

FIFTY-SEVENTH DAY - APRIL 10, 2008

LEGISLATIVE JOURNAL

**ONE HUNDREDTH LEGISLATURE
SECOND SESSION**

FIFTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, April 10, 2008

PRAYER

The prayer was offered by Pastor Joann Kramer, St. John's Lutheran Church, Beatrice.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Langemeier presiding.

The roll was called and all members were present except Senators Ashford, Heidemann, and Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-sixth day was approved.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of April 9, 2008, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

O'Hara, Lindsay & Associates, Inc.

Guardian Healthcare Providers, Inc. and Guardian Community Living, LLC

Schmit Industries, Inc.

Moylan, James (Withdrawn 04/09/2008)

REPORTS

The following reports were received by the Legislature:

Criminal Justice, Nebraska Commission on Law Enforcement

Traffic Stops in Nebraska

Labor, Department of

Strategic Five-Year State Workforce Investment Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act for the Period of July 1, 2007 through June 30, 2009

Retirement Systems, Public Employees

State of Nebraska Public Employees Retirement System Service Report for the Year Ending December 31, 2007

MOTION - Return LB1147 to Select File

Senator Synowiecki moved to return LB1147 to Select File for his specific amendment, AM2719, found on page 1408.

The Synowiecki motion to return prevailed with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 1147. The Synowiecki specific amendment, AM2719, found on page 1408, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

MOTION - Return LB1055 to Select File

Senator Cornett moved to return LB1055 to Select File for her specific amendment, AM2623, found on page 1301.

The Cornett motion to return prevailed with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 1055. The Cornett specific amendment, AM2623, found on page 1301, was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

WITHDRAW - Amendments to LB609A

Senator Heidemann withdrew his amendments, AM2681 and AM2684, found on pages 1311 and 1334, to LB609A.

MOTION - Suspend Rules

Senator Heidemann offered the following motion to LB609A:
MO180

Suspend Rule 5, Section 7, and Rule 7, Section 3(d) to permit consideration of AM2682.

The Heidemann motion to suspend the rules prevailed with 35 ayes, 2 nays, and 12 present and not voting.

MOTION - Return LB609A to Select File

Senator Heidemann moved to return LB609A to Select File for the following specific amendment:
AM2682

(Amendments to Final Reading copy)

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

3 Section 1. Legislative Bill 959, One Hundredth
4 Legislature, Second Session, 2008, section 15, is amended to read:
5 Sec. 15. AGENCY NO. 11 -- ATTORNEY GENERAL
6 Program No. 508 - School Finance Litigation

	FY2007-08	FY2008-09
7		
8	GENERAL FUND 600,000	600,000
9	PROGRAM TOTAL 600,000	600,000
10	<u>GENERAL FUND</u> -0-	-0-
11	<u>PROGRAM TOTAL</u> -0-	-0-
12	SALARY LIMIT -0-	-0-

13 Any unexpended, unencumbered appropriations remaining on
14 June 30, 2008, shall be lapsed to the General Fund.

15 Sec. 2. Original Legislative Bill 959, One Hundredth
16 Legislature, Second Session, 2008, section 15, is repealed.

17 Sec. 3. Since an emergency exists, this act takes effect
18 when passed and approved according to law.

19 2. On page 1, strike beginning with "appropriate" in
20 line 1 through line 3 and insert "amend Legislative Bill 959, One
21 Hundredth Legislature, Second Session, 2008, section 15; to change
22 an appropriation; to repeal the original section; and to declare an
1 emergency.".

The Heidemann motion to return prevailed with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 609A. The Heidemann specific amendment, AM2682, found in this day's Journal, was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

MOTION - Suspend Rules

Senator Chambers renewed his motion, MO147, found on page 1023, to suspend Rule 5, Section 7, and Rule 7, Section 3(d) to permit consideration of AM2300 to LB280A.

SENATOR ROBERT PRESIDING**SENATOR LANGEMEIER PRESIDING**

Senator Chambers withdrew his motion to suspend the rules.

WITHDRAW - Amendment to LB280A

Senator Chambers withdrew his amendment, AM2300, found on page 932, to LB280A.

COMMITTEE REPORTS

Education

LEGISLATIVE BILL 490. Indefinitely postponed.
LEGISLATIVE BILL 614. Indefinitely postponed.
LEGISLATIVE BILL 649. Indefinitely postponed.
LEGISLATIVE BILL 655. Indefinitely postponed.
LEGISLATIVE BILL 691. Indefinitely postponed.
LEGISLATIVE BILL 873. Indefinitely postponed.
LEGISLATIVE BILL 879. Indefinitely postponed.
LEGISLATIVE BILL 886. Indefinitely postponed.
LEGISLATIVE BILL 970. Indefinitely postponed.
LEGISLATIVE BILL 976. Indefinitely postponed.
LEGISLATIVE BILL 987. Indefinitely postponed.
LEGISLATIVE BILL 990. Indefinitely postponed.
LEGISLATIVE BILL 1005. Indefinitely postponed.
LEGISLATIVE BILL 1021. Indefinitely postponed.
LEGISLATIVE BILL 1023. Indefinitely postponed.
LEGISLATIVE BILL 1083. Indefinitely postponed.
LEGISLATIVE BILL 1155. Indefinitely postponed.
LEGISLATIVE BILL 1158. Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

MESSAGE FROM THE GOVERNOR

April 10, 2008

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 1157 and 1157A were received in our office on April 7, 2008.

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

Sincerely,
(Signed) Dave Heineman
Governor

SELECT FILE

LEGISLATIVE BILL 986. ER8212, found on page 1101, was adopted.

Senator Loudon renewed his amendment, AM2522, found on page 1119.

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

Senator White raised a point of order on whether the adoption of the Loudon amendment would require a three-fifths majority vote, pursuant to Rule 6, Sec. 6(a).

The Chair ruled the point of order was not in order because it should have been raised while the amendment was still under debate, rather than following the closing by the sponsor.

The Loudon amendment lost with 3 ayes, 25 nays, 19 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Loudon asked unanimous consent to withdraw his amendment, AM2555, found on page 1121, and replace it with his substitute amendment, AM2625, found on page 1208. No objections. So ordered.

Senator Loudon withdrew his amendment, AM2625.

Senator Kopplin withdrew his amendments, AM2536 and AM2535, found

on page 1174.

Senator Preister renewed his amendment, AM2730, found on page 1384.

Senator Kopplin offered the following amendment to the Preister amendment:

AM2763

(Amendments to AM2730)

- 1 1. On page 5, strike beginning with "that" in line 3
- 2 through "percent" in line 5 and insert "the number of electronic
- 3 devices recycled as a percentage"; in line 22 strike "(2)" and
- 4 insert "(2)(a)"; and strike beginning with "the" in line 22 through
- 5 line 27 and insert "the registration fee prescribed in subsection
- 6 (1) of this section shall be reduced pursuant to subdivision (b) of
- 7 this subsection if the manufacturer or group of manufacturers has
- 8 certified to the department the percentage of electronic devices
- 9 recycled as described in subsection (2) of section 5 of this act.
- 10 (b) If the percentage certified pursuant to subsection
- 11 (2) of section 5 of this act is at least ten percent and less
- 12 than twenty percent, the manufacturer or group of manufacturers
- 13 shall receive a ten percent reduction in the registration fee.
- 14 If the percentage certified is at least twenty percent and less
- 15 than thirty percent, such reduction shall be twenty percent. If
- 16 the percentage certified is thirty percent or more, such reduction
- 17 shall be fifty percent."

The Kopplin amendment was adopted with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

The Preister amendment, as amended, was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 986A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1082. ER8237, found on page 1372, was adopted.

Senator Fulton requested a machine vote on the advancement of the bill.

Senator Cornett moved for a call of the house. The motion prevailed with 26 ayes, 3 nays, and 20 not voting.

Senator Cornett requested a roll call vote, in reverse order, on the advancement of the bill.

Voting in the affirmative, 22:

Ashford	Flood	Kopplin	Pirsch	Wallman
Avery	Friend	Kruse	Preister	White
Cornett	Howard	Lathrop	Rogert	
Dierks	Janssen	McGill	Schimek	
Dubas	Karpisek	Nantkes	Synowiecki	

Voting in the negative, 18:

Adams	Engel	Gay	Langemeier	Stuthman
Burling	Erdman	Hansen	Louden	Wightman
Carlson	Fischer	Harms	McDonald	
Christensen	Fulton	Johnson	Nelson	

Present and not voting, 5:

Aguilar	Chambers	Pahls	Pankonin	Raikes
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Excused and not voting, 4:

Heidemann	Hudkins	Lautenbaugh	Pedersen
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Failed to advance to Enrollment and Review for Engrossment with 22 ayes, 18 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 1027. ER8238, found on page 1372, was adopted.

Senator Erdman offered the following amendment:

AM2761

(Amendments to Standing Committee amendments, AM2295)

- 1 1. On page 15, strike lines 22 through 27 and insert
- 2 "(5) The credit allowed under this section shall not be
- 3 allowed to an owner of agricultural assets for a rental agreement
- 4 with a beginning farmer or livestock producer who is a relative,
- 5 as defined in section 36-702, of the owner of agricultural assets
- 6 or of a partner, member, shareholder, or trustee of the owner
- 7 of agricultural assets unless the rental agreement is included in
- 8 a written succession plan. Such succession plan shall be in the
- 9 form of a written contract or other instrument legally binding the
- 10 parties to a process and timetable for the transfer of agricultural
- 11 assets from the owner of agricultural assets to the beginning
- 12 farmer or livestock producer. The succession plan shall provide
- 13 for the transfer of assets to be completed within a period of
- 14 no longer than thirty years, except that when the asset to be
- 15 transferred is land owned by an individual, the period of transfer
- 16 may be for a period up to the date of death of the owner. The
- 17 owner of agricultural assets shall be allowed the credit provided
- 18 for qualified rental agreements under this section if the board

19 certifies the plan as providing a reasonable manner and probability
 20 of successful transfer.".

The Erdman amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1027A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 720. ER8239, found on page 1394, was adopted.

Senator Schimek withdrew her amendment, AM2716, found on page 1372.

Senator Schimek offered the following amendment:

AM2753

(Amendments to E & R amendments, ER8239)

- 1 1. On page 5, line 26, strike the second "or"; and
- 2 in line 27 after "schedules" insert ", or (d) a message from a
- 3 political subdivision as defined in section 13-903".

The Schimek amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1172. ER8240, found on page 1392, was adopted.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 1172A. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 837. Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 734. ER8241, found on page 1398, was adopted.

Senator Kopplin renewed his amendment, AM2751, found on page 1415.

Senator Kopplin withdrew his amendment.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 469. Senator Fulton renewed his amendment, AM1174, found on page 1364, First Session, 2007.

Senator Chambers offered the following motion:

MO182

Bracket until April 17, 2008.

SENATOR ROBERT PRESIDING

Senator Nantkes moved the previous question. The question is, "Shall the debate now close?"

Senator Erdman requested a ruling of the Chair on whether there had been a full and fair debate, pursuant to Rule 7, Sec. 4, on the Chambers motion.

The Chair ruled there had not been a full and fair debate on the Chambers motion.

Senator Howard moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

Senator Chambers withdrew his motion to bracket.

The Fulton amendment, AM1174, found on page 1364, First Session, 2007, and considered in this day's Journal, was renewed.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

The Fulton amendment lost with 13 ayes, 21 nays, 7 present and not voting, and 8 excused and not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 34 ayes, 1 nay, and 14 not voting.

Senator Fulton requested a record vote on the advancement of the bill.

Voting in the affirmative, 36:

Adams	Erdman	Hudkins	McGill	Synowiecki
Aguilar	Fischer	Janssen	Nantkes	Wallman
Ashford	Flood	Johnson	Pahls	White
Avery	Friend	Karpisek	Pankonin	Wightman
Carlson	Gay	Kruse	Preister	
Chambers	Hansen	Langemeier	Rogert	
Cornett	Harms	Lathrop	Schimek	
Dubas	Howard	McDonald	Stuthman	

Voting in the negative, 8:

Christensen	Engel	Kopplin	Nelson
Dierks	Fulton	Lautenbaugh	Pirsch

Present and not voting, 1:

Raikes

Excused and not voting, 4:

Burling	Heidemann	Louden	Pedersen
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Advanced to Enrollment and Review for Engrossment with 36 ayes, 8 nays, 1 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 245. Placed on Final Reading.

LEGISLATIVE BILL 245A. Placed on Final Reading.

ST9097

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

1. In the Johnson amendment, AM2741, on page 1, lines 4 and 6, "Department of" has been struck.

2. On page 1, line 3, "; and to declare an emergency" has been inserted before the period.

LEGISLATIVE BILL 308. Placed on Final Reading.

ST9098

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

1. In the Standing Committee amendments, AM2016, on page 2, subdivisions (9) and (10) have been renumbered as subdivisions (10) and (9), respectively.

LEGISLATIVE BILL 308A. Placed on Final Reading.

LEGISLATIVE BILL 745. Placed on Final Reading.

LEGISLATIVE BILL 806. Placed on Final Reading.

ST9099

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

1. On page 1, lines 2 and 3; and page 29, line 19, "28-1313, 28-1314," has been struck.

LEGISLATIVE BILL 819. Placed on Final Reading.

LEGISLATIVE BILL 830. Placed on Final Reading.

ST9096

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

1. In the Lathrop amendment, AM2729, amendments 1 and 7 have been struck and the remaining amendments renumbered accordingly.

2. In the Heidemann amendment, AM2746:

a. Section 12 has been renumbered as section 10;

b. Amendments 2 and 3 have been struck; and

c. On page 3, line 16, "section 68-901, Revised Statutes Cumulative Supplement, 2006, and" has been inserted after "Original"; and in line 20 "is" has been struck and "are" inserted.

3. In the E & R amendments, ER8221, amendment 1.a. has been struck and the remaining amendment renumbered accordingly.

4. In the Standing Committee amendments, AM2357, on page 5, line 16 has been struck.

5. On page 1, line 1, "prescriptions" has been struck and "public health and welfare" inserted; in line 2 ", and section 71-7611, Revised Statutes Supplement, 2007, as amended by section 2, Legislative Bill 480, One Hundredth Legislature, Second Session, 2008, and section 5, Legislative Bill 961, One Hundredth Legislature, Second Session, 2008" has been inserted after "2006"; in line 6 "provide an operative date;" has been struck and "change provisions relating to use of the Nebraska Health Care Cash Fund; and" inserted; and the matter beginning with "section" in line 7 through line 8 has been struck and "sections." inserted.

LEGISLATIVE BILL 830A. Placed on Final Reading.

LEGISLATIVE BILL 907. Placed on Final Reading.

LEGISLATIVE BILL 953. Placed on Final Reading.

LEGISLATIVE BILL 956. Placed on Final Reading.

LEGISLATIVE BILL 995. Placed on Final Reading.

LEGISLATIVE BILL 1022. Placed on Final Reading.

ST9104

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

1. In the E & R amendments, ER8224:

a. On page 11, line 11, "possesses" has been struck and "possess" inserted; and

b. On page 12, line 6, "layman" has been struck and "layperson" inserted.

2. On page 1, line 2, "and" has been struck; and in line 3 "; and to provide an operative date" has been inserted after "penalty".

LEGISLATIVE BILL 1153. Placed on Final Reading.

ST9100

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

1. On page 1, the matter beginning with "schools" in line 1 through line 11 and all amendments thereto have been struck and "education; to amend sections 79-1104.01 and 79-1104.02, Revised Statutes Cumulative Supplement, 2006, sections 79-1103 and 79-1104.04, Revised Statutes Supplement, 2007, and section 13, Legislative Bill 988, One Hundredth Legislature, Second Session, 2008; to provide for a certificate of attendance for students receiving special education services; to permit certain early childhood education programs to enroll certain kindergarten-age students; to change provisions relating to calculation of state aid; to change and eliminate provisions relating to early childhood education endowment funds; to provide a duty for the Revisor of Statutes; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

LEGISLATIVE BILL 1165. Placed on Final Reading.
ST9103

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

1. In the E & R amendments, ER8233, on page 6, line 22, "requirements" has been inserted after "provide"; and in line 23 "the General Fund and" has been inserted after "from".

(Signed) Amanda McGill, Chairperson

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 911. Placed on Select File with amendment.
ER8243 is available in the Bill Room.

LEGISLATIVE BILL 911A. Placed on Select File.

(Signed) Amanda McGill, Chairperson

SELECT FILE

LEGISLATIVE BILL 572. Senator Wightman offered the following motion:
MO181
Indefinitely postpone.

SENATOR LANGEMEIER PRESIDING

SENATOR ROBERT PRESIDING

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Wightman moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

The Wightman motion to indefinitely postpone failed with 19 ayes, 14 nays, 9 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

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

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

Voting in the affirmative, 22:

Adams	Flood	Karpisek	Pahls	Wallman
Aguilar	Friend	Kopplin	Pankonin	White
Avery	Howard	Kruse	Preister	
Carlson	Hudkins	Lathrop	Rogert	
Cornett	Janssen	McGill	Synowiecki	

Voting in the negative, 19:

Chambers	Fischer	Harms	Nantkes	Schimek
Dubas	Fulton	Johnson	Nelson	Stuthman
Engel	Gay	Lautenbaugh	Pirsch	Wightman
Erdman	Hansen	McDonald	Raikes	

Excused and not voting, 8:

Ashford	Christensen	Heidemann	Louden
Burling	Dierks	Langemeier	Pedersen

Failed to advance to Enrollment and Review for Engrossment with 22 ayes, 19 nays, and 8 excused and not voting.

The Chair declared the call raised.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 1072. Placed on Final Reading.

LEGISLATIVE BILL 1116. Placed on Final Reading.

ST9101

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

1. On page 1, the matter beginning with "agriculture" in line 1 through line 4 and all amendments thereto has been struck and "the Nebraska State Fair;

to amend section 2-258, Reissue Revised Statutes of Nebraska, sections 2-101, 2-101.01, 2-103, and 81-1108.33, Revised Statutes Cumulative Supplement, 2006, and sections 2-108 and 84-612, Revised Statutes Supplement, 2007; to state intent to relocate the Nebraska State Fair; to provide a fair relocation plan; to provide for future use of the Nebraska State Fairgrounds; to change membership provisions of the Nebraska State Fair Board; to create a fund; to change provisions relating to use of a tax levy; to change and eliminate provisions relating to the Nebraska State Fairgrounds; to transfer funds; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 2-104, 2-104.01, and 2-106, Revised Statutes Cumulative Supplement, 2006." inserted.

LEGISLATIVE BILL 1116A. Placed on Final Reading.

(Signed) Amanda McGill, Chairperson

VISITORS

Visitors to the Chamber were Senator Langemeier's parents, brother, and sister-in-law, Roland and Norma Langemeier, from Schuyler, and Joe and Kathey Langemeier, from Omaha; 19 fourth-grade students from Fullerton; 23 fourth-grade students from St. John's School, Lincoln; 32 fourth-grade students from Christ Lutheran Elementary, Norfolk; Tim and Jake Andersen from Omaha; 59 fourth-grade students from Central City; 24 fourth-grade students from Seymour Elementary, Ralston; 70 fifth-grade students and teachers from Swanson Elementary, Omaha; members of Boy Scouts from across the state; Mary Peterson from Bertrand; 50 eighth-grade students from Mary Our Queen School, Omaha and Senator Lathrop's daughter, Nicole Lathrop; 47 fourth-grade students from Pierce; and Kristi and Delaney Booth from Palm Coast, Florida.

The Doctor of the Day was Dr. Sandy Baumberger from Fremont.

ADJOURNMENT

At 2:18 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Tuesday, April 15, 2008.

Patrick J. O'Donnell
Clerk of the Legislature