

**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:

<b>LB/LR</b>	<b>Committee</b>
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

