

THIRTIETH DAY - FEBRUARY 20, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****THIRTIETH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, February 20, 2009

PRAYER

The prayer was offered by Pastor Leroy Adams Jr., Morning Star Baptist, Omaha.

ROLL CALL

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

The roll was called and all members were present except Senators Christensen and Nantkes who were excused; and Senators Ashford, Avery, Dierks, Friend, Gloor, Karpisek, and Lautenbaugh who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-ninth day was approved.

NOTICE OF COMMITTEE HEARINGS

Business and Labor

Room 2102

Monday, March 2, 2009 1:30 p.m.

LB563
LB537
LB552

(Signed) Steve Lathrop, Chairperson

Transportation and Telecommunications

Room 1113

Monday, March 2, 2009 1:30 p.m.

LB60
LB111
LB278
LB560

Tuesday, March 3, 2009 1:30 p.m.

LB200
LB368

(Signed) Deb Fischer, Chairperson

ANNOUNCEMENT

The Judiciary Committee designates LB403 as its priority bill.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 19, 2009, 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

Anderson, Lynne

League of Women Voters of Nebraska

Kissel/Erickson & Sederstrom Associates, LLC

Kaplan Higher Education in Nebraska c/o MultiState Associates, Inc.

Maddali, Anita

Mexican American Legal Defense and Educational Fund (MALDEF)

Neilan, Perre S.

Republican Party, Nebraska

Vasina, Mark A.

Nebraskans for Peace, Inc.

REPORTS

The following reports were received by the Legislature:

Auditor of Public Accounts

Statewide Single Audit for year ended June 30, 2008

Education, Department of

Report of the Nebraska State Rehabilitation Council

Energy Office, Nebraska

Nebraska Energy Office 2008 Annual Report

Nebraska Energy Statistics

Roads, Nebraska Department of

Board of Public Roads Classifications and Standards Minutes for November 2008 and January 2009

MOTIONS - Approve Appointments

Senator Pankonin moved the adoption of the Nebraska Retirement Systems Committee report for the confirmation of the following appointment(s) found on page 478:

Nebraska Investment Council

Gail Werner-Robertson

Voting in the affirmative, 38:

Adams	Flood	Howard	Nelson	Stuthman
Campbell	Fulton	Janssen	Nordquist	Sullivan
Carlson	Gay	Langemeier	Pahls	Utter
Coash	Haar	Lathrop	Pankonin	Wallman
Cook	Hadley	Louden	Pirsch	White
Cornett	Hansen	McCoy	Price	Wightman
Dubas	Harms	McGill	Rogert	
Fischer	Heidemann	Mello	Schilz	

Voting in the negative, 0.

Present and not voting, 2:

Council Giese

Excused and not voting, 9:

Ashford	Christensen	Friend	Karpisek	Nantkes
Avery	Dierks	Gloor	Lautenbaugh	

The appointment was confirmed with 38 ayes, 0 nays, 2 present and not voting, and 9 excused and not voting.

Senator Pankonin moved the adoption of the Nebraska Retirement Systems Committee report for the confirmation of the following appointment(s) found on page 478:

Public Employees Retirement Board
Janis Elliott

Voting in the affirmative, 39:

Adams	Fischer	Harms	McGill	Rogert
Campbell	Flood	Heidemann	Mello	Schilz
Carlson	Fulton	Howard	Nelson	Stuthman
Coash	Gay	Janssen	Nordquist	Utter
Cook	Giese	Langemeier	Pahls	Wallman
Cornett	Haar	Lathrop	Pankonin	White
Council	Hadley	Louden	Pirsch	Wightman
Dubas	Hansen	McCoy	Price	

Voting in the negative, 0.

Present and not voting, 1:

Sullivan

Excused and not voting, 9:

Ashford	Christensen	Friend	Karpisek	Nantkes
Avery	Dierks	Gloor	Lautenbaugh	

The appointment was confirmed with 39 ayes, 0 nays, 1 present and not voting, and 9 excused and not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 24.

A BILL FOR AN ACT relating to radiological instruments; to amend sections 71-3531, 71-3534, and 71-3535, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to replacement, repair, calibration, receipting, and forfeiture as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Adams	Fischer	Heidemann	Nelson	Sullivan
Campbell	Flood	Howard	Nordquist	Utter
Carlson	Fulton	Janssen	Pahls	Wallman
Coash	Gay	Langemeier	Pankonin	White
Cook	Giese	Lathrop	Pirsch	Wightman
Cornett	Haar	Louden	Price	
Council	Hadley	McCoy	Rogert	
Dierks	Hansen	McGill	Schilz	
Dubas	Harms	Mello	Stuthman	

Voting in the negative, 0.

Excused and not voting, 8:

Ashford	Christensen	Gloor	Lautenbaugh
Avery	Friend	Karpisek	Nantkes

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

LEGISLATIVE BILL 75. With Emergency Clause.

A BILL FOR AN ACT relating to banking and finance; to amend section 8-157.01, Reissue Revised Statutes of Nebraska; to change provisions relating to automatic teller machine usage and fees; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 40:

Adams	Fischer	Hansen	McCoy	Price
Campbell	Flood	Harms	McGill	Rogert
Carlson	Fulton	Heidemann	Mello	Schilz
Coash	Gay	Howard	Nelson	Stuthman
Cook	Giese	Janssen	Nordquist	Sullivan
Cornett	Gloor	Langemeier	Pahls	Utter
Dierks	Haar	Lathrop	Pankonin	Wallman
Dubas	Hadley	Louden	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 2:

Council	White
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Excused and not voting, 7:

Ashford	Christensen	Karpisek	Nantkes
Avery	Friend	Lautenbaugh	

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 80. With Emergency Clause.

A BILL FOR AN ACT relating to decedents' estates; to amend sections 30-3116, 30-3135, and 30-3146, Reissue Revised Statutes of Nebraska; to change provisions relating to the Uniform Principal and Income Act; to provide for applicability; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Adams	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Coash	Gay	Janssen	Nordquist	Utter
Cook	Giese	Karpisek	Pahls	Wallman
Cornett	Gloor	Langemeier	Pankonin	White
Council	Haar	Lathrop	Pirsch	Wightman
Dierks	Hadley	Louden	Price	
Dubas	Hansen	McCoy	Rogert	

Voting in the negative, 0.

Excused and not voting, 6:

Ashford	Christensen	Lautenbaugh
Avery	Friend	Nantkes

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 85.

A BILL FOR AN ACT relating to municipalities; to authorize urban growth districts and provide bond authority.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 33:

Campbell	Dubas	Hansen	Mello	Schilz
Carlson	Flood	Harms	Nelson	Sullivan
Coash	Fulton	Karpisek	Nordquist	Wallman
Cook	Gay	Langemeier	Pahls	White
Cornett	Giese	Lathrop	Pankonin	Wightman
Council	Gloor	McCoy	Price	
Dierks	Haar	McGill	Rogert	

Voting in the negative, 10:

Adams	Hadley	Howard	Louden	Stuthman
Fischer	Heidemann	Janssen	Pirsch	Utter

Excused and not voting, 6:

Ashford	Christensen	Lautenbaugh
Avery	Friend	Nantkes

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

LEGISLATIVE BILL 87. With Emergency Clause.

A BILL FOR AN ACT relating to secured transactions; to amend section 9-506, Uniform Commercial Code, Revised Statutes Cumulative Supplement, 2008; to extend existing provisions of and delay changes to the effects of errors and omissions in financing statements; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Adams	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Coash	Gay	Janssen	Nordquist	Utter
Cook	Giese	Karpisek	Pahls	Wallman
Cornett	Gloor	Langemeier	Pankonin	White
Council	Haar	Lathrop	Pirsch	Wightman
Dierks	Hadley	Louden	Price	
Dubas	Hansen	McCoy	Rogert	

Voting in the negative, 0.

Excused and not voting, 6:

Ashford	Christensen	Lautenbaugh
Avery	Friend	Nantkes

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 99. With Emergency Clause.

A BILL FOR AN ACT relating to agriculture; to amend section 54-744, Reissue Revised Statutes of Nebraska; to adopt the Anthrax Control Act; to provide penalties; to eliminate anthrax provisions and penalties; to harmonize provisions; to repeal the original section; to outright repeal sections 54-754, 54-755, 54-756, 54-757, 54-758, 54-759, 54-760, 54-761, 54-762, and 54-763, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 42:

Adams	Flood	Heidemann	Mello	Stuthman
Campbell	Fulton	Howard	Nelson	Sullivan
Carlson	Gay	Janssen	Nordquist	Utter
Coash	Giese	Karpisek	Pahls	Wallman
Cook	Gloor	Langemeier	Pankonin	White
Cornett	Haar	Lathrop	Pirsch	Wightman
Council	Hadley	Louden	Price	
Dubas	Hansen	McCoy	Rogert	
Fischer	Harms	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 1:

Dierks

Excused and not voting, 6:

Ashford	Christensen	Lautenbaugh
Avery	Friend	Nantkes

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB100 with 39 ayes, 0 nays, 4 present and not voting, and 6 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 100.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-2629, 2-2636, 2-2638, 2-2639, 2-2641, 2-2645, and 2-2646, Reissue Revised Statutes of Nebraska; to change provisions of the Pesticide Act; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 43:

Adams	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Coash	Gay	Janssen	Nordquist	Utter
Cook	Giese	Karpisek	Pahls	Wallman
Cornett	Gloor	Langemeier	Pankonin	White
Council	Haar	Lathrop	Pirsch	Wightman
Dierks	Hadley	Louden	Price	
Dubas	Hansen	McCoy	Rogert	

Voting in the negative, 0.

Excused and not voting, 6:

Ashford	Christensen	Lautenbaugh
Avery	Friend	Nantkes

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 101. With Emergency Clause.

A BILL FOR AN ACT relating to agriculture; to amend section 2-4801, Reissue Revised Statutes of Nebraska; to eliminate the Farm Mediation Act termination date; to harmonize provisions; to repeal the original section; to outright repeal section 2-4816, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 44:

Adams	Dubas	Hansen	McCoy	Rogert
Ashford	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Coash	Gay	Janssen	Nordquist	Utter
Cook	Giese	Karpisek	Pahls	Wallman
Cornett	Gloor	Langemeier	Pankonin	White
Council	Haar	Lathrop	Pirsch	Wightman
Dierks	Hadley	Louden	Price	

Voting in the negative, 0.

Excused and not voting, 5:

Avery	Christensen	Friend	Lautenbaugh	Nantkes
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB123 with 42 ayes, 0 nays, 2 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 123.

A BILL FOR AN ACT relating to the Uniform Controlled Substances Act; to amend section 28-405, Reissue Revised Statutes of Nebraska; to regulate Salvia divinorum or Salvinorin A; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 44:

Adams	Dubas	Hansen	McCoy	Rogert
Ashford	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Coash	Gay	Janssen	Nordquist	Utter
Cook	Giese	Karpisek	Pahls	Wallman
Cornett	Gloor	Langemeier	Pankonin	White
Council	Haar	Lathrop	Pirsch	Wightman
Dierks	Hadley	Louden	Price	

Voting in the negative, 0.

Excused and not voting, 5:

Avery Christensen Friend Lautenbaugh Nantkes

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

ANNOUNCEMENT

The Chair announced February 21 is Senator Utter's birthday.

BILLS ON FINAL READING

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB166 with 41 ayes, 0 nays, 3 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 166. With Emergency Clause.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 13-509, 77-680, 77-1371, 77-3523, and 79-1016, Reissue Revised Statutes of Nebraska, and sections 13-508, 72-258.03, 77-201, 77-421, 77-801, 77-1327, 77-1343, 77-1344, 77-1345.01, 77-1355, 77-1501, 77-1502, 77-1507.01, 77-1775, 77-5022, and 77-5023, Revised Statutes Cumulative Supplement, 2008; to change and eliminate provisions relating to property tax; to harmonize provisions; to repeal the original sections; to outright repeal section 77-1348, Revised Statutes Cumulative Supplement, 2008; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 44:

Adams	Dubas	Hansen	McCoy	Rogert
Ashford	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Coash	Gay	Janssen	Nordquist	Utter
Cook	Giese	Karpisek	Pahls	Wallman
Cornett	Gloor	Langemeier	Pankonin	White
Council	Haar	Lathrop	Pirsch	Wightman
Dierks	Hadley	Louden	Price	

Voting in the negative, 0.

Excused and not voting, 5:

Avery	Christensen	Friend	Lautenbaugh	Nantkes
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 189.

A BILL FOR AN ACT relating to the Compulsive Gamblers Assistance Fund; to amend sections 71-816 and 71-817, Revised Statutes Cumulative Supplement, 2008; to change terminology relating to problem gambling services; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Adams	Dubas	Hansen	McCoy	Rogert
Ashford	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Coash	Gay	Janssen	Nordquist	Utter
Cook	Giese	Karpisek	Pahls	Wallman
Cornett	Gloor	Langemeier	Pankonin	White
Council	Haar	Lathrop	Pirsch	Wightman
Dierks	Hadley	Louden	Price	

Voting in the negative, 0.

Excused and not voting, 5:

Avery Christensen Friend Lautenbaugh Nantkes

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB192 with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 192.

A BILL FOR AN ACT relating to insurance; to amend sections 12-1116, 44-4065, 44-5223, 44-5225, 44-5260, 44-5904, and 44-5905, Reissue Revised Statutes of Nebraska, and sections 44-1988 and 44-5103, Revised Statutes Cumulative Supplement, 2008; to provide powers for the Director of Insurance under the Burial Pre-Need Sale Act; to change and eliminate provisions relating to reserves under the Title Insurers Act; to provide and change reporting requirements under the Insurance Producers Licensing Act; to change provisions relating to health benefit plans under the Small Employer Health Insurance Availability Act; to change examination and record retention requirements under the Insurers Examination Act; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 44:

Adams	Dubas	Hansen	McCoy	Rogert
Ashford	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Coash	Gay	Janssen	Nordquist	Utter
Cook	Giese	Karpisek	Pahls	Wallman
Cornett	Gloor	Langemeier	Pankonin	White
Council	Haar	Lathrop	Pirsch	Wightman
Dierks	Hadley	Louden	Price	

Voting in the negative, 0.

Excused and not voting, 5:

Avery Christensen Friend Lautenbaugh Nantkes

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

The following bill was read and put upon final passage:

LEGISLATIVE BILL 251. With Emergency Clause.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 49-801.01, Revised Statutes Cumulative Supplement, 2008; to update references to the Internal Revenue Code of 1986; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 42:

Adams	Fischer	Harms	McGill	Schilz
Ashford	Flood	Heidemann	Mello	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Coash	Gay	Janssen	Nordquist	Utter
Cook	Giese	Karpisek	Pahls	Wallman
Cornett	Gloor	Langemeier	Pankonin	White
Council	Haar	Lathrop	Pirsch	
Dierks	Hadley	Louden	Price	
Dubas	Hansen	McCoy	Rogert	

Voting in the negative, 0.

Present and not voting, 2:

Campbell Wightman

Excused and not voting, 5:

Avery Christensen Friend Lautenbaugh Nantkes

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LB120 to Select File

Senator Wightman moved to return LB120 to Select File for his specific amendment, AM380, found on page 489.

The Wightman motion to return prevailed with 44 ayes, 0 nays, 1 present and not voting, and 4 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 120. The Wightman specific amendment, AM380, found on page 489, was adopted with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

COMMITTEE REPORTS

Education

LEGISLATIVE BILL 72. Placed on General File with amendment. AM366

1 1. On page 2, line 5, after "students" insert "or
2 children"; in line 15 after "personnel" insert "and personnel
3 of educational services units who work in approved or accredited
4 schools or approved early childhood education programs"; and in
5 line 24 after the second "school" insert ", educational service
6 unit".

7 2. On page 3, line 18, after the second "school" insert
8 ", educational service unit".

9 3. On page 4, lines 14 and 16, after "school" insert ",
10 educational service unit"; in line 24 after the semicolon insert
11 "and"; and strike line 25.

12 4. On page 5, strike line 1; in line 2 strike "(e)" and
13 insert "(d)"; and in line 19 after "school" insert ", educational
14 service unit".

15 5. On page 6, line 3, after the period insert "A school
16 or early childhood education program shall be immune from civil
17 liability for injuries or death arising from a student's or child's
18 allergic condition if the school or early childhood education
19 program acted in good faith in managing such student's or child's
20 allergic condition in accordance with the policy adopted by the
21 school or early childhood education program pursuant to this
22 section. School, educational service unit, and early childhood
23 education program personnel and agents of a school or an early
1 childhood education program shall be immune from civil liability
2 for any act or omission in rendering emergency care to a student or
3 child experiencing an allergic reaction event pursuant to section
4 25-21,280. Schools and early childhood education programs shall
5 annually provide parents and guardians with written notice of the
6 immunity provided in this section".

LEGISLATIVE BILL 479. Indefinitely postponed.

LEGISLATIVE BILL 578. Indefinitely postponed.

(Signed) Greg Adams, Chairperson

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 24, 75, 80, 85, 87, 99, 100, 101, 123, 166, 189, 192, and 251.

GENERAL FILE

LEGISLATIVE BILL 165. Committee AM121, found on page 343 and considered on page 492, was renewed.

SENATOR ROBERT PRESIDING

The committee amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 83. Senator McGill withdrew her amendment AM326, found on page 457.

Committee AM96, found on page 356 and considered on page 457, was renewed.

The committee amendment lost with 0 ayes, 31 nays, 15 present and not voting, and 3 excused and not voting.

Senator McGill offered the following amendment:

FA14

Strike "domestic animal" on page 2, line 23 and insert in its place "household pet".

Pending.

NOTICE OF COMMITTEE HEARINGS

Natural Resources

Room 1525

Friday, February 27, 2009 1:30 p.m.

Robert Krohn - Nebraska Environmental Trust Board

Thursday, March 5, 2009 1:00 p.m.

Barbara Batie - Nebraska Environmental Trust Board

Rodney Christen - Nebraska Environmental Trust Board

(Signed) Chris Langemeier, Chairperson

Health and Human Services

Room 1510

Friday, February 27, 2009 1:00 p.m.

Luana Duennerman - Commission for the Deaf and Hard of Hearing
Jan Moore - Commission for the Deaf and Hard of Hearing
Carol Jenkins - Commission for the Blind and Visually Impaired
Steven Manning - Commission for the Deaf and Hard of Hearing
Theresa Hatcher - Board of Emergency Medical Services
Clifford Carlson - Commission for the Deaf and Hard of Hearing

LB223
LB446
LB452
LB604

(Signed) Tim Gay, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 30. Introduced by Schilz, 47.

WHEREAS, Michael J. Thalken, of Troop 258 in Ogallala, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest rank in scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks of Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle Scout. Throughout his scouting experience, Michael has learned, been tested on, and been recognized for various scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Michael, through his hard work and perseverance, will join other high achievers who are Eagle Scouts, such as astronauts, political and industry leaders, artists, scientists, and athletes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Michael J. Thalken on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Michael J. Thalken.

Laid over.

AMENDMENT - Print in Journal

Senator Stuthman filed the following amendment to LB151:
AM300 is available in the Bill Room.

PRESENTED TO THE GOVERNOR

Presented to the Governor on February 20, 2009, at 10:20 a.m. were the following: LBs 24, 75e, 80e, 85, 87e, 99e, 100, 101e, 123, 166e, 189, 192, and 251e.

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

GENERAL FILE

LEGISLATIVE BILL 83. The McGill amendment, FA14, found in this day's Journal, was renewed.

Senator McGill withdrew her amendment.

Senator Stuthman offered the following amendment:
AM419

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 42-924, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 42-924 (1) Any victim of domestic abuse may file a
- 6 petition and affidavit for a protection order as provided in
- 7 subsection (2) of this section. Upon the filing of such a petition
- 8 and affidavit in support thereof, the judge or court may issue a
- 9 protection order without bond granting the following relief:
- 10 (a) Enjoining the respondent from imposing any restraint
- 11 upon the petitioner or upon the liberty of the petitioner;
- 12 (b) Enjoining the respondent from threatening,
- 13 assaulting, molesting, attacking, or otherwise disturbing the peace
- 14 of the petitioner;
- 15 (c) Enjoining the respondent from telephoning,
- 16 contacting, or otherwise communicating with the petitioner;
- 17 (d) Removing and excluding the respondent from the
- 18 residence of the petitioner, regardless of the ownership of the
- 19 residence;
- 20 (e) Ordering the respondent to stay away from any place

21 specified by the court;

22 (f) Awarding the petitioner temporary custody of any
23 minor children not to exceed ninety days;~~or~~

1 (g) Directing the care, custody, or control of any
2 household pet owned, possessed, leased, kept, or held by either
3 party or a minor child residing in the household;

4 (h) Enjoining the respondent from harming or killing,
5 without justification, any household pet owned, possessed, leased,
6 kept, or held by the petitioner or a minor child residing in the
7 household; or

8 ~~(g)-(i)~~ (i) Ordering such other relief deemed necessary to
9 provide for the safety and welfare of the petitioner and any
10 designated family or household member or any household pet that is
11 owned, possessed, leased, kept, or held by the petitioner or any
12 such family or household member.

13 (2) Petitions for protection orders shall be filed with
14 the clerk of the district court, and the proceeding may be heard
15 by the county court or the district court as provided in section
16 25-2740.

17 (3) A petition filed pursuant to subsection (1) of this
18 section may not be withdrawn except upon order of the court. An
19 order issued pursuant to subsection (1) of this section shall
20 specify that it is effective for a period of one year and, if
21 the order grants temporary custody, the number of days of custody
22 granted to the petitioner unless otherwise modified by the court.
23 Any person who knowingly violates an order issued pursuant to
24 subsection (1) of this section or section 42-931 after service
25 shall be guilty of a Class II misdemeanor, except that (a) any
26 person convicted of violating such order who has a prior conviction
27 for violating a protection order shall be guilty of a Class I
1 misdemeanor and (b) any person convicted of violating such order
2 who has a prior conviction for violating the same protection order
3 or a protection order granted to the same petitioner shall be
4 guilty of a Class IV felony.

5 (4) If there is any conflict between sections 42-924 to
6 42-926 and any other provision of law, sections 42-924 to 42-926
7 shall govern.

8 Sec. 2. Original section 42-924, Reissue Revised Statutes
9 of Nebraska, is repealed.

The Stuthman amendment was adopted with 28 ayes, 1 nay, 11 present and not voting, and 9 excused and not voting.

Senator McGill moved for a call of the house. The motion prevailed with 37 ayes, 0 nays, and 12 not voting.

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

Voting in the affirmative, 24:

Ashford	Council	Haar	Mello	Stuthman
Avery	Dubas	Harms	Nordquist	Sullivan
Coash	Flood	Howard	Pahls	Wallman
Cook	Giese	Lathrop	Pirsch	White
Cornett	Gloor	McGill	Rogert	

Voting in the negative, 18:

Adams	Hadley	Langemeier	Nelson	Utter
Campbell	Hansen	Lautenbaugh	Pankonin	Wightman
Carlson	Janssen	Louden	Price	
Fischer	Karpisek	McCoy	Schilz	

Excused and not voting, 7:

Christensen	Friend	Gay	Nantkes
Dierks	Fulton	Heidemann	

Failed to advance to Enrollment and Review Initial with 24 ayes, 18 nays, and 7 excused and not voting.

The Chair declared the call raised.

COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 254. Placed on General File.

LEGISLATIVE BILL 677. Indefinitely postponed.

(Signed) Tom Carlson, Chairperson

Judiciary

LEGISLATIVE BILL 403. Placed on General File with amendment.
AM413

1 1. Strike the original sections and insert the following
2 sections:
3 Section 1. (1) Notwithstanding any other provisions of
4 law, unless exempted from verification under section 3 of this
5 act or pursuant to federal law, no state agency or political
6 subdivision of the State of Nebraska shall provide public benefits
7 to a person not lawfully present in the United States.
8 (2) Except as provided in section 3 of this act or if
9 exempted by federal law, every agency or political subdivision of
10 the State of Nebraska shall verify the lawful presence in the
11 United States of any person who has applied for public benefits
12 administered by an agency or a political subdivision of the State

13 of Nebraska. This section shall be enforced without regard to race,
14 religion, gender, ethnicity, or national origin.

15 Sec. 2. For purposes of sections 1 to 6 of this act,
16 public benefits means any grant, contract, loan, professional
17 license, commercial license, retirement benefit, welfare benefit,
18 health benefit, disability benefit, public or assisted housing
19 benefit, postsecondary education benefit, food assistance benefit,
20 or unemployment benefit or any other similar benefit provided by or
21 for which payments or assistance are provided to an individual, a
22 household, or a family eligibility unit by an agency of the United
23 States, the State of Nebraska, or a political subdivision of the
1 State of Nebraska.

2 Sec. 3. Verification of lawful presence in the United
3 States pursuant to section 1 of this act is not required for:

4 (1) Any purpose for which lawful presence in the United
5 States is not restricted by law, ordinance, or regulation;

6 (2) Assistance for health care services and products,
7 not related to an organ transplant procedure, that are necessary
8 for the treatment of an emergency medical condition, including
9 emergency labor and delivery, manifesting itself by acute symptoms
10 of sufficient severity, including severe pain, such that the
11 absence of immediate medical attention could reasonably be expected
12 to result in (a) placing the patient's health in serious jeopardy,

13 (b) serious impairment to bodily functions, or (c) serious
14 dysfunction of any bodily organ or part;

15 (3) Short-term, noncash, in-kind emergency disaster
16 relief;

17 (4) Public health assistance for immunizations with
18 respect to diseases and for testing and treatment of symptoms
19 of communicable diseases, whether or not such symptoms are caused
20 by a communicable disease; or

21 (5) Programs, services, or assistance necessary for the
22 protection of life or safety, such as soup kitchens, crisis
23 counseling and intervention, and short-term shelter, which (a)
24 deliver in-kind services at the community level, including those
25 which deliver such services through public or private, nonprofit
26 agencies and (b) do not condition the provision of assistance, the
27 amount of assistance provided, or the cost of assistance provided
1 on the income or resources of the recipient.

2 Sec. 4. Verification of lawful presence in the United
3 States pursuant to section 1 of this act requires that the
4 applicant for public benefits execute a document, on a form
5 prescribed by the Department of Administrative Services attesting
6 that:

7 (1) He or she is a United States citizen; or

8 (2) He or she is a qualified alien under the federal
9 Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act
10 existed on January 1, 2009, and is lawfully present in the United
11 States.

12 A state agency or political subdivision of the State
13 of Nebraska may adopt and promulgate rules and regulations or
14 procedures for the electronic filing and execution of the document
15 required under this section if such document is substantially
16 similar to the document form prescribed by the Department of
17 Administrative Services.

18 Sec. 5. For any applicant who has executed a document
19 described in subdivision (2) of section 4 of this act, eligibility
20 for public benefits shall be verified through the Systematic Alien
21 Verification for Entitlements Program operated by the United States
22 Department of Homeland Security or an equivalent program designated
23 by the United States Department of Homeland Security. Until such
24 verification of eligibility is made, such document may be presumed
25 to be proof of lawful presence for purposes of sections 1 to 6 of
26 this act unless such verification is required before providing the
27 public benefit under another provision of state or federal law.

1 Sec. 6. Each state agency which administers any program
2 of public benefits shall provide an annual report not later than
3 January 31 for the prior year to the Governor and the Clerk of the
4 Legislature with respect to compliance with sections 1 to 6 of this
5 act. The report shall include, but not be limited to, the total
6 number of applicants for benefits and the number of applicants
7 rejected pursuant to such sections.

8 Sec. 7. (1) For purposes of this section:

9 (a) Public employer means any agency or political
10 subdivision of the State of Nebraska;

11 (b) Federal immigration verification system means the
12 electronic verification of the work authorization program of
13 the Illegal Immigration Reform and Immigration Responsibility
14 Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program,
15 or an equivalent federal program designated by the United States
16 Department of Homeland Security or other federal agency authorized
17 to verify the work eligibility status of a newly hired employee
18 pursuant to the Immigration Reform and Control Act of 1986; and

19 (c) Public contractor means any contractor and his or
20 her subcontractors who are a party to a contract with a public
21 employer.

22 (2) Every public employer and public contractor shall
23 register with and use a federal immigration verification system
24 to determine the work eligibility status of new employees. Every
25 contract between a public employer and public contractor shall
26 contain a provision requiring the public contractor to use a
27 federal immigration verification system to determine the work
1 eligibility status of new employees.

2 (3) For two years after the operative date of this
3 act, the Department of Labor shall make available to all
4 private employers information regarding the federal immigration
5 verification system and encouraging the use of the federal
6 immigration verification system. The department shall report to the

7 Legislature no later than December 1, 2011, on the use of a federal
8 immigration verification system by Nebraska employers.

9 Sec. 8. Section 77-27,187, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 77-27,187 Sections 77-27,187 to 77-27,195 and section 9
12 of this act shall be known and may be cited as the Nebraska
13 Advantage Rural Development Act.

14 Sec. 9. (1) The Tax Commissioner shall not approve
15 or grant to any person any tax incentive under the Nebraska
16 Advantage Rural Development Act unless the taxpayer provides
17 evidence satisfactory to the Tax Commissioner that the taxpayer
18 electronically verified the work eligibility status of all newly
19 hired employees employed in Nebraska.

20 (2) For purposes of calculating any tax incentive
21 available under the act, the Tax Commissioner shall exclude hours
22 worked and compensation paid to an employee that is not eligible to
23 work in Nebraska as verified under subsection (1) of this section.

24 (3) This section does not apply to any application filed
25 under the act prior to the operative date of this act.

26 Sec. 10. Section 77-5701, Revised Statutes Cumulative
27 Supplement, 2008, is amended to read:

1 77-5701 Sections 77-5701 to 77-5735 and section 11 of
2 this act shall be known and may be cited as the Nebraska Advantage
3 Act.

4 Sec. 11. (1) The Tax Commissioner shall not approve or
5 grant to any person any tax incentive under the Nebraska Advantage
6 Act unless the taxpayer provides evidence satisfactory to the
7 Tax Commissioner that the taxpayer electronically verified the
8 work eligibility status of all newly hired employees employed in
9 Nebraska.

10 (2) For purposes of calculating any tax incentive under
11 the act, the Tax Commissioner shall exclude hours worked and
12 compensation paid to an employee that is not eligible to work in
13 Nebraska as verified under subsection (1) of this section.

14 (3) This section does not apply to any application filed
15 under the Nebraska Advantage Act prior to the operative date of
16 this act.

17 Sec. 12. Section 77-5801, Revised Statutes Cumulative
18 Supplement, 2008, is amended to read:

19 77-5801 Sections 77-5801 to 77-5807 and section 13 of
20 this act shall be known and may be cited as the Nebraska Advantage
21 Research and Development Act.

22 Sec. 13. The Tax Commissioner shall not approve or
23 grant to any person any tax incentive under the Nebraska
24 Advantage Research and Development Act unless the taxpayer provides
25 evidence satisfactory to the Tax Commissioner that the taxpayer
26 electronically verified the work eligibility status of all newly
27 hired employees employed in Nebraska. This section does not apply
1 to any credit claimed in a tax year beginning or deemed to begin

2 before January 1, 2009, under the Internal Revenue Code of 1986,
 3 as amended.
 4 Sec. 14. Section 77-5901, Revised Statutes Cumulative
 5 Supplement, 2008, is amended to read:
 6 77-5901 Sections 77-5901 to 77-5907 and section 15 of
 7 this act shall be known and may be cited as the Nebraska Advantage
 8 Microenterprise Tax Credit Act.
 9 Sec. 15. (1) The Tax Commissioner shall not approve
 10 or grant to any person any tax incentive under the Nebraska
 11 Advantage Microenterprise Tax Credit Act unless the taxpayer
 12 provides evidence satisfactory to the Tax Commissioner that the
 13 taxpayer electronically verified the work eligibility status of all
 14 newly hired employees employed in Nebraska.
 15 (2) For purposes of calculating any tax incentive
 16 available under the act, the Tax Commissioner shall exclude the
 17 hours worked and compensation paid to an employee that is not
 18 eligible to work in Nebraska as verified under subsection (1) of
 19 this section.
 20 (3) This section does not apply to any application filed
 21 under the act prior to the operative date of this act.
 22 Sec. 16. This act becomes operative on October 1, 2009.
 23 Sec. 17. Original sections 77-27,187, 77-5701, 77-5801,
 24 and 77-5901, Revised Statutes Cumulative Supplement, 2008, are
 25 repealed.

(Signed) Brad Ashford, Chairperson

NOTICE OF COMMITTEE HEARING

Judiciary

Room 1113

Friday, February 27, 2009 1:30 p.m.

LB374
 LB375
 LB351
 LB442

(Signed) Brad Ashford, Chairperson

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 5. Placed on Final Reading.
LEGISLATIVE BILL 28. Placed on Final Reading.
LEGISLATIVE BILL 48. Placed on Final Reading.

LEGISLATIVE BILL 53. Placed on Final Reading.

ST9008

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

1. On page 5, line 15, the second "of" has been struck and "or" inserted.

LEGISLATIVE BILL 204. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

GENERAL FILE

LEGISLATIVE BILL 89. Title read. Considered.

Committee AM92, found on page 365, was considered.

Pending.

COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 307. Placed on General File.

(Signed) Brad Ashford, Chairperson

VISITORS

Visitors to the Chamber were Chris Kolster from Omaha; and Gene and Nancy Norton from Elgin and Elizabeth Norton from Newport, Oregon.

The Doctor of the Day was Dr. Kalpana P. Padala from Omaha.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Pankonin, the Legislature adjourned until 10:00 a.m., Monday, February 23, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

