

**THIRTY-EIGHTH DAY - MARCH 10, 2008****LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE  
SECOND SESSION****THIRTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 10, 2008

**PRAYER**

The prayer was offered by Pastor Jack Sample, Wood River.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Ashford, Cornett, Heidemann, Janssen, McDonald, Nantkes, Pedersen, and Synowiecki who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-seventh day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 973.** Placed on Select File with amendment.  
ER8182

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 85-2205, Revised Statutes Supplement,
- 4 2007, is amended to read:
- 5 85-2205 Base growth factor means
- 6 (1) For the calculation of aid for fiscal year 2008-09,
- 7 the base limitation described in section 77-3446 minus one-half
- 8 percent; and
- 9 (2) For the calculation of aid for fiscal year 2009-10
- 10 and each fiscal year thereafter, the base limitation described in
- 11 section 77-3446 ~~minus~~ plus one-half percent.
- 12 Sec. 2. Section 85-2212, Revised Statutes Supplement,
- 13 2007, is amended to read:
- 14 85-2212 Prior year revenue means (1) the lesser of (a)
- 15 the total of general fund property taxes, ~~state aid, and levied~~

16 in the fiscal year immediately preceding the fiscal year for which  
 17 aid is being calculated or (b) the local effort rate calculated  
 18 pursuant to section 85-2224 multiplied by the property valuation  
 19 for each community college area divided by one hundred plus (2)  
 20 state aid, tuition, and fees collected in reported on the accrual  
 21 basis of accounting in the fiscal year immediately preceding the  
 22 fiscal year for which aid is being calculated.

23 Sec. 3. Section 85-2221, Revised Statutes Supplement,  
 1 2007, is amended to read:

2 ~~85-2221 The Coordinating Commission for Postsecondary~~  
 3 ~~Education shall annually collect data from each community college~~  
 4 ~~area and maintain~~ Each community college area shall annually  
 5 report such data as necessary to carry out the Community College  
 6 Foundation and Equalization Aid Act to the Coordinating Commission  
 7 for Postsecondary Education. Each community college area shall  
 8 ~~annually report data necessary to the commission to carry out~~  
 9 ~~the act.~~ provide the commission with a reconciliation of the data  
 10 necessary to carry out the act with audited financial statement  
 11 information.

12 Sec. 4. Section 85-2223, Revised Statutes Supplement,  
 13 2007, is amended to read:

14 85-2223 (1) The Department of Revenue shall annually  
 15 calculate the base revenue need for each community college area as  
 16 follows:

17 (a) For fiscal ~~years 2007-08 and year 2008-09~~, base  
 18 revenue need for each community college area shall equal one ~~plus~~  
 19 ~~the base growth factor~~ plus the greater of zero or the average  
 20 annual percentage growth in full-time equivalent enrollments  
 21 attributable to each community college area for the most recent  
 22 three fiscal years times the sum of (i) system foundation need  
 23 plus (ii) reimbursable educational unit need plus (iii) the average  
 24 need adjustment plus (iv) the revenue remainder allowance for each  
 25 community college area. The average annual percentage growth shall  
 26 be calculated by taking the difference between the three-year  
 27 full-time equivalent enrollment average for the current funding  
 1 year and the three-year full-time equivalent enrollment average for  
 2 the prior funding year and dividing by the three-year full-time  
 3 equivalent enrollment average from the prior funding year; and

4 (b) For fiscal year 2009-10 and each fiscal year  
 5 thereafter, base revenue need for each community college area  
 6 shall equal the greater of ninety-eight percent of the base  
 7 revenue need calculated in the prior year or one plus the greater  
 8 of zero or the average annual percentage growth in full-time  
 9 equivalent enrollments attributable to each community college  
 10 area times the sum of (i) system foundation need plus (ii)  
 11 reimbursable educational unit need plus (iii) the average revenue  
 12 remainder allowance. The average annual percentage growth shall  
 13 be calculated by taking the difference between the three-year  
 14 full-time equivalent enrollment average for the current funding

15 year and the three-year full-time equivalent enrollment average for  
 16 the prior funding year and dividing by the three-year full-time  
 17 equivalent enrollment average from the prior funding year.

18 (2) For purposes of the calculation required pursuant to  
 19 this section:

20 (a) Average need adjustment shall be calculated for  
 21 fiscal year 2007-08 aid distribution as follows: Average need  
 22 adjustment shall equal the sum of average adjusted revenue  
 23 per full-time equivalent student minus the adjusted revenue  
 24 per full-time equivalent student times the number of full-time  
 25 equivalent students attributable to each community college area  
 26 up to the number of full-time equivalent students attributable to  
 27 the community college area with the fewest number of full-time  
 1 equivalent students, except that the amount shall not be less than  
 2 negative seven hundred fifty thousand or greater than seven hundred  
 3 fifty thousand. For purposes of the average need adjustment, (i)  
 4 adjusted revenue per full-time equivalent student equals the sum  
 5 of the prior year revenue for each community college area minus  
 6 the system foundation need divided by the number of full-time  
 7 equivalent students for each community college area and (ii)  
 8 average adjusted revenue per full-time equivalent student equals  
 9 the sum of the prior year revenue for all community college areas  
 10 minus the system foundation need for all areas divided by the  
 11 number of full-time equivalent students for all areas;

12 (b) Average revenue remainder allowance shall equal  
 13 the average revenue remainder per ~~full-time equivalent student~~  
 14 reimbursable educational unit times the average number of full-time  
 15 equivalent students-reimbursable educational units for each  
 16 community college area for the most recent three fiscal years;

17 (c) Average revenue remainder per ~~full-time equivalent~~  
 18 ~~student-reimbursable educational unit~~ equals the revenue remainder  
 19 allowance for all community college areas divided by the ~~total~~  
 20 average number of full-time equivalent students-reimbursable  
 21 educational units in all community college areas for the most  
 22 recent three fiscal years;

23 (d) Reimbursable educational unit need for each community  
 24 college area equals the product of the state foundation amount  
 25 times forty percent divided by the total reimbursable educational  
 26 units of all community college areas times the number of  
 27 reimbursable educational units attributable to each community  
 1 college area;

2 (e) Revenue remainder allowance equals the formula base  
 3 revenue attributable to each community college area minus the sum  
 4 of system foundation need plus reimbursable educational unit need;

5 (f) State foundation amount equals formula base revenue  
 6 times the state foundation percentage; ~~and~~

7 (g) System foundation need for each community college  
 8 area equals the product of the state foundation amount times sixty  
 9 percent divided by the number of community college areas;:-

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

13 (i) Three-year full-time equivalent enrollment average  
 14 for any given funding year equals the sum of the audited full-time  
 15 equivalent enrollment for the three years preceding the funding  
 16 year divided by three.

17 Sec. 5. Section 85-2224, Revised Statutes Supplement,  
 18 2007, is amended to read:

19 85-2224 (1) The Department of Revenue shall calculate  
 20 local effort rate by dividing the sum of (a) the total of base  
 21 revenue need for all community college areas minus (b) the amount  
 22 appropriated by the Legislature pursuant to the Community College  
 23 Foundation and Equalization Aid Act minus (c) the total formula  
 24 tuition and fees for all community college areas by the total  
 25 valuation of all community college areas times one hundred.

26 (2) The department shall calculate the formula resources  
 27 available to each community college area by adding ~~(a) the yield~~  
 1 from local effort rate plus ~~(b) local formula tuition and fees,~~  
 2 plus ~~(c) system foundation aid plus (d) reimbursable educational~~  
 3 ~~unit aid.~~

4 (3) For purposes of the calculation required pursuant to  
 5 this section:

6 (a) The yield from local effort rate for each community  
 7 college area equals the local effort rate times the ~~property~~  
 8 ~~taxable valuation attributable certified to each community college~~  
 9 ~~area pursuant to section 13-509~~ divided by one hundred; and

10 (b) Local formula tuition and fees equals tuition and  
 11 fees attributable to each community college area that were  
 12 ~~collected reported on the accrual basis of accounting in the~~  
 13 ~~fiscal year prior to the fiscal year for which aid is to be~~  
 14 ~~calculated;~~

15 ~~(e) Reimbursable educational unit aid equals reimbursable~~  
 16 ~~educational unit need calculated pursuant to section 85-2223; and~~

17 ~~(d) System foundation aid equals system foundation need~~  
 18 ~~calculated pursuant to section 85-2223.~~

19 Sec. 6. Section 85-2225, Revised Statutes Supplement,  
 20 2007, is amended to read:

21 85-2225 Equalization aid for each community college area  
 22 shall equal base revenue need attributable to the community college  
 23 area minus formula resources attributable to the community college  
 24 area, except that such amount shall not be less than zero.

25 Sec. 7. Section 85-2227, Revised Statutes Supplement,  
 26 2007, is amended to read:

27 85-2227 The maximum levy for each community college area  
 1 shall be certified by the Department of Revenue annually and  
 2 shall equal one hundred ~~fifteen-twenty~~ percent of the local effort  
 3 rate calculated pursuant to section 85-2224 plus amounts allowed  
 4 pursuant to subsection (2) of section 85-1517.

5 Sec. 8. Section 85-2228, Revised Statutes Supplement,  
 6 2007, is amended to read:  
 7 85-2228 For fiscal year 2008-09 and for each fiscal  
 8 year thereafter, a minimum levy aid reduction shall apply to any  
 9 community college area that does not levy at least eighty percent  
 10 of the local effort rate calculated pursuant to section 85-2224 for  
 11 the fiscal year immediately preceding the fiscal year for which aid  
 12 is being calculated.

13 The minimum levy aid reduction shall equal the difference  
 14 between the amount of revenue collected by the community college  
 15 area as a result of its levy and the amount of revenue that would  
 16 have been collected using eighty percent of the local effort rate  
 17 in the prior fiscal year. The Department of Revenue shall reduce  
 18 the amount of aid ~~calculated pursuant to section 85-2226~~ by an  
 19 amount equal to the minimum levy aid reduction.

20 Sec. 9. Original sections 85-2205, 85-2212, 85-2221,  
 21 85-2223, 85-2224, 85-2225, 85-2227, and 85-2228, Revised Statutes  
 22 Supplement, 2007, are repealed.

23 Sec. 10. The following sections are outright repealed:  
 24 Sections 85-2214, 85-2219, and 85-2226, Revised Statutes  
 25 Supplement, 2007.

26 2. On page 1, line 2, after "sections" insert "85-2205,";  
 27 and in line 3 after the third comma insert "85-2227,".

**LEGISLATIVE RESOLUTION 4CA.** Placed on Select File with amendment.

ER8181

1 1. On page 1, line 2, strike "FIRST" and insert "SECOND".

**LEGISLATIVE BILL 1055.** Placed on Select File with amendment.

ER8183

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

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

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

10 Sec. 2. Section 54-608, Reissue Revised Statutes of  
 11 Nebraska, is amended to read:

12 54-608 In counties having a population of eighty thousand  
 13 or more inhabitants and cities of the first class contained in such  
 14 counties, it shall be unlawful for any person, firm, partnership,  
 15 limited liability company, or corporation to have any dog which  
 16 is owned, kept, harbored, or allowed to be habitually in or upon  
 17 premises occupied by him, ~~or her, or it~~ or under his, ~~or her, or~~  
 18 its control to be at large, and go in or upon public property or

19 ~~the private premises of others or upon the streets or highways.~~

20 Sec. 3. Section 54-610, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 54-610 In counties having a population of eighty thousand  
23 or more inhabitants and cities of the first class contained in such  
1 counties, whenever complaints are made to the poundmaster or the  
2 person or corporation performing the duties of poundmaster that a  
3 dog is at large, ~~or doing damage to public or private property,~~  
4 it shall be the duty of such poundmaster, person, or corporation  
5 to investigate such complaint. If upon such investigation it  
6 appears that the complaint is founded upon facts, it shall be  
7 the duty of such poundmaster, person, or corporation to take such  
8 dog into custody and ~~he, she, or it may~~ file or cause to be  
9 filed a complaint in the county court against such person, firm,  
10 partnership, limited liability company, or corporation owning,  
11 keeping, or harboring such dog charging a violation of ~~sections~~  
12 section 54-601 and or 54-608, to 54-611.

13 Sec. 4. Section 54-611, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 54-611 In counties having a population of eighty thousand  
16 or more inhabitants and cities of the first class contained in  
17 such counties, if upon final hearing the defendant is adjudged  
18 guilty of any violation of ~~sections section 54-601 and or 54-608,~~  
19 ~~to 54-610,~~ the court may, in addition to the penalty provided in  
20 section 54-613, order such disposition of the offending dog as  
21 may seem reasonable and proper. Disposition includes sterilization,  
22 seizure, permanent assignment of the dog to a court-approved animal  
23 shelter as defined in section 28-1018, or destruction of the dog  
24 in an expeditious and humane manner. Reasonable costs for such  
25 disposition are the responsibility of the defendant.

26 Sec. 5. Section 54-613, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1 54-613 ~~In counties having a population of eighty thousand~~  
2 ~~or more inhabitants and cities of the first class contained in such~~  
3 ~~counties, any~~ Any person in violation of ~~sections section 54-601~~  
4 ~~and or 54-608 to 54-611~~ shall be deemed guilty of a Class ~~V~~ IV  
5 misdemeanor.

6 Sec. 6. Section 54-614, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 54-614 (1) ~~A Any county having a population in excess of~~  
9 ~~fifteen thousand inhabitants according to the most recent federal~~  
10 ~~decennial census~~ may collect a license tax in an amount which  
11 shall be determined by the appropriate governing body from the  
12 owners and harborers of dogs; ~~and may enforce the same such tax by~~  
13 appropriate penalties. A county may impound any dog if, and cause  
14 the destruction of any dog for which the owner or harborer shall  
15 refuse or neglect to pay such license tax. Any licensing provision  
16 shall comply with subsection (2) of section 54-603 for dog guides,  
17 hearing ~~aid~~ dogs, and service dogs.

18 (2) ~~A Such~~ county may regulate, ~~license~~, or prohibit the  
 19 running at large of dogs, adopt regulations to ~~and~~ guard against  
 20 injuries or annoyances therefrom, and authorize the destruction,  
 21 adoption, or other disposition of ~~the same such dogs~~ when running  
 22 at large contrary to the provisions of this subsection or any  
 23 regulations adopted in accordance with this subsection. A county  
 24 adopting regulations in accordance with this subsection shall  
 25 provide for an appeal process with respect to such regulations.

26 Sec. 7. Section 54-615, Reissue Revised Statutes of  
 27 Nebraska, is amended to read:

1 54-615 ~~Such A~~ county ~~shall have power to regulate the~~  
 2 ~~running at large of dogs, and to cause such as may be running at~~  
 3 ~~large to be impounded and sold to discharge the~~ may impound any dog  
 4 deemed to be running at large. The owner of such dog shall pay the  
 5 reasonable cost and penalties provided for the violation of such  
 6 prohibitions, prohibition, including the expense of impounding and  
 7 keeping the same, and the expense of such sale, dog.

8 Sec. 8. Section 54-616, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:

10 54-616 ~~Such A~~ county ~~may shall have power to~~ provide for  
 11 the erection of ~~all needful pounds~~ any pounds needed within the  
 12 county, ~~to~~ appoint and compensate keepers thereof, and ~~to~~ establish  
 13 and enforce rules governing ~~the same.~~ such pounds.

14 Sec. 9. Section 54-617, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16 54-617 For purposes of sections 54-617 to 54-624 and  
 17 section 15 of this act

18 (1) Animal control authority ~~shall mean~~ means an entity  
 19 authorized to enforce the animal control laws of a county, city, or  
 20 village or this state and includes any local law enforcement agency  
 21 or other agency designated by a county, city, or village to enforce  
 22 the animal control laws of such county, city, or village;

23 (2) Animal control officer ~~shall mean~~ means any  
 24 individual employed, appointed, or authorized by an animal control  
 25 authority for the purpose of aiding in the enforcement of sections  
 26 54-617 to 54-624 and section 15 of this act or any other law or  
 27 ordinance relating to the licensure of animals, control of animals,  
 1 or seizure and impoundment of animals and ~~shall include~~ includes  
 2 any state or local law enforcement officer or other employee whose  
 3 duties in whole or in part include assignments that involve the  
 4 seizure and impoundment of any animal;

5 (3) Dangerous dog ~~shall mean~~ any means a dog that,  
 6 according to the records of an animal control authority: (a) Has  
 7 killed or inflicted ~~severe~~ injury on a human being; ~~on public~~  
 8 ~~or private property;~~ (b) has killed a domestic animal without  
 9 provocation; ~~while the dog was off the owner's property;~~ or (c) has  
 10 been previously determined to be a potentially dangerous dog by an  
 11 animal control authority and the owner has received notice of such  
 12 determination and such dog again ~~aggressively~~ bites, attacks, or

13 endangers the safety of humans or domestic animals. A dog shall not  
 14 be defined as a dangerous dog if the threat, ~~any injury that is not~~  
 15 ~~a severe injury~~, or the damage was sustained by a person who, at  
 16 the time, was committing a willful trespass as defined in section  
 17 20-203, 28-520, or 28-521 or any other tort upon the property of  
 18 the owner of the dog, who was tormenting, abusing, or assaulting  
 19 the dog, who has, in the past, been observed or reported to have  
 20 tormented, abused, or assaulted the dog, or who was committing or  
 21 attempting to commit a crime;

22 (4) Domestic animal ~~shall mean~~ means a cat, a dog, or  
 23 livestock. Livestock includes buffalo, deer, antelope, fowl, and  
 24 any other animal in any zoo, wildlife park, refuge, wildlife area,  
 25 or nature center intended to be on exhibit;

26 (5) Owner ~~shall mean~~ means any person, firm, corporation,  
 27 organization, political subdivision, or department possessing,  
 1 harboring, keeping, or having control or custody of a dog; and

2 (6) Potentially dangerous dog ~~shall mean~~ means (a) any  
 3 dog that when unprovoked (i) ~~inflicts a nonsevere injury on a human~~  
 4 ~~or injures a domestic animal either on public or private property~~  
 5 or (ii) chases or approaches a person ~~upon streets, sidewalks, or~~  
 6 ~~any public grounds~~ in a menacing fashion or apparent attitude of  
 7 attack or (b) any specific dog with a known propensity, tendency,  
 8 or disposition to attack when unprovoked, to cause injury, or to  
 9 threaten the safety of humans or domestic animals; ~~and~~

10 (7) ~~Severe injury shall mean any physical injury that~~  
 11 ~~results in disfiguring lacerations requiring multiple sutures or~~  
 12 ~~cosmetic surgery or one or more broken bones or that creates a~~  
 13 ~~potential danger to the life or health of the victim.~~

14 Sec. 10. Section 54-618, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16 54-618 (1) A dangerous dog that has been declared as  
 17 such shall be spayed or neutered and implanted with a microchip  
 18 identification number by a licensed veterinarian within thirty  
 19 days after such declaration. The cost of both procedures is the  
 20 responsibility of the owner of the dangerous dog. Written proof of  
 21 both procedures and the microchip identification number shall be  
 22 provided to the animal control authority after the procedures are  
 23 completed.

24 (2) No owner of a dangerous dog shall permit the dog to  
 25 go beyond the property of the owner unless the dog is restrained  
 26 securely by a chain or leash.

27 (3) Except as provided in subsection (4) of this section  
 1 or for a reasonable veterinary purpose, no owner of a dangerous dog  
 2 shall transport such dog or permit such dog to be transported to  
 3 another county, city, or village in this state.

4 (4) An owner of a dangerous dog may transport such dog  
 5 or permit such dog to be transported to another county, city, or  
 6 village in this state for the purpose of permanent relocation of  
 7 the owner if the owner has obtained written permission prior to



8 such relocation from the animal control authority of the county,  
9 city, or village in which the owner resides and from the county,  
10 city, or village in which the owner will reside. Each animal  
11 control authority may grant such permission based upon a reasonable  
12 evaluation of both the owner and the dog, including if the owner  
13 has complied with the laws of this state and of the county, city,  
14 or village in which he or she resides with regard to dangerous dogs  
15 after the dog was declared dangerous. An animal control authority  
16 shall not grant permission under this subsection if the county,  
17 city, or village has an ordinance or resolution prohibiting the  
18 relocation of dangerous dogs. After the permanent relocation, the  
19 animal control authority of the county, city, or village in which  
20 the owner resides shall monitor the owner and such dog for a period  
21 of at least thirty days but not to exceed ninety days to ensure  
22 the owner's compliance with the laws of this state and of such  
23 county, city, or village with regard to dangerous dogs. Nothing in  
24 this subsection shall permit the rescindment of the declaration of  
25 dangerous dog.

26 Sec. 11. Section 54-619, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1 54-619 (1) No person, firm, partnership, limited  
2 liability company, or corporation shall own, keep, or harbor or  
3 allow to be in or on any premises occupied by him, her, or it or  
4 under his, her, or its charge or control any dangerous dog without  
5 such dog being confined so as to protect the public from injury.

6 (2) While unattended on the owner's property, a dangerous  
7 dog shall be securely confined, in a humane manner, indoors or in  
8 a securely enclosed and locked pen or structure suitably designed  
9 to prevent the entry of young children and to prevent the dog  
10 from escaping. Such pen or structure shall meet the requirements  
11 of subdivision (6) of section 54-640. The pen or structure shall  
12 have secure sides and a secure top. If the pen or structure has no  
13 bottom secured to the sides, the sides shall be embedded into the  
14 ground at a depth of at least one foot. The pen or structure shall  
15 also protect the dog from the elements. The pen or structure shall  
16 be at least ten feet from any property line of the owner. The owner  
17 of a dangerous dog shall post ~~a~~ warning ~~sign~~ signs on the property  
18 where the dog is kept that ~~is~~ are clearly visible from all areas  
19 of public access and that ~~informs~~ inform persons that a dangerous  
20 dog is on the property. Each warning sign shall be no less than  
21 ten inches by twelve inches and shall contain the words warning and  
22 dangerous animal in high-contrast lettering at least three inches  
23 high on a black background.

24 Sec. 12. Section 54-620, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 54-620 Any dangerous dog may be immediately confiscated  
27 by an animal control officer if the owner is in violation of  
1 sections 54-617 to 54-624 and section 15 of this act. The  
2 owner shall be responsible for the reasonable costs incurred

3 by the animal control authority for the care of a dangerous dog  
 4 confiscated by an animal control officer or for the destruction of  
 5 any dangerous dog if the action by the animal control authority is  
 6 pursuant to law and if the owner violated sections 54-617 to 54-624  
 7 and section 15 of this act.

8 Sec. 13. Section 54-623, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:

10 54-623 (1) Any person convicted of a violation of  
 11 sections 54-617 to 54-624 and section 15 of this act shall  
 12 not own a dangerous dog within ten years after such conviction. Any  
 13 person violating this subsection shall be guilty of a Class IIIA  
 14 misdemeanor, and the dog shall be treated as provided in subsection  
 15 (2) of this section.

16 (2) If a dangerous dog of an owner with a prior  
 17 conviction under sections 54-617 to 54-624 and section 15 of  
 18 this act attacks or bites a ~~person-human being~~ or ~~another~~ domestic  
 19 animal, the owner shall be guilty of a Class ~~IV-III~~A misdemeanor.  
 20 In addition, the dangerous dog shall be immediately confiscated by  
 21 an animal control authority, placed in quarantine for the proper  
 22 length of time, and thereafter destroyed in an expeditious and  
 23 humane manner.

24 Sec. 14. Section 54-624, Reissue Revised Statutes of  
 25 Nebraska, is amended to read:

26 54-624 Nothing in sections 54-617 to 54-623 and section  
 27 15 of this act shall be construed to restrict or prohibit any  
 1 governing board of any county, city, or village from establishing  
 2 and enforcing laws or ordinances at least as stringent as the  
 3 provisions of sections 54-617 to 54-623 and section 15 of this act.

4 Sec. 15. Each county shall designate an animal control  
 5 authority that shall be responsible for enforcing sections 54-617  
 6 to 54-624 and the laws of such county regarding dangerous dogs.

7 Sec. 16. Original sections 54-607, 54-608, 54-610,  
 8 54-611, 54-613, 54-614, 54-615, 54-616, 54-617, 54-618, 54-619,  
 9 54-620, 54-623, and 54-624, Reissue Revised Statutes of Nebraska,  
 10 are repealed.

11 Sec. 17. The following section is outright repealed:  
 12 Section 54-609, Reissue Revised Statutes of Nebraska.

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

15 2. On page 1, line 1, after "sections" insert "54-607,";  
 16 in line 6 before "penalties" insert "and change" and strike "to  
 17 counties" and insert "for certain political subdivisions"; and in  
 18 line 8 strike "sections 54-607 and" and insert "section".

(Signed) Amanda McGill, Chairperson

**MESSAGE FROM THE GOVERNOR**

March 10, 2008

Patrick J. O'Donnell  
 Clerk of the Legislature  
 State Capitol, Room 2018  
 Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 123, 268, 279, 386, 500, 586e, 620, 623, 624, 668, 715, 744, 747, 750e, 752, 782e, 790, 791, 823, 856, 857, 896e, 915, and 925 were received in my office on March 4, 2008.

I signed these bills and delivered them to the Secretary of State on March 10, 2008.

Sincerely,  
 (Signed) Dave Heineman  
 Governor

**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 791:

State Board of Health  
 Dale Michels

Voting in the affirmative, 46:

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

Voting in the negative, 0.

Present and not voting, 2:

Ashford      McGill

Excused and not voting, 1:

Cornett

The appointment was confirmed with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

Senator Johnson moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 791:

Commission for the Blind and Visually Impaired

Julie Johnson

Wesley Majerus

Voting in the affirmative, 38:

Aguilar	Erdman	Howard	Nantkes	Rogert
Ashford	Fischer	Janssen	Nelson	Schimek
Carlson	Friend	Johnson	Pahls	Stuthman
Chambers	Fulton	Karpisek	Pankonin	Wallman
Christensen	Gay	Kopplin	Pedersen	White
Dierks	Hansen	Kruse	Pirsch	Wightman
Dubas	Harms	Louden	Preister	
Engel	Heidemann	McDonald	Raikes	

Voting in the negative, 0.

Present and not voting, 10:

Adams	Burling	Hudkins	Lathrop	McGill
Avery	Flood	Langemeier	Lautenbaugh	Synowiecki

Excused and not voting, 1:

Cornett

The appointments were confirmed with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

Senator Johnson moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 791:

Child Abuse Prevention Fund Board

Patricia Madsen

Tawanna Black

Rebecca Brown

Sandra Markley

Parrish McDonald

Voting in the affirmative, 33:

Aguilar	Friend	Johnson	Nantkes	Rogert
Avery	Fulton	Karpisek	Nelson	Schimek
Carlson	Gay	Kopplin	Pahls	Stuthman
Christensen	Hansen	Langemeier	Pedersen	Wallman
Dubas	Harms	Lautenbaugh	Pirsch	Wightman
Engel	Heidemann	Louden	Preister	
Erdman	Howard	McDonald	Raikes	

Voting in the negative, 0.

Present and not voting, 15:

Adams	Chambers	Flood	Kruse	Pankonin
Ashford	Dierks	Hudkins	Lathrop	Synowiecki
Burling	Fischer	Janssen	McGill	White

Excused and not voting, 1:

Cornett

The appointments were confirmed with 33 ayes, 0 nays, 15 present and not voting, and 1 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 822:

Coordinating Commission for Postsecondary Education

Timothy Hodges

Richard Uhing

Mary Lauritzen

Voting in the affirmative, 35:

Adams	Dubas	Heidemann	Louden	Preister
Aguilar	Engel	Howard	McGill	Raikes
Avery	Erdman	Hudkins	Nantkes	Rogert
Burling	Friend	Karpisek	Nelson	Synowiecki
Carlson	Gay	Kopplin	Pahls	Wallman
Christensen	Hansen	Lathrop	Pedersen	White
Dierks	Harms	Lautenbaugh	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 13:

Ashford	Flood	Johnson	McDonald	Stuthman
Chambers	Fulton	Kruse	Pankonin	
Fischer	Janssen	Langemeier	Schimek	

Excused and not voting, 1:

Cornett

The appointments were confirmed with 35 ayes, 0 nays, 13 present and not voting, and 1 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 823:

Board of Trustees of the Nebraska State Colleges  
Michelle Suarez

Voting in the affirmative, 35:

Adams	Erdman	Karpisek	Nantkes	Raikes
Avery	Friend	Kopplin	Nelson	Rogert
Carlson	Hansen	Langemeier	Pahls	Schimek
Christensen	Harms	Lathrop	Pankonin	Synowiecki
Dierks	Heidemann	Lautenbaugh	Pedersen	Wallman
Dubas	Howard	Louden	Pirsch	White
Engel	Hudkins	McGill	Preister	Wightman

Voting in the negative, 0.

Present and not voting, 13:

Aguilar	Chambers	Fulton	Johnson	Stuthman
Ashford	Fischer	Gay	Kruse	
Burling	Flood	Janssen	McDonald	

Excused and not voting, 1:

Cornett

The appointment was confirmed with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

## COMMITTEE REPORTS

### Revenue

**LEGISLATIVE BILL 784.** Placed on General File with amendment.  
AM2256

- 1 1. On page 6, line 16; and page 7, lines 1, 5 through 9,
- 2 and 24, strike the new matter and reinstate the stricken matter.
- 3 2. On page 8, after line 14 insert the following new
- 4 subsection:
- 5 "(4) In the case of a taxpayer who has knowingly violated
- 6 the federal immigration law by employing aliens unauthorized to
- 7 work in the United States at any time after application for

8 benefits and before the end of the entitlement period, all future  
 9 incentives shall be disallowed and one hundred percent of all  
 10 incentives that have been received shall be recaptured."

**LEGISLATIVE BILL 758.** Indefinitely postponed.

(Signed) Ray Janssen, Chairperson

### RESOLUTION

**LEGISLATIVE RESOLUTION 267.** Introduced by Howard, 9.

WHEREAS, since 1998, volunteers have been trained by the Nebraska State Patrol to assist and aid motorists stranded along the heaviest traveled sections of our interstate and state highway systems; and

WHEREAS, unlike other states that employ paid staff, the Nebraska program has always been operated by dedicated and trained volunteers; and

WHEREAS, in order to be a member of this team each volunteer must successfully complete training which includes defensive driving, minor mechanical repair, first aid, and CPR; and

WHEREAS, on average the volunteers of the Omaha Metro Area, Lincoln, and Grand Island/Kearney Motorists Assist Programs respond to 700 assists each month; and

WHEREAS, the presence of these volunteers gives motorists an improved sense of safety and peace of mind on the road; and

WHEREAS, these volunteers exemplify the spirit of citizenry which makes this state great; and

WHEREAS, the thousands of motorists and families they have aided would agree, these kind and generous individuals keep us safe and out of harms way when traumatic, unexpected vehicle breakdowns occur.

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

1. That the Legislature honors the service of Nebraska's Motorists Assist volunteers.

2. That the Clerk of the Legislature send a copy of this resolution to the Omaha Metro Area, Lincoln, and Grand Island/Kearney Motorists Assist Programs.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 1014A.** Title read. Considered.

Senator Ashford offered the following amendment:

AM2216

1 1. Insert the following new section:

2 Sec. 3. There is hereby appropriated (1) \$6,000 from the

- 3 Commission on Public Advocacy Operations Cash Fund for FY2008-09  
 4 and (2) \$1,000 from the Commission on Public Advocacy Operations  
 5 Cash Fund for FY2009-10 to the Commission on Public Advocacy, for  
 6 Program 425, to aid in carrying out the provisions of Legislative  
 7 Bill 1014, 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. Renumber the remaining section accordingly.

The Ashford amendment was adopted with 30 ayes, 0 nays, 18 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, and 22 present and not voting.

**LEGISLATIVE BILL 853.** Title read. Considered.

Committee AM1780, found on page 530, was considered.

Pending.

## COMMITTEE REPORT

Business and Labor

**LEGISLATIVE BILL 1082.** Placed on General File with amendment. AM2252

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. (1) Personal injury includes mental injuries  
 4 and mental illness unaccompanied by physical injury for an employee  
 5 who, in the scope and course of his or her employment, is a victim  
 6 of or witness to a violent criminal act and for an employee who is  
 7 a first responder if the employee:  
 8 (a) Establishes, by a preponderance of the evidence, that  
 9 the employee's employment conditions causing the mental injury or  
 10 mental illness were extraordinary and unusual in comparison to the  
 11 normal conditions of the particular employment; and  
 12 (b) Establishes, by a preponderance of the evidence, the  
 13 medical causation between the mental injury or mental illness and  
 14 the employment conditions by medical evidence.  
 15 (2) For purposes of this section, mental injuries and  
 16 mental illness arising out of and in the course of employment  
 17 unaccompanied by physical injury are not considered compensable if  
 18 they result from any event or series of events which are incidental  
 19 to normal employer and employee relations, including, but not  
 20 limited to, personnel actions by the employer such as disciplinary  
 21 actions, work evaluations, transfers, promotions, demotions, salary  
 22 reviews, or terminations.



23 (3) For purposes of this section, first responder means a  
1 firefighter, a law enforcement officer, a crime scene investigator,  
2 a paramedic, or an emergency medical technician.

3 Sec. 2. Section 48-151, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 48-151 Throughout the Nebraska Workers' Compensation Act,  
6 the following words and phrases shall be considered to have  
7 the following meaning, respectively, unless the context clearly  
8 indicates a different meaning in the construction used:

9 (1) Physician means any person licensed to practice  
10 medicine and surgery, osteopathic medicine, chiropractic, podiatry,  
11 or dentistry in the State of Nebraska or in the state in which the  
12 physician is practicing;

13 (2) Accident means an unexpected or unforeseen injury  
14 happening suddenly and violently, with or without human fault, and  
15 producing at the time objective symptoms of an injury. The claimant  
16 has the burden of proof to establish by a preponderance of the  
17 evidence that such unexpected or unforeseen injury was in fact  
18 caused by the employment. There is no presumption from the mere  
19 occurrence of such unexpected or unforeseen injury that the injury  
20 was in fact caused by the employment;

21 (3) Occupational disease means only a disease which is  
22 due to causes and conditions which are characteristic of and  
23 peculiar to a particular trade, occupation, process, or employment  
24 and excludes all ordinary diseases of life to which the general  
25 public is exposed;

26 (4) Injury and personal injuries mean only violence to  
27 the physical structure of the body and such disease or infection as  
1 naturally results therefrom and injuries described in section 1 of  
2 this act. The terms include disablement resulting from occupational  
3 disease arising out of and in the course of the employment in  
4 which the employee was engaged and which was contracted in such  
5 employment. The terms include an aggravation of a preexisting  
6 occupational disease, the employer being liable only for the degree  
7 of aggravation of the preexisting occupational disease. The terms  
8 do not include disability or death due to natural causes but  
9 occurring while the employee is at work and do not include an  
10 injury, disability, or death that is the result of a natural  
11 progression of any preexisting condition;

12 (5) Death, when mentioned as a basis for the right to  
13 compensation, means only death resulting from such violence and its  
14 resultant effects or from occupational disease;

15 (6) Without otherwise affecting either the meaning or the  
16 interpretation of the abridged clause, personal injuries arising  
17 out of and in the course of employment, it is hereby declared  
18 not to cover workers except while engaged in, on, or about the  
19 premises where their duties are being performed or where their  
20 service requires their presence as a part of such service at the  
21 time of the injury and during the hours of service as such workers,

22 and not to cover workers who on their own initiative leave their  
 23 line of duty or hours of employment for purposes of their own.  
 24 Property maintained by an employer is considered the premises of  
 25 such employer for purposes of determining whether the injury arose  
 26 out of employment;

27 (7) Willful negligence consists of (a) a deliberate act,  
 1 (b) such conduct as evidences reckless indifference to safety, or  
 2 (c) intoxication at the time of the injury, such intoxication being  
 3 without the consent, knowledge, or acquiescence of the employer or  
 4 the employer's agent;

5 (8) Intoxication includes, but is not limited to, being  
 6 under the influence of a controlled substance not prescribed by a  
 7 physician;

8 (9) Prospective loss costs means prospective loss costs  
 9 as defined in section 44-7504 and prepared, filed, or distributed  
 10 by an advisory organization which has been issued a certificate of  
 11 authority pursuant to section 44-7518; and

12 (10) Whenever in the Nebraska Workers' Compensation Act  
 13 the singular is used, the plural is considered included; when the  
 14 masculine gender is used, the feminine is considered included.

15 Sec. 3. Section 48-1,110, Revised Statutes Supplement,  
 16 2007, is amended to read:

17 48-1,110 Sections 48-101 to 48-1,117 and section 1 of  
 18 this act shall be known and may be cited as the Nebraska Workers'  
 19 Compensation Act.

20 Sec. 4. Original section 48-151, Reissue Revised Statutes  
 21 of Nebraska, and section 48-1,110, Revised Statutes Supplement,  
 22 2007, are repealed.

(Signed) Abbie Cornett, Chairperson

### VISITORS

Visitors to the Chamber were Tanya and Shane Wegner from Kearney; 22 twelfth-grade students and teacher from Wilcox-Hildreth, Wilcox; Kathleen Hansen from Bartley; 39 fifth-grade students, teachers, and sponsors from Milliken Park Elementary, Fremont; a group of Wal-Mart store managers from across the state; members of Kappa Gamma Sorority; and Mary Kay Green from Omaha.

### RECESS

At 12:00 p.m., on a motion by Senator Pirsch, 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, Lautenbaugh, Loudon, McDonald, Nantkes, and Schimek who were excused until they arrive.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 768.** Placed on Final Reading.

**LEGISLATIVE BILL 914.** Placed on Final Reading.

**LEGISLATIVE BILL 939.** Placed on Final Reading.

**LEGISLATIVE BILL 962.** Placed on Final Reading.

**LEGISLATIVE BILL 1056.** Placed on Final Reading.

(Signed) Amanda McGill, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 268.** Introduced by Burling, 33.

WHEREAS, the Hastings St. Cecilia Bluehawks won the 2008 Class C-1 Boys' State Basketball Championship; and

WHEREAS, the Bluehawks defeated the Bennington Badgers 50-43 in the final game; and

WHEREAS, the Bluehawks previously won championships in 1958 and 1969; and

WHEREAS, the Legislature should recognize the athletic, academic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates the Hastings St. Cecilia Bluehawks on winning the 2008 Class C-1 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Bluehawks and their coaches, Rob Kober and Mike Allsman.

Laid over.

**LEGISLATIVE RESOLUTION 269.** Introduced by Wallman, 30.

WHEREAS, the Beatrice Orangemen won the 2008 Class B Boys' State Basketball Championship; and

WHEREAS, the Orangemen defeated the Elkhorn Antlers 39-36 in the final game; and

WHEREAS, the Orangemen have won three state championships under head coach Jim Weeks and seven state championships overall; and

WHEREAS, the Legislature should recognize the athletic, academic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates the Beatrice Orangemen on winning the 2008 Class B Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Orangemen and their head coach, Jim Weeks.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 853.** Committee AM1780, found on page 530 and considered in this day's Journal, was renewed.

The committee amendment was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Senator Chambers offered the following motion:

MO141

Indefinitely postpone.

Senator Chambers withdrew his motion.

Advanced to Enrollment and Review Initial with 28 ayes, 2 nays, 16 present and not voting, and 3 excused and not voting.

### RESOLUTION

**LEGISLATIVE RESOLUTION 270.** Introduced by Synowiecki, 7.

WHEREAS, the Omaha Central Eagles won the 2008 Class A Boys' State Basketball Championship; and

WHEREAS, the Eagles defeated Bellevue East 59-58 in the final game; and

WHEREAS, this is the Eagles' third consecutive basketball championship; and

WHEREAS, Omaha Central is the first Omaha school to win three consecutive basketball championships and only the eighth team in the 98-year history of the boys' state basketball tournament to win more than two consecutive championships; and

WHEREAS, the Legislature should recognize the athletic, academic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates the Omaha Central Eagles on winning the 2008 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Eagles and their head coach, Eric Behrens.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 878.** Title read. Considered.

Committee AM2041, found on page 707, was considered.

Senator Chambers renewed his amendment, FA195, found on page 850, to the committee amendment.

### SENATOR ERDMAN PRESIDING

### SPEAKER FLOOD PRESIDING

Senator Chambers withdrew his amendment.

Pending.

### RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 252, 253, and 254 were adopted.

### SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 252, 253, and 254.

### GENERAL FILE

**LEGISLATIVE BILL 878.** Committee AM2041, found on page 707 and considered in this day's Journal, was renewed.

Senator Engel moved for a call of the house. The motion prevailed with 31 ayes, 1 nay, and 17 not voting.

Senator Engel requested a roll call vote on the committee amendment.

Voting in the affirmative, 28:

Adams	Fischer	Janssen	McGill	Rogert
Aguilar	Flood	Johnson	Nantkes	Schimek
Avery	Fulton	Karpisek	Nelson	White
Burling	Gay	Kruse	Pankonin	Wightman
Carlson	Hansen	Lathrop	Pedersen	
Engel	Harms	Lautenbaugh	Raikes	

Voting in the negative, 5:

Chambers      Howard      Louden      Stuthman      Wallman

Present and not voting, 13:

Ashford      Dierks      Hudkins      McDonald      Synowiecki  
 Christensen      Dubas      Kopplin      Pahls  
 Cornett      Erdman      Langemeier      Pirsch

Excused and not voting, 3:

Friend      Heidemann      Preister

The committee amendment was adopted with 28 ayes, 5 nays, 13 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

### AMENDMENTS - Print in Journal

Senator Christensen filed the following amendment to LB1094:

FA198

Amend AM2234

Pg. 5 line 6 after surrendered add "for the specified contract period".

Senator Karpisek filed the following amendment to LB1092:

AM2260

(Amendments to Standing Committee amendments, AM1974)

- 1 1. On page 1, line 5, after "public" insert "or private".
- 2 2. On page 3, line 24; and page 4, line 3, after
- 3 "district" insert "or the governing authority of any private,
- 4 denominational, or parochial school".

Senator Chambers filed the following amendment to LB878:

FA199

On pages 6, 7 strike subsection (4).

### BILLS ON FIRST READING

The following bills were read for the first time by title:

**LEGISLATIVE BILL 988A.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2007, LB 321, section 49; to change appropriations to aid in carrying out the

provisions of Legislative Bill 988, One Hundredth Legislature, Second Session, 2008; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 1157A.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to appropriations; to increase salary limits for the State Department of Education to aid in carrying out the provisions of Legislative Bill 1157, One Hundredth Legislature, Second Session, 2008.

#### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Wallman asked unanimous consent to add his name as cointroducer to LB920. No objections. So ordered.

#### **VISITORS**

Visitors to the Chamber were Marvin and Dixie Lorentz from McCook and Kathy Lorentz from Omaha.

The Doctor of the Day was Dr. Stuart Embury from Holdrege.

#### **ADJOURNMENT**

At 5:03 p.m., on a motion by Senator Avery, the Legislature adjourned until 9:00 a.m., Tuesday, March 11, 2008.

Patrick J. O'Donnell  
Clerk of the Legislature

