

TWENTY-SIXTH DAY - FEBRUARY 19, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****TWENTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 19, 2008

PRAYER

The prayer was offered by Pastor Jane Boesch, Emmanuel Lutheran Church, Tekamah.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Langemeier presiding.

The roll was called and all members were present except Senator Janssen who was excused; and Senators Dierks, Heidemann, and Pedersen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-fifth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 395. Placed on Final Reading Second.

LEGISLATIVE BILL 823. Placed on Final Reading.
ST9066

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, ER8154, on page 9, line 19, "and 86-530" has been struck and "86-530, 86-552, 86-562, 86-563, 86-564, 86-565, 86-569, 86-571, 86-572, and 86-573" inserted; and in line 20 "and section 86-570, Revised Statutes Supplement, 2007," has been inserted after the second comma.

2. On page 1, the matter beginning with "the" in line 1 through line 11 and all amendments thereto have been struck and "information technology; to amend sections 86-501, 86-506, 86-516, 86-520, 86-521, 86-526, 86-527, 86-528, 86-529, 86-530, 86-552, 86-562, 86-563, 86-564, 86-565, 86-569, 86-571, 86-572, and 86-573, Revised Statutes Cumulative Supplement,

2006, and section 86-570, Revised Statutes Supplement, 2007; to change provisions relating to enterprise projects under the Information Technology Infrastructure Act, the Nebraska Information Technology Commission, the Chief Information Officer, the technical panel, and the Information Technology Infrastructure Fund; to provide powers and duties for the Nebraska Information Technology Commission and the Chief Information Officer; to require reporting of information technology plans by state agencies, boards, and commissions; to change and eliminate provisions of the Intergovernmental Data Services Program Act; to rename and change provisions relating to the Geographic Information System Steering Committee; to repeal the Intergovernmental Data Communications Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 86-531, 86-532, 86-533, 86-534, 86-535, 86-536, 86-537, 86-538, 86-539, 86-540, 86-541, 86-542, 86-543, 86-544, 86-545, 86-546, 86-547, 86-548, 86-549, and 86-553, Revised Statutes Cumulative Supplement, 2006." inserted.

(Signed) Amanda McGill, Chairperson

ANNOUNCEMENTS

Senator Avery designates LB912 as his priority bill.

Senator McDonald designates LB1055 as her priority bill.

NOTICE OF COMMITTEE HEARING

Transportation and Telecommunications

Room 1113

Tuesday, February 26, 2008 1:30 p.m.

Meuret, Patrick - Nebraska Railway Council

(Signed) Deb Fischer, Chairperson

COMMITTEE REPORTS

Transportation and Telecommunications

LEGISLATIVE BILL 756. Placed on General File with amendment. AM1893 is available in the Bill Room.

LEGISLATIVE BILL 712. Indefinitely postponed.

LEGISLATIVE BILL 827. Indefinitely postponed.

LEGISLATIVE BILL 834. Indefinitely postponed.

LEGISLATIVE BILL 841. Indefinitely postponed.

LEGISLATIVE BILL 874. Indefinitely postponed.

LEGISLATIVE BILL 917. Indefinitely postponed.

LEGISLATIVE BILL 919. Indefinitely postponed.

LEGISLATIVE BILL 1087. Indefinitely postponed.

(Signed) Deb Fischer, Chairperson

Health and Human Services

LEGISLATIVE BILL 892. Placed on General File.

LEGISLATIVE BILL 906. Placed on General File.

LEGISLATIVE BILL 749. Placed on General File with amendment.
AM1541

- 1 1. On page 4, line 4, after the period insert "The
- 2 department shall remit any collected civil penalty to the State
- 3 Treasurer for distribution in accordance with Article VII, section
- 4 5, of the Constitution of Nebraska.".

LEGISLATIVE BILL 713. Indefinitely postponed.

LEGISLATIVE BILL 818. Indefinitely postponed.

LEGISLATIVE BILL 835. Indefinitely postponed.

LEGISLATIVE BILL 836. Indefinitely postponed.

LEGISLATIVE BILL 885. Indefinitely postponed.

(Signed) Joel Johnson, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 240. Introduced by Pahls, 31.

WHEREAS, March is Lymphedema Awareness Month; and

WHEREAS, lymphedema is an abnormal swelling associated with a malfunctioning lymphatic system which, if left untreated, is progressive and can become debilitating; and

WHEREAS, lymphedema can result from congenital factors, chronic circulatory problems, tissue trauma, injury, or surgery, especially in the treatment of cancer; and

WHEREAS, although there is no cure, effective treatment and education are available and can assist those living with lymphedema to live full and productive lives; and

WHEREAS, the general public is largely unaware of lymphedema and its potential risks and treatment even though approximately three million people in the United States suffer daily from its effects; and

WHEREAS, this lack of awareness contributes to lymphedema sufferers having difficulty finding adequate medical care and obtaining fair and adequate insurance coverage for treatment, in particular payment for compression garments necessary for daily control of lymphedema and prevention of severe and potentially debilitating infections.

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

1. That the Legislature recognizes March of 2008 as Lymphedema Awareness Month in Nebraska.

2. That increased recognition and awareness will benefit those diagnosed with lymphedema in obtaining fair and adequate treatment and insurance coverage for this condition.

Laid over.

MOTIONS - Approve Appointments

Senator Johnson moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 446:

Nebraska Department of Health and Human Services

Chief Executive Officer Christine Peterson

Director within HHS Scot Adams

Director within HHS Todd Landry

Director within HHS Vivianne Chaumont

Chief Medical Officer Joann Schaefer

Director within HHS John Hilgert

Director within HHS John C. Wyvill

Voting in the affirmative, 37:

Adams	Dubas	Hudkins	Louden	Schimek
Aguilar	Engel	Johnson	McDonald	Stuthman
Ashford	Erdman	Karpisek	Nantkes	Synowiecki
Avery	Fischer	Kopplin	Nelson	Wallman
Burling	Flood	Kruse	Pankonin	Wightman
Carlson	Gay	Langemeier	Pirsch	
Christensen	Hansen	Lathrop	Raikes	
Dierks	Harms	Lautenbaugh	Rogert	

Voting in the negative, 0.

Present and not voting, 9:

Chambers	Friend	Howard	Pahls	White
Cornett	Fulton	McGill	Preister	

Excused and not voting, 3:

Heidemann	Janssen	Pedersen
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The appointments were confirmed with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 588:

Coordinating Commission for Postsecondary Education
Clark Anderson

Voting in the affirmative, 38:

Adams	Dubas	Howard	Louden	Rogert
Aguilar	Engel	Hudkins	McDonald	Schimek
Ashford	Erdman	Karpisek	McGill	Synowiecki
Avery	Fischer	Kopplin	Nantkes	Wallman
Carlson	Flood	Kruse	Nelson	White
Christensen	Friend	Langemeier	Pahls	Wightman
Cornett	Gay	Lathrop	Pirsch	
Dierks	Harms	Lautenbaugh	Raikes	

Voting in the negative, 0.

Present and not voting, 8:

Burling	Fulton	Johnson	Preister
Chambers	Hansen	Pankonin	Stuthman

Excused and not voting, 3:

Heidemann	Janssen	Pedersen
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The appointment was confirmed with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Senator Erdman moved the adoption of the Agriculture Committee report for the confirmation of the following appointment(s) found on page 596:

Climate Assessment Response Committee
Mike Hayes

Voting in the affirmative, 39:

Aguilar	Fischer	Johnson	McDonald	Rogert
Avery	Flood	Karpisek	McGill	Schimek
Burling	Friend	Kopplin	Nantkes	Stuthman
Carlson	Fulton	Kruse	Nelson	Synowiecki
Christensen	Gay	Langemeier	Pahls	Wallman
Cornett	Harms	Lathrop	Pankonin	White
Dierks	Howard	Lautenbaugh	Pirsch	Wightman
Dubas	Hudkins	Louden	Raikes	

Voting in the negative, 0.

Present and not voting, 7:

Adams	Chambers	Erdman	Preister
Ashford	Engel	Hansen	

Excused and not voting, 3:

Heidemann	Janssen	Pedersen
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The appointment was confirmed with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Senator Louden moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 596:

Environmental Quality Council
Douglas Anderson

Voting in the affirmative, 32:

Aguilar	Erdman	Johnson	Louden	Stuthman
Ashford	Fischer	Karpisek	McDonald	Wallman
Carlson	Flood	Kopplin	Nantkes	White
Christensen	Friend	Kruse	Nelson	Wightman
Dierks	Fulton	Langemeier	Pahls	
Dubas	Gay	Lathrop	Pankonin	
Engel	Hudkins	Lautenbaugh	Pirsch	

Voting in the negative, 0.

Present and not voting, 14:

Adams	Chambers	Harms	Preister	Schimek
Avery	Cornett	Howard	Raikes	Synowiecki
Burling	Hansen	McGill	Rogert	

Excused and not voting, 3:

Heidemann	Janssen	Pedersen
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The appointment was confirmed with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Senator Synowiecki moved the adoption of the Nebraska Retirement Systems Committee report for the confirmation of the following appointment(s) found on page 596:

Nebraska Investment Council
Norm Riffel

Voting in the affirmative, 35:

Aguilar	Engel	Harms	Lautenbaugh	Pirsch
Ashford	Erdman	Hudkins	Louden	Schimek
Burling	Fischer	Johnson	McDonald	Stuthman
Carlson	Flood	Karpisek	Nantkes	Synowiecki
Christensen	Friend	Kopplin	Nelson	Wallman
Dierks	Fulton	Kruse	Pahls	White
Dubas	Gay	Langemeier	Pankonin	Wightman

Voting in the negative, 0.

Present and not voting, 11:

Adams	Cornett	Lathrop	Raikes
Avery	Hansen	McGill	Rogert
Chambers	Howard	Preister	

Excused and not voting, 3:

Heidemann	Janssen	Pedersen
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The appointment was confirmed with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 600:

State Highway Commission
 Ronald Books

Voting in the affirmative, 36:

Aguilar	Erdman	Hudkins	McDonald	Synowiecki
Avery	Fischer	Johnson	Nantkes	Wallman
Burling	Friend	Karpisek	Nelson	White
Carlson	Fulton	Kopplin	Pahls	Wightman
Christensen	Gay	Kruse	Pankonin	
Cornett	Hansen	Langemeier	Pirsch	
Dierks	Harms	Lathrop	Schimek	
Engel	Howard	Lautenbaugh	Stuthman	

Voting in the negative, 0.

Present and not voting, 10:

Adams	Chambers	Flood	McGill	Raikes
Ashford	Dubas	Louden	Preister	Rogert

Excused and not voting, 3:

Heidemann Janssen Pedersen

The appointment was confirmed with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 600:

State Highway Commission
Jerome Fagerland

Voting in the affirmative, 32:

Aguilar	Erdman	Hudkins	McDonald	Schimek
Avery	Fischer	Karpisek	Nantkes	Stuthman
Burling	Friend	Kopplin	Nelson	Wallman
Carlson	Fulton	Kruse	Pahls	White
Christensen	Gay	Langemeier	Pankonin	
Cornett	Hansen	Lautenbaugh	Pirsch	
Engel	Harms	Louden	Raikes	

Voting in the negative, 0.

Present and not voting, 14:

Adams	Dierks	Howard	McGill	Synowiecki
Ashford	Dubas	Johnson	Preister	Wightman
Chambers	Flood	Lathrop	Rogert	

Excused and not voting, 3:

Heidemann Janssen Pedersen

The appointment was confirmed with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 601:

State Highway Commission
Richard Reiser

Voting in the affirmative, 31:

Avery	Fischer	Kopplin	Pahls	Wallman
Burling	Flood	Kruse	Pankonin	White
Carlson	Gay	Langemeier	Pirsch	Wightman
Christensen	Harms	Lathrop	Rogert	
Cornett	Howard	Lautenbaugh	Schimek	
Engel	Hudkins	Nantkes	Stuthman	
Erdman	Karpisek	Nelson	Synowiecki	

Voting in the negative, 1:

Louden

Present and not voting, 14:

Adams	Chambers	Friend	Johnson	Preister
Aguilar	Dierks	Fulton	McDonald	Raikes
Ashford	Dubas	Hansen	McGill	

Excused and not voting, 3:

Heidemann Janssen Pedersen

The appointment was confirmed with 31 ayes, 1 nay, 14 present and not voting, and 3 excused and not voting.

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 601:

Nebraska Railway Council

Gary Rasmussen

John Rebensdorf

Frank Landis

Voting in the affirmative, 32:

Aguilar	Engel	Hudkins	Louden	Schimek
Avery	Erdman	Johnson	Nantkes	Wallman
Burling	Fischer	Karpisek	Nelson	White
Carlson	Gay	Kopplin	Pahls	Wightman
Christensen	Hansen	Kruse	Pankonin	
Cornett	Harms	Langemeier	Pirsch	
Dierks	Howard	Lautenbaugh	Rogert	

Voting in the negative, 0.

Present and not voting, 14:

Adams	Dubas	Fulton	McGill	Stuthman
Ashford	Flood	Lathrop	Preister	Synowiecki
Chambers	Friend	McDonald	Raikes	

Excused and not voting, 3:

Heidemann Janssen Pedersen

The appointments were confirmed with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

COMMITTEE REPORT

Urban Affairs

LEGISLATIVE BILL 1096. Placed on General File with amendment. AM1911

1 1. Strike the original sections and insert the following
 2 new sections:
 3 Section 1. The Legislature finds that matters relating to
 4 emergency medical first response and fire protection are matters of
 5 state concern, particularly in larger cities that rely primarily or
 6 entirely upon volunteers to provide these services. Recognizing the
 7 increasing complexity and difficulty of providing these services,
 8 the stringent and growing training demands made upon volunteers,
 9 the demographics of an aging population, the economic pressures
 10 that deny or inhibit employers from granting the opportunity for
 11 volunteers to respond to emergency calls during business hours, and
 12 the economic costs to residents and businesses of financing either
 13 a paid or partly-paid emergency response system, the Legislature
 14 hereby declares the necessity of establishing a system and process
 15 whereby certain cities of the first class would be required to
 16 review, study, and modify on a continuing basis their emergency
 17 response systems, with appropriate public input, based upon local
 18 conditions and circumstances.

19 Sec. 2. Not later than January 5, 2009, each city of the
 20 first class with a population in excess of thirty-five thousand
 21 inhabitants shall employ a full-time fire chief with appropriate
 22 training, credentials, and experience and for whom firefighting or
 23 emergency medical first response is a full-time career. The fire
 1 chief shall be appointed by the mayor with the approval of the city
 2 council. The fire chief shall have the immediate superintendence of
 3 the fire prevention, fire suppression, and emergency medical first
 4 response services and the facilities and equipment related to such
 5 services of the city.

6 Sec. 3. (1) In addition to such duties as may be
 7 performed by the fire chief, he or she shall keep and maintain
 8 full and complete records regarding the twelve-month period ending
 9 thirty days prior to the annual report of the chief to the city
 10 council as provided for in subsection (2) of this section. Such

11 records include, but are not limited to, the number of volunteers
 12 in active volunteer service providing emergency response services
 13 to the city including their ages, the amount and type of training
 14 received by each volunteer during the course of his or her time
 15 of service as an active volunteer, the number of new volunteers
 16 recruited during such period, the number of volunteers who ceased
 17 to be active volunteers during that period, the basic information
 18 regarding each volunteer specified in section 35-1309.01, the
 19 number and nature of calls or requests for emergency services, the
 20 response time for each call, to be calculated from the time of
 21 receipt of the dispatch to the time of arrival of the first fire
 22 or rescue emergency response vehicle at the site of the request,
 23 the number of volunteers responding to each call, and the time
 24 each call was received. The city council may specify any additional
 25 information to be gathered or collected by the fire chief or as the
 26 fire chief may recommend.

27 (2) The fire chief shall collate and analyze the
 1 information gathered pursuant to subsection (1) of this section
 2 and shall, no less than once in any twelve-month period, on a
 3 date specified by the city council, provide a report to the
 4 city council at a regular council meeting on the prior year's
 5 experience regarding the volunteer department and shall make such
 6 recommendations as he or she deems appropriate.

7 Sec. 4. Section 35-901, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 35-901 (1) For purposes of this section, volunteer
 10 department shall mean volunteer fire department or volunteer
 11 first-aid, rescue, or emergency squad or volunteer fire company
 12 serving any city, village, county, township, or rural or suburban
 13 fire protection district.

14 (2) ~~Each~~ Except as provided in subsection (4) of this
 15 section, each volunteer department may establish a volunteer
 16 department trust fund. All general donations, ~~or~~ contributions,
 17 bequests, or annuities made to the volunteer department and all
 18 money raised by or for the volunteer department shall be deposited
 19 in the trust fund. The trust fund shall be under the control
 20 of the volunteer department, and the volunteer department may
 21 make expenditures from the trust fund as it deems necessary. The
 22 treasurer of the volunteer department shall be the custodian of the
 23 trust fund.

24 (3) The trust fund shall not be considered public funds
 25 or funds of any city, village, county, township, or rural or
 26 suburban fire protection district for any purpose, including the
 27 Nebraska Budget Act, nor shall any city, village, county, township,
 1 or rural or suburban fire protection district incur any liability
 2 solely by reason of any expenditure from such fund except liability
 3 for property when any city, village, county, township, or rural
 4 or suburban fire protection district receives title to property
 5 acquired with money from such fund.

6 (4)(a) If the total amount of expenditures and receipts
 7 in the trust fund exceeds one hundred thousand dollars in
 8 any twelve-month period, the volunteer department shall inform
 9 any city, village, county, township, or rural or suburban fire
 10 protection district receiving service from the department and such
 11 entity may examine or cause to be examined all books, accounts,
 12 vouchers, records, and expenditures with regard to the trust fund.

13 (b) Funds, fees, charges, or donations collected or
 14 received by a volunteer department that are (i) in consequence
 15 of the performance of fire or rescue services by the volunteer
 16 department, (ii) accomplished through the use by the volunteer
 17 department of equipment owned by the taxing authority supporting
 18 such department and provided to the volunteer department for that
 19 purpose, and (iii) paid by or on behalf of the recipient of those
 20 services shall not be deposited in a trust fund authorized by
 21 this section. Such funds are public funds of the taxing authority
 22 supporting the volunteer department and are deemed to have been
 23 collected by the volunteer department as the agent of the taxing
 24 authority and are held by the department on its behalf. If such
 25 funds are in the possession of a volunteer department, the taxing
 26 authority shall cause all the books, accounts, records, vouchers,
 27 expenditures, and statements regarding such funds to be examined
 1 and independently audited by a qualified professional auditor or
 2 the Auditor of Public Accounts for the immediately preceding five
 3 years.

4 (4)-(5) Nothing in this section shall be construed or
 5 deemed to permit a violation of the Nebraska Liquor Control Act.

6 (5)-(6) All expenditures of public funds as defined in
 7 the Nebraska Budget Act for support of a volunteer department or
 8 its purposes shall be submitted as claims, approved by the taxing
 9 authority supporting such department or its purposes, and published
 10 as required by law. All such claims shall be properly itemized for
 11 proposed expenditure or reimbursement for costs already incurred
 12 and paid except as may be otherwise permitted pursuant to section
 13 35-106.

14 (6)-(7) All money raised pursuant to the Nebraska Bingo
 15 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
 16 Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be
 17 subject to such acts with respect to the deposit and expenditure of
 18 such money.

19 (8) No volunteer department shall charge or collect any
 20 funds, fees, charges, or donations as described in subdivision
 21 (4)(b) of this section without the express authorization of the
 22 taxing authority supporting the department by vote of a majority of
 23 the members of the governing body of such taxing authority. Such
 24 authorization shall not extend beyond a twelve-month period but
 25 may be renewed at the discretion of the taxing authority in the
 26 same manner in which it was initially granted. Upon collection or
 27 receipt, such funds, fees, charges, or donations shall be remitted

1 to the designated officer of the taxing authority for deposit
 2 to the account of the taxing authority. The taxing authority may
 3 appropriate and expend some or all of such funds for the support of
 4 a service award benefit program adopted and conducted pursuant to
 5 the Volunteer Emergency Responders Recruitment and Retention Act.
 6 Sec. 5. Original section 35-901, Reissue Revised Statutes
 7 of Nebraska, is repealed.

(Signed) Mike Friend, Chairperson

NOTICE OF COMMITTEE HEARING

Education

Room 1525

Thursday, March 06, 2008 8:00 a.m.

Suarez, Michelle - Board of Trustees of the Nebraska State Colleges

(Signed) Ron Raikes, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 241. Introduced by Raikes, 25.

WHEREAS, "We the People: The Citizen and the Constitution" is a nationally acclaimed civic education program that helps students understand the history and principles of the nation's constitutional government; and

WHEREAS, the Lincoln East High School "We the People" team won the 2008 Nebraska State High School Competition on January 16, 2008, in Lincoln; and

WHEREAS, the Lincoln East team members, Sarah Anthony, Lauren Bavitz, Mark Carraher, Sasan Choobineh, Kelley Christensen, Alex Churchill, Darja Dobermann, Shawn Donahue, Sean Dwyer, Callie Feingold, Dain Finke, Brady Gilg, James Hao, Lauren Harrison, Susan Kachman, George Miller, Mela Naco, Carly Persell, Ryan Pickerill, Adam Russnogle, and Tina Zheng, spent many hours since the beginning of the school year preparing for the competition; and

WHEREAS, the Lincoln East team will go to Washington, D.C., to compete in the 2008 National Finals in May.

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

1. That the Legislature congratulates the Lincoln East High School "We the People" team and their instructor, Kevin Rippe, on winning the 2008 Nebraska State High School Competition and extends its encouragement for a successful showing at the 2008 National Finals.

2. That a copy of this resolution be sent to the Lincoln East team and Kevin Rippe.

Laid over.

AMENDMENT - Print in Journal

Senator Fischer filed the following amendment to LB755:
AM1898

(Amendments to Standing Committee amendments, AM1707)

- 1 1. On page 14, strike lines 21 to 25 and insert the
- 2 following:
- 3 "(3) A wireless carrier receiving funds from the Enhanced
- 4 Wireless 911 Fund shall not directly assess any of the costs
- 5 associated with the implementation or provision of enhanced
- 6 wireless 911 service to any public safety answering point, county,
- 7 or municipality without the express consent of the commission.".

UNANIMOUS CONSENT - Room Changes

Senators Erdman and Raikes asked unanimous consent that the Agriculture Committee conduct its hearing on Tuesday, February 26, 2008, in Room 1525 and the Education Committee conduct its hearing in Room 1524. No objections. So ordered.

MOTION - Override Veto on LB39

Senator Schimek renewed her motion, MO128, found on page 589, that LB39 becomes law notwithstanding the objections of the Governor.

Senator Schimek moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Senator Schimek requested a roll call vote.

Whereupon the President stated: "The question shall be, 'Shall the bill pass notwithstanding the objections of the Governor?' "

Voting in the affirmative, 30:

Adams	Chambers	Hudkins	McDonald	Raikes
Aguilar	Christensen	Johnson	McGill	Rogert
Ashford	Dubas	Karpisek	Nantkes	Schimek
Avery	Engel	Kopplin	Pankonin	Synowiecki
Burling	Harms	Kruse	Pedersen	Wallman
Carlson	Howard	Lathrop	Preister	White

Voting in the negative, 17:

Cornett	Flood	Heidemann	Nelson	Wightman
Dierks	Friend	Langemeier	Pahls	
Erdman	Gay	Lautenbaugh	Pirsch	
Fischer	Hansen	Louden	Stuthman	

Excused and not voting, 2:

Fulton Janssen

Having received a constitutional three-fifths majority voting in the affirmative, the bill passed notwithstanding the objections of the Governor.

The Chair declared the call raised.

SPEAKER FLOOD PRESIDING

WITHDRAW - Amendment to LB395A

Senator Johnson withdrew his amendment, AM1870, found on page 581, to LB395A.

MOTION - Return LB395A to Select File

Senator Johnson moved to return LB395A to Select File for the following specific amendment:

AM1915

(Amendments to Final Reading copy)

- 1 1. Strike section 1 and insert the following new section:
- 2 Section 1. There is hereby appropriated (1) \$5,000 from
- 3 the Tobacco Prevention and Control Cash Fund for FY2008-09 and
- 4 (2) \$25,000 from the Tobacco Prevention and Control Cash Fund
- 5 for FY2009-10 to the Department of Health and Human Services, for
- 6 Program 33, to aid in carrying out the provisions of Legislative
- 7 Bill 395, One Hundredth Legislature, Second Session, 2008.
- 8 No expenditures for permanent and temporary salaries and
- 9 per diems for state employees shall be made from funds appropriated
- 10 in this section.
- 11 2. On page 1, line 3, strike "First Session, 2007" and
- 12 insert "Second Session, 2008".

The Johnson motion to return prevailed with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 395A. The Johnson specific amendment, AM1915, found in this day's Journal, was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR237 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR237.

COMMITTEE REPORTS

Government, Military and Veterans Affairs

LEGISLATIVE BILL 904. Placed on General File.

LEGISLATIVE BILL 962. Placed on General File.

LEGISLATIVE BILL 870. Indefinitely postponed.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Mark Graf - State Emergency Response Commission

Keith Deiml - State Emergency Response Commission

Aye: 7 Senators Adams, Aguilar, Avery, Friend, Karpisek, Lautenbaugh, Rogert. Nay: 0. Absent: 1 Senator Pahls.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Gregory Osborn - State Personnel Board

Aye: 7 Senators Adams, Aguilar, Avery, Friend, Karpisek, Lautenbaugh, Rogert. Nay: 0. Absent: 1 Senator Pahls.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Richard Nelson - Nebraska Accountability and Disclosure Commission

Aye: 7 Senators Adams, Aguilar, Avery, Friend, Karpisek, Lautenbaugh, Rogert. Nay: 0. Absent: 1 Senator Pahls.

(Signed) Ray Aguilar, Chairperson

Education

LEGISLATIVE BILL 973. Placed on General File with amendment.
AM1849

1 1. Insert the following new sections:

2 Section 1. Section 85-2205, Revised Statutes Supplement,
3 2007, is amended to read:

4 85-2205 Base growth factor means

5 (1) For the calculation of aid for fiscal year 2008-09,
6 the base limitation described in section 77-3446 minus one-half
7 percent; and

8 (2) For the calculation of aid for fiscal year 2009-10
9 and each fiscal year thereafter, the base limitation described in
10 section 77-3446 ~~minus~~ plus one-half percent.

11 Sec. 7. Section 85-2227, Revised Statutes Supplement,
12 2007, is amended to read:

13 85-2227 The maximum levy for each community college area
14 shall be certified by the Department of Revenue annually and
15 shall equal one hundred ~~fifteen~~ twenty percent of the local effort
16 rate calculated pursuant to section 85-2224 plus amounts allowed
17 pursuant to subsection (2) of section 85-1517.

18 2. On page 3, line 4, strike "years 2007-08 and", show
19 as stricken, and insert "year"; strike beginning with "The" in line
20 12 through "calculation" in line 15 and insert "The average annual
21 percentage growth shall be calculated by taking the difference
22 between the three-year full-time equivalent enrollment average for
23 the current funding year and the three-year full-time equivalent
1 enrollment average for the prior funding year and dividing by
2 the three-year full-time equivalent enrollment average from the
3 prior funding year"; in line 18 strike "ninety-five" and insert
4 "ninety-eight"; in line 19 after "or" insert "one plus the greater
5 of zero or the average annual percentage growth in full-time
6 equivalent enrollments attributable to each community college area
7 times"; and in line 21 after the period insert "The average annual
8 percentage growth shall be calculated by taking the difference
9 between the three-year full-time equivalent enrollment average for
10 the current funding year and the three-year full-time equivalent
11 enrollment average for the prior funding year and dividing by the
12 three-year full-time equivalent enrollment average from the prior
13 funding year.".

14 3. On page 4, line 19, reinstate the stricken "per".

15 4. On page 5, line 14, strike "and" and show as stricken;
16 and in line 17 after "areas" insert ";

17 (h) Funding year, for purposes of calculating average
18 annual percentage growth, means the fiscal year for which aid is
19 being calculated; and

20 (i) Three-year full-time equivalent enrollment average
 21 for any given funding year equals the sum of the audited full-time
 22 equivalent enrollment for the three years preceding the funding
 23 year divided by three".

24 5. Amend the repealer and renumber the remaining sections
 25 accordingly.

(Signed) Ron Raikes, Chairperson

Judiciary

LEGISLATIVE BILL 766. Placed on General File with amendment.
 AM1865

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

3 Section 1. For purposes of sections 1 to 9 of this act:

4 (1) Fixed location means any site occupied by a secondary
 5 metals recycler as the owner of a site or as a lessee of a site
 6 under a lease or other rental agreement providing for occupation of
 7 the site by the secondary metals recycler for a total duration of
 8 not less than one year;

9 (2) Regulated metals property means all nonferrous metal,
 10 except gold and silver, and metal beer kegs, including those kegs
 11 made of stainless steel;

12 (3) Secondary metals recycler means any person, firm, or
 13 corporation in this state that:

14 (a) Is engaged in the business of gathering or obtaining
 15 nonferrous metals and metal beer kegs, including those kegs made of
 16 stainless steel, that have served their original economic purpose;
 17 or

18 (b) Is in the business of or has facilities for
 19 performing the manufacturing process by which nonferrous metals or
 20 metal beer kegs, including those kegs made of stainless steel, are
 21 converted into raw material products consisting of prepared grades
 22 and having an existing or potential economic value by methods
 23 including, but not limited to, processing, sorting, cutting,
 1 classifying, cleaning, baling, wrapping, shredding, shearing, or
 2 changing the physical form or chemical content of the metals, but
 3 not including the exclusive use of hand tools.

4 Sec. 2. (1) A secondary metals recycler shall maintain a
 5 record, either as a hard copy or electronically, of all purchase
 6 transactions in which the secondary metals recycler purchases
 7 regulated metals property.

8 (2) The following information shall be maintained for
 9 transactions in which a secondary metals recycler purchases
 10 regulated metals property:

11 (a) The name and address of the secondary metals
 12 recycler;

13 (b) The name and signature of the individual entering the

14 information;

15 (c) The date and time of the transaction;

16 (d) The weight and grade of the regulated metals property
17 purchased;

18 (e) The description made in accordance with the custom of
19 the trade of the type of regulated metals property purchased;

20 (f) The amount of consideration given for the regulated
21 metals property, if any;

22 (g) The name, signature, date of birth, and address of
23 the vendor of the regulated metals property;

24 (h) The operator's license number, state identification
25 card number, or federal government-issued identification card
26 number of the person delivering the regulated metals property
27 to the secondary metals recycler;

1 (i) A photocopy of the current operator's license,
2 state-issued identification card, or federal government-issued
3 identification card, of the person delivering the regulated metals
4 property to the secondary metals recycler;

5 (j) A fingerprint from the person delivering the
6 regulated metals property. The fingerprint shall be taken from the
7 right index finger, but if the right index finger is missing, the
8 fingerprint shall be taken from the left index finger; and

9 (k) A photograph or time-stamped video recording of the
10 regulated metals property.

11 (3) The vendor of the regulated metals property shall
12 receive at no charge a plain written or printed receipt of the
13 recorded transaction containing a copy of the entries required by
14 this section.

15 (4) A secondary metals recycler shall keep and maintain
16 the information required under this section for not less than
17 one year after the date of the purchase of the regulated metals
18 property.

19 Sec. 3. During the usual and customary business hours of
20 a secondary metals recycler, any peace officer shall have the right
21 to inspect:

22 (1) Any and all purchased regulated metals property in
23 the possession of the secondary metals recycler; and

24 (2) Any and all records required to be maintained under
25 section 2 of this act.

26 Sec. 4. No secondary metals recycler shall purchase
27 regulated metals property for cash consideration unless the
1 purchase total is not more than twenty-five dollars. Purchases
2 made with the same seller within a four-hour period shall be
3 considered a single transaction. Payment shall be made payable only
4 to the individual named on the identification presented pursuant
5 to section 2 of this act.

6 Sec. 5. No secondary metals recycler shall purchase or
7 receive regulated metals property;

8 (1) From any person who is under the age of majority; or

9 (2) From any person who does not possess a valid
 10 form of personal identification or current operator's license
 11 required under section 2 of this act at the time of the recorded
 12 transaction.

13 Sec. 6. No secondary metals recycler shall purchase or
 14 receive a metal beer keg, including those kegs made of stainless
 15 steel, if the serial number or other identifying insignia has been
 16 destroyed, removed, altered, covered, or defaced.

17 Sec. 7. Sections 1 to 9 of this act do not apply to:

18 (1) Purchases of regulated metals property from a
 19 manufacturing, industrial, or other commercial vendor that
 20 generates or sells regulated metals in the ordinary course of its
 21 business;

22 (2) The collection or purchase of regulated metals
 23 property in the form of beverage or food cans; or

24 (3) Recycling or neighborhood cleanup programs contracted
 25 or sponsored by the state or any political subdivision.

26 Sec. 8. Any person violating any of the provisions of
 27 sections 1 to 9 of this act is guilty of a Class II misdemeanor.

1 Sec. 9. Nothing in sections 1 to 9 of this act shall
 2 be construed to abrogate or affect the provisions of any lawful
 3 rule, regulation, resolution, ordinance, or statute which is more
 4 restrictive than sections 1 to 9 of this act.

LEGISLATIVE BILL 1055. Placed on General File with amendment.
 AM1876

1 1. Insert the following new section:

2 Section 1. Section 54-607, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 ~~54-607 Whoever, being the~~ The owner of any dog, ~~shall~~
 5 ~~permit the same to run~~ running at large for ten days, without ~~such~~
 6 ~~a collar as hereinbefore described being securely placed upon the~~
 7 ~~neck of such dog, required in section 54-605 shall be fined in any~~
 8 ~~sum not exceeding an amount not to exceed twenty-five dollars.~~

9 2. On page 2, lines 3 through 5, reinstate the stricken
 10 matter; in line 5 strike "It"; and in lines 9 through 16 strike the
 11 new matter.

12 3. On page 3, line 5, after "and" insert "he, she, or it
 13 may".

14 4. On page 4, line 16, reinstate "may regulate" and
 15 "or" and strike "shall"; and in line 22 after the period
 16 insert "A county adopting regulations in accordance with this
 17 subsection shall provide for an appeal process with respect to such
 18 regulations.".

19 5. On page 6, line 6, strike "any", show as stricken, and
 20 insert "a"; in line 10 after "provocation" insert an underscored
 21 semicolon and strike "while" and show as stricken; and in line 11
 22 strike the new matter.

23 6. On page 7, line 22, after the period insert "The

1 cost of both procedures is the responsibility of the owner of the
 2 dangerous dog."

3 7. On page 11, line 19, strike "sections are" and insert
 4 "section is"; and in line 20 strike "Sections 54-607 and" and
 5 insert "Section".

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

(Signed) Brad Ashford, Chairperson

AMENDMENTS - Print in Journal

Senator Erdman filed the following amendment to LB395:
 AM1914

(Amendments to Second Final Reading copy)

1 1. Insert the following section:

2 Sec. 20. The Nebraska Clean Indoor Air Act preempts any
 3 smoking ban ordinance, resolution, regulation, or legislation of
 4 a political subdivision, and any ordinance, resolution, or other
 5 regulation or legislation enacted by a political subdivision prior
 6 to the operative date of this act is null and void.

7 2. On page 2, line 1, strike "19" and insert "20".

8 3. Renumber the remaining sections accordingly.

Senator Erdman filed the following amendment to LB395:
 AM1913

(Amendments to Second Final Reading copy)

1 1. Strike section 20 and insert the following new
 2 sections:

3 Sec. 20. (1) On and after the operative date of this
 4 section, the governing body of any county, or the voters of any
 5 county, as provided in subsection (2) of this section, may adopt
 6 a nonsmoking resolution that is less restrictive than the Nebraska
 7 Clean Indoor Air Act, except that such resolution shall not be
 8 less restrictive than sections 71-5707 to 71-5709 as such sections
 9 existed prior to the operative date of this section.

10 (2) A proposed nonsmoking resolution or proposed repeal
 11 of an enacted nonsmoking resolution may be placed on the ballot for
 12 the voters of the county (a) by a majority vote of the governing
 13 body of such county, (b) by initiative under sections 18-2501 to
 14 18-2538, or (c) by petition meeting the requirements of and subject
 15 to sections 32-628 to 32-630 and signed by at least thirty-five
 16 percent of the registered voters residing in such county on the day
 17 such petitions are filed for verification. The election shall be
 18 conducted as provided in sections 32-556 to 32-559.

19 (3) A resolution adopted by the governing body of
 20 any county under subsection (1) of this section without being
 21 submitted to the voters under subsection (2) of this section
 22 shall take effect ninety days after its adoption unless, within

- 1 such ninety-day period, such governing body receives a petition
 2 signed by at least thirty-five percent of the registered voters
 3 residing in such county on the date the resolution was adopted
 4 requesting that such resolution be repealed. Upon verification
 5 of the signatures on such petition, the proposed repeal of the
 6 resolution shall be placed on the ballot for the voters of the
 7 county. The election shall be conducted as provided in sections
 8 32-556 to 32-559.
 9 (4) A copy of a resolution adopted or repealed by a
 10 county under this section shall be provided to the Department of
 11 Health and Human Services and to the local public health department
 12 as defined in section 71-1626 of such county.
 13 Sec. 21. Sections 20 and 21 of this act become operative
 14 on their effective date. The other sections of this act become
 15 operative on June 1, 2009.
 16 2. On page 2, line 1, strike "19" and insert "20".
 17 3. On page 4, line 11, strike "section 15" and insert
 18 "sections 15 and 20".
 19 4. Renumber the remaining sections accordingly.

UNANIMOUS CONSENT - Add Cointroducer

Senator Pahls asked unanimous consent to add his name as cointroducer to LB983. No objections. So ordered.

COMMUNICATION

February 19, 2008

The Honorable John Gale
 Secretary of State
 2300 State Capitol Building
 Lincoln, NE 68509

Dear Mr. Secretary:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB39 with a certificate attached thereto signed by the President of the Legislature certifying the passage of LB39, notwithstanding the objections of the Governor.

Sincerely,
 (Signed) Richard Brown
 Assistant Clerk of the Legislature

RB:jk
 Enc.

CERTIFICATE

Legislative Bill 39, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority, has become law this 19th day of February 2008.

(Signed) Michael Flood
President of the Legislature

VISITORS

Visitors to the Chamber were 39 fourth-grade students and teachers from Lincoln Christian School, Lincoln; 41 fourth-grade students and teachers from Eagle; and members of Youth Leadership Tomorrow from Hall County.

The Doctor of the Day was Dr. David Hoelting from Pender.

ADJOURNMENT

At 12:03 p.m., on a motion by Senator Cornett, the Legislature adjourned until 9:00 a.m., Wednesday, February 20, 2008.

Patrick J. O'Donnell
Clerk of the Legislature

