

THIRTY-FIFTH DAY - MARCH 5, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****THIRTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 5, 2008

PRAYER

The prayer was offered by Pastor Owen Derrick, Christ Lutheran Church, Pickrell.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Christensen, Cornett, Dierks, Flood, Heidemann, Lautenbaugh, McDonald, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-fourth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 768. Placed on Select File with amendment.
ER8176

- 1 1. On page 1, line 2, after "Nebraska" insert ", and
- 2 section 31-740, Revised Statutes Supplement, 2007"; and in line 4
- 3 strike "section" and insert "sections".

LEGISLATIVE BILL 939. Placed on Select File.

(Signed) Amanda McGill, Chairperson

COMMITTEE REPORTS**Health and Human Services**

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Sharon Vandegrift - Nebraska Rural Health Advisory Commission
 Douglas A. Dilly - Nebraska Rural Health Advisory Commission
 Martin L. Fattig - Nebraska Rural Health Advisory Commission
 Steven Dokken - Nebraska Rural Health Advisory Commission
 Kathy Boswell - Nebraska Rural Health Advisory Commission

Aye: 7 Senators Erdman, Gay, Hansen, Howard, Johnson, Pankonin, Stuthman. Nay: 0. Absent: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Michael Buscher - Board of Emergency Medical Services
 Robert Dunn - Board of Emergency Medical Services
 Shawn Baumgartner - Board of Emergency Medical Services
 Leon Sykes - Board of Emergency Medical Services
 Ann Fiala - Board of Emergency Medical Services

Aye: 7 Senators Erdman, Gay, Hansen, Howard, Johnson, Pankonin, Stuthman. Nay: 0. Absent: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Larry Brown - Foster Care Review Board
 Dave Schroeder - Foster Care Review Board

Aye: 7 Senators Erdman, Gay, Hansen, Howard, Johnson, Pankonin, Stuthman. Nay: 0. Absent: 0.

(Signed) Joel Johnson, Chairperson

COMMUNICATION

Received petition from the Mayor and Council of the City of Creighton adopted on March 4, 2008.

GENERAL FILE

LEGISLATIVE BILL 606A. Title read. Considered.

Senator Ashford renewed his amendment, AM2136, found on page 777.

The Ashford amendment was adopted with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 1049. Senator Preister renewed his amendment, AM2035, found on page 701 and considered on page 794.

Senator Preister withdrew his amendment.

Pending.

COMMITTEE REPORTS

Natural Resources

LEGISLATIVE BILL 923. Indefinitely postponed.

LEGISLATIVE BILL 975. Indefinitely postponed.

LEGISLATIVE BILL 1138. Indefinitely postponed.

(Signed) LeRoy Louden, Chairperson

AMENDMENT - Print in Journal

Senator Harms filed the following amendment to LB1157:
AM2169

(Amendments to Standing Committee amendments, AM2093)

- 1 1. On page 3, line 17, after "to" insert "the State
- 2 Department of Education".
- 3 2. On page 4, line 10, strike "to five"; and in line
- 4 11 before the period insert ", one administrator from a school in
- 5 Nebraska, and one teacher from a school in Nebraska".

GENERAL FILE

LEGISLATIVE BILL 1049. Senator Schimek renewed her amendment, AM2109, found on page 743.

Senator Schimek withdrew her amendment.

Advanced to Enrollment and Review Initial with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 844. Senator Chambers renewed his amendment, FA184, found on page 710 and considered on page 723, to the committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

The Chambers amendment was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Karpisek withdrew his amendment, AM2086, found on page 731.

Committee AM1784, found on page 644 and considered on pages 705 and 715, as amended, was renewed.

SENATOR LANGEMEIER PRESIDING

Senator Chambers offered the following amendment to the committee amendment:

FA186

Amend AM1784

Strike section 3, page 7.

Senator Chambers withdrew his amendment.

Senator Chambers offered the following amendment to the committee amendment:

FA187

Amend AM1784

P. 7, line 22 strike new language.

SENATOR ERDMAN PRESIDING

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

The Chambers amendment was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the committee amendment:

FA188

Amend AM1784

P. 6, line 12 reinstate stricken matter, strike new matter.

Pending.

AMENDMENTS - Print in Journal

Senator McDonald filed the following amendment to LB1055:
AM2099

(Amendments to Standing Committee amendments, AM1876)

- 1 1. Insert the following new amendment:
- 2 "7. On page 8, lines 11, 12, 16, 21, and 24, after
- 3 "county" insert ". city, or village".
- 4 2. On page 1, line 13, before the period insert "; and
- 5 in line 21 after the period insert "Reasonable costs for such
- 6 disposition are the responsibility of the defendant".
- 7 3. Renumber the remaining amendments accordingly.

Senator Fischer filed the following amendment to LB755:
AM2172

- 1 1. Insert the following new section:
- 2 Sec. 12. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

Senator White filed the following amendment to LR4CA:
AM2174

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. At the general election in November 2008 the
- 4 following proposed amendment to the Constitution of Nebraska shall
- 5 be submitted to the electors of the State of Nebraska for approval
- 6 or rejection:
- 7 To amend Article IV, section 5:
- 8 IV-5 ~~All civil officers of this state~~ A civil officer
- 9 shall be liable to impeachment for any misdemeanor ~~in which~~
- 10 evinces moral turpitude and which arose out of the election to, or
- 11 discharge of the duties of, his or her office.
- 12 Sec. 2. The proposed amendment shall be submitted to the
- 13 electors in the manner prescribed by the Constitution of Nebraska,
- 14 Article XVI, section 1, with the following ballot language:
- 15 A constitutional amendment to provide that a civil
- 16 officer is liable to impeachment for any misdemeanor which evinces
- 17 moral turpitude and which arose out of the election to, or
- 18 discharge of the duties of, his or her office.
- 19 For
- 20 Against.

Senator Flood filed the following amendment to LB895:
AM2119

(Amendments to Standing Committee amendments, AM2082)

- 1 1. On page 5, line 2, strike "and 2007-08" and insert
- 2 "through 2008-09"; and in line 3 strike "2008-09" and insert

3 "2009-10".

4 2. On page 11, line 2, strike the last comma and insert
5 "and"; in line 3 strike ", and 77-27,188"; and in line 5 after
6 the period insert "The changes made in section 77-27,188 by this
7 legislative bill become operative for applications filed on and
8 after July 1, 2009.".

BILL ON FIRST READING

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

LEGISLATIVE BILL 1143A. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1143, One Hundredth Legislature, Second Session, 2008.

RESOLUTIONS

LEGISLATIVE RESOLUTION 259. Introduced by Christensen, 44.

WHEREAS, the Perkins County Plainsmen won the 2008 Class C-2 Girls' State Basketball Championship; and

WHEREAS, the Plainsmen capped off a perfect year with its 62-49 victory over Sutton in the championship game; and

WHEREAS, the entire Perkins County team and coaching staff should be recognized for their excellent teamwork in achieving the championship; and

WHEREAS, the family members, friends, and fans have supported the Plainsmen with dedication and devotion throughout the school year.

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

1. That the Legislature congratulates the team members and coaches of the Perkins County Plainsmen for their achievement in winning the 2008 Class C-2 Girls' State Basketball Championship.

2. That a copy of this resolution be sent to Coach Chris Mestl and the team.

Laid over.

LEGISLATIVE RESOLUTION 260. Introduced by Flood, 19.

WHEREAS, the Norfolk Catholic Knights won the 2008 Class C-1 Girls' State Basketball Championship; and

WHEREAS, this is the first girls' state basketball title in school history; and

WHEREAS, the Knights rallied in the fourth quarter to beat Wahoo Bishop Neumann 52-50; and

WHEREAS, the entire Norfolk Catholic team and coaching staff should be recognized for their excellent teamwork in achieving the championship; and

WHEREAS, the family members, friends, and fans have supported the Knights with dedication and devotion throughout the school year.

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

1. That the Legislature congratulates the team members and coaches of the Norfolk Catholic Knights for their achievement in winning the 2008 Class C-1 Girls' State Basketball Championship.

2. That a copy of this resolution be sent to Coach Tim Kassmeier and the team.

Laid over.

VISITORS

Visitors to the Chamber were 20 twelfth-grade students and teacher from Lawrence Nelson School, Nelson; 27 fourth-grade students, teachers, and sponsors from Freeman School, Adams; and State Chambers Leadership Nebraska participants from across the state.

RECESS

At 12:04 p.m., on a motion by Senator Gay, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Langemeier presiding.

ROLL CALL

The roll was called and all members were present except Senators Ashford, Cornett, Dierks, Heidemann, Janssen, Kruse, Loudon, Raikes, Schimek, and White who were excused until they arrive.

COMMITTEE REPORT

Enrollment and Review

LEGISLATIVE BILL 1056. Placed on Select File with amendment.

ER8177

- 1 1. On page 6, line 17, strike "or cities".
- 2 2. On page 7, line 5, after "cities" insert an
- 3 underscored comma.

(Signed) Amanda McGill, Chairperson

GENERAL FILE

LEGISLATIVE BILL 844. Senator Chambers renewed his amendment, FA188, found in this day's Journal, to the committee amendment.

SENATOR ERDMAN PRESIDING

Senator Chambers requested a roll call vote on his amendment.

The Chambers amendment lost with 2 ayes, 24 nays, 13 present and not voting, and 10 excused and not voting.

Senator Chambers offered the following motion:

MO137

Reconsider the vote on FA188.

SENATOR LANGEMEIER PRESIDING

Pending.

COMMITTEE REPORT

Agriculture

LEGISLATIVE BILL 862. Placed on General File with amendment. AM1859

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 2-958.01, Revised Statutes Cumulative
- 4 Supplement, 2006, is amended to read:
- 5 2-958.01 The Noxious Weed and Invasive Plant Species
- 6 Assistance Fund is created. The fund may be used to carry out
- 7 the purposes of section 2-958.02. The State Treasurer shall credit
- 8 to the fund ~~any money~~ any funds transferred pursuant to section
- 9 54-857, funds appropriated to the fund by the Legislature, and ~~any~~
- 10 ~~money~~ funds received as gifts or grants or other private or public
- 11 funds obtained for the purposes set forth in section 2-958.02. Any
- 12 money in the fund available for investment shall be invested by the
- 13 state investment officer pursuant to the Nebraska Capital Expansion
- 14 Act and the Nebraska State Funds Investment Act.
- 15 Sec. 2. Section 54-856, Reissue Revised Statutes of
- 16 Nebraska, is amended to read:
- 17 54-856 (1) There shall be paid to the director an
- 18 inspection fee of ten cents per ton on all commercial feed
- 19 distributed in the State of Nebraska during ~~the each~~ six-month
- 20 period ~~following beginning~~ January 1, 1987, through December 31,
- 21 2007. Beginning for commercial feed distributed in the State of
- 22 Nebraska for the six-month period beginning January 1, 2008, there
- 23 shall be paid to the director an inspection fee of nine cents per
- 1 ton. The ~~After the first six months of operation, the fee may~~

2 be raised or lowered by the director after a public hearing is
3 held outlining the reason for any proposed change in the rate.
4 The maximum rate fixed by the director shall not exceed fifteen
5 cents per ton. The inspection fee shall be paid on commercial
6 feed distributed by the person whose name appears on the label as
7 the manufacturer, guarantor, or distributor, except that a person
8 other than the manufacturer, guarantor, or distributor may assume
9 liability for the inspection fee, subject to the following:

10 (a) No fee shall be paid on a commercial feed if the
11 payment has been made by a previous distributor;

12 (b) No fee shall be paid on customer-formula feed if the
13 inspection fee is paid on the commercial feed which is used as
14 ingredients therein;

15 (c) No fee shall be paid on commercial feed used as
16 ingredients for the manufacture of other commercial feed. If the
17 fee has already been paid, credit shall be given for such payment;

18 (d) In the case of a commercial feed which is distributed
19 in the state only in packages of ten pounds or less, an annual fee
20 fixed by the director, not to exceed twenty-five dollars, shall be
21 paid in lieu of the inspection fee. The annual fee shall be paid
22 not later than the last day of January each year; and

23 (e) The minimum inspection fee shall be five dollars for
24 any six-month reporting period.

25 (2) If the director determines that it is necessary to
26 adjust the rate of the inspection fee being paid to the department,
27 all persons holding a valid license issued pursuant to section
1 54-850 shall be so notified and shall be given an opportunity to
2 offer comment at a public hearing which shall be required prior to
3 any inspection fee rate change.

4 (3) Each person who is liable for the payment of such fee
5 shall:

6 (a) File, not later than January 31 and July 31 of each
7 year, a semiannual statement setting forth the number of tons of
8 commercial feed distributed in this state during the preceding
9 six-month period, which statement shall cover the periods from
10 July 1 to December 31 and January 1 to June 30, and upon filing
11 such statement, pay the inspection fee at the rate specified by
12 this section. Any person who holds a valid license issued pursuant
13 to section 54-850 and whose name appears on the label as the
14 manufacturer, guarantor, or distributor shall file such statement
15 regardless of whether any inspection fee is due. Inspection fees
16 which are due and owing and have not been remitted to the director
17 within fifteen days following the date due shall have a penalty
18 of twenty-five percent of the fees due added to the amount due
19 when payment is made, and an additional penalty of twenty-five
20 percent of the fees due shall be added if such fees are not paid
21 within thirty days of the due date. The assessment of this penalty
22 fee shall not prevent the director from taking other actions as
23 provided in the Commercial Feed Act; and

24 (b) Keep such records as may be necessary or required by
 25 the director to indicate accurately the tonnage of commercial feed
 26 distributed in this state. The director shall have the right to
 27 examine such records to verify statements of tonnage. Failure to
 1 make an accurate statement, to pay the inspection fee, or to comply
 2 as provided in this section shall constitute sufficient cause for
 3 the cancellation of all licenses on file.

4 Sec. 3. Section 54-857, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 54-857 All money received pursuant to the Commercial Feed
 7 Act shall be remitted by the director to the State Treasurer for
 8 credit to the Commercial Feed Administration Cash Fund which is
 9 hereby created. Such fund shall be used by the department to aid
 10 in defraying the expenses of administering the act. Any money in
 11 the fund available for investment shall be invested by the state
 12 investment officer pursuant to the Nebraska Capital Expansion Act
 13 and the Nebraska State Funds Investment Act.

14 On or before October 1, 2008, the State Treasurer shall
 15 transfer two hundred fifty thousand dollars from the Commercial
 16 Feed Administrative Cash Fund to the Noxious Weed and Invasive
 17 Plant Species Assistance Fund.

18 Sec. 4. Section 81-201.05, Revised Statutes Cumulative
 19 Supplement, 2006, is amended to read:

20 81-201.05 (1) The Weed Book Cash Fund is created. Any
 21 money in the Weed and Insect Books Cash Fund on July 16, 2004,
 22 shall be transferred to the Weed Book Cash Fund. Upon such
 23 transfer, the following amounts shall be transferred from the Weed
 24 Book Cash Fund: (a) Twenty-five thousand dollars to the Noxious
 25 Weed Cash Fund; and (b) thirty-seven thousand eight hundred dollars
 26 to the Plant Protection and Plant Pest Cash Fund. On July 1, 2005,
 27 July 1, 2006, July 1, 2007, July 1, 2008, ~~and~~ July 1, 2009, July
 1 1, 2010, and July 1, 2011, if there are sufficient funds available,
 2 twenty-five thousand dollars shall be transferred from the Weed
 3 Book Cash Fund to the Noxious Weed Cash Fund. Any money in the Weed
 4 Book Cash Fund available for investment shall be invested by the
 5 state investment officer pursuant to the Nebraska Capital Expansion
 6 Act and the Nebraska State Funds Investment Act.

7 (2) The sale price of each Weeds of the Great Plains book
 8 sold by the Department of Agriculture shall be credited as follows:

9 (a) Seventy-five percent to the Weed Book Cash Fund
 10 to aid in defraying the cost of publishing, preparing, and
 11 distributing such books and any supplemental inserts to such
 12 books; and

13 (b) Twenty-five percent to the Noxious Weed Cash Fund.

14 Sec. 5. Original sections 54-856 and 54-857, Reissue
 15 Revised Statutes of Nebraska, and sections 2-958.01 and 81-201.05,
 16 Revised Statutes Cumulative Supplement, 2006, are repealed.

17 Sec. 6. Since an emergency exists, this act takes effect
 18 when passed and approved according to law.

(Signed) Philip Erdman, Chairperson

MESSAGE FROM THE GOVERNOR

March 5, 2008

Mr. President, Speaker Flood
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

I hereby withdraw the nomination of Sam Jensen as a member of the Commission of Industrial Relations.

Sincerely,
(Signed) Dave Heineman
Governor

GENERAL FILE

LEGISLATIVE BILL 844. Senator Chambers renewed his motion, MO137, found in this day's Journal, to reconsider the vote on FA188.

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

Senator Chambers requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 2:

Chambers Johnson

Voting in the negative, 28:

Adams	Erdman	Harms	Lathrop	Pirsch
Burling	Fischer	Heidemann	Lautenbaugh	Rogert
Carlson	Flood	Hudkins	McDonald	Synowiecki
Christensen	Friend	Karpisek	McGill	White
Dierks	Fulton	Kopplin	Nantkes	
Dubas	Gay	Langemeier	Nelson	

Present and not voting, 13:

Aguilar	Janssen	Pedersen	Schimek	Wightman
Avery	Kruse	Preister	Stuthman	
Howard	Pankonin	Raikes	Wallman	

Excused and not voting, 6:

Ashford	Engel	Louden
Cornett	Hansen	Pahls

The Chambers motion to reconsider failed with 2 ayes, 28 nays, 13 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Committee AM1784, found on page 644 and considered on pages 705, 715, and in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 30 ayes, 1 nay, 12 present and not voting, and 6 excused and not voting.

Senator Chambers offered the following motion:

MO138

Indefinitely postpone.

SENATOR ERDMAN PRESIDING

Senator Chambers requested a roll call vote on his motion to indefinitely postpone.

The Chambers motion to indefinitely postpone failed with 0 ayes, 21 nays, 19 present and not voting, and 9 excused and not voting.

Senator Chambers offered the following motion:

MO139

Reconsider the vote to indefinitely postpone.

Senator Chambers moved for a call of the house. The motion prevailed with 14 ayes, 2 nays, and 33 not voting.

Senator Chambers requested a roll call vote, in reverse order, on his motion to reconsider.

Voting in the affirmative, 5:

Avery	Chambers	Johnson	Synowiecki	White
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Voting in the negative, 32:

Adams	Dubas	Harms	Louden	Schimek
Aguilar	Engel	Heidemann	McDonald	Stuthman
Ashford	Erdman	Hudkins	McGill	Wallman
Burling	Fischer	Karpisek	Nantkes	Wightman
Carlson	Fulton	Kruse	Nelson	
Christensen	Gay	Lathrop	Pirsch	
Dierks	Hansen	Lautenbaugh	Rogert	

Present and not voting, 4:

Howard	Pankonin	Preister	Raikes
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Excused and not voting, 8:

Cornett	Friend	Kopplin	Pahls
Flood	Janssen	Langemeier	Pedersen

The Chambers motion to reconsider failed with 5 ayes, 32 nays, 4 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment:

FA189

P. 6, line 12 strike "three hundred" and insert "two."

The Chambers amendment lost with 1 aye, 18 nays, 21 present and not voting, and 9 excused and not voting.

Senator Chambers offered the following amendment:

FA190

P. 6, line 5 strike new language, reinstate stricken language.

SPEAKER FLOOD PRESIDING

Senator Karpisek offered the following motion:

MO140

Invoke cloture pursuant to Rule 7, Section 10.

Senator Karpisek moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

Senator Chambers requested a roll call vote on the motion to invoke cloture.

Senator Karpisek requested the roll call vote be taken in reverse order.

Voting in the affirmative, 35:

Adams	Dierks	Hansen	Lathrop	Pirsch
Ashford	Engel	Harms	Lautenbaugh	Raikes
Avery	Erdman	Heidemann	Louden	Rogert
Burling	Fischer	Hudkins	McDonald	Stuthman
Carlson	Flood	Janssen	McGill	Wallman
Christensen	Fulton	Karpisek	Nantkes	White
Cornett	Gay	Kruse	Nelson	Wightman

Voting in the negative, 2:

Chambers	Synowiecki
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Present and not voting, 5:

Aguilar	Johnson	Pankonin	Preister	Schimek
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Excused and not voting, 7:

Dubas	Howard	Langemeier	Pedersen
Friend	Kopplin	Pahls	

The Karpisek motion to invoke cloture prevailed with 35 ayes, 2 nays, 5 present and not voting, and 7 excused and not voting.

Senator Chambers requested a record vote on his amendment, FA190.

Voting in the affirmative, 7:

Chambers	Harms	Preister	Rogert
Flood	Janssen	Raikes	

Voting in the negative, 25:

Adams	Cornett	Hansen	Lathrop	Nelson
Ashford	Dierks	Heidemann	Lautenbaugh	Pirsch
Burling	Engel	Hudkins	Louden	Schimek
Carlson	Erdman	Karpisek	McDonald	Wallman
Christensen	Fischer	Kruse	McGill	White

Present and not voting, 10:

Aguilar	Fulton	Johnson	Pankonin	Synowiecki
Avery	Gay	Nantkes	Stuthman	Wightman

Excused and not voting, 7:

Dubas	Howard	Langemeier	Pedersen
Friend	Kopplin	Pahls	

The Chambers amendment lost with 7 ayes, 25 nays, 10 present and not voting, and 7 excused and not voting.

Senator Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 31:

Adams	Engel	Harms	Louden	Stuthman
Ashford	Erdman	Heidemann	McDonald	Wallman
Burling	Fischer	Hudkins	McGill	White
Carlson	Flood	Janssen	Nelson	
Christensen	Fulton	Karpisek	Pirsch	
Cornett	Gay	Lathrop	Rogert	
Dierks	Hansen	Lautenbaugh	Schimek	

Voting in the negative, 4:

Chambers	Nantkes	Raikes	Synowiecki
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Present and not voting, 7:

Aguilar	Johnson	Pankonin	Wightman
Avery	Kruse	Preister	

Excused and not voting, 7:

Dubas	Howard	Langemeier	Pedersen
Friend	Kopplin	Pahls	

Advanced to Enrollment and Review Initial with 31 ayes, 4 nays, 7 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

AMENDMENTS - Print in Journal

Senator Schimek filed the following amendment to LB956:
AM1730

1 1. On page 3, line 1, strike "and" and insert
 2 "employers."; in line 2 after "employers" insert ", and poverty
 3 area employers"; in line 3 strike the second "or" and insert
 4 an underscored comma; in line 4 after "Nebraska" insert ", or
 5 (c) located in areas of high concentration of poverty within the
 6 corporate limits of a city or village consisting of one or more
 7 contiguous census tracts, as determined by the most recent federal
 8 decennial census, which contain a percentage of families below the
 9 poverty line of greater than thirty percent, and all census tracts
 10 contiguous to such tract or tracts, as determined by the most

11 recent federal decennial census"; and in line 6 strike "and rural"
 12 and insert ", rural, or poverty area".

Senator Janssen filed the following amendment to LB777:
 AM2170

(Amendments to Standing Committee amendments, AM2002)

- 1 1. Strike section 3 and insert the following new section:
- 2 Sec. 2. This act becomes operative on January 1, 2009.
- 3 2. Renumber the remaining section accordingly.

Senator Ashford filed the following amendment to LB1014:

AM2196

- 1 1. Strike sections 1, 4, 8, 9, 10, 11, 12, and 36 and all
- 2 amendments thereto.
- 3 2. On page 5, line 10, strike "equalize" and insert
- 4 "more efficiently administer"; in line 14 after "shall" insert
- 5 "annually"; in line 15 strike beginning with "create" through
- 6 "assign" and insert "determine whether to reassign"; and in line 18
- 7 strike "and the" and insert "for such cases and such".
- 8 3. Renumber the remaining sections and correct
- 9 internal references and the operative date and repealer sections
- 10 accordingly.

Senator Ashford filed the following amendment to LB1014:

AM2154

(Amendments to Standing Committee amendments, AM2006)

- 1 1. Insert the following new section:
- 2 Sec. 67. (1) The Aging Prison Population Task Force is
- 3 created. The task force shall consist of the following members:
- 4 (a) The Director of Correctional Services or his or her
- 5 designee;
- 6 (b) The Deputy Director of Programs and Community
- 7 Services of the Department of Correctional Services or his or her
- 8 designee;
- 9 (c) The chief executive officer of the Department of
- 10 Health and Human Services or his or her designee;
- 11 (d) The chairperson of the Board of Parole or his or her
- 12 designee;
- 13 (e) The executive director of the Community Corrections
- 14 Council or his or her designee;
- 15 (f) The Public Counsel or his or her designee; and
- 16 (g) The following members appointed by the Executive
- 17 Board of the Legislative Council:
- 18 (i) A representative of the Nebraska Medicaid Eligibility
- 19 Program of the Economic Assistance and Child Support Enforcement
- 20 Unit of the Children and Family Services Policy Section of the
- 21 Division of Children and Family Services of the Department of
- 22 Health and Human Services;
- 1 (ii) A representative of the office of the state

- 2 long-term care ombudsman of the State Unit on Aging of the
3 Long-Term Care Services Section of the Division of Medicaid and
4 Long-Term Care of the Department of Health and Human Services;
5 (iii) A representative of the State Unit on Aging of the
6 Long-Term Care Services Section of the Division of Medicaid and
7 Long-Term Care of the Department of Health and Human Services;
8 (iv) A representative of the Long-Term Care State Plan
9 Services Unit of the Long-Term Care Services Section of the
10 Division of Medicaid and Long-Term Care of the Department of Health
11 and Human Services;
12 (v) A representative of the Aged and Disabled Waiver
13 Program of the Home and Community-Based Services Unit of the
14 Long-Term Care Services Section of the Division of Medicaid and
15 Long-Term Care of the Department of Health and Human Services;
16 (vi) A representative of an area agency on aging as
17 defined in the Nebraska Community Aging Services Act;
18 (vii) A public policy specialist from Nebraska Advocacy
19 Services, Inc.;
20 (viii) Two or more members of the faculty of the School
21 of Criminology and Criminal Justice of the College of Public
22 Affairs and Community Service at the University of Nebraska at
23 Omaha;
24 (ix) Two or more members of the faculty of the Department
25 of Gerontology of the College of Public Affairs and Community
26 Service at the University of Nebraska at Omaha;
27 (x) A representative of an association representing both
1 proprietary and nonproprietary long-term health care facilities in
2 Nebraska; and
3 (xi) A representative of an association representing
4 nonproprietary long-term health care facilities in Nebraska.
5 (2) The chairperson of the executive board shall convene
6 the first meeting of the task force within forty-five days after
7 the operative date of this section, and the task force shall select
8 a chairperson at such time. The task force shall meet periodically,
9 shall meet at least twice, and shall meet at the call of the
10 chairperson.
11 (3) The task force shall conduct a preliminary
12 investigation of aging inmates in Nebraska and make recommendations
13 regarding the necessity and objective of future research activity.
14 The task force shall include in its report an assessment of the
15 issues associated with persons who are fifty years of age or older
16 in the custody of the Nebraska correctional institutions, including
17 those in custody as a result of a sentence of life imprisonment
18 without parole and those in custody who will transition back
19 into the community upon parole or release upon completion of the
20 sentence.
21 (4) The task force shall issue a report and make
22 recommendations to the Legislature and the Governor relating to
23 any policy changes the task force deems desirable. The task force

24 shall complete its work by June 30, 2009, and submit its report to
 25 the Legislature, the Governor, and the Judiciary Committee of the
 26 Legislature by such date.

27 (5) This section terminates on June 30, 2009.

1 2. Renumber the remaining sections accordingly.

2 3. Correct the operative date section so the section

3 added by this amendment becomes operative three calendar months

4 after the adjournment of this legislative session.

Senator Ashford filed the following amendment to LB1014:

AM2175

1 1. Insert the following sections:

2 Sec. 38. Section 43-512.15, Revised Statutes Supplement,
 3 2007, is amended to read:

4 43-512.15 (1) The county attorney or authorized attorney,
 5 upon referral from the Department of Health and Human Services,
 6 shall file a complaint to modify a child support order unless the
 7 attorney determines in the exercise of independent professional
 8 judgment that:

9 (a) The variation from the Supreme Court child support
 10 guidelines pursuant to section 42-364.16 is based on material
 11 misrepresentation of fact concerning any financial information
 12 submitted to the attorney;

13 (b) The variation from the guidelines is due to a
 14 voluntary reduction in net monthly income. For purposes of this
 15 section, a person who has been incarcerated for a period of one
 16 year or more in a county or city jail or a federal or state
 17 correctional facility shall be considered to have an involuntary
 18 reduction of income unless (i) the incarceration is a result of
 19 a conviction for criminal nonsupport pursuant to section 28-706
 20 or a conviction for a violation of any federal law or law of
 21 another state substantially similar to section 28-706 or (ii)
 22 the incarcerated individual has a documented record of willfully
 23 failing or neglecting to provide proper support which he or
 1 she knew or reasonably should have known he or she was legally
 2 obligated to provide when he or she had sufficient resources to
 3 provide such support; or

4 (c) When the amount of the order is considered with all
 5 the other undisputed facts in the case, no variation from the
 6 criteria set forth in subdivisions (1) and (2) of section 43-512.12
 7 exists.

8 (2) The department, a county attorney, or an authorized
 9 attorney shall not in any case be responsible for reviewing or
 10 filing an application to modify child support for individuals
 11 incarcerated as described in subdivision (1)(b) of this section.

12 ~~(2)-(3)~~ The proceedings to modify a child support order
 13 shall comply with section 42-364, and the county attorney or
 14 authorized attorney shall represent the state in the proceedings.

15 ~~(3)-(4)~~ After a complaint to modify a child support order

16 is filed, any party may choose to be represented personally by
 17 private counsel. Any party who retains private counsel shall so
 18 notify the county attorney or authorized attorney in writing.

19 Sec. 74. Original section 43-512.15, Revised Statutes
 20 Supplement, 2007, is repealed.

21 2. Amend the operative date section so that the sections
 22 added by this amendment become operative on July 1, 2008.

23 3. Renumber the remaining sections and correct internal
 24 references accordingly.

Senator Ashford filed the following amendment to LB1014:

AM2107

1 1. Insert the following new sections:

2 Section 24. Sections 24 to 32 of this act shall be known
 3 and may be cited as the Legal Education for Public Service Loan
 4 Repayment Act.

5 Sec. 25. The Legislature finds that many attorneys
 6 graduate from law school with substantial educational debt that
 7 prohibits many from considering public legal service work. A
 8 need exists for public legal service entities to hire competent
 9 attorneys. The public is better served by competent and qualified
 10 attorneys working in the area of public legal service. Programs
 11 providing educational loan forgiveness will encourage law students
 12 and other attorneys to seek employment in the area of public legal
 13 service and will enable public legal service entities to attract
 14 and retain qualified attorneys.

15 Sec. 26. For purposes of the Legal Education for Public
 16 Service Loan Repayment Act:

17 (1) Board means the Legal Education for Public Service
 18 Loan Repayment Board;

19 (2) Educational loans means loans received as an
 20 educational benefit, scholarship, or stipend toward a juris
 21 doctorate degree and either (a) are made, insured, or guaranteed by
 22 a governmental unit or (b) are made under a program funded in whole
 23 or in part by a governmental unit or nonprofit institution; and

1 (3) Public legal service means providing legal service
 2 to indigent persons while employed by a tax-exempt charitable
 3 organization.

4 Sec. 27. The Legal Education for Public Service Loan
 5 Repayment Board is created. The board shall consist of the director
 6 of Legal Aid of Nebraska, the deans of Creighton School of Law
 7 and the University of Nebraska College of Law, a student from each
 8 law school selected by the dean of the law school, a member of
 9 the Nebraska State Bar Association selected by the president of
 10 the association, and the chief counsel of the Commission on Public
 11 Advocacy.

12 Sec. 28. The board shall select one of its members to be
 13 chairperson. The board shall meet as necessary to carry out its
 14 duties, but shall meet at least annually. The members shall serve

15 without compensation but shall be reimbursed for their actual and
16 necessary expenses as provided in sections 81-1174 to 81-1177.

17 Sec. 29. The board shall develop and recommend to the
18 Commission on Public Advocacy rules and regulations that will
19 govern the legal education for public service loan repayment
20 program. The rules and regulations shall include:

21 (1) Recipients shall be full-time, salaried attorneys
22 working for a tax-exempt charitable organization and whose primary
23 duties are public legal service;

24 (2) Loan applicants shall pay an application fee
25 established by the rules and regulations at a level anticipated
26 to cover all or most of the administrative costs of the program.
27 All application fees shall be remitted to the State Treasurer for
1 credit to the Legal Education for Public Service Loan Repayment
2 Fund. Every effort shall be made to minimize administrative costs
3 and the application fee;

4 (3) The maximum annual loan amount, which initially shall
5 not exceed six thousand dollars per year per recipient, shall be
6 an amount which is sufficient to fulfill the purposes of recruiting
7 and retaining public legal service attorneys in occupations and
8 areas with unmet needs, including attorneys to work in rural areas
9 and attorneys with skills in languages other than English. The
10 board may recommend adjustments of the loan amount annually to the
11 commission to account for inflation and other relevant factors;

12 (4) Loans shall be made only to refinance existing
13 educational loans;

14 (5) A general program structure of loan forgiveness shall
15 be established that qualifies for the tax benefits provided in
16 section 108(f) of the Internal Revenue Code, as defined in section
17 49-801.01; and

18 (6) Other criteria for loan eligibility, application,
19 payment, and forgiveness necessary to carry out the purposes of the
20 Legal Education for Public Service Loan Repayment Act.

21 Sec. 30. The commission shall accept applications for
22 loan forgiveness on an annual basis from qualified persons
23 and shall present those applications to the board for its
24 consideration. The board shall make recommendations for loans
25 to the commission and the commission shall certify the eligible
26 recipients and the loan amount per recipient. The loans awarded
27 to the recipients shall come from funds appropriated by the
1 Legislature and any other funds that may be available from the
2 Legal Education for Public Service Loan Repayment Fund.

3 Sec. 31. The commission may solicit and receive donations
4 from law schools, corporations, nonprofit organizations, bar
5 associations, bar foundations, law firms, individuals, or other
6 sources for purposes of the Legal Education for Public Service
7 Loan Repayment Act. The donations shall be remitted to the State
8 Treasurer for credit to the Legal Education for Public Service Loan
9 Repayment Fund.

10 Sec. 32. The Legal Education for Public Service Loan
11 Repayment Fund is created. The fund shall consist of funds donated
12 to the legal education for public service loan repayment program
13 pursuant to section 31 of this act and application fees collected
14 under the Legal Education for Public Service Loan Repayment Act.
15 Any money in the fund available for investment shall be invested
16 by the state investment officer pursuant to the Nebraska Capital
17 Expansion Act and the Nebraska State Funds Investment Act.

18 Sec. 33. Section 29-3927, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 29-3927 (1) With respect to its duties under section
21 29-3923, the commission shall:

22 (a) Adopt and promulgate rules and regulations for its
23 organization and internal management and rules and regulations
24 governing the exercise of its powers and the fulfillment of its
25 purpose;

26 (b) Appoint and abolish such advisory committees as may
27 be necessary for the performance of its functions and delegate
1 appropriate powers and duties to them;

2 (c) Accept and administer loans, grants, and donations
3 from the United States and its agencies, the State of Nebraska and
4 its agencies, and other sources, public and private, for carrying
5 out the functions of the commission;

6 (d) Enter into contracts, leases, and agreements
7 necessary, convenient, or desirable for carrying out its purposes
8 and the powers granted under this section with agencies of state or
9 local government, corporations, or persons;

10 (e) Acquire, hold, and dispose of personal property in
11 the exercise of its powers;

12 (f) Provide legal services to indigent persons through
13 the divisions in section 29-3930; and

14 (g) Adopt guidelines and standards, which are recommended
15 to the commission by the council, for county indigent defense
16 systems, including, but not limited to, standards relating to
17 the following: The use and expenditure of funds appropriated
18 by the Legislature to reimburse counties which qualify for
19 reimbursement; attorney eligibility and qualifications for court
20 appointments; compensation rates for salaried public defenders,
21 contracting attorneys, and court-appointed attorneys and overall
22 funding of the indigent defense system; maximum caseloads for
23 all types of systems; systems administration, including rules for
24 appointing counsel, awarding defense contracts, and reimbursing
25 defense expenses; conflicts of interest; continuing legal education
26 and training; and availability of supportive services and expert
27 witnesses.

1 (2) The standards adopted by the commission under
2 subdivision (1)(g) of this section are intended to be used as a
3 guide for the proper methods of establishing and operating indigent
4 defense systems. The standards are not intended to be used as

5 criteria for the judicial evaluation of alleged misconduct of
 6 defense counsel to determine the validity of a conviction. They may
 7 or may not be relevant in such judicial evaluation, depending upon
 8 all the circumstances.

9 (3) With respect to its duties related to the provision
 10 of civil legal services to eligible low-income persons, the
 11 commission shall have such powers and duties as described in
 12 sections 25-3001 to 25-3004.

13 (4) The commission may adopt and promulgate rules and
 14 regulations governing the Legal Education for Public Service Loan
 15 Repayment Act which are recommended by the Legal Education for
 16 Public Service Loan Repayment Board pursuant to the act. The
 17 commission shall have the powers and duties provided in the act.

18 2. Renumber the remaining sections and correct the
 19 repealer and operative date sections so that the sections added
 20 by this amendment become operative three calendar months after
 21 adjournment of this legislative session.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 1157. Placed on Select File with amendment.
 ER8178

- 1 1. On page 1, line 1, strike "section 79-760.03" and
- 2 insert "sections 79-758, 79-760.01, 79-760.02, 79-760.03, and
- 3 79-760.05"; and in line 4 strike "section" and insert "sections".

LEGISLATIVE BILL 606A. Placed on Select File.

(Signed) Amanda McGill, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 986A. Introduced by Preister, 5.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 986, One Hundredth Legislature, Second Session, 2008.

VISITOR

The Doctor of the Day was Dr. Dorothy Zink from Omaha.

ADJOURNMENT

At 4:55 p.m., on a motion by Senator Lathrop, the Legislature adjourned until 9:00 a.m., Thursday, March 6, 2008.

Patrick J. O'Donnell
Clerk of the Legislature

