

**SIXTIETH DAY - APRIL 14, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SIXTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 14, 2009

**PRAYER**

The prayer was offered by Pastor Rod Lyon, Conestoga Parish of the United Methodist Church, Pleasant Dale, Denton, and Raymond.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Rogert presiding.

The roll was called and all members were present except Senators Dierks, Haar, and Stuthman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-ninth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 440.** Placed on Select File.

**LEGISLATIVE BILL 286.** Placed on Select File with amendment.  
ER8059

- 1 1. On page 1, strike beginning with "repeal" in line 3
- 2 through "date" in line 4 and insert "provide an operative date; to
- 3 repeal the original section".

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 164.** Placed on Final Reading.

**LEGISLATIVE BILL 206.** Placed on Final Reading.

**LEGISLATIVE BILL 292.** Placed on Final Reading.

**LEGISLATIVE BILL 292A.** Placed on Final Reading.

**LEGISLATIVE BILL 328.** Placed on Final Reading.  
ST9020

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

1. On page 66, line 10, "regulation, rule" has been struck and "rule, regulation" inserted.
2. On page 85, line 24, "(2)(c)" has been struck and "(2)(b)" inserted.
3. On page 89, line 17, an underscored comma has been inserted after "act".

**LEGISLATIVE BILL 328A.** Placed on Final Reading.  
**LEGISLATIVE BILL 340.** Placed on Final Reading.

**LEGISLATIVE BILL 355.** Placed on Final Reading.  
ST9018

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

1. On page 1, the matter beginning with "section" in line 1 through line 5 and all amendments thereto have been struck and "sections 53-101, 53-103, 53-124, 53-131, and 71-5730, Revised Statutes Cumulative Supplement, 2008; to define cigar bar; to provide for a nonrefundable application fee and requirements for certain Class C liquor license applications; to preempt county resolutions and city ordinances relating to smoking in cigar bars; to exempt cigar bars from the Nebraska Clean Indoor Air Act;" inserted.

**LEGISLATIVE BILL 396.** Placed on Final Reading.  
**LEGISLATIVE BILL 449.** Placed on Final Reading.  
**LEGISLATIVE BILL 458.** Placed on Final Reading.  
**LEGISLATIVE BILL 463.** Placed on Final Reading.  
**LEGISLATIVE BILL 464.** Placed on Final Reading.  
**LEGISLATIVE BILL 464A.** Placed on Final Reading.

**LEGISLATIVE BILL 477.** Placed on Final Reading.  
ST9019

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

1. In the E & R amendments, ER8044, on page 25, line 6, "is" has been struck and "are" inserted.

**LEGISLATIVE BILL 511.** Placed on Final Reading.  
**LEGISLATIVE BILL 517.** Placed on Final Reading.  
**LEGISLATIVE BILL 547.** Placed on Final Reading.  
**LEGISLATIVE BILL 547A.** Placed on Final Reading.  
**LEGISLATIVE BILL 555.** Placed on Final Reading.  
**LEGISLATIVE BILL 620.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 162.** Title read. Considered.

Committee AM357, found on page 528, was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 2 nays, 11 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 495.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 622.** Title read. Considered.

Committee AM875, found on page 902, was adopted with 33 ayes, 1 nay, 13 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 2 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 35.** Title read. Considered.

Committee AM836, found on page 866, was considered.

**SENATOR CARLSON PRESIDING**

Senator Ashford renewed his amendment, AM987, found on page 966, to the committee amendment.

Pending.

**COMMITTEE REPORT**

## Education

**LEGISLATIVE BILL 476.** Placed on General File with amendment. AM961

- 1 1. Strike original section 5 and insert the following new
- 2 sections:
- 3 Sec. 5. This act becomes operative on July 1, 2009.
- 4 Sec. 6. The following sections are outright repealed:
- 5 Sections 79-763, 79-764, 79-765, 79-766, 79-767, and 79-768,
- 6 Reissue Revised Statutes of Nebraska.
- 7 Sec. 7. Since an emergency exists, this act takes effect
- 8 when passed and approved according to law.
- 9 2. On page 3, line 5, strike the last "and"; and in line
- 10 9 after "communities" insert "; and

11 (h) There is a need to establish a statewide structure  
 12 that supports existing and emerging curriculum and program  
 13 offerings with student leadership development opportunities and  
 14 experiences".

(Signed) Greg Adams, Chairperson

### AMENDMENTS - Print in Journal

Senator Friend filed the following amendment to LB495:  
 AM1025 is available in the Bill Room.

Senator Price filed the following amendment to LB626:  
 AM1034

(Amendments to Standing Committee amendments, AM972)

- 1 1. On page 6, strike beginning with "This" in line 15
- 2 through the period in line 19.

### RESOLUTION

**LEGISLATIVE RESOLUTION 85.** Introduced by Howard, 9.

WHEREAS, every child deserves a loving, nurturing, and permanent home; and

WHEREAS, adoption gives children a brighter future than foster care, brings great joy to the adoptive parents, and places fewer demands on social services; and

WHEREAS, adoptive children often need extra patience and support to help them overcome previous hardships; and

WHEREAS, National Adoption Day is a collective national effort to raise awareness of the 129,000 children in foster care waiting to find permanent, loving families; and

WHEREAS, since 2000, National Adoption Day has made the dreams of thousands of children come true by working with courts, judges, attorneys, adoption professionals, child welfare agencies, and advocates to finalize adoptions and find permanent, loving homes for children in foster care; and

WHEREAS, in 2008, more than 325 events were held throughout the country to finalize over 4,500 adoptions of children in foster care and to celebrate all families who adopt; and

WHEREAS, in total, more than 25,000 children have been adopted from foster care on National Adoption Day.

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

1. That the Legislature recognizes November 21, 2009, as Adoption Day in Nebraska.

2. That on this day communities are encouraged to participate in activities designed to increase public awareness about the benefits of adoption.

Laid over.

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

Senator Utter asked unanimous consent to add his name as cointroducer to LB675. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 18 fourth-grade students and teacher from Red Cloud; Ann Lyon from Seward and Lyle McKlem and Greg and Lauren Prosocki from Raymond; Tree City USA winners from Imperial; Ivan and Mary Van Dyke from Norfolk; and Racine, Allan, Jordan, Paris, Mamie, and Michael Williams from Maryland.

### **RECESS**

At 11:59 a.m., on a motion by Senator Cornett, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

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

### **ROLL CALL**

The roll was called and all members were present except Senator Heidemann who was excused until he arrives.

### **GENERAL FILE**

**LEGISLATIVE BILL 35.** The Ashford amendment, AM987, found on page 966 and considered in this day's Journal, to the committee amendment, was renewed.

### **SENATOR PIRSCH PRESIDING**

Senator Council moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 11 nays, and 13 not voting.

The Ashford amendment was adopted with 29 ayes, 4 nays, 13 present and not voting, and 3 excused and not voting.

Pending.

**AMENDMENT - Print in Journal**

Senator Karpisek filed the following amendment to LB286:  
AM1029

1 1. Strike section 2 and insert the following new

2 sections:

3 Section 1. Section 9-255.04, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 9-255.04 (1) No expense shall be incurred or amounts paid  
6 in connection with the conduct of bingo by a licensed organization  
7 except those which are reasonable and necessary.

8 (2) A licensed organization shall not spend more than  
9 fourteen percent of its bingo gross receipts to pay the expenses of  
10 conducting bingo. The actual cost of (a) license and local permit  
11 fees, (b) any taxes authorized by the Nebraska Bingo Act, (c)  
12 bingo and promotional prizes, (d) the purchase, rental, or lease  
13 of bingo equipment, and (e) the rental or lease of a premises for  
14 the conduct of bingo and the purchase, rental, or lease of personal  
15 property as allowed by the department in rule and regulation which  
16 is necessary for the conduct of bingo shall not be included in  
17 determining compliance with the expense limitation contained in  
18 this section.

19 (3) A licensed organization which is also licensed to  
20 conduct a lottery by the sale of pickle cards pursuant to the  
21 Nebraska Pickle Card Lottery Act may allocate a portion of the  
22 expenses associated with the conduct of its bingo occasions to  
23 its lottery by the sale of pickle cards conducted at such bingo  
1 occasions. Such allocation shall be based upon the percentage that  
2 pickle card gross proceeds derived from the sale of pickle cards  
3 at the bingo occasions represents to the total of bingo gross  
4 receipts and pickle card gross proceeds derived from such bingo  
5 occasions for the previous annual reporting period. An organization  
6 licensed to conduct bingo that has not been previously licensed  
7 shall determine such allocation based upon the percentage that  
8 pickle card gross proceeds derived from the sale of pickle cards at  
9 the bingo occasions represents to the total of bingo gross receipts  
10 and pickle card gross proceeds derived from such bingo occasions  
11 for the initial three consecutive calendar months of operation.

12 (4) The total amount of expenses that may be allocated  
13 to the organization's lottery by the sale of pickle cards shall be  
14 subject to the limitations on bingo expenses as provided for in  
15 the Nebraska Bingo Act with respect to the fourteen-percent expense  
16 limitation and the fair-market-value limitation on the purchase,  
17 rental, or lease of bingo equipment and the rental or lease of  
18 personal property or of a premises for the conduct of bingo. No  
19 portion of the ~~eight-twelve~~ percent of the definite profit of a  
20 pickle card unit as allowed by section 9-347 to pay the allowable  
21 expenses of operating a lottery by the sale of pickle cards shall  
22 be used to pay any expenses associated with the sale of pickle

23 cards at a bingo occasion.

24 (5) All persons paid for working at a bingo occasion,  
25 including pickle card sellers but excluding concession workers,  
26 shall be paid only by a check written from the licensed  
27 organization's bingo checking account and shall not receive any  
1 other compensation or payment for working at a bingo occasion  
2 from any other source. Such wages shall be at an hourly or  
3 occasion rate and shall be included in the amount allowed by the  
4 expense limitation provided in subsection (2) of this section. No  
5 person shall receive any compensation or payment from a licensed  
6 organization based upon a percentage of the organization's bingo  
7 gross receipts or profit.

8 (6) No expenses associated with the conduct of bingo  
9 may be paid directly from the licensed organization's pickle card  
10 checking account. A licensed organization may transfer funds from  
11 its pickle card checking account to its bingo checking account as  
12 permitted by subsection (3) of this section by a check drawn on  
13 the pickle card checking account or by electronic funds transfer as  
14 provided only by section 9-347.

15 Sec. 2. Section 9-347, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 9-347 (1) The gross proceeds of any lottery by the sale  
18 of pickle cards shall be used solely for lawful purposes, awarding  
19 of prizes, payment of the unit cost, any commission paid to a  
20 pickle card operator, allowable expenses, and allocations for bingo  
21 expenses as provided by subsection (5) of this section.

22 (2) Not less than sixty-five percent or more than eighty  
23 percent of the gross proceeds of any lottery by the sale of pickle  
24 cards shall be used for the awarding of prizes.

25 (3) Not more than ~~eight-twelve~~ percent of the definite  
26 profit of a pickle card unit shall be used by the licensed  
27 organization to pay the allowable expenses of operating a lottery  
1 by the sale of pickle cards, except that license fees paid to the  
2 department to license the organization, each utilization-of-funds  
3 member, and any sales agent and pickle card dispensing device  
4 registration fees shall not be included in determining the  
5 ~~eight-percent-twelve-percent~~ limitation on expenses and no portion  
6 of such ~~eight-twelve~~ percent shall be used to pay any expenses  
7 associated with the sale of pickle cards at a bingo occasion  
8 conducted pursuant to the Nebraska Bingo Act, and of such ~~eight~~  
9 ~~twelve~~ percent not more than ~~four-six~~ percent of the definite  
10 profit may be used by the licensed organization for the payment  
11 of any commission, salary, or fee to a sales agent in connection  
12 with the marketing, sale, and delivery of a pickle card unit. When  
13 determining the ~~eight-twelve~~ percent of definite profit that is  
14 permitted to pay the allowable expenses of operating a lottery by  
15 the sale of pickle cards, the definite profit from the sale of  
16 pickle cards at the organization's bingo occasions shall not be  
17 included.

18 (4) Not more than thirty percent of the definite profit  
19 of a pickle card unit shall be used by a licensed organization  
20 to pay a pickle card operator a commission, fee, or salary for  
21 selling individual pickle cards as opportunities for participation  
22 in a lottery by the sale of pickle cards on behalf of the licensed  
23 organization.

24 (5) An organization licensed to conduct bingo pursuant  
25 to the Nebraska Bingo Act may allocate a portion of the expenses  
26 associated with the conduct of its bingo occasions to its lottery  
27 by the sale of pickle cards conducted at such bingo occasions.

1 Such allocation shall be based upon the percentage that pickle  
2 card gross proceeds derived from the sale of pickle cards at the  
3 bingo occasions represents to the total of bingo gross receipts  
4 and pickle card gross proceeds derived from such bingo occasions  
5 for the previous annual reporting period. An organization licensed  
6 to conduct bingo that has not been previously licensed shall  
7 determine such allocation based upon the percentage that pickle  
8 card gross proceeds derived from the sale of pickle cards at the  
9 bingo occasions represents to the total of bingo gross receipts  
10 and pickle card gross proceeds derived from such bingo occasions  
11 for the initial three consecutive calendar months of operation.  
12 The total amount of expenses that may be allocated to the  
13 organization's lottery by the sale of pickle cards shall be  
14 subject to the limitations on bingo expenses as provided for in  
15 the Nebraska Bingo Act with respect to the fourteen-percent expense  
16 limitation and the fair-market-value limitation on the purchase,  
17 rental, or lease of bingo equipment and the rental or lease of  
18 personal property or of a premises for the conduct of bingo. No  
19 expenses associated with the conduct of bingo may be paid directly  
20 from the pickle card checking account. A licensed organization  
21 which needs to allocate a portion of the expenses associated with  
22 the conduct of its bingo occasions to its lottery by the sale  
23 of pickle cards conducted at such bingo occasions to pay bingo  
24 expenses as provided by this section shall transfer funds from the  
25 pickle card checking account to the bingo checking account by a  
26 check drawn on the pickle card checking account or by electronic  
27 funds transfer.

1 Sec. 3. Section 9-347.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3 9-347.01 (1) For each type of pickle card unit marketed  
4 in this state, the department shall determine the following: (a)  
5 When a licensed organization sells pickle cards through pickle card  
6 operators, the portion of the definite profit from that pickle card  
7 unit which shall go to the licensed organization, such amount to  
8 be not less than seventy percent of the definite profit from such  
9 pickle card unit; (b) the maximum amount of the definite profit  
10 from the sale of a pickle card unit that a licensed organization  
11 may pay a pickle card operator as a commission, fee, or salary to  
12 sell its pickle cards, such amount not to exceed thirty percent of



13 the definite profit from such pickle card unit; (c) the portion of  
14 the definite profit from the sale of a pickle card unit which may  
15 be expended by a licensed organization for allowable expenses, such  
16 amount not to exceed ~~eight-twelve~~ percent of the definite profit  
17 from such pickle card unit; and (d) the portion of the definite  
18 profit from the sale of a pickle card unit which may be utilized  
19 by a licensed organization for payment of the organization's sales  
20 agent, such amount to be a portion of the allowable expenses and  
21 not to exceed ~~four-six~~ percent of the definite profit from such  
22 pickle card unit.

23 (2) The licensed organization's net profit from the sale  
24 of a pickle card unit shall be used exclusively for a lawful  
25 purpose. A licensed organization shall not donate or promise to  
26 donate its net profit or any portion of the net profit to a  
27 recipient outside of its organization as an inducement for or  
1 in exchange for (a) a payment, gift, or other thing of value  
2 from the recipient to any person, organization, or corporation,  
3 including, but not limited to, the licensed organization or any  
4 of its members, employees, or agents, or (b) a pickle card  
5 operator's agreement to sell pickle cards on behalf of the licensed  
6 organization.

7 Sec. 5. Sections 1, 2, 3, and 7 of this act become  
8 operative three calendar months after the adjournment of this  
9 legislative session. Sections 4 and 6 of this act become operative  
10 on June 30, 2009. The other sections of this act become operative  
11 on their effective date.

12 Sec. 7. Original sections 9-255.04, 9-347, and 9-347.01,  
13 Reissue Revised Statutes of Nebraska, are repealed.

14 2. Renumber the remaining sections accordingly.

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 463A.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 463, One Hundred First Legislature, First Session, 2009.

### **GENERAL FILE**

**LEGISLATIVE BILL 35.** Senator Pankonin renewed his amendment, AM934, found on page 990, to the committee amendment.

Senator Pankonin withdrew and refiled his amendment, AM934.

Senator Lautenbaugh offered the following amendment to the committee amendment:

AM1054

(Amendments to Standing Committee amendments, AM836)

1 1. Insert the following new sections:

2 Sec. 11. Section 25-1708, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 25-1708 Where it is not otherwise provided by this and  
5 other statutes, costs shall be allowed of course to the plaintiff,  
6 except as waived or released in writing by the plaintiff, upon a  
7 voluntary payment to the plaintiff after the action is filed but  
8 before judgment, or upon a judgment in ~~his favor,~~ favor of the  
9 plaintiff, in actions for the recovery of money only, or for the  
10 recovery of specific real or personal property.

11 Sec. 12. The parties to a civil action may, as part of  
12 a settlement of the action, agree to the payment of costs of the  
13 action.

14 Sec. 13. Section 25-1801, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 25-1801 Any person, partnership, limited liability  
17 company, association, or corporation in this state having a  
18 claim which amounts to ~~two~~ four thousand dollars or less against  
19 any person, partnership, limited liability company, association,  
20 or corporation doing business in this state for (1) services  
21 rendered, (2) labor done, (3) material furnished, (4) overcharges  
22 made and collected, (5) lost or damaged personal property, (6)  
1 damage resulting from delay in transmission or transportation, (7)  
2 livestock killed or injured in transit, or (8) charges covering  
3 articles and service affecting the life and well-being of the  
4 debtor which are adjudged by the court to be necessities of life  
5 may present the same to such person, partnership, limited liability  
6 company, association, or corporation, or to any agent thereof,  
7 for payment in any county where suit may be instituted for the  
8 collection of the same. If, at the expiration of ninety days after  
9 the presentation of such claim, the same has not been paid or  
10 satisfied, he, she, or it may institute suit thereon in the proper  
11 court. If payment is made to the plaintiff by or on behalf of  
12 the defendant after the filing of the suit but before judgment is  
13 taken, except as otherwise agreed in writing by the plaintiff, the  
14 plaintiff shall be entitled to receive the costs of suit whether  
15 by voluntary payment or judgment. If he, she, or it establishes  
16 the claim and secures judgment thereon, he, she, or it shall be  
17 entitled to recover the full amount of such judgment and all costs  
18 of suit thereon, and, in addition thereto, interest on the amount  
19 of the claim at the rate of six percent per annum from the date  
20 of presentation thereof, and, if he, she, or it has an attorney  
21 employed in the case, an amount for attorney's fees as provided  
22 in this section. If the cause is taken to an appellate court  
23 and plaintiff shall recover judgment thereon, the appellate court

24 shall tax as costs in the action, to be paid to the plaintiff,  
25 an additional amount for attorney's fees in such appellate court  
26 as provided in this section, except that if the party in interest  
27 fails to recover a judgment in excess of the amount that may  
1 have been tendered by any person, partnership, limited liability  
2 company, association, or corporation liable under this section,  
3 then such party in interest shall not recover the attorney's fees  
4 provided by this section. Attorney's fees shall be assessed by the  
5 court in a reasonable amount but shall in no event be less than  
6 ten dollars when the judgment is fifty dollars or less and when  
7 the judgment is over fifty dollars up to ~~two~~four thousand dollars  
8 the attorney's fee shall be ten dollars plus ten percent of the  
9 judgment in excess of fifty dollars.

10 Sec. 25. Section 33-117, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 33-117 (1) The several sheriffs shall charge and collect  
13 fees at the rates specified in this section. The rates shall be  
14 as follows: (a) Serving a capias with commitment or bail bond and  
15 return, two dollars; (b) serving a search warrant, two dollars; (c)  
16 arresting under a search warrant, two dollars for each person so  
17 arrested; (d) unless otherwise specifically listed in subdivisions  
18 (f) to (s) of this subsection, serving a summons, subpoena, order  
19 of attachment, order of replevin, other order of the court, notice  
20 of motion, other notice, other writ or document, or any combination  
21 thereof, including any accompanying or attached documents, ~~ten~~  
22 twelve dollars for each person served, except that when more than  
23 one person is served at the same time and location in the same  
24 case, the service fee shall be ~~ten~~twelve dollars for the first  
25 person served at that time and location and ~~two~~three dollars ~~and~~  
26 ~~fifty cents~~ for each other person served at that time and location;  
27 (e) making a return of each summons, subpoena, order of attachment,  
1 order of replevin, other order of the court, notice of motion,  
2 other notice, or other writ or document, whether served or not,  
3 ~~five~~six dollars; (f) taking and filing a replevin bond or other  
4 indemnification to be furnished and approved by the sheriff, one  
5 dollar; (g) making a copy of any process, bond, or other paper not  
6 otherwise provided for in this section, twenty-five cents per page;  
7 (h) traveling each mile actually and necessarily traveled within  
8 or without their several counties in their official duties, three  
9 cents more per mile than the rate provided in section 81-1176,  
10 except that the minimum fee shall be fifty cents when the service  
11 is made within one mile of the courthouse, and, as far as is  
12 expedient, all papers in the hands of the sheriff at any one time  
13 shall be served in one or more trips by the most direct route  
14 or routes and only one mileage fee shall be charged for a single  
15 trip, the total mileage cost to be computed as a unit for each  
16 trip and the combined mileage cost of each trip to be prorated  
17 among the persons or parties liable for the payment of same;  
18 (i) levying a writ or a court order and return thereof, ~~fifteen~~

19 eighteen dollars; (j) summoning a grand jury, not including mileage  
 20 to be paid by the county, ten dollars; (k) summoning a petit jury,  
 21 not including mileage to be paid by the county, twelve dollars;  
 22 (l) summoning a special jury, for each person impaneled, fifty  
 23 cents; (m) calling a jury for a trial of a case or cause, fifty  
 24 cents; (n) executing a writ of restitution or a writ of assistance  
 25 and return, ~~fifteen~~eighteen dollars; (o) calling an inquest to  
 26 appraise lands and tenements levied on by execution, one dollar;  
 27 (p) calling an inquest to appraise goods and chattels taken by an  
 1 order of attachment or replevin, one dollar; (q) advertising a sale  
 2 in a newspaper in addition to the price of printing, one dollar;  
 3 (r) advertising in writing for a sale of real or personal property,  
 4 five dollars; and (s) making deeds for land sold on execution or  
 5 order of sale, five dollars.

6 (2)(a) Except as provided in subdivision (b) of this  
 7 subsection, the commission due a sheriff on an execution or order  
 8 of sale, an order of attachment decree, or a sale of real or  
 9 personal property shall be: For each dollar not exceeding four  
 10 hundred dollars, six cents; for every dollar above four hundred  
 11 dollars and not exceeding one thousand dollars, four cents; and for  
 12 every dollar above one thousand dollars, two cents.

13 (b) In real estate foreclosure, when any party to the  
 14 original action purchases the property or when no money is received  
 15 or disbursed by the sheriff, the commission shall be computed  
 16 pursuant to subdivision (a) of this subsection but shall not exceed  
 17 two hundred dollars.

18 (3) The sheriff shall, on the first Tuesday in January,  
 19 April, July, and October of each year, make a report to the county  
 20 board showing (a) the different items of fees, except mileage,  
 21 collected or earned, from whom, at what time, and for what service,  
 22 (b) the total amount of the fees collected or earned by the officer  
 23 since the last report, and (c) the amount collected or earned for  
 24 the current year. He or she shall pay all fees earned to the county  
 25 treasurer who shall credit the fees to the general fund of the  
 26 county.

27 (4) Any future adjustment made to the reimbursement rate  
 1 provided in subsection (1) of this section shall be deemed to  
 2 apply to all provisions of law which refer to this section for the  
 3 computation of mileage.

4 (5) Commencing on and after January 1, 1988, all fees  
 5 earned pursuant to this section, except fees for mileage, by any  
 6 constable who is a salaried employee of the State of Nebraska shall  
 7 be remitted to the clerk of the county court. The clerk of the  
 8 county court shall pay the same to the General Fund.

9 2. On page 32, line 15, strike "29" and insert "33"; in  
 10 line 16 strike "28, 30, and 33" and insert "25, 32, 34, and 37";  
 11 in line 17 strike "13, 14, and 31" and insert "16, 17, and 35"; in  
 12 line 23 after the comma insert "28-521, and 33-117, "; and in line  
 13 24 strike "is" and insert "are".

- 14 3. On page 33, line 1, after the third comma insert  
 15 "25-1708, 25-1801,".  
 16 4. Renumber the remaining sections accordingly.

Senator Lautenbaugh moved for a call of the house. The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

Senator Lautenbaugh requested a roll call vote on his amendment.

Voting in the affirmative, 26:

Adams	Dubas	Hansen	McCoy	Sullivan
Ashford	Fischer	Harms	Nelson	Wallman
Avery	Friend	Heidemann	Pankonin	
Campbell	Fulton	Janssen	Price	
Coash	Gay	Karpisek	Rogert	
Council	Hadley	Lautenbaugh	Schilz	

Voting in the negative, 13:

Cornett	Haar	Louden	Nantkes	White
Flood	Howard	McGill	Nordquist	
Giese	Langemeier	Mello	Pirsch	

Present and not voting, 5:

Cook	Gloor	Lathrop	Pahls	Stuthman
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Excused and not voting, 5:

Carlson	Christensen	Dierks	Utter	Wightman
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The Lautenbaugh amendment was adopted with 26 ayes, 13 nays, 5 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Committee AM836, found on page 866 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 29 ayes, 1 nay, 14 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 4 present and not voting, and 5 excused and not voting.

**AMENDMENTS - Print in Journal**

Senator Price filed the following amendment to LB160:

AM1043

(Amendments to Standing Committee amendments, AM735)

- 1 1. On page 2, line 11, after the underscored period
- 2 insert the following new paragraph:
- 3 "(4) A natural resources district shall not use the
- 4 proceeds of bonds issued pursuant to section 1 of this act for more
- 5 than three projects at one time. For purposes of this subsection,
- 6 project means flood plain buyout, a dam, a reservoir basin, or a
- 7 levee.".

Senator Schilz filed the following amendment to LB630:

FA27

Amend AM874

Strike Section 3.

**ANNOUNCEMENT**

Senator Wightman announced the Executive Board will hold an executive session Wednesday, April 15, 2009, at 8:30 a.m., in Room 2102.

**VISITORS**

Visitors to the Chamber were former Senator Roger Wehrbein from Plattsmouth and former Senator Howard Lamb from Anselmo; 64 fourth-grade students, teachers, and sponsors from Reeder Elementary-Millard Public Schools, Gretna; 31 fourth-grade students, teachers, and sponsors from Lincoln Christian, Lincoln; members of Papio Valley Preservation Association from Washington and Douglas Counties; and 10 kindergarten through sixth-grade students from Richland Public School, Burwell.

The Doctor of the Day was Dr. Bob Rauner from Lincoln.

**ADJOURNMENT**

At 4:42 p.m., on a motion by Senator Giese, the Legislature adjourned until 9:00 a.m., Wednesday, April 15, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature