

THIRTY-SEVENTH DAY - MARCH 3, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****THIRTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 3, 2009

PRAYER

The prayer was offered by Sister Kevin Hermsen, Missionary Benedictine Sisters, Norfolk.

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 Sullivan and White who were excused; and Senators Cook, Dubas, Heidemann, and Langemeier who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-sixth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 52. Placed on Final Reading.

LEGISLATIVE BILL 89. Placed on Final Reading.

LEGISLATIVE BILL 90. Placed on Final Reading.

LEGISLATIVE BILL 142. Placed on Final Reading.

LEGISLATIVE BILL 151. Placed on Final Reading.

ST9011

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

1. On page 1, the matter beginning with "eliminate" in line 3 through "prescribed" in line 4 has been struck and "harmonize drug names with federal regulations; to change and eliminate provisions relating to food and drug products containing ephedrine or pseudoephedrine" inserted; in line 5 "and" has been struck; and in line 7 "; and to declare an emergency" has been inserted after "Nebraska".

2. In the Stuthman amendment, AM300, on page 3, line 17, an underscored comma has been inserted after "PEPAP".

LEGISLATIVE BILL 167. Placed on Final Reading.

LEGISLATIVE BILL 231. Placed on Final Reading.

LEGISLATIVE BILL 379. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

ANNOUNCEMENT

Senator Dubas designates LB356 as her priority bill.

COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 94. Placed on General File with amendment. AM555

1 1. Insert the following new sections:

2 Section 1. Section 77-3501, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-3501 For purposes of sections 77-3501 to 77-3529
5 and sections 2 and 7 of this act, unless the context otherwise
6 requires, the definitions found in sections 77-3501.01 to
7 77-3505.04 and section 2 of this act shall be used.

8 Sec. 2. Medical condition means a disease, physical
9 ailment, or injury requiring inpatient care in a hospital, hospice,
10 or residential care facility or involving any period of incapacity
11 due to a condition for which treatment may not be effective.

12 Sec. 7. (1) A late application or certification filed
13 pursuant to section 77-3512, 77-3513, or 77-3514 because of a
14 medical condition which impaired the claimant's ability to apply
15 or certify in a timely manner shall only be for the current tax
16 year. The late application or certification shall be filed with the
17 county assessor on or before the date on which the first half of
18 the real estate taxes levied on the property for the current year
19 become delinquent.

20 (2) The application or certification shall include
21 certification of the medical condition affecting the filing from
22 a physician, physician assistant, or advanced practice registered
23 nurse. The medical certification shall be made on forms prescribed
1 by the Tax Commissioner.

2 (3) The county assessor shall approve or reject the
3 late filing within thirty days of receipt of the late filing.
4 If approved, the county assessor shall mark it approved and sign
5 the application or certification. In case he or she finds that
6 the exemption should not be allowed by reason of not being in
7 conformity to law, the county assessor shall mark the application
8 or certification as rejected and state the reason for rejection and

9 sign the application or certification. In any case when the county
 10 assessor rejects an exemption, he or she shall notify the applicant
 11 of such action by mailing written notice to the applicant at the
 12 address shown in the application or certification. The notice shall
 13 be on forms prescribed by the Tax Commissioner. In any case when
 14 the county assessor rejects an exemption, such applicant may obtain
 15 a hearing before the county board of equalization in the manner
 16 described by section 77-3519.

17 2. On page 2, line 14; and page 3, line 12, after
 18 "application" insert "pursuant to section 7 of this act".

19 3. On page 4, line 13, after "late" insert "pursuant to
 20 section 7 of this act".

21 4. On page 7, line 6, strike "77-3512" and insert
 22 "77-3501, 77-3512,".

23 5. Renumber the remaining sections accordingly.

(Signed) Abbie Cornett, Chairperson

Judiciary

LEGISLATIVE BILL 63. Placed on General File with amendment.
 AM212 is available in the Bill Room.

LEGISLATIVE BILL 144. Indefinitely postponed.

LEGISLATIVE BILL 277. Indefinitely postponed.

LEGISLATIVE BILL 345. Indefinitely postponed.

LEGISLATIVE BILL 472. Indefinitely postponed.

(Signed) Brad Ashford, Chairperson

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR31 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR31.

BILL ON FIRST READING

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

LEGISLATIVE BILL 681. Introduced by Flood, 19; Carlson, 38; Christensen, 44; Cornett, 45; Langemeier, 23; at the request of the Governor.

A BILL FOR AN ACT relating to revenue and taxation; to provide for refund of unconstitutional taxes, assessments, and penalties; and to declare an emergency.

GENERAL FILE

LEGISLATIVE BILL 260. Senator Rogert renewed his amendment, AM545, found on page 617 and considered on page 622, to the committee amendment.

SENATOR CARLSON PRESIDING

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

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

The motion to cease debate prevailed with 26 ayes, 5 nays, 13 present and not voting, and 5 excused and not voting.

The Rogert amendment was adopted with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Pending.

COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 241. Placed on General File with amendment. AM428

- 1 1. Strike section 8 and insert the following new section:
- 2 Sec. 8. Section 54-632, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 54-632 (1) Any notice or order provided for in the
- 5 Commercial Dog and Cat Operator Inspection Act shall be properly
- 6 served when it is personally served on the licensee or violator
- 7 or on the person authorized by the licensee to receive notices
- 8 and orders of the department or when it is sent by certified
- 9 or registered mail, return receipt requested, to the last-known
- 10 address of the licensee or violator or the person authorized by the
- 11 licensee to receive such notices and orders. A copy of the notice
- 12 and the order shall be filed in the records of the department.
- 13 (2) A notice to comply with the conditions set out in the
- 14 order of the director provided in section 54-631 shall set forth
- 15 the acts or omissions with which the licensee is charged.
- 16 (3) A notice of the licensee's right to a hearing
- 17 provided for in sections 54-630 and 54-631 shall set forth the time
- 18 and place of the hearing except as otherwise provided in section
- 19 54-631. A notice of the licensee's right to such hearing shall

20 include notice that such right to a hearing may be waived pursuant
 21 to subsection ~~(5)~~(6) of this section. A notice of the licensee's
 22 right to a hearing shall include notice to the licensee that the
 23 license may be subject to sanctions as provided in section 54-631.

1 (4) A request for a hearing under subsection (2) of
 2 section 6 of this act shall request that the director set forth
 3 the time and place of the hearing. The director shall consider the
 4 interests of the violator in establishing the time and place of the
 5 hearing. Within three business days after receipt by the director
 6 of the hearing request, the director shall set forth the time and
 7 place of the hearing on the stop-movement order. A notice of the
 8 violator's right to such hearing shall include notice that such
 9 right to a hearing may be waived pursuant to subsection (6) of this
 10 section.

11 ~~(4)~~(5) The hearings provided for in the act shall
 12 be conducted by the director at the time and place he or she
 13 designates. The director shall make a final finding based on the
 14 complete hearing record and issue an order. If the director has
 15 suspended a license pursuant to subsection (4) of section 54-631,
 16 the director shall sustain, modify, or rescind the order after the
 17 hearing. If the department has issued a stop-movement order under
 18 section 6 of this act, the director may sustain, modify, or rescind
 19 the order after the hearing. All hearings shall be in accordance
 20 with the Administrative Procedure Act.

21 ~~(5)~~(6) A licensee or violator waives the right to a
 22 hearing if such licensee or violator does not attend the hearing at
 23 the time and place set forth in the notice described in subsection
 24 (3) or (4) of this section, without requesting that the director,
 25 at least two days before the designated time, ~~to~~ change the time
 26 and place for the hearing, except that before an order of the
 27 director becomes final, the director may designate a different time
 1 and place for the hearing if the licensee or violator shows the
 2 director that the licensee or violator had a justifiable reason for
 3 not attending the hearing and not timely requesting a change of
 4 the time and place for such hearing. If the licensee or violator
 5 waives the right to a hearing, the director shall make a final
 6 finding based upon the available information and issue an order.
 7 If the director has suspended a license pursuant to subsection (4)
 8 of section 54-631, the director may sustain, modify, or rescind
 9 the order after the hearing. If the department has issued a
 10 stop-movement order under section 6 of this act, the director may
 11 sustain, modify, or rescind the order after the hearing.

12 ~~(6)~~(7) Any person aggrieved by the finding of the
 13 director has ten days after the entry of the director's order to
 14 request a new hearing if such person can show that a mistake of
 15 fact has been made which affected the director's determination. Any
 16 order of the director becomes final upon the expiration of ten days
 17 after its entry if no request for a new hearing is made.

18 2. On page 2, line 3, strike "4, 6, and 8" and insert "4

19 and 6".

20 3. On page 3, line 18, after "person" insert "engaged in
21 the business of breeding dogs or cats".

22 4. On page 11, line 24, after "request" insert "in
23 writing"; and in line 25 before the period insert "within two
24 business days after receiving the order" and after the period
25 insert "The order issued pursuant to this section shall be final
26 unless modified or rescinded by the director pursuant to section
27 54-632 at a hearing requested under this subsection.".

1 5. On page 13, line 24, strike "from" and insert "after";
2 and in line 25 strike "resulting" and insert "that resulted".

3 6. On page 14, line 4, before the period insert "pursuant
4 to any findings under this subsection".

5 7. Correct the repealer accordingly.

LEGISLATIVE BILL 389. Placed on General File with amendment.
AM355

1 1. On page 2, line 7, reinstate the stricken matter; in
2 line 8 strike "and" and show as stricken; in line 9 strike the
3 second "and", show as stricken, and insert ", and the"; in line
4 10 after "Nebraska" insert an underscored period; strike beginning
5 with the first comma in line 10 through the period in line 12,
6 show as stricken, and insert "The Director of Agriculture or his
7 or her designee, the Director of Health and Human Services or his
8 or her designee, and the Director of Natural Resources or his or
9 her designee shall be ex officio members of the committee."; and in
10 line 19 after "appoint" insert "a member of the Governor's Policy
11 Research Office and".

(Signed) Tom Carlson, Chairperson

Health and Human Services

LEGISLATIVE BILL 346. Placed on General File with amendment.
AM546

1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. Section 71-801, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:
5 71-801 Sections 71-801 to 71-818 and sections 2 to 6 of
6 this act shall be known and may be cited as the Nebraska Behavioral
7 Health Services Act.
8 Sec. 2. Sections 2 to 6 of this act shall be known and
9 may be cited as the Children and Family Behavioral Health Support
10 Act.
11 Sec. 3. The department shall establish a Children and
12 Family Support Hotline which shall:
13 (1) Be a single point of access for children's behavioral
14 health triage through the operation of a twenty-four-hour-a-day,

15 seven-day-a-week telephone line;

16 (2) Be administered by the division and staffed by
17 trained personnel under the direct supervision of a qualified
18 mental health, behavioral health, or social work professional
19 engaged in activities of mental health treatment;

20 (3) Provide screening and assessment;

21 (4) Provide referral to existing community-based
22 resources; and

23 (5) Be evaluated. The evaluation shall include, but
1 not be limited to, the county of the caller, reliability and
2 consistency of the information given, an analysis of services
3 needed or requested, and degree to which the caller reports
4 satisfaction with the referral service.

5 Sec. 4. The department shall establish a Family Navigator
6 Program to respond to children's behavioral health needs. The
7 program shall be administered by the division and consist of
8 individuals trained and compensated by the department who, at a
9 minimum, will:

10 (1) Provide peer support;

11 (2) Provide connection to existing services, including
12 the identification of community-based services; and

13 (3) Be evaluated by an assessment of the quality
14 of the interactions with the Family Navigator Program and the
15 effectiveness of the program as perceived by the family. Such
16 information shall include, but not be limited to, whether
17 the family followed through with the referral recommendations,
18 availability and accessibility of services, waiting time for
19 services, and cost and distance factors.

20 Sec. 5. The department shall provide post-adoption and
21 post-guardianship case management services for families on a
22 voluntary basis. The department shall notify adoptive parents
23 and guardians of the availability of such services, how to
24 access such services, and that such services are provided on a
25 voluntary basis. Notification shall be in writing and shall be
26 provided at the time of finalization of the adoption agreement or
27 completion of the guardianship and each six months thereafter until
1 termination of the adoption or guardianship. Post-adoption services
2 and post-guardianship case management services under this section
3 shall be administered by the Division of Children and Family
4 Services and shall be evaluated. The evaluation shall include the
5 number and percentage of persons receiving such services and the
6 degree of problem resolution reported by families receiving such
7 services.

8 Sec. 6. The department shall provide an annual report
9 to the Governor and the Legislature on the operation of the
10 Children and Family Support Hotline established under section 3 of
11 this act, the Family Navigator Program established under section
12 4 of this act, and the provision of voluntary post-adoption and
13 post-guardianship case management services under section 5 of this

14 act.

15 Sec. 7. Original section 71-801, Revised Statutes
16 Cumulative Supplement, 2008, is repealed.

17 Sec. 8. Since an emergency exists, this act takes effect
18 when passed and approved according to law.

LEGISLATIVE BILL 367. Placed on General File with amendment.
AM532

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

3 Section 1. Section 71-5829.03, Revised Statutes
4 Cumulative Supplement, 2008, is amended to read:

5 71-5829.03 ~~No~~ Except as provided in section 71-5830.01,
6 no person, including persons acting for or on behalf of a health
7 care facility, shall engage in any of the following activities
8 without having first applied for and received the necessary
9 certificate of need:

10 (1) The initial establishment of long-term care beds or
11 rehabilitation beds except as permitted under subdivisions ~~(6)-(4)~~
12 and ~~(7)-(5)~~ of this section;

13 (2) An increase in the long-term care beds of a health
14 care facility by more than ten long-term care beds or more than ten
15 percent of the total long-term care bed capacity of such facility,
16 whichever is less, over a two-year period;

17 (3) An increase in the rehabilitation beds of a health
18 care facility by more than ten rehabilitation beds or more than ten
19 percent of the total rehabilitation bed capacity of such facility,
20 whichever is less, over a two-year period;

21 ~~(4) A relocation of long term care beds from a health~~
22 ~~care facility at one physical facility or contiguous site to~~
23 ~~another noncontiguous site within the same health planning region~~
1 ~~if the relocation will cause an aggregate increase in long term~~
2 ~~care beds between those locations of more than ten beds or more~~
3 ~~than ten percent of the total bed capacity, whichever is less, over~~
4 ~~a two year period;~~

5 ~~(5) Any relocation of long term care beds from a health~~
6 ~~care facility located in one health planning region to a health~~
7 ~~care facility in a different health planning region;~~

8 ~~(6)-(4)~~ Any initial establishment of long-term care beds
9 through conversion by a hospital of any type of hospital beds to
10 long-term care beds if the total beds converted by the hospital
11 are more than ten beds or more than ten percent of the total
12 bed capacity of such hospital, whichever is less, over a two-year
13 period;

14 ~~(7)-(5)~~ Any initial establishment of rehabilitation beds
15 through conversion by a hospital of any type of hospital beds to
16 rehabilitation beds if the total beds converted by the hospital
17 are more than ten beds or more than ten percent of the total
18 bed capacity of such hospital, whichever is less, over a two-year

19 period; or

20 ~~(8)-(6)~~ Any relocation of rehabilitation beds in Nebraska
21 from one health care facility to another health care facility.

22 Sec. 2. Section 71-5829.04, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-5829.04 (1) All long-term care beds which require a
25 certificate of need under section 71-5829.03 are subject to a
26 moratorium unless one of the following exceptions applies:

27 (a) An exception to the moratorium may be granted if the
1 department establishes that the needs of individuals whose medical
2 and nursing needs are complex or intensive and are above the
3 level of capabilities of staff and above the services ordinarily
4 provided in a long-term care bed are not currently being met by the
5 long-term care beds licensed in the health planning region; or

6 (b) If the average occupancy for all licensed long-term
7 care beds located in a twenty-five mile radius of the proposed
8 site have exceeded ninety percent occupancy during the most recent
9 three consecutive calendar quarters as reported at the time of
10 the application filing and there is a long-term care bed need as
11 determined by the formula in under this section, the department
12 may grant an exception to the moratorium and issue a certificate
13 of need. If the department determines average occupancy for all
14 licensed long-term care beds located in a twenty-five mile radius
15 of the proposed site has not exceeded ninety percent occupancy
16 during the most recent three consecutive calendar quarters as
17 reported at the time of the application filing, the department
18 shall deny the application.

19 (2) The department shall review applications which
20 require a certificate of need under section 71-5829.03 and
21 determine if there is a need for additional long-term care beds
22 ~~based on the following formula: as provided in this section.~~
23 No such application shall be approved if the current supply of
24 licensed long-term care beds in the health planning region of the
25 proposed site exceeds the long-term care bed need for that health
26 planning region. For purposes of this section:

27 (a) Long-term care bed need is equal to the population
1 of the health planning region, multiplied by the utilization rate
2 goal, of long-term care beds within the health planning region, and
3 the result divided by the minimum occupancy rate of long-term care
4 beds within the health planning region; goal. No such application
5 shall be approved if the current supply of licensed long-term care
6 beds in the health planning region of the proposed site exceeds the
7 long-term care bed need for that health planning region, determined
8 by aggregating the long-term care bed need established for each sex
9 and age group using the formula.

10 In reaching this determination:

11 (a) The population includes the total population of the
12 health planning region of the proposed site, disaggregated into
13 the following age categories: Birth through sixty-four years of

14 age, sixty five years of age through seventy four years of age,
 15 seventy five years of age through eighty four years of age, and
 16 eighty five years of age and over. Each listed age category shall
 17 be further categorized by gender. The most recent population
 18 projections available from the department for the year which is
 19 closest to the fifth year following the date of the application
 20 shall be used to determine the population used in the formula;

21 (b) Population is the most recent projection of
 22 population for the health planning region for the year which is
 23 closest to the fifth year immediately following the date of the
 24 application. The applicant shall provide such projection as part of
 25 the application using data from the University of Nebraska-Lincoln
 26 Bureau of Business Research or other source approved by the
 27 department;

1 ~~(b)(c)~~ The utilization rate goal is the number of people
 2 using long-term care beds per one thousand persons living in the
 3 health planning region in which the proposed project is located
 4 divided by the population of the health planning region; ~~Such~~
 5 ~~utilization rate shall be computed for each of the population~~
 6 ~~categories listed in subdivision (2)(a) of this section and based~~
 7 ~~on the most current utilization data available from the department;~~
 8 and

9 ~~(e)(d)~~ The minimum occupancy rate goal is ninety-five
 10 percent for health planning regions which are part of or contain
 11 a Metropolitan Statistical Area as defined by the United States
 12 Bureau of the Census. For all other health planning regions in the
 13 state, the minimum occupancy rate goal is ninety percent.

14 (3) To facilitate the review and determination required
 15 by this section, each health care facility with long-term care beds
 16 shall report on a quarterly basis to the department the number
 17 of residents at such facility on the last day of the immediately
 18 preceding quarter on a form provided by the department. Such report
 19 shall be provided to the department no later than ninety days after
 20 the last day of the immediately preceding quarter. The department
 21 shall provide the occupancy data collected from such reports upon
 22 request. Any facility failing to timely report such information
 23 shall be ineligible for any exception to the requirement for a
 24 certificate of need under section 71-5830.01 and any exception to
 25 the moratorium imposed under this section and may not receive,
 26 transfer, or relocate long-term care beds.

27 Sec. 3. Section 71-5830.01, Revised Statutes Cumulative
 1 Supplement, 2008, is amended to read:

2 71-5830.01 Notwithstanding any other provisions of the
 3 Nebraska Health Care Certificate of Need Act, a certificate of need
 4 is not required for:

5 (1) A change in classification between an intermediate
 6 care facility, a nursing facility, or a skilled nursing facility;

7 (2) A project of a county in which is located a city of
 8 the metropolitan class for which a bond issue has been approved by

9 the electorate of such county on or after January 1, 1994; ~~and~~
 10 (3) A project of a federally recognized Indian tribe
 11 to be located on tribal lands within the exterior boundaries of
 12 the State of Nebraska where (a) a determination has been made by
 13 the tribe's governing body that the cultural needs of the tribe's
 14 members cannot be adequately met by existing facilities if such
 15 project has been approved by the tribe's governing body and (b)
 16 the tribe has a self-determination agreement in place with the
 17 Indian Health Service of the United States Department of Health and
 18 Human Services so that payment for enrolled members of a federally
 19 recognized Indian tribe who are served at such facility will be
 20 made with one hundred percent federal reimbursement; ~~and-~~
 21 (4) A transfer or relocation of long-term care beds from
 22 one facility to another entity in the same health planning region
 23 or any other health planning region. The receiving entity shall
 24 obtain a license for the transferred or relocated beds within
 25 two years after the transfer or relocation. The department shall
 26 grant an extension of such time if the receiving entity is making
 27 progress toward the licensure of such beds.

1 Sec. 4. Section 71-5865, Reissue Revised Statutes of
 2 Nebraska, is amended to read:

3 71-5865 In an appeal of a decision to deny a certificate
 4 of need, the person requesting the appeal shall bear the burden of
 5 proving that the project meets the applicable criteria established
 6 in sections ~~71-5829.02-71-5829.03~~ to 71-5829.06.

7 Sec. 5. Original sections 71-5829.04 and 71-5865,
 8 Reissue Revised Statutes of Nebraska, and sections 71-5829.03
 9 and 71-5830.01, Revised Statutes Cumulative Supplement, 2008, are
 10 repealed.

11 Sec. 6. The following sections are outright repealed:
 12 Sections 71-5829.01 and 71-5829.02, Reissue Revised Statutes of
 13 Nebraska.

LEGISLATIVE BILL 603. Placed on General File with amendment.
 AM351

1 1. On page 4, line 18, strike "Develop" and insert
 2 "Beginning in 2011, develop"; and in lines 23 and 24 strike "during
 3 a two-month internship".

LEGISLATIVE BILL 275. Indefinitely postponed.

(Signed) Tim Gay, Chairperson

Natural Resources

LEGISLATIVE BILL 209. Placed on General File.

LEGISLATIVE BILL 54. Placed on General File with amendment.
 AM348

- 1 1. On page 13, strike lines 21 through 23 and insert the
 2 following new subdivision:
 3 "(c) Identify means to be utilized so that new uses will
 4 not have more than a de minimis effect upon existing surface water
 5 users or ground water users."
 6 2. On page 14, strike lines 7 through 13 and insert the
 7 following new subdivision:
 8 "(f) Develop, to the extent feasible, an outline of
 9 plans after consultation with and an opportunity to provide
 10 input from irrigation districts, public power and irrigation
 11 districts, reclamation districts, municipalities, other political
 12 subdivisions, and other water users to make water available for
 13 offset to enhance and encourage economic development opportunities
 14 and economic sustainability in the river basin, subbasin, or reach;
 15 and".

LEGISLATIVE BILL 477. Placed on General File with amendment.
 AM481

- 1 1. On page 2, lines 15 through 22, strike the new matter.
 2 2. On page 3, line 6, before "if" insert "the name
 3 and address of each holder of a mortgage, trust deed, or other
 4 equivalent consensual security interest against the tract or tracts
 5 of land to which the appropriation is now appurtenant, (vi)"; and
 6 in lines 8 through 25 strike the new matter and reinstate the
 7 stricken matter.
 8 3. On page 10, line 15, after the stricken "trust"
 9 insert "each holder of a mortgage, trust deed, or other equivalent
 10 consensual security interest"; and reinstate the stricken matter
 11 beginning with "that" in line 15 through "46-290" in line 16; and
 12 in lines 16 and 17 strike the new matter.
 13 4. On page 12, line 9, strike "section 7" and insert
 14 "sections 7 and 8".
 15 5. On page 18, strike beginning with "acres" in line 7
 16 through "facilities" in line 10 and insert "land means the number
 17 of acres or portion of an acre a natural resources district has
 18 approved for irrigation from ground water in accordance with law
 19 and with rules adopted by the district"; and in line 11 after "of"
 20 insert "ground".
 21 6. On page 19, line 1, after "of" insert "ground".
 22 7. On page 19, line 1; page 22, lines 13 and 15; page 23,
 23 line 10; page 27, line 20; page 28, lines 3, 8, and 18; and page
 1 29, lines 8, 9, 13, and 17, strike "acres" and insert "land".
 2 8. On page 27, line 20; and page 28, line 18, after "a"
 3 insert "ground".
 4 9. On page 28, line 25, strike "water rights" and insert
 5 "use of ground water".
 6 10. On page 29, lines 4, 11, and 19, strike "water
 7 rights" and insert "the right to use ground water"; in line 15
 8 after "equivalent" insert "consensual"; and in line 20 strike

9 "water transfer" and insert "transfer of the right to use ground
10 water".

(Signed) Chris Langemeier, Chairperson

REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

LB/LR Committee
LB681 Revenue

(Signed) John Wightman, Chairperson
Executive Board

RESOLUTION

LEGISLATIVE RESOLUTION 42. Introduced by Dubas, 34.

PURPOSE: The purpose of this interim study is to identify methods and systems necessary to assist Nebraska farms in providing local schools with fresh and minimally processed Nebraska-grown farm commodities for school meals and snacks. This interim study is intended to facilitate coordination and planning between multiple stakeholders so that a strategic plan may be developed.

The study should include an examination of which Nebraska-grown farm commodities could feasibly be used for school meals and snacks. The study should also include an examination of regulations of the Department of Agriculture, State Department of Education, Department of Health and Human Services, and any other authorities which might impact the supplying of Nebraska-grown farm commodities to local schools.

The study will seek to involve various interested parties and organizations, including, but not limited to: (1) Producers of agricultural products marketed at Nebraska food markets, including producers of fruits and vegetables, protein agricultural products, and grain; (2) suppliers of agricultural products, including grocers and school suppliers; (3) meat processors; (4) food distributors; (5) the Action for Healthy Kids organization; (6) Resource Conservation and Development organizations in Nebraska; (7) a representative of food services from a rural and an urban Nebraska public school system; (8) the Rural Development Commission; (9) a dietitian; (10) the Cooperative Extension Service of the University of Nebraska; (11) the GFL (Good, Fresh, Local) University of Nebraska-Lincoln Sustainable Food Project; and (12) any other interested parties or organizations.

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

1. That the Agriculture Committee of the Legislature shall conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 260. Senator Lathrop renewed his amendment, AM549, found on page 624, to the committee amendment.

SENATOR LANGEMEIER PRESIDING

The Lathrop amendment was adopted with 27 ayes, 0 nays, 15 present and not voting, and 7 excused and not voting.

Senator Wallman renewed his amendment, FA15, found on page 625, to the committee amendment.

Senator Wallman moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Senator Wallman requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Adams	Flood	Heidemann	Louden	Stuthman
Christensen	Fulton	Howard	McCoy	Utter
Coash	Gay	Janssen	Nelson	Wallman
Fischer	Hansen	Karpisek	Pankonin	Wightman

Voting in the negative, 24:

Ashford	Cornett	Haar	Lautenbaugh	Pahls
Avery	Council	Hadley	McGill	Pirsch
Campbell	Dubas	Harms	Mello	Price
Carlson	Giese	Langemeier	Nantkes	Schilz
Cook	Gloor	Lathrop	Nordquist	

Present and not voting, 1:

Rogert

Excused and not voting, 4:

Dierks	Friend	Sullivan	White
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The Wallman amendment lost with 20 ayes, 24 nays, 1 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Pending.

NOTICE OF COMMITTEE HEARING
Revenue

Room 1524

Wednesday, March 11, 2009 1:00 p.m.

LB681

(Signed) Abbie Cornett, Chairperson

ANNOUNCEMENT

Senator Howard designates LB346 as her priority bill.

AMENDMENTS - Print in Journal

Senator Fulton filed the following amendment to LB260:
AM556

(Amendments to AM545)

- 1 1. On page 3, after line 12, insert the following new
- 2 subsection:
- 3 "(4) Damages awarded under this section shall not exceed
- 4 one million dollars per claimant or two million dollars per
- 5 claimant on death row.".

Senator Lautenbaugh filed the following amendment to LB260:
FA16

Amend AM545

Add to Sec. 11 after "recovery": A claimant who elects to proceed against the State under this Act shall not be permitted to make a claim against the State under any other legal theory in any other court.

Senator Lautenbaugh filed the following amendment to LB260:
FA17

Amend AM545

Strike page 2 lines 20 through 26 and substitute in its place "(b) Any damage recognized in law as proper in a tort action" and renumber remaining sections.

Senator Gloor filed the following amendment to LB260:
AM567

(Amendments to AM545)

- 1 1. On page 2, line 18, strike "twenty-five" and insert
- 2 "fifty"; and strike beginning with "or" in line 18 through line 27
- 3 and insert ". The amount shall be prorated for each month or part
- 4 of a month of imprisonment for a partial year; and".
- 5 2. On page 3, strike lines 1 through 3; in line 4 strike
- 6 "(f)" and insert "(b)"; and after line 12, insert the following new
- 7 subsection:
- 8 "(4) Damages awarded under this section shall not exceed
- 9 two million five hundred thousand dollars per claimant.".

Senator Pirsch filed the following amendment to LB260:
FA18

Amend AM545

Strike the word "a" on line 4 on page 2 and insert in that place "an express written".

After the word claimant on line 2 of page 2 insert "based upon an express written finding that the claimant was innocent of the felony crimes for which he or she was convicted.".

Senator Lautenbaugh filed the following amendment to LB260:
AM572

(Amendments to AM545)

- 1 1. On page 2, strike lines 20 through 26 and insert the
- 2 following new subdivision:
- 3 "(b) Any damage recognized in law as proper in a tort
- 4 action;"; and in line 27 strike "(e)" and insert "(c)".
- 5 2. On page 3, line 4, strike "(f)" and insert "(d)".
- 6 3. On page 5, line 27, after the period insert "A
- 7 claimant who elects to proceed against the state under the act
- 8 shall not be permitted to make a claim against the state under any
- 9 other legal theory in any other court.".

Senator Pirsch filed the following amendment to LB260:
FA19

Amend AM545

Strike the word sentence on page 2 line 1 and insert at that spot "term of imprisonment".

Senator Pirsch filed the following amendment to LB260:
FA20

Amend AM545

Strike on page 1 line 8 the words ~~been uniquely victimized~~ and insert there have uniquely suffered.

Senator Karpisek filed the following amendment to LB403:
AM534

(Amendments to Standing Committee amendments, AM413)

- 1 1. On page 7, line 22, strike "October 1" and insert
- 2 "October 15".

ANNOUNCEMENT

Senator Ashford announced the Judiciary Committee will hold an executive session Wednesday, March 4, 2009, at 8:00 a.m., in Room 1113.

VISITORS

Visitors to the Chamber were Sisters Gabrielle Marie Oestreich, Catherine Schiltmeyer, Jane Nyaki, and Ann Terese Dana from Missionary Benedictine Sisters, Norfolk; Jim Duncan from Seattle, Washington; and 30 fourth-grade students and teachers from York.

The Doctor of the Day was Dr. Roger Meyer from Utica.

ADJOURNMENT

At 11:52 a.m., on a motion by Senator Cornett, the Legislature adjourned until 9:00 a.m., Wednesday, March 4, 2009.

Patrick J. O'Donnell
Clerk of the Legislature

