

FIFTY-FIFTH DAY - MARCH 30, 2007**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
FIRST SESSION****FIFTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, March 30, 2007

PRAYER

The prayer was offered by Senator Pankonin.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senator Schimek who was excused; and Senators Chambers and Karpisek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-fourth day was approved.

**COMMITTEE REPORT
Revenue**

LEGISLATIVE BILL 496. Placed on General File.

(Signed) Ray Janssen, Chairperson

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 29, 2007, 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

Davis, Tom D.
Class I's United

Gilpin, Vicki

Nebraska Association of Convention and Visitors Bureaus
(Withdrawn 03/29/2007)

Moors, H. Jack
City of Hastings

Mumgaard, D. Milo
Appleseed Center for Law in the Public Interest, Nebraska
(Withdrawn 03/27/2007)

Vickers, Tom
ESU#3 Consortium

REPORTS

The following reports were received by the Legislature:

Agriculture, Department of

USDA Bovine Tuberculosis Eradication Uniform Methods and Rules,
Effective January 1, 2005

Updated version of USDA Bovine Tuberculosis Eradication Uniform
Methods and Rules, Effective date changes for July 20, 2005, January
10, 2006, and March 14, 2006

Property Assessment and Taxation, Department of

2006 Annual Report

Retirement Systems, Public Employees

Service Report for year ending December 31, 2006

Roads, Department of

Thirty-Seventh Annual Report of the Board of Examiners for County
Highway and City Street Superintendents for the Period of January 1,
2006 to December 31, 2006

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 25.

A BILL FOR AN ACT relating to rabies; to amend sections 71-4401, 71-4402, 71-4403, 71-4404, 71-4405, 71-4406, 71-4407, 71-4408, 71-4409, 71-4410, and 71-4412, Reissue Revised Statutes of Nebraska; to define and redefine terms; to require vaccination of hybrid animals; to prohibit ownership of hybrid animals as prescribed; to change penalties; to provide for rules and regulations; 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:

Adams	Engel	Heidemann	McDonald	Raikes
Aguilar	Erdman	Howard	McGill	Rogert
Ashford	Fischer	Hudkins	Mines	Synowiecki
Avery	Flood	Janssen	Nantkes	White
Burling	Friend	Johnson	Pahls	Wightman
Carlson	Fulton	Kruse	Pankonin	
Cornett	Gay	Langemeier	Pedersen	
Dierks	Hansen	Lathrop	Pirsch	
Dubas	Harms	Louden	Preister	

Voting in the negative, 1:

Kopplin

Present and not voting, 4:

Christensen	Nelson	Stuthman	Wallman
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Excused and not voting, 3:

Chambers	Karpisek	Schimek
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 34.

A BILL FOR AN ACT relating to the Legislature; to create the State-Tribal Relations Committee.

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:

Adams	Dubas	Howard	McGill	Rogert
Aguilar	Engel	Janssen	Nantkes	Synowiecki
Ashford	Erdman	Johnson	Nelson	Wallman
Avery	Fischer	Kopplin	Pahls	White
Carlson	Flood	Kruse	Pankonin	
Christensen	Friend	Langemeier	Pedersen	
Cornett	Hansen	Lathrop	Pirsch	
Dierks	Harms	McDonald	Preister	

Voting in the negative, 6:

Fulton	Heidemann	Stuthman
Gay	Mines	Wightman

Present and not voting, 4:

Burling	Hudkins	Louden	Raikes
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Excused and not voting, 3:

Chambers	Karpisek	Schimek
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 67.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1629.04, Reissue Revised Statutes of Nebraska; to provide for service of juror summons by first-class mail; 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:

Adams	Dubas	Heidemann	Louden	Pirsch
Aguilar	Engel	Howard	McDonald	Preister
Ashford	Erdman	Hudkins	McGill	Raikes
Avery	Fischer	Janssen	Mines	Rogert
Burling	Friend	Johnson	Nantkes	Stuthman
Carlson	Fulton	Kopplin	Nelson	Synowiecki
Christensen	Gay	Kruse	Pahls	Wallman
Cornett	Hansen	Langemeier	Pankonin	White
Dierks	Harms	Lathrop	Pedersen	Wightman

Voting in the negative, 1:

Flood

Excused and not voting, 3:

Chambers	Karpisek	Schimek
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 106.

A BILL FOR AN ACT relating to the Tobacco Products Tax Act; to amend

sections 77-4001, 77-4002, 77-4004, 77-4007, 77-4008, 77-4009, 77-4014, 77-4017, 77-4018, 77-4024, and 77-4025, Reissue Revised Statutes of Nebraska; to change the tax on certain tobacco products; to define and redefine terms; 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, 30:

Adams	Cornett	Howard	McGill	Preister
Aguilar	Dierks	Hudkins	Mines	Raikes
Ashford	Dubas	Janssen	Nantkes	Rogert
Avery	Engel	Kruse	Pankonin	Stuthman
Burling	Hansen	Louden	Pedersen	Synowiecki
Carlson	Harms	McDonald	Pirsch	White

Voting in the negative, 12:

Christensen	Flood	Gay	Langemeier
Erdman	Friend	Heidemann	Nelson
Fischer	Fulton	Kopplin	Wallman

Present and not voting, 4:

Johnson	Lathrop	Pahls	Wightman
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Excused and not voting, 3:

Chambers	Karpisek	Schimek
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 136.

A BILL FOR AN ACT relating to fund management; to adopt the Nebraska Uniform Prudent Management of Institutional Funds Act; to eliminate the Uniform Management of Institutional Funds Act; and to outright repeal sections 58-601, 58-602, 58-603, 58-604, 58-605, 58-606, 58-607, 58-608, and 58-609, 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, 43:

Adams	Dubas	Harms	Louden	Preister
Aguilar	Engel	Heidemann	McDonald	Raikes
Ashford	Erdman	Howard	McGill	Stuthman
Avery	Fischer	Janssen	Mines	Synowiecki
Burling	Flood	Johnson	Nantkes	Wallman
Carlson	Friend	Kopplin	Nelson	White
Christensen	Fulton	Kruse	Pahls	Wightman
Cornett	Gay	Langemeier	Pedersen	
Dierks	Hansen	Lathrop	Pirsch	

Voting in the negative, 0.

Present and not voting, 2:

Pankonin Rogert

Excused and not voting, 4:

Chambers Hudkins Karpisek Schimek

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

ANNOUNCEMENT

The Chair announced April 1 is Senator Lathrop's birthday.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 143.

A BILL FOR AN ACT relating to crimes and offenses; to prohibit government officials from requiring a polygraph examination of a victim of a sex offense as prescribed.

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:

Adams	Dubas	Harms	Louden	Pirsch
Aguilar	Engel	Heidemann	McDonald	Preister
Ashford	Erdman	Howard	McGill	Raikes
Avery	Fischer	Janssen	Mines	Rogert
Burling	Flood	Johnson	Nantkes	Stuthman
Carlson	Friend	Kopplin	Nelson	Synowiecki
Christensen	Fulton	Kruse	Pahls	Wallman
Cornett	Gay	Langemeier	Pankonin	White
Dierks	Hansen	Lathrop	Pedersen	Wightman

Voting in the negative, 0.

Excused and not voting, 4:

Chambers Hudkins Karpisek Schimek

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 160.

A BILL FOR AN ACT relating to fire and rescue departments; to amend section 35-801, Reissue Revised Statutes of Nebraska; to change provisions relating to clothing and equipment and certain donations; 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, 45:

Adams	Dubas	Harms	Louden	Pirsch
Aguilar	Engel	Heidemann	McDonald	Preister
Ashford	Erdman	Howard	McGill	Raikes
Avery	Fischer	Janssen	Mines	Rogert
Burling	Flood	Johnson	Nantkes	Stuthman
Carlson	Friend	Kopplin	Nelson	Synowiecki
Christensen	Fulton	Kruse	Pahls	Wallman
Cornett	Gay	Langemeier	Pankonin	White
Dierks	Hansen	Lathrop	Pedersen	Wightman

Voting in the negative, 0.

Excused and not voting, 4:

Chambers Hudkins Karpisek Schimek

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 192.

A BILL FOR AN ACT relating to postsecondary education; to amend section 85-1412, Revised Statutes Cumulative Supplement, 2006; to adopt the Access College Early Scholarship Program Act; to eliminate the Community Scholarship Foundation Program Act; to harmonize provisions; to repeal the original section; and to outright repeal sections 85-2001, 85-2002, 85-2003, 85-2004, 85-2005, 85-2006, 85-2007, 85-2008, 85-2009, and 85-2010, Revised Statutes Cumulative Supplement, 2006.

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:

Adams	Engel	Heidemann	McDonald	Preister
Aguilar	Erdman	Howard	McGill	Raikes
Ashford	Fischer	Janssen	Mines	Rogert
Avery	Flood	Johnson	Nantkes	Stuthman
Burling	Friend	Kopplin	Nelson	Synowiecki
Carlson	Fulton	Kruse	Pahls	Wallman
Cornett	Gay	Langemeier	Pankonin	White
Dierks	Hansen	Lathrop	Pedersen	Wightman
Dubas	Harms	Louden	Pirsch	

Voting in the negative, 0.

Present and not voting, 1:

Christensen

Excused and not voting, 4:

Chambers Hudkins Karpisek Schimek

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 203.

A BILL FOR AN ACT relating to health care facilities; to amend sections 71-452, 71-453, and 71-6021, Reissue Revised Statutes of Nebraska, and section 71-401, Revised Statutes Cumulative Supplement, 2006; to provide for an informal conference process; 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:

Adams	Dubas	Harms	Louden	Pirsch
Aguilar	Engel	Heidemann	McDonald	Preister
Ashford	Erdman	Howard	McGill	Raikes
Avery	Fischer	Janssen	Mines	Rogert
Burling	Flood	Johnson	Nantkes	Stuthman
Carlson	Friend	Kopplin	Nelson	Synowiecki
Christensen	Fulton	Kruse	Pahls	Wallman
Cornett	Gay	Langemeier	Pankonin	White
Dierks	Hansen	Lathrop	Pedersen	Wightman

Voting in the negative, 0.

Excused and not voting, 4:

Chambers	Hudkins	Karpisek	Schimek
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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 223 with 38 ayes, 2 nays, 4 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 223.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-375, 77-3,112, 77-2701.35, 77-2703.04, 77-2712.03, 77-2790, 77-27,131, 77-27,190, 77-27,192, 77-3102, 77-3903, 77-3904, 77-4105, 77-4110, 77-4933, and 77-5542, Reissue Revised Statutes of Nebraska, and sections 77-2701, 77-2701.04, 77-2703, 77-2711, 77-2712.05, 77-2753, 77-2756, 77-27,187.01, 77-27,187.02, 77-27,188, 77-27,189, 77-5715, 77-5725, 77-5803, and 77-5904, Revised Statutes Cumulative Supplement, 2006; to change and eliminate sales and use tax provisions; to change provisions relating to the streamlined sales and use tax agreement; to change tax incentive and reporting requirements laws; to change provisions relating to the Tax Commissioner, disclosure of tax information to the Auditor of Public Accounts, withholding, deficiencies, security, nonresident contractors, and liens; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal section 77-2703.02, Revised Statutes Cumulative Supplement, 2006.

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:

Adams	Dubas	Heidemann	McDonald	Rogert
Aguilar	Engel	Howard	Mines	Stuthman
Ashford	Erdman	Hudkins	Nantkes	Synowiecki
Avery	Fischer	Janssen	Nelson	Wallman
Burling	Flood	Johnson	Pahls	White
Carlson	Friend	Kopplin	Pankonin	Wightman
Chambers	Fulton	Kruse	Pedersen	
Christensen	Gay	Langemeier	Pirsch	
Cornett	Hansen	Lathrop	Preister	
Dierks	Harms	Louden	Raikes	

Voting in the negative, 0.

Excused and not voting, 3:

Karpisek McGill Schimek

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 255. With Emergency.

A BILL FOR AN ACT relating to labor; to amend sections 48-1228, 48-1229, 48-1230, and 48-1232, Reissue Revised Statutes of Nebraska; to change provisions of the Nebraska Wage Payment and Collection Act; to redefine terms; to provide for unpaid wages constituting commissions; 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:

Adams	Dubas	Heidemann	Louden	Raikes
Aguilar	Engel	Howard	McDonald	Rogert
Ashford	Erdman	Hudkins	McGill	Stuthman
Avery	Fischer	Janssen	Mines	Synowiecki
Burling	Flood	Johnson	Nantkes	Wallman
Carlson	Friend	Karpisek	Nelson	White
Chambers	Fulton	Kopplin	Pahls	Wightman
Christensen	Gay	Kruse	Pedersen	
Cornett	Hansen	Langemeier	Pirsch	
Dierks	Harms	Lathrop	Preister	

Voting in the negative, 0.

Present and not voting, 1:

Pankonin

Excused 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.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 286 with 43 ayes, 1 nay, 4 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 286.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-114, 60-308, 60-324, 60-355, 60-356, 60-378, 60-385, 60-387, 60-3,104, 60-3,118, 60-3,128, 60-3,142, 60-3,145, 60-3,147, and 60-3,150, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to the Motor Vehicle Certificate of Title Act and the Motor Vehicle Registration Act; 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:

Adams	Dubas	Heidemann	Louden	Preister
Aguilar	Engel	Howard	McDonald	Raikes
Ashford	Erdman	Hudkins	McGill	Rogert
Avery	Fischer	Janssen	Mines	Stuthman
Burling	Flood	Johnson	Nantkes	Synowiecki
Carlson	Friend	Karpisek	Nelson	Wallman
Chambers	Fulton	Kopplin	Pahls	White
Christensen	Gay	Kruse	Pankonin	Wightman
Cornett	Hansen	Langemeier	Pedersen	
Dierks	Harms	Lathrop	Pirsch	

Voting in the negative, 0.

Excused and not voting, 1:

Schimek

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 292.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 68-104 and 68-1803, Revised Statutes Cumulative Supplement, 2006; to authorize transfers of public assistance funds from counties to the state as prescribed; to change the rate of tax on intermediate care facilities for the mentally retarded; 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:

Adams	Dubas	Heidemann	Louden	Preister
Aguilar	Engel	Howard	McDonald	Raikes
Ashford	Erdman	Hudkins	McGill	Rogert
Avery	Fischer	Janssen	Mines	Stuthman
Burling	Flood	Johnson	Nantkes	Synowiecki
Carlson	Friend	Karpisek	Nelson	Wallman
Chambers	Fulton	Kopplin	Pahls	White
Christensen	Gay	Kruse	Pankonin	Wightman
Cornett	Hansen	Langemeier	Pedersen	
Dierks	Harms	Lathrop	Pirsch	

Voting in the negative, 0.

Excused and not voting, 1:

Schimek

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 292A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 292, One Hundredth Legislature, First Session, 2007.

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:

Adams	Dubas	Heidemann	Louden	Preister
Aguilar	Engel	Howard	McDonald	Raikes
Ashford	Erdman	Hudkins	McGill	Rogert
Avery	Fischer	Janssen	Mines	Stuthman
Burling	Flood	Johnson	Nantkes	Synowiecki
Carlson	Friend	Karpisek	Nelson	Wallman
Chambers	Fulton	Kopplin	Pahls	White
Christensen	Gay	Kruse	Pankonin	Wightman
Cornett	Hansen	Langemeier	Pedersen	
Dierks	Harms	Lathrop	Pirsch	

Voting in the negative, 0.

Excused and not voting, 1:

Schimek

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 349.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-301, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to trailers; 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, 46:

Adams	Dubas	Heidemann	McDonald	Rogert
Aguilar	Engel	Howard	McGill	Stuthman
Ashford	Erdman	Hudkins	Mines	Synowiecki
Avery	Fischer	Janssen	Nantkes	Wallman
Burling	Flood	Johnson	Nelson	White
Carlson	Friend	Karpisek	Pahls	Wightman
Chambers	Fulton	Kopplin	Pankonin	
Christensen	Gay	Kruse	Pirsch	
Cornett	Hansen	Langemeier	Preister	
Dierks	Harms	Lathrop	Raikes	

Voting in the negative, 0.

Present and not voting, 2:

Louden Pedersen

Excused and not voting, 1:

Schimek

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 374. With Emergency.

A BILL FOR AN ACT relating to the Rural Health Systems and Professional Incentive Act; to amend sections 71-5667, Reissue Revised Statutes of Nebraska, and section 71-5666, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to student loans; 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, 47:

Adams	Dubas	Howard	McDonald	Raikes
Aguilar	Engel	Hudkins	McGill	Rogert
Ashford	Erdman	Janssen	Mines	Stuthman
Avery	Fischer	Johnson	Nantkes	Synowiecki
Burling	Flood	Karpisek	Nelson	Wallman
Carlson	Friend	Kopplin	Pahls	White
Chambers	Fulton	Kruse	Pankonin	Wightman
Christensen	Gay	Langemeier	Pedersen	
Cornett	Hansen	Lathrop	Pirsch	
Dierks	Heidemann	Louden	Preister	

Voting in the negative, 0.

Present and not voting, 1:

Harms

Excused 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.

LEGISLATIVE BILL 389. With Emergency.

A BILL FOR AN ACT relating to public records; to amend section 84-712.05, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to job application materials; 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:

Adams	Dubas	Heidemann	Louden	Raikes
Aguilar	Engel	Howard	McDonald	Rogert
Ashford	Erdman	Hudkins	McGill	Stuthman
Avery	Fischer	Janssen	Mines	Wallman
Burling	Flood	Johnson	Nantkes	White
Carlson	Friend	Karpisek	Pahls	Wightman
Chambers	Fulton	Kopplin	Pankonin	
Christensen	Gay	Kruse	Pedersen	
Cornett	Hansen	Langemeier	Pirsch	
Dierks	Harms	Lathrop	Preister	

Voting in the negative, 0.

Present and not voting, 2:

Nelson Synowiecki

Excused 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.

LEGISLATIVE BILL 464.

A BILL FOR AN ACT relating to political accountability and disclosure; to amend sections 28-915.01 and 49-14,133, Reissue Revised Statutes of Nebraska, and sections 49-1401, 49-14,123, and 49-14,126, Revised Statutes Cumulative Supplement, 2006; to change enforcement provisions relating to the Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure 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, 46:

Adams	Engel	Howard	McGill	Rogert
Ashford	Erdman	Hudkins	Mines	Stuthman
Avery	Fischer	Janssen	Nantkes	Synowiecki
Burling	Flood	Johnson	Nelson	Wallman
Carlson	Friend	Karpisek	Pahls	White
Chambers	Fulton	Kopplin	Pankonin	Wightman
Christensen	Gay	Kruse	Pedersen	
Cornett	Hansen	Langemeier	Pirsch	
Dierks	Harms	Louden	Preister	
Dubas	Heidemann	McDonald	Raikes	

Voting in the negative, 1:

Lathrop

Present and not voting, 1:

Aguilar

Excused and not voting, 1:

Schimek

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 497. With Emergency.

A BILL FOR AN ACT relating to labor and employment; to adopt the Family Military Leave Act; 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:

Adams	Dubas	Heidemann	Louden	Preister
Aguilar	Engel	Howard	McDonald	Raikes
Ashford	Erdman	Hudkins	McGill	Rogert
Avery	Fischer	Janssen	Mines	Stuthman
Burling	Flood	Johnson	Nantkes	Synowiecki
Carlson	Friend	Karpisek	Nelson	Wallman
Chambers	Fulton	Kopplin	Pahls	White
Christensen	Gay	Kruse	Pankonin	Wightman
Cornett	Hansen	Langemeier	Pedersen	
Dierks	Harms	Lathrop	Pirsch	

Voting in the negative, 0.

Excused 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.

LEGISLATIVE BILL 568. With Emergency.

A BILL FOR AN ACT relating to environmental protection; to amend section 81-15,160, Revised Statutes Cumulative Supplement, 2006; to extend a scrap tire grant program; 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, 47:

Adams	Engel	Howard	McDonald	Raikes
Aguilar	Erdman	Hudkins	McGill	Rogert
Ashford	Fischer	Janssen	Mines	Stuthman
Avery	Flood	Johnson	Nantkes	Synowiecki
Burling	Friend	Karpisek	Nelson	Wallman
Carlson	Fulton	Kopplin	Pahls	White
Christensen	Gay	Kruse	Pankonin	Wightman
Cornett	Hansen	Langemeier	Pedersen	
Dierks	Harms	Lathrop	Pirsch	
Dubas	Heidemann	Louden	Preister	

Voting in the negative, 1:

Chambers

Excused 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.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 638 with 38 ayes, 3 nays, 7 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 638.

A BILL FOR AN ACT relating to gambling; to amend sections 9-239, 9-266, 9-356, 9-424, 9-833, and 9-835, Reissue Revised Statutes of Nebraska, and sections 9-1,101, 9-232.01, 9-232.02, 9-233, 9-241.03, 9-255.06, 9-328, 9-329, 9-329.02, 9-425, 9-803, 9-812, and 77-366, Revised Statutes Cumulative Supplement, 2006; to change and eliminate provisions relating to bingo, lotteries, raffles, and the State Lottery Act; to provide for enforcement relating to possession of gambling devices; to harmonize provisions; to repeal the original sections; and to outright repeal sections 9-236 and 9-322.03, 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:

Adams	Dubas	Hudkins	Louden	Preister
Aguilar	Engel	Janssen	McDonald	Raikes
Ashford	Fischer	Johnson	McGill	Rogert
Avery	Flood	Karpisek	Mines	Stuthman
Carlson	Friend	Kopplin	Nantkes	Synowiecki
Christensen	Harms	Kruse	Pahls	White
Cornett	Heidemann	Langemeier	Pankonin	Wightman
Dierks	Howard	Lathrop	Pedersen	

Voting in the negative, 8:

Burling	Erdman	Hansen	Pirsch
Chambers	Gay	Nelson	Wallman

Present and not voting, 1:

Fulton

Excused and not voting, 1:

Schimek

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 661 with 39 ayes, 4 nays, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 661. With Emergency.

A BILL FOR AN ACT relating to telecommunications; to amend sections 86-125, 86-140, 86-313, 86-316, 86-318, 86-322, 86-323, 86-420, 86-422, 86-433, 86-434, 86-435, 86-436, 86-442, 86-443, 86-456, 86-457, 86-459, and 86-461, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to registration of communications providers, access charges, surcharges, the Telecommunications Relay System Act, the Nebraska Telecommunications Universal Service Fund Act, the Emergency Telephone Communications Systems Act, the Enhanced Wireless 911 Services Act, and the Enhanced Wireless 911 Advisory Board; to define and redefine terms; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 86-427, 86-443.01, and 86-450.01, Revised Statutes Cumulative Supplement, 2006; 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:

Adams	Dubas	Heidemann	Louden	Preister
Aguilar	Engel	Howard	McDonald	Raikes
Ashford	Erdman	Hudkins	McGill	Rogert
Avery	Fischer	Janssen	Mines	Stuthman
Burling	Flood	Johnson	Nantkes	Synowiecki
Carlson	Friend	Karpisek	Nelson	Wallman
Chambers	Fulton	Kopplin	Pahls	White
Christensen	Gay	Kruse	Pankonin	Wightman
Cornett	Hansen	Langemeier	Pedersen	
Dierks	Harms	Lathrop	Pirsch	

Voting in the negative, 0.

Excused 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.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 681.

A BILL FOR AN ACT relating to motor vehicle dealers; to amend section 60-1411.01, Reissue Revised Statutes of Nebraska, and section 60-1419, Revised Statutes Cumulative Supplement, 2006; to increase licensing fees and a bond; 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:

Adams	Dierks	Hansen	Kruse	Pedersen
Aguilar	Dubas	Harms	Langemeier	Pirsch
Ashford	Engel	Heidemann	Louden	Preister
Avery	Erdman	Howard	McDonald	Raikes
Burling	Fischer	Hudkins	McGill	Rogert
Carlson	Flood	Janssen	Mines	Synowiecki
Chambers	Friend	Johnson	Nelson	Wightman
Christensen	Fulton	Karpisek	Pahls	
Cornett	Gay	Kopplin	Pankonin	

Voting in the negative, 2:

Stuthman Wallman

Present and not voting, 3:

Lathrop Nantkes White

Excused and not voting, 1:

Schimek

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 25, 34, 67, 106, 136, 143, 160, 192, 203, 223, 255, 286, 292, 292A, 349, 374, 389, 464, 497, 568, 638, 661, and 681.

SENATOR LANGEMEIER PRESIDING

GENERAL FILE

LEGISLATIVE BILL 457. Senator Chambers withdrew his motion, found on page 981, to bracket until May 15, 2007.

Senator Flood withdrew his amendment, AM792, found on page 981.

Advanced to E & R for review with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 415. Title read. Considered.

Committee AM624, found on page 871, was considered.

Pending.

MOTION - Print in Journal

Senator Erdman filed the following motion to LB 53:
Bracket LB 53.

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.

Robert L. Boozer - Board of Parole

VOTE: Aye: Senators Ashford, Lathrop, Chambers, McDonald, McGill,

Pedersen, Pirsch. Nay: None. Absent: Senator Schimek.

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.

Joe Kelly - Community Corrections Council
 Kermit Brashear - Community Corrections Council
 Catherine Cook - Community Corrections Council
 Jeffrey Davis - Community Corrections Council
 Thomas Dorwart - Community Corrections Council
 Julie Hippen - Community Corrections Council
 Robert Lindemeier - Community Corrections Council

VOTE: Aye: Senators Ashford, Chambers, Lathrop, McDonald, McGill, Pedersen, Pirsch. Nay: None. Absent: Senator Schimek.

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.

James Riskowski - Crime Victim's Reparations Committee
 Scott Arnold - Crime Victim's Reparations Committee

VOTE: Aye: Senators Ashford, Chambers, Lathrop, McDonald, McGill, Pedersen, Pirsch. Nay: None. Absent: Senator Schimek.

LEGISLATIVE BILL 112. Placed on General File.
LEGISLATIVE BILL 214. Placed on General File.
LEGISLATIVE BILL 260. Placed on General File.
LEGISLATIVE BILL 280. Placed on General File.
LEGISLATIVE BILL 424. Placed on General File.

(Signed) Brad Ashford, Chairperson

CORRECTED COMMITTEE REPORT Enrollment and Review

LEGISLATIVE BILL 405. Corrected E & R amendment:
 ER8059

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 14-201, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 14-201 In any city of the metropolitan class, ~~seven-nine~~
- 6 council members shall be elected to the city council as provided
- 7 in section 32-536. The general city election for the election of
- 8 elective officers of cities of the metropolitan class shall be held
- 9 on the first Tuesday after the second Monday in May 1993 and every

10 four years thereafter. The terms of office of such council members
11 shall commence on the fourth Monday after such election, except
12 that the initial terms of office after the effective date of this
13 act of the eighth and ninth council members shall commence upon
14 their appointment as provided in section 32-536.

15 Sec. 2. Section 14-201.03, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 14-201.03 ~~The election commissioner in any county in~~
18 ~~which is situated a city of the metropolitan class shall divide the~~
19 ~~city into seven city council districts of compact and contiguous~~
20 ~~territory. Such districts shall be numbered consecutively from one~~
21 ~~to seven. One council member shall be elected from each district.~~
1 ~~The city council shall be responsible for redrawing the city~~
2 ~~council district boundaries pursuant to section 32-553.~~

3 Within ninety days after the effective date of this act,
4 the city council of a city of the metropolitan class shall divide
5 the city into nine city council districts of compact and contiguous
6 territory. Such districts shall be numbered consecutively from one
7 to nine. One council member shall be elected from each district
8 except as provided in section 32-536. The city council shall be
9 responsible for redrawing the city council district boundaries
10 pursuant to section 32-553.

11 Sec. 3. Section 32-536, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 32-536 (1) In a city of the metropolitan class in
14 existence on the effective date of this act, seven council members
15 shall be elected to the city council for terms of four years at
16 the general city election in 1993 pursuant to section 14-201. One
17 Within ninety days after the effective date of this act, an eighth
18 and a ninth council member shall be appointed by a majority vote
19 of the council members serving on such date and shall serve until
20 their successors are elected at the general city election in May
21 2009 and qualified.

22 (2) In any city of the metropolitan class which becomes
23 a city of such class on or after the effective date of this act,
24 nine council members shall be elected to the city council pursuant
25 to section 14-201 for terms of four years at the first general city
26 election after such city becomes a city of the metropolitan class
27 and each four years thereafter.

1 (3) In each city of the metropolitan class, one council
2 member shall be nominated and elected from each of the districts
3 into which the city is divided pursuant to section 14-201.03. The
4 council members shall meet the qualifications found in sections
5 14-204 and 14-230.

6 Sec. 4. Original sections 14-201 and 32-536, Reissue
7 Revised Statutes of Nebraska, and section 14-201.03, Revised
8 Statutes Cumulative Supplement, 2006, are repealed.

(Signed) Amanda McGill, Chairperson

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 30, 2007, at 10:50 a.m. were the following: LBs 25, 34, 67, 106, 136, 143, 160, 192, 203, 223, 255e, 286, 292, 292A, 349, 374e, 389e, 464, 497e, 568e, 638, 661e, and 681.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

AMENDMENT - Print in Journal

Senator Johnson filed the following amendment to LB 236:
AM848

(Amendments to Standing Committee amendments, AM670)

- 1 1. Strike sections 4 and 6 and insert the following new
2 section:
- 3 Sec. 5. Section 71-415, Reissue Revised Statutes of
4 Nebraska, is amended to read:
- 5 71-415 Health care service means an adult day service, a
6 home health agency, a hospice or hospice service, or a respite care
7 service. Health care service does not include an in-home personal
8 services agency as defined in section 1 of this act.
- 9 2. On page 1, line 3, strike "5" and insert "4"; in line
10 6 after "means" insert "services provided to nonmedically fragile
11 persons, including"; in line 10 strike "escort services."; in line
12 16 after the second "services" insert "that do not require the
13 exercise of medical or nursing judgment"; and in line 23 after
14 "department" insert "as defined in section 71-1626".
- 15 3. On page 2, line 2, strike "a nurse aide registry."; in
16 line 4 after the comma insert "an unlicensed home care registry or
17 similar entity that screens and schedules independent contractors
18 as caregivers for persons."; and in line 27 after "employ" insert
19 "or contract with".
- 20 4. On page 3, line 18, strike "4" and insert "3"; in line
21 19 strike "or prohibit"; and in lines 20 and 21 strike "and do not
22 apply" and insert "or".
- 1 5. On page 4, line 27, strike "71-6615" and insert
2 "71-415".
- 3 6. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 415. Committee AM624, found on page 871 and considered in this day's Journal, was renewed.

The committee amendment was adopted with 31 ayes, 1 nay, 11 present and not voting, and 6 excused and not voting.

Senator Erdman offered the following amendment:

AM895

- 1 1. Strike original sections 1 to 3, 6, and 7.
- 2 2. On page 6, strike lines 24 and 25.
- 3 3. On page 7, strike line 1.
- 4 4. Renumber the remaining sections and correct the
- 5 repealer accordingly.

Senator Erdman withdrew his amendment.

Advanced to E & R for review with 26 ayes, 4 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 415A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 5 nays, 13 present and not voting, and 6 excused and not voting.

COMMITTEE REPORT Judiciary

LEGISLATIVE BILL 564. Placed on General File - Com AM879.
AM879

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 13-910, Revised Statutes Cumulative
- 4 Supplement, 2006, is amended to read:
- 5 13-910 The Political Subdivisions Tort Claims Act and
- 6 sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall not apply
- 7 to:
- 8 (1) Any claim based upon an act or omission of an
- 9 employee of a political subdivision, exercising due care, in
- 10 the execution of a statute, ordinance, or officially adopted
- 11 resolution, rule, or regulation, whether or not such statute,
- 12 ordinance, resolution, rule, or regulation is valid;
- 13 (2) Any claim based upon the exercise or performance of
- 14 or the failure to exercise or perform a discretionary function or
- 15 duty on the part of the political subdivision or an employee of the
- 16 political subdivision, whether or not the discretion is abused;
- 17 (3) Any claim based upon the failure to make an
- 18 inspection or making an inadequate or negligent inspection of
- 19 any property other than property owned by or leased to such
- 20 political subdivision to determine whether the property complies
- 21 with or violates any statute, ordinance, rule, or regulation or
- 22 contains a hazard to public health or safety unless the political
- 23 subdivision had reasonable notice of such hazard or the failure
- 1 to inspect or inadequate or negligent inspection constitutes a
- 2 reckless disregard for public health or safety;
- 3 (4) Any claim based upon the issuance, denial,
- 4 suspension, or revocation of or failure or refusal to issue,

5 deny, suspend, or revoke any permit, license, certificate, or
6 order. Nothing in this subdivision shall be construed to limit
7 a political subdivision's liability for any claim based upon the
8 negligent execution by an employee of the political subdivision
9 in the issuance of a certificate of title under the Motor Vehicle
10 Certificate of Title Act and the State Boat Act;

11 (5) Any claim arising with respect to the assessment or
12 collection of any tax or fee or the detention of any goods or
13 merchandise by any law enforcement officer;

14 (6) Any claim caused by the imposition or establishment
15 of a quarantine by the state or a political subdivision, whether
16 such quarantine relates to persons or property;

17 (7) Any claim arising out of assault, battery, false
18 arrest, false imprisonment, malicious prosecution, abuse of
19 process, libel, slander, misrepresentation, deceit, or interference
20 with contract rights;

21 (8) Any claim by an employee of the political subdivision
22 which is covered by the Nebraska Workers' Compensation Act;

23 (9) Any claim arising out of the malfunction,
24 destruction, or unauthorized removal of any traffic or road sign,
25 signal, or warning device unless it is not corrected by the
26 political subdivision responsible within a reasonable time after
1 actual or constructive notice of such malfunction, destruction, or
2 removal. Nothing in this subdivision shall give rise to liability
3 arising from an act or omission of any political subdivision
4 in placing or removing any traffic or road signs, signals, or
5 warning devices when such placement or removal is the result of a
6 discretionary act of the political subdivision;

7 (10) Any claim arising out of snow or ice conditions
8 or other temporary conditions caused by nature on any highway as
9 defined in section 60-624, bridge, public thoroughfare, or other
10 public place due to weather conditions. Nothing in this subdivision
11 shall be construed to limit a political subdivision's liability
12 for any claim arising out of the operation of a motor vehicle
13 by an employee of the political subdivision while acting within
14 the course and scope of his or her employment by the political
15 subdivision;

16 (11) Any claim arising out of the plan or design for
17 the construction of or an improvement to any highway as defined
18 in such section or bridge, either in original construction or any
19 improvement thereto, if the plan or design is approved in advance
20 of the construction or improvement by the governing body of the
21 political subdivision or some other body or employee exercising
22 discretionary authority to give such approval; ~~or~~

23 (12) Any claim arising out of the alleged insufficiency
24 or want of repair of any highway as defined in such section,
25 bridge, or other public thoroughfare. Insufficiency or want of
26 repair shall be construed to refer to the general or overall
condition and shall not refer to a spot or localized defect. A

27 political subdivision shall be deemed to waive its immunity for
1 a claim due to a spot or localized defect only if the political
2 subdivision has had actual or constructive notice of the defect
3 within a reasonable time to allow repair prior to the incident
4 giving rise to the claim; or -

5 (13)(a) Any claim relating to recreational activities for
6 which no fee is charged (i) resulting from the inherent risk of
7 the recreational activity; (ii) arising out of a spot or localized
8 defect of the premises unless the spot or localized defect is
9 not corrected by the political subdivision leasing, owning, or
10 in control of the premises within a reasonable time after actual
11 or constructive notice of the spot or localized defect; or (iii)
12 arising out of the design of a skatepark or bicycle motocross
13 park constructed for purposes of skateboarding, in-line skating,
14 bicycling, or scootering that was constructed or reconstructed,
15 reasonably and in good faith, in accordance with generally
16 recognized engineering or safety standards or design theories
17 in existence at the time of the construction or reconstruction.
18 For purposes of this subsection, a political subdivision shall be
19 charged with constructive notice only when the failure to discover
20 the spot or localized defect of the premises is the result of gross
21 negligence.

22 (b) For purposes of this subsection:

23 (i) Recreational activities include, but are not limited
24 to, whether as a participant or spectator: Hunting, fishing,
25 swimming, boating, camping, picnicking, hiking, walking, running,
26 horseback riding, use of trails, nature study, waterskiing,
27 winter sports, use of playground equipment, biking, roller
1 blading, skateboarding, golfing, athletic contests; visiting,
2 viewing, or enjoying entertainment events, festivals, historical,
3 archaeological, scenic, or scientific sites; and similar leisure
4 activities;

5 (ii) Inherent risk of recreational activities means those
6 risks that are characteristic of, intrinsic to, or an integral part
7 of the activity;

8 (iii) Gross negligence means the absence of even slight
9 care in the performance of a duty involving an unreasonable risk of
10 harm; and

11 (iv) Fee means a fee to participate in or be a spectator
12 at a recreational activity. A fee shall include payment by the
13 claimant to any person or organization other than the political
14 subdivision only to the extent the political subdivision retains
15 control over the premises or the activity. A fee shall not include
16 payment of a fee or charge for parking or vehicle entry.

17 (c) This subdivision, and not subdivision (3) of this
18 section, shall apply to any claim arising from the inspection
19 or failure to make an inspection or negligent inspection of
20 premises owned or leased by the political subdivision and used for
21 recreational activities.

22 Sec. 2. Section 81-8,219, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 81-8,219 The State Tort Claims Act shall not apply to:

25 (1) Any claim based upon an act or omission of an
26 employee of the state, exercising due care, in the execution of a
27 statute, rule, or regulation, whether or not such statute, rule, or
1 regulation is valid, or based upon the exercise or performance of
2 the failure to exercise or perform a discretionary function or duty
3 on the part of a state agency or an employee of the state, whether
4 or not the discretion is abused;

5 (2) Any claim arising with respect to the assessment or
6 collection of any tax or fee, or the detention of any goods or
7 merchandise by any law enforcement officer;

8 (3) Any claim for damages caused by the imposition or
9 establishment of a quarantine by the state whether such quarantine
10 relates to persons or property;

11 (4) Any claim arising out of assault, battery, false
12 imprisonment, false arrest, malicious prosecution, abuse of
13 process, libel, slander, misrepresentation, deceit, or interference
14 with contract rights;

15 (5) Any claim by an employee of the state which is
16 covered by the Nebraska Workers' Compensation Act;

17 (6) Any claim based on activities of the Nebraska
18 National Guard when such claim is cognizable under the Federal
19 Tort Claims Act, 28 U.S.C. 2674, or the National Guard Tort Claims
20 Act of the United States, 32 U.S.C. 715, or when such claim accrues
21 as a result of active federal service or state service at the call
22 of the Governor for quelling riots and civil disturbances;

23 (7) Any claim based upon the failure to make an
24 inspection or making an inadequate or negligent inspection of
25 any property other than property owned by or leased to the state
26 to determine whether the property complies with or violates any
27 statute, ordinance, rule, or regulation or contains a hazard to
1 public health or safety unless the state had reasonable notice of
2 such hazard or the failure to inspect or inadequate or negligent
3 inspection constitutes a reckless disregard for public health or
4 safety;

5 (8) Any claim based upon the issuance, denial,
6 suspension, or revocation of or failure or refusal to issue, deny,
7 suspend, or revoke any permit, license, certificate, or order.
8 Such claim shall also not be filed against a state employee
9 acting within the scope of his or her office. Nothing in this
10 subdivision shall be construed to limit the state's liability for
11 any claim based upon the negligent execution by a state employee
12 in the issuance of a certificate of title under the Motor Vehicle
13 Certificate of Title Act and the State Boat Act;

14 (9) Any claim arising out of the malfunction,
15 destruction, or unauthorized removal of any traffic or road sign,
16 signal, or warning device unless it is not corrected by the

17 governmental entity responsible within a reasonable time after
18 actual or constructive notice of such malfunction, destruction, or
19 removal. Nothing in this subdivision shall give rise to liability
20 arising from an act or omission of any governmental entity
21 in placing or removing any traffic or road signs, signals, or
22 warning devices when such placement or removal is the result of a
23 discretionary act of the governmental entity;

24 (10) Any claim arising out of snow or ice conditions
25 or other temporary conditions caused by nature on any highway as
26 defined in section 60-624, bridge, public thoroughfare, or other
27 state-owned public place due to weather conditions. Nothing in this
1 subdivision shall be construed to limit the state's liability for
2 any claim arising out of the operation of a motor vehicle by an
3 employee of the state while acting within the course and scope of
4 his or her employment by the state;

5 (11) Any claim arising out of the plan or design for
6 the construction of or an improvement to any highway as defined
7 in such section or bridge, either in original construction or
8 any improvement thereto, if the plan or design is approved in
9 advance of the construction or improvement by the governing body of
10 the governmental entity or some other body or employee exercising
11 discretionary authority to give such approval; or

12 (12) Any claim arising out of the alleged insufficiency
13 or want of repair of any highway as defined in such section,
14 bridge, or other public thoroughfare. Insufficiency or want of
15 repair shall be construed to refer to the general or overall
16 condition and shall not refer to a spot or localized defect. The
17 state shall be deemed to waive its immunity for a claim due to
18 a spot or localized defect only if the state has had actual or
19 constructive notice of the defect within a reasonable time to allow
20 repair prior to the incident giving rise to the claim.

21 (13)(a) Any claim relating to recreational activities
22 on property leased, owned, or controlled by the state for which
23 no fee is charged (i) resulting from the inherent risk of the
24 recreational activity; (ii) arising out of a spot or localized
25 defect of the premises unless the spot or localized defect is not
26 corrected within a reasonable time after actual or constructive
27 notice of the spot or localized defect; or (iii) arising out of
1 the design of a skatepark or bicycle motocross park constructed
2 for purposes of skateboarding, in-line skating, bicycling, or
3 scootering that was constructed or reconstructed, reasonably and in
4 good faith, in accordance with generally recognized engineering or
5 safety standards or design theories in existence at the time of the
6 construction or reconstruction. For purposes of this subsection,
7 the state shall be charged with constructive notice only when the
8 failure to discover the spot or localized defect of the premises is
9 the result of gross negligence.

10 (b) For purposes of this subsection:

11 (i) Recreational activities include, but are not limited

12 to, whether as a participant or spectator: Hunting, fishing,
 13 swimming, boating, camping, picnicking, hiking, walking, running,
 14 horseback riding, use of trails, nature study, waterskiing,
 15 winter sports, use of playground equipment, biking, roller
 16 blading, skateboarding, golfing, athletic contests; visiting,
 17 viewing, or enjoying entertainment events, festivals, historical,
 18 archaeological, scenic, or scientific sites; and similar leisure
 19 activities;

20 (ii) Inherent risk of recreational activities means those
 21 risks that are characteristic of, intrinsic to, or an integral part
 22 of the activity;

23 (iii) Gross negligence means the absence of even slight
 24 care in the performance of a duty involving an unreasonab risk of
 25 harm; and

26 (iv) Fee means a fee to participate in or be a spectator
 27 at a recreational activity. A fee shall include payment by the
 1 claimant to any person or organization other than the state only
 2 to the extent the state retains control over the premises or the
 3 activity. A fee shall not include payment of a fee or charge for
 4 parking or vehicle entry.

5 (c) This subdivision, and not subdivision (7) of this
 6 section, shall apply to any claim arising from the inspection or
 7 failure to make an inspection or negligent inspection of premises
 8 owned or leased by the state and used for recreational activities.

9 Sec. 3. Original sections 13-910 and 81-8,219, Revised
 10 Statutes Cumulative Supplement, 2006, are repealed.

11 Sec. 4. Since an emergency exists, this act takes effect
 12 when passed and approved according to law.

(Signed) Brad Ashford, Chairperson

AMENDMENTS - Print in Journal

Senators Janssen, Howard, and McDonald filed the following amendment to
LB 334:

AM886

(Amendments to Standing Committee amendments, AM775)

1 1. Insert the following new sections:

2 Section 1. Section 2-257, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 2-257 (1) The county board may, at the time other levies
 5 and assessments for taxation are made and subject to section
 6 77-3443, levy a tax upon all of the taxable property within the
 7 county for the operation of the county agricultural society. The
 8 tax shall be assessed, levied, and collected as other county taxes.
 9 The proceeds of such tax shall be paid by the county treasurer to
 10 the treasurer of the board of directors of such county agricultural
 11 society on or before the fifteenth day of each month or more
 12 frequently as provided in section 77-1759.

13 (2) The county agricultural society may act to exceed the
14 allocation provided by the county board under section 77-3444, but
15 if the county agricultural society acts to exceed the allocation,
16 the total levy shall not exceed three and one-half cents per one
17 hundred dollars of valuation.

18 Sec. 3. Section 23-1601, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 23-1601 (1) It is the duty of the county treasurer to
21 receive all money belonging to the county, from whatsoever source
22 derived and by any method of payment provided by section 77-1702,
1 and all other money which is by law directed to be paid to him or
2 her. All money received by the county treasurer for the use of the
3 county shall be paid out by him or her only on warrants issued by
4 the county board according to law, except when special provision
5 for payment of county money is otherwise made by law.

6 (2) The county treasurer shall prepare and file the
7 required annual inventory statement of county personal property in
8 his or her custody or possession as provided in sections 23-346 to
9 23-350.

10 (3) The county treasurer, at the direction of the city or
11 village, shall invest the bond fund money collected for each city
12 or village located within each county. The bond fund money shall
13 be invested by the county treasurer and any investment income shall
14 accrue to the bond fund. The county treasurer shall notify the city
15 or village when the bonds have been retired.

16 (4)(a) On or before the fifteenth day of each month,
17 the county treasurer (i) shall pay to each city, village,
18 school district, ~~and~~ educational service unit, county agricultural
19 society, and rural or suburban fire protection district, located
20 within the county the amount of all funds collected or received for
21 the city, village, school district, ~~and~~ educational service unit,
22 county agricultural society, and rural or suburban fire protection
23 district, the previous calendar month, including bond fund money
24 when requested by any city of the first class under section 16-731,
25 and (ii) on forms provided by the Auditor of Public Accounts, shall
26 include with the payment a statement indicating the source of all
27 such funds received or collected and an accounting of any expense
1 incurred in the collection of ad valorem taxes, except that the
2 Auditor of Public Accounts shall, upon request of a county, approve
3 the use and reproduction of a county's general ledger or other
4 existing forms if such ledger or other forms clearly indicate the
5 sources of all funds received or collected and an accounting of any
6 expenses incurred in the collection of ad valorem taxes.

7 (b) If all such funds received or collected are less than
8 twenty-five dollars, the county treasurer may hold such funds until
9 such time as they are equal to or exceed twenty-five dollars. In no
10 case shall such funds be held by the county treasurer longer than
11 six months.

12 (5) Notwithstanding subsection (4) of this section, the

13 county treasurer of any county in which a city of the metropolitan
 14 class or a Class V school district is located shall pay to the city
 15 of the metropolitan class and to the Class V school district on a
 16 weekly basis the amount of all current year funds as they become
 17 available for the city or the school district.

18 Sec. 5. Section 35-509, Reissue Revised Statutes of
 19 Nebraska, is amended to read:

20 35-509 (1) The board of directors shall have the power
 21 and duty to determine a general fire protection and rescue policy
 22 for the district and shall annually fix the amount of money for
 23 the proposed budget statement as may be deemed sufficient and
 24 necessary in carrying out such contemplated program for the ensuing
 25 fiscal year, including the amount of principal and interest upon
 26 the indebtedness of the district for the ensuing year. After the
 27 adoption of the budget statement, the president and secretary of
 1 the district shall request the amount of tax to be levied which
 2 the district requires for the adopted budget statement for the
 3 ensuing year to the proper county board on or before August 1
 4 of each year. Such board shall levy a tax not to exceed ten and
 5 one-half cents on each one hundred dollars upon the taxable value
 6 of all the taxable property in such district when the district is
 7 a rural or suburban fire protection district, for the maintenance
 8 of the fire protection district for the fiscal year as provided by
 9 law, plus such levy as is authorized to be made under subdivision
 10 (13) of section 35-508, all such levies being subject to section
 11 77-3443. The tax shall be collected as other taxes are collected
 12 in the county, deposited with the county treasurer, and placed to
 13 the credit of the rural or suburban fire protection district so
 14 authorizing the same ~~to be paid to the secretary treasurer of such~~
 15 ~~district as is provided for by subsection (3) of this section or to~~
 16 on or before the fifteenth day of each month or more frequently as
 17 provided in section 77-1759 or be remitted to the county treasurer
 18 of the county in which the greatest portion of the valuation of
 19 the district is located as is provided for by subsection (2) of
 20 this section. For purposes of section 77-3443, the county board of
 21 the county in which the greatest portion of the valuation of the
 22 district is located shall approve the levy.

23 (2) All such taxes collected or received for the district
 24 by the treasurer of any other county than the one in which the
 25 greatest portion of the valuation of the district is located shall
 26 be remitted to the treasurer of the county in which the greatest
 27 portion of the valuation of the district is located at least
 1 quarterly. All such taxes collected or received shall be placed to
 2 the credit of such district in the treasury of the county in which
 3 the greatest portion of the valuation of the district is located.

4 ~~(3) It shall be the duty of the secretary treasurer of~~
 5 ~~the district to apply for and receive from the county treasurer~~
 6 ~~of the county in which collected or from the county treasurer of~~
 7 ~~the county in which the greatest portion of the valuation of the~~

8 ~~district is located, if such district is located in more than~~
 9 ~~one county, all money to the credit of the rural or suburban~~
 10 ~~fire protection district or collected for the same by such county~~
 11 ~~treasurer, upon an order of the treasurer countersigned by the~~
 12 ~~president of such district. The money shall be paid out upon~~
 13 ~~warrants drawn upon the secretary treasurer by authority of the~~
 14 ~~board of directors of the district bearing the signature of the~~
 15 ~~secretary treasurer and the countersignature of the president of~~
 16 ~~the rural or suburban fire protection district.~~

17 (4)-(3) In no case shall the amount of tax levy exceed
 18 the amount of funds to be received from taxation according to the
 19 adopted budget statement of the district.

20 Sec. 101. On or before March 19 of each year, each
 21 county assessor shall conduct a systematic inspection and review
 22 by class or subclass of a portion of the taxable real property
 23 parcels in the county for the purpose of achieving uniform and
 24 proportionate valuations and assuring that the real property record
 25 data accurately reflects the property. The county assessor shall
 26 adjust the value of all other taxable real property parcels by
 27 class or subclass in the county so that the value of all real
 1 property is uniform and proportionate. The county assessor shall
 2 determine the portion to be inspected and reviewed each year to
 3 assure that over a four-year period all parcels of real property in
 4 the county have been inspected and reviewed.

5 2. On page 6, line 25, after the semicolon insert "four
 6 copies to the Tax Equalization and Review Commission;".

7 3. On page 7, lines 22 and 23, strike "the Tax
 8 Equalization and Review Commission," and show as stricken.

9 4. On page 40, line 8, after "duties" insert "through
 10 June 30, 2007"; and in lines 9 and 11 and 12, strike "directives,
 11 guidelines, policies, procedures,".

12 5. On page 102, lines 8 to 10, strike the old matter
 13 and reinstate the stricken matter and after the reinstated
 14 "Administrator" insert "made before July 1, 2007, and decisions
 15 made by the Tax Commissioner regarding property valuation,
 16 exemption, or taxation made on or after July 1, 2007".

17 6. On page 116, line 20, strike the new language and
 18 insert "Property Tax Administrator as the chief administrative
 19 officer of the property assessment division of the Department of
 20 Revenue,".

21 7. On page 119, line 18, strike "23-1611," and insert
 22 "2-257, 23-1611, 35-509,".

23 8. On page 120, line 2, after the first comma insert
 24 "23-1601,"; and in line 11 strike "77-707,".

25 9. Renumber the remaining sections and correct internal
 26 references accordingly.

Senator Preister filed the following amendment to LB 395:

(Amendment, AM893, is printed separately and available in the Bill Room,

Room 1104.)

Senator Synowiecki filed the following amendment to LB 328A:
AM894

- 1 1. On page 2, line 10, strike "Retirement System" and
- 2 insert "Defined Contribution Retirement"; and in line 11 strike
- 3 "Retirement System" and insert "Defined Contribution Retirement".

VISITORS

Visitors to the Chamber were 25 seventh- through twelfth-grade students from Bridgewood, Council Bluffs, Iowa; Senator Cornett's daughter, Victoria Stranglen; 29 fourth-grade students from North Bend Central, North Bend; and 40 fourth-grade students and teachers from Logan View Elementary, Hooper.

The Doctor of the Day was Dr. Joe Miller from Lexington.

ADJOURNMENT

At 12:11 p.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Monday, April 2, 2007.

Patrick J. O'Donnell
Clerk of the Legislature