recipe again."

FA1591

Amend AM2907

Add a new section: "No producer, distributor or broadcaster of any televised advertisements, programs or features intended for general viewing shall be subject to civil liability when such liability is premised upon an individual's weight gain or obesity alleged to be the result of such individual's chronic viewing of such televised advertisements, programs or features while being sedentary and inactive. Chronic viewing means viewing television for at least eight hours during any twenty-four hour period."

SELECT FILE

LEGISLATIVE BILL 944. Advanced to E & R for engrossment.

LEGISLATIVE BILL 315. E & R amendment, AM7189, found on page 1041, was adopted.

Senators Brashear and Beutler offered the following amendment:

FA1586

(Amendments to E & R amendments, AM7189)

2 2. On page 5, strike beginning with the colon in line 25

3 through line 27.

4 3. On page 6, strike lines 1 through 6; and in line 7

5 strike "(2)Is" and insert "is".

6 4. Renumber the remaining sections and correct internal

7 references accordingly.

The Brashear-Beutler amendment was adopted with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 837. Advanced to E & R for engrossment.

LEGISLATIVE BILL 824. Advanced to E & R for engrossment.

LEGISLATIVE BILL 997. Advanced to E & R for engrossment.

LEGISLATIVE BILL 890. E & R amendment, AM7190, found on page 1047, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 845. Senator Byars renewed his pending amendment, AM3095, found on page 1061.

The Byars amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 884. E & R amendment, AM7194, found on page 1047, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 980. E & R amendment, AM7192, found on page 1048, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1099. Senator Johnson renewed his pending amendment, AM3093, found on page 1157.

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

Advanced to E & R for engrossment.

LEGISLATIVE BILL 955. E & R amendment, AM7193, found on page 1048, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 902. Advanced to E & R for engrossment.

LEGISLATIVE BILL 939. Advanced to E & R for engrossment.

LEGISLATIVE BILL 832. E & R amendment, AM7191, found on page 1048, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 914. Advanced to E & R for engrossment.

LEGISLATIVE BILL 914A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 846. E & R amendment, AM7195, found on page 1065, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1004. Advanced to E & R for engrossment.

LEGISLATIVE BILL 1002. Advanced to E & R for engrossment.

LEGISLATIVE BILL 819. E & R amendment, AM7198, found on page 1066, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1118. E & R amendment, AM7197, found on page 1066, was adopted.

Senator Smith offered the following amendment:

AM3373

- 1 1. On page 5, strike beginning with "be" in line 2
- 2 through "provisions" in line 4 and insert "not include performance
- 3 audits, whether conducted pursuant to attestation engagements or
- 4 performance audit standards as set forth in Government Auditing
- 5 Standards (2003 Revision), published by the Comptroller General of
- 6 the United States, General Accounting Office".

The Smith amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1107. Senator Raikes offered the following amendment:

FA1592

- 1 1. Insert the following new section:
- 2 "Section 1. Section 85-1903, Revised Statutes
- 3 Supplement, 2003, is amended to read:
- 4 85-1903. Award means a grant of money by the commission
- 5 to an eligible student for educational expenses. Awards shall not
- 6 exceed:
- 7 (1) For award years prior to the 2006-07 award year:
- 8 (a) For students who received an award from the
- 9 Postsecondary Education Award Program Act, the Scholarship
- 10 Assistance Program Act, or the State Scholarship Award Program Act
- 11 for the 2002-03 award year, the greater of the total awards
- 12 received by the student pursuant to such acts for the 2002-03 award
- 13 year or ~~twenty-five percent~~ one-half of the tuition and mandatory
- 14 fees for a full-time, resident, undergraduate student for the last
- 15 completed award year at the University of Nebraska-Lincoln; or
- 16 (b) For students who did not receive an award from the
- 17 Postsecondary Education Award Program Act, the Scholarship
- 18 Assistance Program Act, or the State Scholarship Award Program Act
- 19 for the 2002-03 award year, ~~twenty-five percent~~ one-half of the
- 20 tuition and mandatory fees for a full-time, resident, undergraduate
- 21 student for the last completed award year at the University of
- 22 Nebraska-Lincoln; and
- 23 (2) For the 2006-07 award year and each award year

- 24 thereafter, twenty-five percent ~~one-half~~ of the tuition and
 1 mandatory fees for a full-time, resident, undergraduate student for
 2 the last completed award year at the University of
 3 Nebraska-Lincoln."
 4 2. On page 6, line 1, strike "section" and insert
 5 "sections 85-1903 and"; and in line 2 strike "is" and insert "are".
 6 3. Renumber the remaining sections accordingly.

The Raikes amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1149. E & R amendment, AM7200, found on page 1066, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 826. E & R amendment, AM7196, found on page 1068, was adopted.

Senator Erdman offered the following amendment:
 AM3145

(Amendments to Standing Committee amendments, AM2606)

- 1 1. On page 3, line 21, after "37-708" insert "and
 2 pursuant to notice as provided in subdivision (f) of this
 3 subsection"; and after line 25 insert the following new
 4 subdivision:
 5 "(f) Notice of intent to enter upon property for the
 6 purposes of subdivision (2)(e) of this section shall be satisfied
 7 by publishing such notice at least once each week for three
 8 consecutive weeks in a legal newspaper published or of general
 9 circulation in the county or counties in which such property and
 10 such game refuge are located.".

The Erdman amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 727. E & R amendment, AM7199, found on page 1068, was adopted.

Advanced to E & R for engrossment.

MOTION - Return LB 625 to Select File

Senator Brown moved to return LB 625 to Select File for her specific

pending amendment, AM3215, found on page 1189.

The Brown motion to return prevailed with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 625. The Brown specific pending amendment, AM3215, found on page 1189, was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Advanced to E & R for reengrossment.

LEGISLATIVE BILL 155. Senator Beutler withdrew his pending amendments, AM2400 and AM2426, found on pages 487 and 503.

Senator Quandahl withdrew his pending amendment, AM2848, found on page 968.

Senator Quandahl renewed his pending amendment, AM3363, found on page 1223.

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

Advanced to E & R for engrossment.

LEGISLATIVE BILL 479. Senator Schrock offered the following amendment:

AM3374

(Amendments to E & R amendments, AM7164)

- 1 1. On page 11, strike lines 25 and 26.

Senator Schrock withdrew his amendment.

Pending.

SELECT COMMITTEE REPORTS Enrollment and Review

LEGISLATIVE BILL 1093. Placed on Select File as amended.
E & R amendment to LB 1093:

AM7213

- 1 1. In the Standing Committee amendments, AM2792:
 - 2 a. On page 1, line 11, reinstate the stricken matter;
 - 3 b. On page 2, line 22, strike "subsection" and insert
 - 4 "subdivision";
 - 5 c. On page 12, line 24, strike "and"; and
 - 6 d. On page 18, line 14, after the semicolon insert

7 "and".
8 2. On page 1, strike lines 2 through 7 and insert
9 "77-3442, 79-1005.01, 79-1005.02, 79-1007.02, 79-1008.01, and
10 79-1009, Reissue Revised Statutes of Nebraska; to change provisions
11 relating to the maximum levy, state aid from income tax receipts,
12 state aid formula calculations, equalization aid, and net option
13 funding for certain fiscal years as prescribed; to harmonize
14 provisions; and to repeal the original sections.".

LEGISLATIVE BILL 1241. Placed on Select File as amended.
(E & R amendment, AM7212, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Ray Mossey, Chairperson

MESSAGE FROM THE GOVERNOR

March 23, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Game and Parks Commission.

APPOINTEE:
George E. Hall, RR 1 Box 183, Bridgeport NE 69336

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

SELECT FILE

LEGISLATIVE BILL 479. Senator Erdman offered the following motion:
Bracket until March 30, 2004.

Senator Erdman withdrew his motion.

Senator Erdman requested a machine vote on the advancement of the bill.

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

Advanced to E & R for engrossment with 29 ayes, 5 nays, 14 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 1049. Senator Beutler asked unanimous consent to withdraw his pending amendment, AM2552, found on page 591, and replace it with the Beutler-Bourne substitute pending amendment, AM2814, found on page 782. No objections. So ordered.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 282. Introduced by Schrock, 38.

WHEREAS, the Loomis High School boys' basketball team won the 2004 Class D-2 Boys' State High School Basketball Championship with an eighty-seven to fifty-eight victory over Lindsay Holy Family High School; and

WHEREAS, this was the second state title for Loomis and the first since 1999; and

WHEREAS, the Wolves put themselves in the the record book when reserve Justin Winkler scored the final basket of the game, giving Loomis the highest point total of any Class D-2 champion; and

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

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

1. That the Legislature recognizes and congratulates the Loomis High School boys' basketball team and its coaches, parents, and supporters.
2. That a copy of this resolution be sent to Coach Steve Johnson and Loomis High School.

Laid over.

VISITORS

Visitors to the Chamber were 25 high school students and sponsors with Project Extra Mile's Youth in Action; Brunilda Zani and Jorida Taboku from the University of Tirana, Albania; 36 fourth-grade students and teachers from Wood River; 4 high school students and teacher from Sutherland; 3 students with Project Extra Mile from Lakeview Community Schools, Columbus; 7 students with Project Extra Mile from Grand Island; 42 fourth-grade students and teachers from Lincoln Elementary School,

Beatrice; and 25 Buffalo County students and teachers from Sumner, Pleasanton, Kearney High School, and Kearney Catholic School.

RECESS

At 11:57 a.m., on a motion by Senator Baker, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Burling, Engel, Jensen, Landis, and Price who were excused until they arrive.

SELECT FILE

LEGISLATIVE BILL 1049. The Beutler-Bourne pending amendment, AM2814, found on page 782 and considered in this day's Journal, was renewed.

SENATOR SCHIMEK PRESIDING

Senator Chambers offered the following motion:
Bracket until April 15, 2004.

Senator Chambers moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Chambers requested a roll call vote on his motion to bracket.

Senator Smith requested the roll call vote be taken in reverse order.

Voting in the affirmative, 12:

Aguilar	Brashear	Landis	Schimek
Beutler	Connealy	Pederson, D.	Synowiecki
Bourne	Hartnett	Preister	Wehrbein

Voting in the negative, 23:

Brown	Engel	Kremer	Price	Stuthman
Burling	Erdman	Louden	Quandahl	Tyson
Byars	Friend	McDonald	Redfield	Vrtiska
Combs	Hudkins	Mines	Smith	
Cunningham	Jones	Mossey	Stuhr	

Present and not voting, 9:

Baker	Chambers	Johnson	Maxwell	Schrock
Bromm	Janssen	Kruse	Raikes	

Excused and not voting, 5:

Cudaback	Foley	Jensen	Pedersen, Dw.	Thompson
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The Chambers motion to bracket failed with 12 ayes, 23 nays, 9 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Hall, George E. - Game and Parks Commission - Natural Resources

(Signed) Pat Engel, Chairperson
 Legislative Council, Executive Board

STANDING COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 391. Placed on General File as amended.
 (Standing Committee amendment, AM3247, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1075. Placed on General File as amended.
 (Standing Committee amendment, AM3345, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1253. Placed on General File as amended.
 Standing Committee amendment to LB 1253:
 AM3328

- 1 1. Insert the following new sections:
- 2 "Sec. 4. The Judiciary Committee of the Legislature and
- 3 the Community Corrections Council shall conduct a joint study to
- 4 examine issues related to the implementation of the proposed merger
- 5 of the Office of Probation Administration and the Office of Parole
- 6 Administration into a separate executive agency. This study shall
- 7 be completed by January 1, 2005, and shall include a recommended
- 8 implementation plan to most efficiently and effectively merge the
- 9 two offices with a focus on incorporating the merger into the

10 ongoing community corrections process.

11 Sec. 67. Section 83-189, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 83-189. The Board of Parole shall consist of five
14 full-time members to be appointed by the Governor. The members of
15 the board shall be of good character and judicious temperament.

16 The members of the board shall have all the powers and duties of
17 board members commencing on the date of appointment. The
18 appointments shall be subject to confirmation by the Legislature at
19 its next regular session following the appointments. At least one
20 member of the board shall be of an ethnic minority group, at least
21 one member shall be female, and at least one member shall have a
22 professional background in corrections.

23 One of the five members of the board shall be designated
24 as chairperson by the Governor. In addition to the chairperson's
1 duties as a member of the board as prescribed in subsection (1) of
2 section 83-192, he or she shall supervise the administration and
3 operation of the board and shall carry out the duties prescribed in
4 ~~subsection (2) of such~~ section 18 of this act."

5 2. On page 3, line 1, strike "18" and insert "19".

6 3. On page 4, lines 5 and 7, strike "2005" and insert
7 "2007".

8 4. On page 6, strike lines 7 and 8; in line 9 strike
9 "(15)" and insert "(14)"; in line 11 strike "(16)" and insert
10 "(15)"; in line 13 strike "(17)" and insert "(16)"; in line 15
11 strike "(18)" and insert "(17)"; in line 18 strike "(19)" and
12 insert "(18)"; in line 21 strike "(20)" and insert "(19)"; in lines
13 23 and 24 strike "or probation violators"; and in line 24 strike
14 "or" and insert ", issue warrants for the arrest of probation
15 violators when so instructed by".

16 5. On page 7, line 2, strike "(21)" and insert "(20)".

17 6. On page 11, line 26, strike "institutional
18 caseworkers".

19 7. On page 12, line 2, after "probationers" insert "and
20 parolees".

21 8. On page 13, line 6, after "corrections" insert
22 "officer"; and in line 27 after "or" insert "as".

23 9. On page 14, lines 14 and 15, strike "and 29-2262.04",
24 show as stricken, and insert ", 29-2262.04, and 83-1,107.01"; and
25 in lines 24 and 26, strike "Supreme Court", show as stricken, and
26 insert "department".

27 10. On page 63, line 19, strike "(4)", show as stricken,
1 and insert "(3)".

2 11. On page 91, line 1; and page 92, line 1, strike
3 "department" and insert "Department of Community Corrections".

4 12. On page 92, line 11, strike "43-624" and insert
5 "47-624".

6 13. Amend the repealer, renumber the remaining sections,
7 and correct internal references accordingly.

(Signed) Kermit A. Brashear, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 283. Introduced by Kremer, 34.

PURPOSE: The purpose of this resolution is to study whether Nebraska should enact statutes regarding prompt payment of claims for health care services submitted to health insurers. In order to carry out the purpose of this resolution, the committee should seek the assistance of the Department of Insurance and should consider the input of interested persons as the committee deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 1049. Senator Chambers offered the following motion:

Reconsider the vote to bracket.

SENATOR CUDABACK PRESIDING

Pending.

LEGISLATIVE BILL 998. E & R amendment, AM7182, found on page 857, was adopted.

Senator D. Pederson renewed his pending amendment, AM2887, found on page 992.

The D. Pederson amendment was adopted with 25 ayes, 0 nays, 19 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 998A. Advanced to E & R for engrossment.

LEGISLATIVE RESOLUTION 209CA. E & R amendment, AM7183,

found on page 953, was adopted.

SENATOR SCHIMEK PRESIDING

Senator Brown withdrew her pending amendments, AM2977 and AM3048, found on pages 966 and 1076.

Senator Brown renewed her pending amendment, AM3213, found on page 1128.

SPEAKER BROMM PRESIDING

Senator Landis requested a ruling of the Chair on whether the Brown amendment is germane to the resolution.

The Chair ruled the Brown amendment is not germane to the resolution.

Senator Brown challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Senator Brown withdrew her motion to overrule the Chair.

Senator Louden withdrew his pending amendment, AM3212, found on page 1131.

Senator Landis offered the following amendment:
AM3376

(Amendments to E & R amendments, AM7183)

- 1 1. On page 2, strike lines 5 through 9 and insert
- 2 "(ii) Forty-four and one-half percent of the money
- 3 remaining after the payment of prizes and operating expenses and
- 4 the initial transfer to the Compulsive Gamblers Assistance Fund
- 5 shall be transferred to the Nebraska Environmental Trust Fund for
- 6 use as provided in the Nebraska Environmental Trust Act and shall
- 7 be used only for the conservation, enhancement, and restoration of
- 8 the natural, physical, and biological environment of Nebraska
- 9 primarily through competitive grants to public and private
- 10 entities, for related transfers to the Nebraska Environmental
- 11 Endowment Fund, and for related administrative expenses;".

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 257, 258, and 259 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 257, 258, and 259.

SELECT FILE

LEGISLATIVE RESOLUTION 209CA. The Landis pending amendment, AM3376, found in this day's Journal, was renewed.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 2 nays, and 21 not voting.

The Landis amendment lost with 12 ayes, 24 nays, 9 present and not voting, and 4 excused and not voting.

Senator Bourne offered the following amendment:

FA1601

Amend AM7183

Page 2, line 16 after "be" add "available for"

Page 2, line 16 delete "transferred" add "transfer"

Page 2, line 17 after "Board" add "if the municipality in which the fair is located provides a match of at least ten percent of the funds available for transfer"

SENATOR CUDABACK PRESIDING**SENATOR JANSSEN PRESIDING**

Senator Chambers offered the following amendment to the Bourne pending amendment:

FA1605

Amend FA1601

In line 3 after "municipality" insert "or county if located outside of any municipality".

Senator Chambers withdrew his amendment.

Senator Bourne asked unanimous consent to withdraw his pending amendment, FA1601, found in this day's Journal, and replace it with the Bourne-Landis substitute amendment, AM3396. No objections. So ordered. AM3396

(Amendments to E & R amendments, AM7183)

- 1 1. On page 2, line 17, after "Board" insert "if the most
- 2 populous city within the county in which the fair is located
- 3 provides matching funds equivalent to ten percent of the funds
- 4 available for transfer. Such matching funds may be obtained from
- 5 the city and any other private or public entity".

Senator Chambers offered the following amendment to the Bourne-Landis pending amendment:

FA1606

Amend AM3396

In line 5 strike the period and insert "except that no portion of such matching funds shall be provided by the state."

Pending.

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 962:

AM3230

(Amendments to E & R amendments, AM7204)

- 1 1. On page 64, strike lines 17 through 19 and insert the
- 2 following new subdivision:
- 3 "(ii) The maximum number of feet necessary to protect the
- 4 municipal well field as determined by the appropriate natural
- 5 resources district based upon the best available science, except
- 6 that if the board of the appropriate natural resources district is
- 7 not elected in accordance with the principle of one person, one
- 8 vote then the spacing distance shall be determined by the public
- 9 water supplier based upon the best available science."

Senator Synowiecki filed the following amendment to LB 888:

AM3372

(Amendments to E & R amendments, 7184)

- 1 1. On page 7, lines 10, 16, 17, and 19, strike the new
- 2 matter and reinstate the stricken matter; and in line 18 reinstate
- 3 the stricken matter beginning with "Any" through "within" and
- 4 before the reinstated matter insert "(7)".

Senator Schrock filed the following amendment to LB 962:

AM3366

(Amendments to E & R amendments, AM7204)

- 1 1. On page 3, lines 14 and 17; page 5, line 5; page 165,
- 2 line 25; and page 166, line 1, strike "budgeted expenditures" and
- 3 insert "restricted funds budgeted".
- 4 2. On page 29, line 20, after "(v)", insert "the name
- 5 and address of each holder of a mortgage or deed of trust for the
- 6 land to which the appropriation is now appurtenant, (vi)"; in line
- 7 22 strike "(vi)" and insert "(vii)"; and in line 27 strike "(vii)"
- 8 and insert "(viii)".
- 9 3. On page 30, line 3, strike "(viii)" and insert
- 10 "(ix)"; in line 6 strike "(ix)" and insert "(x)"; in line 7 strike
- 11 "(x)" and insert "(xi)"; in line 8 strike "(xi)" and insert
- 12 "(xii)"; in line 10 strike "(Xii)" and insert "(xiii)"; and in line
- 13 12 strike "(xiii)" and insert "(xiv)".
- 14 4. On page 36, line 20, after "site" insert ", to be

- 15 sent by certified mail to each holder of a mortgage or deed of
 16 trust that is identified by the applicant pursuant to subdivision
 17 (1)(b)(v) of section 46-290."
- 18 5. On page 109, strike beginning with "department" in
 19 line 11 through line 27 and insert "Governor shall be notified and
 20 the dispute shall be submitted to the Interrelated Water Review
 21 Board as provided in subsection (2) of section 58 of this act.".
- 22 6. On page 110, strike lines 1 through 10.
- 23 7. On page 111, strike beginning with "mediation" in
 1 line 16 through "section" in line 17 and insert "process described
 2 in sections 54 to".
- 3 8. On page 117, line 2, after "that" insert "(i) such
 4 temporary suspension shall not apply to water wells for which a
 5 permit has been obtained pursuant to the Municipal and Rural
 6 Domestic Ground Water Transfers Permit Act and (ii)".

Senator Wehrbein filed the following amendment to LB 1092:
 AM3385

(Amendments to AM2921)

- 1 1. Insert the following new section:
 2 "Sec. 11. Section 85-414, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 85-414. (1) Beginning with the fiscal year commencing
 5 July 1, 1999, and continuing through the fiscal year ending June
 6 30, 2009, the Legislature shall appropriate each fiscal year from
 7 the General Fund an amount not less than five million five hundred
 8 thousand dollars to the University of Nebraska Facilities Program
 9 to be used by the Board of Regents of the University of Nebraska to
 10 accomplish projects as provided in this section. Through the
 11 allotment process established in section 81-1113, the Department of
 12 Administrative Services shall make appropriated funds available.
 13 Undisbursed appropriations balances existing in the University of
 14 Nebraska Facilities Program at the end of each fiscal year until
 15 June 30, 2012, shall be and are hereby reappropriated.
 16 (2) The Legislature finds and determines that the
 17 projects funded through the University of Nebraska Facilities
 18 Program are of critical importance to the State of Nebraska. It is
 19 the intent of the Legislature that the appropriations to the
 20 program shall not be reduced until all contracts and securities
 21 relating to the construction and financing of the projects or
 22 portions of the projects funded from such funds or accounts of such
 23 funds are completed or paid but in no case shall such
 1 appropriations extend beyond the fiscal year ending June 30, 2009,
 2 nor shall the cumulative total of the General Fund appropriations
 3 for the program exceed fifty-five million dollars.
 4 (3) Subject to the receipt of project approval from the
 5 Coordinating Commission for Postsecondary Education as required by
 6 subsection (10) of section 85-1414 for each of the following
 7 University of Nebraska projects, the Board of Regents of the

8 University of Nebraska is authorized to make expenditures from the
 9 University of Nebraska Facilities Program for the following
 10 projects: (a) Deferred maintenance, repair, and renovation of
 11 University of Nebraska at Kearney Bruner Hall; (b) deferred
 12 maintenance, repair, and renovation of University of Nebraska at
 13 Kearney Otto Olson Vocational Arts Building; (c) deferred
 14 maintenance, repair, and renovation of University of
 15 Nebraska-Lincoln Love Library; (d) deferred maintenance, repair,
 16 and renovation of University of Nebraska-Lincoln Snyder Building at
 17 the West Central Research Extension Center; (e) construction of a
 18 facility to replace University of Nebraska-Lincoln Lyman Hall and
 19 Bancroft Hall; (f) construction of a facility to replace University
 20 of Nebraska-Lincoln Biochemistry Building; (g) deferred
 21 maintenance, repair, and renovation of University of
 22 Nebraska-Lincoln Hamilton Hall; (h) deferred maintenance, repair,
 23 and renovation of University of Nebraska-Lincoln Avery Hall; (i)
 24 deferred maintenance, repair, and renovation of University of
 25 Nebraska Medical Center Poynter Hall; (j) deferred maintenance,
 26 repair, and renovation of University of Nebraska Medical Center
 27 Swanson Hall, Bennet Hall, and Service Building; (k) deferred
 1 maintenance, repair, and renovation of University of Nebraska
 2 Medical Center Library housed in Wittson Hall; (l) deferred
 3 maintenance, repair, and renovation of University of Nebraska at
 4 Omaha Allwine Hall; ~~and~~ (m) deferred maintenance, repair, and
 5 renovation of University of Nebraska at Omaha Arts and Sciences
 6 Hall, and (n) demolition of University of Nebraska Miller Hall.

7 (4) Expenditures of matching funds provided for the
 8 projects listed in this section by the Board of Regents of the
 9 University of Nebraska as provided for in section 85-412 shall be
 10 accounted for in the Nebraska State Accounting System through the
 11 University of Nebraska Facilities Program or according to some
 12 other reporting process mutually agreed upon by the University of
 13 Nebraska and the Department of Administrative Services.

14 (5) The Board of Regents of the University of Nebraska
 15 shall record and report, on the Nebraska State Accounting System,
 16 expenditure of amounts from the University of Nebraska Facilities
 17 Program and expenditure of proceeds arising from any contract
 18 entered into pursuant to this section and section 85-415 in such
 19 manner and format as prescribed by the Department of Administrative
 20 Services or according to some other reporting process mutually
 21 agreed upon by the University of Nebraska and the Department of
 22 Administrative Services.

23 (6) The Board of Regents of the University of Nebraska
 24 shall provide to the Task Force for Building Renewal semiannual
 25 reports concerning the status of each project authorized by this
 26 section."

27 2. On page 21, line 2, strike "and" and after the second
 1 comma insert "and 85-414,".

2 3. Renumber the remaining sections accordingly.

Senators Wehrbein, Beutler, and Bromm filed the following amendment to LB 962:

(Amendment, AM3390, is printed separately and available in the Bill Room, Room 1104.)

Senator Wehrbein filed the following amendment to LB 962A:
AM3393

1 1. Strike the original section and all amendments
2 thereto and insert the following new sections:
3 "Section 1. There is hereby appropriated \$1,500,000 from
4 the General Fund and \$1,000,000 from the Water Resources Trust Fund
5 for FY2004-05 to the Department of Natural Resources, for Program
6 310, to aid in carrying out the provisions of Legislative Bill 962,
7 Ninety-eighth Legislature, Second Session, 2004.
8 It is the intent of the Legislature that the
9 appropriations to this program be used to implement the
10 recommendations of the Water Policy Task Force. Expenditures from
11 this program shall not be restricted to state aid if other
12 expenditures are necessary to fulfill the recommendations of the
13 Water Policy Task Force.
14 It is the intent of the Legislature that the Department
15 of Natural Resources provide a report to the Appropriations
16 Committee of the Legislature no later than September 1, 2005,
17 regarding the use of the Water Resources Trust Fund in FY2004-05.
18 The report shall include the unexpended and unencumbered balance of
19 the fund, the proposed future use of any unexpended and
20 unencumbered balance, and whether any portion of the balance could
21 be returned to the Nebraska Environmental Trust Fund.
22 Sec. 2. Since an emergency exists, this act takes effect
23 when passed and approved according to law."

UNANIMOUS CONSENT - Add Cointroducer

Senator Erdman asked unanimous consent to have his name added as cointroducer to LB 1083. No objections. So ordered.

VISITORS

Visitors to the Chamber were 51 fourth- through sixth-grade students, teachers, and Senator Dw. Pedersen's granddaughter, Chaley Jackson, from St. Patrick's School, Elkhorn; members of the Pork Industry Mentoring Program from across the state; and Jordan Farahbod from Lincoln.

MOTION - Adjournment

Senator Landis moved to adjourn. The motion prevailed with 19 ayes, 9 nays, 14 present and not voting, and 7 excused and not voting, and at 7:10 p.m., the Legislature adjourned until 9:00 a.m., Thursday, March 25, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FORTY-NINTH DAY - MARCH 25, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 25, 2004

PRAYER

The prayer was offered by Senator Connealy.

ROLL CALL

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

The roll was called and all members were present except Senators Aguilar, Bromm, Mossey, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-eighth day was approved.

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

The following bill was correctly engrossed: LB 869.

ER9118

Enrollment and Review Change to LB 869

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

1. On page 10, line 7, "persons" has been struck and "a person" inserted.

(Signed) Ray Mossey, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 284. Introduced by Schimek, 27.

PURPOSE: The purpose of this study is to examine matters and issues within the jurisdiction of the Government, Military and Veterans Affairs Committee.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 285. Introduced by Schimek, 27; Wehrbein, 2.

PURPOSE: The purpose of this interim study is to continue to examine and improve the state's contracting procedures. In 2004, LB 1170 was introduced which provided new requirements for state agencies when contracting for goods and services.

The issues to be studied under this interim study include, but are not limited to:

1. Determining the appropriate duration of contracts for goods and services and in what circumstances that duration should be extended;

2. Whether state agencies should prepay for contracts for goods and services in excess of one year of the contracts;

3. Whether state agencies should be prohibited from contracting for equipment maintenance services that begin prior to delivery of the equipment; and

4. How the provisions of LB 1170 can be harmonized with LB 626 which was passed in 2003, including the provision regarding the definition of goods.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 24, 2004, 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

Curtis, Carol A.
AstraZeneca Pharmaceuticals

Skochdopole, Robert A.
Pacific Life Insurance Company

REPORTS

The following reports were received by the Legislature:

Investment Council

Permanent School Fund Report

Roads, Department of

Board of Public Roads Classifications and Standards Minutes for
February 2004

COMMUNICATION

Senator Janssen filed the following request:
Pursuant to Rule 4, Section 5(b), I request LR 279 be scheduled for debate.

GENERAL FILE

LEGISLATIVE BILL 1034. Title read. Considered.

Senator Brashear renewed his pending amendment, AM3326, found on page 1221.

Senator Brashear withdrew his amendment.

Advanced to E & R for review with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

STANDING COMMITTEE REPORT**Banking, Commerce and Insurance**

LEGISLATIVE BILL 1199. Placed on General File as amended.
(Standing Committee amendment, AM3320, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Mark Quandahl, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 286. Introduced by Hudkins, 21; Combs, 32; Cunningham, 40; McDonald, 41; Jones, 43; Smith, 48; Erdman, 47; Tyson, 19; Stuthman, 22; Cudaback, 36; Friend, 10; Vrtiska, 1; Kremer, 34; Connealy, 16.

PURPOSE: No interim study undertaken by a committee of the Legislature, including that occasioned by LR 180 in 2003, has focused specifically upon issues pertaining to the operations of Class I schools in Nebraska. The objective of this interim study is to remedy that oversight by addressing proactively concerns relating to this state's Class I schools. Specifically, it is hoped that the information examined will produce a viable alternative to recent proposals calling for, or creating the conditions which would lead to, the elimination of Class I schools altogether, thereby ensuring that these traditional institutions of learning continue to fulfill their vital and historic role of providing a quality education to students in the rural areas of our state.

Drawing upon the expertise of a wide spectrum of regional educators and community leaders and in partnership with selected Class I school representatives, state officials, and other educational professionals, the interim study will collectively and cooperatively focus upon producing a definitive strategic action plan identifying ways in which to assist Class I schools in their ongoing efforts to develop progressively and to continue to be efficient and responsive to the needs of the communities which they serve. In addition, it will create a plan of increasing cooperation between Class I school districts, their affiliated K-12 districts, and the State Board of Education by further coordinating their respective goals and facilitating administrative interaction.

To promote the overall effectiveness and enhance the operations of Class I schools, the interim study will consider, among other things, a definitive action plan designed to: (1) Seek opportunities to enhance further the operational effectiveness and fiscal efficiency of Class I schools and, through a thorough examination of best practices from selected Class I schools, identify specific tactical activities designed to improve these areas; (2) correlate the core curriculums between Class I schools and their affiliate K-12 districts for the purpose of establishing curricular parity; and (3) identify reporting, budgeting, and assessment efficiencies designed to minimize the Class I administrative responsibilities of the State Department of Education, such as consolidating the assessment of standardized test scores among Class I school districts in order to facilitate their reporting and compilation.

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

1. That the Education Committee of the Legislature shall be designated to

conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 287. Introduced by Stuhr, 24; Schimek, 27; Aguilar, 35.

PURPOSE: The purpose of this interim study is to study the advantages and disadvantages of licensing and regulating security companies and personnel. Two bills, LB 681 introduced by Sen. Ray Aguilar in 2003 and LB 1063 introduced by Sen. Elaine Stuhr in 2004, have dealt with concerns surrounding the security industry. Issues addressed by this interim study may include, but are not limited to, the following:

1. The proper method for licensing and regulating security personnel and companies;
2. The appropriate fee to be charged for such licenses;
3. The training requirements for security personnel, particularly for personnel who carry firearms;
4. How security officers will be identified and differentiated from law enforcement officials;
5. How to appropriately deal with the differences between contract security services and proprietary or "in-house" security officers; and
6. Examining the issue of reciprocal security personnel and company licenses with other states.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 288. Introduced by Preister, 5.

PURPOSE: To study environmental justice.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study and shall conduct a public hearing to provide public comment to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report

of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 289. Introduced by Preister, 5.

PURPOSE: to study the Environmental Quality Council.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study and shall conduct public hearings to provide for public comment to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 290. Introduced by Preister, 5.

PURPOSE: To examine the Legislative confirmation process of gubernatorial appointees.

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

1. That the Rules Committee of the Legislature shall be designated to conduct an interim study and shall conduct a public hearing to provide for public comment to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 291. Introduced by Preister, 5.

PURPOSE: To review the implementation of legislation regarding contracts for services.

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

1. That the Government, Military and Veterans Affairs, Appropriations, Business and Labor, Health and Human Services Committees of the Legislature shall be designated to conduct an interim study and shall work with the Legislative Performance Audit Committee on a time-available basis to carry out the purposes of this resolution.

2. That the committees shall upon the joint conclusion of their study make a report of the findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 292. Introduced by Preister, 5.

PURPOSE: To examine renewable energy and energy efficiency.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study and shall conduct a public hearing to provide for public comment to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENTS - Print in Journal

Senator Aguilar filed the following amendment to LR 11CA:
AM3321

(Amendments to Final Reading copy)

- 1 1. On page 3, line 11, after the first period insert the
- 2 following new subsection:
- 3 "(6) The Legislature may authorize slot machines within a
- 4 licensed racetrack enclosure if live thoroughbred horseracing has
- 5 been conducted at such enclosure during each of the four years
- 6 immediately preceding such authorization."; in line 18 strike
- 7 "and"; and in line 20 after "facilities" insert ", and to authorize
- 8 slot machines at licensed racetrack enclosures".

Senator Aguilar filed the following amendment to LR 14CA:
AM3322

(Amendments to AM2401)

- 1 1. On page 2, line 24, after the first period insert the
- 2 following new subsection:
- 3 "(6) The Legislature may authorize slot machines within a
- 4 licensed racetrack enclosure if live thoroughbred horseracing has
- 5 been conducted at such enclosure during each of the four years
- 6 immediately preceding such authorization.".
- 7 2. On page 3, line 1, strike "and" and insert a comma;
- 8 and in line 4 after "locations" insert ", and to authorize slot
- 9 machines at licensed racetrack enclosures".

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 454.

A BILL FOR AN ACT relating to drug court programs; to state findings; and to provide for court rules relating to administration of drug court programs.

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

Voting in the affirmative, 48:

Aguilar	Combs	Janssen	Mines	Smith
Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Engel	Kremer	Price	Thompson
Bromm	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Louden	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Excused and not voting, 1:

Mossey

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 963.

A BILL FOR AN ACT relating to the Military Code; to amend sections 55-121, 55-125, 55-126, and 55-157, Reissue Revised Statutes of Nebraska; to provide and change powers and duties of the Adjutant General; to provide for health insurance reimbursement as prescribed; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 48:

Aguilar	Combs	Janssen	Mines	Smith
Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Engel	Kremer	Price	Thompson
Bromm	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Louden	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Excused and not voting, 1:

Mossey

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 969. With Emergency.

A BILL FOR AN ACT relating to public power; to amend sections 18-412.06 to 18-412.10, 18-2451, 70-601, and 70-623, Reissue Revised Statutes of Nebraska; to authorize public entities to enter into electrical service purchase agreements and ownership agreements for electric facilities; to define and redefine terms; to provide for decommissioning of jointly held electric generation or transmission facilities; to change powers and duties; to change provisions relating to filing audits by certain districts and agencies; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 48:

Aguilar	Combs	Janssen	Mines	Smith
Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Engel	Kremer	Price	Thompson
Bromm	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Louden	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Excused and not voting, 1:

Mossey

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

MOTION - Return LB 139 to Select File

Senator Chambers moved to return LB 139 to Select File for his specific pending amendment, AM2593, found on page 748.

Senator Chambers asked unanimous consent to withdraw his specific pending amendment, AM2593, found on page 748, and replace it with his substitute specific amendment, FA1608. No objections. So ordered.

FA1608

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 "Sec. 9. (1) With respect to employment and other civil
- 3 matters, if a person is accused of wrongdoing as a result of a body
- 4 fluid test, such person, and only that person or his or her
- 5 representative, may request, through the Nebraska State Patrol, DNA
- 6 typing tests of his or her body fluid.
- 7 (2) The Nebraska State Patrol, upon receipt of such
- 8 request, with relevant information, including the body fluid
- 9 identity number and the name of the laboratory at which the body
- 10 fluid was originally analyzed, shall, within ten working days,
- 11 directly contact such laboratory and direct that untested aliquots
- 12 of samples of the person's body fluid be delivered to the
- 13 respective laboratory designated by the patrol for DNA typing
- 14 tests. The delivery shall meet all chain of custody requirements
- 15 applicable in a criminal case.
- 16 (3) The person submitting a request for DNA typing tests
- 17 shall submit to body fluid collections, as directed by the Nebraska
- 18 State Patrol, to ascertain the person's DNA. The collection shall
- 19 be confidential under sections 27-503 and 27-504. After such DNA
- 20 typing tests, a certified report shall be issued to the person or
- 21 representative who requested the DNA typing tests. If the DNA
- 22 report concludes that the initial body fluids were not those of the
- 23 person, the person shall be cleared of any accusation of wrongdoing
- 1 to the extent to which such body fluid test was the basis of such
- 2 accusation of wrongdoing.
- 3 (4) All costs of the DNA typing tests shall be incurred
- 4 by the person. The person shall not be deemed to have waived any
- 5 of his or her rights as a result of such request.
- 6 (5) All records relating to the certified report shall be
- 7 purged after a receipt of a written request from the person who

8 requested such tests, or his or her representative, to the Nebraska
9 State Patrol directing the patrol to do so. If a written request
10 is not received from such person or his or her representative, the
11 records shall be purged within sixty days after the date the report
12 was issued to such person or his or her representative.
13 (6) For purposes of this section, DNA typing tests has
14 the same meaning as in section 29-4103."
15 2. On page 1, line 7, after the semicolon insert "to
16 authorize DNA typing tests requested by persons accused of civil
17 wrongdoing as prescribed;"
18 3. Renumber the remaining sections accordingly.

Pending.

MOTION - Return LB 172 to Select File

Senator Schimek moved to return LB 172 to Select File for her specific pending amendment, AM2200, found on page 211.

SENATOR JANSSEN PRESIDING

SENATOR CUDABACK PRESIDING

Senator Schimek withdrew her motion to return.

Senator Chambers moved to return 172 to Select File for his specific pending amendment, FA1441, found on page 503.

Senator Chambers withdrew his motion to return.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 172.

A BILL FOR AN ACT relating to school districts; to eliminate provisions requiring school districts to provide written information regarding abortion; and to outright repeal section 71-6909, Reissue Revised Statutes of Nebraska.

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

Voting in the affirmative, 33:

Aguilar	Connealy	Hudkins	Mossey	Smith
Baker	Cudaback	Jensen	Pedersen, Dw.	Stuhr
Beutler	Engel	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Quandahl	Tyson
Bromm	Foley	Maxwell	Raikes	Wehrbein
Byars	Friend	McDonald	Redfield	
Combs	Hartnett	Mines	Schrock	

Voting in the negative, 7:

Bourne	Kruse	Pederson, D.	Schimek
Chambers	Landis	Price	

Present and not voting, 4:

Brown	Janssen	Johnson	Thompson
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Excused and not voting, 5:

Burling	Cunningham	Louden	Stuthman	Vrtiska
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

EASE

The Legislature was at ease from 12:15 p.m. until 12:33 p.m.

SENATOR SCHIMEK PRESIDING

WITHDRAW - Amendment to LB 841

Senator Erdman withdrew his pending amendment, AM3046, found on page 986, to LB 841.

MOTION - Return LB 841 to Select File

Senator Byars moved to return LB 841 to Select File for the Byars-Erdman specific pending amendment, AM3285, found on page 1216.

The Byars motion to return prevailed with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 841. The Byars-Erdman specific pending amendment, AM3285, found on page 1216, was adopted with 27 ayes, 1 nay, 15 present and not voting, and 6 excused and not voting.

Advanced to E & R for reengrossment.

MOTION - Return 559 to Select File

Senator Baker moved to return 559 to Select File for his specific pending amendment, AM2936, found on page 930.

SENATOR CUDABACK PRESIDING

Senator Baker withdrew his motion to return.

Senator Synowiecki moved to return LB 559 to Select File for his specific pending amendment, AM2962, found on page 960.

Senator Baker asked unanimous consent to pass over LB 559. No objections. So ordered.

MOTION - Return LB 906 to Select File

Senator Bourne moved to return LB 906 to Select File for his specific pending amendment, AM3179, found on page 1077.

The Bourne motion to return failed with 15 ayes, 12 nays, 14 present and not voting, and 8 excused and not voting.

BILLS ON FINAL READING

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 906 with 32 ayes, 2 nays, 7 present and not voting, and 8 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 906.

A BILL FOR AN ACT relating to body art; to amend sections 71-110.01, 71-162, 71-340 to 71-343, 71-364, 71-376, 71-377, 71-386, 71-396, 71-397, 71-398, 71-3,100, 71-3,105, 71-3,106, 71-3,169, 71-3,170, 71-3,174, 71-3,177, and 71-3,179, Reissue Revised Statutes of Nebraska; to provide for licensure and regulation of body branding, body piercing, permanent color technology, and tattooing; to change and provide penalties; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 36:

Aguilar	Engel	Kruse	Preister	Stuhr
Baker	Erdman	Landis	Price	Stuthman
Beutler	Foley	Maxwell	Quandahl	Synowiecki
Bromm	Friend	McDonald	Raikes	Wehrbein
Brown	Hudkins	Mines	Redfield	
Combs	Janssen	Mossey	Schimek	
Connealy	Johnson	Pedersen, Dw.	Schrock	
Cunningham	Kremer	Pederson, D.	Smith	

Voting in the negative, 2:

Chambers Cudaback

Present and not voting, 3:

Bourne Hartnett Louden

Excused and not voting, 8:

Brashear	Byars	Jones	Tyson
Burling	Jensen	Thompson	Vrtiska

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 906A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 906, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 35:

Aguilar	Erdman	Kremer	Pedersen, Dw.	Schimek
Baker	Foley	Kruse	Pederson, D.	Schrock
Brown	Friend	Landis	Preister	Smith
Chambers	Hartnett	Maxwell	Price	Stuhr
Combs	Hudkins	McDonald	Quandahl	Stuthman
Cunningham	Janssen	Mines	Raikes	Synowiecki
Engel	Johnson	Mossey	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 6:

Beutler	Bromm	Cudaback
Bourne	Connealy	Louden

Excused and not voting, 8:

Brashear	Byars	Jones	Tyson
Burling	Jensen	Thompson	Vrtiska

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SPEAKER BROMM PRESIDING

WITHDRAW - Amendment to LB 999

Senator Quandahl withdrew his pending amendment, AM3079, found on page 1071, to LB 999.

MOTION - Return LB 999 to Select File

Senator Quandahl moved to return LB 999 to Select File for the following specific amendment:
AM3404

(Amendments to Final Reading copy)

- 1 1. On page 3, strike beginning with "banks" in line 11
- 2 through "(5)" in line 21; in line 24 strike "(6)" and insert "(2)";
- 3 and in line 28 strike "(7)" and insert "(3)".

The Quandahl motion to return prevailed with 37 ayes, 0 nays, 3 present and not voting, and 9 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 999. The Quandahl specific amendment, AM3404, found in this day's Journal, was adopted with 35 ayes, 0 nays, 5 present and not voting, and 9 excused and not voting.

Advanced to E & R for reengrossment.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 260 and 261 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 260 and 261.

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 454, 963, 969, 172, 906, and 906A.

WITHDRAW - Amendments to LB 139

Senator Chambers withdrew his pending amendment, FA1608, found in this day's Journal, to LB 139.

Senator Brown withdrew her pending amendment, AM2930, found on page 905, to LB 139.

MOTION - Return LB 139 to Select File

Senator Chambers moved to return LB 139 to Select File for the following specific amendment:

AM3408

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 "Sec. 9. (1) With respect to employment, if a person is
- 3 accused of wrongdoing as a result of a body fluid test, such
- 4 person, and only that person or his or her representative, may
- 5 request, through the Nebraska State Patrol, DNA typing tests of his
- 6 or her body fluid.
- 7 (2) The Nebraska State Patrol, upon receipt of such
- 8 request, with relevant information, including the body fluid
- 9 identity number and the name of the laboratory at which the body
- 10 fluid was originally analyzed, shall, within ten working days,
- 11 directly contact such laboratory and direct that untested aliquots
- 12 of samples of the person's body fluid be delivered to the
- 13 respective laboratory designated by the patrol for DNA typing
- 14 tests. The delivery shall meet all chain of custody requirements
- 15 applicable in a criminal case.
- 16 (3) The person submitting a request for DNA typing tests
- 17 shall submit to body fluid collections, as directed by the Nebraska
- 18 State Patrol, to ascertain the person's DNA. The collection shall
- 19 be confidential under sections 27-503 and 27-504. After such DNA
- 20 typing tests, a certified report shall be issued to the person or
- 21 representative who requested the DNA typing tests. If the DNA
- 22 report concludes that the initial body fluids were not those of the
- 23 person, the results of the body fluid test in question cannot be
- 1 used as evidence of wrongdoing against such person.
- 2 (4) All costs of the DNA typing tests shall be incurred
- 3 by the person. The person shall not be deemed to have waived any
- 4 of his or her rights as a result of such request.
- 5 (5) All records relating to the certified report shall be
- 6 purged after a receipt of a written request from the person who
- 7 requested such tests, or his or her representative, to the Nebraska

8 State Patrol directing the patrol to do so. If a written request
 9 is not received from such person or his or her representative, the
 10 records shall be purged within sixty days after the date the report
 11 was issued to such person or his or her representative.
 12 (6) For purposes of this section, DNA typing tests has
 13 the same meaning as in section 29-4103."
 14 2. On page 1, line 7, after the semicolon insert "to
 15 authorize DNA typing tests requested by persons accused of civil
 16 wrongdoing as prescribed;"
 17 3. Renumber the remaining sections accordingly.

The Chambers motion to return prevailed with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 139. The Chambers specific amendment, AM3408, found in this day's Journal, was adopted with 35 ayes, 1 nay, 5 present and not voting, and 8 excused and not voting.

Advanced to E & R for reengrossment.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 679A. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 679, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

LEGISLATIVE BILL 841A. Introduced by Byars, 30.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 841, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

LEGISLATIVE BILL 1097A. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1097, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

AMENDMENTS - Print in Journal

Senator Schrock filed the following amendment to LB 916:
 AM3391

(Amendments to Standing Committee amendments, AM2826)

- 1 1. Insert the following section:
2 "Sec. 14. (1) For each new application for construction
3 approval or major modification when an initial inspection has been
4 conducted pursuant to section 54-2406 and submitted to the
5 department, the department shall, within ten days, make a
6 determination as to whether an individual National Pollutant
7 Discharge Elimination System permit is required for the proposed
8 animal feeding operation. If an initial inspection has not been
9 conducted pursuant to section 54-2406 the application shall be
10 returned.
- 11 (2) If it is determined a National Pollutant Discharge
12 Elimination System permit is required, the department shall contact
13 the applicant to determine whether the applicant requests the
14 department to delay review of the construction approval or major
15 modification application until an individual National Pollutant
16 Discharge Elimination System permit application is submitted.
- 17 (3) If the applicant requests the department to delay
18 review of the construction approval or major modification
19 application, upon receipt of the individual National Pollutant
20 Discharge Elimination System application and the construction
21 approval or major modification application, the applications shall
22 be reviewed simultaneously utilizing the processes and timelines
23 for review of an individual National Pollutant Discharge
24 Elimination System permit application.
- 25 (4) If the applicant requests the department to proceed
26 with review of the construction approval or major modification
27 application independent of a National Pollutant Discharge
28 Elimination System permit application:
- 29 (a) The department shall, within five days after the
30 applicant's request to proceed, send notification of receipt of the
31 application to the natural resources district or districts and the
32 county board or boards of the counties in which the livestock waste
33 control facility is located or proposed to be located;
- 34 (b) Within seventy-five days after the applicant's
35 request, the department shall issue a notice providing an
36 opportunity for any interested person, within thirty days after
37 publication of the notice, to submit written comments on the
38 application for construction approval or major modification. The
39 notice shall be published in a daily or weekly newspaper or other
40 publication with general circulation in the area of the existing or
41 proposed animal feeding operation, and a copy of the notice shall
42 be provided to the applicant; and
- 43 (c) Within one hundred ten days after the applicant's
44 request, the department shall approve or deny the application and
45 transmit its findings and conclusions to the applicant.
- 46 (5) Within ten days after a determination that a National
47 Pollutant Discharge Elimination System permit is not required for
48 the animal feeding operation for which the application for
49 construction approval or a major modification was submitted, the

27 department shall send notification of receipt of the application to
 1 the natural resources district or districts and the county board or
 2 boards of the counties in which the livestock waste control
 3 facility is located or proposed to be located. The natural
 4 resources district or districts shall have twenty days to comment
 5 to the department regarding any conditions that may exist at the
 6 proposed site which the department should consider regarding the
 7 content of the application for construction approval or major
 8 modification.

9 (6) Upon determining that a National Pollutant Discharge
 10 Elimination System permit is not required for the application for
 11 construction approval or a major modification, the department has
 12 forty days (a) to conduct a preliminary review of the application
 13 or major modification and (b) to request in writing additional
 14 information or notify the applicant that the application for
 15 construction approval or major modification is complete. Within
 16 forty days after notification to the applicant that the application
 17 for construction approval or major modification is complete, the
 18 department shall approve or deny the application and transmit its
 19 findings and conclusions to the applicant."

20 2. On page 6, line 12, strike "15, 18, and 20" and
 21 insert "14, 16, 19, and 21".

22 3. On page 20, line 6, strike "(1)" and show as
 23 stricken; and strike lines 14 through 25 and show the old matter as
 24 stricken.

25 4. On page 21, strike lines 2 through 27 and show the
 26 old matter as stricken.

27 5. On page 22, strike lines 1 and 2 and show the old
 1 matter as stricken.

2 6. Renumber the remaining sections and correct internal
 3 references accordingly.

Senator Wehrbein filed the following amendment to LB 1083A:
 AM3377

(Amendments to AM3009)

1 1. On page 1, line 21, strike the new matter and
 2 reinstate the stricken matter.

Senator Chambers filed the following amendment to LR 209CA:
 FA1609

Amend AM7183

On page 2, in line 25 after "Fund." insert "If the Legislature determines that
a greater percentage of lottery proceeds should be transferred to the
Compulsive Gamblers Assistance Fund, the amount of such percentage shall
be deducted on a pro rata basis from both the Nebraska Environmental Trust
Fund and education, each of which otherwise shall receive a specified
percentage of such proceeds."

Senator Redfield filed the following amendment to LB 1047:

AM3401

(Amendments to E & R amendments, AM7211)

- 1 1. Insert the following new sections:
 2 "Sec. 3. Section 44-371, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 44-371. (1)~~(a)~~ All proceeds, cash values, and benefits
 5 accruing under any annuity contract, under any policy or
 6 certificate of life insurance payable upon the death of the insured
 7 to a beneficiary other than the estate of the insured, or under any
 8 accident or health insurance policy shall be exempt from
 9 attachment, garnishment, or other legal or equitable process and
 10 from all claims of creditors of the insured and of the beneficiary
 11 if related to the insured by blood or marriage, unless a written
 12 assignment to the contrary has been obtained by the claimant.
 13 ~~(b) This subsection shall not apply to an individual's~~
 14 ~~aggregate interests greater than ten thousand dollars on all loan~~
 15 ~~values or cash values of all matured or unmatured life insurance~~
 16 ~~contracts or to all proceeds, cash values, or benefits accruing~~
 17 ~~under all annuity contracts owned by such individual.~~
 18 ~~Notwithstanding anything in this subdivision to the contrary, the~~
 19 ~~aggregate exemptions any person may claim under this subdivision~~
 20 ~~and subdivision (2)(b) of section 44-1089 shall not exceed ten~~
 21 ~~thousand dollars.~~
 22 ~~(c) No insurance company shall be liable or responsible~~
 23 ~~to any person to determine or ascertain the aggregate total of life~~
 1 ~~insurance policy or annuity contract loan values, cash values,~~
 2 ~~proceeds, or benefits for any policyholder or annuitant.~~
 3 (2) Notwithstanding subsection (1) of this section, an
 4 individual's interest in all loan values or cash values of all
 5 matured or unmatured life insurance contracts or policies and in
 6 all proceeds, cash values, or benefits accruing under all annuity
 7 contracts owned by such individual shall not be exempt from
 8 attachment, garnishment, or other legal or equitable process or
 9 from any other claims of creditors of the insured and of the
 10 beneficiary if related to the insured by blood or marriage, to the
 11 extent that the loan value or cash value of any matured or
 12 unmatured life insurance contract or the proceeds, cash values, or
 13 benefits accruing under any annuity contract was established or
 14 increased through contributions, premiums, or any other payments
 15 made within three years prior to bankruptcy or within three years
 16 prior to entry against the individual of a money judgment which
 17 thereafter becomes final. An insurance company shall not be liable
 18 or responsible to any person to determine or ascertain the
 19 existence or identity of any such creditors prior to payment of any
 20 such loan values, cash values, proceeds, or benefits.
 21 (3) Notwithstanding subsection (1) of this section,
 22 proceeds, cash values, and benefits accruing under any annuity
 23 contract or under any policy or certificate of life insurance
 24 payable upon the death of the insured to a beneficiary other than

25 the estate of the insured shall not be exempt from attachment,
 26 garnishment, or other legal or equitable process by a judgment
 27 creditor of the beneficiary if the judgment against the beneficiary
 1 was based on, arose from, or was related to an act, transaction, or
 2 course of conduct for which the beneficiary has been convicted by
 3 any court of a crime punishable only by life imprisonment or death.
 4 No insurance company shall be liable or responsible to any person
 5 to determine or ascertain the existence or identity of any such
 6 judgment creditor prior to payment of any such proceeds, cash
 7 values, or benefits. This subsection shall apply to any judgment
 8 rendered on or after January 1, 1995, irrespective of when the
 9 criminal conviction is or was rendered and irrespective of whether
 10 proceedings for attachment, garnishment, or other legal or
 11 equitable process were pending on March 14, 1997.

12 Sec. 9. Section 44-1089, Reissue Revised Statutes of
 13 Nebraska, is amended to read:

14 44-1089. (1) No noninsurance benefit, charity, relief,
 15 or aid to be paid, provided, or rendered by any society shall be
 16 liable to attachment, garnishment, or other process, or to be
 17 seized, taken, appropriated, or applied by any legal or equitable
 18 process or operation of law to pay any debt or liability of a
 19 member or beneficiary, or any other person who may have a right
 20 thereunder, either before or after payment by the society.

21 ~~(2)(a)~~ All proceeds, cash values, and benefits accruing
 22 under any annuity contract, under any policy or certificate of life
 23 insurance payable upon the death of the insured to a beneficiary
 24 other than the estate of the insured, or under any accident or
 25 health insurance policy shall be exempt from attachment,
 26 garnishment, or other legal or equitable process and from all
 27 claims of creditors of the insured and of the beneficiary if
 1 related to the insured by blood or marriage, unless a written
 2 assignment to the contrary has been obtained by the claimant.
 3 ~~(b)~~ This subsection shall not apply to an individual's
 4 aggregate interests greater than ten thousand dollars on all loan
 5 values or cash values of all matured or unmatured life insurance
 6 contracts or to all proceeds, cash values, or benefits accruing
 7 under all annuity contracts owned by such individual.
 8 Notwithstanding anything in this subdivision to the contrary, the
 9 aggregate exemptions any person may claim under subdivision (1)(b)
 10 of section 44-371 and this subdivision shall not exceed ten
 11 thousand dollars.

12 ~~(c)~~ No fraternal benefit society shall be liable or
 13 responsible to any person to determine or ascertain the aggregate
 14 total of policy or certificate of life insurance or annuity
 15 contract loan values, cash values, proceeds, or benefits for any
 16 policy or certificate owner or annuitant.

17 (3) Notwithstanding subsection (2) of this section, an
 18 individual's interest in all loan values or cash values of all
 19 matured or unmatured life insurance contracts or policies and in

20 all proceeds, cash values, or benefits accruing under all annuity
 21 contracts owned by such individual shall not be exempt from
 22 attachment, garnishment, or other legal or equitable process or
 23 from any other claims of creditors of the insured and of the
 24 beneficiary if related to the insured by blood or marriage, to the
 25 extent that the loan value or cash value of any matured or
 26 unmatured life insurance contract or the proceeds, cash values, or
 27 benefits accruing under any annuity contract was established or
 1 increased through contributions, premiums, or any other payments
 2 made within three years prior to bankruptcy or within three years
 3 prior to entry against the individual of a money judgment which
 4 thereafter becomes final. A fraternal benefit society shall not be
 5 liable or responsible to any person to determine or ascertain the
 6 existence or identity of any such creditors prior to payment of any
 7 such loan values, cash values, proceeds, or benefits.
 8 (4) Notwithstanding subsection (2) of this section,
 9 proceeds, cash values, and benefits accruing under any annuity
 10 contract or under any policy or certificate of life insurance
 11 payable upon the death of the insured to a beneficiary other than
 12 the estate of the insured shall not be exempt from attachment,
 13 garnishment, or other legal or equitable process by a judgment
 14 creditor of the beneficiary if the judgment against the beneficiary
 15 was based on, arose from, or was related to an act, transaction, or
 16 course of conduct for which the beneficiary has been convicted by
 17 any court of a crime punishable only by life imprisonment or death.
 18 No fraternal benefit society shall be liable or responsible to any
 19 person to determine or ascertain the existence or identity of any
 20 such judgment creditor prior to payment of any such proceeds, cash
 21 values, or benefits. This subsection shall apply to any judgment
 22 rendered on or after January 1, 1995, irrespective of when the
 23 criminal conviction is or was rendered and irrespective of whether
 24 proceedings for attachment, garnishment, or other legal or
 25 equitable process were pending on March 14, 1997."
 26 2. On page 49, line 19, after the second comma insert
 27 "44-371,"; and in line 20 after the third comma insert "44-1089,".
 1 3. Renumber the remaining sections and correct internal
 2 references accordingly.

RESOLUTIONS

LEGISLATIVE RESOLUTION 293. Introduced by Preister, 5.

PURPOSE: To study opportunities for diversifying uses of agricultural land in Nebraska and bringing much needed economic development to rural areas. A way to achieve this goal is to allow Nebraska farmers and ranchers to enter into contracts with private wind energy developers or alternatively for Nebraska landowners to invest in their own wind energy generation farms. This study shall examine exempting wind energy generation from the condemnation powers of all public power entities in order to achieve these

goals and to further the development of wind energy in Nebraska.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study and shall conduct public hearings to provide for public comment to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 294. Introduced by Preister, 5.

PURPOSE: To study the territorial insurance rating and the use of credit reports in setting insurance rates.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study and shall conduct a public hearing to provide for public comment to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 295. Introduced by Preister, 5.

PURPOSE: To continue the study of the Department of Environmental Quality financial assurance requirements, policies, and standards and to make recommendations for necessary legislative changes in order to assure that permittees and licensees, rather than taxpayers, bear any environmental clean-up, remediation, or closure costs due to their actions or activities.

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

1. That the Natural Resources and Appropriations Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their study make a report of the findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 296. Introduced by Preister, 5.

PURPOSE: To study electronic waste.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 297. Introduced by Mossey, 3.

PURPOSE: The purpose of this interim study is to reevaluate the annual law enforcement state firearms qualifications shoot and the feasibility of adding a one- or two-year shotgun and rifle qualifications shoot. Such a study shall focus on what types of courses and qualifications are necessary and a cost analysis in administering such a qualifications shoot. In order to carry out the purpose of this resolution, the committee shall seek and consider the input of the Nebraska Commission on Law Enforcement and Criminal Justice, various firearm training instructors and other interested persons as it deems necessary and beneficial.

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

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 298. Introduced by Redfield, 12.

PURPOSE: The purpose of this study is to examine the creation of an electronic lien and titling system for motor vehicles and motor boats. The study will examine necessary procedures for an electronic lien and titling system, the potential benefits and drawbacks of such a system, and other states' electronic lien and titling systems. The study shall also examine the sales tax collection, fee collection and fund disbursement, certificates of title, and notations of liens.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 299. Introduced by Kruse, 13.

PURPOSE: The purpose of this study is to analyze public transportation throughout the State of Nebraska. The study shall include, but not be limited to, the following issues:

1. The future public transportation needs of the state, with particular emphasis upon the areas of funding, equipment, and service;

2. Increased efficiencies which can be realized with the current availabilities of public transportation, with particular emphasis upon the issues of cost savings and improved service, such as the creation of transportation hubs in order to provide more continuous service in multiple communities served by one system; and

3. The current statutory method of distributing funds to requesting entities, with particular emphasis upon the implementation of a disbursement method based on ridership, scarcity of transportation options, usage by individuals most in need of such services, particularly the disabled and senior citizens, and the need for a system of managerial oversight and entity accountability regarding the current funding disbursement statutory mechanism.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

COMMUNICATION

March 25, 2004

Patrick O'Donnell
Clerk of the Legislature

State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Please be advised that pursuant to Rule 1, Section 17, the Executive Board met and approved Speaker Bromm's request that LB 1065, LB 962, and LR 11CA be designated as 2004 Speaker Major Proposals.

Sincerely,
(Signed) Senator Pat Engel
Chairman, Executive Board

C: Speaker Curt Bromm

MOTION - Print in Journal

Senator Bromm filed the following motion to LR 273:
Withdraw LR 273.

EXPLANATION OF VOTE

Had I been present, I would have voted "aye" on final passage of LB 172.

(Signed) Douglas Cunningham

VISITORS

Visitors to the Chamber were Danielle and Michaela Swiatek from Lincoln; 15 fourth-grade students and teacher from Humphrey; members of Pi Gamma Mu Political Science Honorary from UNO; 15 fourth-grade students and teacher from Pleasanton; 29 fourth-grade students and teachers from Omaha Christian Academy; and 44 fourth-grade students and teacher from York.

ADJOURNMENT

At 2:14 p.m., on a motion by Senator Brashear, the Legislature adjourned until 9:00 a.m., Tuesday, March 30, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTIETH DAY - MARCH 30, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FIFTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 30, 2004

PRAYER

The prayer was offered by Senator Aguilar.

ROLL CALL

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

The roll was called and all members were present except Senator Landis who was excused; and Senators Baker, Brown, Jensen, Maxwell, Raikes, Smith, and Vrtiska who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 1268, strike lines 4, 5, and 6 and insert:

"WITHDRAW - Motion and Amendment to LB 139

Senator Chambers withdrew his pending motion, found in this day's Journal, to return LB 139 to Select File for his specific pending amendment, FA1608."

The Journal for the forty-ninth day was approved as corrected.

**SELECT COMMITTEE REPORTS
Enrollment and Review**

LEGISLATIVE BILL 1083. Placed on Select File as amended.

(E & R amendment, AM7214, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1083A. Placed on Select File as amended.

E & R amendment to LB 1083A:

AM7224

- 1 1. On page 1, line 1, after the semicolon insert "to
- 2 amend Laws 2003, LB 407, section 220;"; and in line 3 after the
- 3 semicolon insert "to state intent; to provide for transfers; to

4 change appropriations; to repeal the original section;".

LEGISLATIVE BILL 983. Placed on Select File as amended.

E & R amendment to LB 983:

AM7223

- 1 1. On page 2, line 1, after the last "to" insert
- 2 "66-4,132,".
- 3 2. On page 3, strike beginning with "The" in line 8
- 4 through line 9 and show as stricken.
- 5 3. On page 15, line 16, after "vehicles" insert an
- 6 underscored comma.
- 7 4. On page 16, line 18, strike "ASTM" and insert
- 8 "American Society for Testing and Materials".
- 9 5. On page 28, line 16, strike "low" and insert
- 10 "low-sulphur".
- 11 6. On page 33, line 2, strike "60" and insert "61".
- 12 7. On page 75, line 20, after the first "to" insert
- 13 "66-4,132,".

LEGISLATIVE BILL 1097. Placed on Select File as amended.

(E & R amendment, AM7218, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 1207. Placed on Select File as amended.

(E & R amendment, AM7215, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 485. Placed on Select File as amended.

(E & R amendment, AM7222, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 485A. Placed on Select File.

LEGISLATIVE BILL 1162. Placed on Select File as amended.

E & R amendment to LB 1162:

AM7216

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 20-503, Revised Statutes Supplement,
- 4 2002, is amended to read:
- 5 20-503. For purposes of sections 20-501 to 20-505:
- 6 (1) Disparate treatment means differential treatment of
- 7 persons on the basis of race, color, or national origin;
- 8 (2) Motor vehicle stop means any stop of a motor vehicle,
- 9 except for a stop of a motor truck, truck-tractor, semitrailer,
- 10 trailer, or towed vehicle at a state weighing station; and
- 11 (3) Racial profiling means detaining an individual or
- 12 conducting a motor vehicle stop based upon disparate treatment of

13 an individual.

14 Sec. 2. Section 20-504, Revised Statutes Supplement,
15 2002, is amended to read:

16 20-504. (1) On or before January 1, 2002, the Nebraska
17 State Patrol, the county sheriffs, all city and village police
18 departments, and any other law enforcement agency in this state
19 shall adopt a written policy that prohibits the detention of any
20 person or a motor vehicle stop when such action is motivated by
21 racial profiling and the action would constitute a violation of the
22 civil rights of the person.

23 (2) With respect to a motor vehicle stop, on and after
24 January 1, 2002, and until January 1, 2006, the Nebraska State
1 Patrol, the county sheriffs, all city and village police
2 departments, and any other law enforcement agency in this state
3 shall record and retain the following information using the form
4 developed and promulgated pursuant to section 20-505:

5 (a) The number of motor vehicle stops;

6 (b) The characteristics of race or ethnicity of the
7 person stopped. The identification of such characteristics shall
8 be based on the observation and perception of the law enforcement
9 officer responsible for reporting the motor vehicle stop and the
10 information shall not be required to be provided by the person
11 stopped;

12 (c) If the stop is for a law violation, the nature of the
13 alleged law violation that resulted in the motor vehicle stop;

14 (d) Whether a warning or citation was issued, an arrest
15 made, or a search conducted as a result of the motor vehicle stop.
16 Search does not include a search incident to arrest or an inventory
17 search; and

18 (e) Any additional information that the Nebraska State
19 Patrol, the county sheriffs, all city and village police
20 departments, or any other law enforcement agency in this state, as
21 the case may be, deems appropriate.

22 (3) The Nebraska Commission on Law Enforcement and
23 Criminal Justice may develop a uniform system for receiving
24 allegations of racial profiling. The Nebraska State Patrol, the
25 county sheriffs, all city and village police departments, and any
26 other law enforcement agency in this state shall provide to the
27 commission (a) a copy of each allegation of racial profiling
1 received and (b) written notification of the review and disposition
2 of such allegation. No information revealing the identity of the
3 law enforcement officer involved in the stop shall be used,
4 transmitted, or disclosed in violation of any collective bargaining
5 agreement provision or personnel rule under which such law
6 enforcement officer is employed. No information revealing the
7 identity of the complainant shall be used, transmitted, or
8 disclosed in the form alleging racial profiling.

9 (4) Any law enforcement officer who in good faith records
10 information on a motor vehicle stop pursuant to this section shall

11 not be held civilly liable for the act of recording such
 12 information unless the law enforcement officer's conduct was
 13 unreasonable or reckless or in some way contrary to law.
 14 (5) On or before October 1, 2002, and annually thereafter
 15 until January 1, ~~2004~~ 2006, the Nebraska State Patrol, the county
 16 sheriffs, all city and village police departments, and all other
 17 law enforcement agencies in this state shall provide to the
 18 commission, in such form as the commission prescribes, a summary
 19 report of the information recorded pursuant to subsection (2) of
 20 this section.

21 (6) On and after January 1, 2002, and until ~~January~~ April
 22 1, 2004 2006, the commission may, within the limits of its existing
 23 appropriations, provide for a review of the prevalence and
 24 disposition of motor vehicle stops based on racial profiling and
 25 allegations reported pursuant to this section. The results of such
 26 review shall be reported annually to the Governor and the
 27 Legislature beginning on or before April 1, 2004, until April 1,
 1 2006.

2 Sec. 3. Section 81-1413, Revised Statutes Supplement,
 3 2002, is amended to read:

4 81-1413. Tuition, fees, and such other expenses incurred
 5 in the pre-certification and certification training of applicants
 6 shall be the responsibility of the person or his or her sponsoring
 7 agency, except that through ~~June 30, 2005~~ January 1, 2007, such
 8 expenses may be financed by the training center through other
 9 appropriated funds as determined by the council in order to
 10 transition to a tuition-based system.

11 Sec. 4. Section 81-1438, Reissue Revised Statutes of
 12 Nebraska, is amended to read:

13 81-1438. The governing body of any county or city of
 14 this state, other than (1) a county containing a city of the
 15 metropolitan or primary class or (2) a city of the metropolitan or
 16 primary class, may establish a law enforcement reserve force.
 17 Members of such force shall be appointed at the discretion of the
 18 governing body. The governing body may limit the size of such
 19 reserve force.

20 Sec. 5. Original section 81-1438, Reissue Revised
 21 Statutes of Nebraska, and sections 20-503, 20-504, and 81-1413,
 22 Revised Statutes Supplement, 2002, are repealed.

23 Sec. 6. Since an emergency exists, this act takes effect
 24 when passed and approved according to law."

25 2. On page 1, strike beginning with "the" in line 1
 26 through line 4 and insert "law enforcement; to amend section
 27 81-1438, Reissue Revised Statutes of Nebraska, and sections 20-503,
 1 20-504, and 81-1413, Revised Statutes Supplement, 2002; to change
 2 provisions relating to racial profiling reporting duties,
 3 certification training costs, and establishment of reserve forces;
 4 to repeal the original sections; and to declare an emergency."

LEGISLATIVE BILL 1045. Placed on Select File as amended.
E & R amendment to LB 1045:

AM7219

- 1 1. On page 1, strike lines 2 through 4 and insert
- 2 "sections 81-2,239, 81-2,240, 81-2,267, and 81-2,270, Reissue
- 3 Revised Statutes of Nebraska; to define a term"; and in line 5
- 4 strike "terms".

LEGISLATIVE BILL 943. Placed on Select File as amended.
E & R amendment to LB 943:

AM7220

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 28-101, Revised Statutes Supplement,
- 4 2003, is amended to read:
- 5 28-101. Sections 28-101 to 28-1350 and sections 2 and 3
- 6 of this act shall be known and may be cited as the Nebraska
- 7 Criminal Code.
- 8 Sec. 2. (1) A person commits the offense of
- 9 strangulation if the person knowingly or intentionally impedes the
- 10 normal breathing or circulation of the blood of another person by
- 11 applying pressure on the throat or neck of the other person.
- 12 (2) Except as provided in subsection (3) of this section,
- 13 strangulation is a Class IV felony.
- 14 (3) Strangulation is a Class III felony if:
- 15 (a) The person used or attempted to use a dangerous
- 16 instrument while committing the offense;
- 17 (b) The person caused serious bodily injury to the other
- 18 person while committing the offense; or
- 19 (c) The person has been previously convicted of
- 20 strangulation.
- 21 (4) It is an affirmative defense that an act constituting
- 22 strangulation was the result of a legitimate medical procedure.
- 23 Sec. 3. (1) No person shall knowingly solicit, coax,
- 24 entice, or lure or attempt to solicit, coax, entice, or lure (a) a
- 1 child sixteen years of age or younger or (b) a peace officer who is
- 2 believed by such person to be a child sixteen years of age or
- 3 younger, by means of a computer as that term is defined in section
- 4 28-1343, to engage in an act which would be in violation of
- 5 sections 28-317 to 28-321.
- 6 (2) A person who violates this section is guilty of a
- 7 Class III felony. If a person who violates this section has
- 8 previously been convicted of a violation of this section or section
- 9 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, or 28-317
- 10 to 28-321, the person is guilty of a Class II felony.
- 11 Sec. 4. Section 28-318, Reissue Revised Statutes of
- 12 Nebraska, is amended to read:
- 13 28-318. As used in sections 28-317 to 28-321, unless the
- 14 context otherwise requires:

- 15 (1) Actor means a person accused of sexual assault;
- 16 (2) Intimate parts means the genital area, groin, inner
17 thighs, buttocks, or breasts;
- 18 (3) Past sexual behavior means sexual behavior other than
19 the sexual behavior upon which the sexual assault is alleged;
- 20 (4) Serious personal injury means great bodily injury or
21 disfigurement, extreme mental anguish or mental trauma, pregnancy,
22 disease, or loss or impairment of a sexual or reproductive organ;
- 23 (5) Sexual contact means the intentional touching of the
24 victim's sexual or intimate parts or the intentional touching of
25 the victim's clothing covering the immediate area of the victim's
26 sexual or intimate parts. Sexual contact shall also mean the
27 touching by the victim of the actor's sexual or intimate parts or
1 the clothing covering the immediate area of the actor's sexual or
2 intimate parts when such touching is intentionally caused by the
3 actor. Sexual contact shall include only such conduct which can be
4 reasonably construed as being for the purpose of sexual arousal or
5 gratification of either party. Sexual contact shall also include
6 the touching of a child with the actor's sexual or intimate parts
7 on any part of the child's body for purposes of sexual assault of a
8 child under section 28-320.01;
- 9 (6) Sexual penetration means sexual intercourse in its
10 ordinary meaning, cunnilingus, fellatio, anal intercourse, or any
11 intrusion, however slight, of any part of the actor's or victim's
12 body or any object manipulated by the actor into the genital or
13 anal openings of the victim's body which can be reasonably
14 construed as being for nonmedical or nonhealth purposes. Sexual
15 penetration shall not require emission of semen;
- 16 (7) Victim means the person alleging to have been
17 sexually assaulted;
- 18 (8) Without consent means:
- 19 (a)(i) The victim was compelled to submit due to the use
20 of force or threat of force or coercion, or (ii) the victim
21 expressed a lack of consent through words, or (iii) the victim
22 expressed a lack of consent through conduct, or (iv) the consent,
23 if any was actually given, was the result of the actor's deception
24 as to the identity of the actor or the nature or purpose of the act
25 on the part of the actor;
- 26 (b) The victim need only resist, either verbally or
27 physically, so as to make the victim's refusal to consent genuine
1 and real and so as to reasonably make known to the actor the
2 victim's refusal to consent; and
- 3 (c) A victim need not resist verbally or physically where
4 it would be useless or futile to do so; and
- 5 (9) Force or threat of force means (a) the use of
6 physical force which overcomes the victim's resistance or (b) the
7 threat of physical force, express or implied, against the victim or
8 a third person that places the victim in fear of death or in fear
9 of serious personal injury to the victim or a third person where

10 the victim reasonably believes that the actor has the present or
11 future ability to execute the threat.

12 Sec. 5. Section 28-1463.05, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 28-1463.05. (1) It shall be unlawful for a person to
15 knowingly possess with intent to rent, sell, deliver, distribute,
16 trade, or provide to any person any visual depiction of sexually
17 explicit conduct which has a child as one of its participants or
18 portrayed observers.

19 (2) Any person who violates this section shall be guilty
20 of a Class ~~IV~~ IIIA felony for each offense.

21 Sec. 6. Section 29-110, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 29-110. (1) Except as otherwise provided by law, in
24 subsections (2) and (3) of this section, no person or persons shall
25 be prosecuted for any felony, ~~excepting only treason, murder,~~
26 ~~arson, and forgery~~, unless the indictment ~~for the same shall be is~~
27 found by a grand jury within three years next after the offense

1 ~~shall have~~ has been done or committed or unless a complaint for the
2 same ~~shall be is~~ filed before the magistrate within three years
3 next after the offense ~~shall have~~ has been done or committed and a
4 warrant for the arrest of the defendant ~~shall have~~ has been issued.

5 (2) Except as otherwise provided by law, no person shall
6 ~~nor shall any person~~ be prosecuted, tried, or punished for any
7 misdemeanor or other indictable offense below the grade of felony
8 or for any fine or forfeiture under any penal statute unless the
9 ~~indictment, information, or action suit, information, or indictment~~

10 for the same ~~shall be is instituted or found or instituted~~ within
11 one year and six months from the time of committing the offense or
12 incurring the fine or forfeiture or within one year for any offense
13 the punishment of which is restricted by a fine not exceeding one
14 hundred dollars and to imprisonment not exceeding three months.

15 ~~This section shall not extend to any person fleeing from justice.~~
16 ~~When any suit, information, or indictment for any crime or~~
17 ~~misdemeanor is limited by any statute to be brought or exhibited~~
18 ~~within any other time than is limited by this section, then the~~
19 ~~same shall be brought or exhibited within the time limited by such~~
20 ~~statute. If any indictment, information, or suit is quashed or the~~
21 ~~proceedings in the same set aside or reversed on writ of error, the~~
22 ~~time during the pendency of such indictment, information, or suit~~
23 ~~so quashed, set aside, or reversed shall not be reckoned within~~
24 ~~this statute so as to bar any new indictment, information, or suit~~
25 ~~for the same offense.~~

26 (2) ~~No~~ (3) Except as otherwise provided by law, no person
27 ~~or persons~~ shall be prosecuted for sexual assault in the first
1 degree, second degree, or third degree pursuant to under section
2 28-319 or 28-320, sexual assault of a child pursuant to section
3 ~~28-320.01~~, kidnapping pursuant to under section 28-313, false
4 imprisonment pursuant to under section 28-314 or 28-315, child

5 abuse pursuant to under section 28-707, pandering pursuant to under
 6 section 28-802, debauching a minor pursuant to under section
 7 28-805, or an offense pursuant to under section 28-813, 28-813.01,
 8 or 28-1463.03 when the victim is under sixteen years of age at the
 9 time of the offense (a) unless the indictment for the same shall be
 10 is found by a grand jury within seven years next after the offense
 11 has been committed or within seven years next after the victim's
 12 sixteenth birthday, whichever is later, or (b) unless a complaint
 13 for the same shall be is filed before the magistrate within seven
 14 years next after the offense has been committed or within seven
 15 years next after the victim's sixteenth birthday, whichever is
 16 later, and a warrant for the arrest of the defendant shall have has
 17 been issued. The limitations prescribed in this subsection shall
 18 include all inchoate offenses pursuant to the Nebraska Criminal
 19 Code and compounding a felony pursuant to section 28-301.
 20 (3) (4) No person or persons shall be prosecuted for a
 21 violation of the Securities Act of Nebraska pursuant to under
 22 section 8-1117 unless the indictment for the same shall be is found
 23 by a grand jury within five years next after the offense shall have
 24 has been done or committed or unless a complaint for the same shall
 25 be is filed before the magistrate within five years next after the
 26 offense shall have has been done or committed and a warrant for the
 27 arrest of the defendant shall have has been issued.

1 (4) The changes made to this section by Laws 1990, LB
 2 1246, shall apply to offenses which occurred prior to April 15,
 3 1990, or which occur on or after such date.

4 (5) The changes made to this section by Laws 1993, LB
 5 216, shall apply to offenses which occurred prior to September 9,
 6 1993, or which occur on or after such date

7 (5) There shall not be any time limitations for
 8 prosecution or punishment for treason, murder, arson, forgery,
 9 sexual assault of a child under section 28-320.01, or any of the
 10 following offenses when the victim is under sixteen years of age at
 11 the time of the offense: Sexual assault in the first degree,
 12 second degree, or third degree under section 28-319 or 28-320.

13 (6) The time limitations prescribed in this section shall
 14 include all inchoate offenses pursuant to the Nebraska Criminal
 15 Code and compounding a felony pursuant to section 28-301.

16 (7) The time limitations prescribed in this section shall
 17 not extend to any person fleeing from justice.

18 (8) When any suit, information, or indictment for any
 19 crime or misdemeanor is limited by any statute to be brought or
 20 exhibited within any other time than is limited by this section,
 21 then the suit, information, or indictment shall be brought or
 22 exhibited within the time limited by such statute.

23 (9) If any suit, information, or indictment is quashed
 24 or the proceedings set aside or reversed on writ of error, the time
 25 during the pendency of such suit, information, or indictment so
 26 quashed, set aside, or reversed shall not be reckoned within this

27 statute so as to bar any new suit, information, or indictment for
 1 the same offense.
 2 (10) The changes made to this section by this legislative
 3 bill shall apply to offenses committed prior to the effective date
 4 of this act for which the statute of limitations has not expired as
 5 of such date and to offenses committed on or after such date.
 6 Sec. 7. Section 29-4003, Revised Statutes Supplement,
 7 2002, is amended to read:
 8 29-4003. (1) Except as provided in subsection (2) of
 9 this section, the Sex Offender Registration Act shall apply to any
 10 person who on or after January 1, 1997:
 11 (a) Pleads guilty to or is found guilty of:
 12 (i) Kidnapping of a minor pursuant to section 28-313,
 13 except when the person is the parent of the minor and was not
 14 convicted of any other offense in this section;
 15 (ii) False imprisonment of a minor pursuant to section
 16 28-314 or 28-315;
 17 (iii) Sexual assault pursuant to section 28-319 or
 18 28-320;
 19 (iv) Sexual assault of a child pursuant to section
 20 28-320.01;
 21 (v) Sexual assault of a vulnerable adult pursuant to
 22 subdivision (1)(c) of section 28-386;
 23 (vi) Incest of a minor pursuant to section 28-703;
 24 (vii) Pandering of a minor pursuant to section 28-802;
 25 (viii) Visual depiction of sexually explicit conduct of a
 26 child pursuant to section 28-1463.03 or 28-1463.05;
 27 (ix) Knowingly possessing any visual depiction of
 1 sexually explicit conduct which has a child as one of its
 2 participants or portrayed observers pursuant to section 28-813.01;
 3 (x) Criminal child enticement pursuant to section 28-311;
 4 ~~or~~
 5 ~~(x)~~ (xi) Child enticement by means of a computer pursuant
 6 to section 3 of this act; or
 7 (xii) Attempt, solicitation, or conspiracy to commit an
 8 offense listed in subdivisions (1)(a)(i) through ~~(1)(a)(ix)~~
 9 ~~(1)(a)(ix)~~ of this section;
 10 (b) Enters the state and has pleaded guilty to or has
 11 been found guilty of any offense that is substantially equivalent
 12 to a registrable offense under subdivision (1)(a) of this section
 13 by any state, territory, commonwealth, or other jurisdiction of the
 14 United States, by the United States Government, or by court martial
 15 or other military tribunal; or
 16 (c) Is incarcerated in a jail, a penal or correctional
 17 facility, or any other public or private institution or is under
 18 probation or parole as a result of pleading guilty to or being
 19 found guilty of a registrable offense under subdivision (1)(a) or
 20 (b) of this section prior to January 1, 1997.
 21 (2) In the case of a person convicted of a violation of

22 section 28-311, 28-313, 28-314, or 28-315, the convicted person
 23 shall be subject to the Sex Offender Registration Act, unless the
 24 sentencing court determines at the time of sentencing, in light of
 25 all the facts, that the convicted person is not subject to the act.
 26 The sentencing court shall make such determination part of the
 27 sentencing order.

1 (3) A person appealing a conviction of a registrable
 2 offense under this section shall be required to comply with the act
 3 during the appeals process.

4 Sec. 8. Original sections 28-318, 28-1463.05, and
 5 29-110, Reissue Revised Statutes of Nebraska, section 29-4003,
 6 Revised Statutes Supplement, 2002, and section 28-101, Revised
 7 Statutes Supplement, 2003, are repealed.

8 Sec. 9. Since an emergency exists, this act takes effect
 9 when passed and approved according to law."

10 2. On page 1, strike beginning with "criminal" in line 1
 11 through line 5 and insert "crimes and offenses; to amend sections
 12 28-318, 28-1463.05, and 29-110, Reissue Revised Statutes of
 13 Nebraska, section 29-4003, Revised Statutes Supplement, 2002, and
 14 section 28-101, Revised Statutes Supplement, 2003; to create the
 15 offense of strangulation; to prohibit the use of a computer as
 16 prescribed; to provide penalties; to redefine the term sexual
 17 contact for purposes of sexual assault of a child; to change the
 18 Sex Offender Registration Act; to change provisions relating to
 19 statutes of limitations; to eliminate obsolete provisions; to
 20 harmonize provisions; to repeal the original sections; and to
 21 declare an emergency."

LEGISLATIVE BILL 1231. Placed on Select File as amended.

E & R amendment to LB 1231:

AM7221

1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. Section 12-1301, Revised Statutes
 4 Supplement, 2002, is amended to read:
 5 12-1301. (1) The Director of Veterans' Affairs may
 6 establish and operate a state veteran cemetery system consisting of
 7 a facility in Box Butte County, a facility in Sarpy County, and the
 8 Nebraska Veterans' Memorial Cemetery in Hall County. The director
 9 may seek and expend private, state, and federal funds for the
 10 establishment, construction, maintenance, administration, and
 11 operation of the cemetery system as provided in this section. Any
 12 gift, bequest, or devise of real property for the cemetery system
 13 shall be subject to the approval requirements of section 81-1108.33
 14 notwithstanding the value of the real property. All funds received
 15 for the construction of the cemetery system shall be remitted to
 16 the state treasurer for credit to the Veteran Cemetery ~~Maintenance~~
 17 Construction Fund. No revenue from the General Fund shall be
 18 remitted to the Veteran Cemetery Construction Fund for use in the

19 construction of the state veteran cemetery system. Any funds
20 remaining in the Veteran Cemetery Construction Fund following the
21 completion of construction of the three facilities comprising the
22 state veteran cemetery system shall upon such completion be
23 transferred to the Nebraska Veteran Cemetery System Endowment Fund
24 and the Veteran Cemetery Construction Fund shall thereafter
1 terminate.

2 (2)(a) A trust fund to be known as the Nebraska Veteran
3 Cemetery System Endowment Fund is hereby created. The fund shall
4 consist of:

5 (i) Gifts, bequests, grants, or contributions from
6 private or public sources designated for the maintenance,
7 administration, or operation of the state veteran cemetery system;

8 (ii) Any funds transferred from the Veteran Cemetery
9 Construction Fund following the completion of construction of the
10 three facilities comprising the state veteran cemetery system; and

11 (iii) Following the termination of the Veteran Cemetery
12 Construction Fund, any funds received by the state from any source
13 for the state veteran cemetery system.

14 (b) No revenue from the General Fund shall be remitted to
15 the Nebraska Veteran Cemetery System Endowment Fund. The
16 Legislature shall not appropriate or transfer money from the
17 Nebraska Veteran Cemetery System Endowment Fund for any purpose
18 other than as provided in this section. Any money in the Nebraska
19 Veteran Cemetery System Endowment Fund available for investment
20 shall be invested by the state investment officer pursuant to the
21 Nebraska Capital Expansion Act and the Nebraska State Funds
22 Investment Act. Only the earnings of the Nebraska Veteran Cemetery
23 System Endowment Fund may be used as provided in subsection (3) of
24 this section. All investment earnings from the Nebraska Veteran
25 Cemetery System Endowment Fund shall be credited on a quarterly
26 basis to the Nebraska Veteran Cemetery System Operation Fund.

27 (3) There is hereby created the Nebraska Veteran Cemetery
1 System Operation Fund. Money in the fund shall be used for the
2 operation, administration, and maintenance of the state veteran
3 cemetery system. Any money in the fund available for investment
4 shall be invested by the state investment officer pursuant to the
5 Nebraska Capital Expansion Act and the Nebraska State Funds
6 Investment Act. No revenue from the General Fund shall be remitted
7 to the Nebraska Veteran Cemetery System Operation Fund.

8 (4) The director may make formal application to the
9 federal government regarding federal financial assistance for the
10 construction of the three facilities comprising the state veteran
11 cemetery system when sufficient funds have been remitted to the
12 Nebraska Veteran Cemetery System Endowment Fund such that (a) the
13 projected annual earnings from such fund available for transfer to
14 the Nebraska Veteran Cemetery System Operation Fund in each of the
15 succeeding five years plus (b) the projected annual value of formal
16 agreements that have been entered into between the state and any

17 political subdivisions or private entities to subsidize or
 18 undertake the operation, administration, or maintenance of any of
 19 the facilities within the state veteran cemetery system, has a
 20 value that is equal to or exceeds one hundred twenty-five percent
 21 of the projected annual cost of the operation, administration, and
 22 maintenance of the three facilities comprising the state veteran
 23 cemetery system in each of the succeeding five years. The director
 24 may expend such funds as may be available for any of the purposes
 25 authorized in this section.

26 (5) The director, with the approval of the Governor, may
 27 enter into agreements for cemetery construction, administration,
 1 operation, or maintenance with qualified persons or business
 2 entities. The director shall provide lots in the cemetery system
 3 for the interment of deceased veterans with an honorable discharge
 4 or its equivalent and their spouses, minor children, and unmarried
 5 adult children who were physically or mentally disabled and
 6 incapable of self-support. Section 12-501 does not apply to the
 7 state veteran cemetery system.

8 (6) The Veteran Cemetery ~~Maintenance~~ Construction Fund is
 9 created. Any money in the fund available for investment shall be
 10 invested by the state investment officer pursuant to the Nebraska
 11 Capital Expansion Act and the Nebraska State Funds Investment Act.

12 (7) The Nebraska Veterans Cemetery Advisory Board is
 13 created. The board shall consist of seven members. One member
 14 shall be the director who shall serve as the chairperson of the
 15 board. Three members of the board shall be veterans appointed by
 16 the Governor from a list of candidates forwarded by the county
 17 board of each county within which a state veteran cemetery system
 18 facility is located. Three members with experience in cemetery
 19 administration or operation, one from each congressional district,
 20 shall be appointed by the Governor. The members of the board shall
 21 receive no compensation but shall be reimbursed for their actual
 22 and necessary expenses in the discharge of their duties as provided
 23 in sections 81-1174 to 81-1177. The board shall meet from time to
 24 time as requested by the director to review the status of the state
 25 veteran cemetery system, to recommend actions to facilitate the
 26 development of the system, to assist in fundraising from public or
 27 private sources for the construction, operation, administration,
 1 and maintenance of the system, and to advise the director on the
 2 most appropriate actions for the state to undertake in the
 3 development of the system and the priorities for action.

4 (8) The director may adopt and promulgate rules and
 5 regulations to carry out this section. The rules and regulations
 6 shall include requirements for proof of residency, cost of burial
 7 if any, and standards for cemeteries, including decorations and
 8 headstones.

9 Sec. 2. Original section 12-1301, Revised Statutes
 10 Supplement, 2002, is repealed."

11 2. On page 1, line 3, after the semicolon insert "to

12 rename and create funds;".

LEGISLATIVE BILL 1231A. Placed on Select File.

LEGISLATIVE BILL 613. Placed on Select File.

LEGISLATIVE BILL 1034. Placed on Select File.

Correctly Reengrossed

The following bills were correctly reengrossed: LBs 139, 625, 841, and 999.

Correctly Engrossed

The following bills were correctly engrossed: LBs 155, 315, 479, 727, 819, 824, 826, 832, 837, 845, 846, 884, 890, 902, 914, 914A, 939, 944, 955, 973, 980, 997, 998, 998A, 1002, 1004, 1005, 1005A, 1099, 1107, 1118, and 1149.

ER9116

Enrollment and Review Change to LB 155

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

1. In the Quandahl amendment, AM3363:

a. Section 4 has been struck and the following new section inserted:

"Sec. 4. Section 44-19,116, Revised Statutes Supplement, 2003, is amended to read:

44-19,116. (1)(a) A title insurance agent may operate as an escrow, security, settlement, or closing agent subject to the requirements of subdivisions (b) through ~~(e)~~ (f) of this subsection.

(b) All funds deposited with the title insurance agent in connection with an escrow, settlement, closing, or security deposit shall be submitted for collection to or deposited in a separate fiduciary trust account or accounts in a qualified financial institution no later than the close of the next business day in accordance with the following requirements:

(i) The funds shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, security deposit, or closing agreement and shall be segregated for each depository by escrow, settlement, security deposit, or closing in the records of the title insurance agent in a manner that permits the funds to be identified on an individual basis; and

(ii) The funds shall be applied only in accordance with the terms of the individual instructions or agreements under which the funds were accepted.

(c) Funds held in an escrow account shall be disbursed only pursuant to a written instruction or agreement specifying how and to whom such funds may be disbursed.

(d) Funds held in a security deposit account shall be disbursed only pursuant to a written agreement specifying:

(i) What actions the indemnitor shall take to satisfy his or her obligation

under the agreement;

(ii) The duties of the title insurance agent with respect to disposition of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositing party or his or her designee; and

(iii) Any other provisions the director may require.

(e)(i) Disbursements may be made out of an escrow, settlement, or closing account only if funds in an amount at least equal to the disbursement have first been received and if the funds received are in one of the following forms:

(A) Lawful money of the United States;

(B) Wired funds when unconditionally held by the title insurance agent;

(C) Cashier's checks, certified checks, bank money orders, or teller's checks issued by a federally insured financial institution and unconditionally held by the title insurance agent; and

(D) United States treasury checks, federal reserve bank checks, federal home loan bank checks, State of Nebraska warrants, and warrants of a city of the metropolitan or primary class.

(ii) For purposes of this subdivision, federally insured financial institution means an institution in which monetary deposits are insured by the Federal Deposit Insurance Corporation or National Credit Union Administration.

(f) A title insurance agent who holds funds relating to an exchange under section 1031 of the Internal Revenue Code shall provide written disclosure, at or before closing, to the person whose funds are being held, on a separate paper with no other information on the paper, which states that:

(i) Such services performed by a title insurance agent are not regulated by the Department of Banking and Finance, the Department of Insurance, or any other agency of the State of Nebraska or by any agency of the United States Government;

(ii) The safety and security of such funds is not guaranteed by any agency of the State of Nebraska or of the United States Government or otherwise protected by law; and

(iii) The owner of such funds should satisfy himself or herself as to the safety and security of such funds.

~~(2) On and after January 1, 2004, every title insurance agent shall have an annual audit made of its escrow, settlement, closing, and security deposit accounts, conducted by a certified public accountant on a calendar year basis at its expense within ninety days after the close of the previous calendar year. The title insurance agent shall provide a copy of the audit report to each title insurer which it represents. The director may adopt and promulgate rules and regulations setting forth the minimum threshold level at which an audit would be required, the standards of audit, and the form of audit report required. The director may also require a title insurance agent to provide a copy of its audit report to the director. Title insurance agents who are attorneys and who issue title insurance policies as part of their legal representation of clients are exempt from the requirements of this subsection. However, the title insurer may, at its expense, conduct or cause to be conducted an annual audit of the escrow, settlement, closing, and security deposit accounts of the attorney. Attorneys who are exclusively in~~

~~the business of title insurance are not exempt from the requirements of this subsection.~~

(3) If the title insurance agent is appointed by two or more title insurers and maintains fiduciary trust accounts in connection with providing escrow, closing, or settlement services, the title insurance agent shall allow each title insurer ~~reasonable~~ access to the accounts and any or all of the supporting account information in order to ascertain the safety and security of the funds held by the title insurance agent.

(4) (3) Nothing in the Title Insurance Agent Act shall be deemed to prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction if all parties consent to the transaction in writing.

(5) (4) Nothing in this section is intended to amend, alter, or supersede other sections of the act or the laws of this state or the United States regarding an escrow holder's duties and obligations.

(6) (5) The director may prescribe a standard agreement for escrow, settlement, closing, or security deposit funds."; and

b. On page 11, lines 7 and 8, "and sections 44-1984 and 44-19,116" has been struck and "section 44-1984" inserted; and in line 8 "and section 44-19,116, Revised Statutes Supplement, 2003," has been inserted after the last comma.

2. On page 1, the matter beginning with "section" in line 1 through line 4 has been struck and "sections 44-1993, 44-19,106, and 76-238, Reissue Revised Statutes of Nebraska, section 44-1984, Revised Statutes Supplement, 2002, and section 44-19,116, Revised Statutes Supplement, 2003; to change provisions relating to coverage issued by title insurers; to provide liability for title insurers; to require disclosures by title insurance agents; to eliminate audit requirements; to provide for enforcement of the Title Insurance Agent Act; to change and eliminate provisions relating to agricultural leases, mortgages, deeds, and other instruments affecting real estate; to repeal the original sections; and to outright repeal sections 76-261 to 76-263 and 76-265, Reissue Revised Statutes of Nebraska." inserted.

ER9112

Enrollment and Review Change to LB 315

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

1. In the Brashear-Beutler amendment, FA1586, amendment 4 has been struck.

ER9117

Enrollment and Review Change to LB 479

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

1. In the Baker amendment, AM2713, on page 2, line 6, the comma has

been struck and shown as stricken.

2. In the E & R amendments, AM7164:

a. On page 1, line 5, "2" has been struck and "3" inserted;

b. On page 8, line 8, "Federal Bureau of Alcohol, Tobacco and Firearms" has been struck and "United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives" inserted;

c. On page 16, line 26, "66-482," has been inserted after "sections"; and in line 27 "and" has been struck and "77-4104.01, and 77-5536," has been inserted after the last comma; and

d. On page 17, line 2 "sections are" has been struck and "section is" inserted; in line 3 "Sections 66-1346 and 66-1350" has been struck and "Section 66-1346" inserted; in line 7 "66-482," has been inserted after "sections"; in line 8 "and" has been struck and "77-4104.01, and 77-5536," has been inserted after the last comma; in line 11 "to eliminate a task force;" has been struck; and in lines 12 and 13 "sections 66-1346 and 66-1350" has been struck and "section 66-1346" inserted.

ER9113

Enrollment and Review Change to LB 832

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

1. On page 8, the matter beginning with "section" in line 2 through the first "and" in line 3 has been struck.

ER9120

Enrollment and Review Change to LB 837

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

1. On page 1, line 5, "sections" has been struck and "section" inserted.

ER9121

Enrollment and Review Change to LB 884

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

1. On page 3, line 1, an underscored comma has been inserted after the last "in".

2. On page 13, line 17, an underscored comma has been inserted after "executor".

3. On page 26, line 8, an underscored comma has been inserted after "regulations".

4. On page 30, line 24, an underscored comma has been inserted after "resignation".

5. On page 40, line 26, an underscored comma has been inserted after

"terms".

ER9114

Enrollment and Review Change to LB 973

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

1. In the Landis amendment, AM3225:

a. Sections 3, 5 to 11, 13, 20, 37, 38, and 42 have been renumbered as sections 7, 9 to 15, 17, 24, 42, 43, and 47, respectively;

b. On page 3, line 19, "except" has been struck and ", except that" inserted; and

c. On page 21, line 20, an underscored comma has been inserted after "appropriate".

2. In the Beutler amendment, AM3094, on page 2, line 21, "section" has been inserted after "under".

3. In the E & R amendments, AM7201:

a. On page 24, line 17, an underscored comma has been inserted after "however";

b. On page 26, line 21, an underscored comma has been inserted after "judge" and after "be";

c. On page 28, lines 9 and 10, "34 to 42" has been struck and "52 to 60" inserted; and

d. On page 51, line 12, "18 and 53" has been struck and "33 and 71" inserted; in line 15 "19-910, 19-929, 23-168.03," has been inserted after "sections"; in line 17 "77-1348," has been inserted after the fourth comma; and in line 22 "and section 23-114.01, Revised Statutes Supplement, 2003," has been inserted after the comma.

4. On page 1, the matter beginning with "revenue" in line 1 through line 11 and all amendments thereto have been struck and "property; to amend sections 19-910, 19-929, 23-168.03, 77-123, 77-201, 77-202.03, 77-202.04, 77-422, 77-603, 77-612, 77-684, 77-801, 77-802, 77-802.02, 77-1234, 77-1249, 77-1301, 77-1303, 77-1315, 77-1315.01, 77-1317, 77-1318, 77-1330, 77-1343, 77-1344, 77-1345, 77-1345.01, 77-1348, 77-1363, 77-1380, 77-1384, 77-1502, 77-1504.01, 77-1510, 77-1510.01, 77-1514, 77-1606, 77-1608, 77-1610, 77-1623, 77-1775, 77-3506.02, 77-3519, 77-3520, 77-5001, 77-5004, 77-5007, 77-5013, 77-5015, 77-5016, 77-5017, 77-5020, 77-5022, 77-5023, 77-5027, 79-1016, 79-1022, and 84-912.03, Reissue Revised Statutes of Nebraska, and section 23-114.01, Revised Statutes Supplement, 2003; to change provisions relating to zoning and planning, filing requirements, property assessment abstracts, property assessments, valuation of agricultural land and horticultural land, and homestead provisions; to change and eliminate tax-exempt status provisions and protest and appeal provisions relating to property taxation; to redefine terms; to provide and change powers and duties; to provide penalties; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 77-202.06, 77-202.07, 77-1607, and 77-1609, Reissue Revised Statutes of Nebraska; and to declare an

emergency." inserted.

ER9119

Enrollment and Review Change to LB 998

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

1. On page 1, lines 2 through 7 and all amendments thereto have been struck and "to amend sections 44-2824, 44-2832, and 44-2855, Reissue Revised Statutes of Nebraska, section 44-2833, Revised Statutes Supplement, 2002, and sections 44-2825, 44-2827, 44-2829, and 44-2831, Revised Statutes Supplement, 2003; to change financial responsibility, liability, surcharge, claims, and settlement provisions; to provide for applicability; to harmonize provisions; to provide an operative date; and to repeal the original sections." inserted.

ER9111

Enrollment and Review Change to LB 1005

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

1. In the Jensen amendment, AM3134:

a. Sections 111 to 122 have been renumbered as sections 120 to 131, respectively;

b. On page 1, lines 4 and 5, "114 to 119 and 121" has been struck and "123 to 128 and 130" inserted; and

c. On page 6, line 14, "119" has been struck and "128" inserted; and in line 26 "115" has been struck and "124" inserted.

2. In the Cunningham amendment, AM3187:

a. Sections 11 to 15 have been renumbered as section 13 to 17, respectively; and

b. On page 8, line 23; page 10, line 18; and page 15, line 26, "12" has been struck and "14" inserted.

3. In the E & R amendments, AM7186:

a. Sections 117 and 118 have been struck and the following new sections inserted:

"Sec. 138. Sections 1, 53, 62 to 65, 136, and 140 of this act become operative on July 1, 2004. Sections 41, 44 to 52, 141, and 144 of this act become operative on January 1, 2005. Sections 2 to 9, 11 to 40, 43, 54 to 61, 66 to 98, 109, 120 to 134, 137, 139, and 143 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 139. Original sections 68-1036.02, 71-101, 71-110.01, 71-185.03, 71-190, 71-1,142, 71-1,143.01, 71-1,146, 71-1,147.33, 71-1,155, 71-341, 71-342, 71-356.04, 71-365.01, 71-368, 71-371, 71-385.01, 71-387, 71-389, 71-3,102, 71-3,105, 71-3,106.01, 71-3,137, 71-3,139 to 71-3,141, 71-3,145, 71-3,147, 71-3,150, 71-3,169, 71-3,177, 71-3,179, 71-428, 71-542,

71-604.05, 71-612, 71-617.05, 71-617.15, 71-627, 71-628, 71-634, 71-1903, 71-1908 to 71-1912, 71-1914 to 71-1917, 71-3601 to 71-3603, 71-3608 to 71-3614, 71-5301, 71-5707, 71-6101, 71-6103, 71-6104, 71-6113, 71-6115, 71-6721, 71-6735, and 71-8611, Reissue Revised Statutes of Nebraska, sections 28-414, 43-107, 43-3344, and 43-3346, Revised Statutes Supplement, 2002, and section 29-2264, Revised Statutes Supplement, 2003, are repealed.";

b. On page 18, line 6, the first stricken comma has been reinstated;

c. On page 46, line 24, "36 to 43" has been struck and "45 to 52" inserted;

d. On page 71, lines 1 and 2, "62 and 72 to 77" has been struck and "71 and 81 to 86" inserted;

e. On page 82, line 11, "73 to 77" has been struck and "82 to 86" inserted;

f. On page 88, line 23; and page 92, line 13, "74" has been struck and "83" inserted;

g. On page 118, line 21; and page 121, lines 6, 14, and 20, "106 to 110" has been struck and "115 to 119" inserted;

h. On page 124, line 9, "106" has been struck and "115" inserted;

i. On page 136, line 23, "71-101," has been inserted after the first comma and "71-185.03, 71-190, 71-1,142, 71-1,143.01, 71-1,146, 71-1,147.33," has been inserted after the third comma; and

j. On page 137, line 5, "71-6101, 71-6103, 71-6104, 71-6113, 71-6115," has been inserted after the third comma; in line 6 "28-414," has been inserted after "sections"; in line 9 "controlled substances," has been inserted after the second "to"; in line 10 "dentistry," has been inserted after the third comma; in line 11 "pharmacy," has been inserted after the first comma; in line 15 "occupational therapy," has been inserted after the second comma and in line 16 "to provide a penalty;" has been inserted after "fund;"

ER9115

Enrollment and Review Change to LB 1107

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

1. On page 1, line 2, "section" has been struck and "sections 85-1903 and" inserted; in line 3 "award amounts and" has been inserted after "to"; and in line 4 "section" has been struck and "sections" inserted.

(Signed) Ray Mossey, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 25, 2004, at 2:31 p.m. were the following: LBs 454, 963, 969, 172, 906, and 906A.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

AMENDMENT - Print in Journal

Senator Louden filed the following amendment to LR 11CA:
AM3438

(Amendments to Final Reading copy)

- 1 1. On page 3, line 4, strike "at up to eight"; and in
- 2 line 17 strike "at up to eight".

RESOLUTIONS

LEGISLATIVE RESOLUTION 300. Introduced by Foley, 29.

WHEREAS, John Fricke has earned the rank of Eagle Scout in the Boy Scouts of America, that organization's highest rank; and

WHEREAS, John Fricke is a member of Boy Scout Troop 54 of Cathedral of the Risen Christ Church; and

WHEREAS, in achieving this rank, John Fricke advanced through five ranks and earned 24 merit badges when only 21 are required; and

WHEREAS, for his Eagle Scout project, John designed and built benches for the Izaak Walton League in Bennet; and

WHEREAS, fewer than four percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, John Fricke has achieved great success as an exemplary member of the Scouting program and has represented his troop and community with excellence; and

WHEREAS, a Court of Honor will be held for John Fricke on Sunday, April 25, 2004, at Cathedral of the Risen Christ Catholic Church at which time John will be presented with the Eagle Scout Badge.

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

1. That the Legislature commends John Fricke for his dedication, perseverance, and hard work in obtaining this distinguished rank
2. That a copy of this resolution be sent to John Fricke and his family.

Laid over.

LEGISLATIVE RESOLUTION 301. Introduced by Foley, 29.

WHEREAS, T.J. Thorpe has earned the rank of Eagle Scout in the Boy Scouts of America, that organization's highest rank; and

WHEREAS, T.J. Thorpe is a member of Boy Scout Troop 54 of Cathedral of the Risen Christ Church; and

WHEREAS, in achieving this rank, T.J. Thorpe advanced through five ranks and earned 24 merit badges when only 21 are required; and

WHEREAS, for his Eagle Scout project, T.J. removed old and unsafe playground equipment to clear the way for the installation of new equipment at a Lincoln city park; and

WHEREAS, fewer than four percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, T.J. Thorpe has achieved great success as an exemplary member of the Scouting program and has represented his troop and community with excellence; and

WHEREAS, a Court of Honor will be held for T.J. Thorpe on Sunday, April 25, 2004, at Cathedral of the Risen Christ Catholic Church at which time T.J. will be presented with the Eagle Scout Badge.

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

1. That the Legislature commends T.J. Thorpe for his dedication, perseverance, and hard work in obtaining this distinguished rank.

2. That a copy of this resolution be sent to T.J. Thorpe and his family.

Laid over.

ATTORNEY GENERAL'S OPINIONS

Opinion # 04008

DATE: March 25, 2004

SUBJECT: Constitutionality of LB 657 - Surcharge on Electricity Subscribers to Fund Payment of Judgment or Settlement of Low-Level Radioactive Waste Disposal Facility Litigation.

REQUESTED BY: Senator Chris Beutler
Nebraska Legislature

WRITTEN BY: Jon Bruning, Attorney General
L. Jay Bartel, Assistant Attorney General

INTRODUCTION

You have requested our opinion regarding the constitutionality of LB 657. The bill would establish a surcharge of 3.5 percent on the monthly electric bill of electricity subscribers. The surcharge would be collected by electricity suppliers and remitted to the State Treasurer for credit to the Low-Level Radioactive Waste Disposal Litigation Fund [the "Fund"]. The Fund is to be used for "settlement or judgment costs related to litigation over disposal of low-level radioactive waste to which the State of Nebraska is a party. . . ." LB 657, § 5. You intend to amend the bill to authorize use of monies in the Fund "to deal with any possible temporary cash flow problems or to make up general fund deficits." You state that, "[i]f not needed for the above two purposes, the revenue would be allocated to the low-level radioactive waste case judgment or settlement."

Your specific questions are: (1) Does the surcharge violate Neb. Const. art. VIII, § 2, which exempts property of the state or its governmental subdivisions from taxation when used for public purposes?; and (2) Does the surcharge violate Neb. Const. art. VIII, § 11, which provides that public corporations or political subdivisions providing electricity shall make payments in lieu of taxes, and that these payments shall be in lieu of all other taxes, with specified exceptions? For the reasons set forth below, we conclude that the surcharge does not contravene either constitutional provision.

ANALYSIS

A. Neb. Const., art. VIII, § 2.

Article VIII, § 2, of the Nebraska Constitution, provides, in pertinent part:

(1) The property of the state and its governmental subdivisions shall constitute a separate class of property and shall be exempt from taxation to the extent such property is used by the state or governmental subdivision for public purposes authorized to the state or governmental subdivision by this Constitution or the Legislature.

In construing the requirement in Neb. Const. art. VIII, § 1, that taxes on property be levied "uniformly and proportionately," the Nebraska Supreme Court has held that this mandate applies only to "property" taxes, and does not apply to "excise taxes." *State v. Garza*, 242 Neb. 573, 496 N.W.2d 448 (1993); *State v. Galyen*, 221 Neb. 497, 378 N.W.2d 182 (1985). Discussing the distinction between a property tax and an excise tax, the Court in *Galyen* noted the following definitions of these terms:

Black's Law Dictionary (5th Ed. 1979) at 506 defines an excise tax as 'A tax imposed on the performance of an act. . . . Tax laid on the manufacture, sale, or consumption of commodities. . . .' On the other hand, Black's Law Dictionary, *supra*, at 1097, defines a property tax as 'A tax levied on both real and personal property; the amount of the tax being dependent on the value of the property, generally expressed as a uniform rate per thousand of valuation.'

221 Neb. at 500, 378 N.W.2d at 185.

The exemption in Neb. Const. art. VIII, § 2, for "property of the state and its governmental subdivisions," like the uniformity requirement in art. VIII, § 1, applies only to property taxes. Assuming, *arguendo*, that the electricity surcharge proposed in LB 657 constitutes a "tax," it is not a "property" tax imposed on governmental subdivisions engaged in supplying electricity. Rather, the surcharge would be in the nature of an "excise" tax imposed on electricity subscribers, based on the act of purchasing electricity service. The incidence of the surcharge falls on the electricity subscriber, not the

provider. Accordingly, the exemption for property of the state and its governmental subdivisions in art. VIII, § 2, is not applicable to the surcharge proposed under LB 657, and the bill thus does not violate this constitutional provision.¹

B. Neb. Const. art. VIII, § 11.

Article VIII, § 11, provides:

Every public corporation and political subdivision organized primarily to provide electricity or irrigation and electricity shall annually make the same payments in lieu of taxes as it made in 1957, which payments shall be allocated in the same proportion to the same public bodies or their successors as they were in 1957.

The Legislature may require each such public corporation to pay to the treasurer of any county in which may be located any incorporated city or village, within the limits of which such public corporation sells electricity at retail, a sum equivalent to five (5) per cent of the annual gross revenue of such public corporation derived from retail sales of electricity within such city or village, less an amount equivalent to the 1957 payments in lieu of taxes made by such public corporation with respect to property or operations in any such city or village. The payments made in lieu of tax as made in 1957, together with any payments made as authorized in this section shall be in lieu of all other taxes, payments in lieu of taxes, franchise payments, occupation and excise taxes, but shall not be in lieu of motor vehicle licenses and wheel taxes, permit fees, gasoline tax and other such excise taxes or general sales taxes levied against the public generally.

So much of such five (5) per cent as is in excess of an amount equivalent to the amount paid by such public corporation in lieu of taxes in 1957 shall be distributed in each year to the city or village, the school districts located in such city or village, the county in which such city or village is located, and the State of Nebraska, in the proportion that their respective property tax mill levies in each such year bear to the total of such mill levies.

Neb. Const. art. VIII, § 11 (emphasis added).

The effect of this constitutional provision was discussed by the Nebraska Supreme Court in *Nebraska Public Power Dist. v. Hershey School Dist.*, 207 Neb. 412, 299 N.W.2d 514 (1980). In that case, the Court held that payments required by statute to be made by a public power district to offset the expense of educating the children of persons employed in the construction of electrical generating facilities constituted taxes or payments in lieu of taxes in addition to those payments authorized under the Constitution, and that the statute therefore violated art. VIII, § 11. In reaching this conclusion, the Court discussed the historical background

behind the adoption in 1958 of the payments "in lieu of taxes" mandated by art. VIII, § 11:

The original enabling act providing for the creation and operation of public power districts in Nebraska was enacted in 1933. Thereafter, protests arose over the loss of tax revenue which would be sustained by the state and its various governmental subdivisions if tax exempt public power districts acquired the taxable properties of privately owned electrical facilities. The Legislature then enacted statutes which required any public power district which acquired property of an existing privately owned utility to make payments 'in lieu of taxes' to the various taxing entities in amounts equal to those paid by the private utility in the year immediately preceding the purchase or acquisition. Payments in lieu of taxes on real property purchased from other than a private utility were required on the same basis for the year of acquisition, but for subsequent years the appropriate county board of equalization was to determine the amount to be paid in lieu of taxes on such real estate 'as equity and justice may require'

In the years that followed, case law in Nebraska and elsewhere raised substantial questions as to whether mandatory payments in lieu of taxes constituted an indirect attempt to tax public property which was otherwise exempt from taxation under the Constitution. In order to settle the issues, an amendment to the Constitution was proposed and adopted in 1958.

207 Neb. at 414-15, 299 N.W.2d at 516 (citations omitted).

The electricity surcharge proposed under LB 657 would not violate art. VIII, § 11, as the surcharge is not imposed on a public corporation or political subdivision engaged in providing electricity; rather, the incidence of the surcharge is placed on the electrical subscriber. In this regard, the decision in *Governors of the Knights of Ak-Sar-Ben v. Dep't of Revenue*, 217 Neb. 518, 349 N.W.2d 385 (1984), is instructive. In that case, Ak-Sar-Ben contended it was not required to collect sales tax on admission charges to its racetrack because Neb. Rev. Stat. § 2-1208 imposed a tax of 30 cents per admission, and provided that "[n]o other license tax, permit tax, occupation tax, or excise tax, . . . shall be levied, assessed, or collected from any [] license. . . ." *Id.* at 519, 349 N.W.2d at 386. The Court noted that the 30 cent admissions tax was imposed on the licensee, while, "for purposes of the sales tax statutes the purchaser of the ticket is the taxpayer." *Id.* at 520, 349 N.W.2d at 387. Thus, the Court held that, as the sales tax was not levied or imposed on Ak-Sar-Ben, but on the purchasers of admissions, collection and remission of sales tax on ticket purchases by Ak-Sar-Ben was not prohibited by § 2-1208. *Id.* at 520-21, 349 N.W.2d at 387-87. The electricity surcharge, like the sales tax, is a liability imposed on the electricity subscriber, not the electrical supplier.

Unlike the "mandatory payments" public electric utilities were required to

make to school districts under the statute held unconstitutional in Nebraska Public Power Dist. v. Hershey School Dist., the electricity surcharge in LB 657 does not impose a liability or payment obligation on electricity suppliers. See also Op. Att'y Gen. No. 183 (Jan. 30, 1984) (Bill proposing to require public power districts providing electricity generated primarily from coal fuel sources to remit a portion of gross revenue for placement in a special fund to improve railroad grade crossings imposed "tax" or required "payments in lieu of taxes" in violation of art. VIII, § 11). As the surcharge is imposed on electricity subscribers, and not on public corporations or political subdivisions engaged in providing electricity, it does not violate art. VIII, § 11.

CONCLUSION

Based on the foregoing, we conclude that the electricity surcharge proposed under LB 657 would not, if enacted, violate either Neb. Const., art. VIII, § 2, or Neb. Const., art. VIII, § 11.

¹ Also, as the surcharge is not a "property" tax, it does not contravene the constitutional prohibition against the levy of a property tax for state purposes in Neb. Const. art. VIII, § 1A.

Very truly yours,
JON BRUNING
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

pc: Patrick O'Donnell
Clerk of the Legislature
07-98-21

Opinion # 04009

DATE: March 25, 2004

SUBJECT: Constitutionality of adding a "Danger to the Community" condition to Nebraska's Bail Statutes.

REQUESTED BY: Hon. Ray Mossey, Senator, Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Jeffrey J. Lux, Assistant Attorney General

You have presented two questions regarding the constitutionality of a proposed amendment (LB 851) to Neb.Rev.Stat. § 29-901.01. Section 29-901.01 as amended would state in pertinent part (amended language underlined):

In determining which condition or conditions of release shall reasonably assure appearance, the judge shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release, the defendant's family ties, employment, financial resources, character, and mental condition, the length of his or her residence in the community, his or her record of convictions, and his or her record of appearances at court proceedings or of flight to avoid prosecution or of failure to appear at court proceedings.

LB 851

Question No. 1: Would Nebraska's adoption of the language in LB 851 run afoul with the U.S. Constitution's 8th Amendment?

Answer: The premise of LB 851 incorporates a "danger to the community" condition to Nebraska's bail statutes. The United States Supreme Court has held that bail may be denied for reasons other than to guarantee the presence of the accused at trial. *United States v. Salerno*, 481 U.S. 739, 107 S.Ct. 2095 (1987). One such reason would be to assure the safety of an individual or the community. The government's interest in preventing crime by arrestees has been held to be both legitimate and compelling. *Salerno*, 481 U.S. 739.

The Eighth Amendment addresses pretrial release by providing merely that "[e]xcessive bail shall not be required." This mentions nothing about whether bail shall be available at all. Although the primary function of bail is to safeguard the court's role in adjudicating the guilt or innocence of defendants, the Eighth Amendment does not prohibit the government from pursuing other compelling interests through regulation of pretrial release. Nothing in the Bail Clause of the Eighth Amendment limits permissible government considerations solely to questions of flight. The only limitation is that the government's proposed conditions of release or detention not be "excessive" in light of the perceived evil. Where the Legislature mandates detention on the basis of a compelling interest other than prevention of flight, the Eighth Amendment does not require release on bail. A danger to the community condition does not in and of itself violate the Eighth Amendment to the U.S. Constitution.

However, there are due process concerns with the current version of LB 851. The danger to the community language is only contained in an amendment to Neb.Rev.Stat. § 29-901.01. This section regards conditions which "shall reasonably assure appearance" of the accused. The amended danger to community condition is not rationally related to securing the appearance of the accused. To say it another way, a person's future danger to the community has nothing to do with assuring their appearance in court.

There are federal statutes which have been upheld that achieve this goal.

Please feel free to contact this office regarding information concerning these federal statutes.

Question No. 2: Is the Nebraska Constitution provision in Article 1, Section 9 more restrictive or less restrictive than the U.S. Constitution when dealing with appearance?

Answer: There has been no case law which specifically inquires as to whether Article 1, Section 9 of the Nebraska Constitution is more or less restrictive than the Eighth Amendment to the U.S. Constitution. However, the Nebraska Supreme Court has held that the provisions of the Nebraska Constitution do not require more than do those of the Eighth Amendment of the U.S. Constitution. See *State v. Michalski*, 221 Neb. 380, 377 N.W.2d 510 (1985); *State v. Brand*, 219 Neb. 402, 363 N.W.2d 516 (1985).

Sincerely,
JON BRUNING
Attorney General
(Signed) Jeffrey J. Lux
Assistant Attorney General

Attachments

cc. Patrick J. O'Donnell
Clerk of the Legislature
5-1-10

Opinion # 04010

DATE: March 25, 2004

SUBJECT: Whether LB 1065 and LB 479, as Amended, Unconstitutionally Impair Contractual Obligations Between the State and Ethanol Producers.

REQUESTED BY: Senator Ed Schrock
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
L. Jay Bartel, Assistant Attorney General

INTRODUCTION

You have requested our opinion regarding the constitutionality of several amendments to LB 1065 and LB 479. LB 1065, as amended by AM2644, proposes changes to the Ethanol Development Act, Neb. Rev. Stat. §§ 66-1330 to 66-1348 (1996 and Cum. Supp. 2002) [the "Act"], and includes revisions to the Employment and Investment Growth Act, Neb. Rev. Stat. §§ 77-4101 to 77-4113(2003) and the Invest Nebraska Act, Neb. Rev. Stat. §§ 77-5501 to 77-5544 (2003). Section 12 of LB 1065 amends

Neb. Rev. Stat. § 66-1345 to provide that transfers of ethanol production tax credits will be suspended if there are insufficient funds in the Ethanol Production Incentive Cash Fund ["EPIC Fund"] to reimburse the Highway Trust Fund until additional funds become available in the EPIC Fund for transfer to the Highway Trust Fund. Thereafter, the Department of Revenue ["Department"] will allow the transfer of accumulated credits earned by each ethanol producer on a prorated basis. Section 13 of AM26744 amends § 66-1344.01 to provide that the Tax Commissioner shall not accept any applications for new agreements after the effective date of act. Section 17 of AM2644 amends Neb. Rev. Stat. § 77-4101.01 to include a new subsection providing that Employment and Investment Growth Act incentives are not available to applicants under the Employment and Investment Growth Act for activity which results in benefits under the Ethanol Development Act. Finally, section 18 of AM2644 amends Neb. Rev. Stat. § 77-5536 to provide that Invest Nebraska Act benefits are not available for projects generating incentives under the Invest Nebraska Act for applications submitted after the effective date of the act.

LB 479, as amended by AM7164 and AM2713, includes a number of changes and additions to Neb. Rev. Stat. § 66-1344 relating to "new ethanol facilities." Section 4 of AM7164 provides that a new ethanol facility must produce at least 8,219 gallons of ethanol within a thirty-day period, which must be a finished product ready for sale to customers. This section amends the definition of "new ethanol facility," in part, to exclude expansion of existing plants after June 30, 2004, but AM2713 provides this definition applies only to agreements entered into after the effective date of the act. AM2713, p. 10, 3. Section 4 of AM7164 includes several other changes to § 66-1344, including: (1) Requiring that ethanol production is to be measured by a device approved by the Division of Weights and Measures of the Department of Agriculture; (2) Limiting claims for credits to within three years of the date ethanol is produced or by September 30, 2012, whichever occurs first; (3) Establishing record-keeping requirements for ethanol producers; (4) Requiring producers to give preference to Nebraska resident bidders when awarding construction contracts for facilities, and denying credits if a nonresident contractor is awarded the bid and the Department later determines a resident contractor made a comparable bid; (5) Applying motor vehicle fuel tax administrative criteria to excess credit and deficiency determinations; and (6) Providing a grievance process for Department determinations relating to ethanol credits. AM2713 also amends § 66-1344 to require a new ethanol facility to provide the Department with written evidence substantiating the facility has received requisite authority from the Nebraska Department of Environmental Quality and the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives. AM2713, p. 10, 2. This amendment also provides a new ethanol facility must provide the Department with an analysis of samples of a product no later than July 30, 2004, meeting a specified standard, and provides the minimum rate of production to qualify shall be established for a thirty-day period. Id. Finally, AM2713 adds a new subsection (11) limiting eligibility for incentives under the Employment and Investment Growth Act

and the Invest Nebraska Act to ethanol facilities receiving benefits under the Ethanol Development Act that are producing at a rate of fifteen million gallons or more on an annual basis by October 1, 2004. AM2713, p. 11, 4.

Section 5 of AM7164, as does § 13 of AM2644 to LB 1065, amends § 66-1344.01 to provide that the Tax Commissioner shall not accept applications for new agreements on or after the effective date of the act. Section 9 of AM2713, as well as § 17 of AM2644 to LB 1065, amends Neb. Rev. Stat. § 77-4101.01 to include a new subsection providing that Employment and Investment Growth Act incentives are not available to applicants under the Employment and Investment Growth Act for activity which results in benefits under the Ethanol Development Act. Section 10 of AM2713, like § 18 of AM2644 to LB 1065, amends Neb. Rev. Stat. § 77-5536 to provide that Invest Nebraska Act benefits are not available for projects generating incentives under the Invest Nebraska Act for applications submitted after the effective date of the act.

In Op. Att'y Gen. No. 04005 (February 6, 2004), we concluded that LB 479, as amended at that time by AM0852, by "alter[ing] the definition of a 'new ethanol facility' eligible for ethanol tax credits under § 66-1344(4) to prevent facilities meeting the minimum production rate on the date required under current law from qualifying for credits based on facility expansion after that date, likely create[d] an unconstitutional impairment of contracts between the State and producers that have been executed under existing law." Id. at 9. In light of our earlier opinion, you have asked us to address whether the numerous changes to § 66-1344 and other statutes relating to ethanol development made by LB 479, as amended by AM7164 and AM2713, and LB 1065, as amended by AM2644, also have the effect of unconstitutionally impairing contractual obligations. In addition, you ask whether that portion of AM2713 limiting eligibility for incentives under the Employment and Investment Growth Act and the Invest Nebraska Act to ethanol facilities receiving benefits under the Ethanol Development Act that are producing at a rate of fifteen million gallons or more on an annual basis by October 1, 2004, constitutes prohibited special legislation.

ANALYSIS

A. Delay of Credit Transfers.

Your initial concern is whether the potential delay in transferring motor vehicle fuel tax credits in § 12 of LB 1065 results in an unconstitutional impairment of the State's obligation under agreements between the State and ethanol producers. The credits provided to producers are in the form of "nonrefundable, transferable motor vehicle fuel tax credits." Neb. Rev. Stat. § 66-1344(5) (Cum. Supp. 2002). Section 12 of LB 1065 would add the following new language to Neb. Rev. Stat. § 66-1345(2)(d):

If, during any month, the amount of money in the Ethanol Production Incentive Cash Fund is not sufficient to reimburse the Highway Trust

Fund for credits earned pursuant to section 66-1344, the Department of Revenue shall suspend the transfer of credits by ethanol producers until such time as additional funds are available in the Ethanol Production Incentive Cash Fund for transfer to the Highway Trust Fund. Thereafter, the Department of Revenue shall, at the end of each month, allow transfer of accumulated credits earned by each ethanol producer on a prorated basis derived by dividing the amount in the fund by the aggregate amount of accumulated credits earned by all ethanol producers.

Our prior opinion, of course, determined that ethanol production agreements entered into between the State and ethanol producers pursuant to § 66-1345 are contracts creating obligations which the State cannot impair. We have examined representative agreements executed between the State and various ethanol producers, and the agreements provide only that the producer may "begin to apply for credits" upon attaining the minimum level of required production. The agreements are silent with regard to the timing of the transfer of credits.

Further, "[e]very contract is made with reference to, and subject to, existing law, and every law affecting contracts is read into and becomes a part thereof. This is true between individuals dealing between themselves by contract, express or implied and it is likewise true between individuals and the government." *Pfeifer v. Abeidinger*, 166 Neb. 464, 481, 89 N.W.2d 568, 577-78 (1958) (quoting *Scotts Bluff County v. State*, 133 Neb. 508, 276 N.W. 185, 186 (1937)). Presently, § 66-1345(1) provides that the EPIC Fund "shall be used to pay the credits created under section 66-1344 to the extent provided in this section." Neb. Rev. Stat. § 66-1345(1) (Cum. Supp. 2002). The Department is required, "at the end of each calendar month, to notify the State Treasurer of the amount of motor fuel tax that was not collected in the preceding month due to the credits provided in section 66-1344 . . . , and the State Treasurer then "shall transfer from the [EPIC] Fund to the Highway Trust Fund an amount equal to such credits. . . ." Neb. Rev. Stat. § 66-1344(2) (Cum. Supp. 2002). "For 1998 and each year thereafter, the credits provided in such section shall be funded through the [EPIC] Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund." Neb. Rev. Stat. § 66-1345(2)(d) (Cum. Supp. 2002). Subsection (6) of § 66-1345 requires the Department and the Nebraska Ethanol Board to annually submit a report of anticipated revenues and expenditures from the EPIC Fund "through termination of the ethanol production incentive programs pursuant to section 66-1344." Neb. Rev. Stat. § 66-1344(6) (Cum. Supp. 2002).

Thus, it appears that neither agreements executed between the State and producers nor current statutes address the timing of transfer of ethanol tax credits. Further, § 66-1345 contemplates that credits shall be funded solely by the EPIC Fund, and, while the Legislature is to receive an estimate of EPIC Fund revenues and expenditures, the statute presently does not address what occurs if EPIC Fund revenues are not sufficient to reimburse the

Highway Trust Fund. While the State's agreement to provide nonrefundable, transferable motor vehicle fuel tax credits to producers imposes an obligation which the State may not unconstitutionally impair, it is not clear that the suspension or deferral of the transfer of credits proposed under § 12 of LB 1065 impairs this obligation, as no specific time for allowing transfer is provided by the agreements or by statute. To violate the Contracts Clause, any contractual impairment must be "substantial." *Allied Structural Steel Co. v. Spannaus*, 438 U. S. 234, 244 (1978). The amendment does not remove the State's obligation to provide credits; at most, it may, should the EPIC Fund be insufficient to reimburse the Highway Trust Fund, result in suspension or deferral of the transfer of credits. This does not mean the credits will not be granted, but that transfer will be delayed. Assuming the delay or suspension is not for an unreasonable period so as to effectively deny a producer's use of credits, the amendment does not, on its face, necessarily establish a substantial impairment of the State's obligation to provide credits under the Act. Our conclusion is dependent upon the reasonableness of any delay in transfer, and we caution that this provision, if adopted, could not be applied in a manner which creates a substantial and excessive delay in allowing transfer due to insufficient funding of credits.

B. Applying Amendments as of the Effective Date of the Acts Before Agreements are Executed Based on the Existing Statutory Production Deadline.

Section 5 of AM7164 to LB 479, as does § 13 of AM2644 to LB 1065, amends § 66-1344.01 to provide that the Tax Commissioner shall not accept applications for new agreements on or after the effective date of the act. Both bills, as amended, contain an emergency clause making them effective when passed and approved according to law. LB 1065, § 17; LB 479, AM7164, § 10. Should one or both bills pass with the emergency clause prior to the Legislature's adjournment on April 15, 2004, the provision barring the Tax Commissioner from accepting applications for new agreements will go into effect prior to June 30, 2004, the deadline for a facility to meet the minimum production threshold contained in § 66-1344(4)(a) to qualify for ethanol production credits. You ask us whether making the provision precluding the Tax Commissioner from accepting new applications for agreements effective prior to the production deadline would impair potential "implied" contract rights of persons or entities who may have expected to enter into agreements under the Act prior to June 30, 2004, but would be precluded from doing so if the amendments become effective prior to that date.

"There is no vested right in an existing law which precludes its amendment or repeal, and there is no implied promise on the part of the state to protect its citizens against incidental injury caused by changes in the law." *Tom and Jerry, Inc. v. Nebraska Liquor Control Comm'n*, 183 Neb. 410, 160 N.W.2d 232 (1968) (Syllabus of Court). See also *Beisner v. Cochran*, 138 Neb. 445, 293 N.W. 289 (1949). While "[a] statute may not operate retroactively where it would impair the obligation of a contract or

interfere with a vested right . . .," State Board of Educational Lands and Funds v. Haberman, 191 Neb. 127, 129, 214 N.W.2d 266, 268 (1974), enacting a statute which precludes the Tax Commissioner from accepting new applications for credits prior to June 30, 2004, does not constitute a retroactive application of the statute to impair a vested right or contract. If an ethanol producer has not executed an agreement pursuant to § 66-1345, the producer has no contract or vested right which cannot be altered by statute. Accordingly, we do not believe that either of the amendments prohibiting the Tax Commissioner from accepting new applications for agreements on or after the effective date of the act would impermissibly impair contracts or vested rights.

C. Amendments Relating to Qualification for Credits by "New Ethanol Facilities."

LB 479, as amended by AM7164 and AM2713, includes a number of changes and additions to Neb. Rev. Stat. § 66-1344 relating to "new ethanol facilities." In light of the addition of these provisions relating to the qualification of "new ethanol facilities" to receive credits, which are to take effect upon passage of the legislation with an emergency clause, you ask us to consider if applying these provisions to agreements executed after the act's effective date unconstitutionally impairs potential "implied" contracts with producers that have not yet executed agreements but have until June 30, 2004, to meet the minimum production threshold under existing law.

In Op. Att'y Gen. No. 95043 (May 25, 1995), we noted that new statutory language imposing an additional requirement on ethanol producers in order to qualify for tax credits could not be applied to affect preexisting ethanol production credit agreements. We concluded giving retroactive effect to the statute to impose a new requirement on producers which had previously executed agreements with the State would unconstitutionally impair vested contract rights. *Id.* at 2. Since the amendment expressed no intent to be applied retroactively, we determined it operated only prospectively, and thus did not affect existing agreements. *Id.* at 3. See also Op. Att'y Gen. No. 96031 (April 12, 1996) (Amendment imposing additional restriction on ethanol producers to qualify for credits interpreted to apply prospectively so as not to impermissibly impair existing ethanol production credit agreements).

Consistent with our prior opinions, the amendments to § 66-1344 express no intent to operate retroactively so as to affect existing ethanol production credit agreements. Absent an indication that the Legislature intends to apply these provisions retroactively, they would not impact existing agreements or a producer's qualification for credits under agreements entered into under current law.¹

As we concluded in response to your previous question, we see no constitutional impediment to amending the requirements for qualification of a "new ethanol facility" and making those requirements applicable to

agreements entered into after the effective date of the act, even if that is prior to the current June 30, 2004 production deadline. Producers, or potential producers, that have not executed agreements pursuant to § 66-1345 have no contract or vested rights which cannot be altered by statute. Thus, while these requirements may have little or no practical effect, in light of the amendment prohibiting the Tax Commissioner from accepting new applications for agreements after the act's effective date, we conclude that applying these additional requirements to agreements executed after the act becomes effective would not impair contracts or vested rights.

D. Limiting Eligibility for Other Tax Incentives to Producers Achieving a Production Rate of Fifteen Million Gallons or More Annually by October 1, 2004.

AM2713 to LB 479 adds a new subsection (11) limiting eligibility for incentives under the Employment and Investment Growth Act and the Invest Nebraska Act to ethanol facilities receiving benefits under the Ethanol Development Act that are producing at a rate of fifteen million gallons or more on an annual basis by October 1, 2004. AM2713, p. 11, 4. You ask us to address whether this provision creates an impermissible closed class in violation of the prohibition against special legislation in Neb. Const. art. III, § 18.

Art. III, § 18, of the Nebraska Constitution, provides, in pertinent part:

The Legislature shall not pass local or special laws in any of the following cases, that is to say:

* * *

Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatsoever . . . in all other cases where a general law can be made applicable, no special law shall be enacted.

A legislative act can violate art. III, § 18, if the act (1) creates a totally arbitrary and unreasonable method of classification, or (2) creates a permanently closed class. *Bergan Mercy Health System v. Haven*, 260 Neb. 846, 620 N.W.2d 339 (2000); *MAPCO v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991); *Haman v. Marsh*, 237 Neb. at 699, 467 N.W.2d 836 (1991). The issue you have asked us to consider is whether the requirement in AM2713 that ethanol producers receiving benefits under the Act must be producing at the rate of fifteen million gallons annually on or before October 1, 2004, to be eligible for incentives under contracts entered under the Employment and Investment Growth Act or the Invest Nebraska Act, establishes an improper "closed class."

"[A] classification which limits the application of the law to a present condition, and leaves no room or opportunity for an increase in the numbers of the class by future growth or development, is special, and a violation of

[the special legislation clause]. . . ." *City of Scottsbluff v. Tiemann*, 185 Neb. 256, 262, 175 N.W.2d 74, 79 (1970) (quoting *State v. Kelso*, 92 Neb. 628, 139 N.W. 226 (1912)). "In determining whether a class is closed, [a court] is not limited to the face of the legislation, but may consider the act's application." *Haman v. Marsh*, 237 Neb. at 717, 467 N.W.2d at 849. "In deciding whether a statute legitimately classifies, [a] court must consider the actual probability that others will come under the act's operation. *Id.* at 717-18, 467 N.W.2d at 849. "If the prospect is merely theoretical, and not probable, the act is special legislation." *Id.* at 718, 467 N.W.2d at 849. "The conditions of entry into the class must not only be possible, but reasonably probable of attainment." *Id.*

The issue of whether application of this provision creates an improper closed class depends on whether only an identifiable number of ethanol producers could, in actual probability, meet the fifteen million gallon requirement by October 1, 2004. The mere possibility that more than a predetermined number of producers may satisfy this requirement is not sufficient to avoid a finding that a closed class exists. We are not in a position to assess this potential, as it involves evaluating facts not provided for our analysis. Our advice is limited to stating that this is the legal standard which must be satisfied in order to meet any constitutional challenge to this provision if it is attacked as creating an impermissible closed classification.

CONCLUSION

In sum, we conclude that the potential delay in credit transfers proposed under § 12 of LB 1065 likely does not impair existing contracts with ethanol producers. Nothing in these agreements or current statutes address the timing of credit transfers, and this provision, unless applied in an unreasonable manner which effectively negates the State's obligation to provide required credits, would not impermissibly impair the State's obligation to producers under existing agreements. Also, the amendments prohibiting the Tax Commissioner from accepting new applications for agreements on or after the effective date of the act do not impermissibly impair contracts or vested rights, as no such rights exist prior to execution of an agreement. We further conclude that applying the various other amendments to LB 479 and LB 1065 as of the effective date of these acts if passed with emergency clauses, making them effective prior to the existing June 30, 2004, statutory deadline for ethanol tax credit qualification, does not violate any vested or contractual rights of persons that have not yet executed agreements with the State. There is no indication that the Legislature intends any of these amendments to apply retroactively to affect existing contracts, and, absent such intent, the changes are only prospective. Finally, the amendment limiting eligibility for incentives under the Employment and Investment Growth Act and the Invest Nebraska Act to ethanol facilities receiving benefits under the Ethanol Development Act that are producing at a rate of fifteen million gallons or more on an annual basis by October 1, 2004, potentially creates a closed classification in violation of Neb. Const. art. III, § 18. We have attempted to provide guidance by setting

forth the standard for assessing whether adoption of the amendment may create a closed class.

¹ Some of the changes to § 66-1344 proposed by the amendments are regulatory in nature and relate to procedural matters governing the Department's administration of the ethanol credit program including: (1) Requiring that ethanol production is to be measured by a device approved by the Division of Weights and Measures of the Department of Agriculture; (2) Limiting claims for credits to within three years of the date ethanol is produced or by September 30, 2012, whichever occurs first; (3) Establishing record-keeping requirements for ethanol producers; (4) Applying motor vehicle fuel tax administrative criteria to excess credit and deficiency determinations; and (5) Providing a grievance process for Department determinations relating to ethanol credits. These procedural requirements would apply to all ethanol producers, even those which have executed agreements, as they do not modify or impair any contractual rights.

Sincerely,
JON BRUNING
Attorney General
(Signed) L. Jay Bartel
Assistant Attorney General

pc: Patrick O'Donnell
Clerk of the Legislature
07-99-21

EXPLANATION OF VOTE

Had I been present, I would have voted "aye" on final passage of LB 172.

(Signed) Arnie Stuthman

GENERAL FILE

LEGISLATIVE BILL 826A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

MOTION - Withdraw LR 273

Senator Bromm renewed his pending motion, found on page 1278, to withdraw LR 273.

The Bromm motion to withdraw prevailed with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 1047. E & R amendment, AM7211, printed separately and referred to on page 1213, was adopted.

Senator Redfield renewed her pending amendment, AM3401, found on page 1271.

Senator Beutler offered the following amendment to the Redfield pending amendment:

AM3442

(Amendments to AM3401)

- 1 1. On pages 1, 2, 3, 4, and 5, strike the new matter and
- 2 reinstate the stricken matter.
- 3 2. On page 1, lines 14 and 20; and page 4, lines 4 and
- 4 10, strike the reinstated "ten", show as stricken, and insert
- 5 "sixteen".

Senator Beutler withdrew his amendment.

Senator Beutler offered the following amendment to the Redfield pending amendment:

FA1612

(Amendments to AM3401)

- 1 1. On pages 1, 2, 3, 4, and 5, strike the new matter and
- 2 reinstate the stricken matter.
- 3 2. On page 1, lines 14 and 20; and page 4, lines 4 and
- 4 10, strike the reinstated "ten", show as stricken, and insert
- 5 "fifty".

Senator Beutler withdrew his amendment.

Senator Redfield withdrew her amendment, AM3401.

Advanced to E & R for engrossment.

AMENDMENTS - Print in Journal

Senators Erdman and Chambers filed the following amendment to LB 1084: (Amendment, AM3398, is printed separately and available in the Bill Room, Room 1104.)

Senator Chambers filed the following amendment to LR 209CA:

FA1611

Amend AM7183

On page 2, in line 25 after "Fund." insert "If the Legislature determines that a greater percentage of lottery proceeds should be transferred to the Compulsive Gamblers Assistance Fund, the amount of such percentage shall

be deducted on a pro rata basis from both the Nebraska Environmental Trust Fund and education, each of which otherwise shall receive the percentage of such proceeds as specified herein."

SELECT COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 826A. Placed on Select File.

(Signed) Ray Mossey, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 302. Introduced by Kremer, 34.

PURPOSE: Invasive weeds can reduce productivity of cropland, damage range and pasture land, and cause widespread environmental degradation. The costs from such damage and degradation are felt throughout the state, including losses to landowners and the costs of attempting to prevent or eradicate such weeds. The purpose of this study is to examine private and public resources, authorities, and programs for the management of invasive plants in Nebraska, including comparison with other jurisdictions and model proposals for comprehensive invasive weed prevention and management.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 303. Introduced by Wehrbein, 2.

PURPOSE: The purpose of this study is to examine potential improvements to the Beginning Farmer Tax Credit Act and the beginning farmer program to encourage greater utilization of the incentives and resources available under the act and program and to examine additional avenues for expanding opportunities for beginning farmers. The study shall include, but not be limited to, an examination of the following issues:

1. Whether the definitions, asset limits, and other specifics in the act are appropriate to achieve the goals of the act;
2. Whether the current incentives for the mentoring farmer should be changed and tax incentives for the beginning farmer should be added;
3. Whether services provided under the beginning farmer program should be expanded to provide a mentoring component;
4. Whether the beginning farmer program can be better coordinated with

private beginning farmer programs;

5. Whether there are other constraints limiting opportunities for beginning farmers that can be addressed by the Legislature; and

6. Any other changes or additions to the act which would encourage more people to begin a career in farming and allow them to utilize this program.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 304. Introduced by Wehrbein, 2.

PURPOSE: In fiscal year 2003 the state spent sixty-seven million dollars on child welfare contractual services. Members of the Legislature have expressed an interest in obtaining more information on services purchased through these contracts and in exploring the cost benefits, efficiency, and practicality of shifting some contractual services to services provided by state employees. This study shall be conducted to obtain such information.

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

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council of the Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 305. Introduced by Schrock, 38.

PURPOSE: To examine the feasibility of differentiated property tax valuations for surface irrigated and ground water irrigated cropland.

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

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 306. Introduced by Mines, 18.

PURPOSE: The purpose of this study is to examine the need for, and the feasibility of, improved parking for state employees while they are at work. The focus of this study shall be directed toward the safety and efficiency of State Capitol employees. Due to the location of the State Capitol and the long parking waiting list, parking is a problem. The safety of employees is also another factor in why this study is imperative. There is also an efficiency issue at stake. State employees who work at the State Capitol sometimes have to park in the two-hour spaces provided adjacent to the perimeter of the State Capitol. This causes employees to leave their work space every two hours to avoid receiving a ticket and also creates a problem for those who wish to visit the State Capitol due to a shortage of two-hour parking spaces.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 307. Introduced by Landis, 46.

PURPOSE: The purpose of this study is to examine the practices and procedures regarding the use of tax sale certificates to collect delinquent taxes as provided in Chapter 77, article 18. The study shall examine present practices in the State of Nebraska and other states and shall look for improvements to the present system from the standpoint of counties, taxpayers, and investors.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 308. Introduced by Landis, 46.

PURPOSE: The purpose of this study is to continue and improve work done by the Revenue Committee of the Legislature during past interims to inform the Legislature and other interested parties of Nebraska's tax structure compared with the past and with other states. Carrying out the purposes of this study does not involve conducting public hearings, but should result in one or more reports to the Legislature detailing Nebraska's tax structure. Examples of reports conducted pursuant to this study would include the base and rates of Nebraska's sales, income, property, excise, and miscellaneous taxes in comparison to the past or to other states; spending by the state and local governments compared to that of governments in other states; the effectiveness of tax reform legislation enacted in the past; and financial and tax policy implications of tax reform or restructuring proposals that have been proposed during recent legislative sessions or arise during this interim. This study shall be directed toward gathering information that will assist the Legislature in determining the State of Nebraska's tax structure in future years.

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

1. That the staff of the Revenue Committee of the Legislature conduct research and coordinate research conducted by other employees of the Legislative Council or other parts of state government to carry out the purposes of this study.

2. That the legislative staff issue one or more reports pursuant to this study that will assist the Legislature in making decisions in future sessions.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 309. Introduced by Smith, 48.

PURPOSE: Federal law provides that "no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services" 47 U.S.C. section 332(c)(3)(A). Currently wireless telecommunication carriers in Nebraska are required to register with the Public Service Commission, provide contact information, and to collect surcharges pursuant to the Nebraska Telecommunications Universal Service Fund Act and Telecommunications Relay System Act.

This study shall investigate the feasibility and propriety of expanding the regulatory authority of the Public Service Commission to include regulation of wireless carriers in those areas not otherwise regulated by the Federal Communications Commission. Input shall be solicited from the Public Service Commission, regulated entities, and the public.

Study topics shall include, but are not limited to, the following areas:

- (1) Issues relating to billing practices of wireless carriers;
- (2) Issues relating to advertising including, but not limited to, special promotions, service contracts, and product information;

(3) Issues relating to the service quality of wireless carriers;

(4) Issues relating to the impact of the requirement of number portability by wireless carriers on the need for regulation; and

(5) Any other issues arising during the course of the study.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 310. Introduced by Smith, 48.

PURPOSE: The purpose of this study is to assess the feasibility of creating a statewide plumbing license that would replace plumbing licenses issued at the local level. This study shall include, but not be limited to, calculating the impact on local governments, including revenue and current ordinances, and additional costs the state may incur.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 311. Introduced by Smith, 48.

PURPOSE: The purpose of this study is to assess the feasibility of tracking sales tax revenue by specific categories. This study shall include, but not be limited to, identifying additional categories in which sales tax revenue could be tracked and analyzed in greater detail, the impact that such changes may have on businesses collecting sales tax, and possible insights that might be extracted from the new information that would help formulate effective tax policy.

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

1. That the Revenue Committee of the Legislature shall be designated to

conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 312. Introduced by Smith, 48.

PURPOSE: The purpose of this study is to compare fuel sales along Interstate 80 in Nebraska to fuel sales along Interstate 80 in Wyoming and Iowa. The study shall include, but not be limited to, identifying and comparing the number of gallons of gasoline, ethanol, and diesel sold along Interstate 80, and establish the portion of state motor fuel tax revenue derived from fuel sales along Interstate 80 in each state.

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

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 313. Introduced by Combs, 32.

PURPOSE: The purpose of this study is to examine issues relating to the homestead exemption program. The study should include, but not be limited to, examining the use of a statewide property assessment average rather than the current calculation which is based on the average assessed value of property in the claimant's county.

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

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 888. E & R amendment, AM7184, printed separately and referred to on page 988, was adopted.

Senator Synowiecki withdrew his pending amendment, AM3076, found on page 1118.

Senator Synowiecki renewed his pending amendment, AM3372, found on page 1248.

SPEAKER BROMM PRESIDING

Senator Synowiecki withdrew his amendment.

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 271, 272, and 276 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 271, 272, and 276.

RESOLUTIONS

LEGISLATIVE RESOLUTION 314. Introduced by Erdman, 47; Jones, 43.

PURPOSE: To review the ability of counties having a population of less than one thousand inhabitants to provide services required under state law.

Counties in rural Nebraska have faced extraordinary financial circumstances in regards to their ability to afford basic services necessary for their residents.

The study shall include a comprehensive review of legislative mandates on small counties which place an undue burden on them to provide basic services. Input should be gathered from all counties having a population of less than one thousand inhabitants to determine similarities between those counties and what potential remedies may be available to them under existing law.

The study shall also include recommendations for changes in state law to allow for remedies for these counties.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 315. Introduced by Erdman, 47.

PURPOSE: The purpose of this study is to provide information on patterns of spending by government agencies and to determine if government agencies adjust spending and make purchases to assure that budget authority is completely used up at the end of the fiscal year to avoid the risk of reduction of future appropriations. This study shall include, but not be limited to, gathering information on historical spending patterns of Nebraska government agencies and spending control measures implemented in Nebraska and other states. Input shall be solicited from the Governor, the budget division of the Department of Administrative Services, the Auditor of Public Accounts, the Legislative Fiscal Analyst, state government agencies, academic professionals knowledgeable of the issue, and any other agencies, groups, or individuals with relevant information.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 316. Introduced by Erdman, 47.

PURPOSE: The Constitution of Nebraska provides that the Legislature shall provide for free instruction for all persons between the ages of five and twenty-one years and the Nebraska Supreme Court has ruled that statutes related to education should be liberally and broadly construed to provide for free instruction. The Legislature recognizes this obligation and further recognizes that cocurricular and extracurricular activities play an important role in the education of our youth.

The purpose of this study is to consider the steps that can be taken to meet the state's obligation, especially with respect to cocurricular and extracurricular activities, to the five thousand exempt students in Nebraska through the public school system. This study shall include, but not be limited to, reviewing Nebraska laws and the laws of other states related to cocurricular and extracurricular opportunities of exempt students, as well as the rules of school organizations applicable to student participation in cocurricular and extracurricular activities. In addition, information shall be gathered on the number of students and types of programs that could be made available to exempt students if Legislative Bill 896, Ninety-eighth Legislature, 2003, is enacted. Input shall be solicited from the State Department of Education, the Nebraska School Activities Association, the

Nebraska Association of School Boards, the Nebraska Council of School Administrators, education professionals, families, parents of and groups representing parents of exempt students, and any other government agencies, groups, or individuals with relevant information as well as any other interested parties.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 317. Introduced by Erdman, 47.

PURPOSE: (1) The Legislature finds that:

(a) The Nebraska Health and Human Services System has been entrusted by the Legislature with numerous powers and duties relating to the protection and promotion of the health and welfare of persons in Nebraska;

(b) The system has initiated and expanded numerous programs and services under its administration to carry out such powers and duties;

(c) The Legislature has appropriated General Funds and other funds for such programs and services, but the amount of such appropriations is often less than the amount identified by the system as being necessary and appropriate for such purpose, despite repeated legislative action to increase such appropriations;

(d) State budget constraints are inconsistent with increasing budget needs of programs and services administered by the system; and

(e) Further legislative action is necessary and appropriate to identify and prioritize core responsibilities of the system, to adequately fund such priorities, and to identify nongovernmental alternatives for the administration and funding of nonpriority programs and services.

(2) The Nebraska Health and Human Services System, in consultation with the Health and Human Services Committee of the Legislature, shall:

(a) Identify and categorize the statutory powers and duties of the system and prioritize the programs and services administered by the system to carry out such powers and duties;

(b) Indicate the amount of funding necessary to adequately fund each program or service;

(c) Identify those programs and services which would not be funded if the FY2003-04 budget for the system was first allocated to each program and service in the order of priority at its adequately funded level; and

(d) Recommend nongovernmental alternatives for the administration and funding of such nonpriority programs and services.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND

SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 318. Introduced by Erdman, 47.

PURPOSE: To study the overall structure of the medicaid program.

There is a barrier for citizens to move from medicaid to self-sufficiency and the eligibility system does not allow a weighted system to reward citizens seeking to become self-sufficient. Input shall be solicited from the Nebraska Health and Human Services System, various private and nonprofit organizations, insurance providers, and clients of the system to examine ways to make the program a portable tool for recipients to transition to self-sufficiency.

The study shall include examining ways to empower and reward individuals to be responsible clients of health care including medicaid, and exploring partnerships between the state, nonprofit organizations, and insurance providers that will balance the interests of the individual clients with those of the state.

The study shall also examine the waivers that may be available to give the State of Nebraska the maximum flexibility under the medicaid program.

The study shall also include a review of other states' programs in order to create a sustainable and affordable system for the State of Nebraska.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 319. Introduced by Erdman, 47.

PURPOSE: To conduct a comprehensive review of the committee structure of the standing committees of the Nebraska Legislature. Such review shall include, but not be limited to:

1. The feasibility of ensuring each standing committee is given a legislative day to hold hearings, specifically including the Nebraska

Retirement Systems Committee, to ensure the appropriate time and diligence due the issues of the state;

2. Examining the number of committee members per committee and determining the appropriate legislative membership to ensure necessary oversight for those subject areas;

3. Considering potential reorganization, including merging existing standing committees, and, if necessary, creating new committees to ensure committees are appropriately prepared to deal with the subject matter in legislation introduced. This shall include the number of bills referenced to each committee, hearing room assignments, and committee days currently allowed;

4. Examine the impact standing committee changes would have on the districts for the committee on committees; and

5. Review the staff resources committed to the work of each committee.

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

1. That the Executive Board of the Legislative Council shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the board shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 320. Introduced by Erdman, 47.

PURPOSE: To conduct a review of the Priority Designation System of the Nebraska Legislature.

The rules of the Nebraska Legislature, Rule 5, Section 5, outline specific procedures for priority designation and how legislative bills with such priority are handled.

Recently, the Speaker of the Legislature has exercised the privilege to schedule lower priority bills ahead of higher priority bills to ensure timely debate on issues which were necessary due to extraordinary circumstances facing the state.

The study shall include, but not be limited to, a survey of the members of the Nebraska Legislature to provide direction to the Rules Committee to determine what if any changes should be made in the Priority Designation System.

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

1. That the Rules Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 321. Introduced by Stuhr, 24.

PURPOSE: To examine both the items defined as compensation and the limits placed upon compensation increases for the calculation of retirement benefits, as found in subdivision (35) of section 79-902, and to determine whether such provisions are appropriate in order to ensure the amount of compensation used to calculate retirement benefits may not be increased substantially prior to retirement for the purpose of spiking the amount of benefits received by a plan member.

The study shall also examine the appropriate rate of the limitation, the base salary used for the limitation, what items should be considered compensation versus fringe benefits, and the resulting impact on the normal costs of the school employees' defined benefit plan.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 322. Introduced by Stuhr, 24.

PURPOSE: The purpose of this study is to examine the allocation of administrative costs assessed by the Public Employees Retirement Board upon plan members in both the Retirement System for Nebraska Counties and the State Employees Retirement System, as authorized in sections 23-2309.01 and 84-1311.03.

The study shall also examine the appropriateness of the allocation of such administrative costs, and perform a comparative analysis of other such investment and pension management fees as charged in the private sector.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 323. Introduced by Stuhr, 24.

PURPOSE: The purpose of this study is to examine the five public employee retirement systems administered by the Public Employees Retirement Board. The study shall examine issues as they relate to the funding needs of the various retirement systems, and the administration of each system.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 324. Introduced by Stuthman, 22.

PURPOSE: To examine Nebraska's policy options to protect its citizens from employers who bounce payroll checks.

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

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 325. Introduced by Stuthman, 22.

PURPOSE: To study the feasibility of taxing the gain on the sale of a partnership interest by a nonresident when the sale includes tangible property located in Nebraska. The study shall also include the possible revenue generated by taxing such gains.

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

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report

of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 326. Introduced by Stuthman, 22.

PURPOSE: To study the benefits, consequences, and feasibility of eliminating vending machines with nonnutritional foods and beverages from primary and secondary schools or restricting student access during the school day to such machines. The study shall include, but not be limited to, the fiscal impact on local school districts and an examination of comparable law in other states.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 327. Introduced by Stuthman, 22.

PURPOSE: To study Nebraska's contractor labor sales tax. The study shall include, but not be limited to, the impact of the tax on the volume of business conducted by contractors, the implications of requiring a sales tax license to acquire a building permit, and the fiscal impact of any changes to the statutes relating to the contractor labor tax, specifically sections 77-2701.16 and 77-2704.55.

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

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 328. Introduced by Burling, 33.

WHEREAS, Jacob Svoboda of Hastings, Nebraska, has completed the requirements for and been awarded the highest honor and rank in the Boy Scouts of America, the rank of Eagle Scout; and

WHEREAS, Jacob Svoboda was recognized by the Boy Scouts for his years of hard work, commitment to his scouting duties, and service to his community which included his Eagle Scout project; and

WHEREAS, fewer than two percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Jacob Svoboda has achieved great success as an exemplary member of the scouting program; thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes, and has represented his troop and community with excellence.

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

1. That the Legislature congratulates Jacob Svoboda on his achievement of the elite rank of Eagle Scout in the Boy Scouts and recognizes his outstanding community service efforts in Hastings.

2. That a copy of this resolution be sent to Jacob Svoboda and his family.

Laid over.

LEGISLATIVE RESOLUTION 329. Introduced by Burling, 33.

WHEREAS, Daniel T. Clark of Hastings, Nebraska, has completed the requirements for and been awarded the highest honor and rank in the Boy Scouts of America, the rank of Eagle Scout; and

WHEREAS, Daniel T. Clark was recognized by the Boy Scouts for his years of hard work, commitment to his scouting duties, and service to his community which included his Eagle Scout project; and

WHEREAS, fewer than two percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Daniel T. Clark has achieved great success as an exemplary member of the scouting program; thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes, and has represented his troop and community with excellence.

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

1. That the Legislature congratulates Daniel T. Clark on his achievement of the elite rank of Eagle Scout in the Boy Scouts and recognizes his outstanding community service efforts in Hastings.

2. That a copy of this resolution be sent to Daniel T. Clark and his family.

Laid over.

LEGISLATIVE RESOLUTION 330. Introduced by Schimek, 27.

PURPOSE: To study the Administrative Procedure Act relating to the

adoption, amendment, or repeal of a rule or regulation by the affected agency or the Legislature. In order to carry out the purpose of this resolution, the committee shall seek the assistance of agencies, departments, entities, and individuals impacted by such rules and regulations.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 331. Introduced by Schimek, 27.

PURPOSE: The purpose of this resolution is to study issues surrounding the high costs of prescription drugs and the availability of prescription products to consumers in Nebraska. Issues addressed by this interim study may include, but are not limited to, the following:

1. Examination of the State of Nebraska's current purchasing policies for prescription drug products, including examination of policies that encourage purchasing partnerships;

2. Consideration of the nexus between increased advertising of drugs by pharmaceutical companies and increasing costs and uses of such drugs;

3. The availability and affordability of safe prescription drugs from Canada;

4. Identifying which states and cities currently provide or may be planning to adopt prescription drug plans based on Canadian or other international products; and

5. Identifying any negative implications which may be created by importing drugs from Canada or other international sources.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 332. Introduced by Beutler, 28.

PURPOSE: The goal of this interim study is to examine ways in which to improve the Campaign Finance Limitation Act.

The Campaign Finance Limitation Act has been in place, without any major changes, since 1992. In subsequent years, several unsuccessful attempts have been made not only to strengthen the act, but also to eliminate it entirely. The United States Supreme Court has recently addressed the issue of campaign finance reform. In analyzing the Bipartisan Campaign Reform Act of 2002 (also known as the McCain-Feingold bill), the United States Supreme Court in McConnell v. FEC provided guidance that can now be used to draft constitutionally sound campaign finance laws at the state level. Finally, several members of the Legislature have suggested that the issue of campaign finance reform should be studied in detail before the Legislature moves forward to amend the Campaign Finance Limitation Act.

It is the intent of the Legislature that this interim study will produce a workable proposal for updating and strengthening the Campaign Finance Limitation Act.

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

1. That the Government, Military and Veteran Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 333. Introduced by Beutler, 28.

PURPOSE: To examine the long-term effects of introducing the recall process as an alternative to term limits for state senators.

Nebraska state senators are not currently subject to recall. Instead, a state senator may serve for two four-year terms. This interim study proposes to examine the effects of eliminating term limits and granting constituents the right to petition for a recall after a senator has served for eight years.

It is the intent of the Legislature that this interim study will examine the effects of a recall process, as such a process relates to fair representation, voter confidence, and the general dynamics of the Legislature. This study would include a comparative analysis of states where the recall process is already in place, as well as an examination of the historic preferences of Nebraska voters. The study would also consider the uniqueness of a recall law that is triggered after two terms, as no other state appears to utilize such a trigger.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the

purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 334. Introduced by Preister, 5.

PURPOSE: To review the open meetings and open records statutes.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 335. Introduced by Preister, 5.

PURPOSE: To examine the recycling of hazardous waste into fertilizers.

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

1. That the Natural Resources and Agriculture Committees of the Legislature shall be designated to conduct a joint interim study and shall conduct public hearings to provide for public comment to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of the study make a report of the findings, together with the recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 336. Introduced by Preister, 5.

PURPOSE: To examine the implementation of permits for confined animal feeding operations under the National Pollutant Discharge Elimination System of the federal Clean Water Act.

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

1. That the Natural Resources and Agriculture Committees of the Legislature shall be designated to conduct a joint interim study and shall

conduct public hearings to provide public comment to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their study make a report of the findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 337. Introduced by Preister, 5.

PURPOSE: To examine requiring the Environmental Quality Council to set regulatory standards for air, land, and water, based on their impact on children.

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

1. That the Natural Resources and Health and Human Services Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their joint study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 888. Considered.

SENATOR HARTNETT PRESIDING

Advanced to E & R for engrossment.

LEGISLATIVE BILL 868. E & R amendment, AM7187, found on page 1039, was adopted.

Senator Redfield renewed her pending amendment, AM3096, found on page 1081.

SENATOR CUDABACK PRESIDING

The Redfield amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Senator Raikes offered the following amendment:
AM3463

(Amendments to E & R amendments, AM7187)

1. Insert the following new section:

2 "Sec. 2. (1) Until July 1, 2005, any person employed by
3 a school approved or accredited by the State Department of
4 Education, employed by an educational service unit and working in a
5 school approved or accredited by the department, or employed by an
6 early childhood education program approved by the department who
7 serves as a school nurse or medication aide or who has been
8 designated and trained by the school, educational service unit, or
9 program as a nonmedical staff person to implement the emergency
10 response to life-threatening asthma or systemic allergic reactions
11 protocols adopted by the school, educational service unit, or
12 program shall be immune from civil liability for any act or
13 omission in rendering emergency care for a person experiencing a
14 potentially life-threatening asthma or allergic reaction event on
15 school grounds, in a vehicle being used for school purposes, in a
16 vehicle being used for educational service unit purposes, in a
17 school-sponsored activity or athletic event, at a facility used by
18 the early childhood education program, in a vehicle being used for
19 early childhood education program purposes, or at an activity
20 sponsored by the early childhood education program which results in
21 damage or injury unless such damage or injury was caused by the
22 willful or wanton act or omission of such employee.
23 (2) The individual immunity granted by subsection (1) of
1 this section shall not extend to any act or omission of an employee
2 which results in damage or injury if the damage or injury is caused
3 by such employee while impaired by alcohol or any controlled
4 substance enumerated in section 28-405."
5 2. Renumber the remaining sections accordingly.

Senator Chambers offered the following amendment to the Raikes pending amendment:

FA1634

Amend AM3463

On page 2, in line 4 strike the period and insert ", nor to the employer of such employee."

Pending.

NOTICE OF COMMITTEE HEARING
Natural Resources
Room 1525

Wednesday, April 7, 2004

8:30 a.m.

Robert C. Hall - Environmental Quality Council

(Signed) Ed Schrock, Chairperson

CORRECTED STANDING COMMITTEE REPORT
Judiciary

LEGISLATIVE BILL 1253. Corrected Standing Committee amendment:
 AM3429

AMENDMENTS TO LB 1253

- 1 1. Insert the following new sections:
- 2 "Sec. 4. The Judiciary Committee of the Legislature and
- 3 the Community Corrections Council shall conduct a joint study to
- 4 examine issues related to the implementation of the proposed merger
- 5 of the Office of Probation Administration and the Office of Parole
- 6 Administration into a separate executive agency. This study shall
- 7 be completed by January 1, 2005, and shall include a recommended
- 8 implementation plan to most efficiently and effectively merge the
- 9 two offices with a focus on incorporating the merger into the
- 10 ongoing community corrections process.
- 11 Sec. 67. Section 83-189, Reissue Revised Statutes of
- 12 Nebraska, is amended to read:
- 13 83-189. The Board of Parole shall consist of five
- 14 full-time members to be appointed by the Governor. The members of
- 15 the board shall be of good character and judicious temperament.
- 16 The members of the board shall have all the powers and duties of
- 17 board members commencing on the date of appointment. The
- 18 appointments shall be subject to confirmation by the Legislature at
- 19 its next regular session following the appointments. At least one
- 20 member of the board shall be of an ethnic minority group, at least
- 21 one member shall be female, and at least one member shall have a
- 22 professional background in corrections.
- 23 One of the five members of the board shall be designated
- 1 as chairperson by the Governor. In addition to the chairperson's
- 2 duties as a member of the board as prescribed in subsection (1) of
- 3 section 83-192, he or she shall supervise the administration and
- 4 operation of the board and shall carry out the duties prescribed in
- 5 ~~subsection (2) of such section 18 of this act.~~"
- 6 2. On page 3, line 1, strike "18" and insert "19".
- 7 3. On page 4, lines 5 and 7, strike "2005" and insert
- 8 "2007".
- 9 4. On page 6, strike lines 7 and 8; in line 9 strike
- 10 "(15)" and insert "(14)"; in line 11 strike "(16)" and insert
- 11 "(15)"; in line 13 strike "(17)" and insert "(16)"; in line 15
- 12 strike "(18)" and insert "(17)"; in line 18 strike "(19)" and
- 13 insert "(18)"; in line 21 strike "(20)" and insert "(19)"; in lines
- 14 23 and 24 strike "or probation violators"; and in line 24 strike
- 15 "or" and insert ", issue warrants for the arrest of probation
- 16 violators when so instructed by".
- 17 5. On page 7, line 2, strike "(21)" and insert "(20)".
- 18 6. On page 11, line 26, strike "institutional
- 19 caseworkers".

- 20 7. On page 12, line 2, after "probationers" insert "and
 21 parolees".
- 22 8. On page 13, line 6, after "corrections" insert
 23 "officer"; and in line 27 after "or" insert "as".
- 24 9. On page 14, lines 14 and 15, strike "and 29-2262.04",
 25 show as stricken, and insert ", 29-2262.04, and 83-1,107.01"; and
 26 in lines 24 and 26, strike "Supreme Court", show as stricken, and
 27 insert "department".
- 1 10. On page 63, line 19, strike "(4)", show as stricken,
 2 and insert "(3)".
- 3 11. On page 91, line 1; and page 92, line 1, strike
 4 "department" and insert "Department of Community Corrections".
- 5 12. On page 92, line 11, strike "43-624" and insert
 6 "47-624".
- 7 13. On page 101, line 14, strike "2005" and insert
 8 "2007".
- 9 14. Amend the repealer, renumber the remaining sections,
 10 and correct internal references accordingly.

(Signed) Kermit A. Brashear, Chairperson

AMENDMENT - Print in Journal

Senator Bourne filed the following amendment to LB 1017:
 AM3458

(Amendments to Standing Committee Amendments, AM2687)

- 1 1. Insert the following sections:
 2 "Sec. 13. Section 77-2704.14, Reissue Revised Statutes
 3 of Nebraska, is amended to read:
 4 77-2704.14. Sales and use taxes shall not be imposed on
 5 the gross receipts from the sale, lease, or rental of and the
 6 storage, use, or other consumption in this state of the use of
 7 coin-operated machines used for laundering and cleaning ~~except the~~
 8 including nonautomatic coin-operated machines used for cleaning or
 9 washing ~~of~~ motor vehicles.
- 10 Sec. 19. A two-hundred-dollar annual fee shall be
 11 assessed per bay for nonautomatic coin-operated machines used for
 12 cleaning or washing motor vehicles. Such fees shall be due on
 13 January 1 and shall be paid to the Department of Revenue for credit
 14 to the General Fund."
- 15 2. On page 1, line 6, strike "section 3" and insert
 16 "sections 3 and 19".
- 17 3. On page 48, line 18, after the first comma insert
 18 "77-2704.14,".
- 19 4. Renumber the remaining sections and correct internal
 20 references accordingly.

ATTORNEY GENERAL'S OPINIONOpinion # 04013

DATE: March 30, 2004

SUBJECT: Constitutionality of Amendment 2502 to LB 599 - Grant of Authority to Board of Engineers and Architects to Increase Statutory Exemptions from the Engineers and Architects Act.

REQUESTED BY: Senator Chris Beutler
Nebraska Legislature

WRITTEN BY: Jon Bruning, Attorney General
Mark D. Starr, Assistant Attorney General

INTRODUCTION

The Engineers and Architects Regulation Act exempts certain construction activities from its requirements. Without going into detail, the exempt activities are basically those where the cost, building area, or height of the building is relatively low. Amendment 2502 to LB 599 would permit such exemptions to be increased by the Board of Engineers and Architects by rule and regulation adopted pursuant to the Negotiated Rulemaking Act. There are no standards in the bill or the amendment to guide the Board when considering whether or how much to increase the exemptions. You have alerted us to a pending amendment, Amendment 3244, which would put a cap on at least some of the increases permitted to be made by the Board. Another pending amendment, 3091, would specify when, and by how much, another of the exemptions is to be raised.

You have inquired whether the discretion proposed to be afforded the Board would violate art. II, § 1, art. III, § I, or any other provision of the Nebraska Constitution. Your focus appears to be on the cited sections' reservation of legislative power to the Unicameral; and, more specifically, on whether Amendment 2502 is an improper delegation of legislative authority. You also ask whether Amendment 3244 addresses your concerns.

Based on the analysis below, we believe you had good reason to be concerned about the constitutionality of the proposal given the lack of any applicable standards to guide the Board. However, if the legislative proposal is modified in accordance with the approaches taken by Amendments 3244 and 3091, it would substantially reduce any worry about an improper delegation of legislative authority.

ANALYSIS

Your concern about an improper delegation of legislative authority probably stems from the fact that there are no standards provided in the amended bill to guide the exercise of the Board's authority to expand upon the exemptions. The Negotiated Rulemaking Act, Neb. Rev. Stat. § 84-921 through § 84-932 (1999), does not provide this type of guidance, either.

Article II, § 1 and art. III, § I of the Nebraska Constitution assign and reserve the exercise of legislative power to the Unicameral. The legislature may delegate to an administrative body the power to make regulations to carry out the legislative will, but the legislature cannot pass on to an administrative body the power to create "law" on a blank slate.

The Legislature does have power to authorize an administrative or executive department to make rules and regulations to carry out an expressed legislative purpose, or for the complete operation and enforcement of a law within designated limitations. . . . The limitations of the power granted and the standards by which the granted powers are to be administered must, however, be clearly and definitely stated in the authorizing act.

Bosselman, Inc. v. State, 230 Neb. 471, 476, 432 N.W.2d 226, 230 (1988), citing *Lincoln Dairy Co. v. Finigan*, 170 Neb. 777, 780-81 (1960).

In the *Bosselman* case the court went on to quote a portion of its opinion in *State ex rel. Douglas v. Nebraska Mortgage Finance Fund*, 204 Neb. 445, 283 N.W.2d 12 (1979), for the proposition that because of the increasing complexity of economic and governmental conditions, the modern tendency is to be more liberal in permitting grants of discretion to an administrative agency in order to facilitate the administration of law; particularly where the violation of such regulation does not constitute a crime. Consequently, courts tend not to interfere. But the scenario presented here may be somewhat unique. In the ordinary case the legislature has painted with a broad brush and permitted an administrative agency with more expertise in the area to fill in the details, hopefully having spelled out principles to guide the agency in that endeavor. But here we have a case where the legislature has already gone into the details, spelled out its thoughts on the subject, and now proposes to permit the administrative agency to dictate otherwise.

Thank you for supplementing your opinion request with a letter informing this office about an additional amendment to the bill. You ask whether the new amendment, Amendment 3244, addresses your concerns about improper delegation of legislative authority. This amendment, while not providing any criteria or factors to guide the Board when deciding whether to expand the statutory exemptions, appears to cap or limit the range of the Board's otherwise seemingly unfettered discretion in this area. The amendment would add that any increase of the exemption may not "exceed

the Type V, Column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403." The state building code is comprised of three separate codes. The referenced table may be Table 503 in the International Building Code (2002). The time we have to respond is limited, so we have not attempted to get into the intricacies of Table 503's many columns and rows. It may be noteworthy, though, that the Table's rows consist of 26 "Groups," which may refer to the type of building being constructed. The allowable number of stories and building area shown in Type V, Column B, vary depending upon the identity of the "Group." In a couple of the Groups, the building area is unlimited, and in one of them the number of stories is, too. We have not explored whether, or how closely, the "Groups" in the table mesh with the categories of construction for which the Table provides the upper limit of the Board's power to afford exemptions from the statutory standards.

Amendment 3244's limitation does not apply to all the increases which the Board may afford under Amendment 2502 to LB 599. The limitation does not apply to the Board's authority to increase the statutory \$80,000 project cost demarcation between exempt and non-exempt public works projects. The amendment may leave the Board's authority unconstrained in other areas, too. The name of the referenced table within the building code suggests that the limitation on the Board's new regulatory authority may only apply insofar as qualifying for the exemption hinges solely upon building height or floor area. Where qualifying for the statutory exemption is affected by the building's designed occupancy, the Board's authority to lift that occupancy number may be unlimited. For example, construction of a commercial or industrial building of under 5000 square feet is exempt provided that fewer than twenty persons are to occupy it. Am. 2502 to LB 599, § 3. Since the amendment will permit the Board to "increase" the exemption, arguably the Board could raise the occupancy limit of the proviso a hundredfold while still preserving the exemption. It is difficult to say for sure. It may be that a court would interpret the Board's authority as being limited to altering the area or height restrictions. A building's occupancy level is something that disqualifies an otherwise exemption-eligible building, but it is a factor which may be considered distinct from the exemption, itself. Put another way, the occupancy level relates to the exemption but may be viewed as being separate from it.

Although you did not inquire about it, Amendment 3091, if adopted, should eliminate the concern about a standardless delegation of legislative authority when it comes to increases in the \$80,000 limitation. The Amendment raises the dollar amount and provides standards to guide the Board in making future increases to this number.

Although LB 599, Amendment 2502, and the Negotiated Rulemaking Act do not provide standards to guide the Board's discretion, the Engineers and Architects Regulation Act may be a source of guidance to the Board. Neb. Rev. Stat. § 81-3402 (1999), a section within that Act, indicates that the purpose of the Act is to safeguard life, health, and property and to promote

the public welfare. The concluding section of the Act, Neb. Rev. Stat. § 81-3455 (1999), includes the legislature's declaration that the Act is necessary for the public convenience and welfare, is remedial in nature, and is to be construed liberally. Thus, it may be concluded that protection of persons and property is the goal. This legislative purpose may supply the requisite standard to guide the Board's regulatory activity. The Legislature has already designated the projects where the risk is deemed sufficiently slight as to not legally require the use of architectural or engineering services. The Board of Engineers and Architects consists of eight members, seven of whom are architects and engineers. Neb. Rev. Stat. § 81-3428 (1999). With this membership, there would seem to be little reason for concern that the body would expand the number of construction projects not requiring the use of members of those professions unless the body was convinced that expanding the exemption would not increase the risk to persons or property. However, it is doubtful that the Board could find that increasing the exemptions makes persons or property more safe, leaving one to wonder what factors could justify increasing the exemptions. Even if a court reviewing the amendments for an improper delegation of legislative authority would turn to the Act's purpose to ferret out standards guiding the Board's discretion, we do not see how the standards gleaned would be ones providing any guidance on establishing increases in the statutory exemptions from public safety requirements. We are again left with a legislative proposal which has not supplied an administrative body any standards to guide the exercise of its rulemaking discretion.

Amendment 3244 does not eliminate these concerns. It proposes to set limits beyond which the regulatory body may not go, but it does not limit the Board's authority to raise the dollar limitation found within the statutory exemption for public works projects. Plus, even where it has set some upper limit to the Board's discretion, it has provided no guiding principles for the Board to use when acting within that range. This office has in the past expressed the opinion that the setting of such caps or upper limits on authority bears upon the question of whether there has been an improper delegation of legislative authority, but the legislation being addressed there included some guidance for the regulatory body; the setting of limits was said to be merely a factor providing greater assurance of constitutionality. Op. Att'y Gen. No. 201 (February 19, 1982).

Because the courts have taken a more liberal view to grants of discretionary authority to administrative agencies and because the discretionary authority in question is fairly narrow in scope - much broader grants of authority have been upheld against challenges of improper delegation of legislative authority, see *Board of Regents v. County of Lancaster*, 154 Neb. 398, 48 N.W.2d 221 (1951) - we are unsure whether Amendment 2502 to LB 599 would be found to be an unconstitutional delegation of legislative authority. But there is certainly cause for concern. Adoption of Amendments 3244 and 3091, or something akin to them, would most likely solve the problem.

Sincerely,
JON BRUNING
Attorney General
(Signed) Mark D. Starr
Assistant Attorney General

pc: Patrick O'Donnell
Clerk of the Legislature
26-784-21

RESOLUTIONS

LEGISLATIVE RESOLUTION 338. Introduced by Smith, 48.

PURPOSE: The purpose of this study is to explore options for implementing charter schools in Nebraska. This study shall include, but not be limited to, identifying and investigating other successful state models establishing charter schools, the steps necessary to establish a charter school option in Nebraska, and the impact on the current educational system.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 339. Introduced by Brashear, 4.

PURPOSE: To conduct an interim study to determine whether just compensation for private operators is appropriate when municipalities expand or take over waste management functions.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 340. Introduced by Brashear, 4.

PURPOSE: To conduct a comprehensive review of adoption procedure in Nebraska. Such a review shall identify specific issues to consider in detail

and propose appropriate revisions or changes to such statutes.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 341. Introduced by Engel, 17; Jones, 43; Janssen, 15; Bromm, 23; Thompson, 14; Tyson, 19; Cudaback, 36; Chambers, 11; Beutler, 28; Wehrbein, 2.

PURPOSE: The purpose of this resolution is to examine current operating practices and environmental infrastructure needs of the Legislative Council as constitutionally imposed term limits take full effect. The study may include:

1. Office space configurations for newly elected members and their staff.
2. Enhanced staff training.
3. Member orientation programs.
4. Member policy briefing sessions which could include the use of outside faculty and would necessarily include a historical perspective on important issues.
5. Current staffing patterns in light of term limits.
6. Development of a strategic planning component.
7. Consideration of additional financial resources so as to facilitate a new member's entry into the legislative environment.

In order to carry out the purpose of this resolution, a special committee composed of current members, former members, and other interested parties shall be created by the Executive Board of the Legislative Council. The special committee should seek the input and assistance of each of the division directors as well as other appropriate parties.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 342. Introduced by Quandahl, 31.

PURPOSE: The purpose of this resolution is to continue the in-depth study in Nebraska of issues relating to the Uniform Trust Code which was promulgated by the National Conference of Commissioners on Uniform State Laws in 2000 and recommended to the states as the first comprehensive nationwide codification of the law of trusts. This ongoing study process has been previously conducted pursuant to study resolutions LR 94 (2001), LR 367 (2002), and LR 84 (2003), and has led to the introduction and enactment of the Nebraska Uniform Trust Code in 2003 and additional amendments to the code in 2004. In order to carry out the purpose of this resolution, the committee's review should include, as it deems necessary and beneficial, the input and assistance of interested persons, legal and scholarly commentary nationwide on the Uniform Trust Code, and legislation on this subject in other jurisdictions.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 343. Introduced by Quandahl, 31.

PURPOSE: To study issues regarding legislation to amend the Property and Casualty Insurance Rate and Form Act to change from a prior approval to a file and use system for personal lines property and casualty insurance rates and forms, farm and ranch insurance rates and forms, and workers' compensation insurance rates.

In order to carry out the purpose of this resolution, the committee shall seek and consider input from the Department of Insurance and interested persons as it deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 868. Senator Chambers withdrew his pending amendment, FA1634, found in this day's Journal.

Senator Raikes withdrew his pending amendment, AM3463, found in this day's Journal.

Advanced to E & R for engrossment.

VISITORS

Visitors to the Chamber were Young Su Min from South Korea, Sarah Park from Washington D.C., and Robert Meininger from Lincoln; 32 Nebraska Federation of Republican Women from across the state; 49 fifth- through eighth-grade students and teachers from Wynott Middle School; Senator Aguilar's wife, Susan, and Marla Conley, Dixie Best, Diann Muhlbach, and Sondra Schwehn from Grand Island; 32 students and teachers from Cambridge High School; 38 fourth-grade students and teachers from Yutan; and 15 fourth-grade students and teacher from Bellevue Christian Academy.

RECESS

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

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Landis who was excused; and Senators Bourne, Chambers, Erdman, Johnson, Loudon, McDonald, Price, and Stuthman who were excused until they arrive.

MESSAGES FROM THE GOVERNOR

March 30, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were reappointed

to the Nebraska Health Care Council.

APPOINTEES:

John Klosterman, 1197 34th Road, David City NE 68632
Cordelia Okoye, 6821 Southfork Cir, Lincoln NE 68516
Phil Harr, 409 W R, McCook NE 69001
David Corbin, 1002 N 49th St, Omaha NE 68132
Joel Gajardo, 2721 S 66th Place, Lincoln NE 68506

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

March 30, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Motor Vehicle Industry Licensing Board.

APPOINTEES:

*P.J. Morgan, 11124 Pierce Plaza, Omaha NE 68144
Douglas P. Rolfsmeier, 488 East Pinewood Ave, Seward NE 68434
Sid R. Dillon, 1715 Nye Ave, Fremont NE 68025

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

March 30, 2004

President, Speaker Bromm
and Members of the Legislature

State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Coordinating Commission for Postsecondary Education.

APPOINTEE:

William J. Pile, 4246 Road 99, Gurley NE 69141

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

March 30, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Board of Emergency Medical Services.

APPOINTEE:

Capt. Michael Buscher, 13113 Edna, Omaha NE 68138

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

March 30, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Child Abuse Prevention Fund Board.

APPOINTEE:

A. Jane Storey, 1678 Woodsviw, Lincoln NE 68502

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

RESOLUTIONS

LEGISLATIVE RESOLUTION 344. Introduced by Quandahl, 31.

PURPOSE: To conduct a comprehensive review of the allowance of recovery of attorney's fees and costs in civil actions. Specifically, the interim study shall include a review of when it is appropriate, if ever, to allow parties to a contract to include recovery of attorney's fees and costs in the provisions of the contract.

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

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 345. Introduced by Quandahl, 31.

PURPOSE: In Nebraska's judicial system, clerk magistrates play an important role in facilitating the efficiency and effectiveness of the county courts. As with all officers of the court, clerk magistrates are responsible for upholding the integrity of the judicial process.

The purpose of this interim study is to conduct a review of the statutes governing clerk magistrates, specifically reviewing what disciplinary options are available when clerk magistrates engage in conduct contrary to the integrity of the judicial process. Such review shall identify specific issues to consider in detail and propose appropriate revisions and changes to such statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 346. Introduced by Brashear, 4; Chambers, 11.

PURPOSE: To study the issues surrounding the provision of health care to individuals incarcerated in Nebraska's correctional institutions and county jails. The study shall include an examination of the methods used by the Department of Correctional Services and the respective county jails to determine the health care needs and provide treatment to the inmates under their respective supervision. The availability of adequate medical treatment within the state's correctional institutions and jails shall also be examined, with a focus on access to mental health professionals, the provision of necessary medications, and policies to ensure continuity of care. The study shall make policy recommendations to improve these practices and shall include specific recommendations to address the needs of inmates with mental illness.

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

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 347. Introduced by Brashear, 4; Synowiecki, 7.

PURPOSE: To examine issues surrounding the proposed merger of the offices of probation and parole administration into a single executive branch agency. The study should include, but not be limited to, an examination of the following: Staffing and logistical issues; the fiscal impact of a merger; and methods to coordinate a merger with existing community corrections efforts.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 348. Introduced by Brashear, 4.

PURPOSE: To study and compare Nebraska's sexual assault statutes and the sentencing structure for such crimes with the laws of surrounding states. The study shall include an analysis of the effectiveness of Nebraska's statutory and sentencing scheme in protecting the public from sex offenders and make recommendations for the improvement of the criminal justice system's response to both perpetrators and victims of sexual violence.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 349. Introduced by Cunningham, 40; Stuthman, 22; Wehrbein, 2; Kremer, 34.

PURPOSE: The purpose of this interim study is to identify factors that limit dairy production and processing in the State of Nebraska. Issues to be studied should include: Whether the state should have a multiple regulatory system, raw milk marketing, the possibility of funding for start-up, added value initiatives and research, and whether labeling should be required.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 350. Introduced by Cunningham, 40.

PURPOSE: The purpose of this interim study is to determine whether the Equipment Business Regulation Act should be amended to give farm equipment dealers the same protections regarding the termination, cancellation, or nonrenewal of dealer agreements that motor vehicle dealers currently have relating to the termination or noncontinuation of franchises.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 351. Introduced by Beutler, 28.

PURPOSE: To determine the amount of public scholarship money necessary to meet the financial need of all Nebraska higher education students eligible for need-based state financial aid.

In 2001-02, Nebraska ranked thirty-fifth nationally in the amount of need-based financial aid grant dollars per full-time undergraduate enrollment in public and private institutions. Nebraska's state grant programs then reached thirty-seven and one-half percent of students eligible for need-based financial aid. General funds preliminarily allocated for need-based financial aid in 2004-05 totaled \$5,745,794. An additional \$2,000,000 was allocated from lottery funds.

Meanwhile, the University of Nebraska-Lincoln, as well as most state and community colleges, continue to raise tuition rates. According to the Coordinating Commission for Postsecondary Education, annual tuition and other mandatory fees for the University of Nebraska-Lincoln students increased by eight and nine-tenths percent in 2002-03 and by fourteen and two-tenths percent in 2003-04. Tuition is expected to rise again in 2004-05. Other public institutions throughout the state have made similar tuition increases.

It is the intent of the Legislature that this interim study will determine the amount of additional state aid necessary to allow all qualified low income students the opportunity to pursue a university or college education.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 352. Introduced by Beutler, 28.

PURPOSE: To examine whether the gas tax distribution formula should be amended.

Current law provides a relatively complicated formula for calculating that portion of the Highway Trust Fund distributed to cities and counties and also for calculating the allocations to state projects located around the state. The formulas include several factors that are considered in calculating the allocations. These factors were created as a result of a 1967 study and have been in place, with only minor changes, since 1969. Throughout the following thirty-five years, Nebraska has seen significant population shifts and changes in usage. In addition, a recent report by the Transportation Task Force for Nebraska's Future has documented the difficulties that cities and counties now face in funding road projects. Thus, the time has come to reevaluate the distribution statutes to ensure that the factors considered result in a fair and equitable distribution to those areas where the needs are the greatest.

This interim study shall also examine whether the current statutory distribution factors reflect the needs of cities and counties, whether additional factors should be considered, and whether the distribution calculation can or should be simplified.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 353. Introduced by Beutler, 28.

PURPOSE: To examine the feasibility and desirability of providing an increased number of education opportunities to citizens of Nebraska by delivering higher education classes via the Internet and other distance technology.

As access to higher education programs becomes more critical for our state's economic future, we must avail ourselves of all means to deliver classes and programs to our citizens. Technology can be used both within the traditional higher education framework and as a means of expanding that framework. With respect to the former, combining Internet-based learning with classroom instruction may prove useful in introductory courses, where larger class sizes often limit opportunities for class participation. Distance technology will also allow us to extend higher education opportunities to a

larger number of citizens by offering nontraditional forms of access to class work and degree programs.

This interim study will also examine the extent to which academic programs can be improved by computer mediated materials and can be made more available via distance education, the potential for growth in the number and variety of such programs, and steps that can be taken by the Legislature to provide incentives for additional distance education offerings.

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

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 297. E & R amendment, AM7210, found on page 1180, was adopted.

Senators Byars and Wehrbein offered the following amendment:
AM3405

(Amendments to Standing Committee amendments, AM3185)

- 1 1. On page 4, lines 5 through 9, strike the new matter
- 2 and reinstate the stricken matter; in line 21 strike "department"
- 3 and insert "State Department of Education"; and in line 25 strike
- 4 "department", show as stricken, and insert "Department of Health
- 5 and Human Services".

The Byars-Wehrbein amendment was adopted with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 514. E & R amendment, AM7207, found on page 1172, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 917. Advanced to E & R for engrossment.

LEGISLATIVE BILL 1071. E & R amendment, AM7209, found on page 1179, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1144. E & R amendment, AM7206, found on page 1173, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1092. E & R amendment, AM7205, found on page 1172, was adopted.

Senator Wehrbein renewed his pending amendment, AM3385, found on page 1249.

The Wehrbein amendment was adopted with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1089. E & R amendment, AM7208, found on page 1169, was adopted.

Senator Foley withdrew his pending amendment, AM3100, found on page 1069.

Senator Wehrbein renewed his pending amendment, AM3263, found on page 1157.

SPEAKER BROMM PRESIDING

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Wehrbein moved for a call of the house. The motion prevailed with 35 ayes, 1 nay, and 13 not voting.

The Wehrbein amendment was adopted with 25 ayes, 14 nays, 8 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORT **Health and Human Services**

The Health and Human Services 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.

Child Abuse Prevention Fund Board

Dale Baker
 Elba Cera
 Earl Rudolph
 Pamela J. Duin
 Barbara J. Woodhead

VOTE: Aye: Senators Jensen, Byars, Cunningham, Maxwell, Erdman, and Johnson. Nay: None. Absent: Senator Stuthman.

(Signed) Jim Jensen, Chairperson

AMENDMENTS - Print in Journal

Senators Byars and Jensen filed the following amendment to LB 1083: (Amendment, AM3443, is printed separately and available in the Bill Room, Room 1104.)

Senators Beutler, Engel, Hudkins, and Schimek filed the following amendment to LB 439: (Amendment, AM3445, is printed separately and available in the Bill Room, Room 1104.)

Senator Thompson filed the following amendment to LB 1112: AM2961

(Amendments to Standing Committee amendments, AM2616)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendment:
- 3 "1. Strike the original sections and insert the
- 4 following new sections:
- 5 'Section 1. Any political subdivision official may
- 6 charge a fee not to exceed thirty dollars for a check which is
- 7 dishonored after being properly presented. Such fee shall be
- 8 credited to the general fund of such political subdivision.
- 9 Sec. 2. Any county treasurer or county official may
- 10 charge a fee not to exceed thirty dollars for a check which is
- 11 dishonored after being properly presented. Such fee shall be
- 12 remitted to the county treasurer for credit to the county general
- 13 fund.
- 14 Sec. 3. Any state official or state agency may charge a
- 15 fee not to exceed thirty dollars for a check which is dishonored
- 16 after being properly presented. Such fee shall be remitted to the
- 17 State Treasurer for credit to the General Fund.'".

RESOLUTIONS

LEGISLATIVE RESOLUTION 354. Introduced by Johnson, 37.

PURPOSE: To review the purpose, structure, and possible changes for the future improved functioning of educational service units. The study shall

include, but not be limited to, the following:

1. Collection of data regarding the current structure;
2. Collection of data regarding demographic trends in Nebraska including predicted changes in the concentration of students in various geographical areas;
3. Analysis of regional and national information regarding organizational structures of educational service units;
4. Analysis of how work by the State Board of Education on potential changes to the accreditation rules should affect organizational structures; and
5. Development of a process to move educational service units toward a structure that will effectively and efficiently support their functioning with the available funds, taking into account predicted demographics and potential accreditation rules.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 355. Introduced by Schimek, 27.

PURPOSE: To study the appropriate involvement between county zoning and the Department of Environmental Quality's process of approving an application for construction approval or a major modification of the application for a livestock waste control facility. LB 916, introduced in 2003, sought to bring Nebraska into compliance with the federal Concentrated Animal Feeding Operation rules. During the debate on LB 916, the issue of county zoning and how it related to the Department of Environmental Quality's determination of whether to approve certain applications was discussed. This interim study will explore whether to link county zoning ordinances with the state process of applying for a livestock waste control facility. In order to carry out the purpose of this resolution, the committee will seek and consider the input of interested persons as it deems necessary and beneficial.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 356. Introduced by Jensen, 20.

PURPOSE: The purpose of this resolution is to study the Nebraska Mental Health Commitment Act and its implementation, including, but not limited to, the role and function of county mental health boards under such act.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 357. Introduced by Jensen, 20.

PURPOSE:

1. To examine the relationship, if any, between thimerosal and autism. In a more narrow sense, to examine the status of research and findings regarding any possible connection between childhood vaccines containing thimerosal and autism;

2. To examine treatment options available for those persons with autism. More specifically to examine intensive, one-on-one treatment options more regularly used in other states such as Wisconsin;

3. To examine the current autism education programs offered by postsecondary educational institutions in Nebraska and the costs associated with such programs, including an examination of the need, if any, to expand autism education programs and the possible costs associated with that expansion; and

4. To examine the State of Nebraska's funding for the treatment of autism. More specifically, to examine financial aid options available to persons suffering from autism.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 358. Introduced by Raikes, 25.

PURPOSE: To examine the issue of visitation rights for siblings of a minor child.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 359. Introduced by Thompson, 14.

PURPOSE: In 1998 the Legislature passed LB 1100, allowing the University of Nebraska and the Nebraska state colleges to issue revenue bonds to complete several badly needed deferred maintenance projects. Revenue from institutional resources and appropriations from the Legislature were pledged to repay the bonds. Since that time most of these projects have been completed and the institutions are experiencing new deferred maintenance problems. A study should be conducted to determine the feasibility of a second round of deferred maintenance projects that could be completed using a mechanism similar to that used with LB 1100.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 360. Introduced by Brashear, 4; Stuthman, 22.

PURPOSE: During the 2003 Interim, Governor Johanns convened a Children's Task Force in response to an increase in the number of violent child deaths. The task force released its report in December 2003 and legislation was introduced during the 2004 session to begin to address improvements to the child welfare system.

The purpose of this interim study is to determine what steps are needed to

further improve the response to child abuse and neglect.

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

1. That the Judiciary and Health and Human Services Committees of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of the study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 361. Introduced by Vrtiska, 1; Cunningham, 40; Wehrbein, 2; Hartnett, 45.

PURPOSE: To study Nebraska's unemployment benefits system. The study shall include an examination of benefits eligibility, efficiency of the state's system, and trust fund financing.

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

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 362. Introduced by Vrtiska, 1.

PURPOSE: To study the State of Nebraska's Workers' Compensation laws. The study shall include a review of the legislation that was introduced to the Business and Labor Committee in the Ninety-eighth Legislature, Second Session, on various workers' compensation proposals.

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

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 363. Introduced by Schrock, 38; Raikes, 25.

PURPOSE: The purpose of this study resolution is to analyze the financial effectiveness and legal requirements associated with educational lands and funds, the temporary school fund, and the permanent school fund.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 364. Introduced by Raikes, 25.

PURPOSE: (1) To examine the creation of an Education Facilities Review Commission for public educational facilities that are primarily financed with property taxes and to investigate the fiscal impact of changing provisions relating to levy limitations to accommodate additional taxing authority restricted for building funds and the fiscal impact of providing a factor in the Nebraska's state aid to education formula for K-12 public school districts that would assist those districts in reducing the property tax burden of their bonded indebtedness.

(2) In addition, the study should also review the realities of the current levy limitations to determine if the community colleges are able to adequately repair and maintain existing facilities and provide for construction of new facilities to accommodate the significant enrollment growth of the past several years.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 365. Introduced by Raikes, 25.

PURPOSE: The purpose of this study resolution is to investigate and review matters and issues arising during the interim which are within the

jurisdiction of the Education Committee of the Legislature.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 366. Introduced by Raikes, 25.

PURPOSE: The purpose of this study resolution is to collect information and analyze trends with regard to the financing and use of the enrollment option program. The analysis shall also explore whether the existing policies regarding the program continue to be appropriate for Nebraska's system of public education.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 367. Introduced by Raikes, 25.

PURPOSE: The purpose of this resolution is to examine methods for determining amounts to be paid by the Department of Health and Human Services as education costs for wards of the state or wards of any court pursuant to subsection (7) of section 79-215.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 368. Introduced by Aguilar, 35.

PURPOSE: The purpose of this study is to review the following issues regarding indigent defense in the State of Nebraska:

1. How much are counties currently spending?
2. Is the amount being spent for indigent defense increasing?
3. What impact do indigent defense costs have on counties' overall budgets?
4. What constitutional considerations must be addressed by the Legislature in setting financial guidelines for requesting a public defender?
5. What are other states doing regarding indigent defense?
6. What financial guidelines are other states using and what do they require?

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

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

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 1089. Senator Redfield asked unanimous consent to withdraw the Redfield-Bourne pending amendment, AM3270, found on page 1181, and replace it with the Redfield-Cunningham substitute amendment, AM3456. No objections. So ordered.
AM3456

(Amendments to Standing Committee amendments, AM3033)

- 1 1. On page 1, line 1, strike "the original sections" and
- 2 insert "original sections 1 to 34, 37, 38, 40, 42, 43, 45, 47, 48,
- 3 49, 53 to 61, 63, 65 to 68, 71 to 77, 79 to 87, 90 to 96, 98 to
- 4 108, 110 to 119, 125, 127 to 130, 132 to 136, 138, 139, 144 to 153,
- 5 155, 158 to 170, 174 to 177, 180 to 183, 186, 188, 189, 193, 195,
- 6 196, 198 to 200, 205, 206, 209, 210, 213, 215 to 217, 219 to 222,
- 7 and 224 to 234".
- 8 2. Strike sections 41, 42, 45, 47, 50, 52, 56 to 58, 68,
- 9 70, 75, 76, 84, 94, 95, 103, 115, 127 to 131, 133, 138, 144, 147 to
- 10 150, 161, 163, 164, 177 to 179, 184, 185, 190, 191, 193, 196 to
- 11 198, 200, 203, 207 to 210, 213, 214, 218, 219, 221, 225, and 228.
- 12 3. On page 31, line 16, strike "197,190" and insert
- 13 "194,156"; and in line 18 strike "307,658" and insert "304,624".
- 14 4. On page 35, line 27, strike "1,477,395" and insert
- 15 "1,454,902".
- 16 5. On page 36, line 6, strike "5,075,816" and insert
- 17 "5,053,323".
- 18 6. On page 68, line 26, strike "47,094,263" and insert

- 19 "46,493,411".
 20 7. On page 69, line 5, strike "124,855,412" and insert
 21 "124,254,560".
 22 8. On page 103, line 4, strike "669,676" and insert
 23 "642,845"; and in line 6 strike "4,046,348" and insert "4,019,517".
 1 9. On page 104, line 10, strike "4,608,171" and insert
 2 "4,536,231"; and in line 12 strike "17,271,933" and insert
 3 "17,199,993".
 4 10. On page 119, line 18, strike "442,627" and insert
 5 "440,394"; and in line 20 strike "454,413" and insert "452,180".
 6 11. On page 122, lines 25 and 26, strike "398,617,105"
 7 and insert "396,605,939".
 8 12. On page 123, line 15, strike "\$747,750" and insert
 9 "\$745,500"; and in line 17 strike "\$1,037,750" and insert
 10 "\$1,035,500".
 11 13. On page 131, line 2, strike "3,843,474" and insert
 12 "3,784,809"; and in line 5 strike "5,826,152" and insert
 13 "5,767,487".
 14 14. On page 147, line 6, strike "1,207,639" and insert
 15 "1,189,173"; and in line 8 strike "2,193,311" and insert
 16 "2,174,845".
 17 15. Renumber the remaining sections accordingly.

SENATOR CUDABACK PRESIDING

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

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

The motion to cease debate prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Redfield requested a roll call vote on the Redfield-Cunningham amendment.

Voting in the affirmative, 22:

Aguilar	Combs	Hudkins	Mossey	Synowiecki
Baker	Cunningham	Jones	Pedersen, Dw.	Vrtiska
Bourne	Erdman	Louden	Preister	
Bromm	Foley	Maxwell	Redfield	
Burling	Friend	Mines	Smith	

Voting in the negative, 22:

Beutler	Cudaback	Kremer	Quandahl	Stuthman
Brashear	Engel	Kruse	Raikes	Wehrbein
Byars	Hartnett	McDonald	Schimek	
Chambers	Janssen	Pederson, D.	Schrock	
Connealy	Johnson	Price	Stuhr	

Present and not voting, 2:

Brown Jensen

Excused and not voting, 3:

Landis Thompson Tyson

The Redfield-Cunningham amendment lost with 22 ayes, 22 nays, 2 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendment to LB 1046:

FA1610

Amend AM2907

Add new section: "No patriotic, law-abiding American shall be subject to civil liability for personal injury or wrongful death if such American believing it to be his or her patriotic duty shoots, stabs, strangles, kicks, punches, slaps or runs-over with a car or truck any Arab-looking male above the age of forty-five or who appears to be above the age of forty-five, such American believes such Arab-looking male to be Osama bin Laden, regardless of whether such belief is mistaken."

Senators Dw. Pedersen, Hartnett, and Hudkins filed the following amendment to LB 870:

AM3184

1 1. On page 4, after line 8 insert the following new
 2 subdivision:
 3 "(d) In a county with a small rural population in
 4 comparison with the population of municipalities and sanitary and
 5 improvement districts in the county, which for purposes of this
 6 subdivision is a county in which over fifty percent of the
 7 inhabitants who do not reside in a municipality reside in a
 8 sanitary and improvement district, in addition to the requirements
 9 of subdivisions (4)(a) through (c) of this section, the vote shall
 10 also be tabulated for and the consolidation approved by a majority
 11 of those voting who reside in the county but outside any
 12 municipality or any sanitary and improvement district."

Senator Dw. Pedersen filed the following amendment to LB 1083:
AM3381

(Amendments to E & R amendments, AM7214)

- 1 1. Strike original section 16 and insert the following
2 new sections:
- 3 "Sec. 7. The office of alcoholism, drug abuse, and
4 addiction services is created within the division. The office
5 shall consist of a program administrator selected by the
6 administrator of the division and such other personnel as necessary
7 to carry out the duties assigned which shall include, but not be
8 limited to, (1) supervision of the employees of the office, (2)
9 development of comprehensive statewide plans for alcohol, drug
10 abuse, and addiction services, (3) serving as an ex officio member
11 of the Nebraska Advisory Commission on Problem Gambling and the
12 State Advisory Committee on Substance Abuse Services, (4) training
13 of personnel for work in the fields of counseling for alcoholism,
14 drug abuse, and problem gambling and set and enforce standards for
15 such personnel, (5) act as the single state authority for
16 alcoholism, drug abuse, and addiction services, and (6) administer
17 the funds from the Problem Gamblers Assistance Fund.
- 18 Sec. 17. Section 83-162.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:
- 20 ~~83-162.01.~~ The Nebraska Advisory Commission on
21 Compulsive Problem Gambling is hereby created. The commission
22 shall advise and provide recommendations to the ~~director~~ program
23 administrator of the office on alcoholism, drug abuse, and
24 addiction services with regard to matters relating to problem ~~or~~
25 pathological gambling to assist him or her in the performance of
26 his or her duties. The commission shall evaluate agencies, groups,
27 organizations, and individuals that have applied to the ~~division~~
28 office to receive funds from the ~~Compulsive Problem~~ Gamblers
29 Assistance Fund and shall make recommendations to the ~~director~~
30 program administrator concerning disbursements from the fund.
- 31 Sec. 18. Section 83-162.02, Reissue Revised Statutes of
32 Nebraska, is amended to read:
- 33 ~~83-162.02.~~ (1) The Nebraska Advisory Commission on
34 Compulsive Problem Gambling shall consist of eleven members, to be
35 appointed by the Governor with the approval of a majority of the
36 Legislature. ~~Three of the initial appointees shall serve for a~~
37 ~~four-year term, three of the initial appointees shall serve for a~~
38 ~~three-year term, three of the initial appointees shall serve for a~~
39 ~~two-year term, and two of the initial appointees shall serve for a~~
40 ~~one-year term.~~ Members serving on the Nebraska Advisory Commission
41 on Compulsive Gambling on the operative date of this section shall
42 be the initial members of the Nebraska Advisory Commission on
43 Problem Gambling on such date and shall serve until their terms
44 expire. As the terms of initial appointees expire, their
45 successors and all future members of the commission shall be

23 appointed to serve four-year terms. Members of the commission
 24 shall be selected by the Governor so as to achieve a reasonable
 25 balance of representation from all geographic areas of the state.
 26 Individuals appointed to the commission shall possess some
 1 experience, expertise, or knowledge of the causes, treatment, or
 2 prevention of problem or pathological gambling, the providing of
 3 services to assist affected individuals and their families, or the
 4 education of the public to increase its awareness of the disorders
 5 and available gamblers assistance programs.

5 (2) The members of the commission shall receive no pay
 6 for their service on the commission but shall be reimbursed from
 7 the Compulsive Problem Gamblers Assistance Fund for the actual and
 8 necessary expenses incurred in carrying out their duties as
 9 provided in sections 81-1174 to 81-1177.

10 (3) The members of the commission shall select from their
 11 number a chairperson to serve for a one-year term. The chairperson
 12 shall serve as the principal liaison between the director program
 13 administrator of the office on alcoholism, drug abuse, and
 14 addiction services and the commission. The ~~director shall call the~~
 15 ~~members of the commission together for meetings shall meet~~ at least
 16 four times in each calendar year. ~~The office and~~ shall prepare and
 17 distribute to members of the commission all relevant materials
 18 necessary to enable the commission to review and evaluate requests
 19 for funds and to make recommendations to the director program
 20 administrator.

21 (4) Upon receiving the written approval of the director
 22 program administrator, the chairperson may appoint and utilize a
 23 task force of commission members and nonmembers to report to the
 24 commission on specific areas relevant to the problem of ~~compulsive~~
 25 problem gambling.

26 (5) The commission shall evaluate the requests ~~submitted~~
 27 ~~to it by the director~~ from the various agencies, groups,
 1 organizations, and individuals ~~that are seeking funding from such~~
 2 ~~fund to provide education, assistance, and counseling to~~
 3 ~~individuals and families experiencing difficulties as the result of~~
 4 ~~problem or pathological gambling and shall recommend to the~~
 5 ~~director for problem gambling services. The commission shall make~~
 6 recommendations regarding funding for those programs or individuals
 7 which or who have demonstrated their capacity to efficiently and
 8 effectively provide the necessary effective and efficient services.
 9 The commission may also recommend funding for the purpose of
 10 promoting public awareness of the availability of qualified
 11 assistance programs."

12 2. On page 1, line 3, strike "20" and insert "22"; in
 13 line 13 strike the comma and insert "and"; and strike beginning
 14 with the comma in line 14 through "Gambling" in line 15.

15 3. On page 4, line 19, after "officer" insert "who shall
 16 report to the administrator of the division. The administrator
 17 shall employ a program administrator for the office on alcoholism,

18 drug abuse, and addiction services for the division"; and in line
 19 24 after "for" insert "alcoholism, drug abuse, and addiction
 20 services shall have special knowledge and experience relating to
 21 the administration of alcoholism, drug abuse, and problem gambling
 22 programs and the treatment and prevention of alcoholism, drug
 23 abuse, and problem gambling. The program administrator for the
 24 office on alcoholism, drug abuse, and addiction services shall
 25 report to the administrator of the division and shall be
 26 responsible for carrying out the duties described in section 7 of
 27 this act. The program administrator for".

1 4. On page 5, line 2, strike "chief" through "the"; in
 2 line 5 after "candidates" insert "for the positions of
 3 administrator and chief clinical officer"; in line 9 after "office"
 4 insert "on alcoholism, drug abuse, and addiction services and an
 5 office of"; in line 10 after "administrator" insert "of alcoholism,
 6 drug abuse, and addiction services and the program administrator";
 7 and in line 11 strike "the office" and insert "their respective
 8 offices".

9 5. On page 13, line 13 and 14; and page 16, lines 24 and
 10 25, strike "State Advisory Committee on Problem Gambling and
 11 Addiction Services" and insert "Nebraska Advisory Commission on
 12 Problem Gambling".

13 6. On page 13, line 14, strike "14 to 16" and insert "15
 14 to 17"; in line 16 after both occurrences of "committee" insert
 15 "and commission"; in line 18 strike "and such committees"; and in
 16 lines 24 and 25 strike "and each such committee".

17 7. On page 14, line 24; and page 15, line 12, after the
 18 period insert "Members of the committee shall be appointed for
 19 staggered terms of three years and until their successors are
 20 appointed and qualified. Vacancies for any unexpired term shall be
 21 filled in the same manner as provided for the original appointment.
 22 Members shall serve without compensation but shall be reimbursed
 23 for their actual and necessary expenses as provided in sections
 24 81-1174 to 81-1177. The committee shall annually elect a
 25 chairperson and other officers from among its members. No officer
 26 shall serve more than three consecutive one-year terms in any one
 27 office.".

1 8. On page 16, line 22, after "The" insert "office on
 2 alcoholism, drug abuse, and addiction services of the"; and in line
 3 26 strike "16" and insert "17".

4 9. On page 17, lines 12 and 21, strike "division", show
 5 as stricken, and insert "office"; and in line 19 strike "division"
 6 through "committee", show the old matter as stricken, and insert
 7 "office and the commission".

8 10. On page 22, line 4, strike "21 to 82" and insert "23
 9 to 84".

10 11. On page 80, line 21; and page 81, line 11, strike
 11 "section 17" and insert "sections 17 to 19".

12 12. On page 130, line 7, strike "83-162.01 to".

- 13 13. Amend the operative date and repealer sections so
 14 that the sections added by this amendment become operative on July
 15 1, 2004.
 16 14. Renumber the remaining sections and correct internal
 17 references accordingly.

RESOLUTIONS

LEGISLATIVE RESOLUTION 369. Introduced by Jensen, 20.

PURPOSE: The purpose of this study is to continue to improve the Emergency Medical System in the State of Nebraska. As rural Nebraska continues to rely on volunteer EMS workers it has become more important that key issues are reviewed for future action including, but not limited to, the following areas:

1. The responsible parties within jurisdictions throughout the state who shall ensure that EMS functions are carried out on behalf of citizens;
2. How the state and other jurisdictions can retain and recruit volunteer EMS workers;
3. Certification of 911 dispatchers in dispatch-aided, medically approved self-help programs; and
4. Whether the creation of a State EMS Medical Director and the representation of EMS providers on the State Board of Health would improve emergency services in Nebraska.

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 370. Introduced by Janssen, 15.

PURPOSE: Currently, flavored malt beverages are classified as beer at the federal level.

The United States Department of the Treasury's Alcohol and Tobacco Tax and Trade Bureau is currently studying the issue of the composition of flavored malt beverages and determining a federal standard for flavored malt beverages which will determine whether a product is classified as beer or spirits. This study is intended to monitor the federal rulemaking process and to determine any necessary changes to the Nebraska Liquor Control Act to conform to forthcoming federal standards. The study shall examine the provisions of the Nebraska Liquor Control Act in relation to flavored malt beverages and the consequences of classifying flavored malt beverages as

spirits rather than beer.

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

1. That the General Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 371. Introduced by Burling, 33.

PURPOSE: The purpose of this study is to examine the effects of transferring the general assistance medical costs of Nebraska's counties to the State of Nebraska. The study will examine the fiscal impact of such a transfer and how the transition would affect continuity and efficiency of public assistance.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 372. Introduced by Hartnett, 45.

PURPOSE: To study issues relating to the growth of cities and villages, most particularly the development and operation of Sanitary and Improvement Districts; the planning, zoning, and permitting process; the financing of infrastructure improvements beyond current municipal boundaries; the annexation process; and the need for joint or cooperative action by cities and other political jurisdictions in the "growth" process.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative

Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 373. Introduced by Hartnett, 45.

PURPOSE: To provide the opportunity for the Urban Affairs Committee to investigate and review matters and issues during the interim which are within the jurisdiction of the Urban Affairs Committee and which may be the subject of bills to be introduced in the coming biennium.

The study shall include:

(1) A review of legislation considered by the Urban Affairs Committee during the 2003-04 legislative session which was not advanced from the committee or pursued to final passage to determine what further action by the committee might be warranted with regard to the particular subjects of the individual bills;

(2) A review of problems, concerns, or legislation proposed for introduction by senators or other parties for study, technical discussion, or conceptual refinement before the start of the next legislative session; and

(3) At least one public hearing to provide an opportunity for public comment and discussion with members of the committee and the public on issues involving matters within the committee's jurisdiction.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 374. Introduced by Hartnett, 45.

PURPOSE: To further study the issues raised by LB 1043, to determine the extent to which Nebraska villages rely upon county sheriffs for law enforcement services, the manner in which villages and counties contract for such services, the costs for such services, and how best to encourage villages and counties to enter into such relationships.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report

of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 375. Introduced by Hartnett, 45.

PURPOSE: To further study the issues raised by LB 1233 regarding the Community Development Law and tax increment financing and to study current municipal practices regarding tax increment financing, the extent to which it is being used, the purposes for which it is devoted, and the impact on general government finances in areas where the authority is exercised.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 376. Introduced by Hartnett, 45.

PURPOSE: To review the experience of the first year of natural gas regulation under the terms of the State Natural Gas Regulation Act and under the authority of the Public Service Commission, to receive information regarding proposed changes to the act, and to further study the issues raised by LB 1053 and the need for defined service territories of natural gas utilities in the State of Nebraska.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 377. Introduced by Hartnett, 45.

PURPOSE: In 1979, the Legislature passed legislation allowing the formation of business improvement districts: Special, self-taxing districts

created by cities to address infrastructure and maintenance issues particular to defined areas within their boundaries. Numerous cities in Nebraska have allowed the formation of these districts with much success. However, recent discussions surrounding the creation of a district in the Old Market area in Omaha have pointed out the need for a clarification of the statutes governing the establishment and financing of such districts. This study shall review the existing legislation, the experiences of cities which have created such districts, and recommendations for changes necessary to address current needs and requirements.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 378. Introduced by Dw. Pedersen, 39.

PURPOSE: To examine the use of a mandatory calculation of child support for children made wards of the state.

Under current law, a child becomes a ward of the state by entry of a court order. As part of this order, the court may require parents to pay support to the Department of Health and Human Services for their child's cost of care. Many times, no order is entered at all. Moreover, by not mandating this support from parents, reunification of the family may be deterred.

The participants in this study shall review a proposed statutory requirement that all court orders for wards of the state include a mandatory finding directing the parents, who are financially able, to pay support for the child's cost of care based on a schedule or formula. The Department of Health and Human Services shall be allowed to make recommendations to the State Disbursement and Child Support Advisory Commission regarding the child support mandatory schedule or child support formula. This commission would then recommend these schedules or formula to the Nebraska Supreme Court.

The participants in this study may include the Health and Human Services System, State Disbursement and Child Support Advisory Commission, juvenile court judges, State Court Administrator's office, and Judiciary Committee staff. Current child support formulas and schedules shall be examined. The impact on reunification, costs of parents in juvenile courts, and amount of state savings shall also be addressed.

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

1. That the Judiciary Committee of the Legislature shall be designated to

conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 379. Introduced by Jensen, 20.

PURPOSE: The purpose of this resolution is to examine the use of a resource test on families in determining the medicaid eligibility of children and pregnant women. Specifically, this study shall examine the laws of other states relating to medicaid eligibility, resource standards and methodologies, restrictions of federal law, and fiscal impacts by the use of such a test.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 380. Introduced by Jensen, 20.

PURPOSE: The purpose of this resolution is to study state law regarding the Employment First Program. Specifically, this study shall examine the current federal law relating to such types of waivers, inconsistencies between federal law and state law, federal work participation target rate, and federal time limit requirements.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 381. Introduced by Jensen, 20.

PURPOSE: The purpose of this resolution is to study the use of a statutory

lien for third-party liability cases when medicaid is involved and the requirement of a notice of death from personal representatives for medicaid recipients. Specifically, this study shall examine issues regarding medicaid costs, medicaid fraud, accountability from estates for a decedent's cost of nursing home care, and other states' use of statutory liens in such cases.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 382. Introduced by Jensen, 20.

PURPOSE: To examine the confirmation process for gubernatorial appointments.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 383. Introduced by Brown, 6.

PURPOSE: LB 1234 was introduced to enact the Regulatory Flexibility Act. The introducer's statement of intent indicated the goal of the bill was to reduce the impact of government regulation on private enterprise to the minimum level consistent with the protection of the public health, safety, and welfare. The purpose of this study is to review the difference in costs to small businesses that would result from enactment of the bill. This review can be divided into three parts:

1. Determine the regulatory cost at the state level.
2. Ascertain ways to limit the regulatory impact.
3. Calculate the cost savings to small business.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 384. Introduced by Schrock, 38.

PURPOSE: To analyze the fiscal and economic impact of agricultural personal property taxation.

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

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 385. Introduced by Schrock, 38.

PURPOSE: The purpose of this study is to examine the concept of developing special hunting permits for big game and determine the impacts of such permits.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 386. Introduced by Schrock, 38.

PURPOSE: The purpose of this study is to examine livestock operation transfers, including, but not limited to, notice of such transfers.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 387. Introduced by Jensen, 20; Cunningham, 40; Maxwell, 9; Erdman, 47; Byars, 30; Stuthman, 22; Johnson, 37.

PURPOSE: The purpose of this study is to examine and address various health and human services issues within the jurisdiction of the Health and Human Services Committee of the Legislature, including, but not limited to: Health and human services planning and evaluation; the statewide behavioral health system; the Nebraska Mental Health Commitment Act; health insurance availability and affordability; prescription drug access and policy; the medical assistance program established in section 68-1018; the Nebraska Health Care Funding Act; public health law and policy; the Nebraska Health and Human Services System; the Nebraska Clean Indoor Air Act; the Uniform Licensing Law; the regional administrative structure for the delivery of state developmental disability programs and services, mental health programs and services, and aging programs and services; marriage and family preservation; children in out-of-home care; the Welfare Reform Act; and state public assistance programs.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

SELECT FILE

LEGISLATIVE BILL 1089. Senator Redfield renewed her pending amendment, AM3271, found on page 1181.

Senator Redfield withdrew her amendment.

Senator Wehrbein offered the following amendment:
AM3446

(Amendments to Standing Committee amendments, AM3033)

- 1 1. On page 4, strike lines 15 through 27 and insert:
- 2 "SALARY LIMIT 425,224 3,510,843
- 3 The unexpended Cash Fund appropriation balance existing
- 4 on June 30, 2004, is hereby reappropriated.
- 5 It is the intent of the Legislature that the unexpended
- 6 Cash Fund appropriation balance existing on June 30, 2005, be
- 7 reappropriated.
- 8 Cash Funds appropriated in this program are from the
- 9 Department of Health and Human Services Cash Fund.
- 10 There is included in the appropriation to this program
- 11 \$2,080,725 Cash Funds and \$416,244 Federal Funds for FY2003-04 to
- 12 implement recommendations made by the Children's Task Force. There
- 13 is included in the appropriation to this program \$5,138,585 Cash
- 14 Funds and \$1,029,507 Federal Funds for FY2004-05 to implement
- 15 recommendations made by the Children's Task Force."
- 16 2. On page 34, strike line 27 and insert
- 17 "REVOLVING FUND 476,459 562,709".
- 18 3. On page 35, strike line 1 and insert
- 19 "PROGRAM TOTAL 5,705,437 5,924,420"
- 20 and strike line 2, show as stricken, and insert
- 21 "SALARY LIMIT 3,778,937 3,920,617".
- 22 4. On page 39, line 18, strike "550,732" and insert
- 23 "1,050,732"; and in line 19 strike "1,013,842,970" and insert
- 1 "1,014,342,970".
- 2 5. On page 76, line 18, strike "\$1,485,000" and insert
- 3 "\$1,492,500".
- 4 6. On page 188, line 7, strike "Natural Gas Regulation
- 5 Revolving Loan Fund (2041)", show as stricken, and insert "Rate
- 6 Negotiations Revolving Loan Fund (21408)".

The Wehrbein amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Senator Wehrbein offered the following amendment:
AM3460

(Amendments to Standing Committee amendments, AM3033)

- 1 1. On page 97, line 19, strike "691,274" and insert
- 2 "766,294".

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

Senator Smith offered the following amendment:
AM3246

(Amendments to Standing Committee amendments, AM3033)

- 1 1. On page 185, line 5, strike "and" and show as
- 2 stricken; and in line 9 before the period insert ";
- 3 (x) From the Campaign Finance Limitation Cash Fund (2872)

4 to the General Fund (1000): \$390,000; and
 5 (y) From the General Fund (1000) to the Permanent School
 6 Fund: \$390,000".

Senator Beutler offered the following amendment to the Smith pending amendment:

FA1636

Amend AM3246

1 1. On page 185, line 5, strike "and" and show as
 2 stricken; and in line 9 before the period insert ";
 3 (x) From the Campaign Finance Limitation Cash Fund (2872)
 4 to the General Fund (1000): \$10,000; and
 5 (y) From the General Fund (1000) to the Permanent School
 6 Fund: \$10,000".

SENATOR HARTNETT PRESIDING

Senator Beutler withdrew his amendment.

Senator Smith withdrew his amendment.

Senator Synowiecki offered the following amendment:

AM3400

(Amendments to Standing Committee amendments, AM3033)

1 1. Insert the following new sections:
 2 "Sec. 7. AGENCY NO. 5 -- SUPREME COURT
 3 Program No. 435 - Community Corrections
 4

	<u>FY2003-04</u>	<u>FY2004-05</u>
<u>GENERAL FUND</u>	<u>-0-</u>	<u>250,000</u>
<u>PROGRAM TOTAL</u>	<u>-0-</u>	<u>250,000</u>

 7 There is included in the appropriation to this program a
 8 one-time General Fund appropriation of \$250,000.
 9 Sec. 12. AGENCY NO. 46 -- DEPARTMENT OF CORRECTIONAL
 10 SERVICES
 11 Program No. 200 - Operations
 12

	<u>FY2003-04</u>	<u>FY2004-05</u>
<u>GENERAL FUND</u>	<u>-0-</u>	<u>250,000</u>
<u>PROGRAM TOTAL</u>	<u>-0-</u>	<u>250,000</u>

 15 There is included in the appropriation to this program a
 16 one-time General Fund appropriation of \$250,000."
 17 2. On page 26, line 22, strike "16,156,619" and insert
 18 "17,356,619"; and in line 27 strike "16,927,395" and insert
 19 "18,127,395".
 20 3. On page 27, after line 7 insert:
 21 "Included in the appropriation to this program is
 22 \$1,200,000 for additional personnel to expand Intensive Supervision
 23 Probation services.".
 1 4. On page 110, line 22, strike "132,077,349" and insert
 2 "129,668,923"; and in line 26 strike "154,539,278" and insert

3 "152,130,852".

4 5. On page 112, after line 14 insert:

5 "There is included in the appropriation to this program

6 \$802,808 to operate the McCook Incarceration Work Camp.".

7 6. Renumber the remaining sections accordingly.

Senator Synowiecki offered the following amendment to his pending amendment:

FA1643

Amend AM3400

On page 1, line 11, strike "Program 200" and insert "Program 367"

SPEAKER BROMM PRESIDING

SENATOR CUDABACK PRESIDING

Senator Wehrbein moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Synowiecki amendment, FA1643, was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Senator Byars moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Synowiecki amendment, AM3400, as amended, lost with 13 ayes, 22 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

AMENDMENTS - Print in Journal

Senator Brashear filed the following amendment to LB 1090:
(Amendment, AM3454, is printed separately and available in the Bill Room, Room 1104.)

Senator Beutler filed the following amendment to LB 1090:
AM3474

(Amendments to E & R amendments, AM7202)

1 1. Insert the following new sections:

2 "Sec. 4. For purposes of this section and section 5 of

3 this act:

4 (1) Low-income subscriber means an individual subscriber

5 with a household income of less than twenty thousand dollars per

6 year;

7 (2) Subscriber means any person, firm, partnership,

8 corporation, limited liability company, municipality, cooperative,
9 or other entity to whom a supplier sells electricity at retail; and

10 (3) Supplier means any public power district, public
11 power and irrigation district, individual municipality, registered
12 group of municipalities, electric membership association, or
13 cooperative selling electricity at retail to subscribers.

14 Sec. 5. (1) Beginning January 1, 2005, and ending
15 December 31, 2007, each supplier shall assess and collect monthly
16 from each subscriber a surcharge equivalent to five percent of the
17 subscriber's monthly charge for electricity, excluding all federal,
18 state, and local taxes. The supplier shall remit the amounts
19 collected to the State Treasurer for credit to the Cash Reserve
20 Fund. The Accounting Administrator of the Department of
21 Administrative Services shall create a subaccount within the Cash
22 Reserve Fund for the deposit and accounting of revenue received as
23 a result of the surcharge. The surcharge shall be collected

1 monthly in the same manner as the sales tax under the Nebraska
2 Revenue Act of 1967, including provisions of the act relating to
3 due dates, interest, penalties, and collection procedures, except
4 that no collection fees shall be allowed any supplier.

5 (2) Failure by the subscriber to pay the surcharge is
6 deemed to be nonpayment for services rendered by the supplier and
7 shall be subject to the remedies set forth in Chapter 70, article
8 6, for nonpayment, including, but not limited to, disconnection of
9 electrical service.

10 (3) Suppliers of electricity may deduct any amounts
11 deemed uncollectible from the supplier's monthly remittance of the
12 surcharge to the State Treasurer.

13 (4) The Nebraska Power Review Board may adopt and
14 promulgate rules and regulations which totally or partially exempt
15 low-income subscribers from the surcharge. Such rules and
16 regulations shall limit the exemptions to a total of twenty-one
17 million dollars over any three-year period.

18 Sec. 6. (1) The Low-Level Radioactive Waste Disposal
19 Litigation Fund is created. The Department of Environmental
20 Quality shall administer the fund. Any money in the fund available
21 for investment shall be invested by the state investment officer
22 pursuant to the Nebraska Capital Expansion Act and the Nebraska
23 State Funds Investment Act.

24 (2) The Low-Level Radioactive Waste Disposal Litigation
25 Fund shall be used for expenses, including, but not limited to,
26 settlement or judgment costs, relating to litigation over disposal
27 of low-level radioactive waste to which the State of Nebraska is a
1 party. At the direction of the Governor, the State Treasurer shall
2 transfer funds from the subaccount of the Cash Reserve Fund created
3 pursuant to section 5 of this act to the Low-Level Radioactive
4 Waste Cash Fund. Amounts transferred are hereby appropriated for
5 FY2004-05 and shall only be expended to pay judgments resulting
6 from litigation in federal district court regarding the low-level

- 7 radioactive waste licensing process.
 8 (3) The Legislature may provide for transfer to the
 9 General Fund of any money in the Low-Level Radioactive Waste
 10 Disposal Litigation Fund no longer needed for purposes of
 11 subsection (2) of this section."
 12 2. Renumber the remaining sections accordingly.

Senators Hartnett and Beutler filed the following amendment to LB 1090:
 AM3461

(Amendments to E & R amendments, AM7202)

- 1 1. Insert the following new sections:
 2 "Section 1. Section 77-2701.01, Reissue Revised Statutes
 3 of Nebraska, is amended to read:
 4 77-2701.01. Pursuant to section 77-2715.01, for all
 5 taxable years beginning or deemed to begin on or after January 1,
 6 1990, and before January 1, 1991, under the Internal Revenue Code
 7 of 1986, as amended, the rate of the income tax levied pursuant to
 8 section 77-2715 shall be three and forty-three-hundredths percent.
 9 Pursuant to section 77-2715.01, for all taxable years beginning or
 10 deemed to begin on or after January 1, 1991, and before January 1,
 11 2004, and for all taxable years beginning on or after January 1,
 12 2006, under the Internal Revenue Code of 1986, as amended, the rate
 13 of the income tax levied pursuant to section 77-2715 shall be three
 14 and seventy-hundredths percent. Pursuant to section 77-2715.01,
 15 for all taxable years beginning or deemed to begin on or after
 16 January 1, 2004, and before January 1, 2006, under the Internal
 17 Revenue Code of 1986, as amended, the rate of income tax levied
 18 pursuant to section 77-2715 shall be three and ninety-one
 19 hundredths percent.
 20 Sec. 2. Section 77-2715.02, Reissue Revised Statutes of
 21 Nebraska, is amended to read:
 22 77-2715.02. (1) Whenever the primary rate is changed by
 23 the Legislature under section 77-2715.01, the Tax Commissioner
 1 shall update the rate schedules required in subsection (2) of this
 2 section to reflect the new primary rate and shall publish such
 3 updated schedules.
 4 (2) The following rate schedules are hereby established
 5 for the Nebraska individual income tax and shall be in the
 6 following form:
 7 (a) The income amounts for columns A and E shall be:
 8 (i) \$0, \$2,400, \$17,000, and \$26,500, for single returns;
 9 (ii) \$0, \$4,000, \$30,000, and \$46,750, for married filing
 10 joint returns;
 11 (iii) \$0, \$3,800, \$24,000, and \$35,000, for
 12 head-of-household returns;
 13 (iv) \$0, \$2,000, \$15,000, and \$23,375, for married filing
 14 separate returns; and
 15 (v) \$0, \$500, \$4,700, and \$15,150, for estates and
 16 trusts;

17 (b) The amount in column C shall be the total amount of
 18 the tax imposed on income less than the amount in column A;

19 (c) The amount in column D shall be the rate on the
 20 income in excess of the amount in column E;

21 (d) For taxable years beginning or deemed to begin before
 22 January 1, 2003, under the Internal Revenue Code of 1986, as
 23 amended, the primary rate set by the Legislature shall be
 24 multiplied by the following factors to compute the tax rates for
 25 column D. The factors for the brackets, from lowest to highest
 26 bracket, shall be .6784, .9432, 1.3541, and 1.8054;

27 (e) For taxable years beginning or deemed to begin on or
 1 after January 1, 2003, and before January 1, 2004, and for taxable
 2 years beginning or deemed to begin on or after January 1, 2006,
 3 under the Internal Revenue Code of 1986, as amended, the primary
 4 rate set by the Legislature shall be multiplied by the following
 5 factors to compute the tax rates for column D. The factors for the
 6 brackets, from lowest to highest bracket, shall be .6932, .9646,
 7 1.3846, and 1.848;

8 (f) For taxable years beginning or deemed to begin on or
 9 after January 1, 2004, and before January 1, 2006, under the
 10 Internal Revenue Code of 1986, as amended, the primary rate set by
 11 the Legislature shall be multiplied by the following factors to
 12 compute the tax rates for column D. The factors for the brackets,
 13 from lowest to highest bracket, shall be .6932, .9646, 1.3846, and
 14 1.7487;

15 (g) The amounts for column C shall be rounded to the
 16 nearest dollar, and the amounts in column D shall be rounded to
 17 hundredths of one percent; and

18 ~~(g)~~ (h) One rate schedule shall be established for each
 19 federal filing status.

20 (3) The tax rate schedules shall use the format set forth
 21 in this subsection.

	A	B	C	D	E
Taxable income	but not	pay	plus	of the	
over	over			amount over	

25 (4) The tax rate applied to other federal taxes included
 26 in the computation of the Nebraska individual income tax shall be
 27 eight times the primary rate.

1 (5) The Tax Commissioner shall prepare, from the rate
 2 schedules, tax tables which can be used by a majority of the
 3 taxpayers to determine their Nebraska tax liability. The design of
 4 the tax tables shall be determined by the Tax Commissioner. The
 5 size of the tax table brackets may change as the level of income
 6 changes. The difference in tax between two tax table brackets
 7 shall not exceed fifteen dollars. The Tax Commissioner may build
 8 the personal exemption credit and standard deduction amounts into
 9 the tax tables.

10 (6) The Tax Commissioner may require by rule and
 11 regulation that all taxpayers shall use the tax tables if their

12 income is less than the maximum income included in the tax
13 tables."

14 2. On page 4, after line 18 insert the following new
15 subsection:

16 "(10) The State Treasurer, at the direction of the budget
17 administrator of the budget division of the Department of
18 Administrative Services, shall transfer the following amounts from
19 the General Fund to the Cash Reserve Fund to reflect the income tax
20 increase provided in sections 77-2701.01 and 77-2715.02, as amended
21 by this legislative bill:

22 (a) Forty-three million three hundred five thousand
23 dollars on or before June 30, 2005;

24 (b) Fifty million six hundred ninety-four thousand
25 dollars on or before June 30, 2006; and

26 (c) Ten million fifty-five thousand dollars on or before
27 June 30, 2007."

1 3. On page 5, line 1, after "sections" insert

2 "77-2701.01, 77-2715.02," and after "81-179" insert a comma.

3 4. Renumber the remaining sections accordingly.

Senator Thompson filed the following amendment to LB 559:

(Amendment, AM3417, is printed separately and available in the Bill Room,
Room 1104.)

Senator Chambers filed the following amendment to LB 1046:

FA1642

Amend AM2907

No producer, processor, distributor, or seller of livestock shall be subject to
civil liability for personal injury or wrongful death based on an individual's
consumption of an entire cow (cooked or raw) at one sitting when liability is
premised upon such individual's weight gain or obesity alleged to be the
result of such consumption of such cow.

Senators Bromm and Baker filed the following amendment to LB 20:

AM3471

1 1. Strike the original sections and all amendments

2 thereto and insert the following new sections:

3 "Section 1. Section 86-128, Revised Statutes Supplement,

4 2002, is amended to read:

5 86-128. (1)(a) To preserve the integrity of a ubiquitous

6 network, to preserve and advance universal service, and to ensure

7 the delivery of essential and emergency telecommunications service,

8 telecommunications common carriers and telecommunications contract

9 carriers in Nebraska are subject to regulation by the commission.

10 In addition to the requirements of section 86-129, a person shall

11 file an application and receive either a certificate of convenience

12 and necessity as a telecommunications common carrier or a permit as

13 a telecommunications contract carrier before such person may (i)

14 offer any telecommunications service or (ii) construct new

15 telecommunications facilities in, or extend existing
16 telecommunications facilities into, the territory of another
17 telecommunications company to provide any telecommunications
18 service.

19 (b) ~~The commission may only issue a certificate of~~
20 ~~convenience and necessity as a telecommunications common carrier or~~
21 ~~a permit as a telecommunications contract carrier after due notice~~
22 ~~and hearing pursuant to commission rules and regulations. The~~
23 ~~commission shall not issue a certificate or a permit to an agency~~
24 ~~or political subdivision of the state. The commission may only~~
1 ~~issue a certificate of convenience and necessity as a~~
2 ~~telecommunications common carrier or a permit as a~~
3 ~~telecommunications contract carrier after due notice and hearing~~
4 ~~pursuant to commission rules and regulations. The commission shall~~
5 ~~not issue a certificate or a permit to an agency or political~~
6 ~~subdivision of the state.~~

7 (2) If a telecommunications company holds a certificate
8 of convenience and necessity as a telecommunications common
9 carrier, it shall not be required to obtain a permit as a
10 telecommunications contract carrier.

11 (3) The commission may establish such just and reasonable
12 classifications of groups of telecommunications common carriers and
13 telecommunications contract carriers taking into consideration the
14 special nature of the telecommunications service performed by such
15 carriers. The commission may adopt and promulgate rules,
16 regulations, and requirements to be observed by a carrier so
17 classified or grouped as the commission deems necessary or
18 desirable and in the public interest.

19 (4) The commission may waive applicability of subsection
20 (1) of this section as to the provision of intra-LATA interexchange
21 service under rules and regulations applicable to all
22 telecommunications companies providing such interexchange service.
23 After such waiver, the certificate or permit for and provision of
24 intra-LATA interexchange service shall be governed by the statutes,
25 rules, and regulations for a certificate or permit for and
26 provision of inter-LATA interexchange service.

27 Sec. 2. Section 86-575, Revised Statutes Supplement,
1 2002, is amended to read:

2 86-575. (1) Any agency or political subdivision of the
3 state may:

4 (a) Own dark fiber;

5 (b) Sell dark fiber pursuant to section 86-576; and

6 (c) Lease dark fiber pursuant to section 86-577.

7 (2) ~~No agency or political subdivision of the state shall~~
8 ~~provide telecommunications services for a fee, except as authorized~~
9 ~~in sections 79-1319, 81-1120.01 to 81-1120.28, 85-401 to 85-418,~~
10 ~~and 85-1501 to 85-1542, or be issued a certificate of convenience~~
11 ~~and necessity as a telecommunications common carrier or a permit as~~
12 ~~a telecommunications contract carrier. Any agency or political~~

13 ~~subdivision which sells or leases its dark fiber pursuant to~~
 14 ~~sections 86-574 to 86-578 shall not be deemed to be providing~~
 15 ~~telecommunications services for a fee. No agency or political~~
 16 ~~subdivision of the state shall provide telecommunications services~~
 17 ~~for a fee, except as authorized in sections 79-1319, 81-1120.01 to~~
 18 ~~81-1120.28, 85-401 to 85-418, and 85-1501 to 85-1542, or be issued~~
 19 ~~a certificate of convenience and necessity as a telecommunications~~
 20 ~~common carrier or a permit as a telecommunications contract~~
 21 ~~carrier. Any agency or political subdivision which sells or leases~~
 22 ~~its dark fiber pursuant to sections 86-574 to 86-578 shall not be~~
 23 ~~deemed to be providing telecommunications services for a fee.~~
 24 Sec. 3. Original sections 86-128 and 86-575, Revised
 25 Statutes Supplement, 2002, are repealed.
 26 Sec. 4. Since an emergency exists, this act takes effect
 27 when passed and approved according to law."

Senator Byars filed the following amendment to LB 841A:
 AM3450

- 1 1. On page 2, lines 2 and 3 and 4, strike "ICF/MR
- 2 Reimbursement Protection" and insert "Department of Health and
- 3 Human Services Cash"; in lines 21 and 23 strike "\$708,000" and
- 4 insert "\$1,692,000"; and in lines 22 and 24 strike "\$1,062,000" and
- 5 insert "\$2,899,000".
- 6 2. On page 3, lines 5 and 6 and 7 strike "and" through
- 7 "funds".

BILLS ON FIRST READING

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

LEGISLATIVE BILL 1075A. Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1075, Ninety-eighth Legislature, Second Session, 2004.

LEGISLATIVE BILL 391A. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 391, Ninety-eighth Legislature, Second Session, 2004; and to reduce an appropriation.

RESOLUTIONS

LEGISLATIVE RESOLUTION 388. Introduced by Jones, 43; Loudon, 49; Friend, 10.

PURPOSE: The purpose of this study is to examine protections afforded to cold water class A streams under the Livestock Waste Management Act.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 389. Introduced by Quandahl, 31.

PURPOSE: During the past three years the State of Nebraska has experienced unprecedented fiscal problems. Despite budgetary and revenue adjustments made by recent legislatures, the State of Nebraska's fiscal difficulties will continue unless a clear vision for the future is developed.

There are many programs and services provided by state and local government entities that are necessary to the future of Nebraska. Likewise, there are many programs and services critical to the health, safety, and welfare of individual Nebraskans. Nebraska's economy, geography, and the demographics of Nebraska's inhabitants collide and make it impossible to provide sufficient funds to maintain the current level of programs and services. It is clear that Nebraska's economic prosperity depends upon the prosperity of its private sector.

It is vital for the future prosperity of our state that we develop and implement clear spending priorities and a fair and realistic revenue system in order to facilitate economic development. The Legislature should convene an Economic Future Summit to examine our spending patterns, recommend priorities, and recommend changes to our revenue system. Participating in the Economic Future Summit would be representatives of the Legislature, the executive branch, and public and private sector interests in the state to set the course for a strong state economy. These interested Nebraskans need to study, discuss, and prioritize programs and services offered by the state and local governments.

Such a prioritization could serve as a basis for future funding decisions as well as recommendations for statutory and constitutional revisions. In addition, an updated state revenue system reflective of current economic trends and sustainable into the foreseeable future is necessary to fund the priorities.

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

1. That the Executive Board of the Legislative Council shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the Executive Board shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 390. Introduced by Baker, 44.

PURPOSE: To review and research issues raised by members of the Legislature, agencies, instrumentalities of government, and the public during the Legislature's consideration of LB 1176 (2004), and to identify solutions to assist the Statewide Communications Alliance of Nebraska (SCAN) with the implementation and successful operation of a statewide public safety interoperable data and voice communication system in the most efficient, practical, timely, and effective manner for the benefit of all the citizens of the state, as well as to address the needs of the public and private users of the system and those public and private organizations and enterprises that will supply the required services, facilities, equipment, and support to create and sustain such a statewide system. The study shall:

(1) Review the statutory provisions of the Nebraska Public Safety Wireless Communication System Act;

(2) Review and solicit input regarding statewide public safety interoperable data and voice service functionality and access requirements among such system's users and interested parties;

(3) Consider current and planned data and voice systems and communications infrastructure and relevant funding plans;

(4) Identify options regarding how these users and interested parties plan to pay for the development and operation of these current and future data and voice facilities, services, and required operational equipment; and

(5) Discuss the cost of the development, operation, maintenance, and necessary upgrades required to meet a level of statewide service.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 391. Introduced by Erdman, 47.

PURPOSE: The purpose of this study is to provide an analysis and comparison of other state and political subdivision law enforcement retirement plans and benefits.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

NOTICE OF COMMITTEE HEARING
Transportation and Telecommunications
Room 1113

LB 20 Tuesday, April 6, 2004
(AM3471)

8:00 a.m.

(Signed) Tom Baker, Chairperson

AMENDMENT - Print in Journal

Senator Stuhr filed the following amendment to LB 1097:
(Amendment, AM3473, is printed separately and available in the Bill Room, Room 1104.)

VISITORS

Visitors to the Chamber were 37 fourth-grade students and teachers from Ravenna.

The Doctor of the Day was Dr. Jeff Harrison from Omaha.

ADJOURNMENT

At 6:38 p.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Wednesday, March 31, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-FIRST DAY - MARCH 31, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FIFTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 31, 2004

PRAYER

The prayer was offered by Pastor Jose Flores, Zion-Peace Evangelical Lutheran Church and School, Omaha.

ROLL CALL

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

The roll was called and all members were present except Senator Landis who was excused; and Senators Brown, Jensen, Maxwell, Mines, Mossey, D. Pederson, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fiftieth day was approved.

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

The following bills were correctly engrossed: LBs 297, 514, 868, 888, 917, 1047, 1071, and 1144.

ER9122

Enrollment and Review Change to LB 888

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

1. In the E & R amendments, AM7184:
 - a. On page 7, line 9, "subsection" has been struck, shown as stricken, and "subdivision" inserted; and
 - b. On page 9, line 15, the first comma has been struck and shown as stricken.

(Signed) Ray Mossey, Chairperson

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendments to LB 958:

FA1613

Amend AM3226

On page 1, strike lines 3-7; in lines 9 and 10, and on page 2 in line 15 strike "of an Unborn Child" and insert "on the Separation between Church and State".

FA1614

Amend AM3226

Add a new section: "No prosecutor shall file a charge under this act prior to the alleged victim having reached the fetal stage of development when body structures are in recognizable form."

FA1615

Amend AM3226

On page 1, in line 18 after "utero." insert "This is a declaration of religious belief, not a statement of scientific fact nor does it command the assent of all religions, great or small."

FA1616

Amend AM3226

Add a new section: "Any prosecutor who files a charge under this act prior to the alleged victim having reached the fetal stage of development when body structures are in recognizable form shall be taken into custody by the sheriff of the county where such charge has been filed and such sheriff shall straightway transport and deliver such prosecutor to the nearest Regional Center for the purpose of having such prosecutor's head examined by a licensed psychiatrist."

FA1617

Amend AM3226

On page 1, in lines 9 and 10; and on page 2, in line 15 strike "an Unborn Child" and insert "a Laddy or Lassy".

On page 1, in line 17 strike "Unborn child" and insert "Laddy or lassy".

On page 1, in lines 20, 22; and on page 2, in lines 1, 4, 8, 17, 18-19 strike "an unborn child" and insert "a lady or lassy".

FA1618

Amend AM3226

On page 1, in lines 9 and 10; and on page 2 in line 15 strike "an Unborn Child" and insert "a Zygote, Embryo or Fetus".

On page 1, in line 17 strike "Unborn child" and insert "Zygote, embryo or fetus", and put a period after "sapiens" and strike remaining language.

On page 1, in lines 20, 22; and on page 2, in lines 1, 4, 8, 17, 18-19 strike "an unborn child" and insert "a zygote, embryo or fetus".

FA1619

Amend AM3226

On page 1, in lines 9 and 10; and on page 2, in line 15 strike "Unborn Child" and insert "Embryo or Fetus".

On page 1, in line 17 strike "Unborn child" and insert "Embryo or fetus", put a period after "sapiens" and strike remaining language.

On page 1, in lines 20, 22; and on page 2, in lines 1, 4, 8, 17, 18-19 strike "unborn child" and insert "embryo or fetus".

FA1620

Amend AM3226

In page 1, in lines 9 and 10; and on page 2, in line 15 strike "an Unborn Child" and insert "a Fetus".

On page 1, in line 17 strike "Unborn child" and insert "Fetus", put a period after "sapiens" and strike remaining language.

On page 1, in lines 20, 22; and on page 2, in lines 1, 4, 8, 17, 18-19 strike "unborn child" and insert "fetus".

FA1621

Amend AM3226

On page 1, in line 18 after "utero" insert "or in vitro resulting from in vitro fertilization".

FA1622

Amend AM3226

On page 1, in line 17 after "member" insert "or conjoined twins".

FA1623

Amend AM3226

On page 1, in line 12 strike "bodily" and insert "physical".

FA1624

Amend AM3226

On page 1, in line 12 after "bodily" insert "or cellular"; in line 13 after "death" insert "or rupture of a cellular membrane"; in line 16 after "body" insert "or a cell".

FA1625

Amend AM3226

On page 1, in line 12 after "bodily" insert "or cellular"; in line 14 after "disfigurement" insert "or rupture of a cellular membrane and leakage of any contents"; in line 16 after "body" insert "or a cell".

FA1626

Amend AM3226

On page 1, in line 20 strike "intentionally or", and in line 21 after "knowingly" insert "and intentionally".

FA1627

Amend AM3226

On page 2, in line 3 after "instrument" insert "if such person knew or should have known that the prospective mother was pregnant".

FA1628

Amend AM3226

On page 1, in line 14 strike beginning with "or" through "body" in line 16.

FA1629

Amend AM3226

On page 1, in line 13 strike beginning with "or" through "body" in line 16.

FA1630

Amend AM3226

On page 1, in lines 13 and 14 strike "or which involves a substantial risk of serious permanent disfigurement".

FA1631

Amend AM3226

On page 2, in line 11 strike "sixty" and insert "forty five".

FA1632

Amend AM3226

On page 1, in line 20; and on page 2, in line 1 strike "he or she" and insert "such person".

On page 2, in lines 10, 17, 18 strike "the" and insert "such".

FA1633

Amend AM3226

On page 2, in line 9 strike "shall" and insert "may".

Senator Foley filed the following amendment to LB 958:

AM3432

(Amendments to Standing Committee amendments, AM3226)

- 1 1. On page 1, line 13, strike the last occurrence of
- 2 "a".

Senator Beutler filed the following amendment to LB 958:

AM3449

(Amendments to Standing Committee amendments, AM3226)

- 1 1. On page 1, line 21, after "child" insert "with
- 2 knowledge of the pregnancy".
- 3 2. On page 2, lines 2 and 3, strike "a dangerous
- 4 instrument" and insert "knowledge of the pregnancy".

Senator Beutler filed the following amendment to LB 958:
AM3448

(Amendments to Standing Committee amendments, AM3226)

- 1 1. On page 2, strike beginning with "Committed" in line
- 2 18 through "(2)" in line 20; and in line 22 strike "(3)" and insert
- 3 "(2)".

Senator Chambers filed the following amendment to LB 958:
FA1635

Amend AM3226

Add a new section: The Legislature finds and declares: (1) Gamete is a mature reproductive cell that unites with another gamete to form a new organism. (2) Ovum is a female gamete. (3) Spermatozoon is a male gamete. (4) Zygote is the union of two gametes before such zygote undergoes cleavage. (5) Embryo is the phase of development up to the end of the second month of gestation. (6) Fetus is the phase of development after the end of the second month when body structures are in recognizable form. (7) In vitro fertilization is the fertilization of an ovum by sperm in a vessel outside of the body, and the resulting embryo is later implanted in the uterus."

COMMUNICATIONS

From: Nebraska Game and Parks Commission
Roger L. Kuhn
Assistant Director

Your permission is respectfully requested for us to transfer a roadway in Knox County, Nebraska, to the Nebraska Game and Parks Commission.

Richard and Eileen Stewart have been leasing the above mentioned roadway to the Nebraska Game and Parks Commission for the past six years as an access to Board of Educational Lands and Funds property formerly leased by the Nebraska Game and Parks Commission. This 1.4 mile roadway is connected to the Miller Creek State Recreation Area. The Stewart family will convey to the Nebraska Game and Parks Commission, a roadway located in Knox County, Nebraska. The roadway will be maintained by the Nebraska Game and Parks Commission. The Nebraska Game and Parks Commission has the general authority to acquire real estate with the consent of the Governor by gift; and in the interest of promoting outdoor opportunities for Nebraskans, the Nebraska Legislature wishes to grant approval for the Nebraska Game and Parks Commission to obtain title to all or any part of such land presently held by the Stewart family.

The gift from the Stewart family to the Nebraska Game and Parks Commission is all of the real estate described as:

A roadway approximately 66 feet wide located in Section Twenty-one (21), Township Thirty-three (33) North, Range Three (3) West of the 6th P.M., Knox County, Nebraska containing 6 +/- acres.

March 31, 2004

Senator Patrick Engel
Chairman, Executive Board
Room 2010, State Capitol
Lincoln, NE 68509

Dear Senator Engel,

Enclosed you will find correspondence from the Nebraska Game and Parks Commission. The correspondence relates to a request for the State Legislature to accept a Gift of Real Property.

I am forwarding this correspondence to you for action by the Executive Board.

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

GENERAL FILE

LEGISLATIVE BILL 841A. Title read. Considered.

Senator Byars renewed his pending amendment, AM3450, found on page 1384.

The Byars amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 1097A. Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 1090. E & R amendment, AM7202, found on page 1169, was adopted.

Senator Brashear offered the following motion:
Bracket to April 13, 2004.

Senator Brashear withdrew his motion to bracket.

Senator Beutler renewed his pending amendment, AM3474, found on page 1378.

SPEAKER BROMM PRESIDING

Pending.

CEREMONIES

The Speaker introduced a group from the Nebraska Association of Former State Legislators.

EASE

The Legislature was at ease from 11:35 a.m. until 11:56 a.m.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Buscher, Michael - Board of Emergency Medical Services - Health and Human Services

Corbin, David - Nebraska Health Care Council - Health and Human Services

Dillon, Sid R. - Nebraska Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Gajardo, Joel - Nebraska Health Care Council - Health and Human Services

Harr, Phil - Nebraska Health Care Council - Health and Human Services

Klosterman, John - Nebraska Health Care Council - Health and Human Services

Morgan, P.J. - Nebraska Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Okoye, Cordelia - Nebraska Health Care Council - Health and Human Services

Pile, William J. - Coordinating Commission for Postsecondary Education - Education

Rolfsmeier, Douglas P. - Nebraska Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Storey, A. Jane - Child Abuse Prevention Fund Board - Health and Human Services

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

RESOLUTIONS

LEGISLATIVE RESOLUTION 392. Introduced by Aguilar, 35.

WHEREAS, child abuse prevention is a community problem and finding solutions depends on involvement among people throughout the community; and

WHEREAS, statistics of children who are abused and neglected escalate each year; and

WHEREAS, the effects of child abuse are felt by whole communities and need to be addressed by the entire community; and

WHEREAS, effective child abuse prevention programs succeed when partnerships are created among social services agencies, schools, religious organizations, law enforcement agencies, and the business community; and

WHEREAS, youth-serving prevention programs offer positive alternatives for young people and encourage youth to develop strong ties to their community; and

WHEREAS, all citizens should become more aware of child abuse and its prevention within the community and become involved in supporting parents to raise their children in a safe, nurturing environment.

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

1. The Legislature hereby proclaims April as Child Abuse Prevention Month in Nebraska and calls upon all citizens to increase their participation in efforts to prevent child abuse, thereby strengthening the communities in which we live.

Laid over.

LEGISLATIVE RESOLUTION 393. Introduced by Aguilar, 35.

WHEREAS, on March 31, 1927, Cesar Chavez was born on a small ranch near Yuma, Arizona; and

WHEREAS, when severe drought forced the Chavez family to give up their ranch in Yuma, they began picking crops on California farms; and

WHEREAS, after serving our nation in World War II, Cesar Chavez

returned to farm labor in California and began advocating for workers' rights; and

WHEREAS, in 1962, Cesar Chavez founded the National Farm Workers Association, which later became the United Farm Workers of America (UFW), AFL-CIO, the first successful farm workers' union in United States' history; and

WHEREAS, under Cesar Chavez's tireless leadership, the UFW was the first to win collective bargaining for farm workers; and

WHEREAS, at its peak in the 1980's, the UFW's collective bargaining agreements covered approximately 80,000 workers across the nation; and

WHEREAS, Cesar Chavez led a successful five-year grape-pickers' strike that rallied millions of supporters to the UFW and forged a national coalition of unions, church groups, students, minorities, and consumers; and

WHEREAS, on April 23, 1993, Cesar Chavez passed away, leaving behind an enduring legacy of service and leadership; and

WHEREAS, Cesar Chavez's influence has made a lasting impact on farm labor issues and inspired millions of Latinos to achieve educational and political success; and

WHEREAS, on March 31, 2004, individuals and organizations throughout Nebraska are encouraged to celebrate Cesar Chavez's life and work by participating in community service projects.

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

1. That the Legislature hereby designates March 31, 2004, as "Cesar Chavez Day of Service and Learning".

Laid over.

AMENDMENTS - Print in Journal

Senator Stuhr filed the following amendment to LB 1097A:
AM3482

- 1 1. Insert the following new section:
- 2 "Sec. 2. There is hereby appropriated \$115,000 from the
- 3 Nebraska Public Employees Retirement Systems Expense Fund for
- 4 FY2004-05 to the Public Employees Retirement Board, for Program 41,
- 5 to aid in carrying out the provisions of Legislative Bill 1097,
- 6 Ninety-eighth Legislature, Second Session, 2004.
- 7 No expenditures for permanent and temporary salaries and
- 8 per diems for state employees shall be made from funds appropriated
- 9 in this section."
- 10 2. Renumber the remaining section accordingly.

Senator Hartnett filed the following amendment to LB 499:
AM3491

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 66-1850, Reissue Revised Statutes of

4 Nebraska, is amended to read:

5 66-1850. (1) The State Natural Gas Regulation Act shall
6 not be enforced retroactively before May 31, 2003. A rate filing
7 made pursuant to the provisions of the Municipal Natural Gas
8 Regulation Act prior to such date shall be governed by the act by
9 its terms as in effect on the date of the filing. The enactment
10 into law of the State Natural Gas Regulation Act shall not have the
11 effect of releasing or waiving any right of action by the state,
12 any body corporate and politic, municipal corporation, person, or
13 corporation, pending on May 31, 2003, for any right which may have
14 arisen or accrued under the Municipal Natural Gas Regulation Act.

15 (2) The rates, terms and conditions of service, and rate
16 areas of a jurisdictional utility in effect on or before May 31,
17 2003, shall remain in effect after May 31, 2003, and shall be
18 treated as if approved and adopted by the commission pursuant to
19 the State Natural Gas Regulation Act.

20 (3) The rate areas established pursuant to the Municipal
21 Natural Gas Regulation Act and in effect on May 31, 2003, shall be
22 the initial rate areas in effect under the State Natural Gas
23 Regulation Act. Each jurisdictional utility shall file with the
24 commission a map showing the boundaries of such areas and
1 intervening and adjacent rural territories served within such rate
2 areas.

3 (4) Except as provided in subsection (5) of this section,
4 following the filing of maps pursuant to subsection (3) of this
5 section, a jurisdictional utility may file with the commission a
6 revised map or maps of any affected rate areas reflecting changes
7 in the boundaries of one or more of the initially filed rate areas
8 and such changes shall become effective upon filing. The
9 commission may, upon its own initiative or upon complaint, review
10 such rate area boundaries and, following notice and hearing, reject
11 or modify proposed changes upon the basis that the proposed changes
12 in boundaries are unduly preferential, unjustly discriminatory, or
13 not just and reasonable.

14 (5) A rate area containing a city of the primary class
15 shall not be changed to include any other city until after June 1,
16 2007.

17 (6) The commission may waive application of the
18 definition of high-volume ratepayer for all ratepayers who (a)
19 prior to the effective date of this act obtained natural gas
20 service from a jurisdictional utility pursuant to subsection (3) of
21 former section 19-4604, as such section existed prior to May 24,
22 2003, and (b) whose current consumption of natural gas would
23 qualify such ratepayers to receive natural gas service pursuant to
24 such former section if the section had not been repealed. All
25 ratepayers meeting such criteria may be treated as high-volume
26 ratepayers pursuant to the State Natural Gas Regulation Act. The
27 authority granted pursuant to this subsection and any such waiver
1 shall expire on June 1, 2007.

- 2 Sec. 2. Original section 66-1850, Reissue Revised
 3 Statutes of Nebraska, is repealed.
 4 Sec. 3. Since an emergency exists, this act takes effect
 5 when passed and approved according to law."

BILL ON FIRST READING

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

LEGISLATIVE BILL 916A. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 916, Ninety-eighth Legislature, Second Session, 2004.

SELECT COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 841A. Placed on Select File as amended.
 E & R amendment to LB 841A:
 AM7225

- 1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. There is hereby appropriated (1) \$984,000
 4 from the Department of Health and Human Services Cash Fund and
 5 \$1,476,000 from federal funds for FY2004-05 and (2) \$984,000 from
 6 the Department of Health and Human Services Cash Fund and
 7 \$1,476,000 from federal funds for FY2005-06 to the Department of
 8 Health and Human Services, for Program 421, to aid in carrying out
 9 the provisions of Legislative Bill 841, Ninety-eighth Legislature,
 10 Second Session, 2004.
 11 No expenditures for permanent and temporary salaries and
 12 per diems for state employees shall be made from funds appropriated
 13 in this section.
 14 Sec. 2. There is hereby appropriated (1) \$55,000 from
 15 the ICF/MR Reimbursement Protection Fund for FY2004-05 and (2)
 16 \$55,000 from the ICF/MR Reimbursement Protection Fund for FY2005-
 17 06
 18 to the Department of Health and Human Services Finance and Support,
 19 for Program 341, to aid in carrying out the provisions of
 20 Legislative Bill 841, Ninety-eighth Legislature, Second Session,
 21 2004.
 22 Total expenditures for permanent and temporary salaries
 23 and per diems from funds appropriated in this section shall not
 24 exceed \$33,535 for FY2004-05 or \$34,205 for FY2005-06.
 25 Sec. 3. There is hereby appropriated (1) \$1,692,000 from
 1 the ICF/MR Reimbursement Protection Fund and \$2,899,000 from
 2 federal funds for FY2004-05 and (2) \$1,692,000 from the ICF/MR
 3 Reimbursement Protection Fund and \$2,899,000 from federal funds for

4 FY2005-06 to the Department of Health and Human Services Finance
5 and Support, for Program 348, to aid in carrying out the provisions
6 of Legislative Bill 841, Ninety-eighth Legislature, Second Session,
7 2004.

8 No expenditures for permanent and temporary salaries and
9 per diems for state employees shall be made from funds appropriated
10 in this section.

11 Sec. 4. There is hereby appropriated (1) \$312,000 from
12 the ICF/MR Reimbursement Protection Fund for FY2004-05 and (2)
13 \$312,000 from the ICF/MR Reimbursement Protection Fund for
14 FY2005-06 to the Department of Health and Human Services Finance
15 and Support, for Program 424, to aid in carrying out the provisions
16 of Legislative Bill 841, Ninety-eighth Legislature, Second Session,
17 2004.

18 No expenditures for permanent and temporary salaries and
19 per diems for state employees shall be made from funds appropriated
20 in this section.

21 Sec. 5. Since an emergency exists, this act takes effect
22 when passed and approved according to law."

LEGISLATIVE BILL 1097A. Placed on Select File.

Correctly Engrossed

The following bill was correctly engrossed: LB 1092.

ER9123

Enrollment and Review Change to LB 1092

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

1. In the E & R amendments, AM7205, on page 1, line 5, "and" has been
struck and "and 85-414," has been inserted after the last comma; and in line
11 "to provide for the demolition of University of Nebraska Miller Hall;"
has been inserted after the last semicolon.

(Signed) Ray Mossey, Chairperson

MESSAGE FROM THE GOVERNOR

March 31, 2004

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 172, 454, 906, 906A, 963, and 969e were received in my office on March 25, 2004.

These bills were signed and delivered to the Secretary of State on March 31, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

VISITORS

Visitors to the Chamber were Brooke Lurvey from Bennington; Senator Dw. Pedersen's daughter, Megan, and her husband, Michael Nelson, from Hastings; 58 eighth-grade students and teachers from St. Robert's School, Omaha; 33 students, teachers, and sponsors from Grant Elementary School, Norfolk; John Benson and Virginia Tilden from Omaha; and David Bandi from Omaha.

RECESS

At 11:57 a.m., on a motion by Senator Erdman, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Landis who was excused; and Senators Cunningham, Engel, Mossey, D. Pederson, and Thompson who were excused until they arrive.

SELECT FILE

LEGISLATIVE BILL 1090. Senator Beutler withdrew his pending amendment, AM3474, found on page 1378 and considered in this day's Journal.

Senator Brashear renewed his pending amendment, AM3454, printed separately and referred to on page 1378.

SPEAKER BROMM PRESIDING

Pending.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 277 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 277.

NOTICE OF COMMITTEE HEARINGS**Health and Human Services**

Room 1510

Wednesday, April 7, 2004

1:00 p.m.

Michael Buscher - Board of Emergency Medical Services

A. Jane Storey - Child Abuse Prevention Fund Board

David Corbin - Nebraska Health Care Council

Joel Gajardo - Nebraska Health Care Council

Phil Harr - Nebraska Health Care Council

John Klosterman - Nebraska Health Care Council

Cordelia Okoye - Nebraska Health Care Council

(Signed) Jim Jensen, Chairperson

Transportation and Telecommunications

Room 1113

Tuesday, April 13, 2004

1:00 p.m.

Sid R. Dillon - Nebraska Motor Vehicle Industry Licensing Board

P.J. Morgan - Nebraska Motor Vehicle Industry Licensing Board

Douglas P. Rolfmeier - Nebraska Motor Vehicle Industry Licensing Board

(Signed) Tom Baker, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 394. Introduced by Schrock, 38.

WHEREAS, Richard Stewart and Eileen Stewart, husband and wife, will convey to the Game and Parks Commission real estate located in Knox County, Nebraska, which will be maintained as a roadway connected to the Miller Creek State Recreation Area for public outdoor activities; and

WHEREAS, the Game and Parks Commission has the general authority to acquire real estate, with the consent of the Governor, by gift; and

WHEREAS, in the interest of promoting outdoor opportunities for Nebraskans, the Legislature wishes to grant approval for the Game and Parks Commission to obtain title to all or any part of such real estate.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature approves the gift from Richard Stewart and Eileen Stewart, husband and wife, to the Game and Parks Commission of all of the real estate described as:

A roadway approximately 66 feet wide located in Section Twenty-one (21), Township Thirty-three (33) North, Range Three (3) West of the 6th P.M., Knox County, Nebraska, containing six (6) acres, more or less.

2. That such approval is granted with the understanding that the real estate described shall be designated and utilized as a roadway.

Referred to the Reference Committee.

SELECT FILE

LEGISLATIVE BILL 1090. The Brashear pending amendment, AM3454, printed separately and referred to on page 1378 and considered in this day's Journal, was renewed.

Senator Brashear withdrew his amendment.

Senator Hartnett renewed the Hartnett-Beutler pending amendment, AM3461, found on page 1380.

SPEAKER BROMM PRESIDING

Senator Chambers offered the following motion:
Bracket until April 1, 2004.

SENATOR CUDABACK PRESIDING

Pending.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LR 394	Natural Resources

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARING

Natural Resources
Room 1525

LR 394 Wednesday, April 7, 2004

8:30 a.m.

(Signed) Ed Schrock, Chairperson

AMENDMENTS - Print in Journal

Senator Wehrbein filed the following amendment to LB 1091:
AM3347

(Amendments to E & R amendments, AM7203)

- 1 1. Insert the following new sections:
- 2 "Sec. 3. Section 48-162.01, Revised Statutes Supplement,
- 3 2002, is amended to read:
- 4 48-162.01. (1) One of the primary purposes of the
- 5 Nebraska Workers' Compensation Act is restoration of the injured
- 6 employee to gainful employment. To this end the Nebraska Workers'
- 7 Compensation Court may employ one or more specialists in physical,
- 8 medical, or vocational rehabilitation to be appointed by the
- 9 presiding judge. Salaries, other benefits, and administrative
- 10 expenses incurred by the compensation court for purposes of
- 11 vocational rehabilitation may shall be paid from the ~~Workers'~~
- 12 ~~Compensation Trust~~ Compensation Court Cash Fund.
- 13 (2) Such specialists shall continuously study the
- 14 problems of rehabilitation, both physical and vocational, and shall
- 15 investigate and maintain a directory of rehabilitation facilities
- 16 and individual service providers, counselors, and specialists which
- 17 have been approved by the Nebraska Workers' Compensation Court.
- 18 The compensation court may approve as qualified such facilities,
- 19 institutions, physicians, and other individual service providers,
- 20 counselors, and specialists as are capable of rendering competent
- 21 rehabilitation service to seriously injured employees. No facility
- 22 or institution shall be considered as qualified unless it is
- 23 specifically equipped to provide rehabilitation services for
 - 1 persons suffering from either some specialized type of disability
 - 2 or some general type of disability within the field of occupational
 - 3 injury and is staffed with trained and qualified personnel and,
 - 4 with respect to physical rehabilitation, unless it is supervised by
 - 5 a physician qualified to render such service. No physician shall
 - 6 be considered qualified unless he or she has had the experience and
 - 7 training specified by the compensation court. No individual
 - 8 service provider, counselor, or specialist shall be considered
 - 9 qualified unless he or she has satisfied the standards for
 - 10 certification established by the compensation court and has been
 - 11 certified by the compensation court.
- 12 (3) An employee who has suffered an injury covered by the
- 13 Nebraska Workers' Compensation Act is entitled to prompt medical
- 14 and physical rehabilitation services. When as a result of the
- 15 injury an employee is unable to perform suitable work for which he
- 16 or she has previous training or experience, he or she is entitled
- 17 to such vocational rehabilitation services, including job placement
- 18 and retraining, as may be reasonably necessary to restore him or
- 19 her to suitable employment.

20 If entitlement to vocational rehabilitation services is
21 claimed by the employee, the employee and the employer or his or
22 her insurer shall attempt to agree on the choice of a vocational
23 rehabilitation counselor from the directory of vocational
24 rehabilitation counselors established pursuant to subsection (2) of
25 this section. If they are unable to agree on a vocational
26 rehabilitation counselor, the employee or employer or his or her
27 insurer shall notify the compensation court, and the compensation
1 court shall select a counselor from the directory of vocational
2 rehabilitation counselors established pursuant to subsection (2) of
3 this section. Only one such vocational rehabilitation counselor
4 may provide vocational rehabilitation services at any one time, and
5 any change in the choice of a vocational rehabilitation counselor
6 shall be approved by the compensation court. The vocational
7 rehabilitation counselor so chosen or selected shall evaluate the
8 employee and, if necessary, develop and implement a vocational
9 rehabilitation plan. It is a rebuttable presumption that any
10 vocational rehabilitation plan developed by such vocational
11 rehabilitation counselor and approved by a vocational
12 rehabilitation specialist of the compensation court is an
13 appropriate form of vocational rehabilitation. The fee for the
14 evaluation and for the development and implementation of the
15 vocational rehabilitation plan shall be paid by the employer or his
16 or her insurer. The compensation court may establish a fee
17 schedule for services rendered by a vocational rehabilitation
18 counselor. Any loss-of-earning-power evaluation performed by a
19 vocational rehabilitation counselor shall be performed by a
20 counselor from the directory established pursuant to subsection (2)
21 of this section and chosen or selected according to the procedures
22 described in this subsection. It is a rebuttable presumption that
23 any opinion expressed as the result of such a loss-of-earning-power
24 evaluation is correct.

25 The following priorities shall be used in developing and
26 evaluating a vocational rehabilitation plan. No higher priority
27 may be utilized unless all lower priorities have been determined by
1 the vocational rehabilitation counselor to be unlikely to result in
2 a job placement for the injured employee that is consistent with
3 the priorities listed in this section. If a lower priority is
4 clearly inappropriate for the employee, the next higher priority
5 shall be utilized. The priorities are, listed in order from lower
6 to higher priority:

- 7 (a) Return to the previous job with the same employer;
 - 8 (b) Modification of the previous job with the same
9 employer;
 - 10 (c) A new job with the same employer;
 - 11 (d) A job with a new employer; or
 - 12 (e) A period of formal retraining which is designed to
13 lead to employment in another career field.
- 14 Vocational rehabilitation training costs shall be paid

15 from the Workers' Compensation Trust Fund.

16 (4) If physical or medical rehabilitation services are
17 not voluntarily offered and accepted, the Nebraska Workers'
18 Compensation Court or any judge thereof on its or his or her own
19 motion, or upon application of the employee or employer, and after
20 affording the parties an opportunity to be heard by the
21 compensation court or judge thereof, may refer the employee to a
22 qualified facility, institution, physician, or other individual
23 service provider for evaluation and report of the practicability
24 of, need for, and kind of service or treatment necessary and
25 appropriate to render him or her fit for a remunerative occupation,
26 and the costs of such evaluation and report involving physical or
27 medical rehabilitation shall be borne by the employer or his or her
1 insurer. Upon receipt of such report and after affording the
2 parties an opportunity to be heard, the compensation court or judge
3 thereof may order that the physical or medical services and
4 treatment recommended in the report or other necessary physical or
5 medical rehabilitation treatment or service be provided at the
6 expense of the employer or his or her insurer.

7 (5) When physical or medical rehabilitation requires
8 residence at or near the facility or institution away from the
9 employee's customary residence, whether within or without this
10 state, the reasonable costs of his or her board, lodging, and
11 travel shall be paid for by the employer or his or her insurer in
12 addition to any other benefits payable under the Nebraska Workers'
13 Compensation Act, including weekly compensation benefits for
14 temporary disability. When vocational rehabilitation requires
15 residence at or near the facility or institution away from the
16 employee's customary residence, whether within or without this
17 state, the reasonable costs of his or her board, lodging, and
18 travel shall be paid from the Workers' Compensation Trust Fund and
19 weekly compensation benefits for temporary disability shall be paid
20 by the employer or his or her insurer.

21 (6) The Nebraska Workers' Compensation Court may
22 cooperate on a reciprocal basis with federal and state agencies for
23 vocational education or vocational, physical, or medical
24 rehabilitation or with any public or private agency.

25 (7) If the injured employee without reasonable cause
26 refuses to undertake or fails to cooperate with the rehabilitation,
27 training, or educational program determined by the compensation
1 court or judge thereof to be suitable for him or her or refuses to
2 be evaluated under subsection (3) or (4) of this section or fails
3 to cooperate in such evaluation, the compensation court or judge
4 thereof may suspend, reduce, or limit the compensation otherwise
5 payable under the Nebraska Workers' Compensation Act. The
6 compensation court or judge thereof may also modify a previous
7 finding, order, award, or judgment relating to physical, medical,
8 or vocational rehabilitation services as necessary in order to
9 accomplish the goal of restoring the injured employee to gainful

10 and suitable employment, or as otherwise required in the interest
11 of justice.

12 Sec. 8. Section 81-504, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-504. The Attorney General may appoint a special
15 attorney to assist and advise the State Fire Marshal. The attorney
16 appointed for this purpose shall at all times be under the
17 supervision of the Attorney General, who shall fix his or her
18 compensation, which shall be paid wholly out of the ~~fund created~~
19 ~~under section 81-523~~ State Fire Marshal Cash Fund. .

20 2. On page 10, lines 16 and 17, strike the new matter;
21 and in line 18 strike "for paying", show as stricken, and insert
22 "to make legislative fund transfers to the Compensation Court Cash
23 Fund for the purpose of paying salaries, other benefits, and" and
24 after "expenses" insert "of the compensation court".

25 3. On page 13, line 18, strike "transfers or"; and in
26 lines 18 and 20 after "payments" insert "and transfers".

27 4. On page 14, line 10, strike "on behalf of", show as
1 stricken, and insert "in connection with a proceeding brought by or
2 against

3 5. On page 25, line 2, after the last comma insert
4 "81-504,"; and in line 4 before "and" insert ", 48-162.01,".

5 6. Renumber the remaining sections accordingly.

Senator Raikes filed the following amendment to LB 1091:
AM3480

(Amendments to E & R amendments, AM7203)

1 1. Insert the following new sections:

2 "Sec. 7. Section 79-1001, Reissue Revised Statutes of
3 Nebraska, is amended to read:
4 79-1001. Sections 79-1001 to 79-1033 and sections 8 and
5 9 of this act shall be known and may be cited as the Tax Equity and
6 Educational Opportunities Support Act.

7 Sec. 8. (1) To encourage consolidation of Class II and
8 III school districts with less than three hundred ninety students,
9 incentives shall be paid to reorganized Class II, III, IV, or V
10 districts resulting from consolidations which meet the requirements
11 of this section. This section shall only apply to consolidations
12 with an effective date after May 31, 2005, and before June 1, 2007.

13 (2) To qualify for incentive payments under this section,
14 the consolidation must be approved for incentive payments by the
15 State Committee for the Reorganization of School Districts.
16 Consolidating school districts shall file an application with the
17 state committee within thirty days following the issuance of the
18 boundary change order pursuant to subsection (1) of section 79-479.
19 The state committee shall approve or disapprove incentive payments
20 within thirty days after receipt of the application.

21 (3) For incentive payments to be approved by the state
22 committee, a reorganization study, including efficiency,

23 demographic, curriculum, facility, financial, and community
1 components, must be completed. If a study containing such elements
2 is completed and the reorganization will most likely result in more
3 efficiency in the delivery of educational services or greater
4 educational opportunities, the state committee may approve
5 incentive payments.

6 (4) Incentive payments shall be based on the number of
7 students moving from Class II or III school districts with less
8 than three hundred ninety students into a reorganized Class II,
9 III, IV, or V school district with at least three hundred ninety
10 students based on the average daily membership in each affected
11 district in the school fiscal year immediately preceding the first
12 school fiscal year the boundary change will be in effect and the
13 average daily membership the consolidated district would have had
14 following the boundary change if it had occurred in the school
15 fiscal year immediately preceding the first school fiscal year the
16 boundary change will be in effect. The per-student incentive
17 amount for each district involved in the reorganization having an
18 average daily membership of less than three hundred ninety students
19 shall equal four thousand dollars minus the product of the average
20 daily membership in such district multiplied by the ratio of three
21 thousand divided by three hundred ninety. The total incentives for
22 each such district shall equal the district's per-student incentive
23 amount multiplied by the district's average daily membership.

24 (5) For school fiscal years 2005-06 and 2006-07, one
25 million dollars shall be transferred from the Education Innovation
26 Fund to the School District Reorganization Fund pursuant to section
27 9-812.

1 (6) Except as otherwise provided in this subsection, base
2 fiscal year incentive payments shall equal fifty percent of the
3 amount calculated pursuant to subsection (4) of this section. Base
4 fiscal year incentive payments shall be calculated as of August 2
5 immediately preceding the base fiscal year and shall be paid
6 directly to the reorganized district from the School District
7 Reorganization Fund pursuant to subsection (5) of this section.
8 The payments shall be made in ten as nearly as possible equal
9 payments on the last business day of each month, beginning in
10 September and ending the following June, for the base fiscal year.
11 If the total amount of base fiscal year incentive payments for that
12 school fiscal year exceeds the amount in the School District
13 Reorganization Fund, the base fiscal year incentive payments shall
14 be reduced proportionately so that the total amount of base fiscal
15 year incentive payments equals the amount in the fund. The base
16 fiscal year incentive payments shall not be included in local
17 system formula resources as calculated under section 79-1018.01.

18 (7) The amount calculated pursuant to subsection (4) of
19 this section minus the amount of base fiscal year incentive
20 payments pursuant to subsection (6) of this section shall be
21 included in the distribution of state aid for the first school

22 fiscal year following the base fiscal year.

23 Sec. 9. The School District Reorganization Fund is
 24 created. The fund shall be administered by the department. The
 25 fund shall consist of money transferred from the Education
 26 Innovation Fund and shall be used to provide payments to
 27 reorganized school districts pursuant to section 8 of this act.
 1 Any money remaining in the fund on July 1, 2008, shall be
 2 transferred to the General Fund on such date. Any money in the
 3 School District Reorganization Fund available for investment shall
 4 be invested by the state investment officer pursuant to the
 5 Nebraska Capital Expansion Act and the Nebraska State Funds
 6 Investment Act.

7 Sec. 10. Section 79-1028, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 79-1028. (1) A Class II, III, IV, V, or VI school
 10 district may exceed the local system's applicable allowable growth
 11 rate for (a) expenditures in support of a service which is the
 12 subject of an agreement or a modification of an existing agreement
 13 whether operated by one of the parties to the agreement or an
 14 independent joint entity or joint public agency, (b) expenditures
 15 to pay for repairs to infrastructure damaged by a natural disaster
 16 which is declared a disaster emergency pursuant to the Emergency
 17 Management Act, (c) expenditures to pay for judgments, except
 18 judgments or orders from the Commission of Industrial Relations,
 19 obtained against a school district which require or obligate a
 20 school district to pay such judgment, to the extent such judgment
 21 is not paid by liability insurance coverage of a school district,
 22 (d) expenditures to pay for sums agreed to be paid by a school
 23 district to certificated employees in exchange for a voluntary
 24 termination of employment, or (e) expenditures to pay for
 25 lease-purchase contracts approved on or after July 1, 1997, and
 26 before July 1, 1998, to the extent the lease payments were not
 27 budgeted expenditures for fiscal year 1997-98.

1 (2) A Class II, III, IV, V, or VI district may exceed its
 2 applicable allowable growth rate by a specific dollar amount if the
 3 district projects an increase in formula students in the district
 4 over the current school year greater than twenty-five students or
 5 greater than those listed in the schedule provided in this
 6 subsection, whichever is less. Districts shall project increases
 7 in formula students on forms prescribed by the department. The
 8 department shall approve, deny, or modify the projected increases.

9	Average daily	Projected increase
10	membership of	of formula students
11	district	by percentage
12	0 - 50	10
13	50.01 - 250	5
14	250.01 - 1,000	3
15	1,000.01 and over	1

16 The department shall compute the district's estimated

17 allowable budget per pupil using the budgeted general fund
 18 expenditures found on the budget statement for the current school
 19 year divided by the number of formula students in the current
 20 school year and multiplied by the district's applicable allowable
 21 growth rate. The resulting allowable budget per pupil shall be
 22 multiplied by the projected formula students to arrive at the
 23 estimated budget needs for the ensuing year. The department shall
 24 allow the district to increase its general fund budget of
 25 expenditures for the ensuing school year by the amount necessary to
 26 fund the estimated budget needs of the district as computed
 27 pursuant to this subsection. On or before July 1, the department
 1 shall make available to districts which have been allowed
 2 additional growth pursuant to this subsection the necessary
 3 document to recalculate the actual formula students of such
 4 district. Such document shall be filed with the department under
 5 subsection (1) of section 79-1024.

6 (3) A Class II, III, IV, V, or VI district may exceed its
 7 applicable allowable growth rate by a specific dollar amount if
 8 construction, expansion, or alteration of district buildings will
 9 cause an increase in building operation and maintenance costs of at
 10 least five percent. The department shall document the projected
 11 increase in building operation and maintenance costs and may allow
 12 a Class II, III, IV, V, or VI district to exceed the local system's
 13 applicable allowable growth rate by the amount necessary to fund
 14 such increased costs. The department shall compute the actual
 15 increased costs for the school year and shall notify the district
 16 on or before July 1 of the recovery of the additional growth
 17 pursuant to this subsection.

18 (4) A Class II, III, IV, V, or VI district may exceed its
 19 applicable allowable growth rate by a specific dollar amount if the
 20 district demonstrates to the satisfaction of the department that it
 21 will exceed its applicable allowable growth rate as a result of
 22 costs pursuant to the Retirement Incentive Plan authorized in
 23 section 79-855 or the Staff Development Assistance authorized in
 24 section 79-856. The department shall compute the amount by which
 25 the increased cost of such program or programs exceeds the
 26 district's applicable allowable growth rate and shall allow the
 27 district to increase its general fund expenditures by such amount
 1 for that fiscal year.

2 (5) A Class II, III, IV, or V district may exceed its
 3 applicable allowable growth rate by the specific dollar amount of
 4 incentive payments or base fiscal year incentive payments to be
 5 received in such school fiscal year pursuant to section 8 of this
 6 act."

7 2. On page 3, lines 17 and 18, strike the new matter and
 8 reinstate the stricken matter; and in line 21 after the period
 9 insert "For fiscal years 2005-06 and 2006-07, the Education
 10 Innovation Fund shall be allocated as follows: The first one
 11 million dollars each fiscal year shall be transferred to the School

12 District Reorganization Fund, and the remaining amount shall be
 13 allocated to the General Fund after operating expenses for the
 14 Excellence in Education Council are deducted."

15 3. Amend the repealer and renumber the remaining
 16 sections accordingly.

Senator Beutler filed the following amendment to LB 391:

FA1644

Amend AM3247

On page 35, line 18 and page 36, line 2 strike the new language and restore the old language.

Senators Hartnett and Louden filed the following amendment to LB 1231:

AM3490

(Amendments to E & R amendments, AM7221)

- 1 1. On page 3, strike beginning with "(4)" in line 8
 2 through "(5)" in line 26 and insert
 3 "(4) The director may make formal application to the
 4 federal government regarding federal financial assistance for the
 5 construction of any of the facilities comprising the state veteran
 6 cemetery system which is located in a county with a population of
 7 less than one hundred thousand persons when sufficient funds have
 8 been remitted to the Nebraska Veteran Cemetery System Endowment
 9 Fund such that (a) the projected annual earnings from such fund
 10 available for transfer to the Nebraska Veteran Cemetery System
 11 Operation Fund in each of the succeeding five years plus (b) the
 12 projected annual value of formal agreements that have been entered
 13 into between the state and any political subdivisions or private
 14 entities to subsidize or undertake the operation, administration,
 15 or maintenance of the subject facility within the state veteran
 16 cemetery system, has a value that is equal to or exceeds one
 17 hundred twenty-five percent of the projected annual cost of the
 18 operation, administration, and maintenance of the subject facility
 19 in each of the succeeding five years.
- 20 (5) The director may make formal application to the
 21 federal government regarding financial assistance for the
 22 construction of any facility comprising a portion of the state
 23 veteran cemetery system located in a county with a population of
 1 more than one hundred thousand persons when sufficient funds have
 2 been remitted to the Nebraska Veteran Cemetery System Endowment
 3 Fund such that (a) the projected annual earnings from such fund
 4 available for transfer to the Nebraska Veteran Cemetery System
 5 Operation Fund in each of the next succeeding five years plus (b)
 6 the projected annual value of formal agreements that have been
 7 entered into between the state and any political subdivisions or
 8 private entities to subsidize or undertake the operation,
 9 administration, or maintenance of any of the facilities within the
 10 state veteran cemetery system, has a value that is equal to or
 11 exceeds one hundred twenty-five percent of the projected annual

12 cost of the operation, administration, and maintenance of the three
 13 facilities comprising the state veteran cemetery system in each of
 14 the succeeding five years.

15 (6) The director may expend such funds as may be
 16 available for any of the purposes authorized in this section.
 17 (7)".

18 2. On page 4, line 1, after "persons" insert ";
 19 political subdivisions."; in line 8 strike "(6)" and insert "(8)";
 20 in line 11 after the period insert "Any money in the Veteran
 21 Cemetery Maintenance Fund on the effective date of this act shall
 22 be transferred to the Veteran Cemetery Construction Fund."; and in
 23 line 12 strike "(7)" and insert "(9)".

24 3. On page 5, line 4, strike "(8)" and insert "(10)".

Senator Erdman filed the following amendment to LB 391:
 AM3496

(Amendments to Standing Committee amendments, AM3247)

1 1. On page 36, after line 19, insert:

2 "(5) Changes made to this section by this legislative
 3 bill shall apply only to child support orders entered on or after
 4 the operative date of this act.".

5 2. On page 93, line 4, after "section" insert "by this
 6 legislative bill".

Senator Beutler filed the following amendment to LB 391:
 AM3500

(Amendments to Standing Committee amendments, AM3247)

1 1. On page 35, line 18, after "(1)" insert "(a)"; in
 2 line 19, strike "(a)", show as stricken, and insert "(i)"; in line
 3 20 after "age" insert "or, if the child is a full-time student
 4 under the age of nineteen, until he or she completes high school or
 5 the equivalent level of vocational or technical training, whichever
 6 is later", strike "(b)", show as stricken, and insert "(ii)",
 7 strike "(c)", show as stricken and insert "(iii)", and strike
 8 "(d)", show as stricken, and insert "(iv)"; after line 23 insert:
 9 "(b) Upon written application of the obligee, the court
 10 shall extend the obligor's duty to pay child support for a child
 11 who is a full-time student in a postsecondary educational
 12 institution until the child reaches twenty years of age. The
 13 amount of such extended support shall not exceed the amount of the
 14 child support order in effect when the child reached eighteen years
 15 of age.".

16 2. On page 36, after line 19, insert:

17 "(5) The change from nineteen to eighteen years of age in
 18 subsections (1) and (3) of this section made by this legislative
 19 bill shall not affect support orders issued prior to the operative
 20 date of this act.".

Senator Brashear filed the following amendment to LB 1090:

(Amendment, AM3477, is printed separately and available in the Bill Room, Room 1104.)

Senator Hartnett filed the following amendment to LB 1231:
AM3504

(Amendments to E & R amendments, AM7221)

- 1 1. On page 3, strike beginning with "(4)" in line 8
- 2 through "(5)" in line 26 and insert
- 3 "(4) The director may make formal application to the
- 4 federal government regarding federal financial assistance for the
- 5 construction of any of the facilities comprising the state veteran
- 6 cemetery system which is located in a county with a population of
- 7 less than one hundred thousand persons when he or she determines
- 8 that the requirements for such assistance have been met.
- 9 (5) The director may make formal application to the
- 10 federal government regarding financial assistance for the
- 11 construction of any facility comprising a portion of the state
- 12 veteran cemetery system located in a county with a population of
- 13 more than one hundred thousand persons when sufficient funds have
- 14 been remitted to the Nebraska Veteran Cemetery System Endowment
- 15 Fund such that (a) the projected annual earnings from such fund
- 16 available for transfer to the Nebraska Veteran Cemetery System
- 17 Operation Fund in each of the next succeeding five years plus (b)
- 18 the projected annual value of formal agreements that have been
- 19 entered into between the state and any political subdivisions or
- 20 private entities to subsidize or undertake the operation,
- 21 administration, or maintenance of any of the facilities within the
- 22 state veteran cemetery system, has a value that is equal to or
- 23 exceeds one hundred twenty-five percent of the projected annual
- 1 cost of the operation, administration, and maintenance of the three
- 2 facilities comprising the state veteran cemetery system in each of
- 3 the succeeding five years.
- 4 (6) The director may expend such funds as may be
- 5 available for any of the purposes authorized in this section.
- 6 (7)".
- 7 2. On page 4, line 1, after "persons" insert ";
- 8 political subdivisions."; in line 8 strike "(6)" and insert "(8)";
- 9 in line 11 after the period insert "Any money in the Veteran
- 10 Cemetery Maintenance Fund on the effective date of this act shall
- 11 be transferred to the Veteran Cemetery Construction Fund."; and in
- 12 line 12 strike "(7)" and insert "(9)".
- 13 3. On page 5, line 4, strike "(8)" and insert "(10)".

Senator Chambers filed the following amendment to LB 1144:
AM3505

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 "Sec. 5. Laws 2003, LB 407, section 122, is amended to
- 3 read:

- 4 Sec. 122. AGENCY NO. 27 -- DEPARTMENT OF ROADS
 5 Total expenditures by the Department of Roads for
 6 permanent and temporary salaries and per diems shall not exceed
 7 \$88,173,941 for FY2003-04. Total expenditures by the Department of
 8 Roads for permanent and temporary salaries and per diems shall not
 9 exceed \$90,111,569 for FY2004-05.
- 10 There is hereby appropriated for FY2003-04 \$338,000,000
 11 from the Highway Cash Fund to the Roads Operations Cash Fund, which
 12 fund is hereby appropriated. There is included in the amount
 13 appropriated from the Highway Cash Fund to the Roads Operations
 14 Cash Fund \$1,000,000 for assistance to the local transit
 15 authorities program. There is hereby appropriated for FY2004-05
 16 ~~\$338,000,000~~ \$338,000,000 from the Highway Cash Fund to the Roads
 17 Operations Cash Fund, which fund is hereby appropriated. There is
 18 included in the amount appropriated from the Highway Cash Fund to
 19 the Roads Operations Cash Fund ~~\$1,000,000~~ \$1,524,088 for assistance
 20 to the local transit authorities program and intercity bus system
 21 assistance".
- 22 2. On page 1, line 3, strike "and"; in line 4 after
 23 "2003" insert ", and Laws 2003, LB 407, section 122"; and in line 6
 1 after the second semicolon insert "to change appropriations;".
- 2 3. On page 7, line 18, before the period insert "
 3 Amounts used to support the public transportation assistance
 4 program and the intercity bus system assistance program shall
 5 reduce amounts expended for other purposes set forth in this
 6 section and shall not result in an increase in motor fuel tax"; and
 7 in line 28 strike "and".
- 8 4. On page 8, line 1, after the last comma insert "and
 9 Laws 2003, LB 407, section 122,".
- 10 5. Renumber the remaining sections accordingly.

Senator Bromm filed the following amendment to LB 1091:
 AM3501

(Amendments to E & R amendments, AM7203)

- 1 1. Insert the following new section:
 2 "Sec. 2. Section 25-21,211, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 25-21,211. The court by which any judgment is rendered
 5 against the state shall certify the same to the Director of
 6 Administrative Services, who shall pay the same from any special
 7 fund or appropriation applicable thereto, and if none such has been
 8 provided or made, then from any appropriations made to the
 9 department or institution, relating to which the cause of action
 10 arose. A ; ~~PROVIDED~~, a certificate of the Director of
 11 Administrative Services, or of the chief officer of such department
 12 or institution, that the current appropriations will not permit
 13 payment of such judgment without great public inconvenience, shall
 14 operate as a stay of such judgment until the adjournment of the
 15 next regular session of the Legislature. In ; ~~and in~~ case of such

16 stay being claimed or taken, interest shall run on such judgment
 17 from ~~its date at the rate of ten percent per annum~~ the date the
 18 judgment becomes final at the rate set in section 45-103.".

19 2. On page 25, line 2, after "sections" insert

20 "25-21,211,".

21 3. Renumber the remaining sections accordingly.

Senator Baker filed the following amendment to LB 1083A:
 AM3483

(Amendments to AM3009)

- 1 1. On page 2, line 4, after "illness" insert ", except
- 2 that funding for existing affordable housing agencies and programs
- 3 shall not be seriously jeopardized by this allocation".

Senator Janssen filed the following amendment to LB 1090:
 AM3512

(Amendments to E & R amendments, AM7202)

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 77-2701.01, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 77-2701.01. Pursuant to section 77-2715.01, for all
- 5 taxable years beginning or deemed to begin on or after January 1,
- 6 1990, and before January 1, 1991, under the Internal Revenue Code
- 7 of 1986, as amended, the rate of the income tax levied pursuant to
- 8 section 77-2715 shall be three and forty-three-hundredths percent.
- 9 Pursuant to section 77-2715.01, for all taxable years beginning or
- 10 deemed to begin on or after January 1, 1991, and before January 1,
- 11 2004, and for all taxable years beginning on or after January 1,
- 12 2005, under the Internal Revenue Code of 1986, as amended, the rate
- 13 of the income tax levied pursuant to section 77-2715 shall be three
- 14 and seventy-hundredths percent. Pursuant to section 77-2715.01,
- 15 for all taxable years beginning or deemed to begin on or after
- 16 January 1, 2004, and before January 1, 2005, under the Internal
- 17 Revenue Code of 1986, as amended, the rate of income tax levied
- 18 pursuant to section 77-2715 shall be three and ninety-one
- 19 hundredths percent.
- 20 Sec. 2. Section 77-2701.02, Reissue Revised Statutes of
- 21 Nebraska, is amended to read:
- 22 77-2701.02. Pursuant to section 77-2715.01:
- 23 (1) Until July 1, 1998, the rate of the sales tax levied
- 1 pursuant to section 77-2703 shall be five percent;
- 2 (2) Commencing July 1, 1998, and until July 1, 1999, the
- 3 rate of the sales tax levied pursuant to section 77-2703 shall be
- 4 four and one-half percent;
- 5 (3) Commencing July 1, 1999, and until the start of the
- 6 first calendar quarter after July 20, 2002, the rate of the sales
- 7 tax levied pursuant to section 77-2703 shall be five percent; ~~and~~
- 8 (4) Commencing on the start of the first calendar quarter
- 9 after July 20, 2002, and until October 1, 2004, and commencing

10 October 1, 2005, the rate of the sales tax levied pursuant to
11 section 77-2703 shall be five and one-half percent; and
12 (5) Commencing October 1, 2004, and until September 30,
13 2005, the rate of the sales tax levied pursuant to section 77-2703
14 shall be five and three-fourths percent.

15 Sec. 3. Section 77-2715.02, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2715.02. (1) Whenever the primary rate is changed by
18 the Legislature under section 77-2715.01, the Tax Commissioner
19 shall update the rate schedules required in subsection (2) of this
20 section to reflect the new primary rate and shall publish such
21 updated schedules.

22 (2) The following rate schedules are hereby established
23 for the Nebraska individual income tax and shall be in the
24 following form:

25 (a) The income amounts for columns A and E shall be:

26 (i) \$0, \$2,400, \$17,000, and \$26,500, for single returns;

27 (ii) \$0, \$4,000, \$30,000, and \$46,750, for married filing
1 joint returns;

2 (iii) \$0, \$3,800, \$24,000, and \$35,000, for

3 head-of-household returns;

4 (iv) \$0, \$2,000, \$15,000, and \$23,375, for married filing
5 separate returns; and

6 (v) \$0, \$500, \$4,700, and \$15,150, for estates and
7 trusts;

8 (b) The amount in column C shall be the total amount of
9 the tax imposed on income less than the amount in column A;

10 (c) The amount in column D shall be the rate on the
11 income in excess of the amount in column E;

12 (d) For taxable years beginning or deemed to begin before
13 January 1, 2003, under the Internal Revenue Code of 1986, as
14 amended, the primary rate set by the Legislature shall be
15 multiplied by the following factors to compute the tax rates for
16 column D. The factors for the brackets, from lowest to highest
17 bracket, shall be .6784, .9432, 1.3541, and 1.8054;

18 (e) For taxable years beginning or deemed to begin on or
19 after January 1, 2003, and before January 1, 2004, and for taxable
20 years beginning or deemed to begin on or after January 1, 2005,
21 under the Internal Revenue Code of 1986, as amended, the primary
22 rate set by the Legislature shall be multiplied by the following
23 factors to compute the tax rates for column D. The factors for the
24 brackets, from lowest to highest bracket, shall be .6932, .9646,
25 1.3846, and 1.848;

26 (f) For taxable years beginning or deemed to begin on or
27 after January 1, 2004, and before January 1, 2005, under the
1 Internal Revenue Code of 1986, as amended, the primary rate set by
2 the Legislature shall be multiplied by the following factors to
3 compute the tax rates for column D. The factors for the brackets,
4 from lowest to highest bracket, shall be .6932, .9646, 1.3846, and

5 1.7487;

6 (g) The amounts for column C shall be rounded to the
7 nearest dollar, and the amounts in column D shall be rounded to
8 hundredths of one percent; and

9 ~~(g)~~ (h) One rate schedule shall be established for each
10 federal filing status.

11 (3) The tax rate schedules shall use the format set forth
12 in this subsection.

13	A	B	C	D	E
14	Taxable income	but not	pay	plus	of the
15	over	over			amount over

16 (4) The tax rate applied to other federal taxes included
17 in the computation of the Nebraska individual income tax shall be
18 eight times the primary rate.

19 (5) The Tax Commissioner shall prepare, from the rate
20 schedules, tax tables which can be used by a majority of the
21 taxpayers to determine their Nebraska tax liability. The design of
22 the tax tables shall be determined by the Tax Commissioner. The
23 size of the tax table brackets may change as the level of income
24 changes. The difference in tax between two tax table brackets
25 shall not exceed fifteen dollars. The Tax Commissioner may build
26 the personal exemption credit and standard deduction amounts into
27 the tax tables.

1 (6) The Tax Commissioner may require by rule and
2 regulation that all taxpayers shall use the tax tables if their
3 income is less than the maximum income included in the tax tables.

4 Sec. 4. Section 77-27,132, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-27,132. (1) There is hereby created a fund to be
7 designated the Revenue Distribution Fund which shall be set apart
8 and maintained by the Tax Commissioner. Revenue not required to be
9 credited to the General Fund or any other specified fund may be
10 credited to the Revenue Distribution Fund. Credits and refunds of
11 such revenue shall be paid from the Revenue Distribution Fund. The
12 balance of the amount credited, after credits and refunds, shall be
13 allocated as provided by the statutes creating such revenue.

14 (2) The Tax Commissioner shall pay to a depository bank
15 designated by the State Treasurer all amounts collected under the
16 Nebraska Revenue Act of 1967. The Tax Commissioner shall present to
17 the State Treasurer bank receipts showing amounts so deposited in
18 the bank, and of the amounts so deposited the State Treasurer shall
19 credit to the Highway Trust Fund all of the proceeds of the sales
20 and use taxes derived from motor vehicles, trailers, and
21 semitrailers, except that (a) the proceeds equal to any sales tax
22 rate provided for in section 77-2701.02 that is in excess of five
23 percent derived from motor vehicles, trailers, and semitrailers
24 shall be credited to the General Fund except as provided in
25 subdivision (2)(b) of this section, and (b) commencing October 1,
26 2004, through September 30, 2005, all the proceeds equal to

27 one-fourth percent of the sales tax rate shall be credited to the
 1 subaccount of the Cash Reserve Fund created in section 5 of this
 2 act. The balance of all amounts collected under the Nebraska
 3 Revenue Act of 1967 shall be credited to the General Fund.

4 Sec. 5. (1) For purposes of this section:

5 (a) Subscriber means any person, firm, partnership,
 6 corporation, limited liability company, municipality, cooperative,
 7 or other entity to whom a supplier sells electricity at retail; and

8 (b) Supplier means any public power district, public
 9 power and irrigation district, individual municipality, registered
 10 group of municipalities, electric membership association, or
 11 cooperative selling electricity at retail to subscribers.

12 (2) Beginning October 1, 2004, and ending December 31,
 13 2005, each supplier shall assess and collect monthly from each
 14 subscriber a surcharge equivalent to three percent of the
 15 subscriber's monthly charge for electricity, excluding all federal,
 16 state, and local taxes. The supplier shall remit the amounts
 17 collected to the State Treasurer for credit to the Cash Reserve
 18 Fund. The Accounting Administrator of the Department of
 19 Administrative Services shall create a subaccount within the Cash
 20 Reserve Fund for the deposit and accounting of revenue received as
 21 a result of the surcharge. The surcharge shall be collected
 22 monthly in the same manner as the sales tax under the Nebraska
 23 Revenue Act of 1967, including provisions of the act relating to
 24 due dates, interest, penalties, and collection procedures, except
 25 that no collection fees shall be allowed any supplier.

26 (3) Failure by the subscriber to pay the surcharge is
 27 deemed to be nonpayment for services rendered by the supplier and
 1 shall be subject to the remedies set forth in Chapter 70, article
 2 6, for nonpayment, including, but not limited to, disconnection of
 3 electrical service."

4 2. On page 4, after line 18 insert the following new
 5 subsection:

6 "(10) The State Treasurer, at the direction of the budget
 7 administrator of the budget division of the Department of
 8 Administrative Services, shall transfer the following amounts from
 9 the General Fund to the subaccount of the Cash Reserve Fund created
 10 in section 5 of this act to reflect the income tax increase
 11 provided in sections 77-2701.01 and 77-2715.02, as amended by this
 12 legislative bill:

13 (a) Forty-three million three hundred five thousand
 14 dollars on or before June 30, 2005; and

15 (b) Seven million four hundred two thousand dollars on or
 16 before December 31, 2005."

17 3. Renumber the remaining sections and correct internal
 18 references accordingly.

Senator Chambers filed the following amendment to LB 1089:
 AM3519

(Amendments to AM3263)

1 1. On page 1, lines 9 and 10, strike "306,208" and
2 insert "153,104".

MOTION - Adjournment

Senator Mines moved to adjourn. The motion prevailed with 21 ayes, 9 nays, 12 present and not voting, and 7 excused and not voting, and at 5:02 p.m., the Legislature adjourned until 9:00 a.m., Thursday, April 1, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-SECOND DAY - APRIL 1, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FIFTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, April 1, 2004

PRAYER

The prayer was offered by Pastor Weldon Martens, Bethesda Mennonite Church, Henderson.

ROLL CALL

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

The roll was called and all members were present except Senators Aguilar, Brashear, Chambers, Cunningham, Engel, Landis, Maxwell, Mines, Schrock, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 1367, line 11, strike "reply" and insert "rely".
The Journal for the fiftieth day was approved as corrected.

The Journal for the fifty-first day was approved.

MOTION - Approve Appointments

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointments found on page 1353:

Child Abuse Prevention Fund Board

Dale Baker

Elba Cera

Board of Emergency Medical Services

Earl Rudolph

Commission for the Deaf and Hard of Hearing

Pamela J. Duin

Barbara J. Woodhead

Voting in the affirmative, 29:

Baker	Erdman	Johnson	Pedersen, Dw.	Schimek
Burling	Foley	Jones	Pederson, D.	Stuhr
Byars	Friend	Kremer	Price	Stuthman
Combs	Hartnett	Louden	Quandahl	Synowiecki
Connealy	Janssen	McDonald	Raikes	Wehrbein
Cudaback	Jensen	Mossey	Redfield	

Voting in the negative, 0.

Present and not voting, 10:

Beutler	Bromm	Hudkins	Preister	Thompson
Bourne	Brown	Kruse	Smith	Vrtiska

Excused and not voting, 10:

Aguilar	Chambers	Engel	Maxwell	Schrock
Brashear	Cunningham	Landis	Mines	Tyson

The appointments were confirmed with 29 ayes, 0 nays, 10 present and not voting, and 10 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 826A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 841A. E & R amendment, AM7225, found on page 1399, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1090. Senator Chambers withdrew his pending motion, found on page 1403, to bracket until April 1, 2004.

Senator Hartnett withdrew the Hartnett-Beutler pending amendment, AM3461, found on page 1380 and considered on page 1403.

Senator Beutler reoffered his amendment, AM3474, found on page 1378 and considered on pages 1395 and 1401.

Senator Beutler asked unanimous consent to withdraw his pending amendment, AM3474, found on page 1378, and replace it with his substitute amendment, AM3521. No objections. So ordered.

AM3521

(Amendments to E & R amendments, AM7202)

1. Insert the following new sections:
- "Section 1. Section 77-2701.02, Reissue Revised Statutes of Nebraska, is amended to read:

4 77-2701.02. Pursuant to section 77-2715.01:
5 (1) Until July 1, 1998, the rate of the sales tax levied
6 pursuant to section 77-2703 shall be five percent;
7 (2) Commencing July 1, 1998, and until July 1, 1999, the
8 rate of the sales tax levied pursuant to section 77-2703 shall be
9 four and one-half percent;
10 (3) Commencing July 1, 1999, and until the start of the
11 first calendar quarter after July 20, 2002, the rate of the sales
12 tax levied pursuant to section 77-2703 shall be five percent; ~~and~~
13 (4) Commencing on the start of the first calendar quarter
14 after July 20, 2002, and until October 1, 2004, and commencing
15 October 1, 2005, the rate of the sales tax levied pursuant to
16 section 77-2703 shall be five and one-half percent; ~~and~~
17 (5) Commencing October 1, 2004, and until September 30,
18 2005, the rate of the sales tax levied pursuant to section 77-2703
19 shall be six percent.
20 Sec. 2. Section 77-27,132, Reissue Revised Statutes of
21 Nebraska, is amended to read:
22 77-27,132. (1) There is hereby created a fund to be
23 designated the Revenue Distribution Fund which shall be set apart
1 and maintained by the Tax Commissioner. Revenue not required to be
2 credited to the General Fund or any other specified fund may be
3 credited to the Revenue Distribution Fund. Credits and refunds of
4 such revenue shall be paid from the Revenue Distribution Fund. The
5 balance of the amount credited, after credits and refunds, shall be
6 allocated as provided by the statutes creating such revenue.
7 (2) The Tax Commissioner shall pay to a depository bank
8 designated by the State Treasurer all amounts collected under the
9 Nebraska Revenue Act of 1967. The Tax Commissioner shall present to
10 the State Treasurer bank receipts showing amounts so deposited in
11 the bank, and of the amounts so deposited the State Treasurer shall
12 credit to the Highway Trust Fund all of the proceeds of the sales
13 and use taxes derived from motor vehicles, trailers, and
14 semitrailers, except that (a) the proceeds equal to any sales tax
15 rate provided for in section 77-2701.02 that is in excess of five
16 percent derived from motor vehicles, trailers, and semitrailers
17 shall be credited to the General Fund except as provided in
18 subdivision (2)(b) of this section, and (b) commencing October 1,
19 2004, through September 30, 2005, all the proceeds equal to
20 one-half percent of the sales tax rate shall be credited to a
21 subaccount of the Cash Reserve Fund. The balance of all amounts
22 collected under the Nebraska Revenue Act of 1967 shall be credited
23 to the General Fund."
24 2. Renumber the remaining sections and correct internal
25 references and the repealer accordingly.

Senator Chambers offered the following amendment to the Beutler pending amendment:

FA1647

Amend AM3521

On page 1, in line 19 strike "six" and insert "four"

SENATOR SCHIMEK PRESIDING

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 7:

Erdman	Louden	Mossey	Preister
Friend	Mines	Pedersen, Dw.	

Voting in the negative, 28:

Aguilar	Combs	Jensen	Price	Thompson
Baker	Connealy	Johnson	Raikes	Tyson
Beutler	Cunningham	Kremer	Schimek	Vrtiska
Bromm	Engel	Kruse	Smith	Wehrbein
Brown	Hudkins	Landis	Stuhr	
Byars	Janssen	Pederson, D.	Synowiecki	

Present and not voting, 12:

Bourne	Chambers	Jones	Redfield
Brashear	Cudaback	Maxwell	Schrock
Burling	Hartnett	Quandahl	Stuthman

Excused and not voting, 2:

Foley	McDonald
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The Chambers amendment lost with 7 ayes, 28 nays, 12 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

Reconsider the vote taken on FA1647.

SENATOR CUDABACK PRESIDING

Senator Tyson moved the previous question. The question is, "Shall the

debate now close?"

Senator Tyson moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

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

Voting in the affirmative, 34:

Baker	Cunningham	Johnson	Mossey	Stuhr
Beutler	Engel	Jones	Pedersen, Dw.	Stuthman
Brashear	Erdman	Kremer	Price	Synowiecki
Burling	Friend	Kruse	Quandahl	Thompson
Byars	Hudkins	Landis	Raikes	Tyson
Combs	Janssen	McDonald	Redfield	Wehrbein
Connealy	Jensen	Mines	Schrock	

Voting in the negative, 5:

Bourne	Bromm	Chambers	Schimek	Smith
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Present and not voting, 8:

Brown	Hartnett	Maxwell	Preister
Cudaback	Louden	Pederson, D.	Vrtiska

Excused and not voting, 2:

Aguilar	Foley
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The motion to cease debate prevailed with 34 ayes, 5 nays, 8 present and not voting, and 2 excused and not voting.

Senator Chambers requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 2:

Chambers	Mossey
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Voting in the negative, 34:

Aguilar	Connealy	Kremer	Price	Stuhr
Baker	Cunningham	Kruse	Quandahl	Stuthman
Beutler	Engel	Landis	Raikes	Synowiecki
Brashear	Hudkins	McDonald	Redfield	Thompson
Bromm	Janssen	Pedersen, Dw.	Schimek	Tyson
Byars	Jensen	Pederson, D.	Schrock	Wehrbein
Combs	Johnson	Preister	Smith	

Present and not voting, 12:

Bourne	Cudaback	Hartnett	Maxwell
Brown	Erdman	Jones	Mines
Burling	Friend	Louden	Vrtiska

Excused and not voting, 1:

Foley

The Chambers motion to reconsider failed with 2 ayes, 34 nays, 12 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Beutler withdrew his pending amendment, AM3521, found in this day's Journal.

Pending.

STANDING COMMITTEE REPORT Education

LEGISLATIVE BILL 698. Placed on General File as amended.
(Standing Committee amendment, AM3484, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Ron Raikes, Chairperson

SELECT COMMITTEE REPORTS Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 826A and 841A.

(Signed) Ray Mossey, Chairperson

SELECT FILE

LEGISLATIVE BILL 1090. Senator Brashear renewed his pending amendment, AM3477, printed separately and referred to on page 1412.

Senator Chambers offered the following amendment to the Brashear pending amendment:

FA1648

Amend AM3477

On page 1 in line 22 strike "substantially"

SPEAKER BROMM PRESIDING

Pending.

BILL ON FINAL READING**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 973 with 38 ayes, 2 nays, 8 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 973. With Emergency.

A BILL FOR AN ACT relating to property; to amend sections 19-910, 19-929, 23-168.03, 77-123, 77-201, 77-202.03, 77-202.04, 77-422, 77-603, 77-612, 77-684, 77-801, 77-802, 77-802.02, 77-1234, 77-1249, 77-1301, 77-1303, 77-1315, 77-1315.01, 77-1317, 77-1318, 77-1330, 77-1343, 77-1344, 77-1345, 77-1345.01, 77-1348, 77-1363, 77-1380, 77-1384, 77-1502, 77-1504.01, 77-1510, 77-1510.01, 77-1514, 77-1606, 77-1608, 77-1610, 77-1623, 77-1775, 77-3506.02, 77-3519, 77-3520, 77-5001, 77-5004, 77-5007, 77-5013, 77-5015, 77-5016, 77-5017, 77-5020, 77-5022, 77-5023, 77-5027, 79-1016, 79-1022, and 84-912.03, Reissue Revised Statutes of Nebraska, and section 23-114.01, Revised Statutes Supplement, 2003; to change provisions relating to zoning and planning, filing requirements, property assessment abstracts, property assessments, valuation of agricultural land and horticultural land, and homestead provisions; to change and eliminate tax-exempt status provisions and protest and appeal provisions relating to property taxation; to redefine terms; to provide and change powers and duties; to provide penalties; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 77-202.06, 77-202.07, 77-1607, and 77-1609, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Voting in the affirmative, 46:

Aguilar	Connealy	Johnson	Pedersen, Dw.	Stuthman
Baker	Cudaback	Jones	Pederson, D.	Synowiecki
Beutler	Cunningham	Kremer	Price	Thompson
Bourne	Engel	Kruse	Quandahl	Tyson
Brashear	Foley	Landis	Raikes	Vrtiska
Bromm	Friend	Louden	Redfield	Wehrbein
Brown	Hartnett	Maxwell	Schimek	
Byars	Hudkins	McDonald	Schrock	
Chambers	Janssen	Mines	Smith	
Combs	Jensen	Mossey	Stuhr	

Voting in the negative, 0.

Present and not voting, 2:

Erdman Preister

Excused and not voting, 1:

Burling

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

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LB 973.

RESOLUTION

LEGISLATIVE RESOLUTION 395. Introduced by Landis, 46.

WHEREAS, Gary Moulton has served diligently and faithfully as a Professor of History at the University of Nebraska for a quarter of a century, teaching United States history, the history of the American West, and the history of Nebraska to a generation of students; and

WHEREAS, Gary Moulton edited all thirteen volumes of The Journals of the Lewis and Clark Expedition for the Center for Great Plains Studies and the University of Nebraska Press, which won international acclaim as the definitive account of this historic journey across the North American continent; and

WHEREAS, during the last twenty-five years Gary Moulton has tirelessly represented the University of Nebraska by speaking before civic, community, and student groups across the state and has faithfully represented the State of Nebraska by lecturing across the nation and world; and

WHEREAS, the nation will celebrate the bicentennial of the Lewis and Clark Expedition during 2004-2006 as a landmark event within American

history.

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

1. That the Legislature commends Gary Moulton for his dedication, hard work, and service to the University of Nebraska, to a generation of students, and to the history of the American West.

2. That a copy of this resolution be sent to Gary Moulton and his family.

Laid over.

AMENDMENT - Print in Journal

Senator Landis filed the following amendment to LB 1017:
AM3503

(Amendments to AM3292)

- 1 1. On page 1, line 19, strike the second occurrence of
2 "real estate" and insert "a structure as defined in section
3 77-2704.55"; and in line 20 strike "to be" and insert "that are or
4 will be".
5 2. On page 12, line 8, after "contractor" insert
6 "electing to be treated as a consumer of building materials under
7 subdivision (2) or (3) of section 77-2701.10"; and in line 11 after
8 "services" insert "less an allowance for sales tax paid on building
9 materials. The allowance for sales tax paid on building materials
10 shall equal the sales tax rate in effect at the time payment is
11 received at the location of the project times forty percent of the
12 sales price for building materials and construction services".
13 3. On page 31, lines 25 and 26, strike the new matter.
14 4. On page 34, line 10, strike "parts", show as
15 stricken, and insert "building materials"; and in line 21 strike
16 "from" and insert "for".

VISITORS

Visitors to the Chamber were FFA members from across the state; 50 fourth-grade students and teachers from Lost Creek School, Columbus; students and teachers from St. Michaels Elementary School, Hastings; and 14 students from Hyannis High School.

RECESS

At 11:54 a.m., on a motion by Senator Mines, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Byars, Foley, and Quandahl who were excused until they arrive.

NOTICE OF COMMITTEE HEARING

Education
Room 1525

Thursday, April 8, 2004

8:30 a.m.

William J. Pile - Coordinating Commission for Postsecondary Education

(Signed) Ron Raikes, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 1, 2004, at 11:55 a.m. was the following:
LB 973e.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

SELECT FILE

LEGISLATIVE BILL 1090. The Chambers pending amendment, FA1648, found in this day's Journal, to the Brashear pending amendment, AM3477, was renewed.

Senator Baker moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 37 ayes, 0 nays, and 12 not voting.

The Chambers amendment lost with 16 ayes, 18 nays, 13 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Brashear pending amendment:

FA1649

Amend AM3477

On page 2, in line 2 strike "substantially".

SENATOR SCHIMEK PRESIDING

Senator Beutler moved the previous question. The question is, "Shall the

debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

The Chambers amendment lost with 16 ayes, 16 nays, 16 present and not voting, and 1 excused and not voting.

Senator Brashear withdrew his amendment, AM3477.

Senator Janssen renewed his pending amendment, AM3512, found on page 1415.

Senator Beutler offered the following amendment to the Janssen pending amendment:

AM3528

(Amendments to AM3512)

- 1 1. Strike section 5.
- 2 2. On page 6, lines 1 and 2; and page 7, lines 9 and 10,
- 3 strike "subaccount of the Cash Reserve Fund created in section 5 of
- 4 this act" and insert "Cash Reserve Fund".
- 5 3. Renumber the remaining sections accordingly.

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

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

The motion to cease debate prevailed with 34 ayes, 2 nays, 9 present and not voting, and 4 excused and not voting.

The Beutler amendment was adopted with 25 ayes, 4 nays, 17 present and not voting, and 3 excused and not voting.

Senator Chambers requested a division of the question on the Janssen amendment, as amended.

The Chair sustained the division of the question.

The first Janssen amendment is as follows:

FA1654

(Amendments to E & R amendments, AM7202)

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 77-2701.01, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 77-2701.01. Pursuant to section 77-2715.01, for all
- 5 taxable years beginning or deemed to begin on or after January 1,
- 6 1990, and before January 1, 1991, under the Internal Revenue Code
- 7 of 1986, as amended, the rate of the income tax levied pursuant to
- 8 section 77-2715 shall be three and forty-three-hundredths percent.
- 9 Pursuant to section 77-2715.01, for all taxable years beginning or

10 deemed to begin on or after January 1, 1991, and before January 1,
11 2004, and for all taxable years beginning on or after January 1,
12 2005, under the Internal Revenue Code of 1986, as amended, the rate
13 of the income tax levied pursuant to section 77-2715 shall be three
14 and seventy-hundredths percent. Pursuant to section 77-2715.01,
15 for all taxable years beginning or deemed to begin on or after
16 January 1, 2004, and before January 1, 2005, under the Internal
17 Revenue Code of 1986, as amended, the rate of income tax levied
18 pursuant to section 77-2715 shall be three and ninety-one
19 hundredths percent.

15 Sec. 3. Section 77-2715.02, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2715.02. (1) Whenever the primary rate is changed by
18 the Legislature under section 77-2715.01, the Tax Commissioner
19 shall update the rate schedules required in subsection (2) of this
20 section to reflect the new primary rate and shall publish such
21 updated schedules.

22 (2) The following rate schedules are hereby established
23 for the Nebraska individual income tax and shall be in the
24 following form:

25 (a) The income amounts for columns A and E shall be:

26 (i) \$0, \$2,400, \$17,000, and \$26,500, for single returns;

27 (ii) \$0, \$4,000, \$30,000, and \$46,750, for married filing
1 joint returns;

2 (iii) \$0, \$3,800, \$24,000, and \$35,000, for
3 head-of-household returns;

4 (iv) \$0, \$2,000, \$15,000, and \$23,375, for married filing
5 separate returns; and

6 (v) \$0, \$500, \$4,700, and \$15,150, for estates and
7 trusts;

8 (b) The amount in column C shall be the total amount of
9 the tax imposed on income less than the amount in column A;

10 (c) The amount in column D shall be the rate on the
11 income in excess of the amount in column E;

12 (d) For taxable years beginning or deemed to begin before
13 January 1, 2003, under the Internal Revenue Code of 1986, as
14 amended, the primary rate set by the Legislature shall be
15 multiplied by the following factors to compute the tax rates for
16 column D. The factors for the brackets, from lowest to highest
17 bracket, shall be .6784, .9432, 1.3541, and 1.8054;

18 (e) For taxable years beginning or deemed to begin on or
19 after January 1, 2003, and before January 1, 2004, and for taxable
20 years beginning or deemed to begin on or after January 1, 2005,
21 under the Internal Revenue Code of 1986, as amended, the primary
22 rate set by the Legislature shall be multiplied by the following
23 factors to compute the tax rates for column D. The factors for the
24 brackets, from lowest to highest bracket, shall be .6932, .9646,
25 1.3846, and 1.848;

26 (f) For taxable years beginning or deemed to begin on or

27 after January 1, 2004, and before January 1, 2005, under the
 1 Internal Revenue Code of 1986, as amended, the primary rate set by
 2 the Legislature shall be multiplied by the following factors to
 3 compute the tax rates for column D. The factors for the brackets,
 4 from lowest to highest bracket, shall be .6932, .9646, 1.3846, and
 5 1.7487;

6 (g) The amounts for column C shall be rounded to the
 7 nearest dollar, and the amounts in column D shall be rounded to
 8 hundredths of one percent; and

9 ~~(g)~~ (h) One rate schedule shall be established for each
 10 federal filing status.

11 (3) The tax rate schedules shall use the format set forth
 12 in this subsection.

13	A	B	C	D	E
14	Taxable income	but not	pay	plus	of the
15	over	over			amount over

16 (4) The tax rate applied to other federal taxes included
 17 in the computation of the Nebraska individual income tax shall be
 18 eight times the primary rate.

19 (5) The Tax Commissioner shall prepare, from the rate
 20 schedules, tax tables which can be used by a majority of the
 21 taxpayers to determine their Nebraska tax liability. The design of
 22 the tax tables shall be determined by the Tax Commissioner. The
 23 size of the tax table brackets may change as the level of income
 24 changes. The difference in tax between two tax table brackets
 25 shall not exceed fifteen dollars. The Tax Commissioner may build
 26 the personal exemption credit and standard deduction amounts into
 27 the tax tables.

1 (6) The Tax Commissioner may require by rule and
 2 regulation that all taxpayers shall use the tax tables if their
 3 income is less than the maximum income included in the tax tables.

4 2. On page 4, after line 18 insert the following new
 5 subsection:

6 "(10) The State Treasurer, at the direction of the budget
 7 administrator of the budget division of the Department of
 8 Administrative Services, shall transfer the following amounts from
 9 the General Fund to the subaccount of the Cash Reserve Fund created
 10 in section 5 of this act to reflect the income tax increase
 11 provided in sections 77-2701.01 and 77-2715.02, as amended by this
 12 legislative bill:

13 (a) Forty-three million three hundred five thousand
 14 dollars on or before June 30, 2005; and

15 (b) Seven million four hundred two thousand dollars on or
 16 before December 31, 2005."

17 3. Renumber the remaining sections and correct internal
 18 references accordingly.

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not

voting.

Senator Beutler moved for a call of the house. The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Beutler requested a roll call vote on the first Janssen amendment.

Voting in the affirmative, 21:

Aguilar	Cudaback	Kruse	Price	Wehrbein
Beutler	Foley	Landis	Raikes	
Byars	Hartnett	Louden	Schimek	
Chambers	Hudkins	McDonald	Schrock	
Combs	Janssen	Preister	Stuhr	

Voting in the negative, 19:

Bourne	Erdman	Maxwell	Quandahl	Thompson
Brashear	Friend	Mossey	Redfield	Tyson
Bromm	Jensen	Pedersen, Dw.	Smith	Vrtiska
Brown	Kremer	Pederson, D.	Synowiecki	

Present and not voting, 5:

Baker	Cunningham	Engel	Johnson	Stuthman
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Excused and not voting, 4:

Burling	Connealy	Jones	Mines
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The first Janssen amendment lost with 21 ayes, 19 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

The second Janssen amendment is as follows:

FA1655

(Amendments to E & R amendments, AM7202)

20 Sec. 2. Section 77-2701.02, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-2701.02. Pursuant to section 77-2715.01:

23 (1) Until July 1, 1998, the rate of the sales tax levied

1 pursuant to section 77-2703 shall be five percent;

2 (2) Commencing July 1, 1998, and until July 1, 1999, the

3 rate of the sales tax levied pursuant to section 77-2703 shall be

4 four and one-half percent;

5 (3) Commencing July 1, 1999, and until the start of the

6 first calendar quarter after July 20, 2002, the rate of the sales

7 tax levied pursuant to section 77-2703 shall be five percent; ~~and~~

8 (4) Commencing on the start of the first calendar quarter
9 after July 20, 2002, and until October 1, 2004, and commencing
10 October 1, 2005, the rate of the sales tax levied pursuant to
11 section 77-2703 shall be five and one-half percent; and
12 (5) Commencing October 1, 2004, and until September 30,
13 2005, the rate of the sales tax levied pursuant to section 77-2703
14 shall be five and three-fourths percent.

4 Sec. 4. Section 77-27,132, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-27,132. (1) There is hereby created a fund to be
7 designated the Revenue Distribution Fund which shall be set apart
8 and maintained by the Tax Commissioner. Revenue not required to be
9 credited to the General Fund or any other specified fund may be
10 credited to the Revenue Distribution Fund. Credits and refunds of
11 such revenue shall be paid from the Revenue Distribution Fund. The
12 balance of the amount credited, after credits and refunds, shall be
13 allocated as provided by the statutes creating such revenue.
14 (2) The Tax Commissioner shall pay to a depository bank
15 designated by the State Treasurer all amounts collected under the
16 Nebraska Revenue Act of 1967. The Tax Commissioner shall present to
17 the State Treasurer bank receipts showing amounts so deposited in
18 the bank, and of the amounts so deposited the State Treasurer shall
19 credit to the Highway Trust Fund all of the proceeds of the sales
20 and use taxes derived from motor vehicles, trailers, and
21 semitrailers, except that (a) the proceeds equal to any sales tax
22 rate provided for in section 77-2701.02 that is in excess of five
23 percent derived from motor vehicles, trailers, and semitrailers
24 shall be credited to the General Fund except as provided in
25 subdivision (2)(b) of this section, and (b) commencing October 1,
26 2004, through September 30, 2005, all the proceeds equal to
27 one-fourth percent of the sales tax rate shall be credited to the
1 subaccount of the Cash Reserve Fund created in section 5 of this
2 act. The balance of all amounts collected under the Nebraska
3 Revenue Act of 1967 shall be credited to the General Fund.

SENATOR CUDABACK PRESIDING

Senator Beutler offered the following amendment to the second Janssen pending amendment:

FA1656

Amend FA1655

Add FA1654

Senator Bourne raised a point of order on whether the Beutler amendment, FA1656, is a reconsideration of the first Janssen amendment, FA1654, pursuant to Rule 7, Section 7.

The Chair ruled the amendment is a reconsideration.

The second Janssen amendment, FA1655, found in this day's Journal, was renewed.

Pending.

MESSAGE FROM THE GOVERNOR

April 1, 2004

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 973e was received in my office on April 1, 2004.

I signed this bill and delivered it to the Secretary of State on April 1, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

AMENDMENTS - Print in Journal

Senators Mossey and Bourne filed the following amendment to LB 613:
AM3325

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 28-101, Revised Statutes Supplement,
- 3 2003, is amended to read:
- 4 28-101. Sections 28-101 to 28-1350 and section 2 of this
- 5 act shall be known and may be cited as the Nebraska Criminal Code.
- 6 Sec. 2. (1) A person commits the offense of domestic
- 7 assault in the third degree if he or she:
- 8 (a) Intentionally, knowingly, or recklessly causes bodily
- 9 injury to his or her intimate partner; or
- 10 (b) Places, by physical menace, his or her intimate
- 11 partner in fear of imminent bodily injury.
- 12 (2) A person commits the offense of domestic assault in
- 13 the second degree if he or she:
- 14 (a) Intentionally or knowingly causes bodily injury to
- 15 his or her intimate partner with a dangerous instrument; or
- 16 (b) Recklessly causes serious bodily injury to his or her
- 17 intimate partner with a dangerous instrument.
- 18 (3) A person commits the offense of domestic assault in
- 19 the first degree if he or she intentionally or knowingly causes
- 20 serious bodily injury to his or her intimate partner.

21 (4) Violation of subsection (1) of this section is a
22 Class I misdemeanor, except that for any second or subsequent
23 violation of such subsection within twelve years after the date of
24 the current conviction, any person so offending is guilty of a
1 Class IV felony.

2 (5) Violation of subsection (2) of this section is a
3 Class IIIA felony, except that for any second or subsequent
4 violation of such subsection within twelve years after the date of
5 the current conviction, any person so offending is guilty of a
6 Class III felony.

7 (6) Violation of subsection (3) of this section is a
8 Class III felony, except that for any second or subsequent
9 violation under such subsection within twelve years after the date
10 of the current conviction, any person so offending is guilty of a
11 Class II felony.

12 (7) For purposes of this section, intimate partner means
13 a spouse; former spouse; persons who have a child in common whether
14 or not they have been married or lived together at any time; and
15 persons who are or were involved in a dating relationship. For
16 purposes of this subsection, dating relationship means frequent,
17 intimate associations primarily characterized by the expectation of
18 affectional or sexual involvement. The term does not include a
19 casual relationship or an ordinary association between persons in a
20 business or social context.

21 Sec. 3. Section 29-404.02, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 29-404.02. Except as provided in section 42-928, a peace
24 officer may arrest a person without a warrant if the officer has
25 reasonable cause to believe that such person has committed:

26 (1) A felony;

27 (2) A misdemeanor, and the officer has reasonable cause
1 to believe that such person either (a) will not be apprehended
2 unless immediately arrested, (b) may cause injury to himself or
3 herself or others or damage to property unless immediately
4 arrested, (c) may destroy or conceal evidence of the commission of
5 such misdemeanor, or (d) has committed a misdemeanor in the
6 presence of the officer; or

7 (3) One or more of the following acts to one or more
8 household members, whether or not committed in the presence of the
9 peace officer;

10 (a) Attempting to cause or intentionally, knowingly, or
11 recklessly causing bodily injury with or without a deadly weapon;

12 or

13 (b) ~~Threatening another in a menacing manner~~ Placing, by
14 physical menace, another in fear of imminent bodily injury; or

15 (c) Engaging in sexual contact or sexual penetration

16 without consent as defined in section 28-318.

17 For purposes of this section, household members shall

18 include spouses or former spouses, children, persons who are

19 presently residing together or who have resided together in the
20 past, persons who have a child in common whether or not they have
21 been married or have lived together at any time, ~~and~~ other persons
22 related by consanguinity or affinity, and persons who are presently
23 involved in a dating relationship with each other or who have been
24 involved in a dating relationship with each other. For purposes of
25 this section, dating relationship means frequent, intimate
26 associations primarily characterized by the expectation of
27 affectional or sexual involvement. The term does not include a
1 casual relationship or an ordinary association between persons in a
2 business or social context.

3 Sec. 4. (1) If a peace officer arrests a person or
4 persons pursuant to section 2 of this act, the officer, in lieu of
5 issuing a citation, shall take the person or persons before a judge
6 of the county court for determination of bail and conditions of
7 release.

8 (2) If a peace officer receives complaints under such
9 section from two or more opposing persons, the officer shall
10 evaluate each complaint separately to determine who was the
11 predominant aggressor. If the officer determines that one person
12 was the predominant aggressor, the officer need not arrest the
13 other person believed to have committed an offense. In determining
14 whether a person is the predominant aggressor, the officer shall
15 consider, among other things:

16 (a) Prior complaints under such section;

17 (b) The relative severity of the injuries inflicted on
18 each person;

19 (c) The likelihood of future injury to each person; and

20 (d) Whether one of the persons acted with a justified use
21 of force under sections 28-1406 to 28-1416.

22 (3) In addition to any other report required, a peace
23 officer who arrests two or more persons with respect to such a
24 complaint shall submit a detailed, written report setting forth the
25 grounds for arresting multiple parties.

26 Sec. 5. (1) Incident to an arrest under section 2 of
27 this act, a peace officer:

1 (a) Shall seize all weapons that are alleged to have been
2 involved or threatened to be used;

3 (b) May seize any firearm and ammunition in the plain
4 view of the officer or that is discovered pursuant to a consensual
5 search, as necessary for the protection of the officer or any other
6 person.

7 (2) Weapons seized under this section shall be stored
8 according to the policies and procedures implemented by the seizing
9 law enforcement agency.

10 (3) Disposition of weapons under this section shall be
11 determined by court order.

12 (4) The local governmental agency or peace officer or any
13 state or local governmental official acting in an official capacity

14 is immune from civil and criminal liability for conduct arising out
15 of the storage, disposal, or release of weapons under this section.

16 Sec. 6. (1) When any person is found guilty of a crime
17 involving abuse, as defined in section 42-903, the judge shall
18 order a presentence investigation to be completed and returned to
19 the court for consideration at the time of sentencing.

20 (2) At the time of sentencing, the court shall consider
21 the safety and protection of the victim of domestic abuse and any
22 member of the victim's family or household when suspending a
23 sentence or granting probation.

24 (3) The court may order the convicted person to complete
25 a domestic abuse intervention program at the convicted person's
26 expense in addition to any other penalties.

27 Sec. 7. When a person is found guilty of a crime
1 involving abuse as defined in section 42-903, a court shall not
2 order house arrest for the person in the residence of the victim,
3 regardless of the ownership of the residence.

4 Sec. 8. On or before July 1, 2005, all law enforcement
5 agencies, prosecuting attorneys, and the Office of Probation
6 Administration shall develop, adopt or promulgate, and implement
7 written policies and procedures regarding crimes between intimate
8 partners as defined in section 2 of this act.

9 Sec. 9. Section 42-903, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 42-903. For purposes of the Protection from Domestic
12 Abuse Act, unless the context otherwise requires:

13 (1) Abuse means the occurrence of one or more of the
14 following acts between household members:

15 (a) Attempting to cause or intentionally, knowingly, or
16 recklessly causing bodily injury with or without a deadly weapon;
17 or

18 (b) Placing, by physical menace, another in fear of
19 imminent bodily injury; or

20 (c) Engaging in sexual contact or sexual penetration
21 without consent as defined in section 28-318;

22 (2) Department means the Department of Health and Human
23 Services;

24 (3) Family or household members includes spouses or
25 former spouses, children, persons who are presently residing
26 together or who have resided together in the past, persons who have
27 a child in common whether or not they have been married or have
1 lived together at any time, and other persons related by
2 consanguinity or affinity, and persons who are presently involved
3 in a dating relationship with each other or who have been involved
4 in a dating relationship with each other. For purposes of this
5 subdivision, dating relationship means frequent, intimate
6 associations primarily characterized by the expectation of
7 affectional or sexual involvement. The term does not include a
8 casual relationship or an ordinary association between persons in a

9 business or social context; and
10 (4) Law enforcement agency means the police department or
11 town marshal in incorporated municipalities, ~~and~~ the office of the
12 sheriff in unincorporated areas, the Nebraska State Patrol, and any
13 other agency with arrest powers.

14 Sec. 10. Section 86-291, Revised Statutes Supplement,
15 2002, is amended to read:

16 86-291. The Attorney General or any county attorney may
17 make application to any district court of this state for an order
18 authorizing or approving the interception of wire, electronic, or
19 oral communications, or the records thereof, and such court may
20 grant, subject to sections 86-271 to 86-295, an order authorizing
21 or approving the interception of wire, electronic, or oral
22 communications by law enforcement officers having responsibility
23 for the investigation of the offense as to which application is
24 made, when such interception may provide or has provided evidence
25 of the commission of the offense of murder, kidnapping, robbery,
26 bribery, extortion, dealing in narcotic or other dangerous drugs,
27 any offense involving abuse as defined in section 42-903, or any
1 conspiracy to commit any such offenses.

2 At the same time a county attorney first makes
3 application to the district court for an initial order authorizing
4 or approving the interception of wire, electronic, or oral
5 communications, or the records thereof, the county attorney shall
6 submit the application to the Attorney General or his or her
7 designated deputy or assistant. Within twenty-four hours of
8 receipt by the office of the Attorney General of the application
9 from the county attorney, the Attorney General or his or her
10 designated deputy or assistant, as the case may be, shall state to
11 the district court where the order is sought his or her
12 recommendation as to whether the order should be granted. The
13 court shall not issue the order until it has received the
14 recommendation or until seventy-two hours after receipt of the
15 application from the county attorney, whichever is sooner, unless
16 the court finds exigent circumstances existing which necessitate
17 the immediate issuance of the order. The court may issue the order
18 and disregard the recommendation of the Attorney General or his or
19 her designated deputy or assistant.

20 Sec. 15. Original sections 29-404.02 and 42-903, Reissue
21 Revised Statutes of Nebraska, section 86-291, Revised Statutes
22 Supplement, 2002, and section 28-101, Revised Statutes Supplement,
23 2003, are repealed.

24 Sec. 16. Since an emergency exists, this act takes
25 effect when passed and approved according to law."

26 2. Insert underscoring in the original sections.

27 3. Renumber the remaining sections and correct internal
1 references accordingly.

Senator Jensen filed the following amendment to LB 1083:

AM3516

(Amendments to E & R amendments, AM7214)

1 1. Strike sections 83 and 85 and insert the following
2 new sections:
3 "Sec. 103. Section 80-601, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 80-601. Whenever in any proceeding under the Nebraska
6 Mental Health Commitment Act it is determined that a person is a
7 mentally ill and dangerous ~~person~~ and it appears that such person
8 is eligible for care or treatment by the United States Department
9 of Veterans Affairs or another agency of the United States
10 Government, the mental health board, upon determination by the
11 department or such other agency that facilities are available and
12 that such person is eligible for care or treatment therein, may
13 commit such person to the department or other agency. Upon
14 commitment, such person shall be subject to the applicable rules
15 and regulations of the department or other agency of the United
16 States operating the institution in which such care or treatment is
17 provided. The chief officer of any facility of the department or
18 institution operated by any other agency of the United States to
19 which a mentally ill and dangerous person is committed by a proper
20 agency in this state shall have the same powers as ~~superintendents~~
21 chief executive officers of state hospitals for the care of the
22 mentally ill in this state with respect to the custody, transfer,
23 conditional discharge, or discharge of such person.

1 Sec. 104. Section 81-1850, Reissue Revised Statutes of
2 Nebraska, is amended to read:
3 81-1850. (1) Upon request of the victim and at the time
4 of conviction of the offender, the county attorney of the
5 jurisdiction in which a person is convicted of a felony shall
6 forward to the Board of Parole the name and address of any victim
7 as defined in section 29-119 of the convicted person. The board
8 shall include the name in the file of the convicted person, but the
9 name shall not be part of the public record of any parole hearings
10 of the convicted person. Any victim, including a victim who has
11 waived his or her right to notification at the time of conviction,
12 may request the notification prescribed in this section by sending
13 a written request to the board any time after the convicted person
14 is incarcerated and until the convicted person is no longer under
15 the jurisdiction of the board or the Department of Correctional
16 Services or, if the person is under the jurisdiction of the
17 Department of Health and Human Services, within the three-year
18 period after the convicted person is no longer under the
19 jurisdiction of the board or the Department of Correctional
20 Services.

21 (2) A victim whose name appears in the file of the
22 convicted person shall be notified by the Board of Parole:
23 (a) When a convicted person who is on parole is returned
24 to custody because of parole violations; and

25 (b) If the convicted person has been adjudged a mentally
26 disordered sex offender or is a convicted sex offender, when such
27 person is released from custody or treatment.

1 Such notification shall be given in person, by
2 telecommunication, or by certified or registered mail.

3 (3) A victim whose name appears in the file of the
4 convicted person shall be notified by the Department of
5 Correctional Services:

6 (a) When a convicted person is granted a furlough or
7 release from incarceration for twenty-four hours or longer;

8 (b) When a convicted person is released into
9 community-based programs, including educational release, work
10 release, and extended-leave programs. Such notification shall
11 occur at the beginning and termination of any such program;

12 (c) When a convicted person escapes or does not return
13 from a granted furlough or release and again when the convicted
14 person is returned into custody; and

15 (d) When a convicted person is discharged from custody
16 upon completion of his or her sentence.

17 (4) A victim whose name appears in the file of a
18 convicted person shall be notified by the Department of Health and
19 Human Services:

20 (a) When a person convicted of an offense listed in
21 subsection (5) of this section becomes the subject of a mental
22 health petition pursuant to the Nebraska Mental Health Commitment
23 Act prior to his or her discharge from custody upon the completion
24 of his or her sentence or within thirty days after such discharge.
25 The county attorney who filed the mental health petition shall
26 notify the Department of Correctional Services of such petition.

27 The Department of Correctional Services shall forward the names and
1 addresses of victims appearing in the file of the convicted person
2 to the Department of Health and Human Services;

3 (b) When a person under a mental health board commitment
4 pursuant to subdivision (a) of this subsection escapes from an
5 inpatient facility providing board-ordered treatment and again when
6 the person is returned to an inpatient facility;

7 (c) When a person under a mental health board commitment
8 pursuant to subdivision (a) of this subsection is discharged or has
9 a change in disposition from inpatient board-ordered treatment;

10 (d) When a person under a mental health board commitment
11 pursuant to subdivision (a) of this subsection is granted a
12 furlough or release for twenty-four hours or longer; and

13 (e) When a person under a mental health board commitment
14 pursuant to subdivision (a) of this subsection is released into
15 educational release programs, work release programs, or
16 extended-leave programs. Such notification shall occur at the
17 beginning and termination of any such program.

18 (5) Subsection (4) of this section applies to persons
19 convicted of at least one of the following offenses which is also

20 alleged to be the recent act or threat underlying the commitment of
 21 such persons as mentally ill and dangerous; ~~persons:~~

22 (a) Murder in the first degree pursuant to section
 23 28-303;

24 (b) Murder in the second degree pursuant to section
 25 28-304;

26 (c) Kidnapping pursuant to section 28-313;

27 (d) Assault in the first degree pursuant to section
 1 28-308;

2 (e) Assault in the second degree pursuant to section
 3 28-309;

4 (f) Sexual assault in the first degree pursuant to
 5 section 28-319;

6 (g) Sexual assault in the second degree pursuant to
 7 section 28-320;

8 (h) Sexual assault of a child pursuant to section
 9 28-320.01;

10 (i) Stalking pursuant to section 28-311.03; or

11 (j) An attempt, solicitation, or conspiracy to commit an
 12 offense listed in subdivisions (a) through (i) of this subsection.

13 (6) The Board of Parole, the Department of Correctional
 14 Services, and the Department of Health and Human Services shall
 15 adopt and promulgate rules and regulations to carry out this
 16 section.

17 Sec. 107. Section 83-305.01, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 83-305.01. Psychiatric services under the control of the
 20 Board of Regents of the University of Nebraska shall be under the
 21 jurisdiction of the Chancellor of the University of Nebraska
 22 Medical Center, who shall report to the Board of Regents through
 23 the President of the University of Nebraska. The chancellor or his
 24 or her designee shall be responsible for the administration and
 25 preparation of the psychiatric services budget and shall have the
 26 same powers, authority, and duties as prescribed for the
 27 ~~superintendents~~ chief executive officers of the state hospitals
 1 described in section 83-305.

2 Sec. 108. Section 83-314, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 83-314. Every patient in any state hospital for the
 5 mentally ill shall be allowed to write whenever ~~he~~ the patient
 6 desires and to whomever ~~he~~ the patient may choose, and the
 7 ~~superintendent~~ chief executive officer of the hospital, upon
 8 request, shall supply each patient, not otherwise supplied, with
 9 suitable writing materials and postage, at the expense of the
 10 state, sufficient for writing at least one letter ~~a~~ per week. Such
 11 letters shall be regularly and promptly collected and shall be
 12 placed in the United States mail for delivery; unless the
 13 ~~superintendent~~ chief executive officer of the hospital has on file
 14 a written request from a recipient or potential recipient that

15 letters shall not be mailed to such recipient; or unless there is
 16 reasonable cause to believe that the contents of any letter are
 17 threatening.

18 Sec. 109. Section 83-324, Reissue Revised Statutes of
 19 Nebraska, is amended to read:

20 83-324. The Director of Health and Human Services may
 21 accept patients for care and treatment upon the written application
 22 of a patient. Such written application may be made by persons
 23 desiring to receive care and treatment in one of the state
 24 hospitals for the mentally ill to the ~~superintendent~~ chief
 25 executive officer of the state hospital in which the patient wishes
 26 to receive treatment.

27 Sec. 113. Section 83-349, Reissue Revised Statutes of
 1 Nebraska, is amended to read:

2 83-349. If the ~~county board~~ of mental health board finds
 3 that a person committed to a state hospital for the mentally ill by
 4 ~~it~~ the board has, or probably has, a legal settlement in some other
 5 county in the state, ~~it~~ the board shall immediately notify the
 6 ~~county board~~ of mental health board of that county of its finding
 7 and commitment. The board members so notified shall thereupon
 8 inquire and ascertain, if possible, whether the patient has a legal
 9 settlement in their county; and shall immediately notify the
 10 ~~superintendent~~ chief executive officer of the hospital and the
 11 board members of the county from which the patient was committed of
 12 the result of their inquiry. If the legal settlement of a patient
 13 cannot for a time be ascertained; and is afterwards found, the
 14 notices provided for in this section shall then be given.

15 Sec. 115. Section 83-351, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 83-351. Expenses incurred by one county, on account of a
 18 mentally ill and dangerous person whose legal settlement is in
 19 another county of the state, shall be refunded, with lawful
 20 interest thereon, by the county in which the patient has his or her
 21 legal settlement. Such expenses shall be presented to the county
 22 board of the county sought to be charged, which shall allow and pay
 23 them the same as other claims. ~~Whenever an inmate of any~~
 24 ~~institution~~ a patient of any facility over which the Department of
 25 Health and Human Services has control has been adjudicated a
 26 mentally ill and dangerous person and committed to a state hospital
 27 for the mentally ill, and the expenses of the adjudication and
 1 commitment ~~shall~~ have been paid by the county in which the
 2 institution is located, the county clerk of that county shall
 3 certify the total amount of the expenses thus incurred to the
 4 Department of Health and Human Services. The department shall
 5 audit the expenses so certified and shall file a statement of the
 6 amount found due with the Director of Administrative Services, and
 7 a warrant shall be drawn on the General Fund in favor of the county
 8 from which the patient was committed.

9 Sec. 116. Section 83-354, Reissue Revised Statutes of

10 Nebraska, is amended to read:

11 83-354. All patients in the state hospitals for the
 12 mentally ill shall be regarded as standing on an equal footing.
 13 ~~The ; and the~~ patients, according to their different conditions of
 14 mind and body; and their respective needs, shall be provided for
 15 and treated with equal care. If the relatives or immediate friends
 16 of any patient ~~shall desire it, and shall pay~~ desire special care
 17 and pay the expenses thereof, such patient shall have special care,
 18 and shall be provided with a special attendant as may be agreed
 19 upon with the ~~superintendent~~ chief executive officer. In such
 20 cases the charges for the special care and attendance shall be paid
 21 quarterly in advance.

22 Sec. 120. Section 84-1326.01, Reissue Revised Statutes
 23 of Nebraska, is amended to read:

24 84-1326.01. (1) Any state employee who is a member of
 25 the State Employees Retirement System of the State of Nebraska and
 26 whose status is changed by the Legislature to that of an employee
 27 of a ~~mental~~ behavioral health region or an employee of a community
 1 mental health center shall, upon application to the Public
 2 Employees Retirement Board, obtain full and immediate vesting in
 3 any prior service retirement benefits and any future service
 4 retirement benefits which have accrued to the date of transfer.
 5 Such employee may not withdraw the amount in his employee account
 6 prior to his retirement and still receive such vested benefits.

7 (2) Any employee shall be eligible for immediate
 8 participation in the retirement program available to the employee
 9 in the political subdivision of the State of Nebraska to which such
 10 employee is transferred with no minimum period of service required,
 11 if the minimum age requirement and length of service, with either
 12 the State of Nebraska or the political subdivision, total the
 13 requirements of the retirement system to which the employee is
 14 transferred.

15 Sec. 122. If any section in this act or any part of any
 16 section is declared invalid or unconstitutional, the declaration
 17 shall not affect the validity or constitutionality of the remaining
 18 portions."

19 2. On page 6, line 2, strike "coordination" and insert
 20 "cooperation"; in line 4 after "(h)" insert "cooperation with the
 21 Department of Health and Human Services Finance and Support in the
 22 provision of behavioral health services under the medical
 23 assistance program established in section 68-1018; (i)"; and in
 24 line 5 strike "(i)" and insert "(j)".

25 3. On page 8, line 20, strike "administration" and
 26 insert "development"; and strike beginning with the second "the" in
 27 line 20 through "system" in line 21 and insert "publicly funded
 1 behavioral health services".

2 4. On page 10, line 7, strike "relating to" and insert
 3 "for"; and in line 22 strike "a" and insert "such".

4 5. On page 11, line 27, after "of" insert "the licensed

- 5 psychiatric hospital beds of .
- 6 6. On page 12, line 1, strike "capacity" and insert
7 "psychiatric hospital bed capacity on March 15, 2004".
- 8 7. On page 16, line 6, strike "Problem" and insert
9 "Compulsive"; in line 13 reinstate the stricken "Compulsive" and
10 strike the new matter; and in lines 20 through 22 strike the new
11 matter.
- 12 8. On page 17, lines 11, 13, and 23; page 80, lines 7,
13 14 and 15, 18, 19, 24, and 27; and page 81, lines 1, 4, 9, and 10,
14 strike the new matter and reinstate the stricken matter.
- 15 9. On page 19, line 2, strike "and approved by the
16 committee"; in line 17 strike "and" and insert "such plan and
17 shall" and before "no" insert "to the division and the committee";
18 and in line 19 after "recommendations" insert "to the commission
19 and the committee".
- 20 10. On page 28, line 9, strike "district judge" and
21 insert "presiding judge of the district court"; and in line 20
22 after "judge" insert "of the district court".
- 23 11. On page 31, line 7; and page 33, line 12, strike
24 "treatment" and insert "medical".
- 25 12. On page 34, line 19, after "county" insert ", and
26 all costs relating to such proceedings shall be paid by the county
27 of residence of the subject".
- 1 13. On page 39, line 16, strike "by" and insert "in".
- 2 14. On page 46, line 19, strike "patient" and insert
3 "subject".
- 4 15. On page 129, strike beginning with "101" in line 11
5 through "117" in line 12 and insert "99, 102 to 120, 123, and 125";
6 in line 16 strike "81-2213, 83-305" and insert "80-601, 81-1850,
7 81-2213, 83-305, 83-305.01, 83-314, 83-324"; in line 17 strike
8 "83-350" and insert "83-349, 83-350, 83-351, 83-354"; in line 23
9 strike "and 84-1211" and insert "84-1211, and 84-1326.01"; and in
10 line 24 strike "9-1,101,".
- 11 16. On page 130, line 1, strike "9-836.01,".
- 12 17. Renumber the remaining sections accordingly.

Senator Tyson filed the following amendment to LB 1162:
AM3526

(Amendments to E & R amendments, AM7216)

- 1 1. Strike section 4.
- 2 2. On page 4, strike beginning with "section" in line 20
3 through the first "and" in line 21.
- 4 3. Renumber the remaining sections accordingly.

Senator Bromm filed the following amendment to LB 1091:
AM3529

(Amendments to E & R amendments, AM7203)

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 25-21,211, Reissue Revised Statutes of

3 Nebraska, is amended to read:
 4 25-21,211. The court by which any judgment is rendered
 5 against the state shall certify the same to the Director of
 6 Administrative Services, who shall pay the same from any special
 7 fund or appropriation applicable thereto, and if none such has been
 8 provided or made, then from any appropriations made to the
 9 department or institution, relating to which the cause of action
 10 arose. A ; ~~PROVIDED~~, a certificate of the Director of
 11 Administrative Services, or of the chief officer of such department
 12 or institution, that the current appropriations will not permit
 13 payment of such judgment without great public inconvenience, shall
 14 operate as a stay of such judgment until the adjournment of the
 15 next regular session of the Legislature. In ; ~~and in~~ case of such
 16 stay being claimed or taken, interest shall run on such judgment
 17 from its date at the rate of ten percent per annum the date on
 18 which the court certified the judgment to the Director of
 19 Administrative Services at the rate set in section 45-103..
 20 2. On page 25, line 2, after "sections" insert
 21 "25-21,211,".
 22 3. Renumber the remaining sections accordingly.

Senator Kruse filed the following amendment to LB 870:
 AM3507

- 1 1. On page 2, line 23, strike "thirty", show as
- 2 stricken, and insert "sixty".

Senators Schrock, Bourne, Connealy, Cudaback, Cunningham, and Johnson
 filed the following amendment to LB 479:
 AM3532

(Amendments to Final Reading copy)

- 1 1. Strike sections 1, 7, 9, and 10.
- 2 2. On page 1, line 1, strike "66-482,"; in line 2 strike
- 3 "66-1345," and insert "and"; and in line 3 strike "77-4104.01, and
- 4 77-5536,".
- 5 3. On page 8, lines 15 through 19, strike the new
- 6 matter.
- 7 4. On page 9, strike beginning with line 1 through
- 8 "facility" in line 12; strike beginning with "for" in line 16
- 9 through "production" in line 18; and strike beginning with "and" in
- 10 line 24 through "act" in line 27.
- 11 5. On page 12, strike line 28.
- 12 6. On page 13, strike lines 1 through 17; and in line 18
- 13 strike "(9)" and insert "(8)".
- 14 7. On page 14, line 7, strike "(10)" and insert "(9)";
- 15 in line 9 strike "(9)" and insert "(8)"; and strike lines 18
- 16 through 24.
- 17 8. On page 15, strike lines 23 and 24.
- 18 9. On page 26, line 20, strike "66-482,"; and in line 21
- 19 strike "66-1345," and insert "and" and strike "77-4104.01, and

20 77-5536,".

21 10. Renumber the remaining sections and correct internal
22 references accordingly.

UNANIMOUS CONSENT - Add Cointroducer

Senator Landis asked unanimous consent to have his name added as cointroducer to LR 360. No objections. So ordered.

VISITORS

Visitors to the Chamber were 49 fourth-grade students and teachers from Pierce; 50 fourth-grade students and teacher from Morton Elementary School, Hastings; Linda Hardy, Angela Gilfillan, and Shelley Hultman from Wahoo; and Senator Vrtiska's wife, Doris, from Table Rock, his daughter, Lori Sibel, from Lincoln, and his daughter, Dr. Terri Vrtiska, from Rochester, Minnesota.

ADJOURNMENT

At 6:06 p.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Friday, April 2, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-THIRD DAY - APRIL 2, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FIFTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, April 2, 2004

PRAYER

The prayer was offered by Pastor Lloyd Gnirk, St. Pius X Catholic Church, Omaha.

ROLL CALL

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

The roll was called and all members were present except Senator Burling who was excused; and Senators Brown, Landis, and Price who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-second day was approved.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of April 1, 2004, 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

Fraizer, Theodore D. (Tad)
Fraizer & Fraizer Law Office

Stranz, Paul M.
MBNA Corporation

Wesely, Don
Motorola, Inc.

REPORT

The following report was received by the Legislature:

**Criminal Justice, Commission on Law Enforcement and
Traffic Stop Report****COMMUNICATION**

Received petition from the Douglas County Board of Commissioners adopted on March 30, 2004.

SELECT FILE

LEGISLATIVE BILL 1090. Senator Janssen withdrew the second Janssen pending amendment, FA1655, found on page 1434 and considered on page 1436.

Senator Chambers offered the following amendment:
FA1657
Strike section 1.

Senator Chambers withdrew his amendment.

Senator Chambers requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 42 ayes, 1 nay, 4 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 1091. E & R amendment, AM7203, printed separately and referred to on page 1172, was adopted.

Senator Wehrbein asked unanimous consent to withdraw his pending amendment, AM3278, found on page 1182, and replace it with his substitute pending amendment, AM3347, found on page 1404. No objections. So ordered.

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

Senator Jensen renewed his pending amendment, AM3291, found on page 1186.

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

Senator Raikes renewed his pending amendment, AM3480, found on page 1407.

SENATOR HARTNETT PRESIDING

SENATOR JANSSEN PRESIDING

SENATOR CUDABACK PRESIDING

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

The Raikes amendment was adopted with 26 ayes, 7 nays, 12 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORTS
Natural Resources

The Natural Resources 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.

Nebraska Oil and Gas Conservation Commission
James R. Gohl

VOTE: Aye: Senators Friend, Hudkins, Jones, Kremer, Loudon, Preister, Schrock, and Stuhr. Nay: None. Absent: None.

The Natural Resources 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.

Nebraska Environmental Trust Board
Robert Krohn

VOTE: Aye: Senators Friend, Hudkins, Jones, Kremer, Loudon, Preister, Schrock, and Stuhr. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

NOTICE OF COMMITTEE HEARING
Natural Resources
Room 1525

Tuesday, April 13, 2004
George E. Hall - Game and Parks Commission

8:30 a.m.

(Signed) Ed Schrock, Chairperson

AMENDMENTS - Print in Journal

Senator Schrock filed the following amendment to LB 916:
(Amendment, AM3537, is printed separately and available in the Bill Room, Room 1104.)

Senators Cunningham, Beutler, Bourne, Connealy, Cudaback, Johnson, and Schrock filed the following amendment to LB 1065:
AM3536

- 1 1. Strike beginning on page 12, line 23, through page
- 2 13, line 5.

ATTORNEY GENERAL'S OPINION

Opinion # 04014

DATE: April 2, 2004

SUBJECT: Whether LB 855 contains unconstitutionally vague language; creates a jurisdictional conflict; and is usurped by existing state law(s).

REQUESTED BY: State Senator Carol Hudkins

WRITTEN BY: Jon Bruning, Attorney General
Corey O'Brien, Assistant Attorney General

You have requested our opinion concerning the constitutionality, propriety and necessity of LB 855. In your letter requesting our opinion, you asked us to address three specific concerns related to LB 855: (1) whether the use of the words "intentionally interferes with" is unconstitutionally vague; (2) whether the criminal offense created by LB 855 is already adequately proscribed by Neb. Rev. Stat. § 28-316(3) (Reissue 2002) and; (3) whether LB 855 would create an untenable jurisdictional conflict since it would impose criminal liability for acts that are also subject to a court's civil contempt powers.

PROPOSED LEGISLATION: LB 855 creates the criminal offense of Unlawful Interference with Child Visitation and imposes criminal sanctions for those who commit the acts defined. By its plain language, LB 855 makes it a Class V misdemeanor (first offense) or Class IIIA misdemeanor (subsequent offenses), if a person "intentionally interferes with or deprives" another from exercising their court ordered child visitation rights. Nowhere within LB 855, or Title 28 of the Nebraska Revised Statutes is the "intentionally interferes with or deprives" language specifically defined. However, Neb. Rev. Stat. § 42-364.15 (Reissue 2002), which pertains to enforcement of child visitation orders, contains similarly undefined

language in providing a reviewing court with the ability to impose civil sanctions against a parent who "unreasonably withheld or interferes with" court ordered visitation.

While LB 855 prohibits someone from intentionally interfering with or depriving another from exercising their court ordered visitation rights, it does permit a person to undertake such otherwise unlawful acts if: (1) the person had a reasonable belief that the child could be subjected to imminent physical harm; (2) acted with the consent of all parties having a right to custody and visitation; or (3) acted in a manner authorized by law. Within the text of LB 855, it does not address any specific relationship with Neb. Rev. Stat. § 28-316 (3) (Unlawful Violation of Child Custody) and only peripherally mentions civil visitation enforcement mechanisms, by providing in subsection (4) that "Proof of conviction under this section is admissible as evidence in a civil action."

The text of LB 855 in its entirety reads as follows:

Section 1. Section 28-101, Revised Statutes Supplement, 2003, is amended to read:

28-101. Sections 28-101 to 28-1350 and section 2 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 2. (1) A person commits the offense of interference with child visitation if he or she intentionally interferes with or deprives another person of his or her visitation rights with a child in violation of a court order.

(2) Interference with child visitation is a Class V misdemeanor for the first offense and a Class IIIA misdemeanor for the second or subsequent conviction.

(3) It is an affirmative defense to prosecution under this section that:

(a) The person acted in the reasonable belief that he or she was protecting the child from imminent physical harm and the person's actions were a reasonable response to such anticipated harm;

(b) The person acted with the mutual consent of all persons having a right to custody and visitation of the child; or

(c) The person acted in a manner otherwise authorized by law.

(4) Proof of conviction under this section is admissible as evidence in a civil action.

Sec. 3. Original section 28-101, Revised Statutes Supplement, 2003, is repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.

ANALYSIS

I. Whether the use of the language "intentionally interferes with" is unconstitutionally vague.

LB 855 makes it a crime for a person to "intentionally interfere with or deprive" another person from exercising their court ordered child visitation rights. During the Judiciary Committee hearing on LB 855, it was suggested that the phrase "intentionally interfere with," without further explanation or definition, might render the entire statute vulnerable to attack for being unconstitutionally vague. "Intentionally interfere with" is not defined within LB 855 or by any other statute of the Nebraska Criminal Code (Title 28 Nebraska Revised Statutes). It is believed that the drafter(s) of LB 855, included the phrase "intentionally interfere with" because of similar language used in Neb. Rev. Stat. § 42-364.15 (Reissue 2002), pertaining to a civil court's ability to enforce existing child visitation provisions. Neb. Rev. Stat. § 42-364.15 provides:

In any proceeding when a court has ordered a parent to pay, temporarily or permanently, any amount to the clerk of the district court for the support of a minor child on behalf of such parent the court shall enforce its visitation orders as follows:

(1) Upon the filing of a motion which is accompanied by an affidavit stating that either parent has unreasonably withheld or interfered with the exercise of the court order after notice to the parent and hearing, the court shall enter such orders as are necessary to enforce rights of either parent including the modification of previous court orders relating to visitation. The court may use contempt powers to enforce its court orders relating to visitation. The court may require either parent to file a bond or otherwise give security to insure his or her compliance with court order provisions. (Emphasis Added).

(2) Costs, including, reasonable attorney's fees, may be taxed against a party found to be in contempt pursuant to this section.

As N.R.S. § 42-364.15 indicates, a custodian of minor children can be sanctioned if he or she "unreasonably withheld or interferes with" another person's court ordered visitation rights. However, as with the phrase "intentionally interfere with," "unreasonably withheld or interferes with" is not defined by statute nor been subjected to appellate review or interpretation. Therefore, for us to arrive at a reasoned opinion on whether the "intentionally interfere with" language of LB 855 will pass constitutional muster we must look to additional sources for guidance.

According to Nebraska case law, the "void-for-vagueness doctrine" requires that a statute define a criminal offense with a sufficient amount of definiteness that ordinary people can understand what conduct is prohibited and the language it uses does not encourage arbitrary and discriminatory enforcement. *State v. Hookstra*, 10 Neb. App. 199, 630 N.W. 2d 469 (2001). The test for determining whether a statute is vague is whether it forbids or requires the doing of an act in terms so vague that persons of common intelligence must necessarily guess at its meaning and may differ as to its application. *State v. Irons*, 254 Neb. 18, 574 N.W.2d 144 (1998). In *State v. Lynch*, 223 Neb. 849, 394 N.W.2d 651 (1986), the Nebraska Supreme Court held that the dividing line between what is lawful and unlawful cannot be left to conjecture. The crime and elements constituting it must be so clearly expressed that an ordinary person can intelligently choose in advance what course is lawful for him to pursue. *Lynch* at 223 Neb. 859, 394 N.W.2d 661.

In *Lynch*, the Court was asked to review whether Obstruction of Justice as defined by Neb. Rev. Stat. § 28-906(1), was unconstitutionally vague because it used terms such as, "violence, force, physical interference, or obstacle." In finding that the use of such terms did not render N.R.S. § 28-906(1) unconstitutionally vague, the Supreme Court declared that it is not necessary for penal statutes to be written so as to be beyond mere possibility of more than one construction and although a penal statute is to be strictly construed, it should be given a sensible construction. *State v. Lynch*, 223 Neb. 860, 394 N.W.2d 662. According to *Lynch*, the prohibition against excessive vagueness does not invalidate every statute which a reviewing court believes could have been drafted with greater precision because due process only requires that a statute give sufficient warning, so that one may conform his or her conduct to avoid that which is forbidden. *Id.* In this instance, the Court found that words such as violence, force, physical interference or obstacle were sufficiently understandable by those of ordinary intelligence and as a result did not render the Obstruction of Justice statute unconstitutionally vague. *State v. Lynch*, 223 Neb. 860, 349 N.W.2d 662 (1986).

Similarly, in *State v. Sullivan*, 189 Neb. 465, 203 N.W.2d 169 (1973), the Nebraska Supreme Court declared a statute prohibiting the Willful Refusal to Leave Property of an Educational Institution Upon Request not unconstitutionally vague even though it included the undefined phrase, "unreasonably interferes with or obstructs." According to the Court in *Sullivan*, the terms "obstruct" and "unreasonably interfere" plainly require no guessing at their meaning. *Sullivan* at 189 Neb. 466, 203 N.W.2d 170. Both terms are widely used and well understood and consequently sufficiently warn about the conduct that is proscribed. *Id.*

While Nebraska courts have not been asked to evaluate whether the phrase, "intentionally interferes with" would render a statute unconstitutionally vague, we believe that the cases recited above suggest that it would not. Throughout the Nebraska Criminal Code, there are a number of statutes that subject those who interfere with the performance of

various duties imposed by law to criminal liability. Among those not previously mentioned are; Accessory to a Felony, Neb. Rev. Stat. § 28-204 (Reissue 2002) and Interference with a Fireman, Neb. Rev. Stat. § 28-908 (Reissue 2002). While both of these statutes make it unlawful for one to "interfere" with the lawful exercise of a specific function, just as LB 855, neither contains a more specific definition, or for that matter, been scrutinized as being unconstitutionally vague.

Even though the courts have routinely found the undefined use of the word "interfere(nce)" clearly understandable by those of ordinary intelligence, we would be remiss not to at least consider the historical frequency with which the word has been a source of attack. While the judiciary has routinely upheld statutes using the "interfere(nce)," language there is no guarantee that this trend will continue into the future, especially when considering the entirely new and different context in which the word is used in LB 855. As a matter of course, the word "interfere(nce)" has traditionally been used in statutes that proscribe persons from interfering with governmental operations, rather than activities of ordinary citizens. As a result it is possible that the courts will look upon the "interference" prohibited by LB 855, differently than the "interference" used in other statutes because it pertains to interfering with an ordinary citizen's conduct rather than a governmental entity's.

As a final consideration, we should not overlook the statutes passed in other states that have made it a crime to interfere with child visitation and the words they have used to define the offense. Virtually every State that has enacted such a law has modeled their statute after the one pioneered by Illinois. Upon our inspection, we can find no other State that has used language comparable to the "intentionally interfere with" language of LB 855.

For instance, in Illinois, the statute reads as follows: "Every person who... detains or conceals a child with the intent to deprive another person of his or her rights to visitation shall be guilty of unlawful visitation interference." In Georgia, "a person commits interference with visitation when... person intentionally and willfully refuses to allow lawful visitation." And finally in New Jersey, "a person commits interference with visitation.... takes, detains, entices or conceals a minor child from the other parent in violation of the custody order." In many of the statutes surveyed, definitions were provided for words that could potentially be problematic, such as "detains" as in Illinois or "lawful visitation" in the Georgia statute.

Thus, while it appears that the use of the phrase "intentionally interfere" would in all likelihood not render LB 855 unconstitutionally void for vagueness, it may be prudent to consider adding a definition for this phrase or to at least consider replacing the phrase altogether, with language used in similar statutes from other states, that may offer a diminished risk of being attacked under the void-for-vagueness doctrine and possibly found to be unconstitutional.

II. Whether the acts proscribed by LB 855 are already prohibited by Neb. Rev. Stat. § 28-316(3) (Reissue 2002).

According to your letter, it was suggested during the public hearing on LB 855 that the creation of an offense prohibiting Interference with Child Visitation was unnecessary because such conduct is already proscribed under Neb. Rev. Stat. § 28-316(3) (Reissue 2002). N.R.S. § 28-316(3), delineates the crime of Violation of Custody, and provides in its entirety that:

(1) Any person, including a natural or foster parent, who, knowing that he has no legal right to do so or, needless in that regard, takes or entices any child under the age of eighteen years from the custody of its parent having legal custody, guardian, or other lawful custodian commits the offense of violation of custody.

(2) Except as provided in subsection (3) of this section, violation of custody is a Class II misdemeanor.

(3) Violation of custody in contravention of an order of any district or juvenile court of this state granting the custody of a child under the age of eighteen years to any person, agency or institution, with the intent to deprive the lawful custodian of the custody of such child, is a Class IV felony.

Based upon our review, the conduct proscribed by LB 855 is vastly different than the acts prohibited by N.R.S. § 28-316(3) for the simple reason that custody and visitation are not interchangeable. Typically, custody deals with the permanent disposition of a child, whereas visitation typically deals with a temporary departure from a child's permanent disposition.

Frequently, custody is given to one parent and visitation rights are given to the non-custodial parent. However, on occasion custody may be given to a non-parent or institution and visitation will be given to the child's natural, adoptive or step parents or grandparents. LB 855 is clearly designed to prevent the custodial parent, guardian or institution from intentionally interfering with or depriving someone from exercising their child visitation rights and does not prohibit conduct by someone who deprives a custodian from exercising their rights. In the alternative, N.R.S. § 28-316(3) prohibits a person from taking or enticing a child under the custody of another from their care and does nothing to prohibit a custodian from interfering with the visitation rights given to a non-custodial parent or grandparent.

Upon inspection of the legislative history and plain meaning of N.R.S. § 28-316(3), it is abundantly clear that it is solely designed to inhibit and discourage non-custodial parents from parental abduction or kidnapping and is not meant to apply to situations where a custodian prevents a non-

custodian from exercising their limited visitation rights. Therefore, since LB 855 seeks to regulate conduct not considered or covered by the acts prohibited by N.R.S. § 28-316(3), it is difficult to see how LB 855 could be deemed as duplicative or unnecessary.

III. Whether LB 855 would create an untenable jurisdictional conflict between criminal and civil courts.

Upon initial inspection it would seem that LB 855 would not create a jurisdictional conflict between criminal and civil processes. Throughout Nebraska jurisprudence there are a number of activities that are subject to both criminal and civil sanction. For instance, failure to pay child support or violations of a child custody order can be sanctioned by a court under its civil contempt powers as well as prosecuted by the State as a criminal offense. While it may be impractical, inefficient or duplicative to pursue both a civil contempt and criminal sanction for an individual offense there appears to be no double jeopardy or other legal obstacle to prohibit such an effort.

Under Nebraska law, civil contempt is designed to provide a court with the ability to enforce its order. It is not a punitive sanction but is meant to serve as a device aimed at giving a non-compliant party with the opportunity to rehabilitate themselves for past failures to conform with the standards set forth in the court's order. In fact, under existing Nebraska law, a court must give a non-compliant party with the opportunity to purge themselves of their violations before facing the possibility of incarceration or monetary sanction. For example, if a party is ordered to pay child support and fails to make these payments in a timely or satisfactory manner, the court that originally ordered child support must give the non-compliant party with the opportunity to conform with the terms of the order and make reparations for past failures to comply with the order before utilizing its civil contempt powers to impose any fine or term of imprisonment.

In those cases where a non-compliant party refuses to purge themselves and a court is forced to impose a civil contempt sanction, these sanctions are not viewed as criminally punitive but as a measure to preserve the court's integrity and prevent future degradation of its authority. Conversely, a prosecution against one who willfully fails to abide by the terms of a court's order is predicated upon the need to punish and deter the offender and the public-at-large from engaging in similar misdeeds in the future. In a prosecution, preservation of the court's integrity, respect for its authority and providing an offender with the opportunity to make amends for past misdeeds, is of limited concern. Thus, the distinct and individual purposes underlying criminal prosecution and civil contempt sanctions provide the evidence necessary to support an effort to pursue sanctions under either one or a combination of the two options.

As a final note on this topic it should be pointed out that existing Nebraska law provides the State with the opportunity to prosecute a party

who intentionally and willfully fails to comply with a court order for criminal contempt. Neb. Rev. Stat. § 25-2121 (Reissue 1995) provides:

Every court of record shall have power to punish by fine and imprisonment, or by either, as for criminal contempt, persons guilty of (1) disorderly, contemptuous, or insolent behavior towards the court, or any of its officers in its presence; (2) any breach of the peace, noise, or other disturbance tending to interrupt its proceedings; (3) willful disobedience of or resistance willfully offered to any lawful process or order of said court; (4) any willful attempt to obstruct the proceedings, or hinder the due administration of justice in any suit, proceedings, or process pending before the courts; or (5) contumacious and unlawful refusal to be sworn or affirmed as a witness, and when sworn or affirmed, refusal to answer any legal and proper interrogatory.

Contempt proceedings are in a nature to be deemed criminal and governed by the same rules. *Gentle v. Pantel Realty Co.* 120 Neb. 620, 234 N.W. 579 (1926). In addition, Neb. Rev. Stat. § 25-2123 (Reissue 1995) provides:

Persons punished for contempt preceding provisions shall nevertheless be liable to indictment, if such contempt shall amount to an indictable offense; but the court before which the conviction shall be had may, in determining the punishment, take into consideration the punishment before inflicted in mitigation of sentence.

Though prosecutions for criminal contempt are extraordinarily rare, there is a notable absence of any cases that would indicate an untenable jurisdictional conflict between the criminal and civil contempt processes. This would seem to provide additional support for the notion that a court's civil contempt powers and LB 855 could co-exist without significant legal impediment. Although a simultaneous prosecution for criminal contempt and Interference of Child Visitation would likely be barred by double jeopardy concerns, no such concerns would be created where a court seeks to exercise its civil contempt powers for the same occurrences prosecuted by the State under the terms of LB 855.

CONCLUSION

Based on the foregoing, we believe that LB 855 does not contain unconstitutionally vague language, nor does it create a jurisdictional conflict between the criminal and civil process, nor is it usurped or superseded by existing state law(s).

Sincerely,
JON BRUNING
Attorney General
(Signed) Corey M. O'Brien
Assistant Attorney General

SELECT FILE

LEGISLATIVE BILL 1091. Senator Bromm withdrew his pending amendment, AM3501, found on page 1414.

Senator Bromm renewed his pending amendment, AM3529, found on page 1446.

Senator Brashear offered the following amendment to the Bromm pending amendment:

FA1658

Amend AM3529

On page 1, line 19, strike "the rate set in section 45-103" and insert "zero percent financing with no money down"

Senator Brashear withdrew his amendment.

Senator Chambers offered the following amendment to the Bromm pending amendment:

FA1659

Amend AM3529

On page 1, line 15 strike and show as stricken "~~In, and in~~ case of" and insert "When"; in line 16 strike "being" and insert "is".

Senator Chambers withdrew his amendment.

Senator Bromm withdrew his amendment, AM3529.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1093. E & R amendment, AM7213, found on page 1239, was adopted.

Senator Maxwell offered the following motion:
Bracket until April 15, 2004.

Senator Maxwell withdrew his motion to bracket.

Senator Maxwell requested a machine vote on the advancement of the bill.

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

Advanced to E & R for engrossment with 26 ayes, 5 nays, 14 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 1241. E & R amendment, AM7212, printed

separately and referred to on page 1240, was adopted.

Advanced to E & R for engrossment.

MOTION - Return LB 1089 to Select File

Senator Chambers moved to return LB 1089 to Select File for his specific pending amendment, AM3519, found on page 1418.

The Chambers motion to return prevailed with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 1089. The Chambers specific pending amendment, AM3519, found on page 1418, was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

WITHDRAW - Amendment to LB 1144

Senator Chambers withdrew his pending amendment, AM3505, found on page 1413, to LB 1144.

SELECT FILE

LEGISLATIVE BILL 962. E & R amendment, AM7204, printed separately and referred to on page 1193, was adopted.

Senator Beutler withdrew his pending amendment, AM3202, found on page 1114.

Senator Wehrbein withdrew his pending amendment, AM3004, found on page 1115.

Senator Erdman renewed the Erdman-Schimek pending amendment, AM3227, found on page 1229.

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

Senator Beutler withdrew his pending amendment, AM3230, found on page 1248.

Senator Schrock renewed his pending amendment, AM3366, found on page 1248.

The Schrock amendment was adopted with 33 ayes, 0 nays, 13 present and

not voting, and 3 excused and not voting.

Senator Wehrbein renewed the Wehrbein et al. pending amendment, AM3390, found on page 1251.

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

Advanced to E & R for engrossment.

LEGISLATIVE BILL 962A. Senator Wehrbein withdrew his pending amendment, AM3005, found on page 1115.

Senator Wehrbein renewed his pending amendment, AM3393, found on page 1251.

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

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 1084. Senator Chambers withdrew his pending motion, found on page 1076, to reconsider vote to recommit to committee.

Senator Beutler withdrew his pending amendment, AM3099, found on page 1075.

The Standing Committee amendment, AM2590, printed separately and referred to on page 645 and considered on page 1075, was renewed.

Senator Erdman renewed the Erdman-Chambers pending amendment, AM3398, printed separately and referred to on page 1314, to the Standing Committee amendment.

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

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

FA1661

Amend AM3398

On line 11, page 9 change "shall" to "may"

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

The Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 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 1084A. Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 396. Introduced by Synowiecki, 7; Bourne, 8; Brashear, 4; Bromm, 23; Brown, 6; Byars, 30; Chambers, 11; Combs, 32; Connealy, 16; Cunningham, 40; Friend, 10; Hartnett, 45; Jensen, 20; Kruse, 13; Maxwell, 9; McDonald, 41; Mines, 18; Mossey, 3; Dw. Pedersen, 39; Preister, 5; Quandahl, 31; Raikes, 25; Redfield, 12; Schimek, 27; Stuthman, 22; Thompson, 14.

WHEREAS, the Creighton University Women's Basketball team won the Women's National Invitation Tournament (WNIT) by defeating the University of Nevada-Las Vegas 73-52 in the championship game; and

WHEREAS, the Creighton University Women's Basketball team became the first athletic program in school history to win a national postseason tournament and the first women's basketball team in Missouri Valley Conference history to win the Women's National Invitation Tournament; and

WHEREAS, the Creighton University Women's Basketball team ranked third in the NCAA in three-point field goals per game, tied the school record for most wins, seventy-two, over a three-year period, and was the first women's team in Missouri Valley Conference history to record three consecutive seasons of at least twenty-four wins; and

WHEREAS, Creighton's WNIT All-Tournament team members include Laura Spanheimer, Dayna Finch, and Christy Neneman. Creighton senior team members for 2003-04 include Dayna Finch, Smith Center, Kansas; Sara Hildebrand, Norwalk, Iowa; and Christy Neneman, Omaha, Nebraska; and

WHEREAS, team member Christy Neneman was named tournament MVP, averaging 17.6 points and 7.8 rebounds per game; and

WHEREAS, team member Laura Spanheimer was named the 2004 Missouri Valley Conference Defensive Player of the Year, earned first-team, all-conference recognition, and finished the 2003-04 season with one hundred steals, the second highest single-season total in school history; and

WHEREAS, team member Christy Neneman earned first-team, all-conference recognition and finished her career with 1,732 points to rank fourth in school history; and

WHEREAS, team member Dayna Finch was honored as the Prairie Farms Missouri Valley Conference Scholar-Athlete of the Year with a 3.61 grade

point average and also set the Missouri Valley Conference record for career three-point field goals made and three-point field goal attempts; and

WHEREAS, Head Coach Jim Flanery is 48-18 after two seasons at Creighton, his win total is the best two-year start by a Creighton head coach, and his win total ties the best two-year start by a Missouri Valley Conference coach in league history.

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

1. That the Creighton University Women's Basketball team be congratulated for their exemplary effort this season.

2. That a copy of this resolution be sent to Coach Jim Flanery and each member of the Creighton University Women's Basketball team.

Laid over.

UNANIMOUS CONSENT - Add Cointroducer

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LRs 346 and 347. No objections. So ordered.

VISITORS

Visitors to the Chamber were 24 fourth-grade students, sponsors, and teachers from St. Bernard School, Omaha; home school political process students and teachers from Omaha area districts; Senator Aguilar's son, T. C. Aguilar, and Jenny Hill from Minneapolis; Irene and Jill Abernethy from Grand Island; Alicia Seckman from Schuyler, Philip Buchholz from Ogallala, Katie Travaille from Ocheyedon, Iowa, and Kolby Schneider from Paxton; 44 fourth-grade students and teachers from Plattsmouth; 12 fourth-grade students and teachers from Bloomfield Community School; Bill Ziesel from Omaha; Bernard and Vera Wieman from Howells; Johan Hammarqvist from Sweden and Bob Wagner from Lincoln; Dianne and Chris Becker from Hartington; 32 fourth-grade students from Abundant Life Lutheran School and Bread of Life Lutheran School, Omaha; 25 students and teachers from Dundy County Junior High School; and Gordon and Patty Howard from Bayard.

The Doctor of the Day was Dr. Joel Travis from Albion.

ADJOURNMENT

At 1:38 p.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Monday, April 5, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-FOURTH DAY - APRIL 5, 2004

LEGISLATIVE JOURNAL

**NINETY-EIGHTH LEGISLATURE
SECOND SESSION**

FIFTY-FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, April 5, 2004

PRAYER

The prayer was offered by Senator Kruse.

ROLL CALL

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

The roll was called and all members were present except Senators Bromm, Combs, Maxwell, Price, and Vrtiska who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-third day was approved.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 1089, 1090, 1091, 1093, and 1241.

ER9124

Enrollment and Review Change to LB 1089

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

1. In the E & R amendments, AM7208, on page 1, line 20, "172" has been struck and "173" inserted.

2. In the Chambers amendment, AM3216, amendment 2 has been struck.

ER9125

Enrollment and Review Change to LB 1091

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

1. In the Raikes amendment, AM3480:
 - a. Sections 7 to 10 have been renumbered as sections 8 to 11, respectively;
 - b. On page 1, lines 4 and 5, "8 and 9" has been struck and "9 and 10" inserted;
 - c. On page 3, line 27; and page 7, line 5, "8" has been struck and "9" inserted.
2. In the E & R amendments, AM7203, on page 25, line 2, ", 79-1001, 79-1028" has been inserted after "71-7611"; and in line 11 "a fund" has been struck and "funds" inserted.
3. On page 1, line 1, "79-1001, 79-1028, 81-504," has been inserted after "71-7611, "; in line 3 ", 48-162.01," has been inserted after "28-1249"; and in line 6 "to provide for incentives for school district reorganization;" has been inserted after the second semicolon.

ER9126

Enrollment and Review Change to LB 1093

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

1. In the E & R amendments, AM7213, on page 1, line 3, "line 22" has been struck and "lines 22 and 26" inserted.

(Signed) Ray Mossey, Chairperson

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 282 was adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR 282.

GENERAL FILE

LEGISLATIVE BILL 391. Title read. Considered.

The Standing Committee amendment, AM3247, printed separately and referred to on page 1243, was considered.

Senator Beutler withdrew his pending amendment, FA1644, found on page 1411.

Senator Erdman renewed his pending amendment, AM3496, found on page

1412, to the Standing Committee amendment.

SENATOR CUDABACK PRESIDING

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

The Erdman amendment was adopted with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

SELECT COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 1084. Placed on Select File as amended.

E & R amendment to LB 1084:

AM7226

- 1 1. In the Erdman-Chambers amendment, AM3398:
- 2 a. On page 9, line 13, after "the" insert "state";
- 3 b. On page 10, line 3, after "The" insert "state"; and
- 4 c. On page 12, line 6, strike "by" and insert "be".

LEGISLATIVE BILL 1084A. Placed on Select File.

(Signed) Ray Mossey, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 397. Introduced by Byars, 30.

WHEREAS, John J. Trompen was born in Vrisland, Michigan, on April 8, 1854. His parents immigrated from northern Holland to start a new life in the United States; and

WHEREAS, in 1874, John Trompen moved to Nebraska and married Jennie Huyser, lived in a sod house on a quarter section of land, and began farming as well as raising hogs and cattle. He and his wife raised eleven children, two of whom died during childhood; and

WHEREAS, in 1882, John Trompen started a business as a dealer in farm machinery at Holland, Nebraska, and later moved to Hickman, Nebraska, to run a grain and livestock business; and

WHEREAS, John Trompen was successful at farming, business, and politics. He served as a Justice of the Peace and on the local school board. For many years, he served as a delegate to the Republican county conventions and attended state conventions as a delegate a number of times; and

WHEREAS, John Trompen secured the nomination for sheriff of

Lancaster County and served as sheriff from 1897 to 1899. He was considered by his deputies to be a conscientious, honest, and straightforward man; and

WHEREAS, in 1900, Mr. Trompen was nominated by the county convention to serve as a state senator. He served in the Legislature from 1901 to 1903; and

WHEREAS, April 8, 2004, is the 150th anniversary of the birth of John J. Trompen, a man who was an outstanding Nebraskan and represented the best of the homesteader tradition.

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

1. That the Legislature hereby commemorates the 150th anniversary of the birth of John J. Trompen on April 8, 2004.

2. That a copy of this resolution be sent to the descendants of John J. Trompen.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 391. Senator Beutler renewed his pending amendment, AM3500, found on page 1412, to the Standing Committee amendment.

Senator Beutler withdrew his amendment.

The Standing Committee amendment, AM3247, printed separately and referred to on page 1243 and considered in this day's Journal, as amended, was renewed.

The Standing Committee amendment, as amended, lost with 1 aye, 30 nays, 16 present and not voting, and 2 excused and not voting.

Senator Erdman offered the following amendment:

FA1667

Strike original sections of LB 391 and insert:

"Section 1. Section 43-2101, Reissue Revised Statutes of Nebraska, is amended to read:

43-2101. (1) All persons under nineteen years of age are declared to be minors, but in case any person marries under the age of nineteen years, his or her minority ends.

(2) A minor may not disaffirm a contract otherwise valid to pay the reasonable value of things necessary for his or her support, or that of his or her family, entered into by him or her when not under the care of a parent or guardian able to provide for such minor or his or her family.

Section 2. Original section 43-2101, Reissue Revised Statutes of Nebraska, is repealed."

The Erdman amendment was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 1065. Title read. Considered.

The Standing Committee amendment, AM2644, printed separately and referred to on page 714, was considered.

Senator Landis renewed his pending amendment, AM2845, found on page 839, to the Standing Committee amendment.

Pending.

VISITORS

Visitors to the Chamber were 59 members of the Sophomore Pilgrimage Club and sponsors from across the state; 52 fifth-grade students and teachers from Milliken Park Elementary School, Fremont; 8 eleventh- and twelfth-grade students and sponsors of the Youth Advisory Council from Scottsbluff, Gering, and Mitchell; 5 members of the Delta Sigma Theta and Gamma Xi Sorority Chapters, Omaha; 50 fourth-grade students and teacher from Rockwell Elementary School, Omaha; and seniors from Johnson-Brock.

RECESS

At 11:59 a.m., on a motion by Senator Vrtiska, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Engel, Foley, Hudkins, and Quandahl who were excused until they arrive.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 962 and 962A.

ER9127

Enrollment and Review Change to LB 962

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

1. Changes have been made as necessary to incorporate all adopted amendments.

2. In the E & R amendments, AM7204, on page 173, line 10, "66-1501, 66-1519, 66-1523, 66-1525, 66-1529.02," has been inserted after the second comma; in line 19 "and 46-656.30" has been struck and "46-656.30, and 81-15,174" inserted; in line 23 "to provide a termination date for provisions relating to the Water Policy Task Force;" has been inserted after the semicolon; in line 25 "to require insurance for remedial action and change dates relating to the Petroleum Release Remedial Action Act;" has been inserted after the first semicolon; and in line 26 "to provide for transfers of funds;" has been inserted after the last semicolon.

(Signed) Ray Mossey, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1065. The Landis pending amendment, AM2845, found on page 839 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

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

Senator Schrock withdrew his pending amendment, AM3055, found on page 989.

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

FA1668

Amend AM2644

On page 1 strike and show as stricken lines 16-23.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

The Chambers amendment was adopted with 31 ayes, 0 nays, and 18 present and not voting.

Senator Chambers offered the following amendment to the Standing

Committee amendment:

FA1669

Amend AM2644

On page 3, strike lines 17-24.

SENATOR SCHIMEK PRESIDING

Senator Baker moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Chambers withdrew his amendment.

The Standing Committee amendment, AM2644, printed separately and referred to on page 714 and considered in this day's Journal, as amended, was renewed.

The Standing Committee amendment, as amended, was adopted with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

Senator Cunningham renewed the Cunningham et al. pending amendment, AM3536, found on page 1452.

Senator Cunningham withdrew the Cunningham et al. amendment.

Pending.

SELECT COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 391. Placed on Select File as amended.

E & R amendment to LB 391:

AM7227

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 43-2101, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 43-2101. (1) All persons under nineteen years of age are
- 6 declared to be minors, but in case any person marries under the age
- 7 of nineteen years, his or her minority ends.
- 8 (2) A minor may not disaffirm a contract otherwise valid
- 9 to pay the reasonable value of things necessary for his or her
- 10 support, or that of his or her family, entered into by him or her
- 11 when not under the care of a parent or guardian able to provide for
- 12 such minor or his or her family.
- 13 Sec. 2. Original section 43-2101, Reissue Revised
- 14 Statutes of Nebraska, is repealed."
- 15 2. On page 1, strike beginning with "sections" in line 1
- 16 through line 6 and insert "section 43-2101, Reissue Revised

17 Statutes of Nebraska; to prohibit minors from disaffirming
18 contracts as prescribed; and to repeal the original section."

(Signed) Ray Mossey, Chairperson

AMENDMENTS - Print in Journal

Senator Synowiecki filed the following amendment to LB 485:
AM3513

(Amendments to E & R amendments, AM7222)

- 1 1. On page 29, line 25, after "made" insert "except
2 that (a) when there is a purchase of an existing licensed business
3 and a new license of the same class is issued, no additional
4 license fees or occupation taxes shall be required until the
5 existing license period expires and (b) upon the issuance of a new
6 license for a location which has not been previously licensed, the
7 license fee and occupation taxes shall be prorated on a quarterly
8 basis as of the date of issuance".

Senator Thompson filed the following amendment to LB 943:
AM3547

(Amendments to E & R amendments, AM7220)

- 1 1. On page 1, line 24, strike "or attempt to solicit,
2 coax, entice, or lure".
- 3 2. On page 2, line 7, strike "III" and insert "IIIA";
4 and in line 10 strike "II" and insert "III".

Senator Chambers filed the following amendment to LB 943:
AM3563

(Amendments to E & R amendments, AM7220)

- 1 1. Insert the following new sections:
2 "Sec. 5. Section 28-322, Revised Statutes Supplement,
3 2002, is amended to read:
4 28-322. For purposes of sections 28-322 to 28-322.03:
5 (1) Inmate or parolee means any individual confined in a
6 facility operated by the Department of Correctional Services or a
7 city or county correctional or jail facility or under parole
8 supervision; and
9 (2) Person ; ~~person~~ means ~~(1)~~ (a) an individual employed
10 by the Department of Correctional Services or by the Office of
11 Parole Administration, ~~which includes, but is not limited to,~~
12 ~~individuals including any individual~~ working in central
13 administration of the department, any individual working under
14 contract with the department, and any individual, other than an
15 inmate's spouse, to whom the department has authorized or delegated
16 control over ~~inmates or inmates'~~ an inmate or an inmate's
17 activities, ~~(b) and (2)~~ (b) an individual employed by a city or county
18 correctional or jail facility, ~~which includes, but is not limited~~
19 ~~to, individuals including any individual~~ working in central

20 administration of the city or county correctional or jail facility,
 21 any individual working under contract with the city or county
 22 correctional or jail facility, and any individual, other than an
 23 inmate's spouse, to whom the city or county correctional or jail
 1 facility has authorized or delegated control over ~~inmates or~~
 2 ~~inmates~~ an inmate or an inmate's activities, and (c) an individual
 3 employed by the Office of Probation Administration who performs
 4 official duties within any facility operated by the Department of
 5 Correctional Services or a city or county correctional or jail
 6 facility.

7 Sec. 6. Section 28-322.01, Revised Statutes Supplement,
 8 2002, is amended to read:

9 28-322.01. A person commits the offense of sexual abuse
 10 of an inmate or parolee if such person subjects an ~~individual who~~
 11 ~~is confined in a correctional institution or a city or county~~
 12 ~~correctional or jail facility or under parole supervision inmate or~~
 13 ~~parolee~~ to sexual penetration or sexual contact as those terms are
 14 defined in section 28-318. It is not a defense to a charge under
 15 this section that the inmate or parolee consented to such sexual
 16 penetration or sexual contact."

17 2. On page 10, line 5, strike "section" and insert
 18 "sections 28-322, 28-322.01, and".

19 3. Renumber the remaining sections accordingly.

Senator Bromm filed the following amendment to LB 692:
 AM3567

1 1. Strike the original sections and insert the following
 2 sections:
 3 "Section 1. Section 25-21,211, Reissue Revised Statutes
 4 of Nebraska, is amended to read:
 5 25-21,211. The court by which any judgment is rendered
 6 against the state shall certify the same such judgment to the
 7 Director of Administrative Services, who shall pay the same from
 8 any special fund or appropriation applicable ~~thereto~~ to such
 9 judgment, and if ~~none such~~ no special fund or appropriation has
 10 been provided or made, then from any appropriations made to the
 11 department or institution, relating to which the cause of action
 12 arose. A ; ~~PROVIDED~~, a certificate of the Director of
 13 Administrative Services, or of the chief officer of such department
 14 or institution, that the current appropriations will not permit
 15 payment of such judgment without great public inconvenience, shall
 16 operate as a stay of such judgment until the adjournment of the
 17 next regular session of the Legislature. When ; ~~and in case of~~
 18 such stay ~~being~~ is claimed or taken, interest shall run on such
 19 judgment from ~~its date at the rate of ten percent per annum the~~
 20 date on which the court certified the judgment to the Director of
 21 Administrative Services at the rate set in section 45-103.

22 Sec. 2. Original section 25-21,211, Reissue Revised
 23 Statutes of Nebraska, is repealed."

Senator Brashear filed the following amendment to LB 1207:
(Amendment, AM3569, is printed separately and available in the Bill Room, Room 1104.)

BILL ON FIRST READING

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

LEGISLATIVE BILL 203A. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 203, Ninety-eighth Legislature, Second Session, 2004.

GENERAL FILE

LEGISLATIVE BILL 1065. Senator Wehrbein offered the following amendment:

AM3554

- 1 1. Strike original sections 4, 5, and 14.
- 2 2. On page 11, lines 21 and 22, strike the new matter
- 3 and reinstate the stricken matter.
- 4 3. On page 15, line 2, strike "October 1, 2010" and
- 5 insert "June 30, 2011"; and in lines 2 and 3 strike "three-fourths"
- 6 and insert "one".
- 7 4. Renumber the remaining sections and correct the
- 8 repealer accordingly.

Senator Jensen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 3 nays, and 21 not voting.

Senator Wehrbein moved for a call of the house. The motion prevailed with 42 ayes, 0 nays, and 7 not voting.

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

Voting in the affirmative, 21:

Aguilar	Friend	Louden	Quandahl	Vrtiska
Beutler	Hartnett	Mines	Raikes	
Brown	Janssen	Pederson, D.	Redfield	
Chambers	Jensen	Preister	Schimek	
Engel	Kruse	Price	Thompson	

Voting in the negative, 17:

Baker	Combs	Hudkins	McDonald	Tyson
Bourne	Connealy	Jones	Schrock	
Bromm	Cunningham	Kremer	Smith	
Burling	Erdman	Landis	Stuhr	

Present and not voting, 9:

Byars	Johnson	Mossey	Stuthman	Wehrbein
Foley	Maxwell	Pedersen, Dw.	Synowiecki	

Excused and not voting, 2:

Brashear	Cudaback
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The Wehrbein amendment lost with 21 ayes, 17 nays, 9 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
Indefinitely postpone LB 1065.

SENATOR CUDABACK PRESIDING

Pending.

AMENDMENTS - Print in Journal

Senator Brashear filed the following amendment to LB 1162:
AM3568

(Amendments to E & R amendments, AM7216)

- 1 1. Insert the following new section:
- 2 "Sec. 5. (1) The Racial Profiling Advisory Committee is
- 3 created.
- 4 (2) The committee shall consist of the chairperson of the
- 5 Nebraska Commission on Law Enforcement and Criminal Justice, who
- 6 also shall be the chairperson of the committee, and the following
- 7 persons:
- 8 (a) A representative appointed by the Fraternal Order of
- 9 Police;
- 10 (b) A representative appointed by the Nebraska County
- 11 Sheriffs Association;
- 12 (c) A representative appointed by the Police Officers
- 13 Association of Nebraska;
- 14 (d) A representative appointed by the American Civil
- 15 Liberties Union of Nebraska;
- 16 (e) A representative appointed by the Nebraska State
- 17 Patrol; and
- 18 (f) A representative appointed by the AFL-CIO.

19 (3) The committee shall meet and organize within thirty
 20 days after the appointment of the members. The committee shall
 21 meet quarterly at a time and place to be fixed by the committee.
 22 Special meetings may be called by the chairperson or at the request
 23 of two or more members of the committee.

1 (4) The committee shall advise the chairperson of the
 2 commission in the conduct of his or her duties pursuant to
 3 subsection (6) of section 20-504."

4 2. On page 1, line 5, after "20-505" insert "and section
 5 5 of this act".

6 3. Renumber the remaining sections accordingly.

Senators Beutler, Chambers, Engel, Hudkins, and Schimek filed the following amendment to LB 439: (Amendment, AM3561, is printed separately and available in the Bill Room, Room 1104.)

Senator Beutler filed the following amendment to LB 439A: AM3441

(Amendments to Final Reading copy)

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

3 "Section 1. There is hereby appropriated (1) \$359,255
 4 from the General Fund and \$697,764 from the Nebraska State Patrol
 5 Cash Fund for FY2004-05 and (2) \$370,033 from the General Fund and
 6 \$718,697 from the Nebraska State Patrol Cash Fund for FY2005-06 to
 7 the Nebraska State Patrol, for Program 630, to aid in carrying out
 8 the provisions of Legislative Bill 439, Ninety-eighth Legislature,
 9 Second Session, 2004.

10 Total expenditures for permanent and temporary salaries
 11 and per diems from funds appropriated in this section shall not
 12 exceed \$638,280 for FY2004-05 or \$657,428 for FY2005-06.

13 Sec. 2. There is hereby appropriated (1) \$3,283,649 from
 14 the General Fund and \$17,250 from the Capitol Restoration Cash Fund
 15 for FY2004-05 and (2) \$3,382,158 from the General Fund and \$17,768
 16 from the Capitol Restoration Cash Fund for FY2005-06 to the
 17 Department of Administrative Services for the Office of the
 18 Nebraska Capitol Commission, Program 685, to aid in carrying out
 19 the provisions of Legislative Bill 439, Ninety-eighth Legislature,
 20 Second Session, 2004.

21 Total expenditures for permanent and temporary salaries
 22 and per diems from funds appropriated in this section shall not
 23 exceed \$974,258 for FY2004-05 or \$1,003,486 for FY2005-06.

1 Sec. 3. The General Fund appropriation to the Department
 2 of Administrative Services, for Program 560, is reduced by
 3 \$3,642,904 and the Revolving Fund appropriation to the Department
 4 of Administrative Services, for Program 560, is reduced by \$694,487
 5 for FY2004-05, to aid in carrying out the provisions of Legislative
 6 Bill 439, Ninety-eighth Legislature, Second Session, 2004. The

7 General Fund appropriation to the Department of Administrative
8 Services, for Program 560, is reduced by \$3,752,191 and the
9 Revolving Fund appropriation to the Department of Administrative
10 Services, for Program 560, is reduced by \$715,322 for FY2005-06, to
11 aid in carrying out the provisions of Legislative Bill 439,
12 Ninety-eighth Legislature, Second Session, 2004.
13 The limitation on total expenditures for permanent and
14 temporary salaries and per diems for FY2004-05 for the Department
15 of Administrative Services, for Program 560, is hereby reduced by
16 \$1,541,538. The limitation on total expenditures for permanent and
17 temporary salaries and per diems for FY2005-06 for the Department
18 of Administrative Services, for Program 560, is hereby reduced by
19 \$1,587,784.
20 Sec. 4. Since an emergency exists, this act takes effect
21 when passed and approved according to law."

Senator Jensen filed the following amendment to LB 1083:
(Amendment, AM3560, is printed separately and available in the Bill Room,
Room 1104.)

Senator Schrock filed the following amendment to LB 916:
(Amendment, AM3571, is printed separately and available in the Bill Room,
Room 1104.)

MOTIONS - Print in Journal

Senator Wehrbein filed the following motion to LB 1065:
Reconsider the vote taken on AM3554.

Senator Bromm filed the following motion to LB 692:
Suspend Rule 7, Section 3(d) to permit consideration of AM3567 to LB 692.

COMMUNICATION

Senator Landis filed the following request:
Pursuant to Rule 4, Section 5(b), I request LR 395 be scheduled for debate.

BILLS ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 869.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-945.01, 2-953, 2-954, 2-10,117, 81-201, and 81-201.05, Reissue Revised Statutes of Nebraska, and section 2-958, Revised Statutes Supplement, 2002; to change noxious weed control provisions; to create and eliminate funds; to provide for a grant program; to authorize fund transfers; to harmonize provisions;

and to repeal the original sections.

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

Voting in the affirmative, 39:

Aguilar	Cunningham	Jones	Mossey	Schrock
Beutler	Engel	Kremer	Pedersen, Dw.	Smith
Bourne	Erdman	Kruse	Pederson, D.	Stuhr
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Combs	Jensen	McDonald	Redfield	Wehrbein
Cudaback	Johnson	Mines	Schimek	

Voting in the negative, 3:

Baker	Chambers	Stuthman
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Present and not voting, 3:

Janssen	Preister	Vrtiska
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Excused and not voting, 4:

Brashear	Bromm	Connealy	Foley
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1047 with 37 ayes, 2 nays, 6 present and not voting, and 4 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1047.

A BILL FOR AN ACT relating to insurance; to amend sections 44-161, 44-201, 44-407.11, 44-407.13, 44-407.16, 44-407.23, 44-4809, 44-4862, 44-5143, 44-6124, and 44-6125, Reissue Revised Statutes of Nebraska, sections 44-2703, 44-4201, 44-4203, 44-4221, 44-4228, and 44-4842, Revised Statutes Supplement, 2002, and section 44-407.14, Revised Statutes Supplement, 2003; to change provisions relating to foreign and domestic insurance companies, lines of insurance, annuity contracts, reserves, definitions, life and health insurance, the Comprehensive Health Insurance

Pool, supervision, rehabilitation, liquidation, investments, and mutual insurance holding companies; to provide for funding agreements and synthetic guaranteed investment contracts; to eliminate a minimum nonforfeiture amount provision; to harmonize provisions; to provide a duty for the Revisor of Statutes; to repeal the original sections; and to outright repeal section 44-407.15, Reissue Revised Statutes of Nebraska.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear	Bromm	Connealy	Foley
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

LEGISLATIVE BILL 155.

A BILL FOR AN ACT relating to real property; to amend sections 44-1993, 44-19,106, and 76-238, Reissue Revised Statutes of Nebraska, section 44-1984, Revised Statutes Supplement, 2002, and section 44-19,116, Revised Statutes Supplement, 2003; to change provisions relating to coverage issued by title insurers; to provide liability for title insurers; to require disclosures by title insurance agents; to eliminate audit requirements; to provide for enforcement of the Title Insurance Agent Act; to change and eliminate provisions relating to agricultural leases, mortgages, deeds, and other instruments affecting real estate; to repeal the original sections; and to outright repeal sections 76-261 to 76-263 and 76-265, Reissue Revised Statutes of Nebraska.

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

Voting in the affirmative, 44:

Aguilar	Cunningham	Jones	Pedersen, Dw.	Smith
Baker	Engel	Kremer	Pederson, D.	Stuhr
Beutler	Erdman	Kruse	Preister	Stuthman
Bourne	Friend	Landis	Price	Synowiecki
Brown	Hartnett	Louden	Quandahl	Thompson
Burling	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein
Cudaback	Johnson	Mossey	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Byars

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 315.

A BILL FOR AN ACT relating to notaries public; to amend sections 33-133, 64-101 to 64-103, 64-113, and 64-210, Reissue Revised Statutes of Nebraska; to provide for and change provisions relating to fees, appointments, examinations, notarial acts, and removal; to define terms; to provide powers and duties; to provide penalties; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 727.

A BILL FOR AN ACT relating to elections; to amend section 32-939, Reissue Revised Statutes of Nebraska; to provide for use of the Federal Write-In Absentee Ballot; to provide for facsimile transmission of certain ballots and related documents; and to repeal the original section.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 819.

A BILL FOR AN ACT relating to capital construction; to amend section 81-1114.02, Revised Statutes Supplement, 2002; to change provisions relating to construction documents; to provide duties; and to repeal the original section.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear	Bromm	Connealy	Foley
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 824.

A BILL FOR AN ACT relating to aeronautics; to amend section 3-104, Reissue Revised Statutes of Nebraska; to provide for allocation of funds for promotion of aviation; and to repeal the original section.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 832.

A BILL FOR AN ACT relating to the Nebraska Environmental Trust Act; to amend sections 81-15,173, 81-15,175, and 81-15,176, Revised Statutes Supplement, 2002; to provide powers and duties for the board; to change and eliminate provisions relating to funding priorities; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was

declared passed and the title agreed to.

LEGISLATIVE BILL 837.

A BILL FOR AN ACT relating to agriculture; to amend section 54-2280, Revised Statutes Supplement, 2003; to change provisions relating to pseudorabies control and eradication; to eliminate provisions relating to livestock auction markets; to repeal the original section; and to outright repeal section 54-1179, Reissue Revised Statutes of Nebraska, and sections 54-1175 and 54-1176, Revised Statutes Supplement, 2002.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear	Bromm	Connealy	Foley
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 845.

A BILL FOR AN ACT relating to real estate; to amend sections 76-1708, 76-1711, 76-1734, and 81-885.55, Reissue Revised Statutes of Nebraska; to change time-share instrument provisions and association duties as prescribed; to change fee provisions; to change provisions relating to errors and omissions insurance; and to repeal the original sections.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 846. With Emergency.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-311.14, Revised Statutes Supplement, 2002; to provide for issuance of license plates designated for handicapped or disabled persons to certain trusts; to repeal the original section; and to declare an emergency.

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

Voting in the affirmative, 44:

Aguilar	Cudaback	Jones	Pedersen, Dw.	Smith
Baker	Cunningham	Kremer	Pederson, D.	Stuhr
Beutler	Engel	Kruse	Preister	Stuthman
Bourne	Erdman	Landis	Price	Synowiecki
Brown	Friend	Louden	Quandahl	Thompson
Burling	Hartnett	Maxwell	Raikes	Tyson
Byars	Hudkins	McDonald	Redfield	Vrtiska
Chambers	Janssen	Mines	Schimek	Wehrbein
Combs	Jensen	Mossey	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Johnson

Excused and not voting, 4:

Brashear Bromm Connealy Foley

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 884 with 40 ayes, 2 nays, 3 present and not voting, and 4 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 884.

A BILL FOR AN ACT relating to bonds; to amend sections 2-1201, 3-103, 8-104, 8-1,101, 9-807, 11-121, 11-201.01, 11-202, 25-2101, 25-21,207, 25-21,218, 32-561, 32-602, 48-158, 48-609, 48-804.03, 53-109, 55-123, 55-126, 55-127, 55-150, 57-917, 60-1502, 71-222.01, 72-1241, 77-366, 77-703, 80-401.02, 81-111, 81-151, 81-8,128, 81-8,141, 81-1108.14, 81-2002, 83-128, 83-139, 84-106, 84-206, 84-314, 84-505, 84-718, and 84-801, Reissue Revised Statutes of Nebraska, sections 8-197, 11-119, 37-110, 37-431, 48-618, 48-721, and 54-191, Revised Statutes Supplement, 2002, and sections 8-105, 11-201, 60-1303, and 84-502, Revised Statutes Supplement, 2003; to authorize the purchase of commercial insurance in lieu of blanket corporate surety bonds for certain state officers and employees; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

LEGISLATIVE BILL 890.

A BILL FOR AN ACT relating to the Geologists Regulation Act; to amend sections 81-3501, 81-3503, 81-3527, 81-3529, 81-3539, and 81-3540, Reissue Revised Statutes of Nebraska; to provide for enrollment of geologist-interns; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompsonson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear	Bromm	Connealy	Foley
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 902.

A BILL FOR AN ACT relating to the Auditor of Public Accounts; to amend section 84-311, Reissue Revised Statutes of Nebraska; to change provisions relating to disclosure of working papers and audit files; and to repeal the original section.

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

Voting in the affirmative, 45:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Stuthman
Brown	Friend	Landis	Price	Synowiecki
Burling	Hartnett	Louden	Quandahl	Thompson
Byars	Hudkins	Maxwell	Raikes	Tyson
Chambers	Janssen	McDonald	Redfield	Vrtiska
Combs	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 914.

A BILL FOR AN ACT relating to the State Electrical Act; to amend sections 81-2109, 81-2121, and 81-2124, Reissue Revised Statutes of Nebraska, and sections 81-2102, 81-2108, 81-2113, and 81-2118, Revised Statutes Supplement, 2003; to change provisions relating to residential journeyman electricians and electrical installations; to provide fees; to define and redefine terms; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 42:

Aguilar	Engel	Kremer	Pederson, D.	Stuhr
Baker	Erdman	Kruse	Preister	Stuthman
Bourne	Friend	Landis	Price	Synowiecki
Brown	Hartnett	Louden	Quandahl	Thompson
Burling	Hudkins	Maxwell	Raikes	Vrtiska
Byars	Janssen	McDonald	Redfield	Wehrbein
Chambers	Jensen	Mines	Schimek	
Combs	Johnson	Mossey	Schrock	
Cudaback	Jones	Pedersen, Dw.	Smith	

Voting in the negative, 0.

Present and not voting, 3:

Beutler Cunningham Tyson

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 914A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 914, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 41:

Aguilar	Engel	Kremer	Pederson, D.	Stuthman
Baker	Erdman	Kruse	Preister	Synowiecki
Bourne	Friend	Landis	Price	Thompson
Brown	Hartnett	Louden	Quandahl	Tyson
Burling	Hudkins	Maxwell	Raikes	Wehrbein
Byars	Janssen	McDonald	Redfield	
Chambers	Jensen	Mines	Schimek	
Combs	Johnson	Mossey	Schrock	
Cudaback	Jones	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 4:

Beutler Cunningham Smith Vrtiska

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 939.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 13-501, 13-804, and 13-2504, Revised Statutes Supplement, 2002; to require certain political subdivisions to provide the Auditor of Public Accounts with information regarding interlocal and joint public agency

agreements; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 41:

Aguilar	Cudaback	Jones	Pederson, D.	Stuthman
Baker	Cunningham	Kremer	Price	Synowiecki
Beutler	Erdman	Kruse	Quandahl	Thompson
Bourne	Friend	Louden	Raikes	Tyson
Brown	Hartnett	Maxwell	Redfield	Wehrbein
Burling	Hudkins	McDonald	Schimek	
Byars	Janssen	Mines	Schrock	
Chambers	Jensen	Mossey	Smith	
Combs	Johnson	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 4:

Engel	Landis	Preister	Vrtiska
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Excused and not voting, 4:

Brashear	Bromm	Connealy	Foley
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 944. With Emergency.

A BILL FOR AN ACT relating to tobacco; to amend section 69-2703, Reissue Revised Statutes of Nebraska; to change provisions relating to the Master Settlement Agreement and requirements of tobacco product manufacturers; to repeal the original section; and to declare an emergency.

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

Voting in the affirmative, 43:

Aguilar	Cudaback	Johnson	Pedersen, Dw.	Smith
Baker	Cunningham	Jones	Pederson, D.	Stuhr
Beutler	Engel	Kremer	Preister	Synowiecki
Bourne	Erdman	Kruse	Price	Thompson
Brown	Friend	Louden	Quandahl	Tyson
Burling	Hartnett	Maxwell	Raikes	Vrtiska
Byars	Hudkins	McDonald	Redfield	Wehrbein
Chambers	Janssen	Mines	Schimek	
Combs	Jensen	Mossey	Schrock	

Voting in the negative, 1:

Stuthman

Present and not voting, 1:

Landis

Excused and not voting, 4:

Brashear Bromm Connealy Foley

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

LEGISLATIVE BILL 955.

A BILL FOR AN ACT relating to income tax; to amend sections 77-2786 and 77-2794, Reissue Revised Statutes of Nebraska; to change provisions relating to deficiency determinations and income tax overpayment; and to repeal the original sections.

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

Voting in the affirmative, 44:

Aguilar	Cudaback	Johnson	Pedersen, Dw.	Smith
Baker	Cunningham	Jones	Pederson, D.	Stuhr
Beutler	Engel	Kremer	Preister	Stuthman
Bourne	Erdman	Kruse	Price	Synowiecki
Brown	Friend	Louden	Quandahl	Thompson
Burling	Hartnett	Maxwell	Raikes	Tyson
Byars	Hudkins	McDonald	Redfield	Vrtiska
Chambers	Janssen	Mines	Schimek	Wehrbein
Combs	Jensen	Mossey	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Landis

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 980.

A BILL FOR AN ACT relating to insurance; to amend section 44-704, Reissue Revised Statutes of Nebraska; to change provisions relating to ownership of life insurance and annuities; and to repeal the original section.

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

Voting in the affirmative, 44:

Aguilar	Cudaback	Johnson	Pedersen, Dw.	Smith
Baker	Cunningham	Jones	Pederson, D.	Stuhr
Beutler	Engel	Kremer	Preister	Stuthman
Bourne	Erdman	Kruse	Price	Synowiecki
Brown	Friend	Louden	Quandahl	Thompson
Burling	Hartnett	Maxwell	Raikes	Tyson
Byars	Hudkins	McDonald	Redfield	Vrtiska
Chambers	Janssen	Mines	Schimek	Wehrbein
Combs	Jensen	Mossey	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Landis

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 997.

A BILL FOR AN ACT relating to cities and villages; to amend sections 16-230 and 17-563, Reissue Revised Statutes of Nebraska; to change notice

provisions relating to the abatement and removal of nuisances; and to repeal the original sections.

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

Voting in the affirmative, 44:

Aguilar	Cudaback	Johnson	Pedersen, Dw.	Smith
Baker	Cunningham	Jones	Pederson, D.	Stuhr
Beutler	Engel	Kremer	Preister	Stuthman
Bourne	Erdman	Kruse	Price	Synowiecki
Brown	Friend	Louden	Quandahl	Thompson
Burling	Hartnett	Maxwell	Raikes	Tyson
Byars	Hudkins	McDonald	Redfield	Vrtiska
Chambers	Janssen	Mines	Schimek	Wehrbein
Combs	Jensen	Mossey	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Landis

Excused and not voting, 4:

Brashear Bromm Connealy Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

RESOLUTION

LEGISLATIVE RESOLUTION 398. Introduced by Landis, 46.

WHEREAS, Gary Moulton has served diligently and faithfully as a Professor of History at the University of Nebraska for a quarter of a century, teaching United States history, the history of the American West, and the history of Nebraska to a generation of students; and

WHEREAS, Gary Moulton edited all thirteen volumes of The Journals of the Lewis and Clark Expedition for the Center for Great Plains Studies and the University of Nebraska Press, which won international acclaim as the definitive account of this historic journey across the North American continent; and

WHEREAS, during the last twenty-five years Gary Moulton has tirelessly represented the University of Nebraska by speaking before civic, community, and student groups across the state and has faithfully represented the State of Nebraska by lecturing across the nation and world; and

WHEREAS, the nation will commemorate the bicentennial of the Lewis and Clark Expedition during 2003-2006 as a landmark event within American history.

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

1. That the Legislature commends Gary Moulton for his dedication, hard work, and service to the University of Nebraska, to a generation of students, and to the history of the American West.
2. That a copy of this resolution be sent to Gary Moulton and his family.

Laid over.

VISITORS

Visitors to the Chamber were 20 fourth-grade students and teacher from Amherst; 50 UNL Family and Consumer Sciences students; Sydney Cooksley and Shelby Neal from Elwood; Junior High FCCLA students and teacher from Imperial; FCCLA students and teacher from Morrill High School; and Senator Charlie Ringo from Oregon.

ADJOURNMENT

At 7:24 p.m., on a motion by Senator Burling, the Legislature adjourned until 9:00 a.m., Tuesday, April 6, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-FIFTH DAY - APRIL 6, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FIFTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 6, 2004

PRAYER

The prayer was offered by Senator Jones.

ROLL CALL

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

The roll was called and all members were present except Senators Beutler, Friend, Mines, Mossey, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-fourth day was approved.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LBs 869, 1047, 155, 315, 727, 819, 824, 832, 837, 845, 846, 884, 890, 902, 914, 914A, 939, 944, 955, 980, and 997.

MOTIONS - Approve Appointments

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment found on page 1451:

Nebraska Oil and Gas Conservation Commission
James R. Gohl

Voting in the affirmative, 33:

Aguilar	Cudaback	Johnson	Pedersen, Dw.	Schrock
Baker	Cunningham	Jones	Pederson, D.	Stuhr
Brown	Engel	Kruse	Preister	Stuthman
Burling	Erdman	Landis	Price	Synowiecki
Byars	Foley	Louden	Quandahl	Vrtiska
Combs	Hudkins	Maxwell	Redfield	
Connealy	Jensen	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 11:

Bourne	Chambers	Kremer	Thompson
Brashear	Hartnett	Raikes	Wehrbein
Bromm	Janssen	Smith	

Excused and not voting, 5:

Beutler	Friend	Mines	Mossey	Tyson
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The appointment was confirmed with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment found on page 1451:

Nebraska Environmental Trust Board
Robert Krohn

Voting in the affirmative, 31:

Aguilar	Connealy	Johnson	Pedersen, Dw.	Stuthman
Baker	Cunningham	Kremer	Preister	Synowiecki
Bourne	Erdman	Kruse	Quandahl	Vrtiska
Brown	Hartnett	Landis	Schimek	
Burling	Hudkins	Louden	Schrock	
Byars	Janssen	Maxwell	Smith	
Combs	Jensen	McDonald	Stuhr	

Voting in the negative, 0.

Present and not voting, 13:

Brashear	Cudaback	Jones	Raikes	Wehrbein
Bromm	Engel	Pederson, D.	Redfield	
Chambers	Foley	Price	Thompson	

Excused and not voting, 5:

Beutler Friend Mines Mossey Tyson

The appointment was confirmed with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 1065. Senator Chambers renewed his pending motion, found on page 1475, to indefinitely postpone.

Senator Chambers withdrew his motion.

Senator Wehrbein asked unanimous consent to withdraw his pending motion, found on page 1477, to reconsider the vote taken on AM3554. No objections. So ordered.

Senator Wehrbein offered the following amendment:
AM3579

- 1 1. Strike original section 14 and insert the following
- 2 new section:
- 3 "Sec. 16. Section 66-1519, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 66-1519. (1) There is hereby created the Petroleum
- 6 Release Remedial Action Cash Fund to be administered by the
- 7 department. Revenue from the following sources shall be remitted
- 8 to the State Treasurer for credit to the fund:
- 9 (a) The fees imposed by sections 66-1520 and 66-1521;
- 10 (b) Money paid under an agreement, stipulation,
- 11 cost-recovery award under section 66-1529.02, or settlement; and
- 12 (c) Money received by the department in the form of
- 13 gifts, grants, reimbursements, property liquidations, or
- 14 appropriations from any source intended to be used for the purposes
- 15 of the fund.
- 16 (2) Money in the fund may be spent for: (a)
- 17 Reimbursement for the costs of remedial action by a responsible
- 18 person or his or her designated representative and costs of
- 19 remedial action undertaken by the department in response to a
- 20 release first reported after July 17, 1983, and on or before June
- 21 30, 2005, including reimbursement for damages caused by the
- 22 department or a person acting at the department's direction while
- 23 investigating or inspecting or during remedial action on property
- 24 other than property on which a release or suspected release has
- 1 occurred; (b) payment of any amount due from a third-party claim;
- 2 (c) fee collection expenses incurred by the State Fire Marshal; (d)
- 3 direct expenses incurred by the department in carrying out the
- 4 Petroleum Release Remedial Action Act; (e) other costs related to
- 5 fixtures and tangible personal property as provided in section
- 6 66-1529.01; (f) interest payments as allowed by section 66-1524;
- 7 (g) expenses incurred by the technical advisory committee created

8 in section 81-15,189 in carrying out its duties pursuant to section
 9 81-15,190; (h) claims approved by the State Claims Board authorized
 10 under section 66-1531; (i) a grant to a city of the metropolitan
 11 class in the amount of three hundred thousand dollars, provided
 12 within five days after October 1, 2003, to carry out the federal
 13 Residential Lead-Based Paint Hazard Reduction Act of 1992, 42
 14 U.S.C. 4851 et seq., as such act existed on October 1, 2003; and
 15 (j) methyl tertiary butyl ether testing, to be conducted randomly
 16 at terminals within the state for up to two years ending June 30,
 17 2003. The amount expended on the testing shall not exceed forty
 18 thousand dollars. The testing shall be conducted by the Department
 19 of Agriculture. The department may enter into contractual
 20 arrangements for such purpose. The results of the tests shall be
 21 made available to the Department of Environmental Quality.
 22 (3) Transfers may be made from the Petroleum Release
 23 Remedial Action Cash Fund to the General Fund at the direction of
 24 the Legislature. Transfers may be made from the Petroleum Release
 25 Remedial Action Cash Fund to the Water Policy Task Force Cash Fund
 26 at the direction of the Legislature. The State Treasurer shall
 27 transfer one million five hundred thousand dollars from the
 1 Petroleum Release Remedial Action Cash Fund to the Ethanol
 2 Production Incentive Cash Fund on July 1 of each of the following
 3 years: 2004 through 2011.
 4 (4) Any money in the Petroleum Release Remedial Action
 5 Cash Fund available for investment shall be invested by the state
 6 investment officer pursuant to the Nebraska Capital Expansion Act
 7 and the Nebraska State Funds Investment Act."
 8 2. On page 11, line 22, strike "66-1521" and insert
 9 "66-1519".
 10 3. On page 19, line 5, strike "66-1521" and insert
 11 "66-1519".
 12 4. Renumber the remaining sections and correct internal
 13 references accordingly.

SENATOR CUDABACK PRESIDING

Senator Engel moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Wehrbein moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

The Wehrbein amendment was adopted with 27 ayes, 12 nays, and 10 present and not voting.

The Chair declared the call raised.

Senator Beutler offered the following amendment:

FA1671

Strike Section 1.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

Senator Beutler withdrew his amendment.

Advanced to E & R for review with 40 ayes, 0 nays, and 9 present and not voting.

SELECT FILE

LEGISLATIVE BILL 983. E & R amendment, AM7223, found on page 1280, was adopted.

Advanced to E & R for engrossment.

AMENDMENT - Print in Journal

Senators Baker and Wehrbein filed the following amendment to LB 479:
AM3506

(Amendments to Final Reading copy)

1. On page 14, strike lines 18 through 24.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 6, 2004, at 9:15 a.m. were the following: LBs 869, 1047, 155, 315, 727, 819, 824, 832, 837, 845, 846e, 884, 890, 902, 914, 914A, 939, 944e, 955, 980, and 997.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

SELECT FILE

LEGISLATIVE RESOLUTION 209CA. Senator Bourne renewed the Bourne-Landis pending amendment, AM3396, found on page 1247.

SPEAKER BROMM PRESIDING

Senator Chambers asked unanimous consent to withdraw his pending amendment, FA1606, found on page 1247, and replace it with his substitute amendment, FA1670, to the Bourne-Landis pending amendment.

FA1670

Amend AM3396

In line 5 strike the period and insert "except that no portion of such matching funds shall be provided directly or indirectly by the state or by funds obtained from the state."

Senator Landis objected.

Senator Chambers renewed his pending amendment, FA1606, found on page 1247, to the Bourne-Landis pending amendment.

Senator Landis offered the following motion:
Invoke cloture on LR 209CA, pursuant to Rule 7, Section 10.

Senator Landis moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Senator Landis requested a roll call vote on his motion to invoke cloture.

Voting in the affirmative, 37:

Baker	Connealy	Hudkins	Maxwell	Schrock
Beutler	Cudaback	Janssen	McDonald	Stuhr
Bourne	Cunningham	Jensen	Mines	Stuthman
Brashear	Engel	Johnson	Mossey	Vrtiska
Bromm	Erdman	Jones	Pedersen, Dw.	Wehrbein
Burling	Foley	Kremer	Price	
Byars	Friend	Kruse	Quandahl	
Combs	Hartnett	Landis	Schimek	

Voting in the negative, 4:

Chambers	Raikes	Thompson	Tyson
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Present and not voting, 7:

Aguilar	Pederson, D.	Redfield	Synowiecki
Louden	Preister	Smith	

Excused and not voting, 1:

Brown

The Landis motion to invoke cloture prevailed with 37 ayes, 4 nays, 7 present and not voting, and 1 excused and not voting.

Senator Chambers requested a roll call vote, in reverse order, on his amendment, FA1606.

Voting in the affirmative, 41:

Aguilar	Connealy	Janssen	Mines	Stuhr
Baker	Cudaback	Jensen	Mossey	Synowiecki
Beutler	Cunningham	Johnson	Pedersen, Dw.	Tyson
Bourne	Engel	Jones	Price	Vrtiska
Brashear	Erdman	Kremer	Quandahl	Wehrbein
Bromm	Foley	Kruse	Redfield	
Burling	Friend	Landis	Schimek	
Byars	Hartnett	Louden	Schrock	
Combs	Hudkins	Maxwell	Smith	

Voting in the negative, 2:

Pederson, D. Thompson

Present and not voting, 5:

Chambers McDonald Preister Raikes Stuthman

Excused and not voting, 1:

Brown

The Chambers amendment was adopted with 41 ayes, 2 nays, 5 present and not voting, and 1 excused and not voting.

Senator Chambers requested a roll call vote on the Bourne-Landis amendment, as amended.

Senator Byars requested the roll call vote be taken in reverse order.

Voting in the affirmative, 45:

Aguilar	Connealy	Janssen	McDonald	Schimek
Baker	Cudaback	Jensen	Mines	Schrock
Beutler	Cunningham	Johnson	Mossey	Smith
Bourne	Engel	Jones	Pedersen, Dw.	Stuhr
Brashear	Erdman	Kremer	Pederson, D.	Stuthman
Bromm	Foley	Kruse	Preister	Synowiecki
Burling	Friend	Landis	Price	Thompson
Byars	Hartnett	Louden	Quandahl	Vrtiska
Combs	Hudkins	Maxwell	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 3:

Chambers Raikes Tyson

Excused and not voting, 1:

Brown

The Bourne-Landis amendment, as amended, was adopted with 45 ayes, 0 nays, 3 present and not voting, and 1 excused and not voting.

Senator Chambers requested a roll call vote on the advancement of the resolution.

Voting in the affirmative, 31:

Baker	Connealy	Johnson	Mines	Stuthman
Beutler	Cudaback	Jones	Mossey	Vrtiska
Bourne	Cunningham	Kremer	Pedersen, Dw.	Wehrbein
Brashear	Friend	Kruse	Price	
Bromm	Hartnett	Landis	Schimek	
Byars	Hudkins	Maxwell	Schrock	
Combs	Janssen	McDonald	Stuhr	

Voting in the negative, 15:

Aguilar	Engel	Louden	Raikes	Synowiecki
Burling	Erdman	Pederson, D.	Redfield	Thompson
Chambers	Jensen	Quandahl	Smith	Tyson

Present and not voting, 2:

Foley	Preister
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Excused and not voting, 1:

Brown

Advanced to E & R for engrossment with 31 ayes, 15 nays, 2 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 599. E & R amendment, AM7188, found on page 1041, was adopted.

Senator Beutler renewed his pending amendment, AM3091, found on page 1135.

The Beutler amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Senator Tyson renewed his pending amendment, AM3244, found on page 1156.

The Tyson amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 599A. Advanced to E & R for engrossment.

VISITORS

Visitors to the Chamber were Mike and Barb Kelly from Omaha; 16 first-through eighth-grade students and teacher from School District 24, Norfolk; 70 eighth-grade students and teachers from Mary of Our Queen School, Omaha; Elizabeth Ostwinkle from Grand Island; 60 fourth-grade students and teachers from Hickory Hills School, Papillion; and student nurses from Creighton University.

RECESS

At 11:58 a.m., on a motion by Senator Landis, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Combs and Mossey who were excused until they arrive.

MOTION - Print in Journal

Senator Landis filed the following motion to LR 209CA:
Suspend Rule 6, Sections 6, 7, and 8 and Rule 7, Sections 3 and 7, and vote on the final passage of LR 209CA without further amendments or motions.

REPORT OF THE EXECUTIVE BOARD

2004 Resolutions calling for an Interim Study

- LR 233 Interim study to examine the utilization of buildings owned by the State of Nebraska
Appropriations
- LR 241 Interim study to examine the failure of the National Warranty Insurance Company
Banking, Commerce and Insurance

- LR 255 Interim study to examine creation of a medical COLA type retirement benefit for retired members of the School Retirement System
Nebraska Retirement Systems
- LR 256 Interim study to examine creation of Internal Revenue Code Section 401(A) type annuities by school boards or boards of education
Nebraska Retirement Systems
- LR 262 Interim study to examine issues within the jurisdiction of the Transportation and Telecommunications Committee
Transportation and Telecommunications
- LR 263 Interim study of the feasibility of a system for issuing certificates of title for continuation motor vehicles
Transportation and Telecommunications
- LR 264 Interim study to examine issues surrounding the regulation of wireless telecommunications companies by the Public Service Commission
Transportation and Telecommunications
- LR 265 Interim study relating to maximum load limits, permissible loads by permit, and distribution of fees
Transportation and Telecommunications
- LR 266 Interim study to examine issues surrounding motor vehicle registration
Transportation and Telecommunications
- LR 267 Interim study to examine requirements relating to insurance for motor vehicle repairs
Banking, Commerce and Insurance
- LR 268 Interim study to determine whether Nebraska should enact the Uniform Securities Act
Banking, Commerce and Insurance
- LR 269 Interim study of issues regarding availability and affordability of liability insurance coverage for persons engaged in equine activities
Banking, Commerce and Insurance
- LR 270 Interim study of issues regarding affordability of workers' compensation coverage for smaller agriculturally related businesses
Banking, Commerce and Insurance

- LR 274 Interim study to examine implications of USDA v. United Foods and federal court decisions for state commodity promotion programs
Agriculture
- LR 275 Interim study to examine the feasibility of federal assumption of the functions served by third-party tractor performance testing conducted by the University of Nebraska
Agriculture
- LR 278 Interim study to develop solutions to keep downstream improvements from being located in potentially hazardous locations downstream of existing dams
Natural Resources
- LR 280 Interim study to examine actions desirable at the state level to increase capabilities of the Bureau of Animal Industry to prevent introduction and proliferation of diseases in livestock
Agriculture
- LR 281 Interim study to determine whether Nebraska should enact the Market Conduct Surveillance Model Law
Banking, Commerce and Insurance
- LR 283 Interim study to determine whether Nebraska should enact statutes regarding prompt payment of claims for health care services submitted to health insurers
Banking, Commerce and Insurance
- LR 284 Interim study to examine matters within the jurisdiction of the Government, Military and Veterans Affairs Committee
Government, Military and Veterans Affairs
- LR 285 Interim study to continue examination and improvement of the state's contracting procedures
Government, Military and Veterans Affairs
- LR 286 Interim study of issues pertaining to the operations of Class I schools
Education
- LR 287 Interim study of the advantages and disadvantages of licensing and regulating security companies and personnel
Government, Military and Veterans Affairs
- LR 288 Interim study of environmental justice
Natural Resources

- LR 289 Interim study of the Environmental Quality Council
Natural Resources
- LR 290 Interim study to examine the legislative confirmation process of gubernatorial appointees
Government, Military and Veterans Affairs
- LR 291 Interim study to review the implementation of legislation regarding contracts for services
Government, Military and Veterans Affairs
- LR 292 Interim study to examine renewable energy and energy efficiency
Natural Resources
- LR 293 Interim study of opportunities for diversifying uses of agricultural land in Nebraska and the development of wind energy
Natural Resources
- LR 294 Interim study of territorial insurance rating and the use of credit reports in setting insurance rates
Banking, Commerce and Insurance
- LR 295 Interim study to continue examining the Dept. of Environmental Quality financial assurance requirements, policies, and standards regarding environmental clean-up
Natural Resources/Appropriations
- LR 296 Interim study of electronic waste
Natural Resources
- LR 297 Interim study to reevaluate the annual law enforcement state firearms qualifications shoot
Judiciary
- LR 298 Interim study to examine the creation of an electronic lien titling system for motor vehicles and motor boats
Transportation and Telecommunications
- LR 299 Interim study to analyze public transportation throughout the state of Nebraska
Transportation and Telecommunications
- LR 302 Interim study to examine private and public resources, authorities, and programs for the management of invasive plants
Agriculture
- LR 303 Interim study to examine improvements to the Beginning Farmer Tax Credit Act and the beginning farmer program
Agriculture

- LR 304 Interim study relating to child welfare contractual services
Appropriations
- LR 305 Interim study to examine the feasibility of differentiated property
tax valuations for surface irrigated and ground water irrigated
cropland
Revenue
- LR 306 Interim study to examine the need for and feasibility of improved
parking for state employees
Government, Military and Veterans Affairs
- LR 307 Interim study to examine the practices and procedures regarding
the use of tax sale certificates to collect delinquent taxes
Revenue
- LR 308 Interim study to continue work done by the Revenue Committee
relating to comparison of Nebraska's tax structure with other states
Revenue
- LR 309 Interim study to investigate expanding the authority of the Public
Service Commission to include regulation of wireless carriers in
certain areas
Transportation and Telecommunications
- LR 310 Interim study to assess the feasibility of creating a statewide
plumbing license
Urban Affairs
- LR 311 Interim study to assess the feasibility of tracking sales tax revenue
by specific categories
Revenue
- LR 312 Interim study to compare fuel sales along Interstate 80 in Nebraska
to fuel sales along Interstate 80 in Wyoming and Iowa
Revenue
- LR 313 Interim study to examine issues relating to the homestead
exemption program
Revenue
- LR 314 Interim study to review the ability of counties having a population
of less than one thousand inhabitants to provide services required
under state law
Government, Military and Veterans Affairs
- LR 315 Interim study to provide information on patterns of spending by
government agencies

Appropriations

- LR 316 Interim study to consider steps that can be taken to meet the state's obligation to provide free instruction for all persons, with respect to cocurricular and extracurricular activities
Education
- LR 317 Interim study to identify and categorize statutory powers and duties of the Health and Human Services System and prioritize the programs
Health and Human Services
- LR 318 Interim study of the overall structure of the medicaid program
Health and Human Services
- LR 319 Interim study to conduct a comprehensive review of the committee structure of the standing committees of the Legislature
Executive Board
- LR 320 Interim study to conduct a review of the priority designation system of the Legislature
Executive Board
- LR 321 Interim study to examine both the items defined as compensation and the limits placed upon compensation increases for the calculation of retirement benefits for school employees
Nebraska Retirement Systems
- LR 322 Interim study to examine allocation of administrative costs assessed by the Public Employees Retirement Board upon members of the state and county retirement plans
Nebraska Retirement Systems
- LR 323 Interim study to examine the five employee retirement systems administered by the Public Employees Retirement Board
Nebraska Retirement Systems
- LR 324 Interim study to examine Nebraska's policy options to protect its citizens from employers who bounce payroll checks
Business and Labor
- LR 325 Interim study to examine taxing the gain on the sale of a partnership interest by a nonresident when the sale includes tangible property located in Nebraska
Revenue
- LR 326 Interim study to examine issues relating to eliminating vending machines with nonnutritional foods and beverages from primary and secondary schools

Education

- LR 327 Interim study to examine Nebraska's contractor labor sales tax Revenue
- LR 330 Interim study of the Administrative Procedure Act relating to adoption, amendment, or repeal of a rule or regulation by the affected agency or the Legislature
Government, Military and Veterans Affairs
- LR 331 Interim study of issues surrounding the high cost of prescription drugs and the availability of prescription products
Health and Human Services
- LR 332 Interim study to examine ways in which to improve the Campaign Finance Limitation Act
Government, Military and Veterans Affairs
- LR 333 Interim study to examine long-term effects of introducing the recall process as an alternative to term limits for state senators
Executive Board
- LR 334 Interim study to review the open meetings and open records statutes
Government, Military and Veterans Affairs
- LR 335 Interim study to examine the recycling of hazardous waste into fertilizers
Natural Resources
- LR 336 Interim study to examine implementation of permits for confined animal feeding operations under the National Pollutant Discharge Elimination System of the federal Clean Water Act
Natural Resources
- LR 337 Interim study to examine requiring the Environmental Quality Council to set regulatory standards for air, land, and water, based on their impact on children
Natural Resources
- LR 338 Interim study to explore options for implementing charter schools
Education
- LR 339 Interim study to determine whether just compensation for private operators is appropriate when municipalities expand or take over waste management functions
Judiciary

- LR 340 Interim study to conduct a comprehensive review of adoption procedures
Judiciary
- LR 341 Interim study to examine current operating practices and environmental infrastructure needs of the Legislative Council
Executive Board
- LR 342 Interim study to continue the in-depth study of issues relating to the Uniform Trust Code
Banking, Commerce and Insurance
- LR 343 Interim study of issues regarding legislation to amend the Property and Casualty Insurance Rate and Form Act
Banking, Commerce and Insurance
- LR 344 Interim study to conduct a comprehensive review of the allowance of recovery of attorney's fees and costs in civil actions
Judiciary
- LR 345 Interim study to conduct a review of the statutes governing clerk magistrates
Judiciary
- LR 346 Interim study of issues surrounding the provision of health care to individuals incarcerated in Nebraska's correctional institutions and county jails
Judiciary
- LR 347 Interim study to examine issues surrounding the proposed merger of the offices of probation and parole administration into a single executive branch agency
Judiciary
- LR 348 Interim study to compare Nebraska's sexual assault statutes and the sentencing structure for such crimes with laws of surrounding states
Judiciary
- LR 349 Interim study to identify factors that limit dairy production and processing
Agriculture
- LR 350 Interim study to determine whether the Equipment Business Regulation Act should be amended to give farm equipment dealers the same protections
Banking, Commerce and Insurance

- LR 351 Interim study to determine the amount of public scholarship money necessary to meet the financial need of all eligible students
Education
- LR 352 Interim study to examine whether the gas tax distribution formula should be amended
Transportation and Telecommunications
- LR 353 Interim study to examine providing higher education classes via the Internet and other distance technology
Education
- LR 354 Interim study to review the purpose, structure, and changes for the improved functioning of educational service units
Education
- LR 355 Interim study of the appropriate involvement between county zoning and the Dept. of Environmental Quality process of approving applications for livestock waste control facilities
Government, Military and Veterans Affairs
- LR 356 Interim study of the Nebraska Mental Health Commitment Act and its implementation
Health and Human Services
- LR 357 Interim study to examine the relationship between thimerosal and autism
Health and Human Services
- LR 358 Interim study to examine the issue of visitation rights for siblings of a minor child
Judiciary
- LR 359 Interim study to examine feasibility of a second round of deferred maintenance projects for the University of Nebraska and state colleges
Education
- LR 360 Interim study to determine what steps are needed to further improve the response to child abuse and neglect
Judiciary/Health and Human Services
- LR 361 Interim study of Nebraska's unemployment benefits system
Business and Labor
- LR 362 Interim study of workers' compensation laws
Business and Labor

- LR 363 Interim study to analyze financial effectiveness and legal requirements associated with educational lands and funds, the temporary school fund, and the permanent school fund
Education
- LR 364 Interim study to examine creation of an Educational Facilities Review Commission for public educational facilities
Education
- LR 365 Interim study to review matters within the jurisdiction of the Education Committee
Education
- LR 366 Interim study to collect information with regard to financing and use of the enrollment option program
Education
- LR 367 Interim study to examine methods for determining amounts to be paid by the Dept. of Health as education costs for wards of the state
Education
- LR 368 Interim study to review issues regarding indigent defense
Judiciary
- LR 369 Interim study to continue to improve the Emergency Medical System
Health and Human Services
- LR 370 Interim study to examine provisions of the Liquor Control Act in relation to flavored malt beverages
General Affairs
- LR 371 Interim study to examine effects of transferring the general assistance medical costs of Nebraska's counties to the State of Nebraska
Health and Human Services
- LR 372 Interim study of issues relating to growth of cities and villages, particularly development and operation of sanitary and improvement districts
Urban Affairs
- LR 373 Interim study to review matters within the jurisdiction of the Urban Affairs Committee
Urban Affairs

- LR 374 Interim study of issues raised by LB 1043, to determine the extent to which villages rely upon county sheriffs for law enforcement services
Urban Affairs
- LR 375 Interim study of issues raised by LB 1233, regarding the Community Development Law and tax increment financing
Urban Affairs
- LR 376 Interim study to review the first year of natural gas regulation under the terms of the State Natural Gas Regulation Act
Urban Affairs
- LR 377 Interim study to review existing legislation allowing the formation of business improvement districts
Urban Affairs
- LR 378 Interim study to examine use of a mandatory calculation of child support for children made wards of the state
Judiciary
- LR 379 Interim study to examine use of a resource test on families in determining the medicaid eligibility of children and pregnant women
Health and Human Services
- LR 380 Interim study of state law regarding the Employment First Program
Health and Human Services
- LR 381 Interim study of use of a statutory lien for third-party liability cases when medicaid is involved
Health and Human Services
- LR 382 Interim study to examine the confirmation process for gubernatorial appointments
Government, Military and Veterans Affairs
- LR 383 Interim study relating to LB 1234, the Regulatory Flexibility Act, to review the difference in costs to small businesses
Government, Military and Veterans Affairs
- LR 384 Interim study to analyze the fiscal and economic impact of agricultural personal property taxation
Revenue
- LR 385 Interim study to examine the concept of developing special hunting permits for big game
Natural Resources

- LR 386 Interim study to examine livestock operation transfers
Natural Resources
- LR 387 Interim study to examine issues within the jurisdiction of the
Health and Human Services Committee
Health and Human Services
- LR 388 Interim study to examine protections afforded to cold water Class
A streams under the Livestock Waste Management Act
Natural Resources
- LR 389 Interim study to convene an Economic Future Summit to examine
spending patterns, recommend priorities, and recommend changes
to our revenue system
Executive Board
- LR 390 Interim study to review issues relating to LB 1176, and the
successful operation of a statewide public safety interoperable data
and voice communication system
Transportation and Telecommunications
- LR 391 Interim study to provide an analysis and comparison of other state
and political subdivision law enforcement retirement plans and
benefits
Nebraska Retirement Systems

(Signed) L. Patrick Engel, Chairperson
Legislative Council, Executive Board

SELECT FILE

LEGISLATIVE BILL 1083. E & R amendment, AM7214, printed separately and referred to on page 1279, was adopted.

Senator Byars renewed the Byars-Jensen pending amendment, AM3443, printed separately and referred to on page 1354.

The Byars-Jensen amendment was adopted with 34 ayes, 0 nays, and 15 present and not voting.

Senator Dw. Pedersen renewed his pending amendment, AM3381, found on page 1364.

Senator Dw. Pedersen withdrew his amendment.

Senator Jensen withdrew his pending amendment, AM3516, found on page 1440.

Senator Jensen renewed his pending amendment, AM3560, printed

separately and referred to on page 1477.

The Jensen amendment was adopted with 33 ayes, 0 nays, and 16 present and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1083A. E & R amendment, AM7224, found on page 1279, was adopted.

Senator Wehrbein renewed his pending amendment, AM3377, found on page 1271.

The Wehrbein amendment was adopted with 31 ayes, 0 nays, and 18 present and not voting.

Senator Baker withdrew his pending amendment, AM3483, found on page 1415.

Senator Byars offered the following amendment:
AM3591

- 1 1. Insert the following new section:
- 2 "Sec. 5. There is hereby appropriated (1) \$97,300 from
- 3 the Professional and Occupational Credentialing Cash Fund for
- 4 FY2004-05 and (2) \$87,916 from the Professional and Occupational
- 5 Credentialing Cash Fund for FY2005-06 to the Department of Health
- 6 and Human Services Regulation and Licensure, for Program 177, to
- 7 aid in carrying out the provisions of Legislative Bill 1083,
- 8 Ninety-eighth Legislature, Second Session, 2004.
- 9 Total expenditures for permanent and temporary salaries
- 10 and per diems from funds appropriated in this section shall not
- 11 exceed \$61,413 for FY2004-05 or \$62,641 for FY2005-06."
- 12 2. Renumber the remaining sections accordingly.

The Byars amendment was adopted with 28 ayes, 0 nays, and 21 present and not voting.

Advanced to E & R for engrossment.

AMENDMENTS - Print in Journal

Senator Brown filed the following amendment to LB 602:
AM3585

(Amendments to Standing Committee amendments, AM0971)

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new section:
- 3 "Section 1. (1) The following practices and techniques
- 4 are prohibited:
- 5 (a) Transfer, for any purpose, of a human embryo into the

- 6 body of a nonhuman species;
 7 (b) Production of a hybrid human-animal embryo by
 8 fertilization of a human egg by animal sperm or of an animal egg by
 9 human sperm;
 10 (c) Transfer of a human embryo, produced ex vivo, to a
 11 woman's uterus for any purpose other than to attempt to produce a
 12 live-born child;
 13 (d) Attempts to conceive a child by any means other than
 14 the union of egg and sperm;
 15 (e) Attempts to conceive a child by using gametes
 16 obtained from a human fetus or derived from human embryonic stem
 17 cells;
 18 (f) Attempts to conceive a child by fusing blastomeres
 19 from two or more embryos;
 20 (g) Use of human embryos in research beyond fourteen days
 21 after fertilization; and
 22 (h) Buying and selling of human embryos.
 23 (2) Any person who violates this section shall be subject
 1 to a civil penalty of one hundred thousand dollars for each
 2 intentional violation. The Attorney General, acting in the name of
 3 the state, may seek recovery of such penalties in a civil action.
 4 Any civil penalty recovered under this section shall be remitted to
 5 the State Treasurer for credit to the permanent school fund."

Senators Janssen and Schimek filed the following amendment to LR 11CA:
 AM3572

(Amendments to Final Reading copy)

- 1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 "Section 1. At the general election in November 2004 the
 4 following proposed amendment to the Constitution of Nebraska shall
 5 be submitted to the electors of the State of Nebraska for approval
 6 or rejection:
 7 To amend Article III, section 24:
 8 III-24 "(1) Except as provided in this section, the
 9 Legislature shall not authorize any game of chance or any lottery
 10 or gift enterprise when the consideration for a chance to
 11 participate involves the payment of money for the purchase of
 12 property, services, or a chance or admission ticket or requires an
 13 expenditure of substantial effort or time.
 14 (2) The Legislature may authorize and regulate a state
 15 lottery pursuant to subsection (3) of this section and other
 16 lotteries, raffles, and gift enterprises which are intended solely
 17 as business promotions or the proceeds of which are to be used
 18 solely for charitable or community betterment purposes without
 19 profit to the promoter of such lotteries, raffles, or gift
 20 enterprises.
 21 (3) The Legislature may establish a lottery to be
 22 operated and regulated by the State of Nebraska. The proceeds of

23 the lottery shall be appropriated by the Legislature for the costs
 1 of establishing and maintaining the lottery and for other purposes
 2 as directed by the Legislature. No lottery game shall be conducted
 3 as part of the lottery unless the type of game has been approved by
 4 a majority of the members of the Legislature.

5 (4) Nothing in this section shall be construed to
 6 prohibit (a) the enactment of laws providing for the licensing and
 7 regulation of wagering on the results of horseraces, wherever run,
 8 either within or outside of the state, by the parimutuel method,
 9 when such wagering is conducted by licensees within a licensed
 10 racetrack enclosure or (b) the enactment of laws providing for the
 11 licensing and regulation of bingo games conducted by nonprofit
 12 associations which have been in existence for a period of five
 13 years immediately preceding the application for license, except
 14 that bingo games cannot be conducted by agents or lessees of such
 15 associations on a percentage basis.

16 (5)(a) For purposes of this subsection, casino gaming
 17 includes games of chance played for money, credit, or any
 18 representative of value using cards; dice; equipment;
 19 player-activated electronic, video, or mechanical gaming devices;
 20 and other methods authorized by the Legislature.

21 (b) Nothing in the Constitution of Nebraska shall be
 22 construed to prohibit or restrict casino gaming as authorized by
 23 the Legislature at up to two casino locations. Subsequent to the
 24 initial legislative authorization of any casino location, the
 25 voters of the county in which such casino location is authorized
 26 shall either approve or disapprove casino gaming in such county.
 27 The Legislature may provide for the authorization, operation,
 1 regulation, and taxation of casino gaming."

2 Sec. 2. The proposed amendment shall be submitted to the
 3 electors in the manner prescribed by the Constitution of Nebraska,
 4 Article XVI, section 1, with the following ballot language:

5 "A constitutional amendment to define casino gaming and
 6 to permit the Legislature to authorize up to two casino
 7 locations subject to approval by voters in the affected
 8 counties and provide for the authorization, operation,
 9 regulation, and taxation of casino gaming.

10 For

11 Against".

Senator Smith filed the following amendment to LR 11CA:
 AM3502

(Amendments to Final Reading copy)

1 1. In the Janssen amendment, AM3031:

2 a. On page 1, strike line 7 and insert:

3 "To amend Article III, sections 2 and 24:

4 III-2 "The first power reserved by the people is the

5 initiative whereby laws may be enacted and constitutional

6 amendments adopted by the people independently of the Legislature

7 except as otherwise provided in Article III, section 24, of this
 8 Constitution. This power may be invoked by petition wherein the
 9 proposed measure shall be set forth at length. If the petition be
 10 for the enactment of a law, it shall be signed by seven percent of
 11 the registered voters of the state, and if the petition be for the
 12 amendment of the Constitution, the petition therefor shall be
 13 signed by ten percent of such registered voters. In all cases the
 14 registered voters signing such petition shall be so distributed as
 15 to include five percent of the registered voters of each of
 16 two-fifths of the counties of the state, and when thus signed, the
 17 petition shall be filed with the Secretary of State who shall
 18 submit the measure thus proposed to the electors of the state at
 19 the first general election held not less than four months after
 20 such petition shall have been filed. The same measure, either in
 21 form or in essential substance, shall not be submitted to the
 22 people by initiative petition, either affirmatively or negatively,
 23 more often than once in three years. If conflicting measures
 1 submitted to the people at the same election be approved, the one
 2 receiving the highest number of affirmative votes shall thereby
 3 become law as to all conflicting provisions. The constitutional
 4 limitations as to the scope and subject matter of statutes enacted
 5 by the Legislature shall apply to those enacted by the initiative.
 6 Initiative measures shall contain only one subject.""; and
 7 b. On page 3, line 6, after "amendment" insert "to
 8 provide restrictions on initiative measures," and before "and"
 9 insert a comma.

SELECT FILE

LEGISLATIVE BILL 1162. E & R amendment, AM7216, found on page 1280, was adopted.

Senator Tyson withdrew his pending amendment, AM3526, found on page 1446.

Senator Brashear withdrew his pending amendment, AM3568, found on page 1475.

Senator Brashear offered the following amendment:
 AM3584

(Amendments to E & R amendments, AM7216)

1 1. Insert the following new section:

2 "Sec. 5. (1) The Racial Profiling Advisory Committee is
 3 created.

4 (2) The committee shall consist of the executive director
 5 of the Nebraska Commission on Law Enforcement and Criminal Justice,
 6 who also shall be the chairperson of the committee, and the
 7 following persons:

8 (a) A representative appointed by the Fraternal Order of

- 9 Police;
 10 (b) A representative appointed by the Nebraska County
 11 Sheriffs Association;
 12 (c) A representative appointed by the Police Officers
 13 Association of Nebraska;
 14 (d) A representative appointed by the American Civil
 15 Liberties Union of Nebraska;
 16 (e) A representative appointed by the Nebraska State
 17 Patrol;
 18 (f) A representative appointed by the AFL-CIO; and
 19 (g) A representative appointed by the Police Chiefs
 20 Association of Nebraska.
 21 (3) The committee shall meet and organize within thirty
 22 days after the appointment of the members. The committee shall
 23 meet quarterly at a time and place to be fixed by the committee.
 1 Special meetings may be called by the chairperson or at the request
 2 of two or more members of the committee.
 3 (4) The committee shall advise the executive director of
 4 the commission in the conduct of his or her duties pursuant to
 5 subsection (6) of section 20-504."
 6 2. On page 1, line 5, after "20-505" insert "and section
 7 5 of this act".
 8 3. Renumber the remaining sections accordingly.

The Brashear amendment was adopted with 27 ayes, 1 nay, 20 present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1045. E & R amendment, AM7219, found on page 1283, was adopted.

Senator Janssen offered the following motion:
 Bracket until April 13, 2004.

Senator Janssen withdrew his motion to bracket.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 943. E & R amendment, AM7220, found on page 1283, was adopted.

Senator Thompson withdrew her pending amendment, AM3547, found on page 1472.

Senator Chambers renewed his pending amendment, AM3563, found on page 1472.

The Chambers amendment was adopted with 28 ayes, 0 nays, 20 present and

not voting, and 1 excused and not voting.

Senator Foley offered the following amendment:

AM3493

(Amendments to E & R amendments, AM7220)

- 1 1. Insert the following new sections:
- 2 "Sec. 4. Sections 4 to 9 of this act shall be known and
- 3 may be cited as the Assault of an Unborn Child Act.
- 4 Sec. 5. For purposes of the Assault of an Unborn Child
- 5 Act:
- 6 (1) Serious bodily injury means bodily injury which
- 7 involves a substantial risk of death, or which involves a
- 8 substantial risk of serious permanent disfigurement, or protracted
- 9 loss or impairment of the function of any part or organ of the
- 10 body; and
- 11 (2) Unborn child means an individual member of the
- 12 species Homo sapiens at any stage of development in utero.
- 13 Sec. 6. (1) A person commits the offense of assault of
- 14 an unborn child in the first degree if he or she intentionally or
- 15 knowingly causes serious bodily injury to an unborn child.
- 16 (2) Assault of an unborn child in the first degree is a
- 17 Class IIIA felony.
- 18 Sec. 7. (1) A person commits the offense of assault of
- 19 an unborn child in the second degree if he or she recklessly causes
- 20 serious bodily injury to an unborn child with a dangerous
- 21 instrument.
- 22 (2) Assault of an unborn child in the second degree is a
- 23 Class IV felony.
- 1 Sec. 8. Any person who, while operating a motor vehicle
- 2 in violation of section 60-6,196 or 60-6,197, proximately causes
- 3 serious bodily injury to an unborn child is guilty of a Class I
- 4 misdemeanor and the court shall, as part of the judgment of
- 5 conviction, order the person not to drive any motor vehicle for any
- 6 purpose for a period of at least sixty days and not more than
- 7 fifteen years from the date ordered by the court and shall order
- 8 that the operator's license of such person be revoked for the same
- 9 period.
- 10 Sec. 9. The Assault of an Unborn Child Act does not
- 11 apply to an act or conduct causing or contributing to the serious
- 12 bodily injury of an unborn child when the act or conduct is:
- 13 (1) Committed or engaged in by the mother of the unborn
- 14 child;
- 15 (2) Any medical procedure performed with the consent of
- 16 the mother; or
- 17 (3) Dispensing a drug or device in accordance with law or
- 18 administering a drug or device prescribed in accordance with law."
- 19 2. On page 1, line 5, strike "and 3" and insert "to 9".
- 20 3. Renumber the remaining sections accordingly.

Senator Thompson requested a ruling of the Chair on whether the Foley amendment is germane to the bill.

The Chair ruled the Foley amendment is not germane to the bill.

Senator Foley challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

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

Senator Foley requested a roll call vote on his motion to overrule the Chair.

Voting in the affirmative, 18:

Baker	Foley	Maxwell	Redfield	Synowiecki
Burling	Friend	Mines	Schrock	Tyson
Engel	Jones	Pedersen, Dw.	Smith	
Erdman	Kremer	Quandahl	Stuthman	

Voting in the negative, 12:

Aguilar	Chambers	Mossey	Raikes
Beutler	Johnson	Pederson, D.	Schimek
Bourne	Landis	Price	Thompson

Present and not voting, 18:

Brashear	Combs	Hartnett	Kruse	Vrtiska
Bromm	Connealy	Hudkins	Louden	Wehrbein
Brown	Cudaback	Janssen	McDonald	
Byars	Cunningham	Jensen	Stuhr	

Excused and not voting, 1:

Preister

The Foley motion to overrule the Chair failed with 18 ayes, 12 nays, 18 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Beutler offered the following amendment:
AM3593

(Amendments to E & R amendments, AM7220)

- 1 1. On page 1, line 24, strike "or attempt to solicit,
2 coax, entice, or lure".
- 3 2. On page 2, in line 5, strike "sections 28-317 to
4 28-321" and insert "section 28-319 or 28-320.01 or subsection (1)

5 or (2) of section 28-320"; in line 7, strike "III" and insert
 6 "IIIA"; in lines 9 and 10 strike "or 28-317 to 28-321" and insert
 7 "28-319, or 28-320.01 or subsection (1) or (2) of section 28-320";
 8 and in line 10 strike "II" and insert "III".

Senator Beutler withdrew his amendment.

Senator Beutler offered the following amendment:
 AM3597

(Amendments to E & R amendments, AM7220)

1 1. On page 1, line 24, strike "or attempt to solicit,
 2 coax, entice, or lure".
 3 2. On page 2, in line 5, strike "sections 28-317 to
 4 28-321" and insert "section 28-319 or 28-320.01 or subsection (1)
 5 or (2) of section 28-320. A person shall not be charged with both
 6 a violation of subsection (1) of this section and a violation of
 7 section 28-319 or 28-320.01 or subsection (1) or (2) of section
 8 28-320"; in line 7, strike "III" and insert "IIIA"; in lines 9 and
 9 10 strike "or 28-317 to 28-321" and insert "28-319, or 28-320.01 or
 10 subsection (1) or (2) of section 28-320"; and in line 10 strike
 11 "II" and insert "III".

The Beutler amendment was adopted with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1231. E & R amendment, AM7221, found on page 1288, was adopted.

Senator Hartnett withdrew the Hartnett-Louden pending amendment, AM3490, found on page 1411.

Senator Hartnett renewed his pending amendment, AM3504, found on page 1413.

The Hartnett amendment was adopted with 27 ayes, 0 nays, 21 present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1231A. Considered.

Advanced to E & R for engrossment.

STANDING COMMITTEE REPORTS

Health and Human Services

The Health and Human Services 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.

Health and Human Services System
Nancy Montanez, Director

VOTE: Aye: Senators Jensen, Byars, Maxwell, Erdman, Johnson, and Stuthman. Nay: None. Absent: Senator Cunningham.

(Signed) Jim Jensen, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 1082. Placed on General File as amended.
Standing Committee amendment to LB 1082:
AM3564

1 1. Strike original section 2 and insert the following
2 new sections:
3 "Sec. 2. (1) Any male applicant who applies for an
4 original or renewal operator's license or state identification card
5 and who is at least eighteen years of age but less than twenty-six
6 years of age shall have the option to be registered in compliance
7 with the requirements of Section 3 of the Military Selective
8 Service Act, 50 U.S.C. App. section 453.
9 (2) The Department of Motor Vehicles shall forward in an
10 electronic format the name, post office address, date of birth,
11 sex, and social security number of such applicant to the United
12 States Selective Service System. The application for an original
13 or renewal operator's license or state identification card shall
14 include the following optional statement: By submitting this
15 application, I am consenting to registration with the United States
16 Selective Service System, if so required by federal law. The
17 applicant's signature on that part of the application shall
18 authorize the department to forward to the United States Selective
19 Service System the necessary information for such registration.
20 Sec. 4. Section 60-483, Revised Statutes Supplement,
21 2003, is amended to read:
22 60-483. (1) The director shall assign a distinguishing
23 number to each operator's license issued and shall keep a record of
24 the same which shall be open to public inspection by any person
1 requesting inspection of such record who qualifies under section
2 60-2906 or 60-2907. Any person requesting such driver record
3 information shall furnish to the Department of Motor Vehicles (a)
4 verification of identity and purpose that the requester is entitled
5 under section 60-2906 or 60-2907 to disclosure of the personal
6 information in the record, (b) the name of the person whose record
7 is being requested, and (c) when the name alone is insufficient to
8 identify the correct record, the department may request additional
9 identifying information. The department shall, upon request of any

10 requester, furnish a certified abstract of the operating record of
 11 any person, in either hard copy or electronically, and shall charge
 12 the requester a fee of three dollars per abstract.

13 (2) The department shall remit any revenue generated
 14 under this section to the State Treasurer, and the State Treasurer
 15 shall credit eight and one-third percent to the Department of Motor
 16 Vehicles Cash Fund, fifty-eight and one-third percent to the
 17 General Fund, and thirty-three and one-third percent to the Records
 18 Management Cash Fund.

19 (3) The director shall, upon receiving a request and an
 20 agreement from the United States Selective Service System to comply
 21 with requirements of this section, furnish driver record
 22 information to the United States Selective Service System to
 23 include the name, post office address, date of birth, sex, and
 24 social security number of licensees. The United States Selective
 25 Service System shall pay all costs incurred by the department in
 26 providing the information but shall not be required to pay any
 27 other fee required by law for information. No driver record
 1 information shall be furnished to the United States Selective
 2 Service System regarding any female, nor regarding any male other
 3 than those between the ages of seventeen years and twenty-six years
 4 and as provided in section 2 of this act. The information shall
 5 only be used in the fulfillment of the required duties of the
 6 United States Selective Service System and shall not be furnished
 7 to any other person.

8 (4) The director shall keep a record of all applications
 9 for operators' licenses that are disapproved with a brief statement
 10 of the reason for disapproval of the application.

11 (5) The director may establish a monitoring service which
 12 provides information on operating records that have changed due to
 13 any adjudicated traffic citation or administrative action. The
 14 director shall charge a fee of six cents per operating record
 15 searched pursuant to this section and the fee provided in
 16 subsection (1) of this section for each abstract returned as a
 17 result of the search."

18 2. On page 6, line 11, after the second comma insert
 19 "60-483,".

20 3. Renumber the remaining sections accordingly.

(Signed) DiAnna R. Schimek, Chairperson

SELECT FILE

LEGISLATIVE BILL 613. Senator Mossey renewed the Mossey-Bourne pending amendment, AM3325, found on page 1436.

Senator Foley requested a ruling of the Chair on whether the Mossey-Bourne amendment is germane to the bill.

The Chair ruled the Mossey-Bourne amendment is not germane to the bill.

Senator Mossey challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

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

Senator Mossey requested a roll call vote on his motion to overrule the Chair.

Senator Smith requested the roll call vote be taken in reverse order.

Voting in the affirmative, 20:

Aguilar	Byars	Janssen	Pederson, D.	Stuhr
Bourne	Chambers	Kruse	Raikes	Stuthman
Brashear	Engel	Mines	Redfield	Synowiecki
Burling	Hudkins	Mossey	Schrock	Thompson

Voting in the negative, 3:

Erdman	Foley	Landis
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Present and not voting, 20:

Baker	Combs	Jensen	McDonald	Schimek
Beutler	Cudaback	Johnson	Pedersen, Dw.	Smith
Bromm	Friend	Kremer	Price	Vrtiska
Brown	Hartnett	Maxwell	Quandahl	Wehrbein

Absent and not voting, 2:

Louden	Tyson
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Excused and not voting, 4:

Connealy	Cunningham	Jones	Preister
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The Mossey motion to overrule the Chair failed with 20 ayes, 3 nays, 20 present and not voting, 2 absent and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Beutler offered the following amendment:
FA1674

1. On page 3, line 27 after "shall" add "in a criminal, civil or administrative proceeding"
2. On page 4, line 13 after "victim" add "or a third party as described in subsection (3) of Section 2 of this act"

The Beutler amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Senator Beutler offered the following amendment:

FA1675

Strike beginning with "and" on page 2, line 25 through page 3, line 7

The Beutler amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

RESOLUTION

LEGISLATIVE RESOLUTION 399. Introduced by Government, Military and Veterans Affairs Committee: Schimek, 27, Chairperson; Aguilar, 35; Brown, 6; Burling, 33; Combs, 32; McDonald, 41; Smith, 48; Vrtiska, 1.

PURPOSE: The purpose of this interim study is to examine eligibility requirements for veterans' benefits in Nebraska in light of the recent Attorney General Opinion #04012 issued on March 30, 2004. According to the Attorney General's opinion, the practice within the Department of Veterans' Affairs and the County Veterans Service Officers to treat a general discharge (under honorable conditions) the same as an honorable discharge when determining a veteran's eligibility to receive assistance under the Nebraska Veterans' Aid Fund is not appropriate. The Attorney General opined that there is no equivalent to an honorable discharge and therefore, veterans with a general discharge (under honorable conditions) are not eligible for these benefits. The issues to be studied under this interim study include, but are not limited to:

1. How state programs benefiting veterans, including the homestead exemption and the Nebraska Veterans' Aid Fund, will be affected by the Attorney General Opinion;
2. The criteria used for federal veterans' benefits programs;
3. The history of the Nebraska Veterans' Aid Fund and how the criteria for receiving benefits under the fund have changed over the years; and
4. The types of situations in which general discharges are made and whether consideration should be given to changing state law to give benefits to veterans who receive a general discharge.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the

purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

MESSAGE FROM THE GOVERNOR

April 6, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Please withdraw Debra G. McDowell's name from confirmation to the Environmental Quality Council, due to her resignation. Please see attached letter.

Thank you.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Tuesday, April 06, 2004

Dear Governor:

I hereby formally withdraw my name as a candidate for appointment to the EQC.

Sincerely,
(Signed) Debra G. McDowell, P.E.
793 Worms Road
Grand Island, NE 68801

GENERAL FILE

LEGISLATIVE BILL 1017. Title read. Considered.

The Standing Committee amendment, AM2687, printed separately and referred to on page 770, was considered.

Senator Landis withdrew his pending amendment, AM2896, found on page

876.

Senator Landis renewed the Landis et al. pending amendment, AM3292, printed separately and referred to on page 1190, to the Standing Committee amendment.

SENATOR JANSSEN PRESIDING

The Landis et al. amendment was adopted with 26 ayes, 1 nay, 15 present and not voting, and 7 excused and not voting.

Senator Bourne renewed his pending amendment, AM3458, found on page 1336, to the Standing Committee amendment.

Senator Bourne withdrew his amendment.

Senator Landis withdrew his pending amendment, AM3503, found on page 1429.

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

AM3586

(Amendments to AM3292)

- 1 1. On page 1, line 19, strike the second occurrence of
- 2 "real estate" and insert "a structure as defined in section
- 3 77-2704.55"; and in line 20 strike "to be" and insert "that are or
- 4 will be".
- 5 2. On page 2, line 5, after the third comma insert "real
- 6 estate brokerage commissions and fees".
- 7 3. On page 12, line 8, after "contractor" insert
- 8 "electing to be treated as a consumer of building materials under
- 9 subdivision (2) or (3) of section 77-2701.10"; and in line 11 after
- 10 "services" insert "less an allowance for sales tax paid on building
- 11 materials. The allowance for sales tax paid on building materials
- 12 shall equal the sales tax rate in effect at the time payment is
- 13 received at the location of the project times forty percent of the
- 14 sales price for building materials and construction services".
- 15 4. On page 31, lines 25 and 26, strike the new matter.
- 16 5. On page 34, line 10, strike "parts", show as
- 17 stricken, and insert "building materials"; and in line 21 strike
- 18 "from" and insert "for".

SENATOR CUDABACK PRESIDING

The Landis amendment was adopted with 30 ayes, 2 nays, 11 present and not voting, and 6 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 499. Title read. Considered.

The Standing Committee amendment, AM0877, found on page 985, First Session, 2003, lost with 2 ayes, 31 nays, 10 present and not voting, and 6 excused and not voting.

Senator Hartnett withdrew the Hartnett et al. pending amendment, AM3077, found on page 1119.

Senator Hartnett offered the following motion:

To suspend the rules, Rule 7, Section 3(d) to permit consideration of AM3491 to LB 499.

The Hartnett motion to suspend the rules prevailed with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

Senator Hartnett renewed his pending amendment, AM3491, found on page 1397.

The Hartnett amendment was adopted with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

AMENDMENTS - Print in Journal

Senators Schrock and Preister filed the following amendment to LB 916: AM3590

(Amendments to AM3571)

- 1 1. On page 19, line 26, strike "or".
- 2 2. On page 21, line 9, after "(b)" insert "The natural
- 3 resources district or districts and the county or counties shall
- 4 have twenty days to comment to the department regarding any
- 5 conditions that may exist at the proposed site which the department
- 6 should consider regarding the content of the application for
- 7 construction approval or major modification;
- 8 (c)"; and in line 20 strike "(c)" and insert "(d)".
- 9 3. On page 23, line 6 strike beginning with "For"
- 10 through "shall" and insert "The operator shall at least annually".

Senator Synowiecki filed the following amendment to LB 485: AM3596

(Amendments to E & R amendments, AM7222)

- 1 1. On page 29, line 25, after "made" insert ", except

2 that (a) when there is a purchase of an existing licensed business
 3 and a new license of the same class is issued or (b) upon the
 4 issuance of a new license for a location which has not been
 5 previously licensed, the license fee and occupation taxes shall be
 6 prorated on a quarterly basis as of the date of issuance".

Senator McDonald filed the following amendment to LB 1091:
 AM3577

(Amendments to Final Reading copy)

- 1 1. On page 23, line 24; page 24, lines 19 and 20; and
- 2 page 25, lines 1 and 4, strike "three hundred ninety" and insert
- 3 "two hundred sixty".

Senator Louden filed the following amendment to LR 11CA:
 AM3598

(Amendments to Final Reading copy)

- 1 1. In AM 3572:
- 2 a. On page 2, line 23, strike "up to two"; and
- 3 b. On page 3, line 6, strike "up to two".

Senator Smith filed the following amendment to LR 11CA:
 AM3602

(Amendments to Final Reading copy)

- 1 1. In the Janssen amendment, AM3572:
- 2 a. On page 2, line 26, after the period insert "After
- 3 such location has been in existence for five years, a majority of
- 4 the registered voters of the county shall approve or disapprove the
- 5 continued presence of such location within the county."; and
- 6 b. On page 3, line 7, after "approval" insert "and
- 7 reapproval".

Senator Combs filed the following amendment to LB 1017:
 FA1676

Amend AM3293

On page 2, line 4 strike "forty" and insert "twenty-five"

Senator Bromm filed the following amendment to LB 511:
 AM3600

- 1 1. On page 3, line 6, after "insurance" insert "as
- 2 defined in subdivision (1) or (3) of section 13-1608"; and in line
- 3 28 after "insurance" insert "as defined in subdivision (1) or (3)
- 4 of section 13-1608" and strike "which will meet" and insert "that
- 5 meets".
- 6 2. On page 4, line 6, after the period insert "The
- 7 excess insurance must separately limit each plan sponsor's
- 8 liability to the amount specified in this section.".

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

The following bill and resolution were correctly engrossed: LB 983 and LR 209CA.

ER9130

Enrollment and Review Change to LB 983

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

1. On page 69, line 21, an underscored comma has been inserted after "If".

ER9128

Enrollment and Review Change to LR 209CA

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

1. In lieu of the Chambers amendment, FA1606, in the Bourne amendment, AM3396, on page 1, line 5, ", except that no portion of such matching funds shall be provided by the state" has been inserted after "entity".

2. In the E & R amendments, AM7183, on page 3, line 21, ", subject to certain conditions" has been inserted after "Fund".

(Signed) Ray Mossey, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Maxwell asked unanimous consent to have his name added as cointroducer to LB 879. No objections. So ordered.

VISITORS

Visitors to the Chamber were Ken Gnad from Grand Island; students and teachers from Scottsbluff High School; and 23 students, 4 adults, and teacher from Woodland Park, Norfolk.

The Doctor of the Day was Dr. Mike Myers from Lincoln.

ADJOURNMENT

At 6:04 p.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Wednesday, April 7, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-SIXTH DAY - APRIL 7, 2004

LEGISLATIVE JOURNAL

**NINETY-EIGHTH LEGISLATURE
SECOND SESSION**

FIFTY-SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 7, 2004

PRAYER

The prayer was offered by Senator Vrtiska.

ROLL CALL

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

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

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-fifth day was approved.

**SELECT COMMITTEE REPORT
Enrollment and Review**

LEGISLATIVE BILL 1065. Placed on Select File as amended.
(E & R amendment, AM7228, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Ray Mossey, Chairperson

SPEAKER BROMM PRESIDING

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 297. With Emergency.

A BILL FOR AN ACT relating to the Developmental Disabilities Services Act; to amend sections 83-1202.01, 83-1209, 83-1216, 83-1217, 83-1219, and 83-1224, Reissue Revised Statutes of Nebraska; to restate findings and

intent; to provide and change powers and duties; to change provisions relating to funding for specialized services and judicial review and enforcement of certain orders under the act; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 48:

Aguilar	Combs	Janssen	Mossey	Smith
Baker	Connealy	Jensen	Pederson, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Engel	Kremer	Price	Thompson
Bromm	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Louden	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Excused and not voting, 1:

Mines

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

LEGISLATIVE BILL 514. With Emergency.

A BILL FOR AN ACT relating to the Nebraska State Patrol Retirement Act; to amend section 81-2017, Revised Statutes Supplement, 2002; to change contributions as prescribed; to provide an operative date; to repeal the original section; and to declare an emergency.

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

Voting in the affirmative, 48:

Aguilar	Combs	Janssen	Mossey	Smith
Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Engel	Kremer	Price	Thompson
Bromm	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Louden	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Excused and not voting, 1:

Mines

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

LEGISLATIVE BILL 917.

A BILL FOR AN ACT relating to the Nebraska Forest Service; to provide for acknowledgement, administration, and core programs; and to provide intent relating to appropriations.

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

Voting in the affirmative, 48:

Aguilar	Combs	Janssen	Mossey	Smith
Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Engel	Kremer	Price	Thompson
Bromm	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Louden	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Excused and not voting, 1:

Mines

A constitutional majority having voted in the affirmative, the bill was

declared passed and the title agreed to.

LEGISLATIVE BILL 1071.

A BILL FOR AN ACT relating to the Coordinating Commission for Postsecondary Education; to amend section 85-1415, Reissue Revised Statutes of Nebraska; to provide for review by the commission of certain capital construction projects proposed by nonprofit corporations as prescribed; to harmonize provisions; to delete obsolete provisions; and to repeal the original section.

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

Voting in the affirmative, 46:

Aguilar	Connealy	Jensen	Pedersen, Dw.	Stuthman
Baker	Cudaback	Johnson	Preister	Synowiecki
Beutler	Cunningham	Jones	Price	Thompson
Bourne	Engel	Kremer	Quandahl	Tyson
Brashear	Erdman	Kruse	Raikes	Vrtiska
Bromm	Foley	Landis	Redfield	Wehrbein
Burling	Friend	Louden	Schimek	
Byars	Hartnett	Maxwell	Schrock	
Chambers	Hudkins	McDonald	Smith	
Combs	Janssen	Mossey	Stuhr	

Voting in the negative, 1:

Brown

Present and not voting, 1:

Pederson, D.

Excused and not voting, 1:

Mines

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1089 with 41 ayes, 2 nays, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1089. With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2003, LB 46A, section 3; Laws 2003, LB 285A, section 1; Laws 2003, LB 403A, sections 2 and 3; Laws 2003, LB 404, sections 6, 7, 9 to 18, and 20; Laws 2003, LB 406, sections 30 and 43; Laws 2003, LB 407, sections 9 to 12, 14 to 17, 19 to 34, 37 to 42, 44 to 48, 50 to 53, 55, 56, 58 to 61, 63 to 66, 68 to 76, 78 to 88, 90 to 93, 95 to 103, 108, 109, 111 to 113, 115, 117, 120, 122 to 126, 128 to 130, 132, 133, 135 to 137, 139 to 143, 145 to 152, 154 to 168, 170 to 173, 175 to 179, 181, 184 to 194, 196 to 201, 204 to 207, 212 to 216, 218 to 222, 225 to 235, 237 to 240, 242, 243, 246, 247, 249, 250, 251, 253, 256 to 258, 260 to 262, and 267; Laws 2003, LB 574A, sections 1 and 2; Laws 2003, LB 626A, section 2; and Laws 2003, LB 760A, section 3; to define terms; to provide, change, and eliminate provisions relating to appropriations; to provide for transfers; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 39:

Aguilar	Chambers	Janssen	McDonald	Stuhr
Baker	Combs	Jensen	Mossey	Stuthman
Beutler	Connealy	Johnson	Pederson, D.	Synowiecki
Bourne	Cudaback	Kremer	Preister	Thompson
Brashear	Cunningham	Kruse	Price	Tyson
Bromm	Engel	Landis	Raikes	Vrtiska
Brown	Hartnett	Louden	Schimek	Wehrbein
Byars	Hudkins	Maxwell	Schrock	

Voting in the negative, 7:

Burling	Foley	Pedersen, Dw.	Smith
Erdman	Friend	Redfield	

Present and not voting, 2:

Jones	Quandahl
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Excused and not voting, 1:

Mines

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

MOTION - Return LB 1090 to Select File

Senator Brashear moved to return LB 1090 to Select File for the following specific amendment:

FA1677

Strike the enacting clause.

Senator Brashear withdrew his motion to return.

Senator Chambers moved to return LB 1090 to Select File for the following specific amendment:

FA1678

Strike the enacting clause.

Pending.

MOTION - Bracket LB 1090

Senator Chambers offered the following motion to LB 1090:
Bracket until April 14, 2004.

Senator Chambers requested a roll call vote on his motion to bracket.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 47:

Aguilar	Connealy	Jensen	Mossey	Stuhr
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuthman
Beutler	Cunningham	Jones	Pederson, D.	Synowiecki
Bourne	Engel	Kremer	Preister	Thompson
Brashear	Erdman	Kruse	Price	Tyson
Bromm	Foley	Landis	Quandahl	Vrtiska
Brown	Friend	Louden	Raikes	Wehrbein
Burling	Hartnett	Maxwell	Redfield	
Byars	Hudkins	McDonald	Schrock	
Combs	Janssen	Mines	Smith	

Present and not voting, 1:

Schimek

The Chambers motion to bracket failed with 1 aye, 47 nays, and 1 present and not voting.

MOTION - Return LB 1090 to Select File

Senator Chambers renewed his pending motion, found in this day's Journal, to return LB 1090 to Select File for his specific pending amendment, FA1678, found in this day's Journal.

Senator Chambers withdrew his motion to return.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 1090. With Emergency.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend sections 81-179 and 84-613, Reissue Revised Statutes of Nebraska, and section 84-612, Revised Statutes Supplement, 2003; to change provisions relating to the Building Renewal Allocation Fund; to change and eliminate provisions relating to the Cash Reserve Fund; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 49:

Aguilar	Combs	Janssen	Mines	Schrock
Baker	Connealy	Jensen	Mossey	Smith
Beutler	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Jones	Pederson, D.	Stuthman
Brashear	Engel	Kremer	Preister	Synowiecki
Bromm	Erdman	Kruse	Price	Thompson
Brown	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	McDonald	Schimek	

Voting in the negative, 0.

Not voting, 0.

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

MOTION - Return LB 1091 to Select File

Senator McDonald moved to return LB 1091 to Select File for her specific

pending amendment, AM3577, found on page 1530.

Senator McDonald withdrew her motion to return.

MOTION - Bracket LB 1091

Senator Chambers offered the following motion to LB 1091:
Bracket until April 14, 2004.

SENATOR CUDABACK PRESIDING

SPEAKER BROMM PRESIDING

Senator Chambers withdrew his motion to bracket.

BILLS ON FINAL READING

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1091 with 39 ayes, 2 nays, 7 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1091. With Emergency.

A BILL FOR AN ACT relating to funds; to amend sections 71-7607, 71-7608, 71-7611, 79-1001, 79-1028, 81-504, 81-509, 81-523, 81-528, 81-550, and 81-5,153, Reissue Revised Statutes of Nebraska, sections 28-1249, 48-162.01, and 48-162.02, Revised Statutes Supplement, 2002, and section 9-812, Revised Statutes Supplement, 2003; to change and eliminate funds; to provide for transfers; to provide for incentives for school district reorganization; to eliminate obsolete language; to change a tax distribution; to create funds; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 48:

Aguilar	Combs	Janssen	Mines	Smith
Baker	Connealy	Jensen	Mossey	Stuhr
Beutler	Cudaback	Johnson	Pedersen, Dw.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Engel	Kremer	Price	Thompson
Bromm	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Louden	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Excused and not voting, 1:

Pederson, D.

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1092 with 42 ayes, 1 nay, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1092. With Emergency.

A BILL FOR AN ACT relating to state buildings; to amend sections 81-181, 81-188.01 to 81-188.06, 81-1108.22, and 85-414, Reissue Revised Statutes of Nebraska, and section 81-1108.15, Revised Statutes Supplement, 2002; to change and eliminate reporting and funding provisions relating to the Deferred Building Renewal Act; to provide a duty for the state building division of the Department of Administrative Services; to eliminate an office space request requirement; to prohibit the sale of the Ferguson House; to provide for the demolition of University of Nebraska Miller Hall; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 47:

Aguilar	Connealy	Jensen	Mossey	Stuhr
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Bourne	Engel	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Landis	Raikes	Vrtiska
Brown	Friend	Louden	Redfield	Wehrbein
Burling	Hartnett	Maxwell	Schimek	
Byars	Hudkins	McDonald	Schrock	
Combs	Janssen	Mines	Smith	

Voting in the negative, 1:

Chambers

Excused and not voting, 1:

Pederson, D.

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1093 with 42 ayes, 2 nays, 4 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1093.

A BILL FOR AN ACT relating to state aid to schools; to amend sections 77-3442, 79-1005.01, 79-1005.02, 79-1007.02, 79-1008.01, and 79-1009, Reissue Revised Statutes of Nebraska; to change provisions relating to the maximum levy, state aid from income tax receipts, state aid formula calculations, equalization aid, and net option funding for certain fiscal years as prescribed; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 43:

Aguilar	Chambers	Janssen	Mossey	Smith
Baker	Combs	Jensen	Pedersen, Dw.	Stuhr
Beutler	Connealy	Johnson	Preister	Synowiecki
Bourne	Cudaback	Jones	Price	Thompson
Brashear	Cunningham	Kremer	Quandahl	Tyson
Bromm	Engel	Kruse	Raikes	Vrtiska
Brown	Foley	Landis	Redfield	Wehrbein
Burling	Hartnett	McDonald	Schimek	
Byars	Hudkins	Mines	Schrock	

Voting in the negative, 5:

Erdman	Friend	Louden	Maxwell	Stuthman
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Excused and not voting, 1:

Pederson, D.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

LEGISLATIVE BILL 1144.

A BILL FOR AN ACT relating to public transportation; to amend sections 13-1210, 13-1214, and 66-4,100, Reissue Revised Statutes of Nebraska, and section 39-2215, Revised Statutes Supplement, 2003; to change funding provisions for the public transportation assistance and intercity bus system assistance programs; to change and provide duties; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 35:

Aguilar	Burling	Foley	Maxwell	Redfield
Baker	Byars	Hudkins	McDonald	Schimek
Beutler	Combs	Janssen	Mossey	Stuhr
Bourne	Connealy	Jones	Pedersen, Dw.	Stuthman
Brashear	Cudaback	Kremer	Preister	Synowiecki
Bromm	Cunningham	Kruse	Price	Thompson
Brown	Engel	Landis	Raikes	Wehrbein

Voting in the negative, 4:

Chambers	Erdman	Smith	Tyson
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Present and not voting, 8:

Friend	Jensen	Louden	Quandahl
Hartnett	Johnson	Mines	Vrtiska

Excused and not voting, 2:

Pederson, D. Schrock

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 1241. With Emergency.

A BILL FOR AN ACT relating to claims against the state; to appropriate funds for the payment of certain claims; to provide for payment of the claims; to authorize certain write-offs as prescribed; and to declare an emergency.

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

Voting in the affirmative, 47:

Aguilar	Combs	Janssen	Mines	Stuhr
Baker	Connealy	Jensen	Mossey	Stuthman
Beutler	Cudaback	Johnson	Pedersen, Dw.	Synowiecki
Bourne	Cunningham	Jones	Preister	Thompson
Brashear	Engel	Kremer	Price	Tyson
Bromm	Erdman	Kruse	Quandahl	Vrtiska
Brown	Foley	Landis	Raikes	Wehrbein
Burling	Friend	Louden	Redfield	
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Smith	

Voting in the negative, 0.

Excused and not voting, 2:

Pederson, D. Schrock

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

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 297, 514, 917, 1071, 1089, 1090, 1091, 1092, 1093, 1144, and 1241.

STANDING COMMITTEE REPORT
Natural Resources

The Natural Resources 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.

Environmental Quality Council
Robert C. Hall

VOTE: Aye: Senators Friend, Hudkins, Jones, Kremer, Louden, Preister, and Schrock. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 599 and 599A.

ER9129

Enrollment and Review Change to LB 599

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

1. Because of the adoption of the Beutler amendment, AM3091, in the Tyson amendment, AM3244, amendments 1 and 2 have been struck.

(Signed) Ray Mossey, Chairperson

REPORT OF THE EXECUTIVE BOARD

2004 Resolution calling for an Interim Study

LR 399 Interim study to examine eligibility requirements for veterans' benefits
Government, Military and Veterans Affairs

(Signed) L. Patrick Engel, Chairperson

Legislative Council, Executive Board

VISITORS

Visitors to the Chamber were 36 fifth-grade students and teachers from Christ the King School, Omaha; 35 fourth-grade students and teacher from Stanton Community Schools; 35 fourth-grade students and teachers from Washington Elementary School, Norfolk; and 57 fourth-grade students and teachers from La Vista West Elementary School.

RECESS

At 12:13 p.m., on a motion by Senator Vrtiska, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Engel, Landis, and Price who were excused until they arrive.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 7, 2004, at 12:17 p.m. were the following: LBs 297e, 514e, 917, 1071, 1089e, 1090e, 1091e, 1092e, 1093, 1144, and 1241e.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

ANNOUNCEMENT

The Chair announced today is Senator Erdman's birthday.

SELECT FILE

LEGISLATIVE RESOLUTION 11CA. Considered.

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

Senator Smith requested a ruling of the Chair on whether there had been a full and fair debate, pursuant to Rule 7, Sec. 4, on the motion to readvance the resolution.

The Chair ruled there had been a full and fair debate on the motion to

readvance the resolution.

The motion to cease debate prevailed with 25 ayes, 0 nays, 24 present and not voting.

Readvanced to Final Reading with 27 ayes, 13 nays, 8 present and not voting, and 1 excused and not voting.

MOTION - Return LR 11CA to Select File

Senator Janssen moved to return LR 11CA to Select File for the Janssen-Schimek specific pending amendment, AM3572, found on page 1516.

Senator Cunningham moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 9 nays, and 15 not voting.

The Janssen motion to return prevailed with 27 ayes, 6 nays, 15 present and not voting, and 1 excused and not voting.

SELECT FILE

LEGISLATIVE RESOLUTION 11CA. The Janssen-Schimek specific pending amendment, AM3572, found on page 1516, was renewed.

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 6 nays, and 16 not voting.

Senator Janssen requested a roll call vote on the Janssen-Schimek specific amendment.

Voting in the affirmative, 31:

Aguilar	Byars	Hartnett	Mossey	Synowiecki
Baker	Combs	Janssen	Pederson, D.	Thompson
Beutler	Connealy	Johnson	Preister	Wehrbein
Bourne	Cudaback	Landis	Raikes	
Brashear	Cunningham	Maxwell	Schimek	
Bromm	Engel	McDonald	Schrock	
Brown	Friend	Mines	Stuthman	

Voting in the negative, 14:

Chambers	Hudkins	Kremer	Quandahl	Stuhr
Erdman	Jensen	Pedersen, Dw.	Redfield	Tyson
Foley	Jones	Price	Smith	

Present and not voting, 4:

Burling Kruse Louden Vrtiska

The Janssen-Schimek specific amendment was adopted with 31 ayes, 14 nays, and 4 present and not voting.

Senator Schrock moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 6 nays, and 16 not voting.

Advanced to E & R for reengrossment.

STANDING COMMITTEE REPORTS **Natural Resources**

LEGISLATIVE RESOLUTION 394. Reported to the Legislature for further consideration.

LEGISLATIVE BILL 28. Indefinitely postponed.

LEGISLATIVE BILL 822. Indefinitely postponed.

LEGISLATIVE BILL 1026. Indefinitely postponed.

LEGISLATIVE BILL 1042. Indefinitely postponed.

LEGISLATIVE BILL 1122. Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

Health and Human Services

The Health and Human Services 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.

Nebraska Health Care Council

John Klosterman

David Corbin

Joel Gajardo

Phil Harr

Cordelia Okoye

Board of Emergency Medical Services

Michael Buscher

Child Abuse Prevention Fund Board

A. Jane Storey

VOTE: Aye: Senators Jensen, Byars, Cunningham, Maxwell, and Stuthman.

Nay: None. Absent: Senators Erdman and Johnson.

(Signed) Jim Jensen, Chairperson

MOTION - Return LR 11CA to Select File

Senator Smith moved to return LR 11CA to Select File for his specific pending amendment, AM3602, found on page 1530.

SENATOR HARTNETT PRESIDING**SENATOR CUDABACK PRESIDING**

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

Senator Smith requested a ruling of the Chair on whether there had been a full and fair debate, pursuant to Rule 7, Sec. 4, on the Smith motion to return.

The Chair ruled there had been a full and fair debate on the Smith motion to return.

The motion to cease debate prevailed with 25 ayes, 6 nays, 18 present and not voting.

Senator Smith requested a record vote on his motion to return.

Voting in the affirmative, 15:

Burling	Erdman	Jensen	Price	Smith
Cudaback	Foley	Jones	Quandahl	Stuhr
Engel	Hudkins	Kremer	Redfield	Tyson

Voting in the negative, 23:

Aguilar	Byars	Johnson	Mossey	Synowiecki
Beutler	Combs	Kruse	Pederson, D.	Vrtiska
Bourne	Connealy	Landis	Schimek	Wehrbein
Bromm	Cunningham	McDonald	Schrock	
Brown	Janssen	Mines	Stuthman	

Present and not voting, 9:

Baker	Chambers	Hartnett	Maxwell	Raikes
Brashear	Friend	Louden	Preister	

Excused and not voting, 2:

Pedersen, Dw. Thompson

The Smith motion to return failed with 15 ayes, 23 nays, 9 present and not voting, and 2 excused and not voting.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 1017. Placed on Select File as amended.
E & R amendment to LB 1017:

AM7230

- 1 1. In the Landis et al. amendment, AM3292:
- 2 a. On page 14, line 25, after the comma insert "a sale
- 3 of building materials"; and in line 27 after "or" insert "a sale
- 4 of";
- 5 b. On page 29, line 14, strike "belongs", show as
- 6 stricken, and insert "belong";
- 7 c. On page 35, line 16, after "specifications" insert an
- 8 underscored comma; and in line 17 after "engineer" insert an
- 9 underscored comma; and
- 10 d. On page 36, line 17, after "fund" insert "available
- 11 for investment".
- 12 2. On page 1, strike beginning with "section" in line 1
- 13 through line 4 and insert "sections 77-2701, 77-2701.04,
- 14 77-2701.10, 77-2701.16, 77-2701.34, 77-2701.42, 77-2703,
- 15 77-2704.12, 77-2704.15, 77-2704.32, 77-2704.55, and 77-27,188.01,
- 16 Reissue Revised Statutes of Nebraska; to provide, change, and
- 17 eliminate definitions; to change provisions relating to the sales
- 18 and use taxes on building materials and construction services; to
- 19 harmonize provisions; to provide an operative date; to repeal the
- 20 original sections; and to declare an emergency."

LEGISLATIVE BILL 499. Placed on Select File as amended.
E & R amendment to LB 499:

AM7229

- 1 1. In the Hartnett amendment, AM3491, on page 2, line
- 2 18, strike "who (a)" and insert "(a) who".
- 3 2. On page 1, strike beginning with "cities" in line 1
- 4 through line 4 and insert "the State Natural Gas Regulation Act; to
- 5 amend section 66-1850, Reissue Revised Statutes of Nebraska; to
- 6 change provisions relating to high-volume ratepayers as
- 7 prescribed; to repeal the original section; and to declare an
- 8 emergency."

(Signed) Ray Mossey, Chairperson

AMENDMENT - Print in Journal

Senator Raikes filed the following amendment to LB 868:
AM3551

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 "Sec. 2. (1) Until July 1, 2005, any person employed by

3 a school approved or accredited by the State Department of
 4 Education, employed by an educational service unit and working in a
 5 school approved or accredited by the department, or employed by an
 6 early childhood education program approved by the department who
 7 serves as a school nurse or medication aide or who has been
 8 designated and trained by the school, educational service unit, or
 9 program as a nonmedical staff person to implement the emergency
 10 response to life-threatening asthma or systemic allergic reactions
 11 protocols adopted by the school, educational service unit, or
 12 program shall be immune from civil liability for any act or
 13 omission in rendering emergency care for a person experiencing a
 14 potentially life-threatening asthma or allergic reaction event on
 15 school grounds, in a vehicle being used for school purposes, in a
 16 vehicle being used for educational service unit purposes, at a
 17 school-sponsored activity or athletic event, at a facility used by
 18 the early childhood education program, in a vehicle being used for
 19 early childhood education program purposes, or at an activity
 20 sponsored by the early childhood education program which results in
 21 damage or injury unless such damage or injury was caused by the
 22 willful or wanton act or omission of such employee.

23 (2) The individual immunity granted by subsection (1) of
 1 this section shall not extend to the school district, educational
 2 service unit, or early childhood education program and shall not
 3 extend to any act or omission of such employee which results in
 4 damage or injury if the damage or injury is caused by such employee
 5 while impaired by alcohol or any controlled substance enumerated in
 6 section 28-405."

7 2. On page 1, line 3, after the semicolon insert "to
 8 provide for immunity from civil liability for certain employees as
 9 prescribed;"

10 3. Renumber the remaining sections accordingly.

MOTION - Return LR 11CA to Select File

Senator Aguilar moved to return LR 11CA to Select File for the following specific amendment:

AM3601

(Amendments to Final Reading copy)

- 1 1. In the Janssen amendment, AM3572, on page 3, line 1,
- 2 after the first period insert the following new subsection:
- 3 "(6) The Legislature may authorize slot machines within a
- 4 licensed racetrack enclosure if live thoroughbred horseracing has
- 5 been conducted at such enclosure during each of the four years
- 6 immediately preceding such authorization."; in line 5 strike "and"
- 7 and insert a comma; and in line 9 after "gaming" insert ", and to
- 8 authorize slot machines at licensed racetrack enclosures".

Senator Aguilar withdrew his motion to return.

Senator Louden moved to return LR 11CA to Select File for his specific pending amendment, AM3598, found on page 1530.

Senator Brown moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 6 nays, and 18 not voting.

Senator Smith requested a roll call vote on the Louden motion to return.

Voting in the affirmative, 8:

Aguilar	Jones	Quandahl	Synowiecki
Baker	Louden	Smith	Tyson

Voting in the negative, 21:

Beutler	Byars	Jensen	Raikes	Wehrbein
Bourne	Combs	Johnson	Schimek	
Bromm	Connealy	Landis	Schrock	
Brown	Cunningham	Mines	Thompson	
Burling	Janssen	Pederson, D.	Vrtiska	

Present and not voting, 18:

Brashear	Erdman	Hudkins	McDonald	Stuhr
Chambers	Foley	Kremer	Preister	Stuthman
Cudaback	Friend	Kruse	Price	
Engel	Hartnett	Maxwell	Redfield	

Excused and not voting, 2:

Mossey Pedersen, Dw.

The Louden motion to return failed with 8 ayes, 21 nays, 18 present and not voting, and 2 excused and not voting.

AMENDMENT - Print in Journal

Senator Baker filed the following amendment to LB 1065:
AM3617

(Amendments to E & R amendments, AM7228)

1. Strike section 1.
2. Renumber the remaining sections accordingly.

SELECT FILE

LEGISLATIVE BILL 692. Senator Bromm renewed his pending motion, found on page 1477, to suspend Rule 7, Section 3(d) to permit consideration of AM3567 to LB 692.

SENATOR WEHRBEIN PRESIDING

The Bromm motion to suspend the rules prevailed with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Senator Bromm renewed his pending amendment, AM3567, found on page 1473.

The Bromm 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.

WITHDRAW - Amendment to LB 479

Senator Schrock withdrew the Schrock et al. pending amendment, AM3532, found on page 1447, to LB 479.

MOTION - Return LB 479 to Select File

Senator Baker moved to return LB 479 to Select File for the Baker-Wehrbein specific pending amendment, AM3506, found on page 1499.

The Baker motion to return prevailed with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 479. The Baker-Wehrbein specific pending amendment, AM3506, found on page 1499, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to E & R for reengrossment.

MOTION - Return LB 479 to Select File

Senator Beutler moved to return LB 479 to Select File for the following specific amendment:

AM3610

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
- 2 "Sec. 2. Section 66-4,124, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 66-4,124. Any person shall be regarded as a purchaser
- 5 and claimant if he or she has at least one supply tank with a
- 6 capacity of forty gallons or more and has paid for any one purchase
- 7 the excise tax to a seller upon forty or more gallons of gasoline
- 8 or motor vehicle fuel, which gasoline or motor vehicle fuel was or

9 is to be used solely and exclusively by such person for propelling
 10 or operating a stationary gas engine, tractor, combine, or
 11 machinery used solely for agricultural, quarrying, or industrial
 12 purposes in the state or for some purpose not involving the use of
 13 any highways in this state. As such purchaser and claimant he or
 14 she shall be entitled to a credit against the purchaser's Nebraska
 15 income tax liability for the amount of tax so paid during the
 16 taxable year of purchase of the fuel by the taxpayer, less two and
 17 one-quarter cents per gallon through December 31, 2004, and
 18 commencing January 1, 2012, and less three and one-half cents per
 19 gallon commencing January 1, 2005, through December 31, 2011, of
 20 the tax paid upon compliance with sections 66-4,118 to 66-4,132 and
 21 not otherwise. Each purchaser and claimant shall be entitled to a
 22 credit against the purchaser's Nebraska income tax liability for
 23 the amount of the taxes imposed by sections 66-4,140, 66-4,145, and
 1 66-4,146 on motor vehicle fuel purchased during the taxable year,
 2 which tax credit shall be established by the department. No credit
 3 shall be made to anyone other than the actual purchaser of such tax
 4 credit gasoline or motor vehicle fuel.

5 Sec. 3. Section 66-4,134, Reissue Revised Statutes of
 6 Nebraska, is amended to read:

7 66-4,134. The department shall transmit monthly to the
 8 State Treasurer a report of the number of gallons of tax credit
 9 gasoline or motor vehicle fuel for which credits have been
 10 approved. ~~The~~, ~~and the~~ State Treasurer shall thereupon transfer
 11 from the General Fund:
 12 (1) Through December 31, 2004, and commencing January 1,
 13 2012, to the Agricultural Alcohol Fuel Tax Fund one and one-quarter
 14 cents per gallon approved for credit; and
 15 (2) Commencing January 1, 2005, through December 31,
 16 2011, (a) to the Ethanol Production Incentive Cash Fund one and
 17 one-quarter cents per gallon approved for credit and (b) to the
 18 Agricultural Alcohol Fuel Tax Fund one and one-quarter cents per
 19 gallon approved for credit."

20 2. On page 19, line 10, strike "2009", show as stricken,
 21 and insert "2004"; and in line 12 after the period insert "For any
 22 sale or delivery of corn or grain sorghum occurring on or after
 23 October 1, 2004, and on or before October 1, 2011, the tax is
 24 three-fourths cent per bushel for corn and three-fourths cent per
 25 hundredweight for grain sorghum."

26 3. Renumber the remaining sections and correct the
 27 title, the repealer, and internal references accordingly.

SENATOR CUDABACK PRESIDING

Senator Beutler withdrew his motion to return.

GENERAL FILE

LEGISLATIVE BILL 916. The Standing Committee amendment, AM2826, printed separately and referred to on page 818 and considered on page 1049, was renewed.

Senator Beutler withdrew his pending amendment, AM3114, found on page 1069.

Senator Beutler withdrew his pending amendment, AM3118, found on page 1070.

Senator Chambers withdrew his pending amendment, FA1565, found on page 1070.

Senator Preister renewed his pending amendment, AM3191, found on page 1070, to the Standing Committee amendment.

Senator Preister withdrew his amendment.

Senator Chambers withdrew his pending amendments, FA1566, FA1567, FA1568, FA1569, and FA1570, found on page 1071.

Senator Schrock withdrew his pending amendment, AM3391, found on page 1269.

Senator Schrock withdrew his pending amendment, AM3537, printed separately and referred to on page 1452.

Senator Schrock renewed his pending amendment, AM3571, printed separately and referred to on page 1477, to the Standing Committee amendment.

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

Senator Schrock withdrew the Schrock-Preister pending amendment, AM3590, found on page 1529.

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

AM3618

(Amendments to AM3571)

- 1 1. On page 19, line 26, strike "or".
- 2 2. On page 20, after line 2, insert the following new
- 3 subsection:
- 4 "(3) An animal feeding operation that (a) does not
- 5 require a permit and (b) has the type and number of animals that

6 fall within any of the ranges listed in 40 C.F.R. 122.23(b)(6)(i)
 7 shall, in addition to any other requirements of the Environmental
 8 Protection Act, Livestock Waste Management Act, and rules and
 9 regulations adopted and promulgated pursuant to such acts, be
 10 subject to the same or substantially similar operating requirements
 11 that existed on January 1, 2004."; and in line 27 after "If" insert
 12 "a National Pollutant Discharge Elimination System permit is not
 13 required or if".

14 3. On page 21, line 9, after "(b)" insert "The natural
 15 resources district or districts and the county or counties shall
 16 have twenty days to comment to the department regarding any
 17 conditions that may exist at the proposed site which the department
 18 should consider regarding the content of the application for
 19 construction approval or major modification;

20 (c)"; in line 20 strike "(c)" and insert "(d)"; and
 21 strike lines 23 through 27.

22 4. On page 22, strike lines 1 through 19.

23 5. On page 23, line 6, strike beginning with "For"

1 through "shall" and insert "The operator shall at least annually".

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

The Standing Committee amendment, as amended, was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 916A. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Reengrossed

The following resolution was correctly reengrossed: LR 11CA.

Correctly Engrossed

The following bills were correctly engrossed: LBs 613, 943, 1045, 1083, 1083A, 1162, 1231, and 1231A.

ER9134

Enrollment and Review Change to LB 613

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

1. In the Beutler amendment, FA1674, a comma has been inserted before "in", after "civil", after "proceeding", and before the second "or"; and "subsection" has been struck and "subdivision" inserted.

2. On page 2, line 25, the comma has been struck and a semicolon inserted.

3. On page 4, line 13, "or" has been struck and a comma inserted; and in line 26 "afforded by" has been inserted after "protections".

4. On page 5, line 14, the comma has been struck and "or" inserted; and in line 15 the comma has been struck.

ER9133

Enrollment and Review Change to LB 943

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

1. In the E & R amendments, AM7220, on page 10, line 13, "section" has been struck and "sections 28-322, 28-322.01, and" inserted; in line 16 "and change" has been inserted after "provide"; and in line 19 "and sexual abuse of an inmate or parolee" has been inserted after "limitations".

ER9132

Enrollment and Review Change to LB 1083

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

1. In the Jensen amendment, AM3560:

a. Sections have been renumbered to harmonize with the Byars-Jensen amendment, AM3443; and

b. Amendments 15 and 16 have been struck.

2. In the Byars-Jensen amendment, AM3443:

a. Internal references have been changed to harmonize with the Jensen amendment, AM3560; and

b. On page 42, lines 3 and 4, "101, 104 to 137, 139, and 141" has been struck and "99, 102 to 144, 147, and 149" inserted; in line 9 "80-601, 81-1850," has been inserted after "71-1,312, "; in line 10 "83-305.01, 83-314, 83-324," has been inserted after the first comma and "83-350" has been struck and "83-349, 83-350, 83-351, 83-354" inserted; in line 16 "and" has been struck; in line 17 "and 84-1326.01," has been inserted after the first comma and "9-1,101," has been struck; and in line 21 "9-836.01," has been struck.

3. On page 1, the matter beginning with "behavioral" in line 1 through line 17 has been struck and "public health and welfare; to amend sections 20-164, 23-3402, 29-434, 29-3705, 29-3915, 42-917, 43-248, 43-254.01, 44-773, 44-774, 48-1102, 53-1,120, 58-703, 58-706, 71-101, 71-102,

71-107, 71-110, 71-112, 71-113, 71-114, 71-116, 71-131, 71-139.02, 71-162, 71-1,312, 80-601, 81-1850, 81-2213, 83-305, 83-305.01, 83-314, 83-324, 83-336, 83-338, 83-340, 83-340.01, 83-349, 83-350, 83-351, 83-354, 83-364, 83-376, 83-1001, 83-1002, 83-1004, 83-1005, 83-1006, 83-1007, 83-1007.01, 83-1009, 83-1009.01, 83-1009.02, 83-1010, 83-1011, 83-1014, 83-1017, 83-1020, 83-1027, 83-1035, 83-1037, 83-1039, 83-1041, 83-1042, 83-1043, 83-1044, 83-1045, 83-1045.01, 83-1045.02, 83-1046, 83-1052, 83-1053, 83-1054, 83-1056, 83-1057, 83-1060, 83-1068, 83-1071, 83-1072, 83-1073, 83-1074, 83-1078, 83-1080, 84-1211, and 84-1326.01, Reissue Revised Statutes of Nebraska, sections 43-245, 43-247, 83-162.04, 83-4,157, 83-1016, 83-1019, 83-1024, 83-1026, 83-1047, 83-1048, 83-1049, 83-1050, 83-1051, 83-1055, 83-1058, 83-1059, 83-1061, 83-1062, 83-1064, 83-1066, and 83-1069, Revised Statutes Supplement, 2002, and sections 9-812, 28-416, 43-250, 60-6,209, and 83-1079, Revised Statutes Supplement, 2003; to adopt the Nebraska Behavioral Health Services Act; to change and eliminate provisions relating to state hospitals and mental health commitments; to transfer the Nebraska Mental Health Commitment Act; to provide for fund transfers from and an authorized use of the Affordable Housing Trust Fund; to provide for licensure of alcohol and drug abuse counselors; to create a board; to provide for fees; to provide and change powers and duties; to eliminate the Nebraska Comprehensive Community Mental Health Services Act, the Rehabilitation and Support Mental Health Services Incentive Act, the Alcoholism, Drug Abuse, and Addiction Services Act, the Nebraska Behavioral Health Reform Act, and provisions relating to behavioral health; to harmonize provisions; to provide severability; to provide operative dates; to repeal the original sections; to outright repeal sections 71-5001 to 71-5010, 71-5012 to 71-5053, 71-5055 to 71-5066, 83-158.01, 83-159, 83-160, 83-161.02, 83-162.01 to 83-162.03, 83-163 to 83-169, 83-305.05, 83-306, 83-307, 83-307.01, 83-308, 83-311, 83-312, 83-318, 83-321, 83-337, 83-339, 83-352.02, 83-1012, 83-1018, 83-1021, 83-1022, 83-1028, 83-1029, 83-1036, 83-1038, 83-1040, 83-1044.01, 83-1065, 83-1067, 83-1070, and 83-1077.01, Reissue Revised Statutes of Nebraska, and sections 83-1003, 83-1008, 83-1013, 83-1015, 83-1023, and 83-1025, Revised Statutes Supplement, 2002; and to declare an emergency." inserted.

ER9131

Enrollment and Review Change to LB 1162

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

1. In the E & R amendments, AM7216, on page 5, line 3, "to create the Racial Profiling Advisory Committee; to provide powers and duties;" has been inserted after the semicolon.

(Signed) Ray Mossey, Chairperson

AMENDMENTS - Print in Journal

Senator Kremer filed the following amendment to LB 1103:
AM3588

(Amendments to Standing Committee amendments, AM2815)

- 1 1. On page 7, strike beginning with the comma in line 26
- 2 through the comma in line 27.
- 3 2. On page 8, line 5, strike beginning with "in" through
- 4 "received" and insert "no later than thirty business days after
- 5 receipt of the request for refund".

Senator Preister filed the following amendment to LB 916:
AM3605

(Amendments to AM3571)

- 1 1. On page 12, line 19, strike "the" and insert ":(a)
- 2 The"; and in line 22 strike "and," and insert ":(b) animal feeding
- 3 operations or livestock waste control facilities which,"; and in
- 4 line 24 after "permit" insert ":(c) animal feeding operations
- 5 or livestock waste control facilities with animal capacity of less
- 6 than five thousand cattle, twelve thousand five hundred swine
- 7 weighing less than fifty-five pounds per head, ten thousand
- 8 chickens, or seven thousand five hundred ducks".

Senator Brashear filed the following amendment to LB 1207:
AM3614

(Amendments to E & R amendments, AM7215)

- 1 1. Insert the following new section:
- 2 "Sec. 7. (1) Any person who owns, maintains, or installs
- 3 anhydrous ammonia equipment, uses anhydrous ammonia for any lawful
- 4 purpose, sells anhydrous ammonia for any lawful purposes, or
- 5 transports anhydrous ammonia in a manner prescribed by law shall
- 6 not be liable to any person who tampers with, or assists in
- 7 tampering with, such anhydrous ammonia, or such anhydrous ammonia
- 8 equipment, for personal injury, wrongful death, or any other
- 9 economic or noneconomic damages arising out of such tampering,
- 10 unless such liability is a result of the willful, wanton, reckless,
- 11 or intentional acts or omissions of such person.
- 12 (2) For purposes of this section:
- 13 (a) Anhydrous ammonia equipment means any equipment used
- 14 in the application of anhydrous ammonia for agricultural purposes
- 15 that meets all applicable safety requirements established by state
- 16 and federal statutes and regulations or any container or storage
- 17 facility used to store anhydrous ammonia in a manner that meets all
- 18 applicable safety requirements established by state and federal
- 19 statutes and regulations; and
- 20 (b) Tampering with anhydrous ammonia means intentionally,
- 21 knowingly, and unlawfully gaining access or attempting to gain
- 22 access to anhydrous ammonia or anhydrous ammonia equipment.".
- 23 2. Renumber the remaining sections accordingly.

Senator Beutler filed the following amendment to LB 1065:
AM3609

(Amendments to E & R amendments, AM7228)

- 1 1. On page 5, lines 4 and 22, strike "2010" and insert
- 2 "2012"; and in lines 5 and 25 strike "2009" and insert "2011".
- 3 2. On page 20, line 11, strike "2010" and insert "2011".

UNANIMOUS CONSENT - Add Cointroducer

Senator Bromm asked unanimous consent to have his name added as cointroducer to LB 692. No objections. So ordered.

VISITORS

Visitors to the Chamber were Al Rodriguez from Omaha; 31 fourth-grade students, teachers, and parents from Lexington; and 36 fourth-grade students and teachers from Homer Community School.

ADJOURNMENT

At 8:17 p.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Thursday, April 8, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-SEVENTH DAY - APRIL 8, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FIFTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, April 8, 2004

PRAYER

The prayer was offered by Pastor Dana Bainbridge, First United Methodist Church, Omaha.

ROLL CALL

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

The roll was called and all members were present except Senator Bourne who was excused; and Senators Brown, Burling, Combs, Cunningham, Engel, Hartnett, Kremer, Landis, Loudon, Maxwell, Mossey, and Preister who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-sixth day was approved.

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

The following bill was correctly reengrossed: LB 479.

Correctly Engrossed

The following bill was correctly engrossed: LB 692.

ER9135

Enrollment and Review Change to LB 692

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

1. On page 1, the matter beginning with "energy" in line 1 through line 4

has been struck and "judgments against the state; to amend section 25-21,211, Reissue Revised Statutes of Nebraska; to change provisions relating to payment of judgments; and to repeal the original section." inserted.

(Signed) Ray Mossey, Chairperson

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of April 7, 2004, 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

Fischer, Gary L.
Family Housing Advisory Services, Inc.

REPORT

The following report was received by the Legislature:

**Criminal Justice, Commission on Law Enforcement and
Traffic Stop Report**

RESOLUTION

LEGISLATIVE RESOLUTION 397. Read. Considered.

LR 397 was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

MOTION - Approve Appointment

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment found on page 1522:

Health and Human Services System
Nancy Montanez, Director

Voting in the affirmative, 28:

- | | | | | |
|----------|------------|---------------|----------|----------|
| Aguilar | Combs | Hudkins | Price | Stuhr |
| Baker | Cudaback | Janssen | Quandahl | Stuthman |
| Brashear | Cunningham | Jensen | Raikes | Tyson |
| Bromm | Erdman | Jones | Redfield | Wehrbein |
| Brown | Friend | Maxwell | Schrock | |
| Byars | Hartnett | Pedersen, Dw. | Smith | |

Voting in the negative, 0.

Present and not voting, 14:

Beutler	Foley	Kruse	Pederson, D.	Thompson
Chambers	Johnson	McDonald	Schimek	Vrtiska
Connealy	Kremer	Mines	Synowiecki	

Excused and not voting, 7:

Bourne	Engel	Louden	Preister
Burling	Landis	Mossey	

The appointment was confirmed with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

BILL ON FINAL READING

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 983 with 34 ayes, 2 nays, 6 present and not voting, and 7 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 983.

A BILL FOR AN ACT relating to motor fuels; to amend sections 60-1307, 66-482 to 66-489.01, 66-496, 66-498, 66-499, 66-4,105, 66-4,106, 66-4,114, 66-4,116, 66-4,140, 66-4,141, 66-4,143 to 66-4,147, 66-4,149, 66-502, 66-525, 66-685 to 66-687, 66-698, 66-6,100, 66-6,106, 66-6,107, 66-6,109.01 to 66-6,111, 66-712, 66-713, 66-717, 66-718, 66-720, 66-722, 66-726, 66-727, 66-733 to 66-737, 66-1334, 66-1345, 66-1401, 66-1510, 66-1521, 77-2704.05, and 77-2734.03, Reissue Revised Statutes of Nebraska, and sections 39-2215, 60-1303, and 60-1306, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to motor fuels taxation; to impose taxes; to eliminate provisions relating to tax credit gasoline and the Diesel Fuel Tax Act; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 66-490 to 66-492, 66-494, 66-4,118 to 66-4,121, 66-4,124 to 66-4,132, 66-4,134, 66-4,142, and 66-650 to 66-683, Reissue Revised Statutes of Nebraska.

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

Voting in the affirmative, 40:

Aguilar	Connealy	Hudkins	Mossey	Schrock
Baker	Cudaback	Janssen	Pedersen, Dw.	Smith
Beutler	Cunningham	Johnson	Pederson, D.	Stuhr
Brashear	Engel	Kremer	Price	Stuthman
Bromm	Erdman	Kruse	Quandahl	Synowiecki
Brown	Foley	Maxwell	Raikes	Thompson
Byars	Friend	McDonald	Redfield	Vrtiska
Combs	Hartnett	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Present and not voting, 3:

Chambers Jones Tyson

Excused and not voting, 6:

Bourne Jensen Louden
Burling Landis Preister

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

GENERAL FILE

LEGISLATIVE BILL 32. The first Standing Committee amendment, FA1445, found on page 505, was renewed.

Pending.

LEGISLATIVE BILL 958. Title read. Considered.

The Standing Committee amendment, AM3226, found on page 1138, was considered.

Senator Chambers renewed his pending amendment, FA1613, found on page 1390, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 27:

Brashear	Engel	Kremer	Preister	Stuthman
Brown	Erdman	Kruse	Quandahl	Tyson
Burling	Foley	Landis	Redfield	Wehrbein
Combs	Friend	Maxwell	Schrock	
Connealy	Jensen	Mines	Smith	
Cunningham	Jones	Pedersen, Dw.	Stuhr	

Present and not voting, 16:

Aguilar	Byars	Johnson	Raikes
Baker	Cudaback	Louden	Schimek
Beutler	Hartnett	McDonald	Synowiecki
Bromm	Janssen	Pederson, D.	Vrtiska

Excused and not voting, 5:

Bourne	Hudkins	Mossey	Price	Thompson
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The Chambers amendment lost with 1 aye, 27 nays, 16 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA1614, found on page 1390, to the Standing Committee amendment.

Senator Brashear offered the following motion:
Recommit to the Judiciary Committee.

Senator Brashear withdrew his motion.

Senator Chambers moved for a call of the house. The motion prevailed with 16 ayes, 1 nay, and 32 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 3:

Chambers	Louden	Schimek
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Voting in the negative, 17:

Brashear	Cunningham	Kruse	Quandahl	Tyson
Bromm	Engel	Maxwell	Redfield	
Combs	Erdman	Mines	Smith	
Connealy	Foley	Pedersen, Dw.	Stuhr	

Present and not voting, 21:

Aguilar	Cudaback	Jones	Preister	Wehrbein
Baker	Friend	Kremer	Raikes	
Beutler	Janssen	Landis	Schrock	
Brown	Jensen	McDonald	Stuthman	
Burling	Johnson	Pederson, D.	Vrtiska	

Excused and not voting, 8:

Bourne	Hartnett	Mossey	Synowiecki
Byars	Hudkins	Price	Thompson

The Chambers amendment lost with 3 ayes, 17 nays, 21 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA1615, found on page 1390, to the Standing Committee amendment.

SENATOR JANSSEN PRESIDING

SENATOR CUDABACK PRESIDING

Pending.

MOTION - Adjourn Sine Die

Senator Friend moved to adjourn sine die.

SPEAKER BROMM PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Senator Landis requested a roll call vote on the Friend motion to adjourn sine die.

Voting in the affirmative, 3:

Friend	Stuthman	Tyson
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Voting in the negative, 38:

Aguilar	Combs	Jensen	Mines	Schrock
Baker	Connealy	Johnson	Pedersen, Dw.	Smith
Beutler	Cudaback	Jones	Pederson, D.	Stuhr
Brashear	Cunningham	Kremer	Price	Thompson
Bromm	Engel	Kruse	Quandahl	Vrtiska
Brown	Erdman	Landis	Raikes	Wehrbein
Burling	Foley	Louden	Redfield	
Byars	Janssen	McDonald	Schimek	

Present and not voting, 2:

Chambers Maxwell

Excused and not voting, 6:

Bourne	Hudkins	Preister
Hartnett	Mossey	Synowiecki

The Friend motion to adjourn sine die failed with 3 ayes, 38 nays, 2 present and not voting, and 6 excused and not voting.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 300, 301, 328, 329, 392, and 393 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 300, 301, 328, 329, 392, 393, and 397.

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LB 983.

AMENDMENTS - Print in Journal

Senator Synowiecki filed the following amendment to LR 11CA: AM3632

(Amendments to Second Final Reading copy)

- 1 1. On page 3, line 8, after the first period insert the
- 2 following new subsection:
- 3 "(6) The Legislature may authorize slot machines within a
- 4 licensed racetrack enclosure if live thoroughbred horseracing has
- 5 been conducted at such enclosure during each of the four years
- 6 immediately preceding such authorization."; in line 12 strike "and"
- 7 and insert a comma; and in line 16 after "gaming" insert ", and to
- 8 authorize slot machines at licensed racetrack enclosures".

Senator Baker filed the following amendment to LB 1065:

AM3615

(Amendments to E & R amendments, AM7228)

- 1 1. Strike sections 1 to 3, 6 to 11, and 18 to 21 and
2 insert the following new sections:
- 3 "Section 1. Section 66-489, Reissue Revised Statutes of
4 Nebraska, as amended by section 12, Legislative Bill 983,
5 Ninety-eighth Legislature, Second Session, 2004, is amended to
6 read:
- 7 66-489. (1) At the time of filing the return required by
8 section 66-488, such producer, supplier, distributor, wholesaler,
9 or importer shall, in addition to the tax imposed pursuant to
10 sections 66-4,140, 66-4,145, and 66-4,146 and in addition to the
11 other taxes provided for by law, pay a tax of ten and one-half
12 cents per gallon upon all motor fuels as shown by such return,
13 except that there shall be no tax on the motor fuels reported if
14 (a) the required taxes on the motor fuels have been paid, (b) the
15 motor fuels have been sold to a licensed exporter exclusively for
16 resale or use in another state, (c) the motor fuels have been sold
17 from a Nebraska barge line terminal, pipeline terminal, refinery,
18 or ethanol or biodiesel facility, including motor fuels stored
19 offsite in bulk, by a licensed producer or supplier to a licensed
20 distributor, (d) the motor fuels have been sold by a licensed
21 distributor or licensed importer to a licensed distributor or to a
22 licensed wholesaler and the seller acquired ownership of the motor
23 fuels directly from a licensed producer or supplier at or from a
1 refinery, barge, barge line, pipeline terminal, or ethanol or
2 biodiesel facility, including motor fuels stored offsite in bulk,
3 in this state or was the first importer of such fuel into this
4 state, or (e) as otherwise provided in this section. Such
5 producer, supplier, distributor, wholesaler, or importer shall
6 remit such tax to the department.
- 7 (2) As part of filing the return required by section
8 66-488, each producer of ethanol shall, in addition to other taxes
9 imposed by the motor fuel laws, pay an excise tax of one and
10 one-quarter cents per gallon through December 31, 2004, and
11 commencing January 1, 2010, and two and one-half cents per gallon
12 commencing January 1, 2005, through December 31, 2009, on natural
13 gasoline purchased for use as a denaturant by the producer at an
14 ethanol facility. All taxes, interest, and penalties collected
15 under this subsection shall be remitted to the State Treasurer for
16 credit to the Agricultural Alcohol Fuel Tax Fund, except that
17 commencing January 1, 2005, through December 31, 2009, one and
18 one-quarter cents per gallon of such excise tax shall be credited
19 to the Ethanol Production Incentive Cash Fund.
- 20 (3)(a) Motor fuels, methanol, and all blending agents or
21 fuel expanders shall be exempt from the taxes imposed by this
22 section and sections 66-4,105, 66-4,140, 66-4,145, and 66-4,146,
23 when the fuels are used for buses equipped to carry more than seven
24 persons for hire and engaged entirely in the transportation of

25 passengers for hire within municipalities or within a radius of six
26 miles thereof.

27 (b) The owner or agent of any bus equipped to carry more
1 than seven persons for hire and engaged entirely in the
2 transportation of passengers for hire within municipalities, or
3 within a radius of six miles thereof, in lieu of the excise tax
4 provided for in this section, shall pay an equalization fee of a
5 sum equal to twice the amount of the registration fee applicable to
6 such vehicle under the laws of this state. Such equalization fee
7 shall be paid in the same manner as the registration fee and be
8 disbursed and allocated as registration fees.

9 (c) Nothing in this section shall be construed as
10 permitting motor fuels to be sold tax exempt. The department shall
11 refund tax paid on motor fuels used in buses deemed exempt by this
12 section.

13 (4) Natural gasoline purchased for use as a denaturant by
14 a producer at an ethanol facility as defined in section 66-1333
15 shall be exempt from the motor fuels tax imposed by subsection (1)
16 of this section as well as the tax imposed pursuant to sections
17 66-4,140, 66-4,145, and 66-4,146.

18 (5) Motor fuels purchased on a Nebraska Indian
19 reservation where the purchaser is a Native American who resides on
20 the reservation shall be exempt from the motor fuels tax imposed by
21 this section as well as the tax imposed pursuant to sections
22 66-4,140, 66-4,145, and 66-4,146.

23 (6) Motor fuels purchased for use by the United States
24 Government or its agencies shall be exempt from the motor fuels tax
25 imposed by this section as well as the tax imposed pursuant to
26 sections 66-4,140, 66-4,145, and 66-4,146.

27 (7) In the case of diesel fuel, there shall be no tax on
1 the motor fuels reported if (a) the diesel fuel has been indelibly
2 dyed and chemically marked in accordance with regulations issued by
3 the Secretary of the Treasury of the United States under 26 U.S.C.
4 4082 or (b) the diesel fuel contains a concentration of sulphur in
5 excess of five-hundredths percent by weight or fails to meet a
6 cetane index minimum of forty and has been indelibly dyed in
7 accordance with regulations promulgated by the Administrator of the
8 Environmental Protection Agency pursuant to 42 U.S.C. 7545.

9 Sec. 4. Section 66-726, Reissue Revised Statutes of
10 Nebraska, as amended by section 51, Legislative Bill 983,
11 Ninety-eighth Legislature, Second Session, 2004, is amended to
12 read:

13 66-726. (1) The department may adjust all errors in
14 payment, refund tax paid on motor fuel destroyed, refund tax
15 overpaid on motor fuel, and refund an amount equal to the
16 per-gallon tax imposed by this state on sales of motor fuel on
17 which tax was paid in this state but which was sold in a state
18 other than Nebraska.

19 (2)(a) Motor fuels shall be exempt from the taxes imposed

20 by sections 66-489, 66-4,105, 66-4,140, 66-4,145, and 66-4,146 when
21 the fuels are used for agricultural, quarrying, industrial, or
22 other nonhighway use.

23 (b) The department shall refund tax paid on motor fuels
24 used for an exempt purpose. The purchaser of tax-paid motor fuels
25 used for an exempt purpose shall file a claim for refund with the
26 department on forms prescribed by the department and shall provide
27 such documentation and maintain such records as the department
1 reasonably requires to substantiate that the fuels were used for
2 exempt purposes.

3 (c) The refund claim shall include: (i) The name of
4 claimant; (ii) the make, horsepower, and other mechanical
5 description of machinery in which the motor fuels were used; (iii)
6 a statement as to the source or place of business where such motor
7 fuels, used solely for agricultural, quarrying, industrial, or
8 other nonhighway uses, were acquired; that no part of such motor
9 fuels were used in propelling licensed motor vehicles; and that the
10 motor fuels for which refund of the tax thereon is claimed were
11 used solely for agricultural, quarrying, industrial, or other
12 nonhighway uses; and (iv) any other information deemed necessary by
13 the department.

14 (d) The department shall deduct (i) from each claim for
15 refund of tax paid on purchases of motor vehicle fuels under this
16 subsection two and one-quarter cents per gallon through December
17 31, 2004, and commencing January 1, 2010, and three and one-half
18 cents per gallon commencing January 1, 2005, through December 31,
19 2009, of the tax paid and (ii) from each claim for refund of tax
20 paid on purchases of diesel fuel under this subsection one cent per
21 gallon of the tax paid.

22 (e) The department shall transmit monthly to the State
23 Treasurer a report of the number of gallons of motor vehicle fuel
24 for which refunds have been approved under this subsection.
25 Through December 31, 2004, and commencing January 1, 2010, and the
26 State Treasurer shall thereupon transfer from the Highway Trust
27 Fund to the Agricultural Alcohol Fuel Tax Fund one and one-quarter
1 cents per gallon approved for refund, and commencing January 1,
2 2005, through December 31, 2009, the State Treasurer shall
3 thereupon transfer from the Highway Trust Fund (a) to the Ethanol
4 Production Incentive Cash Fund one and one-quarter cents per gallon
5 approved for refund and (b) to the Agricultural Alcohol Fuel Tax
6 Fund one and one-quarter cents per gallon approved for refund.

7 (3) No refund shall be allowed unless a claim is filed
8 setting forth the circumstances by reason of which refund should be
9 allowed. Such claim shall be filed with the department within
10 three years from the date of the payment of the tax.

11 (4) In each calendar year, no claim for refund related to
12 motor vehicle fuel, diesel fuel, aircraft fuel, or compressed fuel
13 can be for an amount less than twenty-five dollars.

14 (5) The department shall administer and enforce this

15 section. The department may call to its aid when necessary any
 16 member of the Nebraska State Patrol, any police officer, any county
 17 attorney, or the Attorney General. The employees of the department
 18 are empowered to stop and inspect motor vehicles, to inspect
 19 premises, and temporarily to impound motor vehicles or motor fuels
 20 when necessary to administer this section.

21 (6) The department may adopt and promulgate such rules
 22 and regulations as are necessary for the prompt and effective
 23 enforcement of this section.

24 (7) Any claimant for refund of motor fuels tax under this
 25 section who is unable to produce the original copy of any invoice
 26 to substantiate the refund for the reason that the same has been
 27 lost, mutilated, or destroyed may make proof of his or her claim by
 1 affidavit and such other evidence as may be required by the
 2 department, and if such claim is verified by investigation, such
 3 claim may be allowed.

4 (8) The changes made to this section by this legislative
 5 bill apply to motor fuels purchased during any tax year ending or
 6 deemed to end on or after January 1, 2005, under the Internal
 7 Revenue Code.

8 Sec. 11. Sections 1, 4, and 12 of the act become
 9 operative on January 1, 2005. The other sections of this act
 10 become operative on their effective date.

11 Sec. 12. Original sections 66-489 and 66-726, Reissue
 12 Revised Statutes of Nebraska, as amended by sections 12 and 51,
 13 respectively, Legislative Bill 983, Ninety-eighth Legislature,
 14 2004, are repealed.

15 Sec. 13. Original sections 66-4,124, 66-4,134, 66-1344,
 16 66-1344.01, 66-1345, 66-1345.01, 66-1519, and 77-4103, Reissue
 17 Revised Statutes of Nebraska, are repealed."

18 2. On page 15, lines 2 and 3, strike "effective date of
 19 this act" and insert "operative date of this section".

20 3. On page 16, strike lines 5 and 6; and in line 27

21 strike "66-4,134" and insert "66-489, 66-4,134, 66-726".

22 4. On page 19, line 7, strike "eight", show as stricken,
 23 and insert "ten".

24 5. Renumber the remaining sections accordingly.

Senators Landis, Bromm, Combs, Connealy, Friend, Hartnett, Janssen,
 Mines, Raikes, and Schimek filed the following amendment to LB 650:
 AM3531

1 1. Strike the original sections and all amendments

2 thereto and insert the following new sections:

3 "Section 1. Section 13-2802, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 13-2802. Whenever creation of a municipal county is
 6 proposed involving a city of the metropolitan class, the
 7 interjurisdictional planning commission shall include in its plan a
 8 recommendation with regard to the territory within which any

9 metropolitan utilities district shall have and may exercise the
10 power of eminent domain pursuant to subsection (2) of section
11 14-2116. The plan shall further include a recommendation with
12 regard to the territory which shall be deemed to be within the
13 corporate boundary limits or extraterritorial zoning jurisdiction
14 of a municipality or a municipality dissolved by the creation of
15 the municipal county for purposes of ~~sections 57-1301 to 57-1307~~
16 the State Natural Gas Regulation Act. The question of creation of
17 the municipal county shall not be submitted to a vote under section
18 13-2810 until a law adopting the provisions required by this
19 section has been enacted.

20 Sec. 2. Section 66-1801, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 66-1801. Sections 66-1801 to 66-1857 and sections 5 to
23 12 of this act shall be known and may be cited as the State Natural
24 Gas Regulation Act.

1 Sec. 3. Section 66-1804, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 66-1804. (1) The commission shall have full power,
4 authority, and jurisdiction to regulate natural gas public
5 utilities and may do all things necessary and convenient for the
6 exercise of such power, authority, and jurisdiction. Except as
7 provided in the Nebraska Natural Gas Pipeline Safety Act of 1969,
8 and notwithstanding any other provision of law, such power,
9 authority, and jurisdiction shall extend to, but not be limited to,
10 all matters encompassed within the State Natural Gas Regulation
11 Act, ~~and sections 57-1301 to 57-1307~~.

12 (2) The State Natural Gas Regulation Act and all grants
13 of power, authority, and jurisdiction in the act made to the
14 commission shall be liberally construed, and all incidental powers
15 necessary to carry into effect the provisions of the act are
16 expressly granted to and conferred upon the commission.

17 Sec. 4. Section 66-1852, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 66-1852. (1) Except as provided in sections 5 to 12 of
20 this act, ~~57-1301 to 57-1307 as those statutes govern~~
21 ~~jurisdictional utilities and metropolitan utilities districts~~, no
22 person, public or private, shall extend duplicative or redundant
23 natural gas mains or other natural gas services into any area which
24 has existing natural gas utility infrastructure or where a contract
25 has been entered into for the placement of natural gas utility
26 infrastructure.

27 (2) This section shall not apply in any area in which two
1 or more jurisdictional utilities share authority to provide natural
2 gas within the same territory under franchises issued by the same
3 city.

4 Sec. 5. (1) Except as provided in subsection (2) of this
5 section, the initial boundaries of the exclusive service areas of
6 jurisdictional utilities, cities, and metropolitan utilities

7 districts shall extend to any location at which any jurisdictional
8 utility, city, and metropolitan utilities district was providing
9 natural gas service to customers on March 15, 2004.

10 (2) Where two or more jurisdictional utilities are
11 providing natural gas service to customers within the same area
12 pursuant to franchise agreements with the same city, such
13 jurisdictional utilities shall possess and may exercise equal
14 authority in the exclusive service area of such city and its
15 extraterritorial jurisdiction.

16 Sec. 6. Except as provided in sections 8 and 9 of this
17 act, the formal boundaries of the exclusive service areas of
18 jurisdictional utilities, cities, or metropolitan utilities
19 districts shall be established by the commission upon the following
20 basis:

21 (1) Except as provided in subdivision (4) of this
22 section, for any city owning, maintaining, and operating a natural
23 gas distribution system, the exclusive service area for the city
24 shall be its initial service area boundaries and all the territory
25 within the corporate boundaries of the city and its
26 extraterritorial zoning jurisdiction as established by its
27 governing body pursuant to state law as such extraterritorial
1 zoning jurisdiction existed on March 15, 2004, and as such
2 jurisdiction may be extended on such basis from time to time, when
3 the city formally expresses its intention to provide natural gas
4 service and evidences such intent;

5 (2) Except as provided in subdivision (4) of this
6 section, for any metropolitan utilities district, the exclusive
7 service area for the district shall be all the territory within the
8 initial service area boundaries of the district and all the
9 territory where the district provides natural gas service within
10 the entire corporate boundaries of any city and shall extend to the
11 extraterritorial zoning jurisdiction of any such city as
12 established by its governing body pursuant to state law as such
13 extraterritorial zoning jurisdiction existed on March 15, 2004, and
14 as such jurisdiction may be extended on such basis from time to
15 time;

16 (3) Except as provided in subdivision (4) of this
17 section, for any jurisdictional utility, the exclusive service area
18 for the utility shall be the initial service area boundaries of the
19 area within which the utility provided natural gas service on March
20 15, 2004, and any area into which it has extended such service
21 subsequent to such date as authorized or recognized by the
22 commission; and

23 (4) For any jurisdictional utility, metropolitan
24 utilities district, or city providing natural gas service to an
25 entire city under a franchise agreement with that city, the
26 exclusive service area for such jurisdictional utility,
27 metropolitan utilities district, or city shall extend to the
1 corporate boundaries of the city and to its extraterritorial

2 jurisdiction as established by its governing body pursuant to state
3 law as such extraterritorial jurisdiction existed on March 15,
4 2004, and as such extraterritorial jurisdiction may be extended on
5 such basis from time to time.

6 Sec. 7. (1) Within ninety days following the effective
7 date of this section, each jurisdictional utility, city, and
8 metropolitan utilities district shall file with the commission a
9 detailed map or maps of its exclusive service area as it exists on
10 March 15, 2004, drawn to a scale of not less than one inch per mile
11 or drawn to a larger scale, if required for clarity, showing the
12 location of its natural gas pipelines and related facilities as of
13 March 15, 2004. The commission may require that such maps be
14 updated as often as the commission deems reasonably necessary to
15 carry out its responsibilities under the State Natural Gas
16 Regulation Act.

17 (2) The commission shall prepare or cause to be prepared
18 a composite map of this state showing the exclusive service areas
19 of jurisdictional utilities, cities, and metropolitan utilities
20 districts as submitted by such entities pursuant to this section.

21 (3) The form and detail of all maps shall be determined
22 by the commission.

23 Sec. 8. (1) The initial exclusive service area
24 boundaries for each jurisdictional utility, city, or metropolitan
25 utilities district shall be shown by the maps filed in accordance
26 with section 7 of this act. After notice and hearing provided to
27 the affected jurisdictional utilities, cities, or metropolitan
1 utilities districts, the commission by order shall thereafter
2 modify those boundaries as set forth in the State Natural Gas
3 Regulation Act.

4 (2) When an exclusive service area is modified by the
5 commission to transfer areas including then existing customers then
6 served by the facilities of another jurisdictional utility, city,
7 or metropolitan utilities district, unless a voluntary exchange of
8 facilities is agreed upon by the parties involved and approved by
9 the commission, the commission shall require the transfer of the
10 facilities presently serving these customers, subject to the
11 Municipal Natural Gas System Condemnation Act and any other
12 relevant state statute governing condemnation.

13 (3) Contracts between jurisdictional utilities, cities,
14 metropolitan utilities districts, or any combination of them, to
15 designate exclusive service areas and customers to be served by any
16 of those entities or for the exchange of customers between these
17 entities, when approved by the commission, shall be valid and
18 enforceable and shall be incorporated into the appropriate
19 exclusive service areas established pursuant to subsection (1) of
20 this section. The commission shall approve a contract if it finds
21 that the contract will eliminate or avoid unnecessary duplication
22 of facilities, will provide adequate natural gas service to all
23 areas and customers affected, will promote the efficient and

24 economical use and development of the natural gas systems of the
25 contracting natural gas utilities, and is in the public interest.

26 (4) Except in accordance with the provisions of a
27 customer choice program or other unbundling program approved by the
1 commission or as otherwise permitted in the State Natural Gas
2 Regulation Act, a jurisdictional utility, city, or metropolitan
3 utilities district shall not serve or offer to serve natural gas
4 customers in an exclusive service area assigned to another natural
5 gas utility and a jurisdictional utility, city, or metropolitan
6 utilities district shall not construct facilities to serve natural
7 gas customers in an exclusive service area assigned to another such
8 jurisdictional utility, city, or metropolitan utilities district.
9 The state, a jurisdictional utility, or any other person who is
10 injured or threatened with injury by conduct prohibited by this
11 section may initiate a contested case proceeding with the
12 commission. Upon finding a violation of this section, the
13 commission shall order appropriate corrective action, including
14 discontinuance of the unlawful service to natural gas customers,
15 removal of the unlawful facilities, and any combination of such
16 remedies, or any other disposition the commission deems just and
17 reasonable.

18 Sec. 9. Following the establishment of exclusive service
19 areas pursuant to section 7 of this act, a jurisdictional utility,
20 city, or metropolitan utilities district shall not construct or
21 extend facilities into any area not presently within the exclusive
22 service area of a jurisdictional utility, city, or metropolitan
23 utilities district, or furnish natural gas service to a prospective
24 customer not then being served by a jurisdictional utility, city,
25 or metropolitan utilities district, except upon application to the
26 commission for a modification of its existing exclusive service
27 area. The commission shall, following a hearing on the matter,
1 determine whether it is in the public interest for the applying
2 jurisdictional utility, city, or metropolitan utilities district or
3 another such utility, city, or district to serve the area and in
4 doing so, the commission shall be guided by a balance of the
5 following factors:

6 (1) The expressed preferences of residents or landowners
7 in the area regarding their choice for a natural gas service
8 provider;

9 (2) The proximity of then existing natural gas mains to
10 the area, including the length of time such lines have been in
11 existence;

12 (3) The orderly development of natural gas utility
13 infrastructure as a whole;

14 (4) The impact of granting the application on then
15 existing and future ratepayers of jurisdictional utilities,
16 metropolitan utilities districts, or cities owning, maintaining,
17 and operating natural gas distribution systems;

18 (5) The economic feasibility of the utility providing

19 service to projected customers within the area;
20 (6) The elimination or prevention of duplicative or
21 redundant natural gas mains and facilities supplying the area;
22 (7) The willingness and good faith intent of the
23 jurisdictional utility, metropolitan utilities district, or city
24 owning, maintaining, and operating a natural gas distribution
25 system to provide adequate and dependable service in the area to be
26 assigned; and

27 (8) Whether the customers in the area have the right to
1 vote for the natural gas rate and service quality regulator for the
2 area.

3 Sec. 10. A jurisdictional utility, city, or metropolitan
4 utilities district shall furnish retail service, upon application,
5 to any person within its exclusive service area if it is
6 economically feasible to service and supply the person. The
7 natural gas service shall be furnished by the jurisdictional
8 utility, city, or metropolitan utilities district within a
9 reasonable time after application is made.

10 Sec. 11. Whenever any city is furnished natural gas
11 pursuant to a franchise agreement with a jurisdictional utility, no
12 metropolitan utilities district or other city proposing to provide
13 natural gas service pursuant to a franchise agreement shall solicit
14 such city to enter into a franchise agreement or promote
15 discontinuance of natural gas service with the jurisdictional
16 utility, unless a specific invitation to submit a proposal on such
17 franchise has been formally presented to the board of directors of
18 the metropolitan utilities district or the governing body of the
19 city proposing to provide natural gas service pursuant to a
20 franchise agreement. For purposes of this section, a specific
21 invitation to submit a proposal shall mean a resolution adopted by
22 the governing body of a city. Whenever a specific invitation to
23 submit a proposal is received by the board of directors of a
24 metropolitan utilities district or the governing body of a city
25 proposing to provide natural gas service pursuant to a franchise
26 agreement, the invitation shall be considered by the board or the
27 governing body of the city in open public session at its next
1 regularly scheduled meeting.

2 Sec. 12. All books, records, vouchers, papers,
3 contracts, engineering designs, and any other data of a
4 metropolitan utilities district relating to the public interest of
5 an extension or enlargement of natural gas mains or natural gas
6 services, whether in written or electronic form, shall be open and
7 made available for public inspection, investigation, comment, or
8 protest upon reasonable request during business hours, except that
9 such books, records, vouchers, papers, contracts, designs, and
10 other data shall be subject to section 84-712.05.

11 Sec. 13. Section 75-109.01, Reissue Revised Statutes of
12 Nebraska, is amended to read:
13 75-109.01. Except as otherwise specifically provided by

14 law, the Public Service Commission shall have jurisdiction, as
15 prescribed, over the following subjects:

16 (1) Common carriers, generally, pursuant to sections
17 75-101 to 75-158;

18 (2) Grain pursuant to the Grain Dealer Act and the Grain
19 Warehouse Act and sections 89-1,104 to 89-1,108;

20 (3) Manufactured homes and recreational vehicles pursuant
21 to the Uniform Standard Code for Manufactured Homes and
22 Recreational Vehicles;

23 (4) Modular housing units pursuant to the Nebraska
24 Uniform Standards for Modular Housing Units Act;

25 (5) Motor carrier registration and safety pursuant to
26 sections 75-301 to 75-322, 75-369.03, 75-370, 75-371, 75-383, and
27 75-384;

1 (6) Pipeline carriers and rights-of-way pursuant to the
2 State Natural Gas Regulation Act and sections ~~57-1301 to 57-1307~~
3 ~~and~~ 75-501 to 75-503;

4 (7) Railroad carrier safety pursuant to sections 74-918,
5 74-919, 74-1323, and 75-401 to 75-430;

6 (8) Telecommunications carriers pursuant to the Automatic
7 Dialing-Announcing Devices Act, the Emergency Telephone
8 Communications Systems Act, the Enhanced Wireless 911 Services Act,
9 the Intrastate Pay-Per-Call Regulation Act, the Nebraska
10 Telecommunications Regulation Act, the Nebraska Telecommunications
11 Universal Service Fund Act, the Telecommunications Relay System
12 Act, the Telephone Consumer Slamming Prevention Act, and sections
13 86-574 to 86-580;

14 (9) Transmission lines and rights-of-way pursuant to
15 sections 70-301 and 75-702 to 75-724;

16 (10) Water service pursuant to the Water Service
17 Regulation Act; and

18 (11) Jurisdictional utilities governed by the State
19 Natural Gas Regulation Act. If the provisions of Chapter 75 are
20 inconsistent with the provisions of the State Natural Gas
21 Regulation Act, the provisions of the State Natural Gas Regulation
22 Act control.

23 Sec. 14. Original sections, 13-2802, 66-1801, 66-1804,
24 66-1852, and 75-109.01, Reissue Revised Statutes of Nebraska, are
25 repealed.

26 Sec. 15. The following sections are outright repealed:

27 Sections 57-1301 to 57-1307, Revised Statutes Supplement, 2002.".

Senator Erdman filed the following amendment to LB 391:
AM3631

(Amendments to E & R amendments, AM7227)

1 1. On page 1, line 8, after "minor" insert "fifteen
2 years of age or older".

Senator Erdman filed the following amendment to LB 391:

AM3634

(Amendments to E & R amendments, AM7227)

- 1 1. Insert the following new sections:
2 "Section 1. Sections 1 to 7 of this act provide a
3 procedure for judicial emancipation of minors.
4 Sec. 2. A minor who is at least fifteen years of age,
5 married, or living apart from his or her parents or legal guardian,
6 and who is a legal resident of the county, may petition the
7 district court of that county for a decree of emancipation.
8 Sec. 3. (1) A petition for emancipation shall state:
9 (a) The name, age, and address of the minor;
10 (b) The names and addresses of the parents of the minor;
11 (c) The name and address of any legal guardian of the
12 minor;
13 (d) If no parent or guardian can be found, the name and
14 address of the child's nearest known relative residing within this
15 state;
16 (e) That the minor is seeking a decree of emancipation;
17 and
18 (f) That the minor willingly lives apart from his or her
19 parents or legal guardian with the consent or acquiescence of the
20 parents or legal guardian.
21 (2) If any of the facts required by this section are not
22 known, the petition shall so state.
23 Sec. 4. A notice of filing, together with a copy of the
1 petition for emancipation, shall be served upon:
2 (1) The parents or legal guardian of the minor or, if the
3 parents or legal guardian cannot be found, the nearest known
4 relative of the minor residing within the state, if any;
5 (2) The legal custodian of the minor, if any;
6 (3) The appropriate probation officer for his or her
7 review and recommendation, if the minor is a ward of the court; and
8 (4) The county attorney of the county in which the matter
9 is to be heard.
10 Sec. 5. In making its determination regarding the
11 petition for emancipation, the court shall consider whether the
12 parents or legal guardian of the minor have consented to
13 emancipation; whether the minor is substantially able to support
14 himself or herself without financial assistance; whether the minor
15 is sufficiently mature and knowledgeable to manage his or her
16 affairs without the guidance of parents or legal guardian; and
17 whether emancipation is in the best interest of the minor. The
18 court shall advise the petitioner of the consequences of
19 emancipation.
20 Sec. 6. (1) If the court determines that the petition
21 for emancipation should be granted, it shall enter a decree of
22 emancipation. Such a decree emancipates the minor for all purposes
23 and removes the disability of minority insofar as that disability
24 may affect the incurring of indebtedness or contractual obligations

25 of any kind; the acquiring, encumbering, and conveying of property
 26 or any interest therein; the litigation and settlement of
 27 controversies; the consenting to medical, dental, or psychiatric
 1 care without parental consent, knowledge, or liability; the
 2 enrolling in any school or college; and the establishment of his or
 3 her own residence. For these purposes, the minor shall be
 4 considered in law as an adult and any obligation he or she incurs
 5 is enforceable by and against such minor without regard to his or
 6 her minority.
 7 (2) Unless otherwise provided by the decree, the
 8 obligation of support otherwise owed a minor by his or her parent
 9 or legal guardian is terminated by the entry of the decree.
 10 Sec. 7. A decree of emancipation does not affect the
 11 status of the minor for purposes of any provision of law which:
 12 (1) Prohibits the sale, purchase, or consumption of
 13 intoxicating liquor to or by a person under twenty-one years of
 14 age;
 15 (2) Prohibits gaming or employment in gaming by or of a
 16 person under twenty-one years of age;
 17 (3) Restricts the ability to marry a person under the age
 18 of seventeen years of age; or
 19 (4) Governs matters relating to juveniles."
 20 2. Renumber the remaining sections accordingly.

RESOLUTIONS

LEGISLATIVE RESOLUTION 400. Introduced by Baker, 44.

WHEREAS, the Legislature is charged with promoting fair competition in all Nebraska telecommunications markets in a manner consistent with the federal act; and

WHEREAS, the Legislature is charged with maintaining and advancing the efficiency and availability of telecommunications services; and

WHEREAS, the Legislature has previously debated and structured the role of public utilities in delivery of telecommunications through the enactment of LB 827 in 2001; and

WHEREAS, the Legislature is charged with ensuring that consumers pay only reasonable charges for telecommunications services; and

WHEREAS, the Legislature intends to preserve and promote the best interests of the telecommunications consumer; and

WHEREAS, the Legislature enacted LB 827 in 2001, which prohibited state agencies and political subdivisions from competing with private sector companies in the provision of telecommunication services but did allow for the use of such entities' dark fiber; and

WHEREAS, the Nebraska Supreme Court found in *In re Application of Lincoln Electric System v. Nebraska Public Service Commission*, 265 Neb. 70 (2003), subdivision (1)(b) of section 86-128 and subsection (2) of section 86-575, originally contained in LB 827, to be unconstitutional; and

WHEREAS, the United States Supreme Court recently issued an opinion

in *Nixon v. Missouri Municipal League*, 541 U.S. . . (2004) in which the court held that "any entity" as stated in 42 U.S.C. section 253(a) of the Telecommunications Act of 1996 does not include state political subdivisions, thereby upholding the authority of states to restrict delivery of telecommunications services by political subdivisions; and

WHEREAS, the Transportation and Telecommunications Committee of the Legislature held a public hearing on AM 3471 to LB 20 on April 6, 2004, in response to *Nixon v. Missouri Municipal League*; and

WHEREAS, the Transportation and Telecommunications Committee desires to address reenactment of those provisions of LB 827 found unconstitutional by the Nebraska Supreme Court, but was unable to do so before the Ninety-eighth Legislature, Second Session, adjourned Sine Die; and

WHEREAS, the Legislature will address the issue during the next Legislative session which convenes January 5, 2005; and

WHEREAS, the Legislature intends that the Public Service Commission preserve and promote universal service in all telecommunications markets.

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

1. That the Legislature intends to address the decision in *Nixon v. Missouri Municipal League* during the Ninety-ninth Legislature, First Session, which convenes January 5, 2005.

2. That the Legislature intends to reenact the provisions of LB 827 that were declared unconstitutional by the Nebraska Supreme Court in *In re Application of Lincoln Electric System v. Nebraska Public Service Commission*, 265 Neb. 70 (2003), specifically subdivision (1)(b) of section 86-128 and subsection (2) of section 86-575.

3. That the Legislature desires to convey these policy statements to the Public Service Commission.

Laid over.

LEGISLATIVE RESOLUTION 401. Introduced by Erdman, 47; Smith, 48.

WHEREAS, Leroy Cundall coached high school and college football for fourteen years; and

WHEREAS, Mr. Cundall served as superintendent of Lodgepole Public Schools for three years and superintendent of Bayard Public Schools for twenty-four years; and

WHEREAS, Mr. Cundall has received many awards and recognition including the Distinguished Service Award from the Nebraska School Activities Association, the Outstanding Service Award from the Nebraska Association of Activity Directors, and was inducted into the Chadron State College Athletic Hall of Fame; and

WHEREAS, Mr. Cundall has served on statewide educational committees, fifteen years on the Nebraska School Activities Association Board of Control, numerous other boards, and participated in various civic

organizations in Bayard, Nebraska, where he is presently a member of the city council; and

WHEREAS, Mr. Cundall has served as a great leader and role model for the students, faculty, and staff during his many years of service to both his schools and his community; and

WHEREAS, Mr. Cundall will be retiring this year.

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

1. That the Legislature recognizes and congratulates Leroy Cundall for his many years of service to the schools and communities of Nebraska.

2. That a copy of this resolution be sent to Leroy Cundall.

Laid over.

LEGISLATIVE RESOLUTION 402. Introduced by Erdman, 47; Smith, 48.

WHEREAS, Bill Pile taught and coached six years at Sioux County High School where his wrestling team won the 1975 State Wrestling Championship and he was selected Class D wrestling coach of the year. His team holds the Class D record for consecutive duel wins having won thirty-three in a row and the record for consecutive regular season tournament championships of twenty-four wins; and

WHEREAS, Mr. Pile served as principal at Mullen High School for sixteen years during which time he was also athletic director, head coach for wrestling, girl's basketball, and golf as well as teaching an evening accounting class for Mid-Plains College. Also, while at Mullen, Mr. Pile was inducted into the Chadron State College Hall of Fame and served two-year terms in the positions of Loup Valley Conference Secretary and Loup Valley Conference President; and

WHEREAS, Mr. Pile held the position of superintendent for Leyton Public Schools and later shared superintendent for Leyton and Potter-Dix Public Schools; and

WHEREAS, Mr. Pile has received numerous awards and recognition including membership on an advisory committee to the State Department of Education for the development of the state report card, induction into the Nebraska Wrestling Coaches Hall of Fame, recipient of the Distinguished Service Award from the Nebraska School Activities Association, and appointment by Governor Johanns to the board of the Coordinating Commission for Postsecondary Education; and

WHEREAS, Mr. Pile will be retiring this year; and

WHEREAS, Mr. Pile, throughout his professional coaching, teaching and administrative career, has touched the lives of numerous athletes, students, faculty, and staff by providing a challenging and positive learning environment as well as exemplary leadership.

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

1. That the Legislature recognizes and congratulates Bill Pile for his many years of service to the schools and communities of Nebraska.
2. That a copy of this resolution be sent to Bill Pile.

Laid over.

EXPLANATION OF VOTE

Had I been present, I would have voted "aye" on final passage of LB 1089.

(Signed) Mick Mines

VISITORS

Visitors to the Chamber were John and James Rundel from Trenton; Coby Block from Gothenburg; 24 fourth-grade students and teacher from Plattsmouth; Senator Mines' daughter, Laini Mines, from Blair; 30 advanced nursing students from Creighton University; 5 kindergarten through eighth-grade home school students from Fairbury; 50 fourth-grade students and teachers from Sandoz Elementary School, Omaha; and 8 kindergarten through fourth-grade students and teachers from Garfield School, Butler County.

MOTION - Adjournment

Senator Landis moved to adjourn. The motion prevailed with 19 ayes, 15 nays, 9 present and not voting, and 6 excused and not voting, and at 1:44 p.m., the Legislature adjourned until 9:00 a.m., Tuesday, April 13, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-EIGHTH DAY - APRIL 13, 2004

LEGISLATIVE JOURNAL

**NINETY-EIGHTH LEGISLATURE
SECOND SESSION**

FIFTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 13, 2004

PRAYER

The prayer was offered by Pastor Steve Holben, Fremont Community of Christ Church, Fremont.

ROLL CALL

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

The roll was called and all members were present except Senators Brashear and Mossey who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-seventh day was approved.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 8, 2004, at 1:56 p.m. was the following:
LB 983.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

MESSAGES FROM THE GOVERNOR

April 8, 2004

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 983 was received in my office on April 8, 2004.

This bill was signed and delivered to the Secretary of State on April 8, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

April 9, 2004

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 155, 315, 727, 819, 824, 832, 837, 845, 846e, 869, 884, 890, 902, 914, 914A, 939, 944e, 955, 980, 997, and 1047 were received in my office on April 6, 2004.

These bills were signed and delivered to the Secretary of State on April 9, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

SELECT COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 916. Placed on Select File as amended.

(E & R amendment, AM7231, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 916A. Placed on Select File.

(Signed) Ray Mossey, Chairperson

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 396 and 398 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 396 and 398.

SELECT FILE

LEGISLATIVE BILL 1065. E & R amendment, AM7228, printed separately and referred to on page 1533, was adopted.

Senator Baker asked unanimous consent to withdraw his pending amendment, AM3617, found on page 1552, and replace it with his substitute pending amendment, AM3615, found on page 1567. No objections. So ordered.

Senator Beutler offered the following amendment to the Baker pending amendment:

AM3636

- 1 1. In AM3615:
 - 2 a. On page 2, line 11, strike "2010" and insert "2012";
 - 3 and in lines 12 and 17 strike "2009" and insert "2011";
 - 4 b. On page 5, lines 17 and 25, strike "2010" and insert
 - 5 "2012"; and in line 19 strike "2009" and insert "2011"; and
 - 6 c. On page 6, line 2, strike "2009" and insert "2011".
- 7 2. In the E&R amendments, AM7228:
 - 8 a. On page 5, lines 4 and 22, strike "2010" and insert
 - 9 "2012"; and in lines 5 and 25 strike "2009" and insert "2011"; and
 - 10 b. On page 20, line 11, strike "2010" and insert "2011".

SENATOR CUDABACK PRESIDING

Senator Beutler moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Aguilar	Engel	Jensen	Mossey	Redfield
Beutler	Foley	Kruse	Preister	Schimek
Bourne	Friend	Landis	Price	Synowiecki
Brown	Hartnett	Maxwell	Quandahl	Wehrbein
Chambers	Janssen	Mines	Raikes	

Voting in the negative, 19:

Baker	Combs	Jones	Pedersen, Dw.	Stuthman
Bromm	Connealy	Kremer	Schrock	Tyson
Burling	Erdman	Louden	Smith	Vrtiska
Byars	Hudkins	McDonald	Stuhr	

Present and not voting, 3:

Cudaback Johnson Pederson, D.

Excused and not voting, 3:

Brashear Cunningham Thompson

The Beutler amendment lost with 24 ayes, 19 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Raikes offered the following amendment to the Baker pending amendment:

AM3657

- 1 1. In AM3615:
- 2 a. On page 2, lines 10 and 11, strike "and commencing
- 3 January 1, 2010";
- 4 b. On page 5, strike beginning with "through" in line 16
- 5 through the comma in line 19 and insert "through December 31, 2004,
- 6 three and one-half cents per gallon commencing January 1, 2005,
- 7 through December 31, 2009, and one cent per gallon commencing
- 8 January 1, 2010"; and in line 25 strike ", and commencing January
- 9 1, 2010"; and
- 10 c. On page 6, line 3, strike "(a)"; in line 4 strike
- 11 "one and one-quarter" and insert "two and one-half"; and strike
- 12 beginning with "and" in line 5 through "refund" in line 6.
- 13 2. In the E&R amendments, AM7228:
- 14 a. On page 5, lines 3 through 5, strike the new matter
- 15 and insert "through December 31, 2004, less three and one-half
- 16 cents per gallon commencing January 1, 2005, through December 31,
- 17 2009, and less one cent per gallon commencing January 1, 2010"; in
- 18 lines 21 and 22 strike "and commencing January 1, 2010"; in line
- 19 25 strike "(a)" and strike "one" and insert "two and one-half"; in
- 20 line 26 strike "one-quarter"; and strike beginning with "and" in
- 21 line 26 through line 27;
- 22 b. On page 6, line 1, strike the new matter; and
- 23 c. On page 23, line 17, strike "2011" and insert "2010".

Senator Raikes moved for a call of the house. The motion prevailed with 28 ayes, 1 nay, and 20 not voting.

Senator Raikes requested a roll call vote on his amendment.

Voting in the affirmative, 22:

Beutler	Hartnett	Landis	Price	Smith
Chambers	Jensen	Louden	Quandahl	Thompson
Engel	Johnson	Pedersen, Dw.	Raikes	
Erdman	Jones	Pederson, D.	Redfield	
Friend	Kruse	Preister	Schimek	

Voting in the negative, 12:

Aguilar	Cunningham	Mossey	Tyson
Baker	Hudkins	Schrock	Vrtiska
Bourne	McDonald	Stuhr	Wehrbein

Present and not voting, 14:

Bromm	Byars	Cudaback	Kremer	Stuthman
Brown	Combs	Foley	Maxwell	Synowiecki
Burling	Connealy	Janssen	Mines	

Excused and not voting, 1:

Brashear

The Raikes amendment lost with 22 ayes, 12 nays, 14 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Thompson offered the following motion:
Reconsider the vote on AM3636.

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 10 nays, and 13 not voting.

Senator Beutler moved for a call of the house. The motion prevailed with 37 ayes, 0 nays, and 12 not voting.

SPEAKER BROMM PRESIDING

Senator Beutler requested a roll call vote on the Thompson motion to reconsider.

Voting in the affirmative, 25:

Aguilar	Foley	Kruse	Pederson, D.	Redfield
Beutler	Friend	Landis	Preister	Schimek
Brown	Hartnett	Maxwell	Price	Synowiecki
Chambers	Janssen	Mines	Quandahl	Thompson
Engel	Jensen	Pedersen, Dw.	Raikes	Wehrbein

Voting in the negative, 22:

Baker	Combs	Hudkins	Mossey	Tyson
Bourne	Connealy	Jones	Schrock	Vrtiska
Bromm	Cudaback	Kremer	Smith	
Burling	Cunningham	Louden	Stuhr	
Byars	Erdman	McDonald	Stuthman	

Present and not voting, 1:

Johnson

Excused and not voting, 1:

Brashear

The Thompson motion to reconsider prevailed with 25 ayes, 22 nays, 1 present and not voting, and 1 excused and not voting.

The Beutler amendment, AM3636, found in this day's Journal, to the Baker pending amendment, was reconsidered.

The Chair declared the call raised.

Senator Thompson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 8 nays, and 16 not voting.

Senator Beutler moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Beutler	Friend	Landis	Preister	Schimek
Brown	Hartnett	Maxwell	Price	Synowiecki
Chambers	Janssen	Mines	Quandahl	Thompson
Engel	Jensen	Pedersen, Dw.	Raikes	Wehrbein
Foley	Kruse	Pederson, D.	Redfield	

Voting in the negative, 21:

Baker	Connealy	Johnson	Mossey	Vrtiska
Bromm	Cudaback	Jones	Schrock	
Burling	Cunningham	Kremer	Smith	
Byars	Erdman	Louden	Stuhr	
Combs	Hudkins	McDonald	Tyson	

Present and not voting, 1:

Bourne

Excused and not voting, 3:

Aguilar Brashear Stuthman

The Beutler amendment lost with 24 ayes, 21 nays, 1 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The Baker amendment, AM3615, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Senator Beutler withdrew his pending amendment, AM3609, found on page 1560.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1097. E & R amendment, AM7218, printed separately and referred to on page 1280, was adopted.

Senator Stuhr renewed her pending amendment, AM3473, printed separately and referred to on page 1387.

Senator Stuhr offered the following amendment to her pending amendment: AM3651

(Amendments to AM3473)

- 1 1. On page 2, strike beginning with the first "the" in
- 2 line 22 through "courts" in line 24 and insert "judges".

Senator Stuhr asked unanimous consent to withdraw her pending amendment, AM3651, found in this day's Journal, and replace it with her substitute amendment, AM3665, to her pending amendment. No objections. So ordered.

AM3665

(Amendments to AM3473)

- 1 1. On page 2, strike beginning with the first "the" in
- 2 line 22 through "courts" in line 24 and insert "judges".
- 3 2. On page 19, strike line 15 and insert "July 1,
- 4 2004."

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

The Stuhr amendment, AM3473, as amended, was adopted with 31 ayes, 0

nays, 16 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1097A. Senator Stuhr renewed her pending amendment, AM3482, found on page 1397.

The Stuhr amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

MESSAGES FROM THE GOVERNOR

April 13, 2004

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 297e, 514e, 917, 1071, 1090e, 1091e, 1092e, 1093, 1144, and 1241e were received in my office on April 7, 2004.

These bills were signed and delivered to the Secretary of State on April 13, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

April 13, 2004

Mr. President, Mr. Speaker,
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Members of the Legislature:

With this letter, I am returning LB 1089e with my signature and with one line-item reduction.

LB 1089e contains provisions to operationalize changes in the financing of state assistance to local transit authorities and intercity bus systems required by the enactment of LB 1144. LB 1144 requires that transit assistance be funded by the Highway Cash Fund for such purposes. Therefore, I am reducing the FY 2004-05 amount appropriated from the

Highway Cash Fund to the Roads Operations Cash Fund by \$991,000 to prevent this gas tax increase.

The line-item reduction in the Highway Cash Fund appropriation will not affect the funding of local transit assistance, highway construction, or other Department of Roads operations. This is due to the fact that LB 1089 also included \$1,712,546 in reductions in the 2003-2005 biennial appropriation for the Department of Roads as a result of reduced state employees health insurance costs.

No other line-item reductions are made to LB 1089e.

I urge you to sustain my one line-item reduction to LB 1089e.

Sincerely,
(Signed) Mike Johanns
Governor

STANDING COMMITTEE REPORT **Natural Resources**

The Natural Resources 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.

Game and Parks Commission
George E. Hall

VOTE: Aye: Senators Friend, Hudkins, Jones, Kremer, Loudon, Preister, Schrock, and Stuhr. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

SELECT FILE

LEGISLATIVE BILL 485. E & R amendment, AM7222, printed separately and referred to on page 1280, was adopted.

Senator Synowiecki withdrew his pending amendment, AM3513, found on page 1472.

Senator Synowiecki renewed his pending amendment, AM3596, found on page 1529.

The Synowiecki amendment was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 485A. Senator Janssen offered the following amendment:

AM3517

- 1 1. On page 2, line 1, strike "\$118,720" and insert
- 2 "\$141,420".

The Janssen amendment was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1034. Advanced to E & R for engrossment.

LEGISLATIVE BILL 1017. E & R amendment, AM7230, found on page 1550, was adopted.

Senator Landis withdrew the Landis et al. pending amendment, AM3293, found on page 1190.

Senator Combs withdrew her pending amendment, FA1676, found on page 1530.

Senator Landis offered the following amendment:

(Amendment, AM3640, is on file and available in the Clerk's Office, Room 2014.)

The Landis amendment was adopted with 30 ayes, 0 nays, and 19 present and not voting.

Senator Landis offered the following amendment:

AM3658

- 1 1. Insert the following new sections:
- 2 "Sec. 23. (1) From August 1, 2004, through October 31,
- 3 2004, there shall be conducted a tax amnesty program with regard to
- 4 taxes due and owing that have not been reported to the Department
- 5 of Revenue. Any person applying for tax amnesty shall pay all
- 6 unreported taxes that were due on or before April 1, 2004. Any
- 7 person that applies for tax amnesty and is accepted by the Tax
- 8 Commissioner shall have any penalties and interest waived on
- 9 unreported and delinquent taxes notwithstanding any other
- 10 provisions of law to the contrary.
- 11 (2) To be eligible for the tax amnesty provided by this
- 12 section, the person shall apply for amnesty within the amnesty
- 13 period, file a return for each taxable period for which the amnesty
- 14 is requested by December 31, 2004, if no return has been filed, and
- 15 pay in full all taxes for which amnesty is sought with the return
- 16 or within thirty days after the application if a return was filed
- 17 prior to the amnesty period. Tax amnesty shall not be available
- 18 for any person that is under civil or criminal audit.

19 investigation, or prosecution for unreported or delinquent taxes by
20 this state or the United States Government on or before the
21 effective date of this act.

22 (3) The department shall not seek civil or criminal
23 prosecution against any person for any taxable period for which
24 amnesty has been granted. The Tax Commissioner shall develop forms
1 for applying for the tax amnesty program, develop procedures for
2 qualification for tax amnesty, and conduct a public awareness
3 campaign publicizing the program.

4 (4) If a person elects to participate in the amnesty
5 program, the election shall constitute an express and irrevocable
6 relinquishment of all administrative and judicial rights to
7 challenge the imposition of the tax or its amount. Nothing in this
8 section shall prohibit the department from adjusting a return as a
9 result of any state or federal audit.

10 (5)(a) Except for any local option sales tax collected
11 and returned to the appropriate municipality and any motor vehicle
12 fuel, diesel fuel, and compressed fuel taxes, which shall be
13 deposited in the Highway Trust Fund or Highway Allocation Fund as
14 provided by law, no less than eighty percent of all revenue
15 received pursuant to the tax amnesty program shall be deposited in
16 the General Fund; ten percent, not to exceed five hundred thousand
17 dollars, shall be deposited in the Department of Revenue
18 Enforcement Fund; and ten percent, not to exceed five hundred
19 thousand dollars, shall be deposited in the Department of Revenue
20 Enforcement Technology Fund. Any amount that would otherwise be
21 deposited in the Department of Revenue Enforcement Fund or the
22 Department of Revenue Enforcement Technology Fund that is in excess
23 of the five hundred thousand dollar limitation shall be deposited
24 in the General Fund.

25 (b) For fiscal year 2005-06, all proceeds in the
26 Department of Revenue Enforcement Fund shall be appropriated to the
27 Department of Revenue for purposes of employing investigators,
1 agents, and auditors and otherwise increasing personnel for
2 enforcement of the Nebraska Revenue Act of 1967. For fiscal year
3 2005-06, all proceeds in the Department of Revenue Enforcement
4 Technology Fund shall be appropriated to the Department of Revenue
5 for the purposes of acquiring lists, software, programming,
6 computer equipment, and other technological methods for enforcing
7 the act.

8 (c) For fiscal years after fiscal year 2005-06, twenty
9 percent of all proceeds received during the previous calendar year
10 due to the efforts of auditors and investigators hired pursuant to
11 subdivision (5)(b) of this section, not to exceed seven hundred
12 fifty thousand dollars, shall be deposited in the Department of
13 Revenue Enforcement Fund for purposes of employing investigators
14 and auditors or continuing such employment for purposes of
15 increasing enforcement of the act.

16 (6)(a) The department shall prepare a report by April 1,

17 2005, and by February 1 of each year thereafter detailing the
 18 results of the tax amnesty program and the subsequent enforcements
 19 efforts. For the report due April 1, 2005, the report shall
 20 include (i) the amount of revenue obtained as a result of the tax
 21 amnesty program broken down by tax program, (ii) the amount
 22 obtained from in-state taxpayers and from out-of-state taxpayers,
 23 and (iii) the amount obtained from individual taxpayers and from
 24 business enterprises.

25 (b) For reports due in subsequent years, the report shall
 26 include (i) the number of personnel hired for purposes of
 27 subdivision (5)(b) of this section and their duties, (ii) a
 1 description of lists, software, programming, computer equipment,
 2 and other technological methods acquired pursuant to such
 3 subsection and the purposes of each, and (iii) the amount of new
 4 revenue obtained as a result of the new personnel and acquisitions
 5 during the prior calendar year, broken down into the same
 6 categories as described in subdivision (6)(a) of this section.

7 (7) The Department of Revenue Enforcement Fund and the
 8 Department of Revenue Enforcement Technology Fund are created. Any
 9 money in the funds shall be invested by the state investment
 10 officer pursuant to the Nebraska Capital Expansion Act and the
 11 Nebraska State Funds Investment Act. The Department of Revenue
 12 Enforcement Technology Fund shall terminate on July 1, 2006. Any
 13 unobligated money in the fund at that time shall be deposited in
 14 the General Fund.

15 (8) For purposes of this section, taxes mean any taxes
 16 collected by the Department of Revenue, including, but not limited
 17 to state and local sales and use tax, individual and corporate
 18 income tax, financial institutions deposit tax, motor vehicle fuel,
 19 diesel fuel, and compressed fuel taxes, cigarette taxes, transfer
 20 taxes, and charitable gaming taxes.

21 Sec. 24. There is hereby appropriated \$279,125 from the
 22 General Fund for FY2004-05 to the Department of Revenue, for
 23 Program 102, to aid in carrying out the provisions of Legislative
 24 Bill 1017, Ninety-eighth Legislature, Second Session, 2004.
 25 No expenditures for permanent and temporary salaries and
 26 per diems for state employees shall be made from funds appropriated
 27 in this section."

1 2. Correct the operative date section so that the
 2 sections added by this amendment become operative on their
 3 effective date with the emergency clause.

4 3. Renumber the remaining sections and correct internal
 5 references accordingly.

Pending.

VISITORS

Visitors to the Chamber were Senator Synowiecki's brother, sister-in-law, and mother, Bob, Joyce, and Rose Synowiecki, from Omaha; 36 fourth-grade students and teachers from St. Wenceslaus School, Wahoo; John Abeln; sixth- through eighth-grade students from Millard; Carl Spelts from Kearney; 60 fourth-grade students and teachers from Prescott Elementary School, Lincoln; and David, Adam, and Ardis Koehn from Lincoln.

RECESS

At 12:00 p.m., on a motion by Senator Combs, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Bromm, Combs, Preister, and Schrock who were excused until they arrive.

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

The following bill was correctly engrossed: LB 1065.

ER9140

Enrollment and Review Change to LB 1065

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

1. In the Baker amendment, AM3615, on page 7, line 8, "the" has been struck and "this" inserted; and in line 13 "Second Session," has been inserted after the last comma.

2. On page 1, the matter beginning with "ethanol" in line 1 through line 10 and all amendments thereto have been struck and "revenue and taxation; to amend sections 66-4,124, 66-4,134, 66-1344, 66-1344.01, 66-1345, 66-1345.01, 66-1519, and 77-4103, Reissue Revised Statutes of Nebraska, and sections 66-489 and 66-726, Reissue Revised Statutes of Nebraska, as amended by sections 12 and 51, respectively, Legislative Bill 983, Ninety-eighth Legislature, Second Session, 2004; to change provisions relating to motor fuel taxes, motor fuel tax credits, ethanol production incentives, excise taxes on corn and grain sorghum, and employment and

investment incentives; to provide for fund transfers; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

(Signed) Ray Mossey, Chairperson

SELECT FILE

LEGISLATIVE BILL 1017. The Landis pending amendment, AM3658, found in this day's Journal, was renewed.

Senator Janssen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Landis amendment was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 499. E & R amendment, AM7229, found on page 1550, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1207. E & R amendment, AM7215, printed separately and referred to on page 1280, was adopted.

Senator Brashear renewed his pending amendment, AM3569, printed separately and referred to on page 1474.

The Brashear amendment was adopted with 29 ayes, 0 nays, and 20 present and not voting.

Senator Brashear renewed his pending amendment, AM3614, found on page 1559.

The Brashear amendment was adopted with 33 ayes, 0 nays, and 16 present and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 916. E & R amendment, AM7231, printed separately and referred to in this day's Journal, was adopted.

Senator Jones renewed his pending amendment, AM2952, found on page 1070.

Senator Jones withdrew his amendment.

Senator Preister renewed his pending amendment, AM3605, found on page 1559.

Senator Preister withdrew his amendment.

Senator Schrock offered the following amendment:
AM3670

(Amendments to E & R amendments, AM7231)

- 1 1. On page 24, strike lines 4 to 27 and insert
- 2 "(4) If (a) the department determines a National
- 3 Pollutant Discharge Elimination System permit is not required or
- 4 (b) if the applicant requests the department to proceed with review
- 5 of the construction approval or major modification application
- 6 independent of a National Pollutant Discharge Elimination System
- 7 permit application, the department shall, for both subdivisions
- 8 (4)(a) and (4)(b) of this section:
- 9 (i) Within five days send notification of the application
- 10 to the natural resources district or districts and the county board
- 11 or boards of the counties in which the livestock waste control
- 12 facility is located or proposed to be located. The natural
- 13 resources district or districts and the county board or boards
- 14 shall have twenty days to comment to the department regarding any
- 15 conditions that may exist at the proposed site which the department
- 16 should consider regarding the content of the application for
- 17 construction approval or major modification;
- 18 (ii) Within sixty days, (A) issue a proposed decision on
- 19 the application for construction approval or major modification and
- 20 (B) issue a notice providing an opportunity for any interested
- 21 person to submit written comments on such proposed decision within
- 22 thirty days after the first day of publication of such notice. The
- 23 notice shall be published in a daily or weekly newspaper or other
- 1 publication with general circulation in the area of the existing or
- 2 proposed animal feeding operation, and a copy of the notice shall
- 3 be provided to the applicant; and
- 4 (iii) Within one hundred ten days approve or deny the
- 5 application and transmit its findings and conclusions to the
- 6 applicant."
- 7 2. On page 25, strike lines 1 through 5.
- 8 3. On page 39, strike lines 23 through 27 and insert:
- 9 "(5) If a conflict arises between the authority of the
- 10 council under the Environmental Protection Act and the authority of
- 11 the council under the Livestock Waste Management Act, the authority
- 12 of the council under the Livestock Waste Management Act shall
- 13 control."

The Schrock amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 916A. Advanced to E & R for engrossment.

STANDING COMMITTEE REPORTS
Transportation and Telecommunications

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Nebraska Motor Vehicle Industry Licensing Board
Sid R. Dillon
P.J. Morgan
Douglas P. Rolfmeier

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

(Signed) Tom Baker, Chairperson

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.

Coordinating Commission for Postsecondary Education
William J. Pile

VOTE: Aye: Senators Bourne, Brashear, Byars, Maxwell, McDonald, Raikes, Schrock, and Stuhr. Nay: None. Absent: None.

(Signed) Ron Raikes, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 403. Introduced by Judiciary Committee: Brashear, 4, Chairperson; Chambers, 11; Foley, 29; Mines, 18; Mossey, 3; Dw. Pedersen, 39.

PURPOSE: The purpose of this resolution is to examine statutes relating to the age of majority. LB 391 was introduced in 2003 and the standing committee amendment proposed additional laws be changed. The statutes covered by the standing committee amendment fell within the jurisdiction of multiple standing committees of the Legislature. This resolution proposes the Judiciary Committee serve as the lead committee in conducting this study. The legal counsels for the standing committees with subject matter covered by the study shall participate as staff in the conduct of the interim

study.

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

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 404. Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Friend, 10; Hudkins, 21; Jones, 43; Kremer, 34; Louden, 49; Stuhr, 24.

PURPOSE: The purpose of this study is to review the issue of storm runoff requirements as required by the federal Clean Water Act, 33 U.S.C. 1251 et seq. and possible funding mechanisms for such programs.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENT - Print in Journal

Senator Raikes filed the following amendment to LB 1206:

(Amendment, AM3575, is printed separately and available in the Bill Room, Room 1104.)

SELECT FILE

LEGISLATIVE BILL 1084. E & R amendment, AM7226, found on page 1467, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1084A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 391. E & R amendment, AM7227, found on page 1471, was adopted.

Senator Erdman renewed his pending amendment, AM3631, found on page 1577.

Senator Beutler offered the following amendment to the Erdman pending amendment:

AM3653

(Amendments to AM3631)

- 1 1. On page 1, line 1, strike "fifteen" and insert
- 2 "eighteen".

SPEAKER BROMM PRESIDING

Senator Erdman asked unanimous consent to pass over LB 391. No objections. So ordered.

SELECT COMMITTEE REPORTS Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 485, 485A, 1034, 1097, and 1097A.

ER9136

Enrollment and Review Change to LB 1097

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

1. In the E & R amendments, AM7218:

a. Sections 25 and 26 have been struck and the following new sections inserted:

"Sec. 40. Sections 2, 3, 5 to 22, 24 to 28, 31 to 33, 35 to 37, 39, and 41 of this act become operative on July 1, 2004. Sections 1, 4, 30, 34, 38, and 42 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 41. Original sections 24-714, 42-1102, 48-155.01, 79-921, 79-942, 79-946, 79-947.01, 79-951, 84-1325, and 84-1511.01, Reissue Revised Statutes of Nebraska, sections 23-2306, 24-701.01, 24-704.01, 24-710, 24-710.02, 24-710.07, 24-710.09, 24-713.01, 81-2027.03, and 84-1307, Revised Statutes Supplement, 2002, and sections 23-2301, 23-2320, 23-2321, 24-703, 24-707, 24-708, 84-1301, 84-1322, and 84-1323, Revised Statutes Supplement, 2003, are repealed."; and

b. On page 64, line 10, "24-714, 42-1102, 48-155.01," has been inserted after the first comma; in line 13 "24-710.07" has been struck and "24-701.01, 24-704.01, 24-710, 24-710.02, 24-710.07, 24-710.09, 24-713.01" inserted; in line 14 "24-703, 24-707, 24-708," has been inserted

after the last comma; and in line 17 "contributions, payment and" has been inserted after the first comma.

(Signed) Ray Mossey, Chairperson

WITHDRAW - Amendments to LB 439

Senator Beutler withdrew his pending amendment, AM2131, found on page 127, to LB 439.

Senator Beutler withdrew the Beutler et al. pending amendment, AM3445, printed separately and referred to on page 1354.

MOTION - Return LB 439 to Select File

Senator Beutler moved to return LB 439 to Select File for the Beutler et al. specific pending amendment, AM3561, printed separately and referred to on page 1476.

The Beutler motion to return prevailed with 31 ayes, 0 nays, and 18 present and not voting.

SELECT FILE

LEGISLATIVE BILL 439. The Beutler specific pending amendment, AM3561, printed separately and referred to on page 1476, was adopted with 32 ayes, 0 nays, and 17 present and not voting.

Advanced to E & R for reengrossment.

WITHDRAW - Amendment to LB 439A

Senator Beutler withdrew his pending amendment, AM2133, found on page 130, to LB 439A.

MOTION - Return LB 439A to Select File

Senator Beutler moved to return LB 439A to Select File for his specific pending amendment, AM3441, found on page 1476.

The Beutler motion to return prevailed with 35 ayes, 0 nays, and 14 present and not voting.

SELECT FILE

LEGISLATIVE BILL 439A. The Beutler specific pending amendment, AM3441, found on page 1476, was adopted with 38 ayes, 0 nays, and 11 present and not voting.

Advanced to E & R for reengrossment.

WITHDRAW - Motions and Amendments to LB 559

Senator Synowiecki withdrew his pending motion, found on page 1265, to return LB 559 to Select File for his specific pending amendment, AM2962, found on page 960.

Senator Chambers withdrew his pending amendment, FA1493, found on page 792, to LB 559.

Senator Bourne withdrew the Bourne-Synowiecki pending amendment, AM3051, found on page 1038, to LB 559.

MOTION - Return LB 559 to Select File

Senator Thompson moved to return LB 559 to Select File for her specific pending amendment, AM3417, printed separately and referred to on page 1382.

The Thompson motion to return prevailed with 38 ayes, 0 nays, and 11 present and not voting.

SELECT FILE

LEGISLATIVE BILL 559. The Thompson specific pending amendment, AM3417, printed separately and referred to on page 1382, was adopted with 39 ayes, 0 nays, and 10 present and not voting.

Advanced to E & R for reengrossment.

MOTION - Return LB 559A to Select File

Senator Thompson moved to return LB 559A to Select File for the following specific amendment:
AM3525

(Amendments to Final Reading copy)

- 1 1. On page 2, line 1, strike "\$32,800" and insert
- 2 "\$18,400".

The Thompson motion to return prevailed with 37 ayes, 0 nays, and 12 present and not voting.

SELECT FILE

LEGISLATIVE BILL 559A. The Thompson specific amendment, AM3525, found in this day's Journal, was adopted with 40 ayes, 0 nays, and 9 present and not voting.

Advanced to E & R for reengrossment.

MOTION - Return LB 868 to Select File

Senator Raikes moved to return LB 868 to Select File for his specific pending amendment, AM3551, found on page 1550.

The Raikes motion to return prevailed with 37 ayes, 0 nays, and 12 present and not voting.

SELECT FILE

LEGISLATIVE BILL 868. The Raikes specific pending amendment, AM3551, found on page 1550, was adopted with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

Advanced to E & R for reengrossment.

MOTION - Return LB 868 to Select File

Senator Redfield moved to return LB 868 to Select File for the following specific amendment:
AM3669

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 84-712.05, Revised Statutes Supplement,
- 3 2002, as amended by section 1, Legislative Bill 236, Ninety-eighth
- 4 Legislature, Second Session, 2004, is amended to read:
- 5 84-712.05. The following records, unless publicly
- 6 disclosed in an open court, open administrative proceeding, or open
- 7 meeting or disclosed by a public entity pursuant to its duties, may
- 8 be withheld from the public by the lawful custodian of the records:
- 9 (1) Personal information in records regarding a student,
- 10 prospective student, or former student of any ~~tax-supported~~
- 11 educational institution ~~maintaining the records~~ or exempt school
- 12 that has effectuated an election not to meet state approval or
- 13 accreditation requirements pursuant to section 79-1601 when such
- 14 records are maintained by and in the possession of a public entity,
- 15 other than routine directory information specified and made public
- 16 consistent with 20 U.S.C. 1232g, as such section existed on January
- 17 1, 2003;
- 18 (2) Medical records, other than records of births and
- 19 deaths and except as provided in subdivision (5) of this section,
- 20 in any form concerning any person, and also records of elections
- 21 filed under section 44-2821;
- 22 (3) Trade secrets, academic and scientific research work
- 23 which is in progress and unpublished, and other proprietary or
- 1 commercial information which if released would give advantage to
- 2 business competitors and serve no public purpose;

- 3 (4) Records which represent the work product of an
4 attorney and the public body involved which are related to
5 preparation for litigation, labor negotiations, or claims made by
6 or against the public body or which are confidential communications
7 as defined in section 27-503;
- 8 (5) Records developed or received by law enforcement
9 agencies and other public bodies charged with duties of
10 investigation or examination of persons, institutions, or
11 businesses, when the records constitute a part of the examination,
12 investigation, intelligence information, citizen complaints or
13 inquiries, informant identification, or strategic or tactical
14 information used in law enforcement training, except that this
15 subdivision shall not apply to records so developed or received
16 relating to the presence of and amount or concentration of alcohol
17 or drugs in any body fluid of any person;
- 18 (6) Appraisals or appraisal information and negotiation
19 records concerning the purchase or sale, by a public body, of any
20 interest in real or personal property, prior to completion of the
21 purchase or sale;
- 22 (7) Personal information in records regarding personnel
23 of public bodies other than salaries and routine directory
24 information;
- 25 (8) Information solely pertaining to protection of the
26 security of public property and persons on or within public
27 property, such as specific, unique vulnerability assessments or
1 specific, unique response plans, either of which is intended to
2 prevent or mitigate criminal acts the public disclosure of which
3 would create a substantial likelihood of endangering public safety
4 or property; computer or communications network schema, passwords,
5 and user identification names; guard schedules; or lock
6 combinations;
- 7 (9) The security standards, procedures, policies, plans,
8 specifications, diagrams, access lists, and other security-related
9 records of the Lottery Division of the Department of Revenue and
10 those persons or entities with which the division has entered into
11 contractual relationships. Nothing in this subdivision shall allow
12 the division to withhold from the public any information relating
13 to amounts paid persons or entities with which the division has
14 entered into contractual relationships, amounts of prizes paid, the
15 name of the prize winner, and the city, village, or county where
16 the prize winner resides;
- 17 (10) With respect to public utilities and except as
18 provided in sections 43-512.06 and 70-101, personally identified
19 private citizen account payment information, credit information on
20 others supplied in confidence, and customer lists;
- 21 (11) Records or portions of records kept by a publicly
22 funded library which, when examined with or without other records,
23 reveal the identity of any library patron using the library's
24 materials or services;

25 (12) Correspondence, memoranda, and records of telephone
26 calls related to the performance of duties by a member of the
27 Legislature in whatever form. The lawful custodian of the
1 correspondence, memoranda, and records of telephone calls, upon
2 approval of the Executive Board of the Legislative Council, shall
3 release the correspondence, memoranda, and records of telephone
4 calls which are not designated as sensitive or confidential in
5 nature to any person performing an audit of the Legislature. A
6 member's correspondence, memoranda, and records of confidential
7 telephone calls related to the performance of his or her
8 legislative duties shall only be released to any other person with
9 the explicit approval of the member;

10 (13) Records or portions of records kept by public bodies
11 which would reveal the location, character, or ownership of any
12 known archaeological, historical, or paleontological site in
13 Nebraska when necessary to protect the site from a reasonably held
14 fear of theft, vandalism, or trespass. This section shall not
15 apply to the release of information for the purpose of scholarly
16 research, examination by other public bodies for the protection of
17 the resource or by recognized tribes, the Unmarked Human Burial
18 Sites and Skeletal Remains Protection Act, or the federal Native
19 American Graves Protection and Repatriation Act;

20 (14) Records or portions of records kept by public bodies
21 which maintain collections of archaeological, historical, or
22 paleontological significance which reveal the names and addresses
23 of donors of such articles of archaeological, historical, or
24 paleontological significance unless the donor approves disclosure,
25 except as the records or portions thereof may be needed to carry
26 out the purposes of the Unmarked Human Burial Sites and Skeletal
27 Remains Protection Act or the federal Native American Graves
1 Protection and Repatriation Act;

2 (15) Job application materials submitted by applicants,
3 other than finalists, who have applied for employment by any public
4 body as defined in section 84-1409. For purposes of this
5 subdivision, job application materials means employment
6 applications, resumes, reference letters, and school transcripts,
7 and finalist means any applicant who is offered and who accepts an
8 interview by a public body or its agents, representatives, or
9 consultants for any public employment position; and

10 (16) Social security numbers; credit card, charge card,
11 or debit card numbers and expiration dates; and financial account
12 numbers supplied to state and local governments by citizens."

13 2. On page 1, line 2, after "Nebraska" insert ", and
14 section 84-712.05, Revised Statutes Supplement, 2002, as amended by
15 section 1, Legislative Bill 236, Ninety-eighth Legislature, Second
16 Session, 2004"; in line 3 after the semicolon insert "to change
17 provisions relating to confidentiality of student records as
18 prescribed;"; and in line 4 strike "section" and insert "sections".

19 3. On page 4, line 21, strike "is" and insert "and

20 section 84-712.05, Revised Statutes Supplement, 2002, as amended by
 21 section 1, Legislative Bill 236, Ninety-eighth Legislature, Second
 22 Session, 2004, are".

23 4. Renumber the remaining sections accordingly.

The Redfield motion to return prevailed with 30 ayes, 0 nays, 17 present and
 not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 868. The Redfield specific amendment, AM3669,
 found in this day's Journal, was adopted with 31 ayes, 0 nays, 16 present and
 not voting, and 2 excused and not voting.

Advanced to E & R for reengrossment.

MOTION - Return LB 943 to Select File

Senator Beutler moved to return LB 943 to Select File for the following
 specific amendment:

AM3639

(Amendments to Final Reading copy)

1 1. On page 2, strike beginning with "A" in line 27
 2 through line 28.
 3 2. On page 3, strike lines 1 and 2 and insert "A person
 4 shall not be convicted of both a violation of subsection (1) of
 5 this section and a violation of section 28-319 or section 28-320.01
 6 or subsection (1) or (2) of section 28-320 if the violations arise
 7 out of the same set of facts or pattern of conduct and the
 8 individual solicited, coaxed, enticed, or lured under subsection
 9 (1) of this section is also the victim of the sexual assault under
 10 section 28-319 or section 28-320.01 or subsection (1) or (2) of
 11 section 28-320.".

The Beutler motion to return prevailed with 32 ayes, 0 nays, 15 present and
 not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 943. The Beutler specific amendment, AM3639,
 found in this day's Journal, was adopted with 29 ayes, 0 nays, 18 present and
 not voting, and 2 excused and not voting.

Advanced to E & R for reengrossment.

MOTION - Return LB 943 to Select File

Senator Chambers moved to return LB 943 to Select File for the following
 specific amendment:

AM3662

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
2 "Sec. 9. Section 29-2101, Revised Statutes Supplement,
3 2002, is amended to read:
4 29-2101. A new trial, after a verdict of conviction, may
5 be granted, on the application of the defendant, for any of the
6 following grounds affecting materially his or her substantial
7 rights: (1) Irregularity in the proceedings of the court, of the
8 prosecuting attorney, or of the witnesses for the state or in any
9 order of the court or abuse of discretion by which the defendant
10 was prevented from having a fair trial; (2) misconduct of the jury,
11 of the prosecuting attorney, or of the witnesses for the state; (3)
12 accident or surprise which ordinary prudence could not have guarded
13 against; (4) the verdict is not sustained by sufficient evidence or
14 is contrary to law; (5) newly discovered evidence material for the
15 defendant which he or she could not with reasonable diligence have
16 discovered and produced at the trial; ~~(6) newly discovered~~
17 ~~exculpatory DNA or similar forensic testing evidence obtained under~~
18 ~~the DNA Testing Act;~~ or ~~(7)~~ (6) error of law occurring at the
19 trial.
- 20 Sec. 10. Section 29-2102, Revised Statutes Supplement,
21 2002, is amended to read:
22 29-2102. The grounds set forth in subdivisions (2); and
23 (3); ~~and (6)~~ of section 29-2101 shall be supported by affidavits
1 showing the truth of such grounds, and the grounds may be
2 controverted by affidavits. The ground set forth in subdivision
3 (5) of section 29-2101 shall be supported by evidence of the truth
4 of the ground in the form of affidavits, depositions, or oral
5 testimony.
- 6 Sec. 11. Section 29-2103, Revised Statutes Supplement,
7 2002, is amended to read:
8 29-2103. (1) A motion for new trial shall be made by
9 written application and may be filed either during or after the
10 term of the court at which the verdict was rendered.
11 (2) A motion for a new trial shall state the grounds
12 under section 29-2101 which are the basis for the motion and shall
13 be supported by evidence as provided in section 29-2102.
14 (3) A motion for new trial based on the grounds set forth
15 in subdivision (1), (2), (3), (4), or ~~(7)~~ (6) of section 29-2101
16 shall be filed within ten days after the verdict was rendered
17 unless such filing is unavoidably prevented, and the grounds for
18 such motion may be stated by directly incorporating the appropriate
19 language of section 29-2101 without further particularity.
20 (4) A motion for new trial based on the grounds set forth
21 in subdivision (5) of section 29-2101 shall be filed within a
22 reasonable time after the discovery of the new evidence, but in no
23 event more than ninety days after the discovery of the new
24 evidence, and cannot be filed more than three years after the date

25 of the verdict.

26 (5) A motion for new trial based on the grounds set forth
 27 in subdivision (6) of section 29-2101 shall be filed within ninety
 1 days after a final order is issued under section 29-4123 or within
 2 ninety days after the hearing if no final order is entered;
 3 whichever occurs first If there is newly discovered DNA evidence
 4 obtained under the DNA Testing Act, the court shall consider
 5 whether to vacate the conviction under section 29-4123 and not
 6 section 29-2101.

7 Sec. 13. Section 29-4117, Revised Statutes Supplement,
 8 2002, is amended to read:

9 29-4117. It is the intent of the Legislature that
 10 wrongfully convicted persons have an opportunity (1) to establish
 11 their innocence through deoxyribonucleic acid, DNA, testing or (2)
 12 to establish that their conviction was obtained with unreliable
 13 evidence and that justice requires that they be afforded a new
 14 trial.

15 Sec. 14. Section 29-4119, Revised Statutes Supplement,
 16 2002, is amended to read:

17 29-4119. For purposes of the DNA Testing Act:

18 (1) Innocence or innocent means the person did not commit
 19 the crime for which he or she was convicted and sentenced;

20 (2) Exonerate means evidence which tends to establish
 21 that the person is innocent of the crime; and

22 (3) Exculpatory ; exculpatory evidence means evidence
 23 which is favorable to the person in custody and material to the
 24 issue of the guilt of the person in custody. Evidence may be
 25 exculpatory because it presents a substantial question regarding
 26 the reliability and accuracy of evidence presented by the
 27 prosecution at the original trial, it raises a substantial defense
 1 that was unknown or unavailable at the original trial, or both.

2 Sec. 15. Section 29-4123, Revised Statutes Supplement,
 3 2002, is amended to read:

4 29-4123. (1) The results of the final DNA or other
 5 forensic testing ordered under subsection (5) of section 29-4120
 6 shall be disclosed to the county attorney, to the person filing the
 7 motion, and to the person's attorney.

8 (2) Upon receipt of the results of such testing, any
 9 party may request a hearing before the court when such results
 10 exonerate or exculpate the person. Following such hearing, the
 11 court ~~may, on its own motion or upon the motion of any party,~~
 12 vacate and set aside the judgment and release the person from
 13 custody based upon final testing results exonerating or exculpating
 14 the person shall:

15 (a) Vacate the judgment, set aside the conviction, and
 16 order the person released from custody if the court finds by clear
 17 and convincing evidence that the DNA testing results establish that
 18 the person is innocent of the charge for which he or she was
 19 convicted; or

20 (b) Vacate the judgment, set aside the conviction, and
 21 order the person held for a new trial if the court finds by clear
 22 and convincing evidence that the DNA testing results are
 23 exculpatory and that the DNA testing results substantially
 24 undermine the reliability and accuracy of the original trial. If a
 25 new trial is ordered, the court shall consider whether to release
 26 the person on bond pending trial or appeal.

27 (3) If the court does not grant the relief contained in
 1 subsection (2) of this section, ~~any party may file a motion for a~~
 2 ~~new trial under sections 29-2101 to 29-2103~~ the order denying
 3 relief shall be considered a final order and the person may appeal
 4 within the time and in the manner provided in section 25-1912.

5 (4) A person who has sought relief under the terms of the
 6 DNA Testing Act shall not seek a new trial based on the same DNA
 7 test results under sections 29-2101 to 29-2103."

8 2. On page 1, line 3; and page 12, line 6, strike "and
 9 29-4003" and insert "29-2101 to 29-2103, 29-4003, 29-4117, 29-4119,
 10 and 29-4123".

11 3. On page 1, line 11, after the semicolon insert "to
 12 change provisions relating to motions for new trial and the DNA
 13 Testing Act;"

14 4. Renumber the remaining sections accordingly.

SENATOR CUDABACK PRESIDING

Senator Chambers withdrew his motion to return.

MOTION - Suspend Rules

Senator Bourne offered the following motion to LB 613:
 Suspend Rule 7, Section 3(d) to permit consideration of AM3663, to
 LB 613.

The Bourne motion to suspend the rules prevailed with 33 ayes, 1 nay, 14
 present and not voting, and 1 excused and not voting.

MOTION - Return LB 613 to Select File

Senator Bourne moved to return LB 613 to Select File for the following
 Mossey-Bourne-Bromm-Synowiecki specific amendment:
 AM3663

(Amendments to Final Reading copy)

1 1. Insert the following new sections:

2 "Sec. 5. (1) A person commits the offense of domestic
 3 assault in the third degree if he or she:

4 (a) Intentionally and knowingly causes bodily injury to
 5 his or her intimate partner; or

6 (b) Places, by physical menace, his or her intimate
 7 partner in fear of imminent bodily injury.

8 (2) A person commits the offense of domestic assault in
 9 the second degree if he or she intentionally and knowingly causes
 10 bodily injury to his or her intimate partner with a dangerous
 11 instrument.

12 (3) A person commits the offense of domestic assault in
 13 the first degree if he or she intentionally and knowingly causes
 14 serious bodily injury to his or her intimate partner.

15 (4) Violation of subsection (1) of this section is a
 16 Class I misdemeanor, except that for any second or subsequent
 17 violation of such subsection within twelve years after the date of
 18 the current conviction, any person so offending against the same
 19 intimate partner is guilty of a Class IV felony.

20 (5) Violation of subsection (2) of this section is a
 21 Class IIIA felony, except that for any second or subsequent
 22 violation of such subsection within twelve years after the date of
 23 the current conviction, any person so offending against the same
 1 intimate partner is guilty of a Class III felony.

2 (6) Violation of subsection (3) of this section is a
 3 Class III felony, except that for any second or subsequent
 4 violation under such subsection within twelve years after the date
 5 of the current conviction, any person so offending against the same
 6 intimate partner is guilty of a Class II felony.

7 (7) For purposes of this section, intimate partner means
 8 a spouse; a former spouse; persons who have a child in common
 9 whether or not they have been married or lived together at any
 10 time; and persons who are or were involved in a dating
 11 relationship. For purposes of this subsection, dating relationship
 12 means frequent, intimate associations primarily characterized by
 13 the expectation of affectional or sexual involvement, but does not
 14 include a casual relationship or an ordinary association between
 15 persons in a business or social context.

16 Sec. 6. Section 29-404.02, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 29-404.02. (1) Except as provided in section 42-928, a
 19 peace officer may arrest a person without a warrant if the officer
 20 has reasonable cause to believe that such person has committed:

21 ~~(1)~~ (a) A felony;

22 ~~(2)~~ (b) A misdemeanor, and the officer has reasonable
 23 cause to believe that such person either ~~(a)~~ (i) will not be
 24 apprehended unless immediately arrested, ~~(b)~~ (ii) may cause injury
 25 to himself or herself or others or damage to property unless
 26 immediately arrested, ~~(c)~~ (iii) may destroy or conceal evidence of
 27 the commission of such misdemeanor, or ~~(d)~~ (iv) has committed a
 1 misdemeanor in the presence of the officer; or

2 ~~(3)~~ (c) One or more of the following acts to one or more
 3 household members, whether or not committed in the presence of the
 4 peace officer:

5 ~~(a)~~ (i) Attempting to cause or intentionally, and

6 knowingly, or recklessly causing bodily injury with or without a

- 7 ~~deadly weapon~~ dangerous instrument; or
 8 ~~(b) (ii) Threatening another in a menacing manner~~
 9 Placing, by physical menace, another in fear of imminent bodily
 10 injury; or
 11 ~~(e)~~ (iii) Engaging in sexual contact or sexual
 12 penetration without consent as defined in section 28-318.
 13 (2) For purposes of this section:
 14 (a) Household ~~household~~ members shall include spouses
 15 or former spouses, children, persons who are presently residing
 16 together or who have resided together in the past, persons who have
 17 a child in common whether or not they have been married or have
 18 lived together at any time, and other persons related by
 19 consanguinity or affinity, and persons who are presently involved
 20 in a dating relationship with each other or who have been involved
 21 in a dating relationship with each other; and
 22 (b) Dating relationship means frequent, intimate
 23 associations primarily characterized by the expectation of
 24 affectional or sexual involvement, but does not include a casual
 25 relationship or an ordinary association between persons in a
 26 business or social context.
 27 Sec. 7. (1) If a peace officer receives complaints under
 1 section 5 of this act from two or more opposing persons, the
 2 officer shall evaluate each complaint separately to determine who
 3 was the predominant aggressor. If the officer determines that one
 4 person was the predominant aggressor, the officer need not arrest
 5 the other person believed to have committed an offense. In
 6 determining whether a person is the predominant aggressor, the
 7 officer shall consider, among other things:
 8 (a) Prior complaints under section 5 of this act;
 9 (b) The relative severity of the injuries inflicted on
 10 each person;
 11 (c) The likelihood of future injury to each person; and
 12 (d) Whether one of the persons acted with a justified use
 13 of force under sections 28-1406 to 28-1416.
 14 (2) In addition to any other report required, a peace
 15 officer who arrests two or more persons with respect to such a
 16 complaint shall submit a detailed, written report setting forth the
 17 grounds for arresting multiple parties.
 18 Sec. 8. (1) Incident to an arrest under section 5 of
 19 this act, a peace officer:
 20 (a) Shall seize all weapons that are alleged to have been
 21 involved or threatened to be used; and
 22 (b) May seize any firearm and ammunition in the plain
 23 view of the officer or that is discovered pursuant to a search
 24 authorized or consented to by the person being searched or in
 25 charge of the premises being searched, as necessary for the
 26 protection of the officer or any other person.
 27 (2) Weapons seized under this section shall be stored
 1 according to the policies and procedures implemented by the seizing

2 law enforcement agency.

3 (3) Disposition of weapons under this section shall be
4 determined by court order.

5 Sec. 9. (1) When any person is found guilty of a crime
6 involving abuse as defined in section 42-903, the judge shall order
7 a presentence investigation to be completed and returned to the
8 court for consideration at the time of sentencing.

9 (2) At the time of sentencing, the court shall consider
10 the safety and protection of the victim of abuse and any member of
11 the victim's family or household when suspending a sentence or
12 granting probation.

13 (3) The court may order the convicted person to complete
14 a domestic abuse intervention program at the convicted person's
15 expense in addition to any other penalties.

16 Sec. 10. When a person is found guilty of a crime
17 involving abuse as defined in section 42-903, a court shall not
18 order house arrest for the person in the residence of the victim,
19 regardless of the ownership of the residence.

20 Sec. 11. On or before July 1, 2005, all law enforcement
21 agencies, prosecuting attorneys, and the Office of Probation
22 Administration shall develop, adopt, promulgate, and implement
23 written policies and procedures regarding crimes between intimate
24 partners as defined in section 5 of this act.

25 Sec. 12. Section 42-903, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 42-903. For purposes of the Protection from Domestic
1 Abuse Act, unless the context otherwise requires:

2 (1) Abuse means the occurrence of one or more of the
3 following acts between household members:

4 (a) Attempting to cause or intentionally, ~~and~~ knowingly,
5 ~~or recklessly~~ causing bodily injury with or without a ~~deadly weapon~~
6 ~~dangerous instrument;~~ ~~or~~

7 (b) Placing, by physical menace, another person in fear
8 of imminent bodily injury; ~~or~~

9 (c) Engaging in sexual contact or sexual penetration
10 without consent as defined in section 28-318;

11 (2) Department means the Department of Health and Human
12 Services;

13 (3) Family or household members includes spouses or
14 former spouses, children, persons who are presently residing
15 together or who have resided together in the past, persons who have
16 a child in common whether or not they have been married or have
17 lived together at any time, ~~and~~ other persons related by
18 consanguinity or affinity, ~~and persons who are presently involved~~
19 ~~in a dating relationship with each other or who have been involved~~
20 ~~in a dating relationship with each other. For purposes of this~~
21 ~~subdivision, dating relationship means frequent, intimate~~
22 ~~associations primarily characterized by the expectation of~~
23 ~~affectional or sexual involvement, but does not include a casual~~

24 relationship or an ordinary association between persons in a
 25 business or social context; and
 26 (4) Law enforcement agency means the police department or
 27 town marshal in incorporated municipalities, ~~and~~ the office of the
 1 sheriff in unincorporated areas, and the Nebraska State Patrol.

2 Sec. 13. Original sections 29-404.02 and 42-903, Reissue
 3 Revised Statutes of Nebraska, are repealed."
 4 2. On page 1, line 1, strike "court procedures" and
 5 insert "domestic violence; to amend sections 29-404.02 and 42-903,
 6 Reissue Revised Statutes of Nebraska"; and in line 3 after
 7 "prescribed" insert "; to create the offense of domestic assault;
 8 to change provisions relating to arrest and sentencing procedures;
 9 to provide duties for law enforcement; to redefine terms; and to
 10 repeal the original sections".
 11 3. Insert underscoring in sections 1 to 4.

The Bourne motion to return prevailed with 34 ayes, 0 nays, 14 present and not voting, and 1 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 613. The Mossey et al. specific amendment, AM3663, found in this day's Journal, was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Advanced to E & R for reengrossment.

MOTION - Return LB 625 to Select File

Senator Chambers moved to return LB 625 to Select File for the following specific amendment:

FA1686

On page 2, in line 25, after "any" insert "final"

Senator Chambers requested a roll call vote on his motion to return.

Voting in the affirmative, 16:

Beutler	Cudaback	Mines	Schimek
Bourne	Hartnett	Mossey	Synowiecki
Chambers	Janssen	Preister	Thompson
Connealy	Maxwell	Price	Wehrbein

Voting in the negative, 7:

Brown	Byars	Foley	Smith
Burling	Combs	Friend	

Present and not voting, 23:

Aguilar	Erdman	Kruse	Quandahl	Stuthman
Baker	Hudkins	Louden	Raikes	Tyson
Bromm	Jensen	McDonald	Redfield	Vrtiska
Cunningham	Johnson	Pedersen, Dw.	Schrock	
Engel	Jones	Pederson, D.	Stuhr	

Excused and not voting, 3:

Brashear	Kremer	Landis
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The Chambers motion to return failed with 16 ayes, 7 nays, 23 present and not voting, and 3 excused and not voting.

Senator Chambers moved to return LB 625 to Select File for the following specific amendment:

FA1687

On page 4, in line 13 strike "copies of all"; in line 14 strike "copies of".

In line 16 strike "copies" and insert "information"; strike beginning with "The" through the period in line 18.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Chambers requested a roll call vote on his motion to return.

Voting in the affirmative, 17:

Aguilar	Connealy	Maxwell	Price	Wehrbein
Beutler	Cudaback	McDonald	Schimek	
Bourne	Hartnett	Mossey	Synowiecki	
Chambers	Louden	Preister	Thompson	

Voting in the negative, 14:

Brashear	Byars	Foley	Pederson, D.	Smith
Bromm	Combs	Friend	Quandahl	Stuhr
Brown	Engel	Pedersen, Dw.	Schrock	

Present and not voting, 15:

Baker	Erdman	Jensen	Mines	Stuthman
Burling	Hudkins	Johnson	Raikes	Tyson
Cunningham	Janssen	Kruse	Redfield	Vrtiska

Excused and not voting, 3:

Jones	Kremer	Landis
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The Chambers motion to return failed with 17 ayes, 14 nays, 15 present and not voting, and 3 excused and not voting.

REPORT OF THE EXECUTIVE BOARD

2004 Resolutions calling for an Interim Study

- LR 403 Interim study to examine statutes relating to the age of majority
Judiciary
- LR 404 Interim study to review the issue of storm runoff requirements as
required by the federal Clean Water Act
Natural Resources

(Signed) L. Patrick Engel, Chairperson
Legislative Council, Executive Board

RESOLUTION

LEGISLATIVE RESOLUTION 405. Introduced by Foley, 29.

WHEREAS, Patrick Clark has earned the rank of Eagle Scout in the Boy Scouts of America, that organization's highest rank; and

WHEREAS, Patrick Clark is a member of Boy Scout Troop 49 of Sheridan Lutheran Church; and

WHEREAS, in achieving this rank, Patrick Clark advanced through five ranks and earned 23 merit badges when only 21 are required; and

WHEREAS, for his Eagle Scout project, Patrick designed and built two shelving units and a drying rack tray system to dry dishes for The Gathering Place, a soup kitchen in Lincoln; and

WHEREAS, fewer than four percent of all boys who join the Boy Scouts attain the rank of Eagle Scout; and

WHEREAS, Patrick Clark has achieved great success as an exemplary member of the Scouting program and has represented his troop and community with excellence; and

WHEREAS, a Court of Honor has been held for Patrick Clark at which time Patrick was presented with the Eagle Scout Badge.

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

1. That the Legislature commends Patrick Clark for his dedication, perseverance, and hard work in obtaining this distinguished rank.
2. That a copy of this resolution be sent to Patrick Clark and his family.

Laid over.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 499, 916, 916A, 1017, 1084, 1084A, and 1207.

ER9141

Enrollment and Review Change to LB 1017

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

1. In the Landis amendment, AM3640:

a. On page 14, line 27, the period has been struck and an underscored semicolon inserted; and

b. On page 17, line 13, "24, and 26" has been struck and "26, and 28" inserted.

2. In the Landis amendment, AM3658:

a. On page 1, line 21, "effective date of this act" has been struck and "operative date of this section" inserted;

b. On page 2, line 27; page 3, line 4; and page 4, line 16, "Department of Revenue" has been struck and "department" inserted;

c. On page 3, line 18, "enforcements" has been struck and "enforcement" inserted; and

d. On page 4, line 3, "subsection" has been struck and "subdivision" inserted; in line 9 "available for investment" has been inserted after "funds"; and in lines 17 and 18 all occurrences of "tax" have been struck and "taxes" inserted.

3. On page 1, the matter beginning with "section" in line 1 through line 4 and all amendments thereto have been struck and "sections 77-2701, 77-2701.04, 77-2701.10, 77-2701.16, 77-2701.34, 77-2701.42, 77-2703, 77-2703.01, 77-2703.02, 77-2704.12, 77-2704.15, 77-2704.32, 77-2704.33, 77-2704.36, 77-2704.49, 77-2704.55, 77-2712.05, 77-27188.01, and 77-3101, Reissue Revised Statutes of Nebraska, and section 49-801.01, Revised Statutes Supplement, 2003; to provide, change, and eliminate definitions; to change provisions relating to references to the Internal Revenue Code, the sales and use taxes on building materials and construction services, sourcing provisions for sales tax on services, sales and use tax exemptions, and nonresident contractor registration; to provide requirements for compliance with the streamlined sales and use tax agreement; to provide a tax amnesty program; to create funds; to provide powers and duties; to appropriate funds; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

ER9137

Enrollment and Review Change to LB 1207

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

1. In the Brashear amendment, AM3569, on page 12, line 22, "46" has been struck and "47" inserted.
2. In the E & R amendments, AM7215:
 - a. On page 6, line 13, "effective date of this act" has been struck and "operative date of this section" inserted; and
 - b. On page 41, line 27, "4" has been struck and "6" inserted.
3. On page 1, strike beginning with "civil" in line 1 through line 15 and all amendments thereto and insert "judicial process; to amend sections 24-809.05, 25-1565, 25-21,232, 25-21,233, 42-349, 42-350, 42-352, 42-353, 42-355, 42-361, 42-364, 42-364.11, 42-365, 42-373, 42-376, 42-380, 42-501 to 42-503, 43-512.01, 43-512.03, 43-512.04, 43-512.15, 43-1411.01, 43-1412, 43-2917, and 44-3311, Reissue Revised Statutes of Nebraska, sections 24-301.02, 25-1144.01, 25-1315.02, 25-1329, 25-1916, 25-21,230, 25-21,234, 25-2301.02, 25-2740, 42-357, 42-364.13, 42-371, and 43-3318, Revised Statutes Supplement, 2002, and sections 25-21,223 and 29-2261, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to district court judicial districts, posttrial motions, execution of judgments, appeal bonds, forcible entry and detainer actions, in forma pauperis proceedings, presentence reports and psychiatric examinations, domestic relations actions, filing of pleadings and pleading nomenclature for certain actions, and the Counsel for Discipline of the Nebraska Supreme Court; to provide an exemption from execution for earned income tax credit refunds; to provide immunity from liability relating to the handling of anhydrous ammonia; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to repeal the original sections; to outright repeal sections 42-119, 42-120, and 42-354, Reissue Revised Statutes of Nebraska; and to declare an emergency."

(Signed) Ray Mossey, Chairperson

MOTION - Return LB 625 to Select File

Senator Chambers moved to return LB 625 to Select File for the following specific amendment:

FA1688

Strike the enacting clause.

Senator Chambers withdrew his motion to return.

Senator Brown moved to return LB 625 to Select File for the following specific amendment:

FA1689

The provisions of this bill become effective October 1, 2005.

SPEAKER BROMM PRESIDING

The Brown motion to return prevailed with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 625. The Brown specific amendment, FA1689, found in this day's Journal, was adopted with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

Advanced to E & R for reengrossment.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 986. With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3526 and 77-3527, Reissue Revised Statutes of Nebraska; to redefine a term; to change provisions for a veteran homestead exemption; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 47:

Aguilar	Combs	Jensen	Pedersen, Dw.	Stuhr
Baker	Connealy	Johnson	Pederson, D.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Bourne	Engel	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Louden	Raikes	Vrtiska
Brown	Friend	Maxwell	Redfield	Wehrbein
Burling	Hartnett	McDonald	Schimek	
Byars	Hudkins	Mines	Schrock	
Chambers	Janssen	Mossey	Smith	

Voting in the negative, 0.

Present and not voting, 1:

Cudaback

Excused and not voting, 1:

Landis

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

LEGISLATIVE BILL 986A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 986, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

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

Voting in the affirmative, 46:

Aguilar	Combs	Johnson	Pederson, D.	Stuthman
Baker	Cunningham	Jones	Preister	Synowiecki
Beutler	Engel	Kremer	Price	Thompson
Bourne	Erdman	Kruse	Quandahl	Tyson
Brashear	Foley	Louden	Raikes	Vrtiska
Bromm	Friend	Maxwell	Redfield	Wehrbein
Brown	Hartnett	McDonald	Schimek	
Burling	Hudkins	Mines	Schrock	
Byars	Janssen	Mossey	Smith	
Chambers	Jensen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 1:

Connealy

Excused and not voting, 2:

Cudaback Landis

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

LEGISLATIVE BILL 998.

A BILL FOR AN ACT relating to the Nebraska Hospital-Medical Liability Act; to amend sections 44-2824, 44-2832, and 44-2855, Reissue Revised Statutes of Nebraska, section 44-2833, Revised Statutes Supplement, 2002, and sections 44-2825, 44-2827, 44-2829, and 44-2831, Revised Statutes Supplement, 2003; to change financial responsibility, liability, surcharge, claims, and settlement provisions; to provide for applicability; to harmonize

provisions; to provide an operative date; and to repeal the original sections.

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

Voting in the affirmative, 46:

Aguilar	Connealy	Johnson	Pederson, D.	Stuthman
Baker	Cunningham	Jones	Preister	Synowiecki
Beutler	Engel	Kremer	Price	Thompson
Bourne	Erdman	Kruse	Quandahl	Tyson
Brashear	Foley	Louden	Raikes	Vrtiska
Bromm	Friend	Maxwell	Redfield	Wehrbein
Burling	Hartnett	McDonald	Schimek	
Byars	Hudkins	Mines	Schrock	
Chambers	Janssen	Mossey	Smith	
Combs	Jensen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 1:

Brown

Excused and not voting, 2:

Cudaback Landis

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 998A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 998, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 47:

Aguilar	Combs	Jensen	Pedersen, Dw.	Stuhr
Baker	Connealy	Johnson	Pederson, D.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Bourne	Engel	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Louden	Raikes	Vrtiska
Brown	Friend	Maxwell	Redfield	Wehrbein
Burling	Hartnett	McDonald	Schimek	
Byars	Hudkins	Mines	Schrock	
Chambers	Janssen	Mossey	Smith	

Voting in the negative, 0.

Excused and not voting, 2:

Cudaback Landis

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 888.

A BILL FOR AN ACT relating to energy codes; to amend sections 72-804 to 72-806, 81-1608, 81-1613 to 81-1615, 81-1617, 81-1618, 81-1620, 81-1622, and 81-1625, Reissue Revised Statutes of Nebraska, and sections 81-1609, 81-1611, and 81-1616, Revised Statutes Supplement, 2002; to change and harmonize provisions relating to state and local energy codes and standards; to provide operative dates; and to repeal the original sections.

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

Voting in the affirmative, 47:

Aguilar	Combs	Jensen	Pedersen, Dw.	Stuhr
Baker	Connealy	Johnson	Pederson, D.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Bourne	Engel	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Louden	Raikes	Vrtiska
Brown	Friend	Maxwell	Redfield	Wehrbein
Burling	Hartnett	McDonald	Schimek	
Byars	Hudkins	Mines	Schrock	
Chambers	Janssen	Mossey	Smith	

Voting in the negative, 0.

Excused and not voting, 2:

Cudaback Landis

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 841. With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.12, Reissue Revised Statutes of Nebraska; to change provisions relating to sales and use tax exemptions; to adopt the ICF/MR Reimbursement Protection Act; to eliminate a filing requirement; to provide operative dates; to repeal the original section; to outright repeal section 77-2704.37, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Voting in the affirmative, 46:

Aguilar	Combs	Johnson	Pederson, D.	Stuthman
Baker	Connealy	Jones	Preister	Synowiecki
Beutler	Cunningham	Kremer	Price	Thompson
Bourne	Engel	Kruse	Quandahl	Tyson
Brashear	Erdman	Louden	Raikes	Vrtiska
Bromm	Foley	Maxwell	Redfield	Wehrbein
Brown	Friend	McDonald	Schimek	
Burling	Hartnett	Mines	Schrock	
Byars	Hudkins	Mossey	Smith	
Chambers	Janssen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 1:

Jensen

Excused and not voting, 2:

Cudaback Landis

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

LEGISLATIVE BILL 841A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 841, Ninety-eighth

Legislature, Second Session, 2004; and to declare an emergency.

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

Voting in the affirmative, 47:

Aguilar	Combs	Jensen	Pedersen, Dw.	Stuhr
Baker	Connealy	Johnson	Pederson, D.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Bourne	Engel	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Louden	Raikes	Vrtiska
Brown	Friend	Maxwell	Redfield	Wehrbein
Burling	Hartnett	McDonald	Schimek	
Byars	Hudkins	Mines	Schrock	
Chambers	Janssen	Mossey	Smith	

Voting in the negative, 0.

Excused and not voting, 2:

Cudaback Landis

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 962 with 41 ayes, 3 nays, 3 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 962. With Emergency.

A BILL FOR AN ACT relating to natural resources; to amend sections 2-1586, 2-3225, 46-229.02, 46-229.03, 46-2,127, 46-609, 46-651, 46-656.03, 46-656.04, 46-656.08, 46-656.11, 46-656.13, 46-656.21, 46-656.32, 46-656.35 to 46-656.37, 46-656.39, 46-656.41 to 46-656.48, 46-656.64, 46-680, 46-1207.01, 46-1207.02, 46-1212, 46-1228, 61-206, 66-1501, 66-1519, 66-1523, 66-1525, 66-1529.02, 77-27,137.02, and 77-3442, Reissue Revised Statutes of Nebraska, sections 2-1588, 13-520, 46-226.03, 46-229, 46-229.04, 46-230, 46-235.04, 46-237, 46-261, 46-290 to 46-296, 46-2,112, 46-2,119, 46-2,132, 46-2,135, 46-601.01, 46-613.02, 46-653, 46-656.05, 46-656.14, 46-656.19, 46-656.25 to 46-656.27, 46-656.31, 46-656.33, 46-656.38, 46-656.40, 46-656.62, 46-656.63,

46-656.65 to 46-656.67, 46-676, 46-678.01, and 81-15,176, Revised Statutes Supplement, 2002, and sections 46-241, 46-602, 46-656.01, 46-656.02, 46-656.07, 46-656.10, 46-656.12, 46-656.24, 46-656.29, 46-656.30, and 81-15,174, Revised Statutes Supplement, 2003; to change tax levy provisions for natural resources districts; to change provisions relating to management plans, water appropriations, water policy, water wells, public water supply, water transfers, and the Department of Natural Resources; to provide a termination date for provisions relating to the Water Policy Task Force; to transfer, change, and eliminate provisions relating to the Nebraska Ground Water Management and Protection Act; to require insurance for remedial action and change dates relating to the Petroleum Release Remedial Action Act; to define and redefine terms; to provide and change powers and duties; to create a board and a fund; to provide for transfers of funds; to eliminate a committee; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; to outright repeal sections 46-656.06, 46-656.09, 46-656.17, 46-656.18, 46-656.20, 46-656.22, 46-656.23, and 46-656.49, Reissue Revised Statutes of Nebraska, and sections 46-656.15, 46-656.16, 46-656.28, and 46-656.50 to 46-656.61, Revised Statutes Supplement, 2002; and to declare an emergency.

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

Voting in the affirmative, 44:

Aguilar	Cunningham	Johnson	Pedersen, Dw.	Smith
Baker	Engel	Jones	Pederson, D.	Stuhr
Beutler	Erdman	Kremer	Preister	Stuthman
Brashear	Foley	Kruse	Price	Synowiecki
Bromm	Friend	Louden	Quandahl	Thompson
Brown	Hartnett	Maxwell	Raikes	Tyson
Burling	Hudkins	McDonald	Redfield	Vrtiska
Byars	Janssen	Mines	Schimek	Wehrbein
Combs	Jensen	Mossey	Schrock	

Voting in the negative, 2:

Bourne Chambers

Present and not voting, 1:

Connealy

Excused and not voting, 2:

Cudaback Landis

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

The following bills were read and put upon final passage:

LEGISLATIVE BILL 962A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 962, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

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

Voting in the affirmative, 42:

Aguilar	Engel	Jones	Preister	Stuthman
Baker	Erdman	Kremer	Price	Synowiecki
Brashear	Foley	Louden	Quandahl	Thompson
Bromm	Friend	Maxwell	Raikes	Tyson
Brown	Hartnett	McDonald	Redfield	Vrtiska
Burling	Hudkins	Mines	Schimek	Wehrbein
Byars	Janssen	Mossey	Schrock	
Combs	Jensen	Pedersen, Dw.	Smith	
Cunningham	Johnson	Pederson, D.	Stuhr	

Voting in the negative, 2:

Bourne Chambers

Present and not voting, 3:

Beutler Connealy Kruse

Excused and not voting, 2:

Cudaback Landis

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

LEGISLATIVE BILL 599. With Emergency.

A BILL FOR AN ACT relating to engineers and architects; to amend sections 81-3445 and 81-3451, Reissue Revised Statutes of Nebraska, sections 2-3256 and 81-3449, Revised Statutes Supplement, 2002, and section 81-3453, Revised Statutes Supplement, 2003; to change and eliminate requirements for use of engineering and architectural services; to

change eligibility requirements for the engineering examination; to repeal the original sections; to outright repeal section 81-3447, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Voting in the affirmative, 45:

Aguilar	Chambers	Hudkins	Mines	Schrock
Baker	Combs	Janssen	Mossey	Smith
Beutler	Connealy	Jensen	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Johnson	Preister	Stuthman
Brashear	Engel	Jones	Price	Synowiecki
Bromm	Erdman	Kremer	Quandahl	Thompson
Brown	Foley	Louden	Raikes	Tyson
Burling	Friend	Maxwell	Redfield	Vrtiska
Byars	Hartnett	McDonald	Schimek	Wehrbein

Voting in the negative, 0.

Present and not voting, 2:

Kruse Pederson, D.

Excused and not voting, 2:

Cudaback Landis

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

LEGISLATIVE BILL 599A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 599, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

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

Voting in the affirmative, 46:

Aguilar	Combs	Jensen	Pederson, D.	Stuthman
Baker	Connealy	Johnson	Preister	Synowiecki
Beutler	Cunningham	Jones	Price	Thompson
Bourne	Engel	Kremer	Quandahl	Tyson
Brashear	Erdman	Louden	Raikes	Vrtiska
Bromm	Foley	Maxwell	Redfield	Wehrbein
Brown	Friend	McDonald	Schimek	
Burling	Hartnett	Mines	Schrock	
Byars	Hudkins	Mossey	Smith	
Chambers	Janssen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 1:

Kruse

Excused and not voting, 2:

Cudaback Landis

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

SELECT COMMITTEE REPORTS **Enrollment and Review**

Correctly Reengrossed

The following bills were correctly reengrossed: LBs 439, 439A, 559, 559A, 613, 625, 868, and 943.

ER9143

Enrollment and Review Change to LB 439

(Second Final Reading copy)

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

1. In the Beutler amendment, AM3561, on page 26, line 14, "administrator's" has been struck, shown as stricken, and "State Building Administrator's" inserted.

ER9139

Enrollment and Review Change to LB 439A

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

1. On page 1, line 3, "First Session, 2003" has been struck and "Second

Session, 2004" inserted.

ER9138

Enrollment and Review Change to LB 559
(Final Reading copy)

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

1. On page 1, the matter beginning with "the" in line 1 through line 16 has been struck and "organ and tissue donation; to amend sections 60-493, 60-494, and 60-2907, Revised Statutes Supplement, 2002, and sections 60-484, 60-4,144, and 60-4,181, Revised Statutes Supplement, 2003; to provide for the Donor Registry of Nebraska; to authorize the Department of Motor Vehicles to transfer certain motor vehicle operator's license and state identification card information; to change provisions relating to donor notations on such licenses and cards; to create an advisory board; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency." inserted.

2. On page 2, lines 1 through 5 have been struck.

ER9142

Enrollment and Review Change to LB 613
(Final Reading copy)

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

1. In the Mossey et al. amendment, AM3663, on page 7, line 5, "domestic violence" has been struck and "crimes and offenses" inserted.

ER9145

Enrollment and Review Change to LB 625
(Second Final Reading copy)

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

1. In lieu of the Brown amendment, FA1689:

a. The following new section has been inserted:

"Sec. 3. This act becomes operative on October 1, 2005.";

b. On page 1, line 4, "to provide an operative date;" has been inserted after the semicolon; and

c. Original section 3 has been renumbered as section 4.

ER9144

Enrollment and Review Change to LB 943
(Final Reading Copy)

The following changes, required to be reported for publication in the

Journal, have been made:

1. In the Beutler amendment, AM3639, on page 1, lines 4 and 5 and 8 and 9, "subsection (1) of this section" has been struck and "this subsection" inserted.

(Signed) Ray Mossey, Chairperson

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendments to LR 400:

FA1690

Strike the 10th whereas in its entirety.

FA1691

In the 5th WHEREAS strike "consumer" and replace it with "industry"

FA1692

Strike the language "Whereas the Legislature is charged with ensuring that consumers pay only reasonable charges for telecommunications services"

FA1693

Strike the 11th Whereas in its entirety.

FA1694

Strike the 12th Whereas in its entirety.

FA1695

Add the following language at the end of Resolve 3:
"so that it may act contrary to law"

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 986, 986A, 998, 998A, 888, 841, 841A, 962, 962A, 599, and 599A.

VISITORS

Visitors to the Chamber were 44 fifth- and sixth-grade students and teacher from O'Neill; Senator Maxwell's wife and children, Pam, Tomás, Oto, Laura, and Beverly Maxwell; Matt Travers and Mitch Anderson from Columbus, Aaron Forehand from Ft. Collins, Colorado, and Steve Tomlison from Lincoln; Bob McBride from Ord; John and Judy Nelson from Omaha; and 20 fourth-grade students and teacher from St. Francis Elementary School, Humphrey.

The Doctor of the Day was Dr. Jeff Harrison from Omaha.

ADJOURNMENT

At 7:46 p.m., on a motion by Senator Combs, the Legislature adjourned until 9:00 a.m., Wednesday, April 14, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTY-NINTH DAY - APRIL 14, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FIFTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 14, 2004

PRAYER

The prayer was offered by Pastor Mary Ellen Gaither, United Methodist Church, DeWitt and Pickrell.

ROLL CALL

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

The roll was called and all members were present except Senators Loudon, Maxwell, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 1590, line 34, after "the" insert "variable fuel tax and could increase that tax due to the need for \$991,000 from the".

The Journal for the fifty-eighth day was approved as corrected.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 13, 2004, at 7:53 p.m. were the following: LBs 986e, 986Ae, 998, 998A, 888, 841e, 841Ae, 962e, 962Ae, 599e, and 599Ae.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 1045. With Emergency.

A BILL FOR AN ACT relating to the Nebraska Pure Food Act; to amend sections 81-2,239, 81-2,240, 81-2,267, and 81-2,270, Reissue Revised

Statutes of Nebraska; to define a term; to provide for single event food vendors; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 43:

Aguilar	Combs	Hudkins	Mines	Smith
Baker	Connealy	Janssen	Mossey	Stuhr
Bourne	Cudaback	Jensen	Pedersen, Dw.	Stuthman
Brashear	Cunningham	Johnson	Pederson, D.	Thompson
Bromm	Engel	Jones	Price	Tyson
Brown	Erdman	Kremer	Quandahl	Vrtiska
Burling	Foley	Kruse	Raikes	Wehrbein
Byars	Friend	Landis	Schimek	
Chambers	Hartnett	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 3:

Beutler	Preister	Redfield
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Excused and not voting, 3:

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

MOTION - Recommit LB 1083 to Committee

Senator Jensen offered the following motion to LB 1083:
Recommit LB 1083 to the Health and Human Services Committee pursuant to Rule 6, section 8.

Senator Jensen withdrew his motion to recommit to committee.

MOTION - Return LB 1083 to Select File

Senators Schimek and Beutler moved to return LB 1083 to Select File for the following specific amendment:

FA1685

Strike the enacting clause.

SENATOR VRTISKA PRESIDING

SENATOR JONES PRESIDING

Senator Schimek withdrew the Schimek-Beutler motion to return.

SENATOR CUDABACK PRESIDING**BILLS ON FINAL READING****Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1083 with 41 ayes, 3 nays, and 5 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1083. With Emergency.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 20-164, 23-3402, 29-434, 29-3705, 29-3915, 42-917, 43-248, 43-254.01, 44-773, 44-774, 48-1102, 53-1,120, 58-703, 58-706, 71-101, 71-102, 71-107, 71-110, 71-112, 71-113, 71-114, 71-116, 71-131, 71-139.02, 71-162, 71-1,312, 80-601, 81-1850, 81-2213, 83-305, 83-305.01, 83-314, 83-324, 83-336, 83-338, 83-340, 83-340.01, 83-349, 83-350, 83-351, 83-354, 83-364, 83-376, 83-1001, 83-1002, 83-1004, 83-1005, 83-1006, 83-1007, 83-1007.01, 83-1009, 83-1009.01, 83-1009.02, 83-1010, 83-1011, 83-1014, 83-1017, 83-1020, 83-1027, 83-1035, 83-1037, 83-1039, 83-1041, 83-1042, 83-1043, 83-1044, 83-1045, 83-1045.01, 83-1045.02, 83-1046, 83-1052, 83-1053, 83-1054, 83-1056, 83-1057, 83-1060, 83-1068, 83-1071, 83-1072, 83-1073, 83-1074, 83-1078, 83-1080, 84-1211, and 84-1326.01, Reissue Revised Statutes of Nebraska, sections 43-245, 43-247, 83-162.04, 83-4,157, 83-1016, 83-1019, 83-1024, 83-1026, 83-1047, 83-1048, 83-1049, 83-1050, 83-1051, 83-1055, 83-1058, 83-1059, 83-1061, 83-1062, 83-1064, 83-1066, and 83-1069, Revised Statutes Supplement, 2002, and sections 9-812, 28-416, 43-250, 60-6,209, and 83-1079, Revised Statutes Supplement, 2003; to adopt the Nebraska Behavioral Health Services Act; to change and eliminate provisions relating to state hospitals and mental health commitments; to transfer the Nebraska Mental Health Commitment Act; to provide for fund transfers from and an authorized use of the Affordable Housing Trust Fund; to provide for licensure of alcohol and drug abuse counselors; to create a board; to provide for fees; to provide and change powers and duties; to eliminate the Nebraska Comprehensive Community Mental Health Services Act, the Rehabilitation and Support Mental Health Services Incentive Act, the Alcoholism, Drug Abuse, and Addiction Services Act, the Nebraska Behavioral Health Reform Act, and provisions relating to behavioral health; to harmonize provisions; to provide severability; to provide operative dates; to repeal the original sections; to outright repeal sections 71-5001 to 71-5010, 71-5012 to 71-5053, 71-5055

to 71-5066, 83-158.01, 83-159, 83-160, 83-161.02, 83-162.01 to 83-162.03, 83-163 to 83-169, 83-305.05, 83-306, 83-307, 83-307.01, 83-308, 83-311, 83-312, 83-318, 83-321, 83-337, 83-339, 83-352.02, 83-1012, 83-1018, 83-1021, 83-1022, 83-1028, 83-1029, 83-1036, 83-1038, 83-1040, 83-1044.01, 83-1065, 83-1067, 83-1070, and 83-1077.01, Reissue Revised Statutes of Nebraska, and sections 83-1003, 83-1008, 83-1013, 83-1015, 83-1023, and 83-1025, Revised Statutes Supplement, 2002; and to declare an emergency.

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

Voting in the affirmative, 44:

Aguilar	Combs	Janssen	Mines	Schrock
Baker	Cudaback	Jensen	Mossey	Smith
Bourne	Cunningham	Johnson	Pedersen, Dw.	Stuhr
Brashear	Engel	Jones	Pederson, D.	Stuthman
Bromm	Erdman	Kremer	Preister	Synowiecki
Brown	Foley	Kruse	Quandahl	Thompson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Louden	Redfield	Wehrbein
Chambers	Hudkins	Maxwell	Schimek	

Voting in the negative, 2:

Beutler Connealy

Present and not voting, 3:

McDonald Price Tyson

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 1083A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2003, LB 407, section 220; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1083, Ninety-eighth Legislature, Second Session, 2004; to state intent; to provide for transfers; to change appropriations; to repeal the original section; and to declare an emergency.

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

Voting in the affirmative, 43:

Aguilar	Combs	Janssen	Mossey	Smith
Baker	Cudaback	Jensen	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Jones	Pederson, D.	Stuthman
Brashear	Engel	Kremer	Preister	Synowiecki
Bromm	Erdman	Kruse	Quandahl	Thompson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Louden	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	Mines	Schrock	

Voting in the negative, 0.

Present and not voting, 6:

Beutler	Johnson	Price
Connealy	McDonald	Tyson

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

MOTION - Return LB 1162 to Select File

Senator Dw. Pedersen moved to return LB 1162 to Select File for the following specific amendment:

FA1701

Strike the enacting clause.

Senator Dw. Pedersen withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 1162. With Emergency.

A BILL FOR AN ACT relating to law enforcement; to amend section 81-1438, Reissue Revised Statutes of Nebraska, and sections 20-503, 20-504, and 81-1413, Revised Statutes Supplement, 2002; to change provisions relating to racial profiling reporting duties, certification training costs, and establishment of reserve forces; to create the Racial Profiling Advisory Committee; to provide powers and duties; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 45:

Aguilar	Combs	Janssen	McDonald	Schimek
Baker	Connealy	Jensen	Mines	Schrock
Beutler	Cudaback	Johnson	Mossey	Smith
Bourne	Cunningham	Jones	Pedersen, Dw.	Stuhr
Brashear	Engel	Kremer	Pederson, D.	Stuthman
Bromm	Erdman	Kruse	Preister	Synowiecki
Brown	Friend	Landis	Price	Thompson
Byars	Hartnett	Louden	Raikes	Vrtiska
Chambers	Hudkins	Maxwell	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 4:

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

LEGISLATIVE BILL 1231.

A BILL FOR AN ACT relating to cemeteries; to amend section 12-1301, Revised Statutes Supplement, 2002; to change provisions relating to the state veteran cemetery system; to rename and create funds; to create the Nebraska Veterans Cemetery Advisory Board; to provide powers and duties; to harmonize provisions; and to repeal the original section.

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

Voting in the affirmative, 49:

Aguilar	Combs	Janssen	Mines	Schrock
Baker	Connealy	Jensen	Mossey	Smith
Beutler	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Jones	Pederson, D.	Stuthman
Brashear	Engel	Kremer	Preister	Synowiecki
Bromm	Erdman	Kruse	Price	Thompson
Brown	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	McDonald	Schimek	

Voting in the negative, 0.

Not voting, 0.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 1231A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1231, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 48:

Aguilar	Connealy	Jensen	Mossey	Smith
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Jones	Pederson, D.	Stuthman
Bourne	Engel	Kremer	Preister	Synowiecki
Brashear	Erdman	Kruse	Price	Thompson
Bromm	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	McDonald	Schimek	
Combs	Janssen	Mines	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 37 to Select File

Senator Vrtiska moved to return LB 37 to Select File for the following specific amendment:

FA1696

Strike the enacting clause.

Senator Vrtiska withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 37.

A BILL FOR AN ACT relating to labor; to amend section 77-2716, Reissue Revised Statutes of Nebraska; to adopt the Wage Replacement Savings Plan Act; to harmonize provisions; and to repeal the original section.

Senator Price requested a roll call vote.

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

Voting in the affirmative, 17:

Beutler	Cudaback	Landis	Price	Thompson
Byars	Foley	Louden	Schimek	
Combs	Hartnett	Mossey	Schrock	
Connealy	Kruse	Pedersen, Dw.	Synowiecki	

Voting in the negative, 17:

Aguilar	Erdman	Jones	Raikes	Vrtiska
Bromm	Friend	Kremer	Redfield	
Burling	Janssen	Pederson, D.	Smith	
Cunningham	Jensen	Quandahl	Tyson	

Present and not voting, 15:

Baker	Brown	Hudkins	McDonald	Stuhr
Bourne	Chambers	Johnson	Mines	Stuthman
Brashear	Engel	Maxwell	Preister	Wehrbein

Having failed to receive a constitutional majority voting in the affirmative, the bill failed to pass.

LEGISLATIVE BILL 644.

A BILL FOR AN ACT relating to property tax; to require reports by county assessors.

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

Voting in the affirmative, 46:

Aguilar	Combs	Johnson	Pederson, D.	Stuthman
Baker	Connealy	Jones	Preister	Synowiecki
Beutler	Cudaback	Kruse	Price	Thompson
Bourne	Engel	Landis	Quandahl	Tyson
Brashear	Foley	Louden	Raikes	Vrtiska
Bromm	Friend	Maxwell	Redfield	Wehrbein
Brown	Hartnett	McDonald	Schimek	
Burling	Hudkins	Mines	Schrock	
Byars	Janssen	Mossey	Smith	
Chambers	Jensen	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Present and not voting, 3:

Cunningham Erdman Kremer

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 644A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 644, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 44:

Aguilar	Combs	Johnson	Mossey	Schrock
Baker	Cudaback	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Foley	Kruse	Preister	Stuthman
Brashear	Friend	Landis	Price	Synowiecki
Bromm	Hartnett	Louden	Quandahl	Thompson
Burling	Hudkins	Maxwell	Raikes	Tyson
Byars	Janssen	McDonald	Redfield	Wehrbein
Chambers	Jensen	Mines	Schimek	

Voting in the negative, 0.

Present and not voting, 4:

Brown Cunningham Erdman Vrtiska

Excused and not voting, 1:

Connealy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SPEAKER BROMM PRESIDING

LEGISLATIVE BILL 139.

A BILL FOR AN ACT relating to the DNA Detection of Sexual and Violent Offenders Act; to amend sections 29-4102 to 29-4108, Revised Statutes Supplement, 2002, and section 29-2262, Revised Statutes Supplement, 2003; to restate intent; to redefine terms; to change provisions relating to the State DNA Data Base and State DNA Sample Bank, taking and use of DNA samples, and use of DNA records; to authorize DNA typing tests requested by persons accused of civil wrongdoing as prescribed; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 46:

Aguilar	Cudaback	Johnson	Pederson, D.	Stuthman
Baker	Cunningham	Jones	Preister	Synowiecki
Beutler	Engel	Kruse	Price	Thompson
Bourne	Erdman	Landis	Quandahl	Tyson
Brashear	Foley	Louden	Raikes	Vrtiska
Bromm	Friend	Maxwell	Redfield	Wehrbein
Burling	Hartnett	McDonald	Schimek	
Byars	Hudkins	Mines	Schrock	
Chambers	Janssen	Mossey	Smith	
Combs	Jensen	Pedersen, Dw.	Stuhr	

Voting in the negative, 1:

Brown

Present and not voting, 1:

Kremer

Excused and not voting, 1:

Connealy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 139A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 139, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 48:

Aguilar	Combs	Jensen	Mossey	Smith
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Jones	Pederson, D.	Stuthman
Bourne	Engel	Kremer	Preister	Synowiecki
Brashear	Erdman	Kruse	Price	Thompson
Bromm	Foley	Landis	Quandahl	Tyson
Brown	Friend	Louden	Raikes	Vrtiska
Burling	Hartnett	Maxwell	Redfield	Wehrbein
Byars	Hudkins	McDonald	Schimek	
Chambers	Janssen	Mines	Schrock	

Voting in the negative, 0.

Excused and not voting, 1:

Connealy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 999 with 43 ayes, 2 nays, 3 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 999. With Emergency.

A BILL FOR AN ACT relating to banking and finance; to amend sections 8-1009, 8-1512, 8-1513, 9-701, 25-1530, 30-2734, 43-3334, 45-206, 45-342, 45-346, 45-921, 72-1262, 76-1006, 76-1009, 76-1010, 76-1012, 77-2365.01, 77-2366, and 77-2387, Reissue Revised Statutes of Nebraska, sections 8-113, 8-910, 8-1006, 8-1008, 8-1010, 8-1511, 45-205, 45-351, 45-1017, and 45-1065, Revised Statutes Supplement, 2002, and sections 8-157.01, 8-1,140, 8-355, 8-602, 8-1001, 8-1003, 8-1012.01, 21-17,115, 30-3811, 30-3837, 30-3854, 30-3855, 30-3867, 30-38,110, 45-101.04,

45-1018, 45-1024, and 45-1025, Revised Statutes Supplement, 2003; to change provisions relating to bank names, electronic terminals, fees, the Nebraska Sale of Checks and Funds Transmission Act, acquisition of credit card banks, gift enterprises, foreclosure of mortgages, uniform transfer on death security registration, the Nebraska Uniform Trust Code, the bank match system used for support orders, interest and loans, revolving charge agreements, the Nebraska Installment Sales Act, the Delayed Deposit Services Licensing Act, the Nebraska Installment Loan Act, deposit and investment of public funds, and the Nebraska Trust Deeds Act; to revise powers of state-chartered banks, savings and loan associations, and credit unions; to provide for credit card banks; to define and redefine terms; to eliminate obsolete language; to eliminate currency transaction reporting provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 8-1801 to 8-1807, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Voting in the affirmative, 47:

Aguilar	Combs	Jensen	Mossey	Stuhr
Baker	Cudaback	Johnson	Pederson, D.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Bourne	Engel	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Landis	Raikes	Vrtiska
Brown	Friend	Louden	Redfield	Wehrbein
Burling	Hartnett	Maxwell	Schimek	
Byars	Hudkins	McDonald	Schrock	
Chambers	Janssen	Mines	Smith	

Voting in the negative, 0.

Present and not voting, 1:

Pedersen, Dw.

Excused and not voting, 1:

Connealy

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 1002.

A BILL FOR AN ACT relating to the Commercial Dog and Cat Operator Inspection Act; to amend sections 54-626 and 54-627, Revised Statutes Supplement, 2003; to define and redefine terms; to change pet shop provisions; and to repeal the original sections.

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

Voting in the affirmative, 49:

Aguilar	Combs	Janssen	Mines	Schrock
Baker	Connealy	Jensen	Mossey	Smith
Beutler	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Jones	Pederson, D.	Stuthman
Brashear	Engel	Kremer	Preister	Synowiecki
Bromm	Erdman	Kruse	Price	Thompson
Brown	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	McDonald	Schimek	

Voting in the negative, 0.

Not voting, 0.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 1045, 1083, 1083A, 1162, 1231, 1231A, 644, 644A, 139, 139A, 999, and 1002.

VISITORS

Visitors to the Chamber were 53 fourth-grade students and teachers from Joslyn Elementary School, Omaha; Senator Cudaback's aunts and their husbands: Treva and Alton Hall from Big Springs, Texas, and Donna and Tom Hartford from Kearney; Ginny Friesen from Henderson and Elizabeth Osterman from Lincoln; fourth- and fifth-grade students and teacher from Madison; Mike and Danette Hudson from Hemingford; 46 fourth-grade students and teachers from Seymour Elementary School, Ralston; and German exchange students from Spencer Naper School, Boyd County.

RECESS

At 11:51 a.m., on a motion by Senator Kruse, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Bromm, Brown, Byars, Combs, Engel, Erdman, Jensen, Johnson, Maxwell, Mines, Price, Redfield, and Stuthman who were excused until they arrive.

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 14, 2004, at 11:56 a.m. were the following: LBs 1045e, 1083e, 1083Ae, 1162e, 1231, 1231A, 644, 644A, 139, 139A, 999e, and 1002.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

MOTION - Return LB 1004 to Select File

Senator Beutler moved to return LB 1004 to Select File for the following specific amendment:

FA1697

Strike the enacting clause.

Senator Beutler withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 1004.

A BILL FOR AN ACT relating to the Public Service Commission; to amend section 75-112, Reissue Revised Statutes of Nebraska, and section 86-329, Revised Statutes Supplement, 2002; to change provisions relating to commissioners and examiners of the commission; to rename the Nebraska Lifeline Service Program; and to repeal the original sections.

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

Voting in the affirmative, 35:

Aguilar	Connealy	Janssen	Mossey	Schrock
Baker	Cudaback	Jones	Pedersen, Dw.	Smith
Beutler	Cunningham	Kremer	Pederson, D.	Stuhr
Bourne	Foley	Kruse	Preister	Synowiecki
Brashear	Friend	Landis	Quandahl	Thompson
Burling	Hartnett	Louden	Raikes	Vrtiska
Chambers	Hudkins	McDonald	Schimek	Wehrbein

Voting in the negative, 0.

Present and not voting, 1:

Tyson

Excused and not voting, 13:

Bromm	Combs	Jensen	Mines	Stuthman
Brown	Engel	Johnson	Price	
Byars	Erdman	Maxwell	Redfield	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 1099.

A BILL FOR AN ACT relating to security interests; to amend section 52-1316, Reissue Revised Statutes of Nebraska, section 52-1313, Revised Statutes Supplement, 2003, and section 9-525, Uniform Commercial Code; to change provisions relating to filing fees; to harmonize provisions; and to repeal the original sections.

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

Voting in the affirmative, 37:

Aguilar	Cudaback	Kremer	Pederson, D.	Synowiecki
Baker	Cunningham	Kruse	Preister	Thompson
Beutler	Foley	Landis	Quandahl	Tyson
Bourne	Friend	Louden	Raikes	Vrtiska
Brashear	Hartnett	McDonald	Schimek	Wehrbein
Burling	Hudkins	Mines	Schrock	
Chambers	Janssen	Mossey	Smith	
Connealy	Jones	Pedersen, Dw.	Stuhr	

Voting in the negative, 0.

Excused and not voting, 12:

Bromm	Combs	Jensen	Price
Brown	Engel	Johnson	Redfield
Byars	Erdman	Maxwell	Stuthman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 1107.

A BILL FOR AN ACT relating to the Nebraska Scholarship Act; to amend sections 85-1903 and 85-1912, Revised Statutes Supplement, 2003; to change provisions relating to award amounts and computation of the target level of funds; and to repeal the original sections.

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

Voting in the affirmative, 36:

Aguilar	Cunningham	Kruse	Preister	Thompson
Baker	Foley	Landis	Quandahl	Tyson
Beutler	Friend	Louden	Raikes	Vrtiska
Bourne	Hartnett	McDonald	Schimek	Wehrbein
Brashear	Hudkins	Mines	Schrock	
Chambers	Janssen	Mossey	Smith	
Connealy	Jones	Pedersen, Dw.	Stuhr	
Cudaback	Kremer	Pederson, D.	Synowiecki	

Voting in the negative, 0.

Excused and not voting, 13:

Bromm	Byars	Erdman	Maxwell	Stuthman
Brown	Combs	Jensen	Price	
Burling	Engel	Johnson	Redfield	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 1118.

A BILL FOR AN ACT relating to audits; to amend sections 50-1203, 50-1205.01, and 84-304, Revised Statutes Supplement, 2003; to redefine a term; to change references to auditing standards; to change powers and duties of the Auditor of Public Accounts; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure

having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Aguilar	Cudaback	Janssen	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Bourne	Erdman	Kruse	Preister	Thompson
Brashear	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Wehrbein
Chambers	Hartnett	McDonald	Redfield	
Connealy	Hudkins	Mines	Schimek	

Voting in the negative, 0.

Present and not voting, 2:

Synowiecki Vrtiska

Excused and not voting, 9:

Bromm	Byars	Jensen	Maxwell	Stuthman
Brown	Combs	Johnson	Price	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 1149 to Select File

Senator Beutler moved to return LB 1149 to Select File for the following specific amendment:

FA1698

Strike the enacting clause.

Senator Beutler withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 1149.

A BILL FOR AN ACT relating to the Game Law; to amend section 37-530, Reissue Revised Statutes of Nebraska, and section 37-455, Revised Statutes Supplement, 2003; to provide for nonresident permits to hunt wild turkey; to provide powers and duties for the Game and Parks Commission relating to wildlife killed on public highways; to eliminate a restriction on hunting certain wild animals; to eliminate a penalty; to repeal the original sections; and to outright repeal section 37-528, Revised Statutes Supplement, 2002.

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

Voting in the affirmative, 45:

Aguilar	Combs	Hudkins	Mines	Schimek
Baker	Connealy	Janssen	Mossey	Schrock
Beutler	Cudaback	Jones	Pedersen, Dw.	Smith
Bourne	Cunningham	Kremer	Pederson, D.	Stuhr
Brashear	Engel	Kruse	Preister	Stuthman
Brown	Erdman	Landis	Price	Thompson
Burling	Foley	Louden	Quandahl	Tyson
Byars	Friend	Maxwell	Raikes	Vrtiska
Chambers	Hartnett	McDonald	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 1:

Synowiecki

Excused and not voting, 3:

Bromm Jensen Johnson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 826.

A BILL FOR AN ACT relating to the state game refuges; to amend section 37-707, Reissue Revised Statutes of Nebraska, section 37-706, Revised Statutes Supplement, 2002, and section 37-201, Revised Statutes Supplement, 2003; to state intent; to define a term; to provide and change powers and duties for the Department of Natural Resources and the Game and Parks Commission; to provide for rules and regulations and appeal procedures; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

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

Voting in the affirmative, 46:

Aguilar	Connealy	Johnson	Pedersen, Dw.	Stuhr
Baker	Cudaback	Jones	Pederson, D.	Stuthman
Beutler	Cunningham	Kremer	Preister	Thompson
Bourne	Engel	Kruse	Price	Tyson
Brashear	Erdman	Landis	Quandahl	Vrtiska
Brown	Foley	Louden	Raikes	Wehrbein
Burling	Friend	Maxwell	Redfield	
Byars	Hartnett	McDonald	Schimek	
Chambers	Hudkins	Mines	Schrock	
Combs	Janssen	Mossey	Smith	

Voting in the negative, 0.

Present and not voting, 1:

Synowiecki

Excused and not voting, 2:

Bromm Jensen

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 826A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 826, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 46:

Aguilar	Connealy	Johnson	Pedersen, Dw.	Stuhr
Baker	Cudaback	Jones	Pederson, D.	Stuthman
Beutler	Cunningham	Kremer	Preister	Thompson
Bourne	Engel	Kruse	Price	Tyson
Brashear	Erdman	Landis	Quandahl	Vrtiska
Brown	Foley	Louden	Raikes	Wehrbein
Burling	Friend	Maxwell	Redfield	
Byars	Hartnett	McDonald	Schimek	
Chambers	Hudkins	Mines	Schrock	
Combs	Janssen	Mossey	Smith	

Voting in the negative, 0.

Present and not voting, 1:

Synowiecki

Excused and not voting, 2:

Bromm Jensen

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 479 to Select File

Senator Beutler moved to return LB 479 to Select File for the following specific amendment:

FA1699

Strike the enacting clause.

Senator Beutler withdrew his motion to return.

BILLS ON FINAL READING

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 479 with 41 ayes, 2 nays, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 479. With Emergency.

A BILL FOR AN ACT relating to ethanol; to amend sections 66-482, 66-1330, 66-1333, 66-1344, 66-1344.01, 66-1345, 66-1345.01, 77-4104.01, and 77-5536, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to ethanol tax credits and the funds used for such credits; to define and redefine terms; to harmonize provisions; to repeal the original sections; to outright repeal section 66-1346, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Voting in the affirmative, 47:

Aguilar	Connealy	Jensen	Mossey	Smith
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Jones	Pederson, D.	Stuthman
Bourne	Engel	Kremer	Preister	Thompson
Brashear	Erdman	Kruse	Price	Tyson
Bromm	Foley	Landis	Quandahl	Vrtiska
Brown	Friend	Louden	Raikes	Wehrbein
Burling	Hartnett	Maxwell	Redfield	
Byars	Hudkins	McDonald	Schimek	
Combs	Janssen	Mines	Schrock	

Voting in the negative, 1:

Chambers

Present and not voting, 1:

Synowiecki

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 692.

A BILL FOR AN ACT relating to judgments against the state; to amend section 25-21,211, Reissue Revised Statutes of Nebraska; to change provisions relating to payment of judgments; and to repeal the original section.

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

Voting in the affirmative, 46:

Aguilar	Connealy	Jensen	Mossey	Stuhr
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Bourne	Engel	Kremer	Price	Thompson
Bromm	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Wehrbein
Burling	Friend	Louden	Redfield	
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Schrock	
Combs	Janssen	Mines	Smith	

Voting in the negative, 1:

Brashear

Present and not voting, 2:

Pederson, D. Vrtiska

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1005 with 38 ayes, 2 nays, and 9 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1005. With Emergency.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 68-1036.02, 71-101, 71-110.01, 71-162, 71-185.03, 71-190, 71-1,142, 71-1,143.01, 71-1,146, 71-1,147.33, 71-1,155, 71-341, 71-342, 71-356.04, 71-365.01, 71-368, 71-371, 71-385.01, 71-387, 71-389, 71-3,102, 71-3,105, 71-3,106.01, 71-3,137, 71-3,139 to 71-3,141, 71-3,145, 71-3,147, 71-3,150, 71-3,169, 71-3,177, 71-3,179, 71-401, 71-409, 71-428, 71-448, 71-460, 71-461, 71-501, 71-542, 71-604.05, 71-612, 71-617.05, 71-617.15, 71-627, 71-628, 71-634, 71-1626, 71-1628.04, 71-1628.08, 71-1636, 71-1903, 71-1908 to 71-1912, 71-1914 to 71-1917, 71-3601 to 71-3603, 71-3608 to 71-3614, 71-5301, 71-5651 to 71-5654, 71-5661 to 71-5663, 71-5665, 71-5666, 71-5668, 71-5707, 71-6038 to 71-6042, 71-6101, 71-6103, 71-6104, 71-6113, 71-6115, 71-6721, 71-6735, and 71-8611, Reissue Revised Statutes of Nebraska, sections 28-414, 43-107, 43-3344, and 43-3346, Revised Statutes Supplement, 2002, and sections 13-518, 29-2264, 81-3201, and 84-304, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to controlled substances, adoption, child support, medical assistance, dentistry, veterinary technician students, pharmacy, electrology, critical access hospitals, respite care services, assisted-living facilities, birth and death certificates, local public health departments, foster care, child care programs, tuberculosis, drinking water, rural health practice incentives, smoking prohibitions, nursing homes, occupational therapy, and blind vendors; to create a fund; to provide a penalty; to delete obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 71-3,138.01, 71-463, 71-616.05, 71-617.14, 71-6014, and 71-6015, Reissue Revised Statutes of Nebraska, and sections 43-3342.07 and 43-3343, Revised Statutes Supplement, 2002; and to declare an emergency.

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

emergency clause attached?' "

Voting in the affirmative, 49:

Aguilar	Combs	Janssen	Mines	Schrock
Baker	Connealy	Jensen	Mossey	Smith
Beutler	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Jones	Pederson, D.	Stuthman
Brashear	Engel	Kremer	Preister	Synowiecki
Bromm	Erdman	Kruse	Price	Thompson
Brown	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	McDonald	Schimek	

Voting in the negative, 0.

Not voting, 0.

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 1005A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1005, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

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

Voting in the affirmative, 48:

Aguilar	Combs	Janssen	Mines	Smith
Baker	Connealy	Jensen	Mossey	Stuhr
Beutler	Cudaback	Johnson	Pedersen, Dw.	Stuthman
Bourne	Cunningham	Jones	Pederson, D.	Synowiecki
Brashear	Engel	Kremer	Preister	Thompson
Bromm	Erdman	Kruse	Price	Tyson
Brown	Foley	Landis	Quandahl	Vrtiska
Burling	Friend	Louden	Raikes	Wehrbein
Byars	Hartnett	Maxwell	Redfield	
Chambers	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Schimek

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

WITHDRAW - Amendments to LR 11CA

Senator Smith withdrew his pending amendments, AM2808, AM2804, AM2811, FA1498, FA1499, FA1500, and AM3502, found on pages 787 and 1517, to LR 11CA.

Senator Janssen withdrew his pending amendment, AM3031, found on page 969, to LR 11CA.

Senator Aguilar withdrew his pending amendment, AM3321, found on page 1259, to LR 11CA.

Senator Louden withdrew his pending amendment, AM3438, found on page 1298, to LR 11CA.

Senator Synowiecki withdrew his pending amendment, AM3632, found on page 1567, to LR 11CA.

MOTION - Return LR 11CA to Select File

Senator Smith moved to return LR 11CA to Select File for the following specific amendment:

FA1705

Strike section 2.

SENATOR MAXWELL PRESIDING

SENATOR QUANDAHL PRESIDING

SENATOR CUDABACK PRESIDING

Senator Smith withdrew his motion to return.

RESOLUTION ON FINAL READING

The following resolution was read and put upon final passage:

LEGISLATIVE RESOLUTION 11CA.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following

proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 24:

III-24 "(1) Except as provided in this section, the Legislature shall not authorize any game of chance or any lottery or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for other purposes as directed by the Legislature. No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure or (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.

(5)(a) For purposes of this subsection, casino gaming includes games of chance played for money, credit, or any representative of value using cards; dice; equipment; player-activated electronic, video, or mechanical gaming devices; and other methods authorized by the Legislature.

(b) Nothing in the Constitution of Nebraska shall be construed to prohibit or restrict casino gaming as authorized by the Legislature at up to two casino locations. Subsequent to the initial legislative authorization of any casino location, the voters of the county in which such casino location is authorized shall either approve or disapprove casino gaming in such county. The Legislature may provide for the authorization, operation, regulation, and taxation of casino gaming."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to define casino gaming and to permit the Legislature to authorize up to two casino locations subject to approval by voters in the affected counties and provide for the authorization, operation, regulation, and taxation of casino gaming.

For

Against".

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

Voting in the affirmative, 31:

Aguilar	Byars	Janssen	Mossey	Synowiecki
Baker	Combs	Johnson	Pederson, D.	Thompson
Beutler	Connealy	Kruse	Preister	Wehrbein
Bourne	Cudaback	Landis	Raikes	
Brashear	Cunningham	Maxwell	Schimek	
Bromm	Friend	McDonald	Schrock	
Brown	Hartnett	Mines	Stuthman	

Voting in the negative, 16:

Burling	Hudkins	Louden	Redfield
Chambers	Jensen	Pedersen, Dw.	Smith
Erdman	Jones	Price	Stuhr
Foley	Kremer	Quandahl	Tyson

Present and not voting, 2:

Engel	Vrtiska
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A constitutional three-fifths majority having voted in the affirmative, the resolution was declared passed for the general election.

WITHDRAW - Amendments and Motion to LR 209CA

Senator Chambers withdrew his pending amendments, FA1602 and FA1611, found on pages 1271 and 1314, to LR 209CA.

Senator Landis withdrew his pending motion, found on page 1503, to suspend Rule 6, Sections 6, 7, and 8 and Rule 7, Sections 3 and 7, and vote on the final passage of LR 209CA without further amendments or motions.

MOTION - Return LR 209CA to Select File

Senator Chambers moved to return LR 209CA to Select File for the following specific amendment:

FA1700

On page 3, in line 10 after "Fund" insert "If the Legislature determines that a greater percentage of lottery proceeds should be transferred to the Compulsive Gamblers Assistance Fund, the amount of such percentage shall be deducted on a pro rata basis from both the Nebraska Environmental Trust Fund and education, each of which otherwise shall receive the percentage of such proceeds as specified herein."

Senator Chambers withdrew his motion to return.

Senator Chambers moved to return LR 209CA to Select File for the following specific amendment:

FA1702

On page 3, in line 6 after "Fund" strike the semi-colon and insert "which is hereby created. This provision is self-executing."

Senator Chambers withdrew his motion to return.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 1004, 1099, 1107, 1118, 1149, 826, 826A, 479, 692, 1005, 1005A, and LR 11CA.

MOTION - Return LR 209CA to Select File

Senator Chambers moved to return LR 209CA to Select File for the following specific amendment:

FA1703

On page 2, in line 25 after "Board" insert "to be expended as provided by law".

Senator Chambers withdrew his motion to return.

Senator Chambers moved to return LR 209CA to Select File for the following specific amendment:

FA1704

On page 2, in line 16 after "Fund" insert "which is hereby created"; in line 17 after "Act" insert "as such act existed on January 1, 2004. This provision is self-executing."

SENATOR JANSSEN PRESIDING

Senator Chambers withdrew his motion to return.

SPEAKER BROMM PRESIDING

RESOLUTION ON FINAL READING

The following resolution was read and put upon final passage:

LEGISLATIVE RESOLUTION 209CA.

THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2004 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 24:

III-24 "(1) Except as provided in this section, the Legislature shall not authorize any game of chance or any lottery or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3)(a) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for ~~other~~ the following purposes, as directed by the Legislature:

(i) The first five hundred thousand dollars after the payment of prizes and operating expenses shall be transferred to the Compulsive Gamblers Assistance Fund;

(ii) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act;

(iii) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be used for education as the Legislature may direct;

(iv) Ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska State Fair Board if the most populous city within the county in which the fair is located provides matching funds equivalent to ten percent of the funds available for transfer. Such matching funds may be obtained from the city and any other private or public entity, except that no portion of such matching funds shall be provided by the state. If the Nebraska State Fair ceases operations, ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the General Fund; and

(v) One percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers Assistance Fund.

(b) No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment

of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure or (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to require the proceeds of the lottery operated and regulated by the State of Nebraska to be appropriated by the Legislature for the costs of the lottery, the Nebraska Environmental Trust Fund, education, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund, subject to certain conditions.

For

Against".

Senator Chambers requested a roll call vote.

Senator Erdman requested the roll call vote be taken in reverse order.

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

Voting in the affirmative, 32:

Baker	Combs	Janssen	McDonald	Stuhr
Beutler	Connealy	Johnson	Mines	Stuthman
Bourne	Cudaback	Jones	Mossey	Vrtiska
Brashear	Cunningham	Kremer	Pedersen, Dw.	Wehrbein
Bromm	Friend	Kruse	Price	
Brown	Hartnett	Landis	Schimek	
Byars	Hudkins	Maxwell	Schrock	

Voting in the negative, 15:

Aguilar	Engel	Louden	Raikes	Synowiecki
Burling	Erdman	Pederson, D.	Redfield	Thompson
Chambers	Foley	Quandahl	Smith	Tyson

Excused and not voting, 2:

Jensen	Preister
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A constitutional three-fifths majority having voted in the affirmative, the resolution was declared passed for the general election.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 209CA.

EXPLANATIONS OF VOTES

Had I been present, I would have voted "aye" on final passage of LBs 1004, 1099, 1107, and 1118.

(Signed) Jeanne M. Combs

Had I been present, I would have voted "aye" on final passage of LBs 1004, 1099, 1107, and 1118.

(Signed) Arnie Stuthman

RESOLUTION

LEGISLATIVE RESOLUTION 406. Introduced by Agriculture Committee: Kremer, 34, Chairperson; Burling, 33; Cunningham, 40; Erdman, 47; Preister, 5; Vrtiska, 1.

PURPOSE: The purpose of this study is to examine and address agricultural issues within the jurisdiction of the Agriculture Committee of the Legislature, including, but not limited to: Animal identification techniques employed in Nebraska such as brands, electronic identification, and other approved methods; current and future options for livestock owners to identify on a state and national level a National Identification System; the areas of oversight of the Nebraska Brand Committee as it relates to the general need for an effective animal identification system in Nebraska; and other issues the Agriculture Committee determines appropriate for study.

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

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

REPORT OF THE EXECUTIVE BOARD

2004 Resolution calling for an Interim Study

LR 406 Interim study to examine issues within the jurisdiction of the
Agriculture Committee
Agriculture

(Signed) L. Patrick Engel, Chairperson
Legislative Council, Executive Board

MESSAGE FROM THE GOVERNOR

April 14, 2004

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 599e, 599Ae, 841e, 841Ae, 888, 986e, and 986Ae were received in my office on April 13, 2004.

Engrossed Legislative Bills 1083e and 1083Ae were received in my office on April 14, 2004.

All of these bills were signed and delivered to the Secretary of State on April 14, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 14, 2004, at 4:20 p.m. were the following: LBs 1004, 1099, 1107, 1118, 1149, 826, 826A, 479e, 692, 1005e, and 1005Ae.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

PRESENTED TO THE SECRETARY OF STATE

Presented to the Secretary of State on April 14, 2004, at 4:34 p.m. was the following: LR 11CA.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

RESOLUTIONS

LEGISLATIVE RESOLUTION 235. Read. Considered.

The Standing Committee amendment, AM2773, found on page 737, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

LR 235, as amended, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

LEGISLATIVE RESOLUTION 394. Read. Considered.

SENATOR CUDABACK PRESIDING

LR 394 was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

PRESENTED TO THE SECRETARY OF STATE

Presented to the Secretary of State on April 14, 2004, at 4:44 p.m. was the following: LR 209CA.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

RESOLUTION

LEGISLATIVE RESOLUTION 400. Read. Considered.

Senator Chambers offered the following motion:
Bracket until 8:00 p.m., April 15, 2004.

Pending.

VISITORS

Visitors to the Chamber were 15 second-grade students and teacher from Sacred Heart School, Lincoln; and 60 fourth-grade students and teachers from Morten Elementary School, Lexington.

ADJOURNMENT

At 5:22 p.m., on a motion by Speaker Bromm, the Legislature adjourned until 9:00 a.m., Thursday, April 15, 2004.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTIETH DAY - APRIL 15, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****SIXTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, April 15, 2004

PRAYER

The prayer was offered by Senator Jones.

ROLL CALL

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

The roll was called and all members were present.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-ninth day was approved.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of April 15, 2004, 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

Abboud, Chris, Public Affairs Group
Agri-Business Association, Nebraska

Pappas, James E.
Access Elevator, Inc. (Withdrawn 04/13/2004)
Mid-City Jewelry & Loan Co. (Withdrawn 04/13/2004)

REPORTS

The following reports were received by the Legislature:

Health and Human Services System

Medicaid Managed Care Program, Annual Report

Investment Finance Authority

2002 Series A, B, C, D, E and F Community Development Loan Notes
 (City of Lincoln Program-2002) Quarterly Reports
 Drinking Water State Revolving Fund Revenue Bonds Series 2002 A
 Drinking Water State Revolving Fund Revenue Bonds Series 2003 A
 Single Family Housing Revenue Bonds Series 2004 AB and General
 Obligation Bonds Series 2004 G.O.-16

MOTIONS - Approve Appointments

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment found on page 1545:

Environmental Quality Council
 Robert C. Hall

Voting in the affirmative, 36:

Aguilar	Cudaback	Jensen	Pedersen, Dw.	Synowiecki
Baker	Cunningham	Johnson	Pederson, D.	Tyson
Bourne	Engel	Kremer	Price	Vrtiska
Brashear	Erdman	Landis	Quandahl	Wehrbein
Bromm	Friend	Louden	Raikes	
Burling	Hartnett	McDonald	Redfield	
Byars	Hudkins	Mines	Stuhr	
Combs	Janssen	Mossey	Stuthman	

Voting in the negative, 0.

Present and not voting, 13:

Beutler	Connealy	Kruse	Schimek	Thompson
Brown	Foley	Maxwell	Schrock	
Chambers	Jones	Preister	Smith	

The appointment was confirmed with 36 ayes, 0 nays, and 13 present and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointments found on page 1548:

Nebraska Health Care Council
 John Klosterman
 David Corbin
 Joel Gajardo
 Phil Harr
 Cordelia Okoye
 Board of Emergency Medical Services
 Michael Buscher

Child Abuse Prevention Fund Board
A. Jane Storey

Voting in the affirmative, 42:

Aguilar	Engel	Kremer	Pederson, D.	Stuhr
Baker	Erdman	Kruse	Preister	Stuthman
Bourne	Foley	Landis	Price	Synowiecki
Brashear	Friend	Louden	Quandahl	Tyson
Burling	Hudkins	Maxwell	Raikes	Vrtiska
Byars	Janssen	McDonald	Redfield	Wehrbein
Combs	Jensen	Mines	Schimek	
Cudaback	Johnson	Mossey	Schrock	
Cunningham	Jones	Pedersen, Dw.	Smith	

Voting in the negative, 0.

Present and not voting, 7:

Beutler	Brown	Connealy	Thompson
Bromm	Chambers	Hartnett	

The appointments were confirmed with 42 ayes, 0 nays, and 7 present and not voting.

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment found on page 1591:

Game and Parks Commission
George E. Hall

Voting in the affirmative, 40:

Aguilar	Cunningham	Johnson	Mossey	Schrock
Baker	Engel	Jones	Pederson, D.	Smith
Bourne	Erdman	Kremer	Preister	Stuhr
Burling	Foley	Landis	Price	Stuthman
Byars	Friend	Louden	Quandahl	Synowiecki
Combs	Hudkins	Maxwell	Raikes	Tyson
Connealy	Janssen	McDonald	Redfield	Vrtiska
Cudaback	Jensen	Mines	Schimek	Wehrbein

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Bromm	Chambers	Kruse	Thompson
Brashear	Brown	Hartnett	Pedersen, Dw.	

The appointment was confirmed with 40 ayes, 0 nays, and 9 present and not voting.

Senator Baker moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointments found on page 1598:

Nebraska Motor Vehicle Industry Licensing Board

Sid R. Dillon

P.J. Morgan

Douglas P. Rolfsmeier

Voting in the affirmative, 32:

Aguilar	Cudaback	Jones	Preister	Synowiecki
Baker	Engel	Kremer	Price	Tyson
Bourne	Erdman	Landis	Quandahl	Vrtiska
Brashear	Foley	McDonald	Raikes	Wehrbein
Byars	Friend	Mines	Redfield	
Combs	Hartnett	Mossey	Smith	
Connealy	Janssen	Pedersen, Dw.	Stuthman	

Voting in the negative, 0.

Present and not voting, 17:

Beutler	Chambers	Johnson	Pederson, D.	Thompson
Bromm	Cunningham	Kruse	Schimek	
Brown	Hudkins	Louden	Schrock	
Burling	Jensen	Maxwell	Stuhr	

The appointments were confirmed with 32 ayes, 0 nays, and 17 present and not voting.

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment found on page 1598:

Coordinating Commission for Postsecondary Education

William J. Pile

Voting in the affirmative, 41:

Aguilar	Engel	Jones	Pedersen, Dw.	Stuhr
Bourne	Erdman	Kremer	Pederson, D.	Stuthman
Brashear	Foley	Kruse	Preister	Synowiecki
Brown	Friend	Landis	Quandahl	Tyson
Burling	Hartnett	Louden	Raikes	Wehrbein
Combs	Hudkins	Maxwell	Redfield	
Connealy	Janssen	McDonald	Schimek	
Cudaback	Jensen	Mines	Schrock	
Cunningham	Johnson	Mossey	Smith	

Voting in the negative, 0.

Present and not voting, 8:

Baker	Bromm	Chambers	Thompson
Beutler	Byars	Price	Vrtiska

The appointment was confirmed with 41 ayes, 0 nays, and 8 present and not voting.

BILLS ON FINAL READING

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 439 with 44 ayes, 2 nays, and 3 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 439. With Emergency.

A BILL FOR AN ACT relating to state property; to amend sections 81-188.01, 81-188.02, 81-1107, 81-1108.17, 81-1108.18, 81-1108.20, 81-1108.22, 81-1108.23, 81-1108.31, 81-1108.32, 81-1108.38, 81-1108.50 to 81-1108.53, and 81-2004, Reissue Revised Statutes of Nebraska, and section 81-1108.15, Revised Statutes Supplement, 2002; to adopt the Nebraska State Capitol Preservation and Restoration Act; to create the Office of the Nebraska Capitol Commission and the position of State Capitol Administrator; to provide, change, and transfer powers and duties; to create a fund; to change the membership of the Nebraska Capitol Commission; to transfer responsibility for security for certain state buildings and grounds to the Nebraska State Patrol; to harmonize provisions; to repeal the original sections; to outright repeal section 81-1108.21, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Voting in the affirmative, 47:

Aguilar	Combs	Johnson	Pedersen, Dw.	Stuhr
Baker	Connealy	Jones	Pederson, D.	Stuthman
Beutler	Cudaback	Kremer	Preister	Synowiecki
Bourne	Cunningham	Kruse	Price	Thompson
Brashear	Engel	Landis	Quandahl	Tyson
Bromm	Foley	Louden	Raikes	Vrtiska
Brown	Hartnett	Maxwell	Redfield	Wehrbein
Burling	Hudkins	McDonald	Schimek	
Byars	Janssen	Mines	Schrock	
Chambers	Jensen	Mossey	Smith	

Voting in the negative, 0.

Present and not voting, 2:

Erdman Friend

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 439A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 439, Ninety-eighth Legislature, Second Session, 2004; to reduce an appropriation; and to declare an emergency.

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

Voting in the affirmative, 47:

Aguilar	Combs	Johnson	Pedersen, Dw.	Stuhr
Baker	Connealy	Jones	Pederson, D.	Stuthman
Beutler	Cudaback	Kremer	Preister	Synowiecki
Bourne	Cunningham	Kruse	Price	Thompson
Brashear	Engel	Landis	Quandahl	Tyson
Bromm	Foley	Louden	Raikes	Vrtiska
Brown	Hartnett	Maxwell	Redfield	Wehrbein
Burling	Hudkins	McDonald	Schimek	
Byars	Janssen	Mines	Schrock	
Chambers	Jensen	Mossey	Smith	

Voting in the negative, 0.

Present and not voting, 2:

Erdman Friend

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 485 with 44 ayes, 2 nays, and 3 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 485.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 9-329.03, 53-116.01, 53-119.01, 53-123, 53-123.13, 53-134.04, 53-135, 53-138.03, 53-168, and 53-179, Reissue Revised Statutes of Nebraska, sections 53-101, 53-116.02, 53-117, 53-122, 53-123.04, 53-123.15, 53-124, 53-124.12, 53-124.14, 53-129, 53-131, 53-132, 53-133, 53-134, 53-134.03, and 53-1,115, Revised Statutes Supplement, 2002, and sections 53-103, 53-123.02, and 53-123.03, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to licenses to sell alcoholic liquor; to change provisions relating to fees; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 53-123.08 and 53-124.01, Reissue Revised Statutes of Nebraska.

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

Voting in the affirmative, 48:

Aguilar	Connealy	Jensen	Mossey	Smith
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Jones	Pederson, D.	Stuthman
Bourne	Engel	Kremer	Preister	Synowiecki
Brashear	Erdman	Kruse	Price	Thompson
Bromm	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	McDonald	Schimek	
Combs	Janssen	Mines	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 485A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 485, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 48:

Aguilar	Combs	Jensen	Mossey	Smith
Baker	Connealy	Johnson	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Jones	Pederson, D.	Stuthman
Bourne	Cunningham	Kremer	Preister	Synowiecki
Brashear	Engel	Kruse	Price	Thompson
Bromm	Foley	Landis	Quandahl	Tyson
Brown	Friend	Louden	Raikes	Vrtiska
Burling	Hartnett	Maxwell	Redfield	Wehrbein
Byars	Hudkins	McDonald	Schimek	
Chambers	Janssen	Mines	Schrock	

Voting in the negative, 1:

Erdman

Not voting, 0.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

SELECT COMMITTEE REPORT
Enrollment and Review

Correctly Enrolled

The following resolution was correctly enrolled: LR 235.

(Signed) Ray Mossey, Chairperson

ENROLLED RESOLUTION**LEGISLATIVE RESOLUTION 235.** Introduced by Schrock, 38.

WHEREAS, Duane R. Wehrs and Judith A. Breager-Wehrs have conveyed to the Game and Parks Commission real estate located in Seward County, Nebraska, which will be maintained as a wildlife management area for public outdoor recreation activities; and

WHEREAS, the Game and Parks Commission has the general authority to acquire real estate, with the consent of the Governor, by gift; and

WHEREAS, in the interest of promoting outdoor opportunities for Nebraskans, the Legislature wishes to grant approval for the Game and Parks Commission to obtain title to all or any part of such real estate.

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

1. That the Legislature approves the gift from Duane R. Wehrs and Judith A. Breager-Wehrs, husband and wife, to the Game and Parks Commission of all of the real estate described as: The northeast quarter of section thirty-two, township eleven north, range one east of the sixth principal meridian, in Seward County, Nebraska, containing one hundred sixty acres, more or less. These premises are subject to a warranty easement deed to the Natural Resources Conservation Service of the United States Department of Agriculture as filed in Seward County, Nebraska.

2. That such approval is granted with the understanding that the real estate described shall be designated and utilized as a wildlife management area.

MESSAGE FROM THE GOVERNOR

April 15, 2004

Mr. President, Mr. Speaker,
and Members of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 139 and LB 139A without my signature and with my objections.

This legislation authorizes any person accused of wrongdoing as a result of a body fluid test to request that the Nebraska State Patrol perform a DNA typing test of his or her body fluid. The Nebraska State Patrol is required to receive the body fluid and conduct a DNA typing test to confirm the person's identity.

Pursuant to existing law, the Nebraska State Patrol criminalistics

laboratory is responsible for performing services necessary for the proper preservation, identification, and scientific analysis of evidence obtained in the investigation of crimes. LB 139 would inject the Nebraska State Patrol criminalistics laboratory into a new role as the civil authority over private and public drug testing disputes between employers and employees.

While the confirmation of a person's identity using DNA technology is a worthy endeavor, it is poor public policy to vest this civil employment process with the Nebraska's chief law enforcement agency.

For these reasons, I urge you to sustain my vetoes of LB 139 and LB 139A.

Sincerely,
(Signed) Mike Johanns
Governor

BILLS ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 499. With Emergency.

A BILL FOR AN ACT relating to the State Natural Gas Regulation Act; to amend section 66-1850, Reissue Revised Statutes of Nebraska; to change provisions relating to high-volume ratepayers as prescribed; to repeal the original section; and to declare an emergency.

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

Voting in the affirmative, 49:

Aguilar	Combs	Janssen	Mines	Schrock
Baker	Connealy	Jensen	Mossey	Smith
Beutler	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Jones	Pederson, D.	Stuthman
Brashear	Engel	Kremer	Preister	Synowiecki
Bromm	Erdman	Kruse	Price	Thompson
Brown	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	McDonald	Schimek	

Voting in the negative, 0.

Not voting, 0.

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 559 with 44 ayes, 1 nay, and 4 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 559. With Emergency.

A BILL FOR AN ACT relating to organ and tissue donation; to amend sections 60-493, 60-494, and 60-2907, Revised Statutes Supplement, 2002, and sections 60-484, 60-4,144, and 60-4,181, Revised Statutes Supplement, 2003; to provide for the Donor Registry of Nebraska; to authorize the Department of Motor Vehicles to transfer certain motor vehicle operator's license and state identification card information; to change provisions relating to donor notations on such licenses and cards; to create an advisory board; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 48:

Aguilar	Connealy	Jensen	Mossey	Smith
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Jones	Pederson, D.	Stuthman
Bourne	Engel	Kremer	Preister	Synowiecki
Brashear	Erdman	Kruse	Price	Thompson
Bromm	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	McDonald	Schimek	
Combs	Janssen	Mines	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Brown

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 559A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 559, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 49:

Aguilar	Combs	Janssen	Mines	Schrock
Baker	Connealy	Jensen	Mossey	Smith
Beutler	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Jones	Pederson, D.	Stuthman
Brashear	Engel	Kremer	Preister	Synowiecki
Bromm	Erdman	Kruse	Price	Thompson
Brown	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	McDonald	Schimek	

Voting in the negative, 0.

Not voting, 0.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 613 to Select File

Senator Foley moved to return LB 613 to Select File for the following specific amendment:

FA1706

Strike the enacting clause.

Senator Foley withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 613.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 29-404.02 and 42-903, Reissue Revised Statutes of Nebraska; to provide for confidential communications in cases of domestic violence and sexual assault as prescribed; to create the offense of domestic assault; to change

provisions relating to arrest and sentencing procedures; to provide duties for law enforcement; to redefine terms; and to repeal the original sections.

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

Voting in the affirmative, 48:

Aguilar	Combs	Jensen	Mossey	Smith
Baker	Connealy	Johnson	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Jones	Pederson, D.	Stuthman
Bourne	Cunningham	Kremer	Preister	Synowiecki
Brashear	Engel	Kruse	Price	Thompson
Bromm	Erdman	Landis	Quandahl	Tyson
Brown	Friend	Louden	Raikes	Vrtiska
Burling	Hartnett	Maxwell	Redfield	Wehrbein
Byars	Hudkins	McDonald	Schimek	
Chambers	Janssen	Mines	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Foley

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 625.

A BILL FOR AN ACT relating to civil rights; to amend sections 20-326 and 20-330, Reissue Revised Statutes of Nebraska; to change provisions relating to discriminatory housing practice complaint procedure and information; to provide an operative date; and to repeal the original sections.

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

Voting in the affirmative, 45:

Aguilar	Combs	Hudkins	Maxwell	Redfield
Baker	Connealy	Janssen	McDonald	Schrock
Beutler	Cudaback	Jensen	Mines	Smith
Bourne	Cunningham	Johnson	Mossey	Stuhr
Brashear	Engel	Jones	Pedersen, Dw.	Stuthman
Bromm	Erdman	Kremer	Pederson, D.	Thompson
Brown	Foley	Kruse	Price	Tyson
Burling	Friend	Landis	Quandahl	Vrtiska
Byars	Hartnett	Louden	Raikes	Wehrbein

Voting in the negative, 1:

Chambers

Present and not voting, 3:

Preister Schimek Synowiecki

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 868.

A BILL FOR AN ACT relating to education; to amend section 79-201, Reissue Revised Statutes of Nebraska, and section 84-712.05, Revised Statutes Supplement, 2002, as amended by section 1, Legislative Bill 236, Ninety-eighth Legislature, Second Session, 2004; to change and eliminate provisions relating to compulsory education and truancy; to provide for immunity from civil liability for certain employees as prescribed; to change provisions relating to confidentiality of student records as prescribed; to harmonize provisions; to repeal the original sections; and to outright repeal section 79-202, Reissue Revised Statutes of Nebraska.

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

Voting in the affirmative, 47:

Aguilar	Connealy	Jensen	Pedersen, Dw.	Stuhr
Baker	Cudaback	Johnson	Pederson, D.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Bourne	Engel	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Landis	Raikes	Vrtiska
Brown	Friend	Maxwell	Redfield	Wehrbein
Burling	Hartnett	McDonald	Schimek	
Byars	Hudkins	Mines	Schrock	
Combs	Janssen	Mossey	Smith	

Voting in the negative, 0.

Present and not voting, 2:

Chambers Louden

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 916 with 40 ayes, 2 nays, and 7 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 916.

A BILL FOR AN ACT relating to environmental protection; to amend sections 54-2414, 81-1502, and 81-1506, Reissue Revised Statutes of Nebraska, sections 54-744.01, 54-2402, 54-2404 to 54-2404.02, 54-2406, 54-2408, 54-2411, and 54-2413, Revised Statutes Supplement, 2002, and sections 13-2042, 46-241, 46-257, 54-2401, 54-2412, 54-2415, and 81-15,149, Revised Statutes Supplement, 2003; to change and eliminate provisions of the Livestock Waste Management Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 54-2405 and 54-2410, Reissue Revised Statutes of Nebraska, and sections 54-2403, 54-2407, and 54-2409, Revised Statutes Supplement, 2002.

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

Voting in the affirmative, 41:

Aguilar	Cudaback	Jones	Pedersen, Dw.	Stuhr
Baker	Engel	Kremer	Pederson, D.	Thompson
Beutler	Erdman	Kruse	Price	Tyson
Brashear	Foley	Landis	Quandahl	Vrtiska
Bromm	Hartnett	Louden	Raikes	Wehrbein
Brown	Hudkins	Maxwell	Redfield	
Burling	Janssen	McDonald	Schimek	
Byars	Jensen	Mines	Schrock	
Combs	Johnson	Mossey	Smith	

Voting in the negative, 1:

Chambers

Present and not voting, 7:

Bourne	Cunningham	Preister	Synowiecki
Connealy	Friend	Stuthman	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

LEGISLATIVE BILL 916A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 916, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 41:

Aguilar	Connealy	Johnson	Mossey	Stuhr
Baker	Cudaback	Jones	Pedersen, Dw.	Thompson
Beutler	Engel	Kremer	Pederson, D.	Tyson
Brashear	Erdman	Kruse	Price	Vrtiska
Bromm	Foley	Landis	Quandahl	Wehrbein
Brown	Hartnett	Louden	Raikes	
Burling	Hudkins	Maxwell	Redfield	
Byars	Janssen	McDonald	Schimek	
Combs	Jensen	Mines	Smith	

Voting in the negative, 1:

Chambers

Present and not voting, 7:

Bourne	Friend	Schrock	Synowiecki
Cunningham	Preister	Stuthman	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 943. With Emergency.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-318, 28-1463.05, and 29-110, Reissue Revised Statutes of Nebraska, sections 28-322, 28-322.01, and 29-4003, Revised Statutes Supplement, 2002, and section 28-101, Revised Statutes Supplement, 2003; to create the offense of strangulation; to prohibit the use of a computer as prescribed; to provide and change penalties; to redefine the term sexual contact for purposes of sexual assault of a child; to change the Sex Offender Registration Act; to change provisions relating to statutes of limitations and sexual abuse of an inmate or parolee; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 48:

Aguilar	Connealy	Jensen	Mossey	Smith
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Jones	Pederson, D.	Stuthman
Bourne	Engel	Kremer	Preister	Synowiecki
Brashear	Erdman	Kruse	Price	Thompson
Bromm	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	McDonald	Schimek	
Combs	Janssen	Mines	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Brown

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1017 with 39 ayes, 2 nays, 5 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1017. With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701, 77-2701.04, 77-2701.10, 77-2701.16, 77-2701.34, 77-2701.42, 77-2703, 77-2703.01, 77-2703.02, 77-2704.12, 77-2704.15, 77-2704.32, 77-2704.33, 77-2704.36, 77-2704.49, 77-2704.55, 77-2712.05, 77-27,188.01, and 77-3101, Reissue Revised Statutes of Nebraska, and section 49-801.01, Revised Statutes Supplement, 2003; to provide, change, and eliminate definitions; to change provisions relating to references to the Internal Revenue Code, the sales and use taxes on building materials and construction services, sourcing provisions for sales tax on services, sales and use tax exemptions, and nonresident contractor registration; to provide requirements for compliance with the streamlined sales and use tax agreement; to provide a tax amnesty program; to create funds; to provide powers and duties; to appropriate funds; to harmonize provisions; to provide

operative dates; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 40:

Aguilar	Cudaback	Johnson	Mines	Schimek
Baker	Cunningham	Jones	Mossey	Schrock
Bourne	Foley	Kremer	Pedersen, Dw.	Stuhr
Brashear	Friend	Kruse	Preister	Synowiecki
Bromm	Hartnett	Landis	Price	Thompson
Byars	Hudkins	Louden	Quandahl	Tyson
Chambers	Janssen	Maxwell	Raikes	Vrtiska
Connealy	Jensen	McDonald	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 6:

Beutler	Combs	Smith
Burling	Erdman	Stuthman

Excused and not voting, 3:

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 1034. With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2101.03, Reissue Revised Statutes of Nebraska; to change the estate tax rate; to repeal the original section; and to declare an emergency.

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

Voting in the affirmative, 46:

Aguilar	Connealy	Johnson	Pedersen, Dw.	Stuthman
Baker	Cudaback	Jones	Preister	Synowiecki
Beutler	Cunningham	Kremer	Price	Thompson
Bourne	Erdman	Kruse	Quandahl	Tyson
Brashear	Foley	Landis	Raikes	Vrtiska
Bromm	Friend	Louden	Redfield	Wehrbein
Burling	Hartnett	Maxwell	Schimek	
Byars	Hudkins	McDonald	Schrock	
Chambers	Janssen	Mines	Smith	
Combs	Jensen	Mossey	Stuhr	

Voting in the negative, 0.

Excused and not voting, 3:

Brown Engel Pederson, D.

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1065 with 38 ayes, 2 nays, 6 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1065. With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 66-4,124, 66-4,134, 66-1344, 66-1344.01, 66-1345, 66-1345.01, 66-1519, and 77-4103, Reissue Revised Statutes of Nebraska, and sections 66-489 and 66-726, Reissue Revised Statutes of Nebraska, as amended by sections 12 and 51, respectively, Legislative Bill 983, Ninety-eighth Legislature, Second Session, 2004; to change provisions relating to motor fuel taxes, motor fuel tax credits, ethanol production incentives, excise taxes on corn and grain sorghum, and employment and investment incentives; to provide for fund transfers; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 46:

Aguilar	Cudaback	Johnson	Pedersen, Dw.	Stuthman
Baker	Cunningham	Jones	Preister	Synowiecki
Beutler	Engel	Kremer	Price	Thompson
Bourne	Erdman	Kruse	Quandahl	Tyson
Brashear	Foley	Landis	Raikes	Vrtiska
Bromm	Friend	Louden	Redfield	Wehrbein
Burling	Hartnett	Maxwell	Schimek	
Byars	Hudkins	McDonald	Schrock	
Combs	Janssen	Mines	Smith	
Connealy	Jensen	Mossey	Stuhr	

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 2:

Brown Pederson, D.

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

SPEAKER BROMM PRESIDING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 1084.

A BILL FOR AN ACT relating to medicaid; to amend sections 68-1037.01 to 68-1037.05, Reissue Revised Statutes of Nebraska; to change the False Medicaid Claims Act as prescribed; to harmonize provisions; to provide severability; and to repeal the original sections.

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

Voting in the affirmative, 44:

Aguilar	Cudaback	Johnson	Mossey	Schrock
Baker	Cunningham	Jones	Pedersen, Dw.	Smith
Beutler	Engel	Kremer	Pederson, D.	Stuhr
Brashear	Erdman	Kruse	Preister	Stuthman
Bromm	Foley	Landis	Price	Thompson
Burling	Friend	Louden	Quandahl	Tyson
Byars	Hudkins	Maxwell	Raikes	Vrtiska
Combs	Janssen	McDonald	Redfield	Wehrbein
Connealy	Jensen	Mines	Schimek	

Voting in the negative, 0.

Present and not voting, 3:

Bourne Brown Synowiecki

Excused and not voting, 2:

Chambers Hartnett

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 1084A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1084, Ninety-eighth Legislature, Second Session, 2004.

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

Voting in the affirmative, 45:

Aguilar	Conneally	Jensen	Mines	Schimek
Baker	Cudaback	Johnson	Mossey	Schrock
Beutler	Cunningham	Jones	Pedersen, Dw.	Smith
Brashear	Engel	Kremer	Pederson, D.	Stuhr
Bromm	Erdman	Kruse	Preister	Stuthman
Brown	Foley	Landis	Price	Thompson
Burling	Friend	Louden	Quandahl	Tyson
Byars	Hudkins	Maxwell	Raikes	Vrtiska
Combs	Janssen	McDonald	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 2:

Bourne Synowiecki

Excused and not voting, 2:

Chambers Hartnett

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1097 with 40 ayes, 1 nay, 5 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1097. With Emergency.

A BILL FOR AN ACT relating to retirement; to amend sections 16-1036, 24-714, 42-1102, 48-155.01, 79-916, 79-921, 79-942, 79-946, 79-947.01, 79-951, 79-966, 81-2026, 84-1325, 84-1501, and 84-1511.01, Reissue Revised Statutes of Nebraska, sections 23-2306, 23-2310.05, 24-701.01, 24-704.01, 24-710, 24-710.02, 24-710.07, 24-710.09, 24-713.01, 81-2027.03, 84-1307, and 84-1311.03, Revised Statutes Supplement, 2002, and sections 23-2301, 23-2320, 23-2321, 24-703, 24-707, 24-708, 84-1301, 84-1322, and 84-1323, Revised Statutes Supplement, 2003; to change provisions relating to retirement accounts, investment options, contributions, payment and repayment of benefits, annuities, disability and death benefits, medical examinations, cost-of-living adjustments, and retirement planning programs; to change funding provisions relating to the service annuity benefit; to change membership of the Public Employees Retirement Board; to create a fund and terminate a fund; to redefine terms; to provide duties; to eliminate obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 45:

Aguilar	Combs	Jensen	Mines	Schrock
Baker	Connealy	Johnson	Mossey	Smith
Beutler	Cudaback	Jones	Pedersen, Dw.	Stuhr
Bourne	Engel	Kremer	Pederson, D.	Stuthman
Brashear	Erdman	Kruse	Price	Synowiecki
Bromm	Foley	Landis	Quandahl	Thompson
Brown	Friend	Louden	Raikes	Tyson
Burling	Hudkins	Maxwell	Redfield	Vrtiska
Byars	Janssen	McDonald	Schimek	Wehrbein

Voting in the negative, 0.

Present and not voting, 2:

Cunningham Preister

Excused and not voting, 2:

Chambers Hartnett

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 1097A. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1097, Ninety-eighth Legislature, Second Session, 2004; and to declare an emergency.

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

Voting in the affirmative, 46:

Aguilar	Connealy	Johnson	Pedersen, Dw.	Stuthman
Baker	Cudaback	Jones	Pederson, D.	Synowiecki
Beutler	Engel	Kremer	Price	Thompson
Bourne	Erdman	Kruse	Quandahl	Tyson
Brashear	Foley	Landis	Raikes	Vrtiska
Bromm	Friend	Louden	Redfield	Wehrbein
Brown	Hartnett	Maxwell	Schimek	
Burling	Hudkins	McDonald	Schrock	
Byars	Janssen	Mines	Smith	
Combs	Jensen	Mossey	Stuhr	

Voting in the negative, 0.

Present and not voting, 2:

Cunningham Preister

Excused and not voting, 1:

Chambers

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1207 with 42 ayes, 1 nay, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1207. With Emergency.

A BILL FOR AN ACT relating to judicial process; to amend sections 24-809.05, 25-1565, 25-21,232, 25-21,233, 42-349, 42-350, 42-352, 42-353, 42-355, 42-361, 42-364, 42-364.11, 42-365, 42-373, 42-376, 42-380, 42-501 to 42-503, 43-512.01, 43-512.03, 43-512.04, 43-512.15, 43-1411.01, 43-1412, 43-2917, and 44-3311, Reissue Revised Statutes of Nebraska, sections 24-301.02, 25-1144.01, 25-1315.02, 25-1329, 25-1916, 25-21,230, 25-21,234, 25-2301.02, 25-2740, 42-357, 42-364.13, 42-371, and 43-3318, Revised Statutes Supplement, 2002, and sections 25-21,223 and 29-2261, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to district court judicial districts, posttrial motions, execution of judgments, appeal bonds, forcible entry and detainer actions, in forma pauperis proceedings, presentence reports and psychiatric examinations, domestic relations actions, filing of pleadings and pleading nomenclature for certain actions, and the Counsel for Discipline of the Nebraska Supreme Court; to provide an exemption from execution for earned income tax credit refunds; to provide immunity from liability relating to the handling of anhydrous ammonia; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to repeal the original sections; to outright repeal sections 42-119, 42-120, and 42-354, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Voting in the affirmative, 48:

Aguilar	Connealy	Jensen	Mossey	Smith
Baker	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Jones	Pederson, D.	Stuthman
Bourne	Engel	Kremer	Preister	Synowiecki
Brashear	Erdman	Kruse	Price	Thompson
Bromm	Foley	Landis	Quandahl	Tyson
Brown	Friend	Louden	Raikes	Vrtiska
Burling	Hartnett	Maxwell	Redfield	Wehrbein
Byars	Hudkins	McDonald	Schimek	
Combs	Janssen	Mines	Schrock	

Voting in the negative, 0.

Excused and not voting, 1:

Chambers

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

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 439, 439A, 485, 485A, 499, 559, 559A, 613, 625, 868, 916, 916A, 943, 1017, 1034, 1065, 1084, 1084A, 1097, 1097A, 1207, LR 235, and LR 394.

RESOLUTIONS

LEGISLATIVE RESOLUTION 401. Read. Considered.

LR 401 was adopted with 48 ayes, 0 nays, and 1 excused and not voting.

LEGISLATIVE RESOLUTION 402. Read. Considered.

LR 402 was adopted with 48 ayes, 0 nays, and 1 excused and not voting.

LEGISLATIVE RESOLUTION 405. Read. Considered.

LR 405 was adopted with 48 ayes, 0 nays, and 1 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 401, 402, and 405.

MOTION - Notify Governor

Senator Maxwell moved that a committee of six be appointed to notify the Governor that the Ninety-Eighth Legislature, Second Session of the Nebraska Legislature, is about to complete its work, and to return with any message the Governor may have for the Legislature.

The motion prevailed.

The Chair appointed Senators Hartnett, Jones, Maxwell, Quandahl, Tyson, and Vrtiska to serve on said committee.

The committee returned and escorted Governor Mike Johanns to the rostrum where he delivered a message to the members.

The committee escorted Governor Johanns from the Chamber.

SENATOR CUDABACK PRESIDING

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 15, 2004, at 11:25 a.m. were the following: LBs 439e, 439Ae, 485, 485A, 499e, 559e, 559A, 613, 625, 868, 916, 916A, 943e, 1017e, 1034e, 1065e, 1084, 1084A, 1097e, 1097Ae, and 1207e.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

COMMUNICATIONS

April 15, 2004

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Inasmuch as the Legislature did not override the line-item veto by Governor Johanns of LB 1089e, and consistent with our rules, I am delivering the bill for filing in the form and amounts as prescribed by the Governor.

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

PJO:jk

April 15, 2004

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Consistent with our rules, I am forwarding LB 139 and LB 139A for deposit in your office. Legislative rules require us to deliver the bills to your office following the receipt of a veto message when no motion to override has been offered.

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

PJO:jk

STANDING COMMITTEE REPORTS
Urban Affairs

LEGISLATIVE BILL 1190. Placed on General File as amended.

Standing Committee amendment to LB 1190:

AM3671

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 Hometown Entrepreneur Scholarship Act.

5 Sec. 2. The purpose of the Hometown Entrepreneur
6 Scholarship Act is to encourage the creation of new small business
7 enterprises in cities of the second class and villages in Nebraska
8 by providing funds to microenterprise entrepreneurs through loans
9 from such cities and villages combined with matching funds from the
10 State of Nebraska.

11 Sec. 3. For purposes of the Hometown Entrepreneur
12 Scholarship Act:

13 (1) Entrepreneur means any person or group of persons who
14 intend to create a microenterprise qualifying to participate in an
15 economic development program developed by a city of the second
16 class or village;

17 (2) Loan program means economic development programs as
18 defined and authorized pursuant to the Local Option Municipal
19 Economic Development Act and which programs shall be developed,
20 approved, adopted, and administered as economic development
21 programs subject to the Local Option Municipal Economic Development
22 Act; and

23 (3) Microenterprise means any business entity with no
24 more than five employees including, but not limited to, new startup
1 businesses, home-based businesses, and sole proprietorships.

2 Sec. 4. Cities of the second class and villages may
3 adopt economic development programs providing loan assistance to
4 microenterprises located or locating within such cities or villages
5 or their extraterritorial zoning jurisdictions. Such loan
6 assistance shall take the form of low-interest or no-interest loans
7 to microenterprises which create one or more new jobs during the
8 five-year term of such loans in return for the granting of such
9 loans.

10 (2) The applying microenterprise shall develop and file
11 with the city of the second class or village an application for
12 such loan including a business plan of the microenterprise. The
13 application and business plan shall be in conformity with criteria

14 developed by the Department of Economic Development.

15 (3) Loans shall be in an amount determined by the city of
16 the second class or village creating the economic development
17 program and shall be granted to the entrepreneur following approval
18 of the application and business plan by the governing body of the
19 city or village.

20 (4) Following such approval, the entrepreneur may apply
21 to receive matching funds of not more than three thousand dollars
22 per year for up to five years from the State of Nebraska. Such
23 application shall be made by the granting city or village on behalf
24 of the entrepreneur and matching funds shall be paid to and
25 administered by the city or village to the entrepreneur. Funds
26 received from the State of Nebraska pursuant to the Hometown
27 Entrepreneur Scholarship Act shall form no part of the economic
1 development program of the city or village and shall not be
2 commingled with any funds of the city or village devoted to such
3 economic development program.

4 (5) Loans approved for entrepreneurs under economic
5 development programs authorized by the act shall be repaid within a
6 period of not more than five years following the date of final
7 disbursement of all approved loan funds to the entrepreneur.

8 (6) A microenterprise in existence prior to the approval
9 of the application and business plan as provided in this section
10 shall not qualify for a loan as set forth in the act.

11 Sec. 5. The Hometown Entrepreneur Scholarship Fund is
12 created. The fund shall be used to provide the funds authorized by
13 subsection (4) of section 4 of this act to entrepreneurs who have
14 obtained loans from cities or villages conducting economic
15 development programs authorized by the act. The Department of
16 Economic Development shall administer the fund. Any money in the
17 fund available for investment shall be invested by the state
18 investment officer pursuant to the Nebraska Capital Expansion Act
19 and the Nebraska State Funds Investment Act.

20 Sec. 6. The Department of Economic Development shall
21 adopt and promulgate rules and regulations to carry out the
22 Hometown Entrepreneur Scholarship Act."

LEGISLATIVE BILL 1233. Placed on General File as amended.

Standing Committee amendment to LB 1233:

AM3672

- 1 1. On page 10, line 23, after "by" insert "employees of
2 the city or by".

(Signed) D. Paul Hartnett, Chairperson

MOTION - Disposition of Bills

Senator Tyson moved that all bills not otherwise disposed of, excluding bills on Final Reading and vetoed or line-item vetoed bills on this date, be indefinitely postponed.

The motion prevailed.

MOTION - Committee Records

Senator Quandahl moved that the chairpersons of all standing committees file with the Clerk of the Legislature all standing committee records so that a proper record may be made of the final disposition of all bills.

The motion prevailed.

MOTION - Printing of Journal, Session Laws, and Indexes

Senator Jones moved that the Legislature approve the preparation and printing of the permanent Legislative Journal, Session Laws, and Indexes by Patrick J. O'Donnell.

The motion prevailed.

MOTION - Delivery of Journal and Session Laws

Senator Vrtiska moved that the Clerk of the Legislature be directed to send to each member of the Legislature a copy of the loose-leaf session laws and of the permanent Journal and Session Laws.

The motion prevailed.

MOTION - Sixtieth Day Journal

Senator Hartnett moved that the Journal for the Sixtieth Day, as prepared by the Clerk of the Legislature, be approved.

The motion prevailed.

VISITORS

Visitors to the Chamber were 80 fourth-grade students and teachers from Ackerman and Highland, Omaha; 35 fourth-grade students and teachers from Blue Hill; Senator Vrtiska's brother, Lloyd Vrtiska, from Table Rock; 44 fourth-grade students and teachers from St. Libory School, Hall County District 1-R, and Chapman School; and 43 third- through fifth-grade students and teachers from St. John's School, Weston.

MESSAGE FROM THE GOVERNOR

April 15, 2004

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 962e, 962Ae, 998 and 998A were received in my office on April 13, 2004.

Engrossed Legislative Bills 479e, 644, 644A, 692, 826, 826A, 999e 1002, 1004, 1005e, 1005Ae, 1045e, 1099, 1107, 1118, 1149, 1162e, 1231, and 1231A were received in my office on April 14, 2004.

Engrossed Legislative Bills 439e, 439Ae, 485, 485A, 499e, 559e, 559A, 613, 625, 868, 916, 916A, 943e, 1017e, 1034e 1065e, 1084, 1084A, 1097e, 1097Ae, and 1207e were received in my office on April 15 2004.

All of these bills were signed and delivered to the Secretary of State on April 15, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

MOTION - Adjourn Sine Die

Speaker Bromm moved that the Ninety-Eighth Legislature, Second Session of the Nebraska Legislature, having finished all business before it, now at 1:08 p.m., adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell
Clerk of the Legislature