

**FIRST DAY - JANUARY 7, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, January 7, 2009

**PRAYER**

The prayer was offered by Senator Harms.

**PRESENTATION OF COLORS**

Presentation of Colors by the Military Honor Guard.

**ROLL CALL**

Pursuant to the provisions of Article III, Section 10 of the Constitution of Nebraska, the One Hundred First Legislature, First Session of the Legislature of Nebraska, assembled in the George W. Norris Legislative Chamber of the State Capitol at the hour of 10:00 a.m., on Wednesday, January 7, 2009, and was called to order by President Sheehy.

The roll was called and the following members were present:

Adams, Greg L.	Giese, Robert J.	Nantkes, Danielle
Ashford, Brad	Gloor, Mike	Nelson, John E.
Avery, Bill	Haar, Ken	Nordquist, Jeremy J.
Campbell, Kathy	Hadley, Galen	Pahls, Rich
Carlson, Tom	Hansen, Thomas F.	Pankonin, Dave
Christensen, Mark	Harms, John N.	Pirsch, Pete
Coash, Colby	Heidemann, Lavon L.	Price, Scott
Cook, Tanya	Howard, Gwen	Rogert, Kent
Cornett, Abbie	Janssen, Charlie	Schilz, Ken
Council, Brenda J.	Karpisek, Russ	Stuthman, Arnie
Dierks, Cap	Langemeier, Chris	Sullivan, Kate
Dubas, Annette M.	Lathrop, Steve	Utter, Dennis
Fischer, Deb	Lautenbaugh, Scott	Wallman, Norm
Flood, Mike	Louden, LeRoy J.	White, Tom
Friend, Mike	McCoy, Beau	Wightman, John M.
Fulton, Tony	McGill, Amanda	
Gay, Tim	Mello, Heath	



Done at Lincoln this Seventh day of January in the year of our Lord, two thousand and nine.

(SEAL)

John A. Gale, Secretary of State

DISTRICT/NAME	ELECTED
1 Lavon L. Heidemann	November 4, 2008
2 Dave Pankonin	November 7, 2006
3 Scott Price	November 4, 2008
4 Pete Pirsch	November 7, 2006
5 Heath Mello	November 4, 2008
6 John E. Nelson	November 7, 2006
7 Jeremiah Nordquist	November 4, 2008
8 Tom White	November 7, 2006
9 Gwen Howard	November 4, 2008
10 Mike Friend	November 7, 2006
11 Brenda J. Council	November 4, 2008
12 Steve Lathrop	November 7, 2006
13 Tanya Cook	November 4, 2008
14 Tim Gay	November 7, 2006
15 Charlie Janssen	November 4, 2008
16 Kent Rogert	November 7, 2006
17 Robert J. Giese	November 4, 2008
18 Scott Lautenbaugh	(2 year term) November 4, 2008
19 Mike Flood	November 4, 2008
20 Brad Ashford	November 7, 2006
21 Ken Haar	November 4, 2008
22 Arnie Stuthman	November 7, 2006
23 Chris Langemeier	November 4, 2008
24 Greg L. Adams	November 7, 2006
25 Kathy Campbell	November 4, 2008
26 Amanda M. McGill	November 7, 2006
27 Colby Coash	November 4, 2008
28 Bill Avery	November 7, 2006
29 Tony Fulton	November 4, 2008
30 Norman Wallman	November 7, 2006
31 Rich Pahls	November 4, 2008
32 Russ Karpisek	November 7, 2006
33 Dennis Utter	November 4, 2008
34 Annette M. Dubas	November 7, 2006
35 Mike Gloor	November 4, 2008
36 John Wightman	November 7, 2006
37 Galen Hadley	November 4, 2008
38 Tom Carlson	November 7, 2006
39 Beau McCoy	November 4, 2008
40 Cap Dierks	November 7, 2006
41 Kate Sullivan	November 4, 2008
42 Thomas F. Hansen	November 7, 2006
43 Deb Fischer	November 4, 2008



**MOTION - Adopt Temporary Rules**

Senator Rogert moved that the rules, as now in our possession, be adopted for today only, Wednesday, January 7, 2009.

The motion prevailed.

**MOTION - Election of Officers**

Senator Flood moved that the following officers, recommended by the Executive Board, be elected to serve for the One Hundred First Legislature:

Clerk of the Legislature	Patrick J. O'Donnell
Assistant Clerk of the Legislature	Richard K. Brown
Sergeant at Arms	Ron Witkowski

The motion prevailed.

**MOTION - Election of Speaker**

Senator Langemeier moved to proceed to the election of the Speaker of the Legislature.

The motion prevailed.

Senator Flood placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Flood.

The motion prevailed.

Senator Flood was duly elected Speaker of the Legislature.

**MOTION - Escort Chief Justice**

Senator Lautenbaugh moved that a committee of five be appointed to escort the Chief Justice of the Supreme Court to the Legislative Chamber for the purpose of administering the oath of office to the officers of the Legislature.

The motion prevailed.

The Chair appointed Senators Heidemann, Cornett, Howard, Nelson, and Harms to serve on said committee.



Senators Cornett, Lathrop, White, and Ashford were nominated from District 2.

Senators Dierks, Loudon, Fischer, and Flood were nominated from District 3.

Senator Wallman moved the approval of the nominees to the Committee on Committees.

The motion prevailed.

The Chair declared the nominees duly elected.

### **MOTION - Chairperson of Executive Board**

Senator White moved to proceed to the election of the Chairperson of the Executive Board.

The motion prevailed.

Senator Stuthman placed his name in nomination.

Senator Wightman placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators Carlson, Friend, and Fulton as tellers.

Senator Stuthman	16
Senator Wightman	<u>33</u>
	49

Senator Wightman was duly elected Chairperson of the Executive Board.

### **MOTION - Vice Chairperson of Executive Board**

Senator Friend moved to proceed to the election of the Vice Chairperson of the Executive Board.

The motion prevailed.

Senator McGill placed her name in nomination.

Senator Nelson placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators Dierks, Nantkes, and Pahls as tellers.

Senator McGill	15
Senator Nelson	<u>33</u>
	48

Senator Nelson was duly elected Vice Chairperson of the Executive Board.

## **SPEAKER FLOOD PRESIDING**

### **MOTION - Executive Board Members**

Senator Hansen moved to proceed to the election of the other six members of the Executive Board as outlined in 50-401.01.

The motion prevailed.

Senators Langemeier and Karpisek were nominated from District 1.

Senators White and Pahls were nominated from District 2.

Senators Fischer and Christensen were nominated from District 3.

Senator Dierks moved the approval of the nominees to the Executive Board.

The motion prevailed.

The Chair declared the nominees duly elected.

### **MOTION - Standing Committee Chairpersons**

Senator Lathrop moved to proceed to the election of the standing committee chairpersons, by secret ballot, in accordance with Rule 3, Sec. 7(a).

The motion prevailed.

### **CHAIRPERSON - Agriculture**

Senator Carlson placed his name in nomination.

Senator Dubas placed her name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators McCoy, Nelson, and McGill as tellers.

Senator Carlson	29
Senator Dubas	<u>20</u>
	49



Senator Carlson was duly elected Chairperson of the Agriculture Committee.

CHAIRPERSON - Appropriations

Senator Heidemann placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Heidemann.

The motion prevailed.

Senator Heidemann was duly elected Chairperson of the Appropriations Committee.

CHAIRPERSON - Banking, Commerce and Insurance

Senator Pahls placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Pahls.

The motion prevailed.

Senator Pahls was duly elected Chairperson of the Banking, Commerce and Insurance Committee.

CHAIRPERSON - Business and Labor

Senator Lathrop placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Lathrop.

The motion prevailed.

Senator Lathrop was duly elected Chairperson of the Business and Labor Committee.

CHAIRPERSON - Education

Senator Adams placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Adams.

The motion prevailed.

Senator Adams was duly elected Chairperson of the Education Committee.

CHAIRPERSON - General Affairs

Senator Karpisek placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Karpisek.

The motion prevailed.

Senator Karpisek was duly elected Chairperson of the General Affairs Committee.

CHAIRPERSON - Government, Military and Veterans Affairs

Senator Avery placed his name in nomination.

Senator Rogert placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators Carlson, White, and Pahls as tellers.

Senator Avery	28
Senator Rogert	<u>20</u>
	48

Senator Avery was duly elected Chairperson of the Government, Military and Veterans Affairs Committee.

CHAIRPERSON - Health and Human Services

Senator Gay placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Gay.

The motion prevailed.

Senator Gay was duly elected Chairperson of the Health and Human Services Committee.

CHAIRPERSON - Judiciary

Senator Ashford placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Ashford.

The motion prevailed.

Senator Ashford was duly elected Chairperson of the Judiciary Committee.

CHAIRPERSON - Natural Resources

Senator Louden placed his name in nomination.

Senator Langemeier placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators Fischer, Lathrop, and Stuthman as tellers.

Senator Louden	13
Senator Langemeier	<u>36</u>
	49

Senator Langemeier was duly elected Chairperson of the Natural Resources Committee.

CHAIRPERSON - Nebraska Retirement Systems

Senator Pankonin placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Pankonin.

The motion prevailed.

Senator Pankonin was duly elected Chairperson of the Nebraska Retirement Systems Committee.

CHAIRPERSON - Revenue

Senator Cornett placed her name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Cornett.

The motion prevailed.

Senator Cornett was duly elected Chairperson of the Revenue Committee.

CHAIRPERSON - Transportation and Telecommunications

Senator Fischer placed her name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Fischer.

The motion prevailed.

Senator Fischer was duly elected Chairperson of the Transportation and Telecommunications Committee.

CHAIRPERSON - Urban Affairs

Senator Friend placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Friend.

The motion prevailed.

Senator Friend was duly elected Chairperson of the Urban Affairs Committee.

**MOTION - Special and Select Committee Chairpersons**

Senator Loudon moved to proceed to the election of the special and select committee chairpersons, by secret ballot.

The motion prevailed.

CHAIRPERSON - Intergovernmental Cooperation

Senator Janssen placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Janssen.

The motion prevailed.

Senator Janssen was duly elected Chairperson of the Intergovernmental Cooperation Committee.

CHAIRPERSON - Rules

Senator Lautenbaugh placed his name in nomination.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Lautenbaugh.

The motion prevailed.

Senator Lautenbaugh was duly elected Chairperson of the Rules Committee.

CHAIRPERSON – Enrollment and Review

Senator McGill nominated Senator Nordquist.

Senator McGill moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Nordquist.

The motion prevailed.

Senator Nordquist was duly elected Chairperson of the Enrollment and Review Committee.

**MOTION - Election Returns**

Senator Fischer moved that a committee of three be appointed to escort the Secretary of State to the Chamber to deliver the election returns of the General Election of November 2008.

The motion prevailed.

The Chair appointed Senators Lautenbaugh, Janssen, and Howard to serve on said committee.

The committee escorted Secretary of State, John A. Gale, to the rostrum where he delivered the following report.

**REPORT FROM THE SECRETARY OF STATE**

January 7, 2009

Speaker of the Legislature  
One Hundred First Legislature, First Session (Regular) 2009  
State Capitol  
Lincoln, Nebraska

Honorable Speaker:

In accordance with Article IV, Section 4 of the Constitution of the State of Nebraska, I have the honor of herewith delivering to you, under Seal, the abstract of votes cast in the ninety-three counties of the State of Nebraska at the General Election held on November 4, 2008 for the offices of Members of the Public Service Commission, Regents of the University of Nebraska, Members of the State Board of Education, Supreme Court Judges, Court of Appeals Judges and Nebraska Workers Compensation Judges which votes



State Board of Education - Dist 3 - Jim Scheer  
 State Board of Education - Dist 4 - Rebecca A. Valdez  
 Supreme Court Judge, District 2 - Lindsey Miller-Lerman  
 Court of Appeals Judge, District 1 - Richard D. Sievers  
 Court of Appeals Judge, District 2 - Theodore L. Carlson  
 Court of Appeals Judge, District 3 - William B. Cassel  
 Court of Appeals Judge, District 4 - John F. Irwin  
 Nebraska Workers Compensation Judge Laureen K. Van Norman  
 Nebraska Workers Compensation Judge Michael K. High

**CERTIFICATE**

State of Nebraska

United States of America, )  
 ) ss. Secretary of State  
 State of Nebraska )

I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct listing of the Constitutional Amendment proposed by the Legislature showing the number of votes cast for and against the amendment at the Primary Election held on May 13, 2008 and Constitutional Amendments proposed by the Legislature and Initiatives Ordered by Petition of the People showing the number of votes cast for and against at the General Election held on November 4, 2008 is also attached.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Seventh day of January in the year of our Lord, two thousand and nine.

(SEAL) John A. Gale, Secretary of State

2008 Primary and General Elections  
 Amendments and Initiative Measures

Primary Election

Amendment 1

A constitutional amendment to allow the investment of public endowment funds by cities authorized by the Nebraska Constitution to establish a charter.

General Election

Amendment 1

A constitutional amendment to change the powers of municipalities relating to fund sources for economic and industrial development.

For	312,125
Against	371,664

Initiative Measure 424

A constitutional amendment to prohibit the State, any public institution of higher education, political subdivision or government institution from discriminating against, or granting preferential treatment to, individuals, or groups based upon race, sex, color, ethnicity, or national origin in operating public employment, education or contracting.

For	404,766
Against	298,401

Senator Cornett moved to approve the report of the Secretary of State and the candidates stated therein be declared duly elected.

The motion prevailed.

The Secretary of State was escorted from the Chamber.

### **MOTION - Inaugural Ceremonies**

Senator Christensen moved to arrange to hold the inaugural ceremonies for the newly elected state officials on Thursday, January 8, 2009, at 1:45 p.m.

The motion prevailed.

### **ANNOUNCEMENT**

Senator Hansen announced the Committee on Committees will meet today at 2:30 p.m. in Room 1524.

### **VISITOR**

The Doctor of the Day was Dr. Ron Klutman from Columbus.

### **ADJOURNMENT**

At 12:37 p.m., on a motion by Senator McGill, the Legislature adjourned until 10:00 a.m., Thursday, January 8, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SECOND DAY - JANUARY 8, 2009**  
**LEGISLATIVE JOURNAL**  
**ONE HUNDRED FIRST LEGISLATURE**  
**FIRST SESSION**  
**SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, January 8, 2009

**PRAYER**

The prayer was offered by Senator Carlson.

**ROLL CALL**

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

The roll was called and all members were present except Senator Ashford who was excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the first day was approved.

**MOTION - Adopt Temporary Rules**

Senator Lautenbaugh moved that the rules, as now in our possession, be adopted until such time as the permanent rules are adopted pursuant to Rule 2, Section 1; provided that the temporary rules shall not continue after the tenth legislative day.

The motion prevailed.

**MESSAGES FROM THE GOVERNOR**

September 12, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being

reappointed to the Board of Trustees of the Nebraska State Colleges:

Michelle Suarez, 2427 Woodsdale Blvd., Lincoln, NE 68502

William Roskens, 4359 Far Hills Lane, Omaha, NE 68152

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

November 24, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Commission for the Blind and Visually Impaired:

Carol Jenkins, 2636 North 43rd St., Apt. #2, Lincoln, NE 68504

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate of appointment and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

November 24, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individual is being appointed to the State Electrical Board:

Stanley Elsasser, 4913 Glasgow Avenue, Bellevue, NE 68157

Contingent upon your approval, the following individual is being reappointed to the State Electrical Board:

George Morrissey, 3333 North 140th, Omaha, NE 68164

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

November 24, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Technical Advisory Committee for Statewide Assessment:

Dr. Brian Gong, Executive Director, The Nat'l. Ctr. for the Improvement of Educational Assessment, P.O. Box 351, Dover, NH 03821

Dr. Wayne Camara, VP, Research & Dev. College Board, 45 Columbus Ave., New York, NY 10053

Dr. Richard Sawyer, Sr. Research Scientist ACT, 500 ACT Drive, P.O. Box 168, Iowa City, IA 52243

Dr. Dallas Watkins, Superintendent of Dundy County Stratton Public Schools, Benkelman, NE 69201

Linda Poole, 5054 South 171st Ave. Omaha, NE 68135

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

November 25, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Educational Telecommunications Commission:

Clay Smith, 2310 Woodsdale Blvd., Lincoln, NE 68502  
Stan Carpenter, 6731 Crooked Creek Dr., Lincoln, NE 68516

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

December 4, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being reappointed to the Nebraska Investment Council:

Gail Werner-Robertson, 1215 North 136th Street, Omaha, NE 68154

The aforementioned appointee is respectfully submitted for your consideration. Copies of the appointment certificate and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

December 9, 2008

Mr. President, Speaker Flood  
and Members of the Legislature

State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as the Director of the Department of Natural Resources:

Brian Dunnigan, 6111 Fleetwood Drive, Lincoln, NE 68516

The aforementioned appointee is respectfully submitted for your consideration. Copies of the appointment certificate and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

December 11, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Game and Parks Commission:

Mark Spurgin, 55 Makochmni, Ogallala, NE 69153  
Rex Fisher, 10925 Fairway Dr., Omaha, NE 68136-4057

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

December 29, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Nebraska Power Review Board:

Stephen Lichter, 24434 Mason Street, Waterloo, NE 68869  
Patrick Bourne, 13020 Binney Street, Omaha, NE 68164

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

December 29, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individual is being appointed to the Public Employees Retirement Board:

Janis Elliott, 807 LeMay Dr., Bellevue, NE 68005

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background material are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

December 30, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Commission for the Deaf and Hard of Hearing:

Jan Moore, 6116 Avenue M, Kearney, NE 68847  
Steven Manning, 17039 Orchard Ave., Omaha, NE 68135

Contingent upon your approval, the following individuals are being reappointed to the Commission for the Deaf and Hard of Hearing:

Luana Duennerman, 4140 South 20th Street, Lincoln, NE 68502  
Clifford Carlson, 5925 Upton Grey Circle, Lincoln, NE 68516

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

December 30, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as a member of the Board of Public Roads Classifications and Standards:

Steven Riehle, 1709 Columbia Circle, Grand Island, NE 68801

The aforementioned appointee is respectfully submitted for your consideration. Copies of the appointment certificate and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

December 30, 2008

Mr. President, Speaker Flood  
and Members of the Legislature

State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Nebraska Arts Council:

Robert Nefsky, 2140 Sheridan Blvd., Lincoln, NE 68502  
Judy Pearl-Lee, 736 Sunset Trail, Omaha, NE 68132  
Louise Kent, 2102 Third Avenue, Scottsbluff, NE 69361  
Jeanne Ross, 3215 Fifth Avenue, Kearney, NE 68845

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Arts Council:

Vicki Bromm, 1448 North Pine Street, Wahoo, NE 68066  
Julie Jacobson, 3020 West Leota Street, North Platte, NE 69101

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

December 30, 2008

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being reappointed to the Boiler Safety Code Advisory Board:

Martin Kasl, 6700 Ridge Point Road, Lincoln, NE 68512  
Thomas DeMartino, 22017 Bobwhite Avenue, Gretna, NE 68028  
Charles Cole, 3651 F Road, Otoe, NE 68417  
Kenneth Stewart, 16039 Orchard Circle, Omaha, NE 68135

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.



Sincerely,  
 (Signed) Dave Heineman  
 Governor

Enclosures

## REPORTS

The following reports were received by the Legislature:

### **Administrative Services, Department of**

Annual Budgetary Report for the Year Ended June 30, 2008

### **Banking and Finance, Nebraska Department of**

Annual Report July 1, 2007 - June 30, 2008

### **Coordinating Commission for Postsecondary Education**

2008 Biennial Report for December 2006 to December 2008

2008 Biennial Report for December 2006 to December 2008, Approved Report

### **Correctional Services, Nebraska Department Of**

Annual Report for the Work Ethic Camp

### **Developmental Disabilities Special Investigative Committee**

Report of the Developmental Disabilities Special Investigative Committee (LR 283)

### **Economic Development, Department of**

Local Civic, Cultural, and Convention Center Financing Fund 2008 Annual Report

### **Educational Lands and Funds, Board of**

66th Biennial Report

### **Environmental Quality, Department of**

2008 Annual Report

### **Game and Parks Commission**

Certified Recreation Road Projects Identifying the Public Use Areas for Future Construction

One-Year Recreation Road Construction Schedule

### **Government, Military and Veterans Affairs Committee, Legislative**

Nebraska Boards and Commissions Report

### **Health and Human Services**

2008 Medicaid Reform Report of the Department of Health and Human Services Division of Medicaid and Long-Term Care

2008 Nebraska Health Care Funding Act (LB 692) Report

Beatrice State Developmental Center, Division of Developmental Disabilities, Beatrice State Developmental Center Baseline Quarterly Report

Medicaid Report of Implementation of Rules and Regulations, Plan Amendments, and Waivers for January 1, 2007 - December 31, 2008

Nebraska State Options Report for LB171 Food Stamp Program

Proposals to the 2008 Draft Biennial Medicaid Reform Report and Draft Medicaid Alternative Benefit Structure Recommendations Report

### **Investment Finance Authority, Nebraska (NIFA)**

2008A Drinking Water State Revolving Fund Revenue Bonds Notice

**Investment Council**

Northern Ireland Reporting Requirements Report

**Retirement Systems, Public Employees**

Nebraska Public Employees Retirement Systems School Retirement System 2008

Nebraska Public Employees Retirement Systems Judges' Retirement System 2008

Nebraska Public Employees Retirement Systems State Patrol Retirement System 2008

**Revenue, Nebraska Department of**

Charitable Gaming Division 2008 Annual Report

EPIC (Ethanol Production Incentive Cash Fund) Report

Report of Examination of State of Nebraska Auditor of Public Accounts for Fiscal Year Ended June 30, 2007

**Roads, Nebraska Department of**

2008 State Highway Needs Assessment

**Southeast Community College**

Financial Condition of the Center

**2008 INTERIM REPORT  
ON THE DISPOSITION OF  
INTERIM STUDY RESOLUTIONS**

Agriculture

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
314	Interim study to examine means to fully cash fund the duties carried out by the Dept. of Agriculture under the Noxious Weed Control Act	X		
315	Interim study to review the statutory provisions for disease eradication programs administered by the Bureau of Animal Industry			X
316	Interim study to continue examination of activities and staffing of the Dept. of Agriculture and the Bureau of Animal Industry			X
335	Interim study to examine policies, programs, services, and strategies to encourage and support family farm proprietorship			X

350	Interim study to examine development of renewable energy and other systems for capturing energy values from agricultural products and waste streams		X	
353	Interim study to examine the rural economic development potential of wind energy development in Nebraska		X	
357	Interim study to examine policies relating to livestock friendly county programs in the state			X
361	Interim study to examine the impact of federal and state bans on the slaughter of horses		X	
400	Interim study to examine issues relating to the implementation of the legislative intent stated in LB 1116, regarding relocation of the State Fair to Grand Island		X	

Appropriations

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
402	Interim study to examine various state aid to county programs		X(4)	
308(1)	Interim study to examine costs associated with the creation of the learning community	X		
329(2)	Interim study to examine state policy changes that should be pursued to ensure that state economic development efforts fully leverage the state's public and private research capacity	X(5)		
307(3)	Interim study to examine Nebraska's aid to dependent children program	X		
338(3)	Interim study to conduct research and develop recommendations relating to the implementation of the Nebraska Behavioral Health Services Act		X	

- (1) Joint reference with Education
- (2) Joint reference with Revenue
- (3) Joint reference with Health and Human Services
- (4) In cooperation with Revenue

(5) With Revenue, similar resolution, issued by Revenue

## Banking, Commerce and Insurance

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
299	Interim study to examine changes being implemented by insurance companies to reduce private insurance benefits covering prosthetic limbs		X	
301	Interim study to examine issues regarding the Comprehensive Health Insurance Pool		X	
305	Interim study to examine requiring issuers of group health benefit plans to provide information regarding claims paid and the amount of premiums by line of coverage		X	
309	Interim study to determine whether Nebraska should enact the Uniform Limited Partnership Act (2001)		X	

## Business and Labor

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
370	Interim study to examine issues relating to the effect of mandatory overtime at twenty-four-hour care facilities			X
334	Interim study of the effects of LB 588, 2007, on the premium cost to consumers of workers' compensation insurance in Nebraska and the impact of certain hospital fee schedules on Nebraska hospitals			X
399	Interim study to examine how the federal Family and Medical Leave Act has been implemented in Nebraska			X
358	Interim study to examine issues raised by LB 1073, 2008, that proposed to adopt the Nebraska Construction Prompt Pay Act			X

## Education

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
292	Interim study to review services available for at-risk children age birth to five years			X
293	Interim study to examine ways to develop interest in science and math disciplines			X
294	Interim study to examine alternative salary compensation and funding systems for teachers	X		
295	Interim study to examine regional models of delivering education in rural communities			X
304	Interim study to examine issues relating to early retirement by public school teachers			X
308*	Interim study to examine costs associated with the creation of the learning community	X		
347	Interim study to examine issues under the jurisdiction of the Education Committee			X
359	Interim study to review changes to Nebraska's statewide assessment statutes and the Quality Education Accountability Act and to evaluate models for implementing statewide assessment			X
369	Interim study to examine policy changes in order to provide guidance and oversight of Nebraska's home schools			X
371**	Interim study to determine current energy usage by schools and school districts and to examine effective energy efficiency measures			X
388	Interim study to review the constitutional references to and the statutory powers and duties of the State Board of Education and the Commissioner of Education	X		

\*Joint Study of the Education and Appropriations Committees

\*\*Joint Study of the Education and Natural Resources Committees

## Executive Board

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
275	Interim study to examine the process of creating legislative task forces, committees, and commissions			X
302	Interim study to examine issues relating to the availability and use of rooms for school children visiting the State Capitol and coordination of tours by the tour office	X		

## General Affairs

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
345	Interim study to examine issues relating to the horseracing industry in Nebraska	X		
389	Interim study to develop a plan for implementation of mandatory alcoholic liquor server training for employees of retail liquor licensees		X	
344	Interim study to examine the process and standards used to revise the State Electrical Act		X	

## Government, Military and Veterans Affairs

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
285	Interim study to examine whether state-funded building projects should be required to meet high performance green building standards		X	
296	Interim study of the impact of a future Base Realignment and Closure Commission on Nebraska's current military installations and missions	X		
298	Interim study to examine issues under the jurisdiction of the Government, Military and Veterans Affairs Committee		X	

368	Interim study to examine policy changes to provide cooperation between governmental agencies and tribal governments relating to paleontological resources		X	
385	Interim study to examine requiring a certain level of purchasing of goods and services produced in the State of Nebraska by state government		X	

Health and Human Services

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
221	Interim study to examine implementation of a statewide stroke registry		X	
297	Interim study to examine issues relating to the inspection requirements for Class B swimming pools and certified swimming pool operators		X	
303	Interim study to examine issues relating to establishment of a laboratory at the University of Nebraska Medical Center to conduct medical research on umbilical cord blood and tissue		X	
306	Interim study to examine issues relating to the use of latex in public places and efforts to restrict or eliminate the use of latex		X	
307	Interim study to examine Nebraska's aid to dependent children program		X	
318	Interim study to examine the participation rate of the food stamp program in Nebraska		X	
336	Interim study to examine how to better educate parents, school officials, day care providers, and the public regarding the administration of the influenza vaccine		X	
337	Interim study to examine the needs of the state for development of a plan to provide behavioral health		X	

	workers support personnel necessary to support community-based behavioral health services and funding of the plan			
338	Interim study to conduct research and develop recommendations relating to the implementation of the Nebraska Behavioral Health Services Act		X	
339	Interim study to examine issues raised by LB 742, 2008, relating to educational requirements for licensure as an engineer		X	
340	Interim study to examine transparency in health care pricing and billing		X	
348	Interim study to examine the issue of language access in Nebraska's health care and human services systems		X	
355	Interim study to examine the feasibility of the Dept. of Health and Human Services contracting with other social services agencies for the provision of foster care services		X	
363	Interim study to identify powers and duties of the Dept. of Health and Human Services, to prioritize programs and services, and to examine funding of programs and services		X	

Judiciary

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
276	Interim study to examine the standards and oversight of death investigations in Nebraska			X
312	Interim study to examine whether the Legislature should adopt a statewide 24/7 sobriety program			X
317	Interim study to examine the use of electronic surveillance devices and software by individuals who engage in the crime of stalking			X
333	Interim study to review the crime		X	



	of destruction of property through the use of graffiti and to make recommendations to combat the crime			
341	Interim study to review issues associated with requiring that DNA samples be collected for arrestees for felony sex offenses and other specified offenses			X
346	Interim study to reexamine the effects of changing the age of majority from age nineteen to age eighteen			X
354	Interim study to review the statutory provisions of the Adult Protective Services Act			X
362	Interim study to examine issues relating to illegal immigration	X		
389	Interim study to develop a plan for implementation of mandatory alcoholic liquor server training for employees of retail liquor licensees		X	
390	Interim study to examine firearm-related violence in Nebraska		X	

Natural Resources

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
286	Interim study to examine return flow issues as they affect surface water irrigation		X	
287	Interim study to examine Nebraska state forests as potential renewable energy resources		X	
288	Interim study to examine the causes and effects of water depletion across the state of Nebraska		X	
289	Interim study to examine public power issues relating to the generation of power in the state of Nebraska			X
290	Interim study to examine the possibility of recycling construction waste and deconstruction materials		X	
291	Interim study to examine the	X		

	process for obtaining an instream flow right by either a natural resources district or the Game and Parks Commission			
300	Interim study to examine issues relating to the authority of the Dept. of Natural Resources to set the boundaries of game refuges			X
319	Interim study to examine the statutes governing the placement of electric transmission lines			X
330	Interim study to identify points of diversion for transferring excess water, flood water, and storm water between river basins to increase water management capabilities		X	
331	Interim study to examine how to simplify and grant authority to a single entity to divert excess water in the Platte River to Johnson and Elwood Reservoirs after stream flows reach a specific level		X	
332	Interim study to examine the concept of transferring storm water runoff from cities to the Republican River Basin to help with interstate water compact compliance		X	
342	Interim study to examine the transfer of administration and enforcement of construction standards for onsite wastewater treatment systems from the Dept. of Environmental Quality to the Dept. of Health and Human Services			X
352	Interim study to examine a model for wind and solar rights in the State of Nebraska		X	
364	Interim study to review matters under the jurisdiction of the Natural Resources Committee			X
366	Interim study to examine the impact that improved irrigation efficiency could have on Nebraska's water shortage		X	
371	Interim study to determine current energy usage by schools and			X

	school districts and to examine effective energy efficiency measures			
377	Interim study to examine issues relating to the Department of Natural Resources	X		

Nebraska Retirement Systems

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
310	Interim study to examine the mandatory retirement age and lack of purchase of service provisions in the Nebraska State Patrol Retirement System		X	
311	Interim study to examine the public employee retirement systems administered by the Public Employees Retirement Board		X	
403	Interim study to examine retirement plans for law enforcement personnel of political subdivisions			X

Revenue

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
327	Interim study to review the report and recommendations of the Tax Policy Reform Commission	X		
349	Interim study to conduct a comprehensive examination of city and county state aid programs currently in state law	X		
343	Interim study to examine the collection and distribution of municipal aid and equalization to communities in Nebraska		X	
375*	Interim study to examine issues raised by LB 899, 2008, which proposed the establishment of a land reutilization authority within metropolitan class cities	X		
323	Interim study to examine tax incentive programs in Nebraska and other states to assess cost and	X		

	effectiveness			
329**	Interim study to examine state policy changes that should be pursued to ensure that state economic development efforts fully leverage the state's public and private research capacity	X		
328	Interim study to develop and publish information necessary to implement a method of valuation of agricultural real estate used by neighboring agricultural states		X	
356	Interim study to examine financing mechanisms for a natural resources district encompassing a city of the metropolitan class in order to implement flood control and water quality projects			X

\*Joint reference with Urban Affairs Committee

\*\*Joint reference with Appropriations Committee

Transportation and Telecommunications

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
313	Interim study to examine the need for a uniform voluntary procedure of dispute resolution between railroads and entities who enter into agreements to construct certain facilities			X
321	Interim study to examine issues relating to the Nebraska expressway system		X	
322	Interim study to examine the current and proposed system that the Dept. of Roads uses to prioritize the needs of Nebraska's highways		X	
324	Interim study to conduct a comprehensive study on Nebraska's highway development and funding system		X	
326	Interim study to examine issues under the jurisdiction of the Transportation and Telecommunications Committee			X
360	Interim study to examine the		X	

	feasibility of including Highway 133 as part of the expressway system in Nebraska			
365	Interim study to examine railroads' responsibilities to the citizens of the state		X	
367	Interim study to examine issues relating to the current and future availability and access to telecommunications and information services throughout the state			X

Urban Affairs

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
372	Interim study to examine standardization among the different classes of cities and villages regarding adoption, implementation, and enforcement of municipal ordinances		X	
375*	Interim study to examine issues raised by LB 899, 2008, which proposed the establishment of a land reutilization authority within metropolitan class cities		X	
373	Interim study to review the use of homeowners associations in sanitary and improvement districts		X	
374	Interim study to examine issues under the jurisdiction of the Urban Affairs Committee		X	

\*Joint reference with Revenue Committee

**COMMUNICATION**

Pursuant to 84-104.05 R.R.S. of Nebraska Governor Dave Heineman issued a proclamation declaring January 5, 2009, as George W. Norris Day.

**COMMITTEE ON COMMITTEES PRELIMINARY REPORT**

Senator Hansen offered the following Committee on Committees report:

	Agriculture - Carlson (C)		
Council	Dierks	Dubas	Karpisek
Price	Schilz	Wallman	

	Appropriations - Heidemann (C)		
Fulton	Hansen	Harms	Mello
Nantkes	Nelson	Nordquist	Wightman
	Banking, Commerce and Insurance - Pahls (C)		
Christensen	Gloor	Langemeier	McCoy
Pankonin	Pirsch	Utter	
	Business and Labor - Lathrop (C)		
Carlson	Council	McGill	Schilz
Wallman	White		
	Education - Adams (C)		
Ashford	Avery	Cornett	Giese
Haar	Howard	Sullivan	
	General Affairs - Karpisek (C)		
Coash	Cook	Dierks	Dubas
Friend	Price	Rogert	
	Government, Military and Veterans Affairs - Avery (C)		
Giese	Janssen	Karpisek	Pahls
Pirsch	Price	Sullivan	
	Health and Human Services - Gay (C)		
Campbell	Gloor	Howard	Pankonin
Stuthman	Wallman		
	Judiciary - Ashford (C)		
Christensen	Coash	Council	Lathrop
Lautenbaugh	McGill	Rogert	
	Natural Resources - Langemeier (C)		
Carlson	Cook	Dubas	Fischer
Haar	McCoy	Schilz	
	Nebraska Retirement Systems - Pankonin (C)		
Heidemann	Karpisek	Louden	Mello
Nordquist			
	Revenue - Cornett (C)		
Adams	Dierks	Friend	Hadley
Louden	Utter	White	
	Transportation and Telecommunications - Fischer (C)		
Campbell	Gay	Hadley	Janssen
Lautenbaugh	Louden	Stuthman	

## Urban Affairs - Friend (C)

Coash	Cook	Lathrop	McGill
Rogert	White		

## Committee on Committees - Hansen (C)

District 1:	District 2:	District 3:
Adams	Ashford	Dierks
Nantkes	Cornett	Fischer
Pankonin	Lathrop	Flood
Stuthman	White	Louden

## Enrollment and Review - Nordquist (C)

## Reference - Wightman (C)

Christensen	Fischer	Flood	Karpisek
Langemeier	Nelson (VC)	Pahls	White
Heidemann (nonvoting ex officio)			

## Rules - Lautenbaugh (C)

Dubas	Lathrop	Rogert	Utter
Flood (ex officio)			

## Executive Board - Wightman (C)

Christensen	Fischer	Flood	Karpisek
Langemeier	Nelson (VC)	Pahls	White
Heidemann (nonvoting ex officio)			

## Intergovernmental Cooperation - Janssen (C)

Hadley	Langemeier	McCoy	Price
Flood (nonvoting ex officio)			
Lt. Gov. Sheehy (nonvoting ex officio)			

**ANNOUNCEMENT**

The Committee on Committees elected Senator Dierks as Vice Chairperson.

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 1.** Introduced by Executive Board: Wightman, 36, Chairperson.

A BILL FOR AN ACT relating to settlement escrow; to repeal sections that are obsolete; and to outright repeal sections 25-2922, 25-2923, 25-2924, 25-2925, 25-2926, 25-2927, 25-2928, and 25-2929, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 2.** Introduced by Executive Board: Wightman, 36, Chairperson.

A BILL FOR AN ACT relating to the Nebraska Transit and Rail Advisory Council Act; to repeal sections that are obsolete; and to outright repeal sections 74-1501, 74-1502, 74-1503, 74-1504, 74-1505, 74-1506, 74-1507, 74-1508, 74-1509, 74-1510, 74-1511, 74-1512, 74-1513, and 74-1514, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 3.** Introduced by Executive Board: Wightman, 36, Chairperson.

A BILL FOR AN ACT relating to the Nebraska Venture Capital Forum Act; to repeal sections that are obsolete; and to outright repeal sections 81-12,106, 81-12,107, 81-12,108, 81-12,109, 81-12,110, 81-12,111, 81-12,112, 81-12,113, 81-12,114, 81-12,115, and 81-12,116, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 4.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to jury compensation; to amend section 33-138, Reissue Revised Statutes of Nebraska; to change the rate of jury compensation to minimum wage; and to repeal the original section.

**LEGISLATIVE BILL 5.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to the Game Law; to amend sections 37-513 and 37-614, Reissue Revised Statutes of Nebraska; to eliminate a restriction and a penalty on trapping wildlife in county road rights-of-way; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 6.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-4,124, Revised Statutes Cumulative Supplement, 2008; to authorize school permitholders to drive motor vehicles to work; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 7.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to clerks of the district court; to amend section 32-524, Reissue Revised Statutes of Nebraska; to provide a residency requirement; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 8.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to registers of deeds; to amend sections



25-529, 25-531, 25-2154, 33-109, and 52-1004, Reissue Revised Statutes of Nebraska, and sections 60-169 and 77-3903, Revised Statutes Cumulative Supplement, 2008; to change and eliminate fees received by the clerks and registers of deeds; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal section 33-112, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 9.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.13, Reissue Revised Statutes of Nebraska; to exempt biofuels used in irrigation and farming from sales tax; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 10.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to motor vehicles; to amend section 39-2215, Reissue Revised Statutes of Nebraska, and sections 60-301, 60-3,104, and 60-3,130.04, Revised Statutes Cumulative Supplement, 2008; to provide for specialty license plates; to change provisions relating to license plate fees; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 11.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to amend section 81-885.14, Reissue Revised Statutes of Nebraska; to change licensing fees; to change a provision relating to revocation or denial of a license; and to repeal the original section.

**LEGISLATIVE BILL 12.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Department of Natural Resources.

**LEGISLATIVE BILL 13.** Introduced by White, 8.

A BILL FOR AN ACT relating to the Property Tax Credit Act; to amend sections 77-4209, 77-4210, 77-4211, and 77-4212, Revised Statutes Cumulative Supplement, 2008; to rename the act; to change the property tax credit; to provide property tax relief; to create a fund; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 14.** Introduced by White, 8.

A BILL FOR AN ACT relating to energy conservation; to provide energy conservation standards for certain state buildings; and to provide duties for certain state agencies.

**LEGISLATIVE BILL 15.** Introduced by White, 8.

A BILL FOR AN ACT relating to the Sex Offender Registration Act; to amend section 29-4006, Reissue Revised Statutes of Nebraska; to require driver's license and Internet address information as part of the registration information; and to repeal the original section.

**LEGISLATIVE BILL 16.** Introduced by White, 8.

A BILL FOR AN ACT relating to the Legislature; to amend section 77-27,119, Revised Statutes Cumulative Supplement, 2008; to adopt the Taxpayers Transparency Act; to change confidentiality provisions; and to repeal the original section.

**LEGISLATIVE BILL 17.** Introduced by White, 8.

A BILL FOR AN ACT relating to veterans; to provide for a waiver of tuition for combat-injured and disabled veterans.

**LEGISLATIVE BILL 18.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to water resources; to state intent; and to prohibit irrigation of certain educational lands as prescribed.

**LEGISLATIVE BILL 19.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to marriage licenses; to amend section 33-110, Reissue Revised Statutes of Nebraska, and section 71-614, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to fees for marriage licenses as prescribed; to provide requirements for optional marriage education; to provide duties for county clerks; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 20.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to the Access College Early Scholarship Program Act; to amend sections 85-2105 and 85-2106, Reissue Revised Statutes of Nebraska; to change provisions relating to the powers and duties of the Coordinating Commission for Postsecondary Education with respect to scholarships awarded under the act and a report requirement; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 21.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to the Nebraska Scholarship Act; to amend sections 9-812, 9-836.01, 71-5715, 85-1412, 85-1901, 85-1902, 85-1907, 85-1908, 85-1911, 85-1912, 85-1913, 85-1914, 85-1915, 85-1917, 85-1918, 85-1919, and 85-1920, Reissue Revised Statutes of Nebraska; to rename the act and the Nebraska Scholarship Fund; to change provisions relating to

student eligibility; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 22.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 79-1225, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Cumulative Supplement, 2008; to change the tax levy authority of educational service units and school districts as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 23.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to the Nebraska Investment Council; to amend section 72-1237, Revised Statutes Cumulative Supplement, 2008; to change membership provisions; and to repeal the original section.

**LEGISLATIVE BILL 24.** Introduced by Friend, 10.

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.

**LEGISLATIVE BILL 25.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to children; to amend sections 68-908, 68-911, 68-1202, 71-401, 71-403, and 71-415, Revised Statutes Cumulative Supplement, 2008; to include children's day health services in assistance provided under the Medical Assistance Act and the social services program; to require rules and regulations; to define a term; to require licensure of children's day health services; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 26.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 14-557, 15-725, 15-733, 15-735, 15-821, 15-822, 16-708.01, 77-208, 77-209, 77-1322, and 77-1917.01, Reissue Revised Statutes of Nebraska; to change priority of special assessment liens; and to repeal the original sections.

**LEGISLATIVE BILL 27.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to the Autism Treatment Program Act; to amend sections 85-1,139, 85-1,140, and 85-1,141, Reissue Revised Statutes of Nebraska, and section 71-7611, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the Autism Treatment

Program Fund and administration of the Autism Treatment Program as prescribed; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 28.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to law enforcement; to amend sections 60-3,135 and 60-480.01, Revised Statutes Cumulative Supplement, 2008; to authorize the issuance of undercover license plates and undercover driver's licenses to federal law enforcement agencies; and to repeal the original sections.

### EASE

The Legislature was at ease from 10:16 a.m. until 10:30 a.m.

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 29.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to amend section 81-885.19, Reissue Revised Statutes of Nebraska; to change requirements relating to management of branch offices as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 30.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to amend sections 81-885.02, 81-885.05, 81-885.09, 81-885.10, 81-885.15, 81-885.24, 81-885.25, 81-885.29, 81-885.43, 81-885.44, 81-885.46, 81-885.48, and 81-887.03, Reissue Revised Statutes of Nebraska; to change provisions relating to the act and the powers of the State Real Estate Commission as prescribed; to provide for civil penalties; to provide powers and duties for the Attorney General; to harmonize provisions; to repeal the original sections; and to outright repeal section 81-885.47, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 31.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to the Public Accountancy Act; to amend sections 1-105, 1-106, 1-109, 1-110, 1-111, 1-114, 1-116, 1-118, 1-119, 1-120, 1-122, 1-126, 1-134, 1-135, 1-136, 1-136.01, 1-136.02, 1-136.04, 1-137, 1-138, 1-148, 1-151, 1-152, 1-155, 1-156, 1-157, 1-158, 1-159, 1-161, 1-162, 1-162.01, 1-164.01, 1-164.02, 1-167, 1-168, 1-170, and 1-171, Reissue Revised Statutes of Nebraska; to redefine terms; to rename a fund; to change certificate and permit requirements; to provide for practice privileges; to eliminate obsolete provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright

repeal sections 1-123, 1-125, 1-133, 1-136.03, 1-153, 1-154, and 1-163, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 32.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to banks and banking; to amend section 8-113, Reissue Revised Statutes of Nebraska; to change provisions relating to the unauthorized use of the word bank; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 33.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to zoning; to amend section 23-174.01, Reissue Revised Statutes of Nebraska; to provide for the transfer of development rights as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 34.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to employment; to adopt the Nebraska Fair and Legal Employment Act; to provide contracting duties for the state and political subdivisions; and to provide penalties.

**LEGISLATIVE BILL 35.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-101, 28-1204.01, 28-1205, and 28-1206, Reissue Revised Statutes of Nebraska; to prohibit certain gang activity; to provide enhanced penalties; to change the penalty for unlawful transfer of a firearm to a juvenile, use of a firearm to commit a felony, and possession of a firearm by a felon or a fugitive from justice; to adopt the Violence Prevention Act; to provide powers and duties for the Board of Regents of the University of Nebraska; to create a fund; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 36.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to the death penalty; to amend sections 29-2532, 29-2533, 29-2534, 29-2535, 29-2536, 29-2537, 29-2538, 29-2539, 29-2540, 29-2541, 29-2542, 29-2543, and 29-2546, Reissue Revised Statutes of Nebraska; to change the method of and procedure for inflicting the death penalty; to provide powers and duties for the Director of Correctional Services and the Department of Correctional Services; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide severability; to repeal the original sections; and to outright repeal sections 29-2544 and 29-2545, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 37.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to

the Board of Regents of the University of Nebraska.

**LEGISLATIVE BILL 38.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-309, 28-929, 28-930, 28-931, 28-931.01, 28-932, and 28-933, Reissue Revised Statutes of Nebraska; to change provisions relating to assault, assault on an officer, and offenses by a confined person; and to repeal the original sections.

**LEGISLATIVE BILL 39.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to the Nebraska Evidence Rules; to amend sections 27-404, 27-801, 27-1103, 28-318, 28-1010, and 83-4,143, Reissue Revised Statutes of Nebraska; to adopt new rules of evidence relating to sexual offenses; to change provisions relating to hearsay; to harmonize provisions; to eliminate conflicting and repetitive provisions; to provide a duty for the Revisor of Statutes; to provide an operative date; to repeal the original sections; and to outright repeal section 28-321, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 40.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to civil procedure; to amend sections 25-1144 and 27-1201, Reissue Revised Statutes of Nebraska; to correct internal references to certain statutory provisions; and to repeal the original sections.

**LEGISLATIVE BILL 41.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-4004, Reissue Revised Statutes of Nebraska; to clarify references to the county sheriff; and to repeal the original section.

**LEGISLATIVE BILL 42.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to natural resources; to amend section 46-1011, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to rural water districts; and to repeal the original section.

**LEGISLATIVE BILL 43.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to natural resources; to eliminate a fund that terminated; and to outright repeal section 61-217, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 44.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections

77-1624 and 77-5903, Revised Statutes Cumulative Supplement, 2008; to eliminate an obsolete reference; to correct a definition; and to repeal the original sections.

**LEGISLATIVE BILL 45.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-5601, Revised Statutes Cumulative Supplement, 2008; to eliminate references to a fund that terminated; and to repeal the original section.

**LEGISLATIVE BILL 46.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to decedents' estates; to amend sections 30-2485 and 30-2487, Reissue Revised Statutes of Nebraska; to provide for costs and expenses of administration of estates; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 47.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to decedents' estates; to amend section 30-2302, Reissue Revised Statutes of Nebraska; to change the amount of the intestate share of the surviving spouse; and to repeal the original section.

**LEGISLATIVE BILL 48.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to motor carriers; to amend sections 75-363 and 75-364, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to adoption of federal Motor Carrier Safety Regulations and federal Hazardous Material Regulations; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 49.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to vehicles and motorboats; to amend sections 18-1214, 23-186, 37-1201, and 83-123, Reissue Revised Statutes of Nebraska, and sections 60-101, 60-111, and 60-320, Revised Statutes Cumulative Supplement, 2008; to require that titling and registration of vehicles and motorboats be performed by county treasurers as prescribed; to provide powers and duties for the Director of Motor Vehicles; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 50.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-1401.02, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to manufacturers; and to repeal the original section.

**LEGISLATIVE BILL 51.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-1,110, Revised Statutes Cumulative Supplement, 2008; to provide that compensation court documents and information are confidential; to provide exceptions; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 52.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to veterans service offices; to amend section 80-410, Reissue Revised Statutes of Nebraska; to change provisions relating to employment qualifications; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 53.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to public power districts; to amend sections 70-603, 70-604.01, 70-604.05, and 70-681, Reissue Revised Statutes of Nebraska, and section 70-604.02, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to formation, territory, and operating area of districts; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 54.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to the Nebraska Ground Water Management and Protection Act; to amend sections 46-714, 46-715, and 46-719, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to integrated management plans; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 55.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to attorneys; to amend sections 23-1201.02 and 32-507, Reissue Revised Statutes of Nebraska; to change requirements for the office of county attorney and Attorney General; and to repeal the original sections.

**LEGISLATIVE BILL 56.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to the Livestock Waste Management Act; to amend sections 54-2417, 54-2422, 54-2431, and 54-2435, Revised Statutes Cumulative Supplement, 2008; to redefine a term; to change provisions relating to permit requirements, applications, and rules and regulations; and to repeal the original sections.

**LEGISLATIVE BILL 57.** Introduced by Loudon, 49; Carlson, 38; Christensen, 44; Fischer, 43; Harms, 48; Heidemann, 1; Stuthman, 22; Sullivan, 41; Wallman, 30.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2708.01, Reissue Revised Statutes of Nebraska, and section 77-2704.36,



Revised Statutes Cumulative Supplement, 2008; to exempt repairs and parts for agricultural machinery or equipment from sales and use tax; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 58.** Introduced by Louden, 49; Carlson, 38; Harms, 48; Howard, 9; Wallman, 30.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701 and 77-2701.04, Revised Statutes Cumulative Supplement, 2008; to provide a sales and use tax exemption for heating oil and propane used for residential heating purposes; to harmonize provisions; to provide an operative date; and to repeal the original sections.

### EASE

The Legislature was at ease from 10:34 a.m. until 10:41 a.m.

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 59.** Introduced by Louden, 49; Harms, 48; Howard, 9; Wallman, 30.

A BILL FOR AN ACT relating to law enforcement; to amend section 53-160, Reissue Revised Statutes of Nebraska; to adopt the Citizen Safety Grant Fund Program Act; to change provisions relating to a tax on alcoholic liquor; to harmonize provisions; to provide operative dates; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 60.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-1901, Revised Statutes Cumulative Supplement, 2008; to redefine abandoned vehicle; and to repeal the original section.

**LEGISLATIVE BILL 61.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1022, 79-1023, 79-1026.01, 79-1027, and 79-1031.01, Reissue Revised Statutes of Nebraska; to change certification dates as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 62.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to schools; to amend sections 79-233, 79-237, 79-238, 79-1007.22, and 79-2110, Reissue Revised Statutes of

Nebraska; to change provisions relating to the enrollment option program and learning communities; to provide a duty for the State Department of Education; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 63.** Introduced by Friend, 10; Fulton, 29; Howard, 9; Rogert, 16.

A BILL FOR AN ACT relating to law; to amend sections 28-101, 28-111, 28-308, 28-309, 28-929, 28-930, 28-1201, 28-1202, 28-1204, 28-1204.01, 28-1204.04, 28-1205, 28-1206, 28-1212.02, 29-901, 29-901.01, 43-245, 43-276, 69-2407, 69-2409.01, 69-2412, 69-2414, 69-2422, and 69-2423, Reissue Revised Statutes of Nebraska, and sections 69-2404, 69-2405, 69-2410, 69-2411, 69-2430, 69-2433, and 69-2441, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to assault, firearm and handgun offenses, deadly weapon offenses, bail, handgun certificates, and concealed handgun permits; to prohibit the unauthorized application of graffiti, discharge of a firearm while in or near a motor vehicle, and unlawful recruitment into an organization; to change and provide penalties; to change provisions relating to the Nebraska Juvenile Code; to eliminate provisions relating to the use of persons released on probation, parole, or work release and jailhouse informers by law enforcement; to harmonize provisions; to provide severability; to repeal the original sections; and to outright repeal sections 29-1928, 29-1929, and 29-2262.01, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 64.** Introduced by Howard, 9; Avery, 28; Flood, 19; Friend, 10; Harms, 48; Lautenbaugh, 18; Rogert, 16.

A BILL FOR AN ACT relating to education; to adopt the Lindsay Ann Burke Act.

**LEGISLATIVE BILL 65.** Introduced by Dubas, 34; Carlson, 38; Dierks, 40; Fischer, 43; Karpisek, 32; Rogert, 16; Schilz, 47; Stuthman, 22; Wallman, 30.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2708.01, Reissue Revised Statutes of Nebraska, and section 77-2704.36, Revised Statutes Cumulative Supplement, 2008; to exempt repair or replacement parts for commercial agricultural machinery and equipment from sales and use tax; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 66.** Introduced by Rogert, 16; Friend, 10.

A BILL FOR AN ACT relating to Nebraska Political Accountability and Disclosure Act; to amend sections 49-1415, 49-1471, 49-1472, and 49-1490, Reissue Revised Statutes of Nebraska, and sections 49-1446.03 and 49-1447, Revised Statutes Cumulative Supplement, 2008; to change the limit on certain contributions and gifts; and to repeal the original sections.

**LEGISLATIVE BILL 67.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2715.07 and 77-2734.03, Revised Statutes Cumulative Supplement, 2008; to adopt the Elementary and Secondary Education Opportunity Act; to harmonize provisions; to provide an operative date; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 68.** Introduced by Wallman, 30; Adams, 24; Avery, 28; Cornett, 45; Harms, 48; Karpisek, 32; Lathrop, 12; Louden, 49; Stuthman, 22.

A BILL FOR AN ACT relating to developmental disabilities; to amend section 83-1201, Reissue Revised Statutes of Nebraska; to provide procedures for closure of certain facilities; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 69.** Introduced by Cornett, 45; Avery, 28; Gay, 14; Karpisek, 32; Price, 3; Wallman, 30.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Revised Statutes Cumulative Supplement, 2008; to exclude military retirement benefits from income taxation; and to repeal the original section.

**LEGISLATIVE BILL 70.** Introduced by Cornett, 45; Avery, 28; Gay, 14; Karpisek, 32; Price, 3; Wallman, 30.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Revised Statutes Cumulative Supplement, 2008; to exclude military retirement benefits from income taxation; and to repeal the original section.

**LEGISLATIVE BILL 71.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to crimes; to amend sections 28-1013 and 28-1017, Reissue Revised Statutes of Nebraska; to require animal care professionals to report animal abandonment, cruel neglect, and cruel mistreatment; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 72.** Introduced by Cornett, 45; Avery, 28.

A BILL FOR AN ACT relating to education; to provide for policy guidelines for management of students and children with life-threatening allergies; and to provide duties for the State Department of Education, the Department of Health and Human Services, schools, and early childhood education programs.

**LEGISLATIVE BILL 73.** Introduced by Cornett, 45; Avery, 28; Karpisek, 32.

A BILL FOR AN ACT relating to education; to ratify the Interstate Compact on Educational Opportunity for Military Children on behalf of the State of Nebraska with any other state legally joining thereon; to create the State Council on Educational Opportunity for Military Children and the positions of compact commissioner and military family education liaison within the Department of Veterans' Affairs as prescribed.

**LEGISLATIVE BILL 74.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to banking; to amend section 8-133, Reissue Revised Statutes of Nebraska; to authorize the pledging of Federal Home Loan Bank of Topeka letters of credit as security for private deposits; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 75.** Introduced by Pirsch, 4.

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 fees; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 76.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-603 and 28-604, Reissue Revised Statutes of Nebraska; to provide for the aggregation of amounts in determining the classification of offenses for forgery in the second degree and criminal possession of a forged instrument; and to repeal the original sections.

**LEGISLATIVE BILL 77.** Introduced by Gay, 14; Gloor, 35.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2716 and 77-6102, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to income tax credits and long-term care insurance; to provide operative dates; and to repeal the original sections.

### **MOTION - Escort Committees**

Senator Harms moved that a series of committees be appointed to escort the various state and constitutional officers for the purpose of administering their oaths of office.

The motion prevailed.

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 78.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to the Victim's Compensation Fund; to amend sections 81-1835 and 83-183, Reissue Revised Statutes of Nebraska; to provide for a percentage of wages earned by inmates in a work release program to be deposited in the fund as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 79.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to child support; to amend section 43-512.15, Reissue Revised Statutes of Nebraska; to change provisions relating to when a child support order modification complaint is to be filed; and to repeal the original section.

**LEGISLATIVE BILL 80.** Introduced by Nelson, 6.

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; and to repeal the original sections.

**LEGISLATIVE BILL 81.** Introduced by Nordquist, 7; Heidemann, 1; Mello, 5; Pankonin, 2.

A BILL FOR AN ACT relating to the Nebraska State Patrol Retirement Act; to amend section 81-2017, Reissue Revised Statutes of Nebraska; to change provisions relating to contributions; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 82.** Introduced by Howard, 9; Dierks, 40; Harms, 48; Nantkes, 46.

A BILL FOR AN ACT relating to the Nebraska Juvenile Code; to amend section 43-285, Reissue Revised Statutes of Nebraska; to require notification of change in case managers as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 83.** Introduced by McGill, 26.

A BILL FOR AN ACT relating to protection orders; to amend section 42-924, Reissue Revised Statutes of Nebraska; to provide for the care of and protect from harm domestic animals as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 84.** Introduced by McGill, 26.

A BILL FOR AN ACT relating to the Women's Health Initiative Advisory Council; to amend section 71-702, Revised Statutes Cumulative Supplement, 2008; to eliminate a termination date; and to repeal the original section.

**LEGISLATIVE BILL 85.** Introduced by McGill, 26.

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

**LEGISLATIVE BILL 86.** Introduced by Wallman, 30.

A BILL FOR AN ACT relating to the Nebraska Capitol Commission; to amend section 81-1108.38, Reissue Revised Statutes of Nebraska; to change provisions relating to the Capitol Landscape Restoration Master Plan; to provide duties for the commission; and to repeal the original section.

**LEGISLATIVE BILL 87.** Introduced by Pahls, 31.

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.

**LEGISLATIVE BILL 88.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to banking; to amend section 8-113, Reissue Revised Statutes of Nebraska; to change provisions relating to the unauthorized use of the word bank; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 89.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to the Tobacco Products Tax Act; to amend sections 77-4001, 77-4002, 77-4004, 77-4007, 77-4008, 77-4009, 77-4014, 77-4017, 77-4018, and 77-4024, Reissue Revised Statutes of Nebraska; to change the tax on snuff; to define a term; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 90.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to audiovisual court appearances; to remove a requirement of consent and waiver of physical appearance as prescribed; and to outright repeal section 29-4203, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 91.** Introduced by Howard, 9; Coash, 27; Cook, 13; Flood, 19; Hansen, 42; Harms, 48; Heidemann, 1; Louden, 49; Nantkes, 46; Sullivan, 41.

A BILL FOR AN ACT relating to children; to amend section 43-117, Reissue Revised Statutes of Nebraska; to change provisions relating to department payments on behalf of certain children; and to repeal the original section.

**LEGISLATIVE BILL 92.** Introduced by Howard, 9; Flood, 19; Hansen, 42; Louden, 49; Wallman, 30.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,151, Reissue Revised Statutes of Nebraska; to change provisions relating to operation of vehicles upon the approach of authorized emergency vehicles; to provide penalties; and to repeal the original section.

**LEGISLATIVE BILL 93.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-601, Revised Statutes Cumulative Supplement, 2008; to prohibit smoking in a motor vehicle as prescribed; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 94.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3512 and 77-3516, Reissue Revised Statutes of Nebraska, and sections 77-3513 and 77-3514, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to applications for homestead exemptions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 95.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to the Nebraska Advantage Act; to amend sections 77-5701, 77-5723, and 77-5727, Revised Statutes Cumulative Supplement, 2008; to prohibit taxpayers who violate federal immigration laws from receiving incentives under the act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 96.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to the State Energy Office Cash Fund; to eliminate obsolete provisions; and to outright repeal section 81-1623, Reissue Revised Statutes of Nebraska.

**RECESS**

At 11:12 a.m., on a motion by Senator Howard, the Legislature recessed until 1:45 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:45 p.m., Speaker Flood presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Ashford, Gay, and Lautenbaugh who were excused.

**COMMITTEE ON COMMITTEES FINAL REPORT**

Senator Hansen offered the following Committee on Committees report:

	Agriculture - Carlson (C)		
Council	Dierks	Dubas	Karpisek
Price	Schilz	Wallman	
	Appropriations - Heidemann (C)		
Fulton	Hansen	Harms	Mello
Nantkes	Nelson	Nordquist	Wightman
	Banking, Commerce and Insurance - Pahls (C)		
Christensen	Gloor	Langemeier	McCoy
Pankonin	Pirsch	Utter	
	Business and Labor - Lathrop (C)		
Carlson	Council	McGill	Schilz
Wallman	White		
	Education - Adams (C)		
Ashford	Avery	Cornett	Giese
Haar	Howard	Sullivan	
	General Affairs - Karpisek (C)		
Coash	Cook	Dierks	Dubas
Friend	Price	Rotger	
	Government, Military and Veterans Affairs - Avery (C)		
Giese	Janssen	Karpisek	Pahls
Pirsch	Price	Sullivan	
	Health and Human Services - Gay (C)		
Campbell	Gloor	Howard	Pankonin
Stuthman	Wallman		



Judiciary - Ashford (C)

Christensen	Coash	Council	Lathrop
Lautenbaugh	McGill	Rogert	

Natural Resources - Langemeier (C)

Carlson	Cook	Dubas	Fischer
Haar	McCoy	Schilz	

Nebraska Retirement Systems - Pankonin (C)

Heidemann	Karpisek	Louden	Mello
Nordquist			

Revenue - Cornett (C)

Adams	Dierks	Friend	Hadley
Louden	Utter	White	

Transportation and Telecommunications - Fischer (C)

Campbell	Gay	Hadley	Janssen
Lautenbaugh	Louden	Stuthman	

Urban Affairs - Friend (C)

Coash	Cook	Lathrop	McGill
Rogert	White		

Committee on Committees - Hansen (C)

District 1:	District 2:	District 3:
Adams	Ashford	Dierks (VC)
Nantkes	Cornett	Fischer
Pankonin	Lathrop	Flood
Stuthman	White	Louden

Enrollment and Review - Nordquist (C)

Reference - Wightman (C)

Christensen	Fischer	Flood	Karpisek
Langemeier	Nelson (VC)	Pahls	White
Heidemann (nonvoting ex officio)			

Rules - Lautenbaugh (C)

Dubas	Lathrop	Rogert	Utter
Flood (ex officio)			

Executive Board - Wightman (C)

Christensen	Fischer	Flood	Karpisek
Langemeier	Nelson (VC)	Pahls	White
Heidemann (nonvoting ex officio)			

Intergovernmental Cooperation - Janssen (C)  
Hadley                      Langemeier                      McCoy                      Price  
Flood (nonvoting ex officio)  
Lt. Gov. Sheehy (nonvoting ex officio)

### **PRESENTATION OF COLORS**

Presentation of Colors by the Military Honor Guard.

### **INAUGURAL CEREMONIES**

Chief Justice Michael G. Heavican administered the Oath of Office to the newly elected state officials.

The Chief Justice and the newly elected state officials were escorted from the Chamber.

### **VISITOR**

The Doctor of the Day was Dr. Kevin Wycoff from Hastings.

### **ADJOURNMENT**

At 2:17 p.m., on a motion by Senator Wightman, the Legislature adjourned until 10:00 a.m., Friday, January 9, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRD DAY - JANUARY 9, 2009**  
**LEGISLATIVE JOURNAL**  
**ONE HUNDRED FIRST LEGISLATURE**  
**FIRST SESSION**

**THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, January 9, 2009

**PRAYER**

The prayer was offered by Senator Wallman.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Ashford and White who were excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the second day was approved.

**REPORT**

The following report was received by the Legislature:

**Roads, Nebraska Department of**

Board of Public Roads Classifications and Standards Minutes for October 2008

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 97.** Introduced by Lautenbaugh, 18; Friend, 10; Howard, 9; Rogert, 16.

A BILL FOR AN ACT relating to law; to amend sections 21-20,177, 21-20,179, 28-101, 28-311, 28-320.02, 28-813.01, 28-1010, 28-1463.02, 28-1463.03, 28-1463.04, 28-1463.05, 29-110, 29-4001, 29-4003, 29-4006, 29-4007, and 29-4008, Reissue Revised Statutes of Nebraska; to change provisions relating to service on and revocation of certificates of authority of

foreign corporations; to change provisions and penalties regarding criminal child enticement, use of a computer in sexual assault, sexually explicit conduct, and the Child Pornography Prevention Act; to prohibit certain Internet use by sexually violent predators; to eliminate a statute of limitations for incest; to provide for confidentiality of certain property or material of a sexual nature held by law enforcement; to change provisions relating to the Sex Offender Registration Act; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 98.** Introduced by Carlson, 38; Christensen, 44; Dubas, 34; Fischer, 43; Haar, 21; Hansen, 42; Harms, 48.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-958.02, 2-967, and 2-968, Reissue Revised Statutes of Nebraska; to change provisions relating to noxious weed grant programs and the Riparian Vegetation Management Task Force; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 99.** Introduced by Carlson, 38.

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.

**LEGISLATIVE BILL 100.** Introduced by Carlson, 38.

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.

**LEGISLATIVE BILL 101.** Introduced by Carlson, 38.

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.

**LEGISLATIVE BILL 102.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to schools; to provide a definition of high school graduate for purposes of postsecondary educational financial aid; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 103.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to postsecondary educational institutions; to amend sections 85-408 and 85-1402, Reissue Revised Statutes of Nebraska; to change provisions relating to capital and facility expenditures; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 104.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to cities of the first class; to amend section 16-117, Revised Statutes Cumulative Supplement, 2008; to eliminate resolution, public hearing, and publication requirements for annexation as prescribed; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 105.** Introduced by Natural Resources Committee: Langemeier, 23, Chairperson; Carlson, 38; Cook, 13; Dubas, 34; Fischer, 43; Haar, 21; McCoy, 39; Schilz, 47.

A BILL FOR AN ACT relating to game and parks; to amend sections 28-1335, 37-201, 37-314, 37-327, 37-407, 37-410, 37-411, 37-415, 37-417, 37-426, 37-431, 37-432, 37-433, 37-438, 37-440, 37-447, 37-448, 37-449, 37-450, 37-451, 37-455, 37-455.01, 37-456, 37-457, 37-458, 37-462, 37-463, 37-465, 37-477, 37-478, 37-479, 37-481, 37-483, 37-484, 37-497, 37-4,104, 37-4,105, 37-4,106, 37-4,108, 37-4,111, 37-501, 37-504, 37-507, 37-513, 37-514, 37-523, 37-613, 37-727, 37-1212, 37-1214, 37-1217, 37-1227, 37-1241.07, 37-1241.08, and 54-2313, Reissue Revised Statutes of Nebraska; to provide powers and duties for the Game and Parks Commission; to provide for and change penalty provisions related to hunting and fishing; to provide for and change maximum amounts of fees imposed under the Game Law and the State Boat Act; to provide for and change liquidated damages under the Game Law; to provide for and change provisions relating to special permits and licenses; to change provisions relating to animals held in captivity, abandonment or needless waste of game animals, and hunting wildlife with artificial light; to prohibit administration of drugs to wildlife; to provide exceptions; to provide requirements for renting and leasing motorboats; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 106.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,268, Reissue Revised Statutes of Nebraska; to eliminate the requirements that occupant protection system laws be enforced as a secondary action; to outright section 60-6,271, Reissue Revised Statutes of Nebraska; and to repeal the original section.

**LEGISLATIVE BILL 107.** Introduced by Haar, 21.

A BILL FOR AN ACT relating to labor; to require an employer to provide

employee a reason for termination as prescribed; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 108.** Introduced by Carlson, 38.

A BILL FOR AN ACT relating to all-terrain vehicles; to amend section 60-146, Revised Statutes Cumulative Supplement, 2008; to exempt certain vehicles from identification inspection requirements; and to repeal the original section.

**LEGISLATIVE BILL 109.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-471, 60-501, 60-520, 60-547, 60-6,357, 60-6,358, 60-6,359, 60-6,360, and 60-6,361, Reissue Revised Statutes of Nebraska, and sections 60-462, 60-463, 60-6,355, and 60-6,356, Revised Statutes Cumulative Supplement, 2008; to authorize the operation of low-speed vehicles on highways as prescribed; to require certain equipment for such vehicles; to prohibit certain modifications; to provide for an exemption; to provide accident reporting as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 110.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-301, 60-3,104, 60-3,119, 60-3,122, 60-3,122.02, 60-3,123, 60-3,124, 60-3,125, 60-3,128, and 60-3,130.04, Revised Statutes Cumulative Supplement, 2008; to change fees for motor vehicle registration; to change the distribution of proceeds of the fees; to eliminate the Spirit Plate Proceeds Fund; to provide for specialty license plates; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal section 60-3,129, Revised Statutes Cumulative Supplement, 2008.

**LEGISLATIVE BILL 111.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-682.01, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to fines for speeding in a construction zone; and to repeal the original section.

**LEGISLATIVE BILL 112.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Revised Statutes Cumulative Supplement, 2008; to exclude certain rural health loan repayments from income taxation as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 113.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to the Securities Act of Nebraska; to amend

sections 8-1110, 8-1116, and 8-1123, Reissue Revised Statutes of Nebraska; to change provisions relating to exempt securities; to provide a penalty; to provide additional equitable powers for courts with respect to violations of the act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 114.** Introduced by Loudon, 49.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-601, Revised Statutes Cumulative Supplement, 2008; to provide for operation of minitrucks on certain highways as prescribed; to provide penalties; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 115.** Introduced by Loudon, 49.

A BILL FOR AN ACT relating to the State Veteran Cemetery System; to amend section 12-1301, Reissue Revised Statutes of Nebraska; to eliminate the Nebraska Veterans Cemetery Advisory Board; and to repeal the original section.

**LEGISLATIVE BILL 116.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to the Nebraska State Insurance Program; to amend section 84-1604, Reissue Revised Statutes of Nebraska; to provide for the inclusion of volunteer emergency responders, firefighters, and rescue squad members as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 117.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701, 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Cumulative Supplement, 2008; to provide an income tax credit for retail business taxpayers as prescribed; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 118.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to decedents' estates; to amend sections 30-24,125 and 30-24,129, Reissue Revised Statutes of Nebraska; to change provisions relating to collection of personal property by affidavit and succession to real property by affidavit; and to repeal the original sections.

**LEGISLATIVE BILL 119.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2005 and 77-2040, Revised Statutes Cumulative Supplement, 2008; to change inheritance tax provisions; to provide for applicability; and to repeal the original sections.

**LEGISLATIVE BILL 120.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to inheritance tax; to amend sections 77-2018.04 and 77-2018.07, Reissue Revised Statutes of Nebraska, and section 77-2010, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to estate administration expenses and penalties; and to repeal the original sections.

**LEGISLATIVE BILL 121.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 13-520, 23-3202, and 32-519, Reissue Revised Statutes of Nebraska, and sections 77-1339, 77-1340, 77-1342, and 77-3442, Revised Statutes Cumulative Supplement, 2008; to change budget limitations; to require reimbursement by counties to the state for property tax assessment services; to provide for reassumption of the assessment function by counties on or before July 1, 2012; to change tax levy limitations; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 77-1340.01, 77-1340.02, and 77-1340.03, Reissue Revised Statutes of Nebraska, and section 77-1340, Revised Statutes Cumulative Supplement, 2008, as amended by section 5 of this legislative bill.

**LEGISLATIVE BILL 122.** Introduced by Coash, 27.

A BILL FOR AN ACT relating to children; to amend sections 28-718 and 28-720, Reissue Revised Statutes of Nebraska; to change terminology for child protection cases; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 123.** Introduced by Karpisek, 32; Christensen, 44; Coash, 27; Dubas, 34; Friend, 10; McGill, 26; Pirsch, 4; Rogert, 16; Wallman, 30.

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.

**LEGISLATIVE BILL 124.** Introduced by Hansen, 42; McCoy, 39; Nordquist, 7; Pahls, 31.

A BILL FOR AN ACT relating to the Job Training Cash Fund; to amend section 81-1201.21, Reissue Revised Statutes of Nebraska; to extend deadlines for transfers to the Cash Reserve Fund; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 125.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to elections; to amend sections 32-101, 32-107, 32-108, 32-114, 32-115, 32-221, 32-302, 32-306, 32-307, 32-308,



32-310, 32-311.01, 32-314, 32-321, 32-325, 32-807, 32-813, 32-816, 32-901, 32-902, 32-904, 32-906, 32-907, 32-910, 32-912, 32-913, 32-914, 32-915, 32-916, 32-917, 32-918, 32-919, 32-920, 32-921, 32-922, 32-923, 32-925, 32-927, 32-929, 32-933, 32-934, 32-935, 32-936, 32-937, 32-938, 32-940, 32-941, 32-945, 32-952, 32-1001, 32-1002, 32-1041, 32-1302, 32-1307, 32-1403, 32-1502, 32-1503, 32-1504, 32-1508, 32-1512, 32-1519, 32-1528, 32-1530, 32-1531, and 32-1532, Reissue Revised Statutes of Nebraska; to provide for voter registration on election day as prescribed; to change provisions relating to registration and voting; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 126.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to constitutional officers; to amend sections 49-1401 and 49-1463.01, Revised Statutes Cumulative Supplement, 2008; to require financial disclosure reports; to provide a late filing fee; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 127.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701 and 77-2701.04, Revised Statutes Cumulative Supplement, 2008; to define a term; to exempt sales of college textbooks and certain clothing, school supplies, and computers from sales and use tax as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 128.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to cities; to authorize the investment of public endowment funds; and to declare an emergency.

**LEGISLATIVE BILL 129.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-301, Revised Statutes Cumulative Supplement, 2008; to authorize certain actions and procedures by counties and the Director of Motor Vehicles for invalid financial transactions; to harmonize provisions; and to repeal the original section.

### **COMMITTEE ON COMMITTEES FINAL REPORT**

Senator Hansen moved to approve the final Committee on Committees report found on page 56.

The Committee on Committees report was approved with 43 ayes, 0 nays, 3 present and not voting, and 3 excused and not voting.

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 130.** Introduced by Dubas, 34; Harms, 48.

A BILL FOR AN ACT relating to agriculture; to create the Farm to School Program Task Force; to provide duties and for termination; and to declare an emergency.

**LEGISLATIVE BILL 131.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to counties; to change boundaries of certain counties; to harmonize provisions; and to outright repeal sections 22-161 and 22-172, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 132.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to the Barber Act; to amend sections 71-201, 71-208.02, 71-208.06, 71-216, 71-219, 71-219.02, 71-223.01, 71-224, 71-239, 71-242, and 71-245, Reissue Revised Statutes of Nebraska; to limit the use of certain titles and images as prescribed; to change provisions relating to barber instructors, license expiration, inspections, and licensure without examination; to provide for booth rental permits; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 133.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to elections; to amend section 32-707, Reissue Revised Statutes of Nebraska; to change provisions relating to the location of county postprimary conventions; and to repeal the original section.

**LEGISLATIVE BILL 134.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to natural resources districts; to amend section 2-3234, Reissue Revised Statutes of Nebraska; to change provisions relating to eminent domain; and to repeal the original section.

**LEGISLATIVE BILL 135.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2008, LB606A, section 1; to change an appropriation as prescribed; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 136.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to medical assistance; to amend sections 68-915, 68-1713, and 68-1724, Revised Statutes Cumulative Supplement,

2008; to change provisions relating to eligibility; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 137.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-103, Revised Statutes Cumulative Supplement, 2008; to redefine campus as it pertains to the University of Nebraska-Lincoln; and to repeal the original section.

**LEGISLATIVE BILL 138.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.07, Revised Statutes Cumulative Supplement, 2008; to provide an income tax credit for public school teachers; and to repeal the original section.

**LEGISLATIVE BILL 139.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to the Commission on Mexican-Americans; to amend sections 81-8,262, 81-8,265, 81-8,270, and 81-8,271.01, Reissue Revised Statutes of Nebraska; to rename the commission and a fund; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 140.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to state funds; to amend sections 72-1260 and 84-1309.01, Reissue Revised Statutes of Nebraska; to provide duties and responsibilities relating to public funds invested in Sudan-related companies; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 141.** Introduced by Rogert, 16; Avery, 28; Coash, 27; Fulton, 29; Pankonin, 2.

A BILL FOR AN ACT relating to veterans; to adopt the Brain Injury Act.

**LEGISLATIVE BILL 142.** Introduced by Hansen, 42; Carlson, 38.

A BILL FOR AN ACT relating to the Livestock Brand Act; to amend section 54-1,100, Reissue Revised Statutes of Nebraska; to change provisions relating to recorded brands; to change a fee; and to repeal the original section.

**LEGISLATIVE BILL 143.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to recreational activities; to amend sections 13-910, 15-258, and 16-226, Reissue Revised Statutes of Nebraska, and section 14-102, Revised Statutes Cumulative Supplement, 2008; to adopt the Nebraska Shooting Range Protection Act; to change provisions relating

to the Political Subdivisions Tort Claims Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 144.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to public records; to amend section 79-8,109, Reissue Revised Statutes of Nebraska; to provide for records of certain disciplinary actions against law enforcement officers to be a public record and for records of certain disciplinary actions against public school district teachers, administrators, or full-time employees to be accessible; and to repeal the original section.

**LEGISLATIVE BILL 145.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to firearms; to amend sections 28-1204.03 and 28-1204.04, Reissue Revised Statutes of Nebraska, and section 69-2441, Revised Statutes Cumulative Supplement, 2008; to prohibit firearms at schools, colleges, and universities as prescribed; to provide a penalty; to define a term; to change provisions relating to the Concealed Handgun Permit Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 146.** Introduced by Howard, 9; Wightman, 36.

A BILL FOR AN ACT relating to pharmacy; to amend sections 38-2801, 38-2802, and 38-2850, Reissue Revised Statutes of Nebraska, and sections 71-401, 71-403, and 71-425, Revised Statutes Cumulative Supplement, 2008; to provide for simulated pharmacies; to define and redefine terms; to provide for special licensure; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 147.** Introduced by Pirsch, 4; Nordquist, 7.

A BILL FOR AN ACT relating to change of name; to amend sections 25-21,271, 28-718, and 29-4004, Reissue Revised Statutes of Nebraska; to provide name-change court orders to update the central register of child protection cases and the central registry of sex offenders; and to repeal the original sections.

**LEGISLATIVE BILL 148.** Introduced by Pirsch, 4; Howard, 9; Nordquist, 7.

A BILL FOR AN ACT relating to motor vehicle homicide; to amend sections 28-306 and 28-394, Reissue Revised Statutes of Nebraska; to change penalty provisions; and to repeal the original sections.

**LEGISLATIVE BILL 149.** Introduced by Pankonin, 2; McCoy, 39; Nelson, 6.

A BILL FOR AN ACT relating to insurance; to require coverage for

prosthetics; and to define a term.

**LEGISLATIVE BILL 150.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to the Nebraska Prostitution Intervention and Treatment Act; to eliminate the act; and to outright repeal sections 71-2301, 71-2302, 71-2303, 71-2304, and 71-2305, Revised Statutes Cumulative Supplement, 2008.

**LEGISLATIVE BILL 151.** Introduced by Stuthman, 22; Christensen, 44; Rogert, 16.

A BILL FOR AN ACT relating to controlled substances; to amend sections 28-405, 28-456, and 28-456.01, Reissue Revised Statutes of Nebraska; to eliminate provisions relating to ephedrine as prescribed; to harmonize provisions; to repeal the original sections; and to outright repeal sections 28-448 and 28-454, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 152.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to relating to insurance; to amend section 44-6413, Reissue Revised Statutes of Nebraska; to change a provision relating to uninsured and underinsured motorist coverages; and to repeal the original section.

**LEGISLATIVE BILL 153.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to recreation; to amend sections 37-729, 37-730, 37-731, 37-732, 37-733, 37-734, 37-735, and 37-736, Reissue Revised Statutes of Nebraska; to name the Tourism Liability Act; to define and redefine terms; to change provisions relating to owner liability for recreation and tourism activities; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 154.** Introduced by Government, Military and Veterans Affairs Committee: Avery, 28, Chairperson; Giese, 17; Janssen, 15; Pahls, 31; Pirsch, 4; Price, 3; Sullivan, 41.

A BILL FOR AN ACT relating to government; to amend sections 29-3922, 29-3927, 38-2881, 38-2886, 38-2888, 42-917, 44-5230, 44-5255, 44-5263, 48-621, 66-1337, 66-1518, 81-1201.21, 81-15,124.01, 85-1501, 85-1503, 85-1511, 85-1515, 85-1516, 85-1521, 85-1535, 85-1655, 86-401, 86-593, 86-594, 86-597, and 86-598, Reissue Revised Statutes of Nebraska, and sections 66-1519, 71-702, 71-801, and 71-810, Revised Statutes Cumulative Supplement, 2008; to eliminate obsolete provisions; to repeal the Small Business Development Authority Act, the Nebraska State Airline Authority Act, the Nebraska Transit and Rail Advisory Council Act, the Behavioral Health Oversight Commission, the Biopower Steering Committee, the Broadband Services Task Force, the Donor Registry of Nebraska Advisory

Board, the Health Benefit Plan Committee, the Indigent Defense Standards Advisory Council, the Nebraska Commission on the Status of Women, the Nebraska Community College Aid, Grant, and Contract Review Committee, the Nebraska Lewis and Clark Bicentennial Commission, the Public Health Clinic Formulary Advisory Committee, the Regional Interoperability Advisory Board, the Special Education Services Task Force, the Tax Policy Reform Commission, the Teen Tobacco Education and Prevention Project Committee, the Vote Nebraska Initiative, an ethanol advisory committee, a postsecondary education advisory committee, a technical advisory committee for petroleum products, a working group studying sex offender treatment, and certain funds; to name an act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 3-801, 3-802, 3-803, 3-804, 3-805, 3-806, 29-3932, 32-1701, 44-5236, 44-5262, 58-301, 58-302, 58-303, 58-304, 58-305, 58-306, 58-307, 58-308, 58-309, 58-310, 58-311, 58-312, 58-313, 58-314, 58-315, 58-316, 58-317, 58-318, 58-319, 58-320, 58-321, 58-322, 58-323, 58-324, 58-325, 66-1701, 71-5715, 74-1501, 74-1502, 74-1503, 74-1504, 74-1505, 74-1506, 74-1507, 74-1508, 74-1509, 74-1510, 74-1511, 74-1512, 74-1513, 74-1514, 77-2704.19, 79-11,151, 79-11,152, 79-11,153, 79-11,154, 81-8,255, 81-8,256, 81-8,257, 81-8,258, 81-8,259, 81-8,260, 81-8,260.01, 81-8,260.02, 81-8,307, 81-8,308, 81-15,189, 81-15,190, 85-1539, 85-1540, 86-418.01, and 86-599, Reissue Revised Statutes of Nebraska, and sections 71-818, 71-1227, 71-1228, 71-4823, 77-6001, 77-6002, 77-6003, 77-6004, 77-6005, 77-6006, and 77-6007, Revised Statutes Cumulative Supplement, 2008.

**LEGISLATIVE BILL 155.** Introduced by Rogert, 16; Friend, 10; Howard, 9; Lautenbaugh, 18.

A BILL FOR AN ACT relating to crimes and punishments; to amend sections 28-101, 28-518, 28-608, and 29-110, Reissue Revised Statutes of Nebraska; to adopt the Public Protection Act and to provide penalties; to change provisions relating to theft offenses and criminal impersonation and to change penalties; to create the offenses of identity theft and identity fraud and to provide penalties; to harmonize provisions; to provide severability; and to repeal the original sections.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 1CA.** Introduced by Friend, 10.

THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2010 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 10:

III-10 Beginning with the year 1975, regular sessions of the Legislature shall be held annually, commencing at 10 a.m. on the first Wednesday after the first Monday in January of each year. The duration of regular sessions

held shall not exceed ~~ninety-sixty~~ legislative days in odd-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature, and shall not exceed ~~sixty-forty~~ legislative days in even-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature. Bills and resolutions under consideration by the Legislature upon adjournment of a regular session held in an odd-numbered year may be considered at the next regular session, as if there had been no such adjournment. The Lieutenant Governor shall preside, but shall vote only when the Legislature is equally divided. A majority of the members elected to the Legislature shall constitute a quorum; the Legislature shall determine the rules of its proceedings and be the judge of the election, returns, and qualifications of its members, shall choose its own officers, including a Speaker to preside when the Lieutenant Governor shall be absent, incapacitated, or shall act as Governor. No member shall be expelled except by a vote of two-thirds of all members elected to the Legislature, and no member shall be twice expelled for the same offense. The Legislature may punish by imprisonment any person not a member thereof who shall be guilty of disrespect to the Legislature by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to reduce the maximum number of days for regular legislative sessions to sixty legislative days in odd-numbered years and forty legislative days in even-numbered years.

For

Against.

Referred to the Reference Committee.

**LEGISLATIVE RESOLUTION 2.** Introduced by Heidemann, 1; Adams, 24; Avery, 28; Campbell, 25; Carlson, 38; Christensen, 44; Coash, 27; Cook, 13; Cornett, 45; Council, 11; Dierks, 40; Dubas, 34; Fischer, 43; Flood, 19; Friend, 10; Fulton, 29; Gay, 14; Giese, 17; Gloor, 35; Haar, 21; Hadley, 37; Hansen, 42; Harms, 48; Howard, 9; Janssen, 15; Karpisek, 32; Langemeier, 23; Lathrop, 12; Lautenbaugh, 18; Loudon, 49; McCoy, 39; McGill, 26; Mello, 5; Nantkes, 46; Nelson, 6; Nordquist, 7; Pahls, 31; Pankonin, 2; Pirsch, 4; Price, 3; Rogert, 16; Schilz, 47; Stuthman, 22; Sullivan, 41; Utter, 33; Wallman, 30; White, 8; Wightman, 36.

WHEREAS, Roger R. Wehrbein of Plattsmouth has been named Nebraskan of the Year by the Rotary Clubs of Nebraska; and

WHEREAS, Roger Wehrbein was chosen as the twenty-second recipient of this annual award based on his demonstrated honesty, integrity, and concern for others, his support of civic and charitable causes, and his leadership and significant accomplishments during his career; and

WHEREAS, Roger Wehrbein served as a state senator for twenty years, representing District 2, which includes Cass County, a portion of Otoe County, and more recently a portion of Sarpy County; and

WHEREAS, former Senator Wehrbein served on the Appropriations Committee of the Legislature for eighteen years, serving as chairman for ten years; and

WHEREAS, former Senator Wehrbein will long be remembered in the Legislature for his very capable leadership of the Appropriations Committee, for his expertise on agricultural issues, and for his honesty and integrity in representing his constituents; and

WHEREAS, Roger Wehrbein also served in the United States Army, as a Cass County Commissioner, and on the Cass County Fair Board as well as numerous other agricultural and economic development boards and commissions; and

WHEREAS, the success of the farming community, the strength of our counties, and the overall vitality of the State of Nebraska depend, in great measure, upon the dedication of people like Roger Wehrbein, who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates Roger R. Wehrbein for his selection by the Rotary Clubs of Nebraska as the Nebraskan of the Year, recognizes his outstanding record of service to his local community and the state, and extends its best wishes for his continued success and happiness.

2. That a copy of this resolution be sent to Roger Wehrbein.

Laid over.

**LEGISLATIVE RESOLUTION 3.** Introduced by Fulton, 29; Flood, 19.

WHEREAS, the University of Nebraska Cornhusker football team was victorious in the 2009 Gator Bowl over the Clemson University Tigers by a score of twenty-six to twenty-one; and

WHEREAS, head coach Bo Pelini joins Bob Devaney, Tom Osborne, and Frank Solich as the only head coaches to lead the Huskers to nine wins in their first season; and

WHEREAS, quarterback Joe Ganz established new Nebraska season records for completions, completion percentage, passing yards, and total yards and was named MVP of the 2009 Gator Bowl; and

WHEREAS, the prolific Husker offense ranked in the top twenty bowl subdivision programs for passing offense, scoring offense, and total offense; and

WHEREAS, the work ethic of head coach Bo Pelini and the entire Husker football coaching staff manifested itself in the efforts of the team both on the field and in the classroom; and

WHEREAS, the character, determination, and resolve of the Husker football program is a source of great inspiration and pride for the people of Nebraska.



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

1. That the Legislature congratulates the University of Nebraska Cornhusker football team and head coach Bo Pelini for their achievements.
2. That a copy of this resolution be delivered to the University of Nebraska.

Laid over.

**LEGISLATIVE RESOLUTION 4.** Introduced by Fulton, 29; Flood, 19.

WHEREAS, the University of Nebraska women's volleyball team valiantly competed in the 2008 NCAA Division I Women's Volleyball Final Four Tournament, breaking Penn State University's consecutive set record; and

WHEREAS, the Husker volleyball team continued to elevate the sport of women's volleyball through their thrilling semifinal match before the largest indoor volleyball crowd in United States history; and

WHEREAS, the Husker volleyball team displayed great tenacity, unity, and athletic superiority in their historic victory over the University of Washington to reach the Final Four; and

WHEREAS, Jordan Larson, Tara Mueller, Sydney Anderson, and Kori Cooper, through their exemplary athletic play, received All-American accolades from the American Volleyball Coaches Association; and

WHEREAS, seniors and Nebraska natives Jordan Larson, Amanda Gates, and Rachel Schwartz consistently displayed the leadership, resolve, and sportsmanship that led the Huskers to a successful season; and

WHEREAS, head coach John Cook and the entire Husker volleyball coaching staff developed the character and ethic of a team that embodied the finest ideals of collegiate athletics; and

WHEREAS, the athletic and academic achievements of the Husker volleyball team are a source of tremendous pride and inspiration to the people of Nebraska.

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

1. That the Legislature congratulates the University of Nebraska women's volleyball team and head coach John Cook for their achievements.
2. That a copy of this resolution be delivered to the University of Nebraska.

Laid over.

**ANNOUNCEMENTS**

The Revenue Committee elected Senator Dierks as Vice Chairperson.

The Banking, Commerce and Insurance Committee elected Senator Pirsch as Vice Chairperson.

The Government, Military and Veterans Affairs Committee elected Senator Pirsch as Vice Chairperson.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Mello asked unanimous consent to add his name as cointroducer to LB13. No objections. So ordered.

Senators Mello and Nordquist asked unanimous consent to add their names as cointroducers to LB17 and LB63. No objections. So ordered.

Senator Fulton asked unanimous consent to add his name as cointroducer to LB67. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB84. No objections. So ordered.

Senator Dierks asked unanimous consent to add his name as cointroducer to LB98. No objections. So ordered.

**VISITOR**

The Doctor of the Day was Dr. Marcos Iglesias from Omaha.

**ADJOURNMENT**

At 10:50 a.m., on a motion by Senator Pahls, the Legislature adjourned until 10:00 a.m., Monday, January 12, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**FOURTH DAY - JANUARY 12, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, January 12, 2009

**PRAYER**

The prayer was offered by Senator Fischer.

**ROLL CALL**

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

The roll was called and all members were present except Senators Ashford, Dubas, and Sullivan who were excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the third day was approved.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB1	General File
LB2	General File
LB3	General File
LB4	Judiciary
LB5	Natural Resources
LB6	Transportation and Telecommunications
LB7	Government, Military and Veterans Affairs
LB8	Government, Military and Veterans Affairs
LB9	Revenue
LB10	Transportation and Telecommunications
LB11	Banking, Commerce and Insurance
LB12	Appropriations
LB13	Revenue
LB14	Natural Resources
LB15	Judiciary
LB16	Executive Board

LB17	Government, Military and Veterans Affairs
LB18	Natural Resources
LB19	Judiciary
LB20	Education
LB21	Education
LB22	Education
LB23	Nebraska Retirement Systems
LB24	Government, Military and Veterans Affairs
LB25	Health and Human Services
LB26	Revenue
LB27	Health and Human Services
LB28	Transportation and Telecommunications
LB29	Banking, Commerce and Insurance
LB30	Banking, Commerce and Insurance
LB31	Banking, Commerce and Insurance
LB32	Banking, Commerce and Insurance
LB33	Government, Military and Veterans Affairs
LB34	Judiciary
LB35	Judiciary
LB36	Judiciary
LB37	Appropriations
LB38	Judiciary
LB39	Judiciary
LB40	Judiciary
LB41	Judiciary
LB42	Natural Resources
LB43	Natural Resources
LB44	Revenue
LB45	Revenue
LB46	Judiciary
LB47	Judiciary
LB48	Transportation and Telecommunications
LB49	Transportation and Telecommunications
LB50	Transportation and Telecommunications
LB51	Business and Labor
LB52	Government, Military and Veterans Affairs
LB53	Natural Resources
LB54	Natural Resources
LB55	Government, Military and Veterans Affairs
LB56	Natural Resources
LB57	Revenue
LB58	Revenue
LB59	Revenue
LB60	Transportation and Telecommunications
LB61	Education
LB62	Education
LB63	Judiciary
LB64	Education
LB65	Revenue

LB66	Government, Military and Veterans Affairs
LB67	Education
LB68	Health and Human Services
LB69	Revenue
LB70	Revenue
LB71	Agriculture
LB72	Education
LB73	Education
LB74	Banking, Commerce and Insurance
LB75	Banking, Commerce and Insurance
LB76	Judiciary
LB77	Revenue
LB78	Judiciary
LB79	Judiciary
LB80	Banking, Commerce and Insurance
LB81	Nebraska Retirement Systems
LB82	Judiciary
LB83	Judiciary
LB84	Health and Human Services
LB85	Urban Affairs
LB86	Government, Military and Veterans Affairs
LB87	Banking, Commerce and Insurance
LB88	Banking, Commerce and Insurance
LB89	Revenue
LB90	Judiciary
LB91	Health and Human Services
LB92	Transportation and Telecommunications
LB93	Transportation and Telecommunications
LB94	Revenue
LB95	Revenue
LB96	Appropriations

Bourne, Patrick - Nebraska Power Review Board - Natural Resources

Bromm, Vicki - Nebraska Arts Council - General Affairs

Camara, Wayne - Technical Advisory Committee for Statewide Assessment  
- Education

Carlson, Clifford - Commission for the Deaf and Hard of Hearing - Health  
and Human Services

Carpenter, Stan - Nebraska Educational Telecommunications Commission -  
Education

Cole, Charles - Boiler Safety Code Advisory Board - Business and Labor

DeMartino, Thomas - Boiler Safety Code Advisory Board - Business and  
Labor

Duennerman, Luana - Commission for the Deaf and Hard of Hearing -  
Health and Human Services

Dunnigan, Brian - Director, Department of Natural Resources - Natural  
Resources

Elliott, Janis - Public Employees Retirement Board - Nebraska Retirement  
Systems

Elsasser, Stanley - State Electrical Board - General Affairs  
Fisher, Rex - Game and Parks Commission - Natural Resources  
Gong, Brian - Executive Director, Technical Advisory Committee for  
Statewide Assessment - Education  
Jacobson, Julie - Nebraska Arts Council - General Affairs  
Jenkins, Carol - Commission for the Blind and Visually Impaired - Health  
and Human Services  
Kasl, Martin - Boiler Safety Code Advisory Board - Business and Labor  
Kent, Louise - Nebraska Arts Council - General Affairs  
Lichter, Stephen - Nebraska Power Review Board - Natural Resources  
Manning, Steven - Commission for the Deaf and Hard of Hearing - Health  
and Human Services  
Moore, Jan - Commission for the Deaf and Hard of Hearing - Health and  
Human Services  
Morrissey, George - State Electrical Board - General Affairs  
Nefsky, Robert - Nebraska Arts Council - General Affairs  
Pearl-Lee, Judy - Nebraska Arts Council - General Affairs  
Poole, Linda - Technical Advisory Committee for Statewide Assessment -  
Education  
Riehle, Steven - Board of Public Roads Classifications and Standards -  
Transportation and Telecommunications  
Roskens, William - Board of Trustees of the Nebraska State Colleges -  
Education  
Ross, Jeanne - Nebraska Arts Council - General Affairs  
Sawyer, Richard - Technical Advisory Committee for Statewide Assessment  
- Education  
Smith, Clay - Nebraska Educational Telecommunications Commission -  
Education  
Spurgin, Mark - Game and Parks Commission - Natural Resources  
Stewart, Kenneth - Boiler Safety Code Advisory Board - Business and  
Labor  
Suarez, Michelle - Board of Trustees of the Nebraska State Colleges -  
Education  
Watkins, Dallas - Technical Advisory Committee for Statewide Assessment  
- Education  
Werner-Robertson, Gail - Nebraska Investment Council - Nebraska  
Retirement Systems

(Signed) John Wightman, Chairperson  
Executive Board

**MESSAGE FROM THE GOVERNOR**

January 9, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as a member of the Nebraska State Fair Board:

William Marshall III, 712 Grand Avenue, Grand Island, NE 68801

The aforementioned appointee is respectfully submitted for your consideration. A copy of the appointment certificate and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

**ANNOUNCEMENTS**

The General Affairs Committee elected Senator Rogert as Vice Chairperson.

The Appropriations Committee elected Senator Harms as Vice Chairperson.

The Education Committee elected Senator Howard as Vice Chairperson.

The Transportation and Telecommunications Committee elected Senator Stuthman as Vice Chairperson.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of January 9, 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

Abboud, Chris, Public Affairs Group  
Agri-Business Association, Nebraska  
Brain Injury Association of America  
Manheims Omaha Auto Auction

Monsanto  
 Omaha Police Union, Local 101  
 Premium Tobacco, Nebraska  
 Adair, Peggy  
   CASA for Douglas County  
   League of Women Voters of Nebraska  
 Adams, Donald D., Jr.  
   Nebraskans First, Inc.  
 Adams, John H.  
   International Gamco, Inc.  
 Amack, Angela K.  
   Columbus Public Schools  
   Electrical Workers, International Brotherhood of  
   Fire Fighters Association, Nebraska Professional  
   Grand Island Public Schools  
 American Communications Group, Inc.  
   American Cancer Society  
   American Heart Association  
   American Wind Energy Association  
   Amputee Coalition of Nebraska  
   Behavioral Health Organizations, Nebraska Association of  
   Center for Rural Affairs  
   Child Healthcare Alliance, Nebraska  
   Dental Assistants of Nebraska  
   Emergency Medical Service Association, Nebraska  
   Empyrean Brewing Company  
   Engineers and Architects, Nebraska Board of  
   Girl Scouts Spirit of Nebraska  
   Goodwill Industries, Nebraska  
   Iowa/Nebraska Primary Care Association  
   Physical Therapy Association, Nebraska Chapter of American  
   Physician Assistants, Nebraska Academy of  
   Psychological Association, Nebraska  
   Public Employees, AFSCME Local 61, Nebraska Association of  
   Public Health, Friends of in Nebraska  
   Research Nebraska!  
   Respiratory Care, Nebraska Society for  
   Speech, Language, & Hearing Association, Nebraska  
   Teamsters Local Union 554  
   YMCA of Nebraska  
 Andersen, Robert C.  
   Cooperative Council, Nebraska  
 Anderson, Robert L.  
   Agri-Business Association, Nebraska  
   Anderson Management Services, Inc.  
 Anderson, Tim W.  
   Central Nebraska Public Power & Irrigation District  
 Angus, Mary E.  
   ARC of Nebraska



Austin, Jordan  
National Rifle Association Institute for Legislative Action

Baack, Dennis G.  
Community College Association, Nebraska

Baker, R.J.  
Elkhorn Valley Economic Development Council

Barrett, John  
Cox Communications

Bateman, Joseph R.  
Union Pacific Railroad

Beattie, George  
Bankers Association, Nebraska

Becker, Jill  
Black Hills Corporation (formerly Aquila)

Beermann, Allen J.  
Press Association, Nebraska

Belcher, Barbara N.  
Merck & Company

Bell, David  
Loup River Public Power District

Benson, Sandra E.  
AARP

Berryman, Scott  
Interior Design Coalition of Nebraska

Boehm, John M.  
Mortgage Association, Nebraska

Boesch, Elizabeth L.  
Nebraska Public Power District

Bohrer, Bruce J.  
Lincoln Chamber of Commerce

Bonaiuto, John A.  
School Boards, Nebraska Association of

Boucher, Richard  
Sheriffs Association, Nebraska

Bowling, Karen  
Family Council, Nebraska

Boyer, Steve  
Third Planet Windpower

Brady, Justin J.  
Radcliffe, Walter H. of Radcliffe & Associates

Brandt, Horan, Hallstrom and Stilmock  
Bankers Association, Nebraska  
Bankers Insurance and Services Company, Nebraska (NBISCO)  
Firefighters Association, Nebraska State Volunteer  
National Federation of Independent Business  
Nebraskans For Workers Compensation Equity  
NETWORKS, Inc.  
Pharmacists Association, Nebraska

Brashear, Kermit A.

Cox Communications  
Bromm, Curt  
AFLAC  
Cable Communications Association, Nebraska  
Lexington Public Schools  
Verizon Wireless  
Brown, Margaret S.  
League of Women Voters of Nebraska  
Bruning, Deonne L.  
Cox Communications  
Embarq Corp.  
Northern Natural Gas  
U. S. Cellular  
Buntain, David R.  
Medical Association, Nebraska  
Region II and V Services  
Burhan, Charles H.  
Liberty Mutual Insurance  
Burroughs, Sheila K.  
Certified Public Accountants, Nebraska Society of  
Burson, Kathleen  
PRIDE-Omaha, Inc.  
Bydalek, Dave  
Family First  
Campbell, Mary  
Lincoln Public Schools  
Carstenson, Eric B.  
Telecommunications Association, Nebraska  
Carter, Jennifer  
Appleseed Center for Law in the Public Interest, Nebraska  
Cavanaugh Law Firm, PC, LLO  
Creighton University  
Explore Information Services, LLC  
Independent Insurance Agents of Nebraska  
National Confectioners Association  
Tenet Health System  
Cavanaugh, James P.  
Cavanaugh Law Firm PC, LLO  
Cavanaugh, Patrick B.  
Cavanaugh Law Firm PC, LLO  
Cheloha, John A. 'Jack'  
City of Omaha  
Christiansen, Craig R.  
Education Association, Nebraska State  
Clark, Douglas R.  
Metropolitan Utilities District  
Clayburn, Neal  
Education Association, Nebraska State  
Coleman, Steven D.

Papillion - La Vista Public Schools  
Courtney, Robert  
AARP  
Cover, Joni R.  
Pharmacists Association, Nebraska  
Cox, Christopher  
National Rifle Association Institute for Legislative Action  
Craighead, Joni  
Property Owners Association  
Crawford, Kristin Lawson  
Kissel/E&S Associates, LLC  
Cunningham, Douglas  
Affiliated Foods Midwest  
Cunningham, James R.  
Catholic Conference, Nebraska  
Curtis, Carol A.  
AstraZeneca Pharmaceuticals  
Cutshall & Nowka  
Anheuser-Busch Companies  
Area Health Education Centers  
BryanLGH Health System  
Chief Probation Officers Coalition  
College Systems, Board of Trustees of Nebraska State  
Community Lottery System, Inc.  
County Attorneys Association, Nebraska  
Credit Advisors  
Dietetic Association, Nebraska  
Elkhorn Public Schools  
Family Physicians, Nebraska Academy of  
Funeral Directors Association, Nebraska  
Home & Community Health Agencies, Nebraska Association of  
Metropolitan Utilities District  
Nebraska Public Power District  
NET Foundation for Television  
Peetz & Company  
Pfizer, Inc.  
Police Officers' Association of Nebraska  
Pork Producers Association, Nebraska  
Poultry Industries, Inc., Nebraska  
Radiologic Technologists, Nebraska Society of  
Resources Districts, Nebraska Association of  
Rural Community School Association, Nebraska  
Society of Human Resources Management's (SHRM) Nebraska State  
Council  
Southern Public Power District  
Trucking Association, Nebraska  
Union Pacific Railroad  
Water Coalition, Nebraska  
Cutshall, Bruce A.

Cutshall & Nowka  
DeMay, James  
Citigroup Management Corp.  
Dibbern, Chris M.  
Nebraska Municipal Power Pool  
Dittmer, Judy  
AARP  
Dix, Larry  
County Officials, Nebraska Association of  
Dobler, James B.  
Farmers Mutual of Nebraska  
Dudley, William H.  
AFLAC  
Dukesherer, James C.  
Rural Electric Association, Nebraska  
Dulaney, Michael S.  
School Administrators, Nebraska Council of  
Edson, Dean E.  
Resources Districts, Nebraska Association of  
Edwards, Jon  
County Officials, Nebraska Association of  
Egr, James M.  
Firefighters Association, Nebraska State Volunteer  
Elliott, Joseph W.  
Professional Insurance Agents of Nebraska  
Ellis, Karen M.  
Embarq Corp.  
Engle, Erin  
State Farm Insurance Companies  
Eret, Don  
Tractor Testing Laboratory, Supporters of Nebraska  
Erickson, Julie S.  
American Communications Group, Inc.  
Ernst, Dan E.  
School Administrators, Nebraska Council of  
Evans, Eric A.  
Advocacy Services, Inc., Nebraska  
Ferrell, Beth Bazyn  
County Officials, Nebraska Association of  
Fischer-Lempke, Marla J.  
ARC of Nebraska  
Fraizer, Theodore D. (Tad)  
Insurance Association, American  
Mutual of Omaha Insurance Company  
Updowntowners, Inc.  
Gangwish, Duane  
Cattlemen, Inc., Nebraska  
Genrich, Richard L.  
Eagles, Fraternal Order of, NE State Aerie

Veterans & Social Societies, Inc., Nebraska Council of Fraternal  
Gilbertson, Korby M.  
Radcliffe, Walter H. of Radcliffe & Associates  
Wildlife Protectors Association, Inc./Operation Game Thief, Nebraska  
Goc, John J.  
Metropolitan Utilities District  
Gossman, Abigail  
MedImmune, Inc.  
Gottschalk, Kristen  
Rural Electric Association, Nebraska  
Gould, John 'Jack'  
Common Cause National  
Common Cause Nebraska  
Grotrian, James  
Omaha Chamber of Commerce, Greater  
Hale, Brian R.  
School Boards, Nebraska Association of  
Hale, Susan  
Center For People In Need  
Hallstrom, Robert J.  
Brandt, Horan, Hallstrom and Stilmock  
Hamilton Consulting  
Life Lock, Inc.  
Hansen, John K.  
Farmers Union, Nebraska  
Hartmann, William  
One-Call Notification Center, Nebraska Statewide  
Harvey, William F.  
EHPV (Big Red) Lottery Services, LLC d/b/a Big Red Keno  
Vigilnet America Inc.  
Hassebrook, Charles, Jr.  
Center for Rural Affairs  
Haubensak, Richard  
Constellation NewEnergy Gas Division (formerly Cornerstone Energy,  
Inc.)  
Head, Craig J.  
Farm Bureau Federation, Nebraska  
Hedman, Gary  
Southern Public Power District  
Henry, Patrick  
AARP  
Hernandez, Jennifer  
Children & Families Foundation, Nebraska  
Higgins, Shirley  
Nebraska Public Power District  
Hinds, Carolyn C  
AARP  
Hoffman, Jerry

Education Association, Nebraska State  
Holmquist, David W.  
American Cancer Society  
Holmquist, Jay  
Rural Electric Association, Nebraska  
Hood, Jane Renner  
Humanities Council, Nebraska  
Horn, Ryan  
Wal-Mart Stores, Inc.  
Husch Blackwell Sanders, LLP  
Chiropractic Physicians Association, Nebraska  
Papio-Missouri Natural Resources District, Nebraska  
Wal-Mart Stores, Inc.  
Waste Management  
Intermill, Mark  
AARP  
Jaeschke, Ronda  
SourceGas Distribution, LLC  
Jeffers, Thomas E.  
Cooperative Council, Nebraska  
Jensen, Ronald L./Jensen Associates, Inc.  
Children's Respite Care Center, Inc.  
Dental Hygienists Association, Nebraska  
Eli Lilly and Company  
Homes & Services for the Aging, Nebraska Association of  
Johnson, DeMaris/The Johnson Group  
Liberty Healthcare Corporation  
Magellan Health Services, Inc.  
Mosaic  
Nurse Anesthetists, Nebraska Association of  
Optometric Association, Nebraska  
Philip Morris USA Inc., by it's service company Altria Client Services,  
Inc.  
Podiatric Medical Association, Nebraska  
Service Providers, Nebraska Association of  
Jensen, S. Michael  
Great Plains Communications  
Johnson, DeMaris/The Johnson Group  
Cable Communications Association, Nebraska  
Check Cashers, Nebraska Association of  
County Attorneys Association, Nebraska  
Geologists, Board of  
Industrial Energy Users of Nebraska  
Jensen, Ronald/Jensen & Associates  
Water Resources Association, Nebraska  
Johnson, Dick  
Builders and Contractors, Inc., Associated  
Johnson, Kimberly  
United Parcel Service

Johnson, Larry A.  
Trucking Association, Nebraska

Johnson, Mary A.  
Ruth Mueller Robak LLC

Jordison, John C.  
Great Plains Communications  
Renaissance Nebraska Project, Inc.

Kamm, Richard D.  
Adams Central Junior-Senior High  
Grand Island Northwest Public Schools

Karl, Jamie T.  
Chamber of Commerce & Industry, Nebraska

Karnes, David  
EHPV (Big Red) Lottery Services, LLC d/b/a Big Red Keno  
Vigilnet America Inc.

Katzberg, Alan  
Rural Community School Association, Nebraska

Kay, Sara A.  
AIA Nebraska

Keigher, Timothy P.  
Keigher/Rasmussen & Associates, LLC  
Petroleum Marketers & Convenience Store Assn., Nebraska

Keigher/Rasmussen & Associates, LLC  
AirBoat Association, Nebraska  
Credit Management  
Iowa/Nebraska Equipment Dealers Association  
Land Improvement Contractors Association, Nebraska  
LensCrafters  
MillerCoors LLC (formerly Miller Brewing Company)  
National Guard Assn. of Nebraska  
Philip Morris USA Inc., by it's service company Altria Client Services,  
Inc.  
SouthWestern Association

Kelley and Jerram, P.C.  
ABATE of Nebraska, Inc.  
Beverage Operators of Nebraska, Responsible  
Douglas County, Nebraska  
Eastern Nebraska Human Services Agency  
Fraternal Order of Police, Nebraska  
Johnson Brothers/Finocchiaro, LLC  
Metro Area Transit  
Metropolitan Community College  
Omaha Airport Authority  
Omaha Exposition & Racing, Inc.

Kelley, Michael  
Kelley and Jerram, P.C.

Kelley, Sean  
Kelley and Jerram, P.C.

Kelsey, Michael D.

Cattlemen, Inc., Nebraska  
Kennedy, Barry L.  
Chamber of Commerce & Industry, Nebraska  
Kenny, Timothy R.  
Investment Finance Authority, Nebraska  
Kevil, G. Bruce  
Home Builders Association, Nebraska State  
Kidwell, Katie L.  
Civic Reform, Nebraskans for  
Kierstead, Roberta  
Planned Parenthood of Nebraska & Council Bluffs  
Kilgarin, Karen  
Education Association, Nebraska State  
Kissel, Gordon  
Kissel/E&S Associates, LLC  
Kissel/Erickson & Sederstrom Associates, LLC  
American Petroleum Institute  
Ameristar Casinos, Inc.  
Beverage Distributors of Nebraska, Associated  
CASA Association, Nebraska  
Cooperative Council, Nebraska  
County Court Association, Nebraska  
Engineers, Nebraska Society of Professional  
Erickson & Sederstrom, PC  
Hearing Society, Nebraska  
Historical Society, Nebraska State  
Investment Finance Authority, Nebraska  
Lancaster County Board of Commissioners  
March of Dimes Birth Defects Foundation  
Nebraska Municipal Power Pool  
Nebraskans for a Healthy Future  
Professional Engineers Coalition  
Ralston Public School District  
Regional Administrators, Nebraska Association of  
Sarpy County, United Cities of  
Telecare Corporation  
TransCanada Pipelines Limited  
West Corporation  
Kohout, Joseph D.  
Kissel/E&S Associates, LLC  
Kolterman, Jessica A.  
Farm Bureau Federation, Nebraska  
Krannawitter, Brian  
American Heart Association  
Krumland, Gary G.  
League of Nebraska Municipalities  
Kruse, Dacia D.  
Omaha Chamber of Commerce, Greater  
Kruse, Larry D.



Glaxo Smith Kline  
Kulesher, Kate M.  
Wyeth  
Langan, Mark  
Humane Society, Nebraska  
Lange, Robert G.  
Ameritas Life Insurance Corporation  
Larsen, Stephanie  
Center for Rural Affairs  
Lemon, Greg  
Tax Research Council, Inc., Nebraska  
Libsack, Fiona  
Regional West Health Services  
Licht, Alice L.  
Agri-Business Association, Nebraska  
Anderson Management Services, Inc.  
Auctioneers Association, Nebraska  
Automotive Recycling Industry of Nebraska  
Aviation Trade Association, Nebraska  
Hotel & Motel Association, Inc., Nebraska  
Pest Control Association, Nebraska State  
Licht, Andrew W.  
Anderson Management Services, Inc.  
Likes, Steven C., Esq.  
Investment Finance Authority, Nebraska  
Lindsay, John  
O'Hara, Lindsay & Associates, Inc.  
Lineweber, Ray L.  
United Transportation Union  
Loeffler, Michael T.  
Northern Natural Gas  
Logsdon, Robert R.  
Cox Communications  
Lombardi, Richard A.  
American Communications Group, Inc.  
Lowrey, Lon  
Novartis Pharmaceuticals Corporation  
Luetkenhaus, Brandon M.  
Credit Union League and Affiliates, Nebraska  
Mahlman, Dale L.  
Medical Association, Nebraska  
Mainwaring, Brenda  
Union Pacific Railroad  
Marsh, Laurel S.  
ACLU Nebraska  
Marvin, Mike  
Public Employees, AFSCME Local 61, Nebraska Association of  
Mass, Ken E.  
AFL-CIO, Nebraska State

- Maxwell, Chip  
Nebraska Coalition for Ethical Research
- McBride, David S.  
Health Underwriters, Nebraska Association of  
Insurance and Financial Advisors, National Association of  
Optometric Association, Nebraska
- McClure, Jeanne L.  
Alegent Health
- McClure, John  
Nebraska Public Power District
- McClymont, Pete  
Cattlemen, Inc., Nebraska
- McCullough, Jacqueline K.  
Engineering Companies/Nebraska, American Council of
- McGuire, Mark D.  
Cameco (formerly Crow Butte) Resources, Inc.  
Education Association, Nebraska State
- McHugh, Jim  
Regional West Health Services
- McKenzie, Janis M.  
Gifted, Nebraska Association For The  
Independent Colleges & Universities of Nebraska (AICUN), Association  
of  
Insurance Federation, Nebraska
- McNair, Chrissy  
Peetz & Company
- Meek, Randy D.  
Brotherhood of Locomotive Engineers, Nebraska State Legislative Board
- Menzel, Elaine  
County Officials, Nebraska Association of
- Meradith, Steve  
Windstream
- Merritt, Gary James  
Auto Dealers Association, Nebraska Independent
- Meurrens, Bradley A.  
Advocacy Services, Inc., Nebraska
- Micek, Cora  
Hospital Association, Nebraska
- Mikkelsen, Brian  
Education Association, Nebraska State
- Miller, Amy  
ACLU Nebraska
- Mills, Jack D.  
Blue Cross & Blue Shield of Nebraska  
Risk Management Association, Nebraska Intergovernmental
- Mines, Mick  
Insurance and Financial Advisors, National Association of  
League of Nebraska Municipalities

Moors, H. Jack  
Swimming Pool Foundation, National

Mischo, Craig  
Bayer Health Care

Miya, Pamela A.  
March of Dimes Birth Defects Foundation

Mize, William L. (Len)  
SourceGas Distribution, LLC

Moors, H. Jack  
3M Traffic Safety Systems  
Alfa Dehydraters Association, Nebraska  
Cameco (formerly Crow Butte) Resources, Inc.  
Cargill/Excel  
Corn Growers Association, Nebraska  
Johnson & Johnson  
Mines & Associates  
Syngenta  
Tobacco & Candy Distributors, Nebraska Association of

Morfeld, Adam  
Civic Reform, Nebraskans for

Mortland, Thomas  
Berkshire Hathaway Homestate Companies

Moul, Maxine  
Endow Nebraska

Moylan, James H.  
Beverage Association, Nebraska Licensed  
Reynolds American (formerly RJ Reynolds Tobacco)

Mueller, William J.  
Ruth Mueller Robak LLC

Munguia, Roberto F.  
Burlington Northern Santa Fe

Murphy, Jeremy P.  
Catholic Conference, Nebraska

Nabb, Douglas  
Fremont Public Schools

Napp, Jaimee  
Identity Theft Action Council of Nebraska (iTAC)

Nathan, Robbie  
AARP

Neville, Brennan S.  
National Indemnity Company

Nielsen, Coleen J.  
Criminal Defense Attorneys Association, Nebraska  
Insurance Information Service, Nebraska  
Medco Health Solutions, Inc.  
Merck & Company  
State Farm Insurance Companies

Nolan, Michael  
League of Nebraska Municipalities

Nowka, Trent P.  
Cutshall & Nowka

O'Hara, Lindsay & Associates, Inc.  
AIA Nebraska  
Ambulatory Centers, Nebraska Association of Independent  
Automobile Manufacturers, Alliance of  
Beverage Association, Nebraska  
Black Hills Corporation (formerly Aquila)  
Blue Cross & Blue Shield of Nebraska  
City of Hastings  
City of Lincoln  
City of Omaha  
County Judges Association, Nebraska  
Endow Nebraska  
First National of Nebraska, Inc.  
Guardian Healthcare Providers, Inc. and Guardian Community Living,  
LLC  
Hall County Livestock Improvement Association  
Housing & Redevelopment Officials, Nebraska Chapter of the National  
Association of  
Humanities Council, Nebraska  
Nebraskans Against the Death Penalty  
Nebraskans for the Arts  
Nucor Corporation  
Omaha Public Power District  
Omaha Public Schools  
SourceGas Distribution, LLC  
Trial Attorneys, Nebraska Association of  
Valmont Industries, Inc.  
Winnebago Tribe of Nebraska

O'Neill, Thomas J., Jr.  
Independent Colleges & Universities of Nebraska (AICUN),  
Association of

Olsen, Keith R.  
Farm Bureau Federation, Nebraska

Orton, Leroy  
Irrigation Association, Nebraska State  
Waste Water Assn., Nebraska On-Site  
Well Drillers Association, Nebraska

Othmer, Mark F.  
Iowa/Nebraska Equipment Dealers Association

Otto, James A.  
Restaurant Association, Nebraska  
Retail Federation, Nebraska

Ozanne, Colleen K.  
Center For People In Need

Pack, Mary M.  
Radcliffe, Walter H. of Radcliffe & Associates

Paden, Nicholas

Broadband Coalition, Nebraska  
Cambridge Telephone Company  
Clarks Telecommunications Co.  
Consolidated Telephone Company  
Great Plains Communications  
Hamilton Telecommunications  
Hartington Telecommunications, Inc.  
Hershey Coop Telephone Co.  
HunTel Systems, Inc.  
Ignition Interlock Systems of IA, Inc.  
K & M Telephone Company  
Nebraska Central Telephone Company  
Northeast Nebraska Telephone Co.  
Stanton Telecom, Inc.  
Three River Telco

Pappas, James E.  
Independent Cattlemen of Nebraska

Parker, David R.  
Great West Casualty Company

Partington, Jim  
Restaurant Association, Nebraska

Passarelli, Angelo D.  
Millard Public Schools

Pearce, Denise K.  
City of Lincoln

Peez, Natalie, Peez & Company  
2010 Special Olympics USA National Games  
Alegent Health  
Apollo Group, Inc./Univ. of Phoenix  
Behavioral Health, Advocates for  
Boys and Girls Club of America  
Children & Families Foundation, Nebraska  
Cutshall & Nowka  
Metropolitan Entertainment & Convention Authority (Qwest Center  
Omaha)  
Omaha Zoological Society  
Pathologists, College of American

Pence, Jeanne M.  
Civil Air Patrol, NE Wing HQ

Peters, William E.  
Burlington Northern Santa Fe  
Cigar Association of America, Inc.

Peterson, Alan E.  
Media of Nebraska, Inc.

Peterson, Patricia Schuett  
Investment Finance Authority, Nebraska

Petsch, Jean M.  
General Contractors, Associated (NE Building Chapter)

Pieper, James S.

Cox Communications  
 Pierson, Darwin R.  
   Oil & Gas Association, Nebraska Independent  
 Plofchan, Paul  
   Pfizer, Inc.  
 Plucker, Julia  
   Bennington Public Schools  
   Beverage Operators of Nebraska, Responsible  
   Community Alliance, Inc.  
   Credit Union League and Affiliates, Nebraska  
   Kelley and Jerram, P.C.  
   Nebraska School Activities Association  
   Omaha Exposition & Racing, Inc.  
 Pollock, Andy  
   Friends of Nebraska Nonprofit Hospitals  
   Gottsch Enterprises  
   NorthWestern Energy  
   Papio Valley Preservation Association  
   Progressive Swine Technologies  
 Polt, Brendon A.  
   Health Care Association, Nebraska  
 Popken, Kent T.  
   Qwest Communications  
 Potter, Cara E.  
   National Association of Chain Drug Stores  
 Prenda, Amy  
   Cutshall & Nowka  
 Ptacek, Patrick J.  
   Grain and Feed Association, Nebraska  
 Radcliffe, Walter H. of Radcliffe & Associates  
   ALLTEL Communications  
   Bellevue Public Schools  
   Big John's Billiards, Inc.  
   Broadcasters Association, Nebraska  
   Cable Communications Association, Nebraska  
   Cemetery Association, Nebraska State  
   Certified Public Accountants, Nebraska Society of  
   Community Financial Services of America (CFSA) c/o MultiStates  
   Associates Inc.  
   Compensation Insurance, National Council on (NCCI)  
   Fair Board, Nebraska State  
   Father Flanagans Boys Home aka Boys Town  
   Father Flanagans Boys Home d/b/a Boys Town National Research  
   Hospital  
   Financial Services Coalition, Nebraska  
   Health Care Association, Nebraska  
   Home Builders Association, Nebraska State  
   Horsemens Benevolent & Protective Association  
   INTRALOT USA

League of Nebraska Municipalities  
Lincoln Public Schools  
Media of Nebraska, Inc.  
Medical Center, Nebraska  
Metropolitan Community College  
Motion Picture Association of America  
Nebraska Expressways for Economic Development (NEED)  
Optometric Association, Nebraska  
Property Casualty Insurers Association of America  
Public Health Funding, Nebraskans for  
Pyrotechnics Association, Nebraska  
Realtors Association, Nebraska  
Small Smiles of Nebraska c/o Multistate Associates Inc.  
State Troopers Association of Nebraska, Inc.  
Tyson Foods, Inc.  
University of Nebraska  
UST Public Affairs, Inc.  
Waste Connections, Inc.  
Wholesale Liquor Distributors Association, Nebraska

Rasmussen, Dennis  
Keigher/Rasmussen & Associates, LLC

Rea, James M.  
Lincoln Education Association

Redoutey, Laura J.  
Hospital Association, Nebraska

Reiman, Charlene  
SourceGas Distribution, LLC

Rempe, Jay E.  
Farm Bureau Federation, Nebraska

Renner, Shawn D.  
Media of Nebraska, Inc.

Rex, L. Lynn  
League of Nebraska Municipalities

Reynolds, Simeria  
Mothers Against Drunk Driving, Nebraska

Richards, Thomas  
Omaha Public Power District

Rieker, Bruce R.  
Hospital Association, Nebraska

Riibe, Diane  
Project Extra Mile

Ring, Kenneth T.  
AARP

Riskowski, Al  
Family Council, Nebraska

Robak, Kim M.  
Ruth Mueller Robak LLC

Roland, Gene  
SourceGas Distribution, LLC

Root, David

Medco Health Solutions, Inc.

Ruth Mueller Robak LLC

Airport Officials, Nebraska Association of

American Express Travel Related Services, Inc.

Ash Grove Cement Co.

AT&T Corporation

Bankers Association, Heartland Community

Better Nebraska Association

Chief Industries, Inc.

Children and Family Coalition of Nebraska

Collectors Association, Nebraska

Commercial Property Owners, Nebraska Association of

Constellation NewEnergy Gas Division (formerly Cornerstone Energy, Inc.)

Copic Companies

Court Reporters Association, Nebraska

Dental Association, Nebraska

Dermatology Society, Nebraska

District Court Judges Association, Nebraska

Duncan Aviation

Eastern Nebraska Development Council

eBay, Inc.

EHPV (Big Red) Lottery Services, LLC d/b/a Big Red Keno

Electrical Contractors Association, National

Engineers, American Society of Civil

Eye Physicians and Surgeons, Nebraska Academy of

First Data Corporation

General Contractors of America, NE Chapter, Associated

Independent Accountants, Nebraska Society of

Land Title Association, Nebraska

Lincoln Airport Authority

Lower Republican NRD

Lyman-Richey Corporation

Machinery Company, Nebraska

Madonna Rehabilitation Hospital

MDS Pharma Services (US), Inc.

MedImmune Incorporated

Methodist Health Systems, Nebraska

Millard Public Schools

Nebraska Interactive

Nebraska State Bar Association

Pharmaceutical Research and Manufacturers of America

Press Association, Nebraska

Recycle Rewards, Inc.

Sanofi Pasteur, (MultiState Associates, Inc on behalf of)

Sterling Distribution Co.

Veterinary Medical Association, Nebraska

Viaero Wireless



Vigilnet America Inc.  
Ryan, Beth  
Cutshall & Nowka  
Sahling-Zart, Shelley R.  
Lincoln Electric System  
Schafer, Andrea R.  
Norris Public Power District  
Scherer, Larry  
Education Association, Nebraska State  
Schimek, Herbert H.  
Education Association, Nebraska State  
Schleppenbach, Greg  
Catholic Conference, Nebraska  
Schmit Industries, Inc.  
Chiropractic Physicians Association, Nebraska  
Ethanol Producers, Assoc. of Nebraska  
Moylean, James  
Schmit-Albin, Julie  
Nebraska Right to Life  
Schuller, Lynne  
Horsemen's Benevolent & Protective Association  
Schultz, William E.  
Marksmanship Association, Nebraska  
Sedlacek, Ronald J.  
Chamber of Commerce & Industry, Nebraska  
Husch Blackwell Sanders, LLP  
Seibert, Tiffany  
Voices for Children  
Setzepfandt, Scott  
HLR Service Corporation  
Sheard, James W., Jr.  
Nebraska Change to Win Coalition c/o Teamsters Local 554  
Siefken, Kathy  
Grocery Industry Association, Nebraska  
Shazam  
Snyder, Patricia  
Health Care Association, Nebraska  
Sobotta, Russell  
Sanofi-Aventis Group (Aventis, Inc.)  
Solheim, David C.  
Civic Reform, Nebraskans for  
Stilmock, Gerald M.  
Brandt, Horan, Hallstrom and Stilmock  
Stremming, Troy A.  
Ameristar Casinos, Inc.  
Sullivan, J. Scott  
Credit Union League and Affiliates, Nebraska  
Thibodeau, James R.  
Metropolitan Community College

Todd, A. Loy, Jr.  
Car & Truck Dealers Association, Nebraska New

Troutman, Gary  
City of Bellevue

Uhe, Fred J.  
Sarpy County Board of Commissioners

Ullstrom, Galen F.  
Mutual of Omaha Insurance Company

Valentin, Michaela L.  
Blue Cross & Blue Shield of Nebraska

Veak, Becky  
Children & Families Foundation, Nebraska

Vickers, Tom  
Community College Association, Nebraska  
Educational Lands and Funds, Board of  
ESU#3 Consortium  
Nurses Association, Nebraska  
Propane Gas Association, Nebraska  
Westside Community Schools

Vodvarka, Dan  
Certified Public Accountants, Nebraska Society of

Wagner, Connie  
Licensed Practical Nurse Association of Nebraska

Watson, James S.  
United Healthcare

Weber, Rocky  
Cooperative Council, Nebraska

Werner, Terry  
Social Workers, Nebraska Chapter, National Association of

Wesely, Don  
O'Hara, Lindsay & Associates, Inc.

White, Rosemary  
AAA Nebraska and The Auto Club Group

Wickman-Byrd, Barbara J.  
Metro Omaha Builders Association

Wightman, Anna Castner  
First National of Nebraska, Inc.

Williams, David M.  
Ameritas Life Insurance Corporation

Wimmer, J. Kent  
Western Sugar Cooperative (CO)

Wininger, Dwight  
Rural Telecommunications Coalition, Nebraska

Winston, Ken  
Library Association, Nebraska  
Sierra Club, Nebraska

Withem, Ron  
University of Nebraska

Wolf, Jesse

Education Association, Nebraska State  
 Woods, Kara  
 Johnson, DeMaris/The Johnson Group  
 Wurster, Donald F.  
 National Indemnity Company  
 Yost, Kurt T.  
 Bankers, Nebraska Independent Community  
 Central Nebraska Public Power & Irrigation District  
 Midwest Check Cashiers, Inc.  
 Zalenski, Susan D.  
 Johnson & Johnson  
 Zulkowski, Katie W.  
 Ruth Mueller Robak LLC  
 Zumwinkle, Mike  
 Cargill/Excel

### **BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 156.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to law enforcement; to amend sections 13-926 and 81-8,239.01, Reissue Revised Statutes of Nebraska; to eliminate the strict liability requirement for pursuits by law enforcement officers; to harmonize provisions; to repeal the original sections; and to outright repeal sections 13-911 and 81-8,215.01, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 157.** Introduced by McCoy, 39.

A BILL FOR AN ACT relating to insurance; to amend sections 44-6408 and 81-8,239.07, Reissue Revised Statutes of Nebraska; to exempt state vehicles from carrying uninsured and underinsured motorist coverage; and to repeal the original sections.

**LEGISLATIVE BILL 158.** Introduced by White, 8.

A BILL FOR AN ACT relating to law enforcement; to adopt the Peace Officer Discipline Procedures Act.

**LEGISLATIVE BILL 159.** Introduced by Gay, 14; Cornett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.07, Revised Statutes Cumulative Supplement, 2008; to allow an income tax credit for certain long-term care insurance policy premiums; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 160.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to natural resources districts; to amend sections 2-3234 and 2-3290.01, Revised Statutes Cumulative Supplement, 2008; to provide for issuance of flood protection and water quality enhancement bonds as prescribed; to provide powers and duties; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

**LEGISLATIVE BILL 161.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2703, Revised Statutes Cumulative Supplement, 2008; to adopt the Business Provided Sales Tax Holiday Act; to harmonize provisions; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 162.** Introduced by Carlson, 38.

A BILL FOR AN ACT relating to contractors; to amend sections 48-2101, 48-2105, and 77-373.01, Reissue Revised Statutes of Nebraska, and sections 48-2103, 48-2104, 48-2107, 48-2115, and 77-2753, Revised Statutes Cumulative Supplement, 2008; to change and eliminate provisions relating to the Contractor Registration Act and income tax withholding by contractors; to provide an operative date; to repeal the original sections; and to outright repeal sections 77-3101, 77-3103, 77-3107, 77-3108, 77-3109, 77-3110, 77-3111, and 77-3112, Reissue Revised Statutes of Nebraska, and sections 77-3102, 77-3104, 77-3105, and 77-3106, Revised Statutes Cumulative Supplement, 2008.

**LEGISLATIVE BILL 163.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to schools; to amend section 79-544, Reissue Revised Statutes of Nebraska; to change provisions relating to school board membership; and to repeal the original section.

**LEGISLATIVE BILL 164.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 2-5413 and 81-12,125, Reissue Revised Statutes of Nebraska, and sections 77-27,187.02, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726, 77-5727, 77-5804, 77-5806, 77-5905, and 77-5906, Revised Statutes Cumulative Supplement, 2008; to change economic development tax incentive provisions; to provide operative dates; and to repeal the original sections.

**LEGISLATIVE BILL 165.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.03 and 77-2704.52, Reissue Revised Statutes of Nebraska, and sections 66-1521, 77-1783.01, 77-1784, 77-2701.16, 77-2701.24, 77-2703.04, 77-2704.09, 77-2704.12, 77-2711, 77-2712.05, and 77-2780, Revised Statutes Cumulative Supplement, 2008; to change provisions

relating to administrative costs, tax payments, sales tax, and income tax; to provide operative dates; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 166.** Introduced by Cornett, 45.

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, 77-1704.01, 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.

**LEGISLATIVE BILL 167.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to the Department of Administrative Services; to amend section 81-1117.05, Reissue Revised Statutes of Nebraska; to provide for state employee participation in employee discount programs as prescribed; to change provisions relating to payments by electronic funds transfer; and to repeal the original section.

**LEGISLATIVE BILL 168.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to the state purchasing bureau; to provide for reverse auctions as prescribed; and to provide powers and duties for the bureau.

**LEGISLATIVE BILL 169.** Introduced by Hadley, 37; Gloor, 35; Wallman, 30.

A BILL FOR AN ACT relating to appropriations; to state intent relating to appropriations to the Department of Health and Human Services for the medical assistance program.

**LEGISLATIVE BILL 170.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to conservators; to amend section 30-2630.01, Reissue Revised Statutes of Nebraska; to change provisions relating to appointment of a temporary conservator; and to repeal the original section.

**LEGISLATIVE BILL 171.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to the Nebraska Advantage Research and Development Act; to amend section 77-5803, Revised Statutes Cumulative Supplement, 2008; to change the research tax credit; to provide an operative

date; and to repeal the original section.

**LEGISLATIVE BILL 172.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to the False Medicaid Claims Act; to amend section 81-3119, Reissue Revised Statutes of Nebraska, and sections 68-934 and 68-940, Revised Statutes Cumulative Supplement, 2008; to create a fund and provide for its use; to provide for disposition of fees and costs; to provide for a fund transfer; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 173.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to prescription drugs; to provide for relabeling and redispensing at certain correctional facilities.

**LEGISLATIVE BILL 174.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to cities of the metropolitan class; to amend section 14-109, Reissue Revised Statutes of Nebraska; to change provisions relating to vehicle registration and fees as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 175.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-395 and 60-3,157, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to lost license plates; and to repeal the original sections.

**LEGISLATIVE BILL 176.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to insurance; to prohibit the use of credit information and discriminatory practices as prescribed; to define terms; to eliminate the Model Act Regarding Use of Credit Information in Personal Insurance; to provide an operative date; and to outright repeal sections 44-7701, 44-7702, 44-7703, 44-7704, 44-7705, 44-7706, 44-7707, 44-7708, 44-7709, 44-7710, 44-7711, and 44-7712, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 177.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to the Credit Report Protection Act; to amend sections 8-2602, 8-2607, and 8-2609, Reissue Revised Statutes of Nebraska; to define a term; to change provisions relating to security freezes; and to repeal the original sections.

**LEGISLATIVE BILL 178.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to appropriations; to state intent relating to

appropriations to the Department of Health and Human Services for developmental disability aid.

**LEGISLATIVE BILL 179.** Introduced by Natural Resources Committee: Langemeier, 23, Chairperson; Carlson, 38; Cook, 13; Fischer, 43; Haar, 21; McCoy, 39; Schilz, 47.

A BILL FOR AN ACT relating to the Nebraska Resources Development Fund; to amend section 2-1588, Reissue Revised Statutes of Nebraska; to change provisions relating to adjustments to project limits; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 180.** Introduced by Natural Resources Committee: Langemeier, 23, Chairperson; Carlson, 38; Cook, 13; Fischer, 43; Haar, 21; McCoy, 39; Schilz, 47.

A BILL FOR AN ACT relating to solid waste; to amend sections 13-2042.01 and 81-15,160, Reissue Revised Statutes of Nebraska; to change provisions relating to a landfill disposal fee; to provide for grants for deconstruction of abandoned buildings; and to repeal the original sections.

**LEGISLATIVE BILL 181.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to the Nebraska Telecommunications Regulation Act; to amend section 86-101, Reissue Revised Statutes of Nebraska; to provide requirements for wire-crossing agreements between railroad carriers and telecommunications carriers as prescribed; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 182.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Department of Economic Development.

**LEGISLATIVE BILL 183.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to the Nebraska Telecommunications Regulation Act; to amend section 86-101, Reissue Revised Statutes of Nebraska; to provide requirements for the sale of an exchange by a telecommunications company; to provide powers and duties for the Public Service Commission; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 184.** Introduced by Loudon, 49; Fischer, 43; Schilz, 47.

A BILL FOR AN ACT relating to water; to amend section 46-226, Reissue Revised Statutes of Nebraska; to authorize the Department of Natural Resources to administer riparian water rights; and to repeal the original

section.

**LEGISLATIVE BILL 185.** Introduced by Louden, 49.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-2261, Reissue Revised Statutes of Nebraska; to change provisions relating to presentence investigations; and to repeal the original section.

**LEGISLATIVE BILL 186.** Introduced by Karpisek, 32; Fulton, 29.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2703 and 77-2708, Revised Statutes Cumulative Supplement, 2008; to change sales and use tax collection fees; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 187.** Introduced by Nebraska Retirement Systems Committee: Pankonin, 2, Chairperson; Heidemann, 1; Karpisek, 32; Louden, 49; Mello, 5; Nordquist, 7.

A BILL FOR AN ACT relating to the School Employees Retirement Act; to amend section 79-958, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to employee deposits into the School Retirement Fund; and to repeal the original section.

**LEGISLATIVE BILL 188.** Introduced by Nebraska Retirement Systems Committee: Pankonin, 2, Chairperson; Heidemann, 1; Karpisek, 32; Louden, 49; Mello, 5; Nordquist, 7.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2308.01, 23-2315, 23-2317, 23-2319, 23-2321, 84-712.05, 84-1302, 84-1307, 84-1309.02, 84-1317, 84-1319, 84-1321, 84-1323, 84-1330, 84-1331, and 84-1512, Reissue Revised Statutes of Nebraska, and section 23-2306, Revised Statutes Cumulative Supplement, 2008; to provide and change participation, cash balance benefit, payment deferral, and death benefit provisions relating to the County Employees Retirement Act and the State Employees Retirement Act; to provide for deferred compensation transfers under the State Employees Retirement Act; to provide for the withholding of certain records from the public; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 189.** Introduced by Pankonin, 2.

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.

**LEGISLATIVE BILL 190.** Introduced by Avery, 28; Giese, 17; Karpisek, 32; Pirsch, 4.



A BILL FOR AN ACT relating to the DNA Identification Information Act; to amend sections 29-4102, 29-4103, and 29-4106, Reissue Revised Statutes of Nebraska; to provide for the collection of DNA samples from individuals convicted of felony offenses; to provide for applicability; and to repeal the original sections.

**LEGISLATIVE BILL 191.** Introduced by Fulton, 29; Avery, 28; Coash, 27; Karpisek, 32; McCoy, 39; Rogert, 16; Schilz, 47.

A BILL FOR AN ACT relating to small businesses; to provide for the waiver of a fine or penalty for an information collection requirement as prescribed.

**LEGISLATIVE BILL 192.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to insurance; to amend sections 12-1116, 44-710.03, 44-710.04, 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 provide for a coordination of benefits provision in sickness and accident insurance policies; 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.

**LEGISLATIVE BILL 193.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2602.04, Revised Statutes Cumulative Supplement, 2008; to change a restriction on use of cigarette tax proceeds; and to repeal the original section.

**LEGISLATIVE BILL 194.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-138, 48-139, 48-140, and 48-141, Reissue Revised Statutes of Nebraska; to change provisions relating to lump-sum settlements; and to repeal the original sections.

**LEGISLATIVE BILL 195.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to the Statewide Trauma System Act; to amend sections 71-8205, 71-8207, 71-8208, 71-8210, 71-8216, 71-8218, 71-8222, 71-8230, 71-8232, 71-8234, 71-8235, 71-8237, 71-8240, 71-8242,

71-8243, 71-8244, 71-8245, 71-8246, 71-8247, and 71-8248, Reissue Revised Statutes of Nebraska, and section 71-8239, Revised Statutes Cumulative Supplement, 2008; to redefine and eliminate terms; to change duties of the State Trauma Advisory Board; to provide and change powers and duties of the Department of Health and Human Services; to change provisions relating to designation, agreements, reviews, the regional trauma system, a quality assurance program, and the statewide trauma registry; to repeal the original sections; and to outright repeal section 71-8223, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 196.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to the Rural Health Systems and Professional Incentive Act; to amend sections 71-5666, 71-5667, and 71-5668, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to student loan recipient agreements; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 197.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to the Nebraska educational savings plan trust; to amend sections 85-1803 and 85-1807, Reissue Revised Statutes of Nebraska; to create a fund and provide for its use; to authorize fund transfers, and to repeal the original sections.

**LEGISLATIVE BILL 198.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to cigarettes; to adopt the Reduced Cigarette Ignition Propensity Act; to create funds; and to provide an operative date.

**LEGISLATIVE BILL 199.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to support orders; to amend sections 42-358.02, 42-369, 43-512, 43-512.03, 43-512.07, 43-512.12, 43-512.16, 43-512.17, 48-2302, and 77-27,166, Reissue Revised Statutes of Nebraska, and section 44-3,144, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to collection of past-due payments, interest, assignment, setoff, medical support, and health care coverage for dependent children; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 200.** Introduced by Janssen, 15; Stuthman, 22.

A BILL FOR AN ACT relating to motorcycles; to amend section 60-6,279, Reissue Revised Statutes of Nebraska; to change helmet provisions; to require eye protection; and to repeal the original section.

**LEGISLATIVE BILL 201.** Introduced by McGill, 26; Christensen, 44; Coash, 27; Friend, 10; Fulton, 29; Howard, 9; Lautenbaugh, 18; Rogert, 16;

Stuthman, 22.

A BILL FOR AN ACT relating to children; to amend section 43-1230, Reissue Revised Statutes of Nebraska; to change provisions relating to the international application of the Uniform Child Custody Jurisdiction and Enforcement Act; and to repeal the original section.

**LEGISLATIVE BILL 202.** Introduced by Transportation and Telecommunications Committee: Fischer, 43, Chairperson; Campbell, 25; Hadley, 37; Janssen, 15; Lautenbaugh, 18; Louden, 49; Stuthman, 22.

A BILL FOR AN ACT relating to certificates of title; to amend sections 37-1201, 37-1211, 37-1277, 37-1279, 37-1282, 37-1283, 37-1287, and 37-1290, Reissue Revised Statutes of Nebraska, and sections 60-101, 60-140, 60-147, 60-152, 60-164, 60-165, 60-166, and 60-168.01, Revised Statutes Cumulative Supplement, 2008; to provide for electronic records of certificates of title and electronic notation of liens; to change provisions relating to certificates of title; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 203.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to constables; to amend section 25-2229, Reissue Revised Statutes of Nebraska; to eliminate provisions relating to multiple constables; and to repeal the original section.

**LEGISLATIVE BILL 204.** Introduced by Transportation and Telecommunications Committee: Fischer, 43, Chairperson; Campbell, 25; Hadley, 37; Lautenbaugh, 18; Louden, 49; Stuthman, 22.

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-4,141.01 and 60-4,168.01, Reissue Revised Statutes of Nebraska; to change certain penalty provisions relating to prohibited operations of commercial motor vehicles; and to repeal the original sections.

**LEGISLATIVE BILL 205.** Introduced by Nordquist, 7; Lathrop, 12; Mello, 5; Nelson, 6; Pirsch, 4.

A BILL FOR AN ACT relating to retirement; to amend sections 14-567, 15-1017, 16-1017, 16-1037, and 19-3501, Reissue Revised Statutes of Nebraska; to require educational and ethics training for board members of certain retirement systems as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 206.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to postsecondary education; to adopt the In the Line of Duty Dependent Education Act; to provide an operative date; to provide severability; and to declare an emergency.

**LEGISLATIVE BILL 207.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to the Department of Administrative Services; to amend sections 72-2101, 72-2105, and 81-1108.17, Reissue Revised Statutes of Nebraska; to change provisions relating to the annual inspection of the Governor's residence; to provide for the leasing of state property to private entities as prescribed; to eliminate obsolete language relating to housing for the Nebraska Library Commission; to repeal the original sections; and to outright repeal section 81-1108.40, Reissue Revised Statutes of Nebraska.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Stuthman asked unanimous consent to add his name as cointroducer to LB111. No objections. So ordered.

Senators Campbell and Howard asked unanimous consent to add their names as cointroducers to LB136. No objections. So ordered.

Senator Karpisek asked unanimous consent to add his name as cointroducer to LB154. No objections. So ordered.

Senators Cornett and Lathrop asked unanimous consent to add their names as cointroducers to LB158. No objections. So ordered.

**ADJOURNMENT**

At 11:25 a.m., on a motion by Senator Gloor, the Legislature adjourned until 10:00 a.m., Tuesday, January 13, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**FIFTH DAY - JANUARY 13, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE**

**FIRST SESSION**

**FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, January 13, 2009

**PRAYER**

The prayer was offered by Pastor Jim Runnels, Grace Bible Fellowship Church, Stella.

**ROLL CALL**

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

The roll was called and all members were present except Senators Ashford and Dubas who were excused; and Senators Lautenbaugh and Stuthman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fourth day was approved.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB67	Revenue (referred)
LB97	Judiciary
LB98	Agriculture
LB99	Agriculture
LB100	Agriculture
LB101	Agriculture
LB102	Education
LB103	Education
LB104	Urban Affairs
LB105	Natural Resources
LB106	Transportation and Telecommunications
LB107	Business and Labor
LB108	Transportation and Telecommunications
LB109	Transportation and Telecommunications

LB110	Transportation and Telecommunications
LB111	Transportation and Telecommunications
LB112	Revenue
LB113	Banking, Commerce and Insurance
LB114	Transportation and Telecommunications
LB115	Government, Military and Veterans Affairs
LB116	Government, Military and Veterans Affairs
LB117	Revenue
LB118	Judiciary
LB119	Revenue
LB120	Revenue
LB121	Revenue
LB122	Health and Human Services
LB123	Judiciary
LB124	Appropriations
LB125	Government, Military and Veterans Affairs
LB126	Government, Military and Veterans Affairs
LB127	Revenue
LB128	Urban Affairs
LB129	Transportation and Telecommunications
LB130	Agriculture
LB131	Government, Military and Veterans Affairs
LB132	Health and Human Services
LB133	Government, Military and Veterans Affairs
LB134	Natural Resources
LB135	Appropriations
LB136	Health and Human Services
LB137	General Affairs
LB138	Revenue
LB139	Government, Military and Veterans Affairs
LB140	Nebraska Retirement Systems
LB141	Health and Human Services
LB142	Agriculture
LB143	Government, Military and Veterans Affairs
LB144	Judiciary
LB145	Judiciary
LB146	Health and Human Services
LB147	Judiciary
LB148	Judiciary
LB149	Banking, Commerce and Insurance
LB150	Health and Human Services
LB151	Judiciary
LB152	Banking, Commerce and Insurance
LB153	Judiciary
LB154	Government, Military and Veterans Affairs
LB155	Judiciary
LR1CA	Executive Board

(Signed) John Wightman, Chairperson  
Executive Board

**ANNOUNCEMENTS**

The Health and Human Services Committee elected Senator Pankonin as Vice Chairperson.

The Nebraska Retirement Systems Committee elected Senator Nordquist as Vice Chairperson.

**NOTICE OF COMMITTEE HEARINGS**  
Transportation and Telecommunications

Room 1113

Tuesday, January 20, 2009 1:30 p.m.

LB92  
LB6  
LB49  
LB108  
LB50

(Signed) Deb Fischer, Chairperson

Agriculture

Room 2102

Tuesday, January 20, 2009 1:30 p.m.

LB99  
LB100  
LB101

(Signed) Tom Carlson, Chairperson

Banking, Commerce and Insurance

Room 1507

Tuesday, January 20, 2009 1:30 p.m.

LB11  
LB29  
LB30  
LB31

(Signed) Rich Pahls, Chairperson

## COMMUNICATIONS

January 5, 2009

Mr. Patrick O'Donnell  
Clerk of the Legislature  
Room 2018  
State Capitol Building  
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Pursuant to the Provisions of Section 85-408, R.R.S. of Nebraska, 1943 Legislative approval is required for the following University of Nebraska projects:

**University of Nebraska at Kearney - Men's Hall and Randall Hall Improvements.** This project will provide improvements that are part of the second phase of residential renewal at UNK. The Men's Hall and Randall Hall improvement project will do a partial renovation in each building to install fire sprinklers and update the audible fire alarm systems; demolish and expand existing restrooms to meet current codes; inspect and repair/replace the domestic water, sanitary sewer and HVAC piping; install new elevators in both facilities and modify the lobbies for accessibility; and update all public area lighting, floor, wall and ceiling finishes. Men's Hall will receive new fan coil units to provide both heating and cooling of spaces. Stout Hall will be demolished after the renovation of Randall Hall is completed and the new elevator and entry will be constructed in its place along with select window replacement. This project is estimated to cost \$4,960,000.

The expenditure relates to the Bond Resolution dated December 1, 1964, authorizing the issuance of Revenue Bonds by the Board of Regents. The board has heretofore issued revenue bonds payable from the revenues and fees derived from the ownership and operation of the dormitories and other facilities for the housing and boarding of students, student unions, student health facilities and other facilities for the activities of students located on the campus of the University of Nebraska-Lincoln, under which a 1986 Surplus Fund was created.

Section 6.2 of the Resolution requires the Board to operate the facilities in an efficient, sound and economical manner and to keep all facilities and betterments thereto in good repair, working order and condition and to make all necessary and proper repairs, renewals, replacements, additions, extension and betterments thereto, so that at all times the business carried on in connection therewith shall be properly and advantageously conducted.



**Request.** The University requests approval of the improvements to Men's Hall and Randall Hall at the University of Nebraska at Kearney in the amount of \$4,960,000 to be financed with student fees and facilities revenue bond bonds.

The Board of Regents authorized this expenditure at its September 5, 2008, meeting.

The Nebraska Coordinating Commission for Postsecondary Education approved the expenditures for this project on December 11, 2008. The CCPE Bond Project Evaluation Forms indicating approval of the projects are attached.

Thank you for your consideration of these projects.

Respectfully submitted,  
(Signed) Donal J. Burns  
Corporation Secretary

January 13, 2009

Senator John Wightman  
Chairperson, Executive Board  
Room 2010  
State Capitol  
Lincoln, NE 68509

Dear Senator Wightman,

Enclosed is correspondence from Donal J. Burns, Corporation Secretary for the Office of the President of the University of Nebraska and correspondence from the Coordinating Commission for Postsecondary Education. The correspondence relates to expenditure of bond funds for the following:

*University of Nebraska at Kearney: Men's Hall and Randall Hall Improvements.*

I am forwarding this correspondence to you for Executive Board action.

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

PJO:ck

enclosure

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 208.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to workers' compensation; to amend section 28-631, Reissue Revised Statutes of Nebraska, and section 44-6604, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to fraudulent insurance acts; and to repeal the original sections.

**LEGISLATIVE BILL 209.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to irrigation; to amend section 46-238, Reissue Revised Statutes of Nebraska, and section 46-1654, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to time for construction of works and dams; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 210.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,137.02, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to aid to natural resources districts; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 211.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to license plates; to amend sections 60-3,122, 60-3,123, 60-3,124, and 60-3,125, Revised Statutes Cumulative Supplement, 2008; to provide for issuance of certain license plates to spouses of veterans as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 212.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-5001, 77-5005, and 77-5016, Revised Statutes Cumulative Supplement, 2008; to authorize hearings by a single commissioner of the Tax Equalization and Review Commission; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 213.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-5001, 77-5004, 77-5005, 77-5013, 77-5017, 77-5022, and 77-5024.01, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the Tax Equalization and Review Commission; to authorize intervention in actions before the commission; to provide operative dates;

and to repeal the original sections.

**LEGISLATIVE BILL 214.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to nail technology; to amend section 38-1035, Reissue Revised Statutes of Nebraska; to redefine nail technology; and to repeal the original section.

**LEGISLATIVE BILL 215.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to schools; to create the School Finance Review Committee; and to provide powers and duties.

**LEGISLATIVE BILL 216.** Introduced by Wallman, 30.

A BILL FOR AN ACT relating to civil liability; to eliminate motor vehicle and aircraft guest statutes; to harmonize provisions; and to outright repeal sections 3-129.01, 25-21,237, and 25-21,238, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 217.** Introduced by Louden, 49; Karpisek, 32; Schilz, 47; Stuthman, 22.

A BILL FOR AN ACT relating to railroad rights-of-way; to amend section 70-306, Reissue Revised Statutes of Nebraska; to provide requirements for electrical entities placing wires across rights-of-way as prescribed; to provide powers and duties; to define a term; and to repeal the original section.

**LEGISLATIVE BILL 218.** Introduced by Cornett, 45; Heidemann, 1.

A BILL FOR AN ACT relating to state aid; to amend sections 13-518, 47-120, 71-5326, 77-27,136, 77-27,139, 81-15,158, 83-380, and 83-4,133, Reissue Revised Statutes of Nebraska, and sections 77-27,137.01 and 77-27,137.02, Revised Statutes Cumulative Supplement, 2008; to change and eliminate provisions relating to aid to various political subdivisions; to change and eliminate provisions relating to jail reimbursement; to harmonize provisions; to provide an operative date; to repeal the original sections; to outright repeal sections 47-119, 47-119.01, 47-121, 47-121.01, 77-27,137, and 77-3618, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 219.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to highways; to amend section 60-2132, Reissue Revised Statutes of Nebraska, and section 60-6,267, Revised Statutes Cumulative Supplement, 2008; to transfer responsibility for the highway safety program, including the child passenger restraint and occupation protection systems information and education program, to the

Department of Roads as prescribed; to change administration of the Motorcycle Safety Education Fund as prescribed; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 220.** Introduced by Gloor, 35.

A BILL FOR AN ACT relating to pharmacy; to amend sections 28-401, 28-407, 28-414, 38-2801, 38-2802, 38-2871, 71-2413, 71-2414, 71-2416, and 71-2417, Reissue Revised Statutes of Nebraska, and sections 71-2411, 71-2412, 71-2445, 71-2447, 71-2449, and 71-2450, Revised Statutes Cumulative Supplement, 2008; to define, redefine, and eliminate terms; to change provisions relating to records of and destruction of controlled substances under the Uniform Controlled Substances Act; to change provisions relating to prescription information under the Pharmacy Practice Act; to change provisions relating to pharmacists and long-term care facilities under the Emergency Box Drug Act and the Automated Medication Systems Act; to harmonize provisions; to repeal the original sections; and to outright repeal section 71-2415, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 221.** Introduced by Nordquist, 7.

A BILL FOR AN ACT relating to schools; to amend section 79-592, Reissue Revised Statutes of Nebraska; to change provisions relating to payment of school money; and to repeal the original section.

**LEGISLATIVE BILL 222.** Introduced by Giese, 17.

A BILL FOR AN ACT relating to learner's permits; to amend section 60-4,123, Revised Statutes Cumulative Supplement, 2008; to restrict the issuance of such permits as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 223.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to swimming pools; to amend sections 71-4301 and 71-4307, Reissue Revised Statutes of Nebraska, and sections 71-4305 and 71-4306, Revised Statutes Cumulative Supplement, 2008; to classify swimming pools; to provide certified operator requirements; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 224.** Introduced by Carlson, 38.

A BILL FOR AN ACT relating to the Nebraska State Fair; to amend sections 2-109, 2-110, 2-111, and 2-1208.01, Reissue Revised Statutes of Nebraska, and section 2-103, Revised Statutes Cumulative Supplement, 2008; to change and eliminate provisions relating to board membership, relocation, reports, studies, and horseracing; to create a fund; to provide operative dates; to repeal the original sections; and to outright repeal section

2-131, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 225.** Introduced by Haar, 21; Stuthman, 22.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-301, 60-3,104, and 60-3,130.04, Revised Statutes Cumulative Supplement, 2008; to provide for volunteer firefighter license plates; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 226.** Introduced by Rogert, 16; Friend, 10.

A BILL FOR AN ACT relating to the age of majority; to amend sections 9-230.01, 9-241.06, 9-241.08, 9-255.06, 9-255.09, 9-334, 9-345, 9-430, 9-633, 9-826, 20-403, 21-1724, 21-1750, 21-1781, 23-1824, 25-1601, 25-1628, 25-21,271, 28-319, 28-319.01, 28-320.01, 28-457, 28-833, 29-401, 29-2270, 29-4016, 30-2209, 30-2326, 30-2329, 30-2412, 30-2603, 30-3402, 30-3502, 32-602, 38-129, 38-165, 38-1060, 38-10,165, 38-10,171, 38-1221, 38-1612, 38-1710, 38-2421, 38-2885, 38-2890, 38-3122, 42-371.01, 43-104.09, 43-117, 43-245, 43-247, 43-289, 43-290, 43-294, 43-2,113, 43-412, 43-504, 43-2101, 43-2404.02, 43-2922, 43-3703, 43-3709, 43-3902, 43-3910, 44-5238, 48-122.01, 48-124, 71-20,120, 71-4808, 79-267, 79-296, 81-885.13, 81-1916, 81-1917, 81-1936, 81-2026, and 81-2036, Reissue Revised Statutes of Nebraska, and sections 49-801, 64-101, 68-1724, 71-629, 71-812, 71-1903, 71-6039.01, 71-6502, 71-6726, 76-2228.01, 76-2229.01, 76-2230, 76-2231.01, and 76-2232, Revised Statutes Cumulative Supplement, 2008; to change the age of majority from nineteen to eighteen years of age and certain age requirements as prescribed; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 227.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to interior design; to adopt the Interior Designers Certification Act; and to provide an operative date.

**LEGISLATIVE BILL 228.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to schools; to prohibit membership in organizations regulating student activities as prescribed.

**LEGISLATIVE BILL 229.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-487, 60-4,114, and 60-4,121, Reissue Revised Statutes of Nebraska, and sections 60-462, 60-479, 60-479.01, 60-484, 60-4,120, 60-4,122, 60-4,144, and 60-4,181, Revised Statutes Cumulative Supplement, 2008; to adopt certain federal regulations; to provide powers and duties for the Department of Motor Vehicles regarding the design, production, issuance, and renewal of and payment for operators' licenses and

state identification cards; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 230.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to nurse practitioners; to amend sections 38-206, 38-2301, 38-2315, and 38-2322, Reissue Revised Statutes of Nebraska; to eliminate a requirement for integrated practice agreements; to eliminate a definition; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 38-2310 and 38-2323, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 231.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to the Rural Development Commission; to amend section 81-3602, Reissue Revised Statutes of Nebraska; to provide requirements for the legislative member as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 232.** Introduced by Nordquist, 7; Cook, 13; Council, 11; Karpisek, 32; Rogert, 16.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-177, Reissue Revised Statutes of Nebraska, and section 53-101, Revised Statutes Cumulative Supplement, 2008; to permit the sale of alcoholic liquor by community college culinary education programs as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 233.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to sales and use taxes; to amend sections 77-2701 and 77-2701.04, Revised Statutes Cumulative Supplement, 2008; to provide a sales and use tax exemption; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 234.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to sales and use taxes; to amend section 77-2704.13, Reissue Revised Statutes of Nebraska; to change provisions relating to a sales and use tax exemption; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 235.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to school lands; to provide powers to the Board of Educational Lands and Funds.

**LEGISLATIVE BILL 236.** Introduced by Lathrop, 12; Cornett, 45; Harms, 48; Stuthman, 22; Wallman, 30.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Department of Health and Human Services.

**LEGISLATIVE BILL 237.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to juveniles; to adopt the Interstate Compact for Juveniles; to provide for a compact administrator and an advisory council; to eliminate the Interstate Compact on Juveniles and related provisions; and to outright repeal sections 43-1001, 43-1002, 43-1003, 43-1004, 43-1005, 43-1006, 43-1007, 43-1008, 43-1009, and 43-1010, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 238.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to public power suppliers; to amend sections 28-520 and 28-521, Reissue Revised Statutes of Nebraska, and section 70-301, Revised Statutes Cumulative Supplement, 2008; to provide, change, and repeal penalties relating to criminal trespass and interference with electric poles or wires; to adopt the Public Power Infrastructure Protection Act; to harmonize provisions; to repeal the original sections; to outright repeal section 70-310, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 239.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3501, 77-3506.03, 77-3509.01, 77-3509.02, 77-3509.03, 77-3510, 77-3511, 77-3512, 77-3516, 77-3521, 77-3522, 77-3523, and 77-3529, Reissue Revised Statutes of Nebraska, and sections 77-3501.01, 77-3505.02, 77-3506.02, 77-3513, 77-3514, and 77-4212, Revised Statutes Cumulative Supplement, 2008; to create a homestead exemption for disabled veterans as prescribed; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 240.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to schools; to require a minimum level of expenditures for direct classroom instruction; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 241.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to the Commercial Dog and Cat Operator Inspection Act; to amend sections 54-626 and 54-640, Reissue Revised Statutes of Nebraska, and sections 54-625, 54-627, 54-628, and 54-629, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to licensing requirements, inspections, rules and regulations, and duties of commercial breeders; to define and redefine terms; to provide for

stop-movement orders and ownership limits as prescribed; to provide violations; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 242.** Introduced by Karpisek, 32; Wallman, 30.

A BILL FOR AN ACT relating to the Nebraska State Patrol Retirement Act; to amend section 81-2025, Reissue Revised Statutes of Nebraska; to change the mandatory retirement age to sixty-five years of age; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 243.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend section 48-121, Revised Statutes Cumulative Supplement, 2008; to provide for annual adjustments for total disability income benefits; and to repeal the original section.

**LEGISLATIVE BILL 244.** Introduced by Coash, 27.

A BILL FOR AN ACT relating to controlled substances; to amend sections 28-405, 28-448, and 28-454, Reissue Revised Statutes of Nebraska; to change a schedule as prescribed; to harmonize provisions; and to repeal the original sections.

## RESOLUTION

**LEGISLATIVE RESOLUTION 5CA.** Introduced by Friend, 10.

THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2010 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 12:

III-12 (1) No person shall be eligible to serve as a member of the Legislature for four years next after the expiration of ~~two~~three consecutive terms regardless of the district represented.

~~(2) Service prior to January 1, 2001, as a member of the Legislature shall not be counted for the purpose of calculating consecutive terms in subsection (1) of this section.~~

~~(3)-(2)~~ For the purpose of this section, service in office for more than one-half of a term shall be deemed service for a term.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to change the limit on terms in the Nebraska Legislature from two consecutive terms to three consecutive terms.

For

Against.



Referred to the Reference Committee.

**NOTICE OF COMMITTEE HEARINGS**

Education

Room 1525

Tuesday, January 20, 2009 1:30 p.m.

LB72

LB73

LB62

LB61

(Signed) Greg Adams, Chairperson

Urban Affairs

Room 1510

Tuesday, January 20, 2009 1:30 p.m.

LB85

LB104

(Signed) Mike Friend, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Langemeier asked unanimous consent to add his name as cointroducer to LB53. No objections. So ordered.

Senator Nantkes asked unanimous consent to add her name as cointroducer to LB125 and LB140. No objections. So ordered.

Senator Wallman asked unanimous consent to add his name as cointroducer to LB178. No objections. So ordered.

Senators Nantkes and Rogert asked unanimous consent to add their names as cointroducers to LB200. No objections. So ordered.

**VISITOR**

The Doctor of the Day was Dr. Paul Paulman from Omaha.

**ADJOURNMENT**

At 11:01 a.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Wednesday, January 14, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**SIXTH DAY - JANUARY 14, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, January 14, 2009

**PRAYER**

The prayer was offered by Senator Heidemann.

**ROLL CALL**

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

The roll was called and all members were present except Senators Dubas and White who were excused; and Senators Christensen and Friend who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifth day was approved.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB156	Judiciary
LB157	Banking, Commerce and Insurance
LB158	Business and Labor
LB159	Revenue
LB160	Natural Resources
LB161	Revenue
LB162	Revenue
LB163	Education
LB164	Revenue
LB165	Revenue
LB166	Revenue
LB167	Government, Military and Veterans Affairs
LB168	Government, Military and Veterans Affairs
LB169	Appropriations
LB170	Judiciary

LB171	Revenue
LB172	Health and Human Services
LB173	Health and Human Services
LB174	Urban Affairs
LB175	Transportation and Telecommunications
LB176	Banking, Commerce and Insurance
LB177	Banking, Commerce and Insurance
LB178	Appropriations
LB179	Natural Resources
LB180	Natural Resources
LB181	Transportation and Telecommunications
LB182	Appropriations
LB183	Transportation and Telecommunications
LB184	Natural Resources
LB185	Judiciary
LB186	Revenue
LB187	Nebraska Retirement Systems
LB188	Nebraska Retirement Systems
LB189	General Affairs
LB190	Judiciary
LB191	Government, Military and Veterans Affairs
LB192	Banking, Commerce and Insurance
LB193	Appropriations
LB194	Business and Labor
LB195	Health and Human Services
LB196	Health and Human Services
LB197	Education
LB198	Health and Human Services
LB199	Judiciary
LB200	Transportation and Telecommunications
LB201	Judiciary
LB202	Transportation and Telecommunications
LB203	Judiciary
LB204	Transportation and Telecommunications
LB205	Nebraska Retirement Systems
LB206	Education
LB207	Government, Military and Veterans Affairs

Marshall, William, III - Nebraska State Fair Board - Agriculture

The Executive Board referred the University of Nebraska at Kearney's request to issue revenue bonds to the Appropriations Committee for further consideration.

(Signed) John Wightman, Chairperson  
Executive Board

**ANNOUNCEMENT**

The Agriculture Committee elected Senator Dubas as Vice Chairperson.

The Urban Affairs Committee elected Senator McGill as Vice Chairperson.

**NOTICE OF COMMITTEE HEARINGS**

Revenue

Room 1524

Wednesday, January 21, 2009 1:30 p.m.

LB164

LB165

LB166

(Signed) Abbie Cornett, Chairperson

Natural Resources

Room 1525

Wednesday, January 21, 2009 1:30 p.m.

LB105

LB179

LB180

LB42

LB43

Thursday, January 22, 2009 1:30 p.m.

Dunnigan, Brian - Director, Department of Natural Resources

Fisher, Rex - Game and Parks Commission

LB53

LB14

LB5

Friday, January 23, 2009 1:30 p.m.

LB134

LB160

(Signed) Chris Langemeier, Chairperson

Government, Military and Veterans Affairs

Room 1507

Wednesday, January 21, 2009 2:00 p.m.

LB115  
LB154  
LB139

Thursday, January 22, 2009 2:00 p.m.

LB24  
LB17  
LB52

(Signed) Bill Avery, Chairperson

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 245.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to railroads; to amend sections 74-1310 and 74-1323, Reissue Revised Statutes of Nebraska, and section 75-109.01, Revised Statutes Cumulative Supplement, 2008; to provide a penalty and procedure for unlawful obstruction of railroad crossings; to change and provide powers and duties; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 246.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to biotechnology; to amend section 66-1701, Reissue Revised Statutes of Nebraska; to reestablish the Biopower Steering Committee; to provide for a study; to state intent regarding appropriations; to provide a termination date; and to repeal the original section.

**LEGISLATIVE BILL 247.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to health and human services; to state findings; to define a term; to require accreditation of the Division of Children and Family Services as provided; to require a plan; and to provide for appropriation of funds.

**LEGISLATIVE BILL 248.** Introduced by Dubas, 34; Cornett, 45.

A BILL FOR AN ACT relating to relating to income tax; to amend section

77-2715.07, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to income tax credits; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 249.** Introduced by Fulton, 29; Karpisek, 32.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2703 and 77-2708, Revised Statutes Cumulative Supplement, 2008; to change the sales and use tax collection fees; and to repeal the original sections.

**LEGISLATIVE BILL 250.** Introduced by Gloor, 35; Janssen, 15.

A BILL FOR AN ACT relating to physician assistants; to amend sections 38-2008, 38-2014, 38-2015, 38-2017, 38-2018, 38-2037, 38-2047, 38-2049, 38-2050, 38-2051, and 38-2055, Reissue Revised Statutes of Nebraska; to change and repeal definitions; to change provisions relating to supervision and practice of physician assistants; to change powers and duties of supervising physicians, the Board of Medicine and Surgery, and the Department of Health and Human Services; to harmonize provisions; to repeal the original sections; and to outright repeal section 38-2009, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 251.** Introduced by Cornett, 45.

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.

**LEGISLATIVE BILL 252.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-101, 28-1006, 28-1007, and 28-1019, Reissue Revised Statutes of Nebraska; to prohibit the possession of animal fighting paraphernalia; to provide a penalty; to provide for seizure of property; to provide for applicability; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 253.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to children; to amend sections 23-1201, 24-313, 24-519, 25-1901, 25-2728, 25-2908, 28-377, 28-718, 28-719, 28-720, 28-720.01, 28-721, 28-722, 28-723, 28-724, 28-725, 28-726, 28-727, 28-728, 28-729, 28-730, 28-731, 28-732, 29-401, 29-1816, 29-1926, 29-2246, 29-2252.01, 29-2258, 29-2260, 29-2260.01, 29-3918, 29-4304, 30-2614, 42-364, 42-371, 43-101, 43-104, 43-104.08, 43-104.11, 43-106.01, 43-107, 43-296, 43-2,108, 43-2,109, 43-2,110, 43-2,113, 43-2,125, 43-413, 43-512, 43-512.03, 43-903, 43-1002, 43-1230, 43-1303, 43-1304, 43-1307, 43-1308, 43-1309, 43-1310, 43-1314.01, 43-1314.02,

43-1321, 43-2922, 43-2932, 43-2939, 43-3502, 43-3709, 43-3710, 71-3404, 71-3407, 79-215, 81-3126, 83-108.04, and 83-170, Reissue Revised Statutes of Nebraska, and sections 71-448, 71-1919, 71-6039, 71-6039.01, 71-6039.03, 71-6039.05, 71-6502, and 71-6906, Revised Statutes Cumulative Supplement, 2008; to transfer or repeal provisions of the Nebraska Juvenile Code and adopt a new Nebraska Juvenile Code; to change and eliminate child abuse reporting and registry provisions; to provide child relinquishment provisions; to change and eliminate provisions of and rename the Foster Care Review Act; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide an operative date; to repeal the original sections; and to outright repeal sections 28-710, 28-711, 28-713, 28-713.01, 28-714, 28-715, 28-716, 28-717, 28-733, 43-245, 43-246, 43-247, 43-247.01, 43-248, 43-248.01, 43-249, 43-250, 43-251, 43-251.01, 43-252, 43-253, 43-254, 43-254.01, 43-254.02, 43-255, 43-256, 43-257, 43-258, 43-259, 43-260, 43-260.01, 43-260.02, 43-260.03, 43-260.04, 43-260.05, 43-260.06, 43-260.07, 43-262, 43-263, 43-264, 43-265, 43-266, 43-267, 43-268, 43-269, 43-270, 43-271, 43-272, 43-272.01, 43-272.02, 43-273, 43-274, 43-275, 43-276, 43-277, 43-278, 43-279, 43-279.01, 43-280, 43-281, 43-282, 43-283, 43-283.01, 43-284, 43-284.01, 43-284.02, 43-285, 43-286, 43-287.01, 43-287.02, 43-287.03, 43-287.04, 43-287.05, 43-287.06, 43-288, 43-289, 43-290, 43-291, 43-292, 43-292.01, 43-292.02, 43-292.03, 43-293, 43-294, 43-295, 43-297, 43-298, 43-299, 43-2,100, 43-2,101, 43-2,102, 43-2,103, 43-2,104, 43-2,105, 43-2,106, 43-2,106.01, 43-2,106.02, 43-2,106.03, 43-2,107, 43-2,123.01, 43-2,128, 43-2,129, 43-408, 43-903, 43-905, 43-1301, 43-1301.01, 43-1311, 43-1312, 43-1313, 43-1314, 43-1315, 43-1316, and 43-1318, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 254.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-2622, 2-2626, and 2-2646, Reissue Revised Statutes of Nebraska; to require Nebraska aerial pesticide business licenses for aerial pesticide application; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 255.** Introduced by Harms, 48; Howard, 9.

A BILL FOR AN ACT relating to school buses; to amend sections 79-601 and 79-609, Reissue Revised Statutes of Nebraska; to require lap-shoulder belts as prescribed; to require instruction regarding use of certain belts; to require the use of certain belts; to state intent regarding liability; and to repeal the original sections.

**LEGISLATIVE BILL 256.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Game and Parks Commission; and to declare an emergency.



**LEGISLATIVE BILL 257.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to public schools; to repeal the Seamless Delivery System Pilot Project; and to outright repeal sections 79-11,136, 79-11,137, 79-11,138, 79-11,139, 79-11,140, and 79-11,141, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 258.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-180.05, Reissue Revised Statutes of Nebraska, and section 53-101, Revised Statutes Cumulative Supplement, 2008; to change and provide penalties for minors in possession of alcoholic liquor; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 259.** Introduced by Utter, 33.

A BILL FOR AN ACT relating to deposit and investment of public funds; to amend sections 2-4214, 14-556, 15-847, 15-849, 16-713, 16-715, 17-607, 17-720, 77-2305, 77-2318, 77-2326.04, 77-2340, 77-2344, 77-2345, 77-2352, 77-2355, 77-2362, 77-2375, 77-2385, 77-2388, 77-2389, 77-2395, 77-2398, 77-23,100, 77-23,101, 77-23,102, and 77-23,105, Reissue Revised Statutes of Nebraska, and sections 77-2365.02 and 77-2387, Revised Statutes Cumulative Supplement, 2008; to clarify Federal Deposit Insurance Corporation coverage; to harmonize provisions; to provide a duty for the Revisor of Statutes; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 260.** Introduced by Rogert, 16; McGill, 26.

A BILL FOR AN ACT relating to civil actions; to adopt the Nebraska Claims for Wrongful Conviction and Imprisonment Act.

**LEGISLATIVE BILL 261.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend section 60-4,111.01, Reissue Revised Statutes of Nebraska; to provide for use of machine-readable information encoded on an operator's license or a state identification card; to provide penalties; and to repeal the original section.

**LEGISLATIVE BILL 262.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to alcoholic liquor sales; to amend sections 9-647 and 53-179, Reissue Revised Statutes of Nebraska; to change provisions relating to time for sales of alcoholic liquor and conduct of lotteries under the Nebraska County and City Lottery Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 263.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to agriculture; to amend sections 81-2,147 and 81-2,162.22, Reissue Revised Statutes of Nebraska; to provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 264.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to the motor fuel tax; to amend section 66-489.02, Revised Statutes Cumulative Supplement, 2008; to change fuel tax calculations; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 265.** Introduced by Giese, 17.

A BILL FOR AN ACT relating to the Sexual Predator Residency Restriction Act; to amend sections 29-4016 and 29-4017, Reissue Revised Statutes of Nebraska; to authorize certain residency restrictions near parks; and to repeal the original sections.

**LEGISLATIVE BILL 266.** Introduced by Karpisek, 32; Fischer, 43.

A BILL FOR AN ACT relating to gaming; to amend sections 2-1201, 2-1201.01, 2-1202, 2-1203, 2-1203.01, 2-1204, 2-1205, 2-1206, 2-1209, 2-1213, and 2-1219, Reissue Revised Statutes of Nebraska; to adopt the Racetrack Gaming Act; to provide for regulation of racetrack gaming; to create funds; to provide civil penalties; to change provisions relating to the State Racing Commission and horseracing; to harmonize provisions; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 267.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to state employees; to prohibit mandatory overtime for certain employees as prescribed.

**LEGISLATIVE BILL 268.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to the Child Care Licensing Act; to amend section 71-1908, Revised Statutes Cumulative Supplement, 2008; to require liability insurance as prescribed; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 269.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to state funds; to amend sections 71-7608, 71-7611, and 71-8805, Revised Statutes Cumulative Supplement, 2008; to change and provide for transfers of funds; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 270.** Introduced by Haar, 21.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3501, 77-3506.03, 77-3509.01, 77-3509.02, 77-3509.03, 77-3510, 77-3511, 77-3512, 77-3516, 77-3521, 77-3522, 77-3523, and 77-3529, Reissue Revised Statutes of Nebraska, and sections 77-3506.02, 77-3513, 77-3514, and 77-4212, Revised Statutes Cumulative Supplement, 2008; to create a homestead exemption; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 271.** Introduced by Haar, 21; Nantkes, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 79-1018.01, Reissue Revised Statutes of Nebraska, and section 60-3,186, Revised Statutes Cumulative Supplement, 2008; to adopt the Car Tax Reduction Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 272.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to the statewide one-call notification system; to amend section 76-2317, Reissue Revised Statutes of Nebraska; to redefine the term underground facility; and to repeal the original section.

**LEGISLATIVE BILL 273.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to law enforcement; to amend sections 33-117 and 83-424, Reissue Revised Statutes of Nebraska, and section 69-2404, Revised Statutes Cumulative Supplement, 2008; to change sheriff's fees and handgun certificate fees; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 274.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to incarceration work camps; to amend sections 83-4,142 and 83-4,143, Reissue Revised Statutes of Nebraska; to provide powers for the Director of Correctional Services; and to repeal the original sections.

**LEGISLATIVE BILL 275.** Introduced by McGill, 26; Ashford, 20; Pankonin, 2; Stuthman, 22; Wallman, 30.

A BILL FOR AN ACT relating to behavioral health; to amend sections 71-806, 71-809, and 71-810, Revised Statutes Cumulative Supplement, 2008; to provide for crisis, information, and referral services as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 276.** Introduced by Nordquist, 7; Ashford, 20;

Cornett, 45; Giese, 17; McGill, 26; Mello, 5; Nantkes, 46.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-101 and 28-519, Reissue Revised Statutes of Nebraska; to change provisions and penalties relating to criminal mischief; to prohibit defacement as prescribed; to provide penalties; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 277.** Introduced by Mello, 5; Cornett, 45; Giese, 17; Nantkes, 46; Nordquist, 7.

A BILL FOR AN ACT relating to the Nebraska Criminal Code; to amend section 28-101, Reissue Revised Statutes of Nebraska; to provide requirements, violations, and penalties for the purchase of spray paint and industrial-strength marking pens by a minor; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 278.** Introduced by Mello, 5; Cornett, 45; Lathrop, 12; Nantkes, 46; Nordquist, 7; Rogert, 16.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,157, Reissue Revised Statutes of Nebraska; to permit municipalities to allow pedestrians to solicit contributions on roadways as prescribed; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 279.** Introduced by Avery, 28; Cornett, 45; Price, 3; Rogert, 16.

A BILL FOR AN ACT relating to land-use planning; to amend sections 14-407, 15-1103, and 19-923, Reissue Revised Statutes of Nebraska; to require notification of military installations regarding development of real property; and to repeal the original sections.

**LEGISLATIVE BILL 280.** Introduced by Avery, 28; Cornett, 45; Price, 3; Rogert, 16.

A BILL FOR AN ACT relating to military bases; to create the Commission on Military Affairs; and to provide for membership, terms, expenses, and powers and duties.

**LEGISLATIVE BILL 281.** Introduced by Mello, 5; Cornett, 45.

A BILL FOR AN ACT relating to educational service units; to amend sections 32-515, 79-1212, 79-1217, and 79-1217.01, Reissue Revised Statutes of Nebraska; to change provisions relating to membership on certain reorganized boards as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 282.** Introduced by Mello, 5; Nantkes, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Cumulative Supplement, 2008; to adopt the Nebraska Advantage Film Production Incentive Act; to provide income tax incentives for film production; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 283.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to community colleges; to amend sections 85-1503 and 85-2224, Reissue Revised Statutes of Nebraska; to redefine terms; to change provisions relating to calculations under the Community College Foundation and Equalization Aid Act; and to repeal the original sections.

**LEGISLATIVE BILL 284.** Introduced by Fulton, 29; Friend, 10; Hansen, 42; McCoy, 39; Schilz, 47.

A BILL FOR AN ACT relating to the Sexual Predator Residency Restriction Act; to amend sections 29-4015, 29-4016, and 29-4017, Reissue Revised Statutes of Nebraska; to rename the act; to authorize certain employment restrictions; and to repeal the original sections.

**LEGISLATIVE BILL 285.** Introduced by Pirsch, 4; Cornett, 45; Flood, 19; Friend, 10; Fulton, 29; Gay, 14; Schilz, 47.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-2264, 29-4001, 29-4003, 29-4004, 29-4005, 29-4006, 29-4007, 29-4009, 29-4011, 29-4013, 29-4016, and 83-174.03, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to the Sex Offender Registration Act; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal section 29-4010, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 286.** Introduced by General Affairs Committee: Karpisek, 32, Chairperson; Coash, 27; Cook, 13; Dierks, 40; Friend, 10; Price, 3; Rogert, 16.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 9-812, Reissue Revised Statutes of Nebraska; to change provisions relating to lottery funds; to repeal the original section; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 287.** Introduced by General Affairs Committee: Karpisek, 32, Chairperson; Coash, 27; Cook, 13; Dierks, 40; Friend, 10; Price, 3; Rogert, 16.

A BILL FOR AN ACT relating to gambling; to amend sections 9-255.04,

9-347, and 9-347.01, Reissue Revised Statutes of Nebraska; to change provisions relating to the definite profit of pickle cards; to harmonize provisions; and to repeal the original sections.

## RESOLUTION

**LEGISLATIVE RESOLUTION 6CA.** Introduced by Karpisek, 32; Fischer, 43.

THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2010 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 24:

III-24 (1) Except as provided in this section, the Legislature shall not authorize any game of chance or any lottery or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3)(a) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for the following purposes, as directed by the Legislature:

(i) The first five hundred thousand dollars after the payment of prizes and operating expenses shall be transferred to the Compulsive Gamblers Assistance Fund;

(ii) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act;

(iii) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be used for education as the Legislature may direct;

(iv) Ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska State Fair Board if the most populous city within the county in which the fair is located provides matching funds equivalent to ten percent of the funds available for transfer. Such matching funds may be obtained from the city and any other private or public entity, except that no portion of such matching funds shall be provided by the state. If the Nebraska State Fair ceases operations, ten

percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the General Fund; and

(v) One percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers Assistance Fund.

(b) No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure or (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.

(5)(a) Racetrack gaming limited to a total of three thousand five hundred gaming devices, allocated to no more than seven racetrack facilities licensed to conduct such gaming, shall be permitted subject to prior approval or rejection by the governing body of the political subdivision within which the racetrack is located. The licensing, administration, regulation, and financial monitoring of racetrack facilities conducting racetrack gaming and the allocation of gaming devices among racetracks conducting racetrack gaming shall be the duty and responsibility of the State Racing Commission.

(b) For purposes of this subsection:

(i) Gross gaming revenue means all cash or other consideration utilized to play player-activated electronic or video gaming devices operated at a racetrack facility, less all cash or other consideration paid out to winning players as prizes;

(ii) Racetrack facility means a licensed racetrack which conducts wagering by the parimutuel method on thoroughbred horseracing; and

(iii) Racetrack gaming means games of chance played for money, credit, or any representation of value using player-activated electronic or video gaming devices at a racetrack facility.

(c) Racetrack facilities shall remit gross gaming revenue to the commission for credit to the Gaming Revenue Cash Fund. The Legislature shall appropriate the Gaming Revenue Cash Fund for the following purposes, and the fund shall be allocated by the commission as follows:

(i) Forty percent shall be allocated to the State Treasurer. The State Treasurer shall credit such money to the Highway Trust Fund;

(ii) Two percent shall be allocated to the Gaming Administration Cash Fund, which fund shall be used solely for administrative expenses incurred by the commission in the performance of its responsibilities in regard to racetrack gaming;

(iii) Thirty-nine percent shall be allocated to the racetrack gaming licensees for establishing, equipping, operating, and maintaining their

respective racetrack gaming operations and for accounting and security expenses, including the licensees' payment of obligations to contractors who provide some or all of those services;

(iv) One percent shall be allocated to the State Treasurer. The State Treasurer shall credit such money to the Compulsive Gamblers Assistance Fund or, if it ceases to operate, to a comparable gamblers assistance fund established under state authority;

(v) Four percent shall be allocated to the political subdivisions which approve racetrack gaming within their jurisdictions;

(vi) Ten percent shall be allocated to racetrack facilities for the sole purpose of supplementing purses at live thoroughbred races;

(vii) Two percent shall be allocated to entities approved by the commission for the development and improvement of the thoroughbred breeding industry in Nebraska; and

(viii) Two percent shall be allocated to entities approved by the commission for the development and improvement of the following equine activities in Nebraska: The quarterhorse industry; large-animal veterinary medicine; and equine therapy.

(d) Amounts remaining at the end of a biennium in the Gaming Revenue Cash Fund or the Gaming Administration Cash Fund shall be reappropriated for the uses described in this subsection.

(e) The commission shall require at least annual auditing by one or more independent auditors approved by the commission of all expenditures by each distributee to ensure that the funds are used only for the purposes described in this subsection and in a manner consistent with the rules and regulations of the commission.

(f) Nothing in this Constitution shall be construed to prohibit the Legislature from enacting legislation to facilitate the implementation of this subsection.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to permit racetrack gaming limited to a total of three thousand five hundred gaming devices at thoroughbred racetrack facilities, to provide for licensing, administration, regulation, and financial monitoring of racetrack gaming by the State Racing Commission, and to allocate gaming revenue.

For

Against.

Referred to the Reference Committee.



**NOTICE OF COMMITTEE HEARINGS**  
Revenue

Room 1524

Thursday, January 22, 2009 1:30 p.m.

LB119  
LB120  
LB89

(Signed) Abbie Cornett, Chairperson

Health and Human Services

Room 1510

Wednesday, January 21, 2009 1:30 p.m.

LB25  
LB91  
LB173  
LB196

Thursday, January 22, 2009 1:30 p.m.

LB68  
LB84

Friday, January 23, 2009 1:30 p.m.

LB146  
LB132  
LB150  
LB195

(Signed) Tim Gay, Chairperson

Judiciary

Room 1113

Wednesday, January 21, 2009 1:30 p.m.

LB151  
LB123  
LB76  
LB148

(Signed) Brad Ashford, Chairperson

### COMMUNICATION

Received communication to Patrick J. O'Donnell, Clerk, from Joann Schaefer MD, Chief Medical Officer, Director, Division of Public Health, Department of Health and Human Services, regarding the appointments of the following four scientists to the Stem Cell Research Advisory Committee:

Rebecca Morris Ph.D.  
Dennis R. Roop Ph.D.  
Bradley B. Keller MD  
Gerald Spangrude Ph.D.

#### UNANIMOUS CONSENT - Add Cointroducers

Senator Ashford asked unanimous consent to add his name as cointroducer to LR2. No objections. So ordered.

Senators Mello and Nordquist asked unanimous consent to add their names as cointroducers to LB69 and LB70. No objections. So ordered.

Senator Giese asked unanimous consent to add his name as cointroducer to LB123. No objections. So ordered.

Senator Nordquist asked unanimous consent to add his name as cointroducer to LB140 and LB206. No objections. So ordered.

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB149. No objections. So ordered.

#### ATTORNEY GENERAL'S OPINION

##### Opinion 09001

SUBJECT: Authority of local political subdivisions to prohibit the carrying of concealed handguns by permit holders under the Concealed Handgun Permit Act

REQUESTED BY: Senator Mark R. Christensen  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General  
Charles E. Lowe, Assistant Attorney General

##### Introduction

In a letter to this office dated November 21, 2008, you have indicated that you are considering introducing legislation to address some questions which have arisen regarding the authority of local political subdivisions to "exempt" themselves from provisions of the Concealed Handgun Permit Act, Neb. Rev. Stat. §§ 69-2427 through 69-2447 (Cum. Supp. 2006 and Supp. 2007) (sometimes referred to herein as "the act"). The act was passed by the Legislature during its session in 2006 and went into effect on January 1, 2007.

Generally speaking, the Concealed Handgun Permit Act is designed so that citizens of Nebraska who meet certain training and other requirements may obtain permits allowing them to carry concealed handguns throughout the state except for certain specific locations and/or in certain specific situations. §§ 69-2428, 69-2433, 69-2432, 69-2433(10), 69-2436(1), 69-2441(1)(a). The act also sets forth regulatory measures relating to the carrying of concealed handguns by permitholders and provides penalties for violations of the act. §§ 69-2430 through 69-2432, 69-2435, 69-2439, 69-2440, 69-2442 and 69-2443. The Nebraska State Patrol, as called for by the act, has issued rules and regulations intended to implement the law. §§ 69-2432(1), 69-2446; 272 NAC ch. 21.

It is in this context that you ask for this office's legal opinion on three questions relating to the Concealed Handgun Permit Act and local political subdivisions, which we paraphrase as follows:

1. Does the language of the act preempt the authority of local political subdivisions to ban by ordinance the carrying of concealed handguns by permitholders within their jurisdictions?
2. Does the provision found in § 69-2441(1)(a) of the act that prohibits even permitholders from carrying concealed handguns "into or onto any other place or premises where handguns are prohibited by law, rule or regulation" grant local political subdivisions the authority to ban the lawful carrying of concealed handguns by permitholders?
3. Does the provision found in § 69-2441(1)(a) of the act that prohibits even permitholders from carrying concealed handguns "into or onto any other place or premises where handguns are prohibited by law, rule or regulation" mean that permitholders may not carry concealed handguns in a location "where the simple possession, let alone the carrying of a handgun, is otherwise prohibited?"

We will discuss each of your inquiries in the following section of this opinion.<sup>1</sup>

## Discussion

### I.

Preemption of Local Ordinances

Section 69-2436 of the Concealed Handgun Permit Act states unequivocally: "A permit to carry a concealed handgun is valid throughout the state for a period of five years after the date of issuance." (Emphasis supplied.) Section 69-2441(1)(a) also states that "[a] permitholder may carry a concealed handgun anywhere in Nebraska" except in locations further described in that section. (Emphasis supplied.)

Although the act, thus, purports to allow a permitholder to carry a concealed handgun anywhere in Nebraska, the act goes on to list a number of exceptions – i.e., locations and situations in which even a permitholder may not carry a concealed handgun. These exceptions are contained in § 69-2441(1)(a) of the act, which reads in its entirety as follows:

A permitholder may carry a concealed handgun anywhere in Nebraska, except any: Police, sheriff, or Nebraska State Patrol station or office; detention facility, prison, or jail; courtroom or building which contains a courtroom; polling place during a bona fide election; meeting of the governing body of a county, public school district, municipality, or other political subdivision; meeting of the Legislature or a committee of the Legislature; financial institution; professional or semiprofessional athletic event; building, grounds, vehicle, or sponsored activity or athletic event of any public, private, denominational, or parochial school or private or public university, college, or community college; place of worship; hospital, emergency room, or trauma center; political rally or fundraiser; establishment having a license issued under the Nebraska Liquor Control Act that derives over one-half of its total income from the sale of alcoholic liquor; place where the possession or carrying of a firearm is prohibited by state or federal law; a place or premises where the person, persons, entity, or entities in control of the property or employer in control of the property has prohibited permitholders from carrying concealed handguns into or onto the place or premises; or into or onto any other place or premises where handguns are prohibited by law or rule or regulation.

While the Concealed Handgun Permit Act speaks in terms of allowing permitholders to carry concealed handguns "anywhere in Nebraska," there are also Nebraska statutes which permit all cities and villages in the state - metropolitan class, primary class, first class, second class and village - to prohibit or prevent the carrying of concealed weapons within their jurisdictions. Neb. Rev. Stat. §§ 14-102(6), 15-255, 16-227 and 17-556 (2007). These statutes were not expressly repealed by the act. Therefore, the question arises as to whether the cities and villages may continue, under the foregoing statutes, to enact or enforce ordinances prohibiting the carrying of concealed handguns, at least as they may apply to permitholders under the act. Specifically, you ask if any such ordinances are preempted by the act.

As stated in State ex rel. City of Alma v. Furnas County Farms, 266 Neb.

558, 567, 667 N.W.2d 512, 521 (2003):

Preemption of municipal ordinances by state law is based on the fundamental principle that "municipal ordinances are inferior in status and subordinate to the laws of the state." 5 Eugene McQuillin, *The Law of Municipal Corporations* § 15.20 at 106 (3d ed. 1996)). Thus, "[w]here there is a direct conflict between a city ordinance and a state statute, the statute is the superior law." *Herman v. Lee*, 210 Neb. 563, 567, 316 N.W.2d 56, 59 (1982) (quoting *Arrow Club, Inc. v. Nebraska Liquor Control Commission*, 177 Neb. 686, 131 N.W.2d 134 (1964).

There are three circumstances in which a municipal ordinance may be preempted by state law. "First, the Legislature may expressly declare in explicit statutory language its intent to preempt municipal ordinances." *State ex rel. City of Alma*, 266 Neb. at 568, 667 N.W.2d at 522. That has, obviously, not been done in the present situation. Nothing in the Concealed Handgun Permit Act expresses an explicit intent to preempt city ordinances prohibiting the carrying of concealed handguns by permitholders.

"Second, in the absence of explicit statutory language, the Legislature's intent to preempt municipal ordinances may be inferred from a comprehensive scheme of legislation." This type of preemption is sometimes called "field preemption." *State ex rel. City of Alma*, 266 Neb. at 568, 667 N.W.2d at 522. Quoting extensively from 5 Eugene McQuillin, *The Law of Municipal Corporations* § 15.20 at 107-08 (3d ed. 1996), the *City of Alma* court described field preemption as follows:

[A]n intent by the state to preempt an entire field of legislation need not be expressly declared. Preemption may be implied from the nature of the subject matter being regulated and the purpose and scope of the state statutory scheme...

[A]n ordinance may cover an authorized field of local laws not occupied by general laws, or may complement a field not exclusively occupied by the general laws. However, where the state has occupied the field of prohibitory legislation on a particular subject, a municipality lacks authority to legislate with respect to it.

*State ex rel. City of Alma*, 266 Neb. at 568-69, 667 N.W.2d at 522. (Emphasis supplied.)

In the present situation the Legislature appears to have occupied the entire field with regard to the carrying of concealed handguns. On that subject, the Concealed Handgun Permit Act has set forth the overall policy of the state when it comes to the carrying of concealed handguns and the licensing of persons to do so and has set forth a comprehensive regulatory scheme for implementing that policy. Therefore, cities and villages lack authority to legislate for themselves with respect to this subject. This is true even for cities operating under a home rule charter.

It is well established that under a home rule charter, a city's power must be consistent with and subject to the constitution and laws of this state, except as to local matters of strictly municipal concern. . . . The constitutional limitation that a home rule charter must be consistent with and subject to the laws of the state [Neb. Const. art. XI, § 2] . . . means that on matters of such general concern to the people of the state as to involve a public need or policy, the charter must yield to state legislation.

*Home Builders Assn. of Lincoln v. City of Lincoln*, 271 Neb. 353, 360, 711 N.W.2d 871, 877-78 (2006).

Under the third circumstance calling for preemption "a municipal ordinance is preempted to the extent that it actually conflicts with state law." *State ex rel. City of Alma*, 266 Neb. at 569, 667 N.W.2d at 522. Moreover, "[t]he fact that a local ordinance does not expressly conflict with the statute will not save it when the legislative purpose in enacting the statute is frustrated by the ordinance." *Id.* (quoting, 5 Eugene McQuillin, *The Law of Municipal Corporations* § 15.20 at 107).

Any city or village ordinance prohibiting the carrying of concealed handguns by permitholders would conflict directly with the provisions of the Concealed Handgun Permit Act which authorize permitholders to carry concealed handguns throughout the state and "anywhere in Nebraska" except in certain specified locations and circumstances. There does not appear to be any reasonable construction of the terms "throughout the state" and "anywhere in Nebraska" that would somehow exempt all the cities and villages in the state that have enacted or may enact ordinances prohibiting concealed handguns from their reach. The relatively recently-enacted Concealed Handgun Permit Act and the pre-existing statutes authorizing cities and villages to prohibit concealed weapons are necessarily repugnant to each other, at least insofar as concealed handguns carried by permitholders under the act are concerned. Thus, any ordinances prohibiting the carrying of concealed weapons, at least to the extent they may be interpreted as applying to permitholders under the act, are necessarily in conflict with the provisions of the act and would frustrate the purpose of the Legislature in enacting that law. "That which is allowed by the general laws of the state cannot be prohibited by ordinance, without express grant on the part of the state." *State ex rel. City of Alma*, 266 Neb. at 569, 667 N.W.2d at 522 (quoting, 5 Eugene McQuillin, *The Law of Municipal Corporations* § 15.20 at 107). There is no "express grant" from the state permitting cities and villages to prohibit the carrying of concealed handguns by permitholders.

This court [the Nebraska Supreme Court] has stated that "[a] city ordinance is inconsistent with a statute if it is contradictory in a sense that the two legislative provisions cannot coexist . . . . Generally, an ordinance cannot prohibit what the Legislature has expressly licensed,

authorized, or permitted." *Herman v. Lee*, 210 Neb. 563, 567, 316 N.W.2d 56, 59 (1982) (quoting *Arrow Club Inc. v. Nebraska Liquor Control Commission*, 177 Neb. 686, 131 N.W.2d 134 (1964).

State ex rel. City of Alma, 266 Neb. at 569, 667 N.W.2d at 522-23.

Accordingly, it appears that a city or village cannot have or enforce an ordinance which effectively prohibits the carrying of concealed handguns by permitholders everywhere within its jurisdiction.<sup>2</sup> The answer to your first question is in the affirmative. It appears that there has been preemption.

## II.

### Exception for Place or Premises Where Handguns Prohibited by Law

Turning to your second inquiry, you ask if the exception contained in § 69-2442(1)(a) of the Concealed Handgun Permit Act prohibiting permitholders from carrying concealed handguns where handguns are prohibited by law, rule or regulation grants cities and villages the authority to ban the lawful carrying of concealed handguns by a permitholders. That exception, when read in context of the entire section, states: "A permitholder may carry a concealed handgun anywhere in Nebraska, except . . . into on onto any other place or premises where handguns are prohibited by law or rule or regulation." (Emphasis supplied.)

There are, however, at least two reasons why this exception is not likely sufficient to allow cities and villages to prohibit the carrying of concealed handguns.

#### "Place or Premises"

First, there is a question as to whether or not the term "other place or premises" is broad enough to encompass the entirety of a city's or village's geographical boundaries. In other words, did the Legislature intend the term "place or premises" to mean an entire city or village, or did it have a more limited concept of a "place or premises?"

One hint that this exception was not intended to include an entire, city or village is the fact that all of the other "places or premises" mentioned in the exceptions in § 69-2442(1)(a) seem to be limited locales, such as some buildings, bars, sports venues, private property and the locations of public meetings and the like. Nothing in any of these other exceptions suggests that the Legislature intended to limit its statement that a "permitholder may carry a concealed handgun anywhere in Nebraska" to such a degree that entire cities and villages could be deemed off-limits to concealed handguns.

As stated in *Dykes v. Scotts Bluff County Agricultural Society, Inc.*, 260 Neb. 375, 380, 617 N.W.2d 817, 822 (2000):

Under the "ejusdem generis" canon of construction, "when a general word or phrase follows a list of specific persons or things, the general word or phrase will be interpreted to include only persons or things of the same type as those listed." Black's Law Dictionary 535 (7th ed. 1999). Thus, under the ejusdem generis rule, specific words or terms modify and restrict the interpretation of general words or terms where both are used in sequence.

Applying the "ejusdem generis" rule to the last exception set forth in § 69-2442(1)(a) of the act, it would appear that the broad term "any other place or premises" would be restricted to the types of places or premises listed specifically in the other exceptions contained in that section; and these other types of places or premises are not broad enough to encompass entire cities and villages.

Additionally, it is worth noting that one of the listed exceptions specifically states that concealed handguns may not be carried by permitholders at any "place where the possession or carrying of a firearm is prohibited by state or federal law." Had the Legislature intended to include city or village ordinances prohibiting the carrying of concealed weapons within the exceptions, it could easily have simply referred to such ordinances at such point as being included within this particular exception. It did not do so.

On the other hand, it is well-established that words used in statutes are to be given their ordinary meaning as would be understood by the average reasonable person. "The purpose and intent of the Legislature must be ascertained from the entire language of the statute considered in its plain, ordinary, and popular sense." State ex rel. City of Alma, 266 Neb. at 568, 667 N.W.2d at 521. The word "place," in one of its dictionary definitions, is said to be "a city, town or village." Webster's New Universal Unabridged Dictionary (2d ed. 1983) at 1370. Therefore, by using the word "place" in the last exception, the Legislature may have meant that an entire city or village could be off-limits to concealed handguns. As discussed below, however, we do not think the exception can be given such an interpretation.

#### "Where Handguns Are Prohibited"

The second, and primary, reason why the exception cannot be deemed to allow cities and villages to prohibit the carrying of concealed handguns throughout their territories arises from the fact that the exception bars the carrying of concealed handguns "into on onto any other place or premises where handguns are prohibited by law or rule or regulation." (Emphasis supplied.) It is important to note that the exception says that concealed handguns may not be carried "where handguns are prohibited" altogether. It does not say that concealed handguns may not be carried by permitholders where only concealed handguns are barred. This is a very important distinction in this context because the statutes under which cities and villages have acted or may act to prohibit the carrying of concealed



handguns only give the cities the authority to prohibit the carrying of concealed weapons. They do not give cities and villages the authority to prohibit handguns within their limits altogether; and we are not aware of any statutory authority for other local political subdivisions to do so either.

Accordingly, the exception does not appear to apply to cities and villages at all because there is nothing in Nebraska law that would permit a city or village to prohibit handguns altogether within its boundaries. Put another way and in the words of the exception itself, an entire city or village cannot be a "place or premises where handguns are prohibited."<sup>3</sup>

This understanding of the exception reflects a common sense reading of it. Wherever there is a valid law or rule or regulation prohibiting handguns, whether concealed or not, from a particular place or premises, then even permitholders will not be permitted to carry concealed handguns in or on that place or premises. On the other hand, where there is not and cannot be a valid law or rule or regulation prohibiting handguns, whether concealed or not, from a particular place or premises, then permitholders may carry concealed handguns in that location unless some other exception applies.

Therefore, it is our opinion that the exception contained in § 69-2442(1)(a) of the Concealed Handgun Permit Act barring permitholders from carrying concealed handguns "into or onto any other place or premises where handguns are prohibited by law, rule or regulation" does not grant cities and villages the authority to ban the lawful carrying of concealed handguns by permitholders.

### III.

#### Meaning of the "Other Place or Premises Where Handguns Are Prohibited" Exception

Your final question asks whether the provision found in § 69-2441(1)(a) of the Concealed Handgun Permit Act that prohibits even permitholders from carrying concealed handguns "into or onto any other place or premises where handguns are prohibited by law, rule or regulation" means that permitholders may not carry concealed handguns in a location "where the simple possession, let alone the carrying of a handgun, is otherwise prohibited." We believe that our discussion in subsection II above answers this inquiry.

It appears to us that the exception means exactly what it says: Where a valid statute, rule or regulation bans handguns altogether from a particular place or premises, even a permitholder under the act cannot carry a concealed handgun into or onto that place or premises. Such a ban on handguns in a particular place or premises would apply whether the handguns were being "carried," possessed by an individual in some other way or simply located in that place or premises.

Conclusion

Based upon the foregoing discussion our responses to your three questions are as follows:

1. It is our opinion that the Concealed Handgun Permit Act has preempted any local political subdivision ordinances banning the concealed carrying of handguns within their jurisdictions, at least to the extent that such ordinances may be deemed to apply to permitholders under the act.

2. It is our opinion that the provision found in § 69-2441(1)(a) of the Concealed Handgun Permit Act that prohibits even permitholders from carrying concealed handguns "into or onto any other place or premises where handguns are prohibited by law, rule or regulation" does not grant local political subdivisions the authority to ban the lawful carrying of concealed handguns by permitholders.

3. It is our opinion that the provision found in § 69-2441(1)(a) of the Concealed Handgun Permit Act that prohibits even permitholders from carrying concealed handguns "into or onto any other place or premises where handguns are prohibited by law, rule or regulation" means that permitholders may not carry concealed handguns in a location "where the simple possession, let alone the carrying of a handgun, is otherwise prohibited."

We hope that the discussion and opinions contained herein will be of assistance to you in deciding whether or not to introduce legislation addressing the issues you have raised and in formulating any such proposed legislation.

<sup>1</sup> In your letter you pose your questions using the term "local political subdivision," rather than "city" or "village." After discussing this with your staff, however, we have limited our analysis to the authority (or lack of authority) of cities and villages with regard to the carrying of concealed handguns by permitholders under the act since we are not aware of any "local political subdivisions" except cities and villages that have statutes authorizing them to enact ordinances banning concealed weapons. In any event, while our analysis will deal directly with the authority of cities and villages in this context, we believe it would apply equally to any counties that might seek to bar the carrying of concealed handguns by permitholders under the act.

<sup>2</sup> While not able to prohibit permitholders from carrying concealed handguns anywhere in the city, a city or village could still, under the next-to-last exception in § 69-2441(1)(a) of the act, prohibit permitholders from carrying concealed handguns in specific places or premises that it directly controls. For example, a city or village could ban concealed handguns in city-owned parks, buildings, recreation facilities, arenas, etc.

The city or village would have to comply with the procedures outlined in § 69-2441(2) regarding the posting of notice.

We do not believe, however, that these posting provisions can be used by a city or village to prohibit permitholders from carrying concealed handguns anywhere within its borders. To allow cities and villages to use the posting provisions to ban permitholders from carrying concealed handguns on any public property (especially streets and other public ways) within their borders would seriously undermine the policy of the Legislature to allow permitholders to carry their concealed handguns "anywhere in Nebraska." Also, the term "in control of the property" seems to suggest that it is a narrow exception which only applies to owners or lessees of distinct "properties" and not to a city or village, which may have some "control" over everything within its boundaries, but is the owner or lessee only of property it, as an entity, actually owns or leases. Therefore, it appears that cities and villages cannot utilize this provision to effectively ban permitholders from carrying concealed handguns everywhere within their boundaries.

Common sense would also indicate that a city or village cannot effectively bar permitholders from carrying concealed handguns throughout its territory by claiming that all streets and sidewalks are its "property" and posting notice that concealed handguns may not be carried on its streets and sidewalks, even in vehicles. Indeed, § 69-2441(2) specifically says that a permitholder is not in violation of any posted ban on concealed handguns at the particular place or premises "so long as the handgun is not removed from the vehicle while the vehicle is in or on the place or premises."

<sup>3</sup> Were a county, city or village to ban the possession or carrying of handguns throughout its geographical territory, it might run afoul of U.S. Const. amend. II and/or Neb. Const. art. I, § 1. See, *District of Columbia v. Heller*, \_\_ U.S.\_\_, 128 S.Ct. 2783 (2008) (holding municipal law that totally banned possession of firearms in the home unconstitutional as violative of Second Amendment right "to keep and bear Arms").

Sincerely yours,  
JON BRUNING  
Attorney General  
(Signed) Charles E. Lowe  
Assistant Attorney General

pc: Patrick J. O'Donnell,  
Clerk of the Nebraska Legislature  
17-043-20

## VISITOR

The Doctor of the Day was Dr. Dale Michels from Lincoln.

**ADJOURNMENT**

At 11:08 a.m., on a motion by Senator Howard, the Legislature adjourned until 9:30 a.m., Thursday, January 15, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTH DAY - JANUARY 15, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE**

**FIRST SESSION**

**SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, January 15, 2009

**PRAYER**

The prayer was offered by Pastor Steve Severance, Seventh Day Adventist Church, Beatrice.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:30 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Dubas and White who were excused; and Senators Ashford and Friend who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

Page 111, line 25, strike "Room 1401" and insert "Room 1507".  
The Journal for the fifth day was approved as corrected.

The Journal for the sixth day was approved.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB143	Judiciary (rereferred)
LB208	Judiciary
LB209	Natural Resources
LB210	Revenue
LB211	Transportation and Telecommunications
LB212	Revenue
LB213	Revenue
LB214	Health and Human Services
LB215	Education
LB216	Judiciary
LB217	Transportation and Telecommunications

LB218	Revenue
LB219	Transportation and Telecommunications
LB220	Health and Human Services
LB221	Education
LB222	Transportation and Telecommunications
LB223	Health and Human Services
LB224	Agriculture
LB225	Transportation and Telecommunications
LB226	Judiciary
LB227	Government, Military and Veterans Affairs
LB228	Education
LB229	Transportation and Telecommunications
LB230	Health and Human Services
LB231	Agriculture
LB232	General Affairs
LB233	Revenue
LB234	Revenue
LB235	Education
LB236	Appropriations
LB237	Judiciary
LB238	Judiciary
LB239	Revenue
LB240	Education
LB241	Agriculture
LB242	Nebraska Retirement Systems
LB243	Business and Labor
LB244	Judiciary
LR5CA	Executive Board

(Signed) John Wightman, Chairperson  
Executive Board

### ANNOUNCEMENT

The Natural Resources Committee elected Senator Dubas as Vice Chairperson.

### REPORT OF THE EXECUTIVE BOARD

Senator Wightman, Chairperson of the Executive Board, reported the appointments of the following members of the Legislature to the following special committees:

	Building Maintenance - Louden (C)		
Gloor	Hansen	Nordquist	Wallman
Heidemann			

	Education Commission of the States	
Adams	Harms	Pahls

	Legislative Performance Audit		
Friend	Harms	Nantkes	Stuthman
Heidemann	Flood	Wightman	

	Midwestern Higher Education Commission (Midwest Compact)		
Adams	Fischer		

	Midwest Interstate Passenger Rail Compact		
Cornett	Stuthman		

	State-Tribal Relations - Dierks (C)		
Coash	Dubas	Giese	Rogert (VC)
Cook	Nordquist		

(Signed) John Wightman, Chairperson  
Executive Board

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 288.** Introduced by Health and Human Services Committee: Gay, 14, Chairperson; Campbell, 25; Gloor, 35; Howard, 9; Pankonin, 2; Stuthman, 22; Wallman, 30.

A BILL FOR AN ACT relating to health and human services; to amend sections 32-310, 38-1,119, 38-2893, 38-2894, 68-1017.01, 81-2270, 81-2271, 83-1209, 83-1211, 83-1213, 83-1217.02, and 85-2104, Reissue Revised Statutes of Nebraska, and sections 48-647, 68-717, 68-906, 68-1016, 68-1017, 68-1017.02, 68-1070, 68-1713, 71-604.05, and 71-5309, Revised Statutes Cumulative Supplement, 2008; to change references to the federal food stamp program; to change a date within the Medical Assistance Act relating to acceptance of federal provisions; to eliminate references to a pilot project; to change provisions relating to pharmacy technicians, a registry, public water system operator licensing, and the Developmental Disabilities Services Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 81-2265 and 81-2267, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 289.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Game and Parks Commission; and to declare an emergency.

**LEGISLATIVE BILL 290.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to motor carriers; to require fingerprints and criminal history record information checks of individuals who transport

vulnerable adults and vulnerable children.

**LEGISLATIVE BILL 291.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to the Developmental Disabilities Services Act; to amend sections 83-1209 and 83-1226, Reissue Revised Statutes of Nebraska; to provide duties regarding ensuring the maximum quality of services; to repeal the original sections; and to declare an emergency.

### ANNOUNCEMENT

The Chair announced today is Senator Janssen's birthday.

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 292.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to sports agents; to adopt the Nebraska Uniform Athlete Agents Act; to provide an operative date; and to provide severability.

**LEGISLATIVE BILL 293.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to finance; to amend section 45-101.04, Reissue Revised Statutes of Nebraska; to adopt the Short-Term Lenders Act; to provide a penalty; to provide for finance education classes; to create a fund; to eliminate the Delayed Deposit Services Licensing Act; to harmonize provisions; to repeal the original section; and to outright repeal sections 45-902, 45-903, 45-904, 45-905, 45-908, 45-909, 45-913, 45-914, 45-918, 45-921, 45-923, 45-924, 45-926, 45-927, 45-928, and 45-929, Reissue Revised Statutes of Nebraska, and sections 45-901, 45-906, 45-907, 45-910, 45-911, 45-912, 45-915, 45-915.01, 45-916, 45-917, 45-920, 45-922, and 45-925, Revised Statutes Cumulative Supplement, 2008.

**LEGISLATIVE BILL 294.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to county government; to amend section 23-120, Reissue Revised Statutes of Nebraska; to change provisions relating to county building levies; and to repeal the original section.

**LEGISLATIVE BILL 295.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to the register of deeds; to amend sections 23-1503.01 and 23-1510, Reissue Revised Statutes of Nebraska; to provide and change requirements for instruments to be recorded in the office of the register of deeds; to provide a fee; to provide for applicability; and to repeal the original sections.



**LEGISLATIVE BILL 296.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.43, Reissue Revised Statutes of Nebraska; to change a reciprocal sales and use tax exemption; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 297.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to finance; to adopt the Nebraska Beginning Farmer and Small Business Linked Deposit Loan Act; and to provide an operative date.

**LEGISLATIVE BILL 298.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Department of Economic Development.

**LEGISLATIVE BILL 299.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to the Nebraska Safety Center Advisory Council; to amend section 85-1008, Reissue Revised Statutes of Nebraska; to add a member to the council; and to repeal the original section.

### ANNOUNCEMENT

The Business and Labor Committee elected Senator Council as Vice Chairperson.

### MOTION - Print in Journal

Senator Langemeier filed the following motion to LB143:  
MO2  
Withdraw bill.

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 300.** Introduced by Heidemann, 1; Carlson, 38; Cook, 13; Fischer, 43; Haar, 21; Langemeier, 23; McCoy, 39; Schilz, 47.

A BILL FOR AN ACT relating to public power and irrigation districts; to amend section 70-637, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to bidding requirements; and to repeal the original section.

**LEGISLATIVE BILL 301.** Introduced by Gloor, 35.

A BILL FOR AN ACT relating to medical records; to amend section 71-8404, Reissue Revised Statutes of Nebraska; to repeal exemptions from fees for medical records; to harmonize provisions; to repeal the original section; and to outright repeal section 71-8405, Revised Statutes Cumulative Supplement, 2008.

**LEGISLATIVE BILL 302.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3509.01 and 77-3509.02, Reissue Revised Statutes of Nebraska; to change provisions relating to transfer of a homestead exemption; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 303.** Introduced by Nordquist, 7; Lathrop, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Revised Statutes Cumulative Supplement, 2008; to exempt social security benefits from state income taxation; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 304.** Introduced by Council, 11; Cook, 13.

A BILL FOR AN ACT relating to the Political Subdivisions Tort Claims Act; to amend sections 13-919 and 13-920, Reissue Revised Statutes of Nebraska; to change limitation of action provisions; and to repeal the original sections.

**LEGISLATIVE BILL 305.** Introduced by Council, 11; Cook, 13.

A BILL FOR AN ACT relating to courts; to amend section 25-1628, Reissue Revised Statutes of Nebraska; to include state identification card holders in jury lists; and to repeal the original section.

**LEGISLATIVE BILL 306.** Introduced by Council, 11.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 23-3406, 24-1106, 25-1140.09, 28-104, 28-105, 28-303, 29-1602, 29-1603, 29-1822, 29-2004, 29-2005, 29-2006, 29-2020, 29-2027, 29-2204, 29-2261, 29-2282, 29-2407, 29-2801, 29-3205, 29-3920, 29-3922, 29-3928, 29-3929, 29-3930, 55-480, 83-1,110.02, and 83-4,143, Reissue Revised Statutes of Nebraska; to change a penalty from death to life imprisonment without possibility of parole as prescribed; to eliminate capital punishment provisions; to provide for retroactive applicability of such penalty change; to change provisions relating to restitution; to harmonize provisions; to repeal the original sections; and to outright repeal sections 24-1105, 28-105.01, 29-2519, 29-2520, 29-2521, 29-2521.01, 29-2521.02, 29-2521.03, 29-2521.04, 29-2521.05, 29-2522, 29-2523, 29-2524, 29-2524.01, 29-2524.02, 29-2525, 29-2527, 29-2528, 29-2532, 29-2533, 29-2534,

29-2535, 29-2536, 29-2537, 29-2538, 29-2539, 29-2540, 29-2541, 29-2542, 29-2543, 29-2544, 29-2545, 29-2546, 29-2811, 83-1,105.01, and 83-1,132, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 307.** Introduced by Council, 11; Haar, 21.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-101 and 28-105, Reissue Revised Statutes of Nebraska; to change sentencing requirements with respect to certain minors; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 308.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 13-2809, 35-508, 35-509, 35-514.02, 35-517, and 77-3443, Reissue Revised Statutes of Nebraska, and sections 77-3442 and 77-3444, Revised Statutes Cumulative Supplement, 2008; to change levy provisions for rural and suburban fire protection districts; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 309.** Introduced by Schilz, 47; Carlson, 38; Christensen, 44; Harms, 48; Wightman, 36.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Revised Statutes Cumulative Supplement, 2008; to provide a reduction to taxable income for certain capital gains from the sale of real property or business assets; and to repeal the original section.

**LEGISLATIVE BILL 310.** Introduced by Haar, 21; Avery, 28.

A BILL FOR AN ACT relating to deaf and hard of hearing persons; to amend sections 20-150, 20-151, 20-153, and 20-156, Reissue Revised Statutes of Nebraska; to state intent; to define and redefine terms; to require places of public accommodation to appoint licensed interpreters; to require video remote interpreting companies to use licensed interpreters; to change and provide penalties; to harmonize provisions; and to repeal the original sections.

### **MOTION - Escort Governor**

Senator Stuthman moved that a committee of five be appointed to escort the Governor of the State of Nebraska to the Legislative Chamber to deliver his State of the State Address.

The motion prevailed.

The Chair appointed Senators Christensen, Fischer, Friend, Lathrop, and Nantkes to serve on said committee.

**STATE OF THE STATE ADDRESS**

*"Working together, we have made Nebraska better prepared to compete in the 21st century and I have confidence in our ability to build an even brighter future in the years ahead."*

*- Dave Heineman, Governor*

Mr. President, Mr. Speaker, Members of the Legislature, Tribal Chairmen, Distinguished Guests, Friends and Fellow Nebraskans:

Today, I want to ask you to think about the phrase "once in a lifetime."

Many of us in this room, and Nebraskans all across our great State, have been fortunate to experience some of the most remarkable firsts in the history of America.

In 1969, Neil Armstrong became the first person to walk on the moon. In 2007, Clayton Anderson became the first Nebraskan to travel into space. In 1971, American Ray Tomlinson sent the world's first e-mail. Today, 1.3 billion people worldwide are communicating via e-mail and Nebraskans have immediate access to us through e-mail. In 1981, Sandra Day O'Connor became the first female U.S. Supreme Court Justice. In Nebraska, we now have more women serving as judges than at any time in our history.

In just a few days, America will celebrate another important first: the inauguration of our first African-American President, Barack Obama. This event deserves special acknowledgement and recognition.

Just as we look forward to what is in store for our nation, this legislative session will be a historic experience for Nebraska. With the convening of the 101st Legislature in this newly restored chamber, we have begun a new chapter in Nebraska history.

This session marks the full impact of term limits. You bring a new vitality, new enthusiasm and new ideas to the Nebraska Legislature. I know we have the same respect and sense of responsibility for the task of lawmaking and governing. While we have different roles, our citizens expect us to work together in the best interests of Nebraska. We can be proud that we have the only nonpartisan legislature in the country where policies matter more than politics. I am excited for the opportunity to work with you to address the issues that face our State.

During the past four years, we have laid the foundation that is preparing Nebraska to compete in a 21st century, knowledge-based, technology-driven economy. We have changed Nebraska for the better.

Together, we modernized Nebraska's economic incentives, created jobs, lowered taxes, and controlled spending, while investing in the most important priorities of our State. Since the passage of our economic incentive program in 2005, the Nebraska Advantage has been remarkably successful. One hundred and eighty-five companies have decided to expand or locate in Nebraska. These companies are expected to invest more than \$5.3 billion in our economy and create more than 15,000 new jobs.

Our vision for the future is about creating jobs that keep our sons and daughters right here in Nebraska. Creating jobs is only part of the reason for Nebraska's economic growth of the past several years.

Prioritized investments in areas critical to our continued growth have been equally important. Thanks to the leadership of Senator Lavon Heidemann and the Appropriations Committee, we enacted a fiscally-responsible budget. We achieved an annual growth rate of 4.6 percent for the current biennium, while still remaining committed to the education of our children and the needs of those who are less fortunate. The growth in the current budget is significantly less than the nearly 7 percent growth of the last two decades.

This savings has allowed us to lower taxes for Nebraskans. Working together, we eliminated the marriage penalty in our state income tax system. We repealed the estate tax. We repealed the sales tax on construction labor. We expanded the earned income tax credit. And we lowered agriculture land valuations from 80 percent to 75 percent.

In 2007, members of this body and I worked together to enact the largest tax relief package in the history of our State, which benefits Nebraska's middle class families, farmers, ranchers, and small business owners.

We have made significant progress. But, as we look ahead to the coming biennium, some of our fellow citizens are experiencing job layoffs, furloughs or reductions in the hours they work. Clearly, we are heading into an uncertain economic future.

We need only look to the example of how Nebraska accomplished the construction of a new State Capitol in the midst of the worst economic depression of the 20th century for inspiration in managing the situation we face today. When construction began in 1922, America was at the height of the Roaring Twenties. Economically, times were great. But in 1929, the economy crashed and Nebraskans were faced with a challenging decision. The Capitol's skyscraper tower had not been built and there was a growing sentiment to stop building.

Nebraskans, however, are "can do" people. They knew that the building could be completed by prioritizing the remaining projects. Three years later, the Capitol was completed as designed, crowned by the Sower that has become a cherished symbol of our great State. This story speaks to our heritage as Nebraskans. We have always been hardworking and practical. We are patient, prudent and judicious.

These values are why Nebraska continues to be one of the few states not currently facing a financial crisis. However, the challenges facing other states provide a picture of what could lie ahead for us.

Last month, the State of Kansas did not have enough cash on hand to fully fund their monthly state aid to education obligation. In December, the State of Minnesota cut \$271 million from their current budget. Iowa recently announced an across the board cut of 1.5 percent to their current state budget, which included a \$33 million cut in school foundation aid funding.

In Nebraska, we made the tough budget decisions two years ago that were necessary to control spending. Our hard work has better positioned us to weather the coming fiscal storm.

Additionally, we are working with state agencies to encourage each department to find ways of saving money during the current fiscal year. State agencies that reduce spending now will have my support, and the support of your Appropriations Committee Chairman, in applying that savings toward next year's budget. Our attitude of encouraging agencies to "save it and keep it" is a more business-like approach than the past practice of "spend it or lose it."

Our efforts to grow Nebraska's economy, our commitment to lower taxes, and our disciplined approach to budgeting the people's resources have helped produce and preserve a robust cash reserve. While the next few years will present one of the greatest financial challenges of our lifetime, the budget recommendations I'm submitting today reflect a continued commitment to economic growth and education.

Preparing this budget started with an assumption that was very different from how we have previously approached this process. Past budget recommendations have been based on Nebraska's latest economic forecast.

The nation's deteriorating financial situation and the impact we are beginning to experience in Nebraska indicates that the Forecasting Board's October forecast is no longer realistic. That forecast projected the State's revenue growth to be \$49 million for fiscal year 2010. My budget envisions

zero revenue growth in fiscal year 2010. These recommendations are an attempt to prepare the state for the likelihood that by the time the Forecasting Board meets in April, Nebraska's projected revenue will be less than the October forecast.

We must prepare our state for a slowing economy. State government must tighten its belt just like Nebraska families and businesses are doing. My budget recommendations are a plan for Nebraska to operate with limited financial resources.

Even with limited resources, it is possible to follow four principles that have been and remain crucial to our economic success.

**First, we must ensure there will be no tax increases.**

Despite the progress we have made lowering taxes, the fact is Nebraska is still a high tax state. Nebraskans need tax relief. This budget funds the \$230 million property tax credit program established two years ago.

The failure to fund this program would be a property tax increase on every home owner in Nebraska. In an economic downturn, increasing property taxes on middle class families, seniors living on fixed incomes, small businesses, and farmers and ranchers is unacceptable. I am opposed to increasing taxes on Nebraskans.

**Second, we must place a special priority on funding our children's education.**

During my four years as Governor, education has been a special priority for me. Education is the great equalizer and a quality education is essential for our children's ability to compete in a knowledge-based, free market economy.

My budget invests an additional \$100 million in state aid to education, increases funding for special education by \$16.8 million, provides an additional \$25.6 million to the University of Nebraska, and funding for state and community colleges will grow by approximately \$4 million.

Eighty-five percent of the new spending in my budget will be for investments in the education of our children. Our most precious resource is our kids and I want to ensure that we provide them a quality education. In the coming biennium, the State of Nebraska will invest a record \$1.7 billion annually in K-12 and higher education.

**The third principle is we must continue funding programs for vulnerable children and families.**

Medical assistance for seniors and the disabled, and public assistance for disadvantaged children and families are valuable programs. The SCHIP program provides health insurance for needy children. The care and treatment for the developmentally disabled and those with mental illness or substance abuse issues requires our special attention. And providing for our veterans living in the State's four veterans homes is absolutely essential.

In the coming biennium, Health and Human Services will spend more than \$1.2 billion annually for these critical programs that assist Nebraskans.

As we are all aware, there has been much public discussion surrounding the issue of families in need of additional behavioral health services and help navigating the system. Today, Senator Gay and Senator Howard will be introducing the "Children and Families Support Bill" that addresses many of the needs we witnessed over the summer.

Our three-pronged approach provides families seeking assistance with difficult children and teens direct access to skilled professional help and support. The proposal will create a 24/7 hotline staffed by mental health professionals for parents and guardians throughout the State. It also includes a peer program that will connect parents whose children are in need of services with parents experienced in navigating the behavioral health system. Finally, the proposal will create a new, voluntary post-adoption and post-guardianship case management system that will provide transition and continuity for families, and I look forward to working with the Legislature on this issue.

**The fourth and final principle is we must maintain a strong cash reserve, despite the ever-present pressure to increase spending.**

Our State faces contingent liabilities that could easily total \$200 million. On the cash reserve fund status of my budget, I have accounted for these liabilities, which include potential water litigation, the possible loss of federal funding for the Beatrice State Developmental Center, and teacher and state employee pension losses due to a declining stock market.

The final element of my budget recommendations includes using \$40 million annually over the next two years from the cash reserve fund. The Cash Reserve is our rainy day fund, but we need to be mindful that it is only beginning to rain. Preserving a strong cash reserve is essential in order to avoid future tax increases.



The budget I've submitted for your consideration reflects the realities and the challenges presented by a slowing economy.

Decisions made with forethought and planning two years ago have put Nebraska in the position to weather the coming fiscal storm. Making difficult but wise decisions today will position our State to emerge stronger when the national economy improves.

This budget is about Nebraska's future. Even in difficult economic times, it is important that we continue to position Nebraska for future growth. This is an opportunity to continue promoting Nebraska as a great place to live, to work and to raise a family.

Working together, we have made Nebraska better prepared to compete in the 21st century and I have confidence in our ability to build an even brighter future in the years ahead.

The committee escorted Governor Dave Heineman from the Chamber.

### **BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 311.** Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2007, LB 320, sections 32 and 34, Laws 2007, LB 321, sections 111 and 117, Laws 2008, LB 959, sections 57, 72, 74, 76, and 90, and Laws 2008, LB 988A, section 1; to define terms; to provide, change, and eliminate provisions relating to appropriations; to reduce an appropriation; to provide for a transfer of funds; to state intent; to require reports; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 312.** Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of salaries of members of the Nebraska Legislature and payments to be made as provided by Chapter 68, article 6, for FY2009-10 and FY2010-11; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 313.** Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of the salaries and benefits of certain state officers for

FY2009-10 and FY2010-11; to define terms; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 314.** Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to define terms; to appropriate funds for capital construction and property acquisition as prescribed; to state intent; to require program statements; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 315.** Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to state intent; to define terms; to make appropriations for the expenses of Nebraska State Government for the biennium ending June 30, 2011; to transfer funds; to provide duties; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 316.** Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to state funds; to amend sections 57-705 and 82-332, Reissue Revised Statutes of Nebraska, and section 66-1345.04, Revised Statutes Cumulative Supplement, 2008; to provide for the transfer of funds; to provide conditions for the use of certain funds; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 317.** Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend section 84-612, Reissue Revised Statutes of Nebraska; to provide for transfers; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 318.** Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to capital improvement projects; to amend sections 81-188.02, 81-188.04, and 81-188.06, Reissue Revised Statutes of Nebraska; to change provisions governing depreciation charges; to repeal the original sections; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 319.** Introduced by Speaker Flood, 19; at the request of the Governor.

A BILL FOR AN ACT relating to infants; to amend section 43-536, Reissue Revised Statutes of Nebraska; to change provisions relating to child care

reimbursement; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 320.** Introduced by Friend, 10; at the request of the Governor.

A BILL FOR AN ACT relating to funding for highways and roads; to amend sections 39-2215, 39-2215.01, 39-2223, 39-2224, 66-6,108, 81-2004.01, and 84-612, Reissue Revised Statutes of Nebraska, and sections 66-489, 66-489.01, 66-495.01, 66-4,100, 66-4,105, 66-4,114, 66-4,140, 66-4,144, 66-6,107, 66-6,111, 66-726, and 74-1413, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the Highway Trust Fund; to change and eliminate provisions relating to motor fuel taxes; to eliminate the Roads Operations Cash Fund and obsolete provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; to outright repeal sections 66-489.02, 66-499, 66-4,141, 66-4,143, 66-4,145, 66-4,146, 66-4,147, 66-4,148, 66-6,109, and 66-6,109.02, Revised Statutes Cumulative Supplement, 2008; and to declare an emergency.

**LEGISLATIVE BILL 321.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to state government; to amend section 81-1302, Reissue Revised Statutes of Nebraska; to provide for state employees to participate in qualified mentoring programs; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 322.** Introduced by Avery, 28; Hansen, 42.

A BILL FOR AN ACT relating to state government; to amend section 81-108, Reissue Revised Statutes of Nebraska, and sections 49-1401 and 49-1499.03, Revised Statutes Cumulative Supplement, 2008; to define terms; to prohibit nepotism; to eliminate provisions relating to employment of family members; to eliminate a penalty; to harmonize provisions; to repeal the original sections; and to outright repeal section 49-1499.01, Revised Statutes Cumulative Supplement, 2008.

## **SENATOR NANTKES PRESIDING**

**LEGISLATIVE BILL 323.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 60-3,186, Revised Statutes Cumulative Supplement, 2008; to change distribution of motor vehicle tax proceeds; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 324.** Introduced by Nelson, 6.

A BILL FOR AN ACT relating to elections; to amend sections 32-904 and 32-1524, Reissue Revised Statutes of Nebraska; to provide for designation

of voting entrances; to change restrictions on electioneering, circulating petitions, or soliciting near polling places; and to repeal the original sections.

**LEGISLATIVE BILL 325.** Introduced by Nelson, 6.

A BILL FOR AN ACT relating to elections; to amend sections 32-228, 32-235, 32-314, 32-325, 32-328, 32-329, 32-607, 32-914, 32-914.02, 32-915, 32-929, and 32-930, Reissue Revised Statutes of Nebraska; to change provisions relating to notification of election workers, clerical errors on the precinct list of registered voters, updates of registration records due to change of address, provisional ballots, and challenges to voters; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 326.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to the Comprehensive Health Insurance Pool Act; to amend section 44-4226, Reissue Revised Statutes of Nebraska; to require certain pool coverage; to provide for independent reviews of disputes; and to repeal the original section.

**LEGISLATIVE BILL 327.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to banking and finance; to amend sections 8-101.01, 8-112, 8-163, 8-209, 8-210, 8-355, 8-602, 8-1001, 8-1001.01, and 45-190, Reissue Revised Statutes of Nebraska, and sections 8-1,140, 21-17,115, 45-346.01, 45-348, and 45-922, Revised Statutes Cumulative Supplement, 2008; to require state-chartered banks to pledge collateral as security for certain excess deposits as prescribed; to change provisions relating to confidential Department of Banking and Finance records; to change provisions relating to bank dividends; to revise powers of state-chartered banks, building and loan associations, and credit unions; to change provisions relating to pledges of securities under the Nebraska Trust Company Act; to eliminate certain department fees; to provide procedures for authorizing acquisitions of licensees under the Nebraska Sale of Checks and Fund Transmission Act; to redefine loan broker; to change provisions relating to licensee duties under the Nebraska Installment Sales Act; to change provisions relating to a disciplinary action under the Delayed Deposit Services Licensing Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 328.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to finance; to amend sections 8-113, 8-702, 45-712, 45-713, 45-718, 45-719, 45-720, 45-721, 45-1008, 45-1018, 45-1019, and 45-1025, Reissue Revised Statutes of Nebraska, and sections 45-701, 45-702, 45-703, 45-704, 45-705, 45-706, 45-707, 45-708, 45-709, 45-710, 45-711, 45-714, 45-715, 45-716, 45-717, 45-717.01, 45-717.02, 45-722, 45-723, 45-1001, 45-1002, 45-1007, 45-1013, 45-1024, 45-1033,

and 76-2711, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to mortgage origination and installment loans; to implement certain federal requirements; to rename an act; to provide for civil penalties; to provide for licensee duties; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 329.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to state government; to amend sections 81-5,151 and 81-5,157, Reissue Revised Statutes of Nebraska, and sections 60-301, 60-393, 60-395, 60-396, 60-3,104, 60-3,118, and 60-3,130.04, Revised Statutes Cumulative Supplement, 2008; to provide for firefighter license plates; to change provisions relating to personalized message license plates; to provide powers and duties and for the Department of Motor Vehicles; to provide fees; to provide for distribution of proceeds; to provide for training for certain emergency personnel; to eliminate obsolete language; to create a fund; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 330.** Introduced by Transportation and Telecommunications Committee: Fischer, 43, Chairperson; Campbell, 25; Hadley, 37; Lautenbaugh, 18; Louden, 49; Stuthman, 22.

A BILL FOR AN ACT relating to the Public Service Commission; to amend sections 86-141, 86-442, 86-443, 86-457, and 86-459, Reissue Revised Statutes of Nebraska, and section 75-134, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to orders of the commission and telecommunications companies not subject to regulation; to change duties for wireless carriers and define a term under the Enhanced Wireless 911 Services Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 331.** Introduced by Transportation and Telecommunications Committee: Fischer, 43, Chairperson; Campbell, 25; Gay, 14; Hadley, 37; Lautenbaugh, 18; Louden, 49; Stuthman, 22.

A BILL FOR AN ACT relating to transportation; to amend sections 18-1739 and 75-301, Reissue Revised Statutes of Nebraska, and sections 60-3,122.02, 60-3,137, 60-3,193.01, 60-3,198, 60-3,205, 60-462.01, 60-462.02, 60-480.01, 60-4,147.02, 60-6,265, 60-6,267, 66-1406.02, 75-363, 75-364, 75-369.03, 75-386, 75-393, 75-394, 75-396, 75-397, and 75-398, Revised Statutes Cumulative Supplement, 2008; to adopt by reference updates to certain federal laws and regulations relating to parking for disabled persons, operators' licenses, hazardous material endorsement requirements under the USA PATRIOT Act, occupant protection systems, motor carrier safety, hazardous materials transportation, and the Unified Carrier Registration System; to change provisions relating to Gold Star Family plates and fleet vehicle registration; to change an implementation

date; to authorize the issuance of undercover license plates to Department of Insurance investigators; to adopt by reference updates to the International Registration Plan; to eliminate provisions relating to the single state insurance registration system for motor carriers; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 75-348, 75-349, 75-350, 75-351, 75-353, 75-354, 75-355, 75-358, and 75-390, Reissue Revised Statutes of Nebraska, and section 75-395, Revised Statutes Cumulative Supplement, 2008; and to declare an emergency.

**LEGISLATIVE BILL 332.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to courts; to amend sections 23-1205, 25-2405, 25-2721, 29-437, 30-2429.01, 30-2436, 43-103, 43-1314.02, 43-3001, and 43-3713, Reissue Revised Statutes of Nebraska; to provide an exception to the interpreter oath as prescribed; to change provisions relating to acting county attorneys, trial by jury, probate of wills, adoption hearings, caregiver information, information regarding children in state custody, and court appointed special advocate volunteers; and to repeal the original sections.

**LEGISLATIVE BILL 333.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to courts; to amend sections 33-107.03 and 33-154, Reissue Revised Statutes of Nebraska; to create a fund; to increase and provide for court fees; and to repeal the original sections.

**LEGISLATIVE BILL 334.** Introduced by Giese, 17; Avery, 28; Hadley, 37; Janssen, 15; Louden, 49; Pankonin, 2; Schilz, 47.

A BILL FOR AN ACT relating to highways and roads; to amend sections 39-1302 and 39-1365.01, Reissue Revised Statutes of Nebraska; to designate the state expressway system; to change provisions relating to highway planning; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 335.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-27,187, 77-5701, 77-5801, and 77-5901, Revised Statutes Cumulative Supplement, 2008; to require electronic verification of employees' legal presence in the state for purposes of certain tax incentive laws; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 336.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.13, Reissue Revised Statutes of Nebraska; to exempt municipal water from sales and use taxes; to provide an operative date; and to repeal

the original section.

**LEGISLATIVE BILL 337.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to the Nebraska educational savings plan trust; to amend section 85-1805, Reissue Revised Statutes of Nebraska; to change restrictions on advertising or promotional materials; and to repeal the original section.

**LEGISLATIVE BILL 338.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to cities and villages; to amend sections 16-230 and 17-563, Reissue Revised Statutes of Nebraska; to change weed height requirements as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 339.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to cities and villages; to amend section 18-2102.01, Reissue Revised Statutes of Nebraska; to change provisions relating to community development authorities as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 340.** Introduced by Cook, 13.

A BILL FOR AN ACT relating to the Coordinating Commission for Postsecondary Education; to amend section 85-1412, Reissue Revised Statutes of Nebraska; to provide a duty for the commission; and to repeal the original section.

**LEGISLATIVE BILL 341.** Introduced by Cook, 13.

A BILL FOR AN ACT relating to tuberculosis detection and prevention; to amend sections 38-2315, 38-2850, and 71-3604, Reissue Revised Statutes of Nebraska, and sections 71-3601, 71-3602, and 71-3614, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to distribution of medications through public health agencies; to define a term; to change provisions relating to orders, violations, hearings, and payment of costs; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 342.** Introduced by Gay, 14; Pankonin, 2.

A BILL FOR AN ACT relating to the Medical Assistance Act; to amend section 68-901, Revised Statutes Cumulative Supplement, 2008; to provide duties for the Department of Health and Human Services relating to payment for treatment of pediatric feeding disorders; to provide a termination date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 343.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to courts; to amend section 24-819, Reissue Revised Statutes of Nebraska; to designate the time the full term of a judge ends; and to repeal the original section.

**LEGISLATIVE BILL 344.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to legal services; to amend sections 25-3007 and 25-3008, Reissue Revised Statutes of Nebraska; to change administration of the Civil Legal Services Program; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 345.** Introduced by Gay, 14; Howard, 9.

A BILL FOR AN ACT relating to courts; to amend section 43-247, Reissue Revised Statutes of Nebraska; to change juvenile court jurisdiction; and to repeal the original section.

**LEGISLATIVE BILL 346.** Introduced by Gay, 14; Cornett, 45; Howard, 9; Pankonin, 2; at the request of the Governor.

A BILL FOR AN ACT relating to the Department of Health and Human Services; to require the department to establish a hotline and a program relating to children's behavioral health and to provide services in certain adoption and guardianship cases; and to require a report.

**LEGISLATIVE BILL 347.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to dogs; to amend section 54-601, Reissue Revised Statutes of Nebraska; to eliminate liability with respect to governmental agencies as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 348.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to tax statements; to amend sections 84-712 and 84-712.01, Reissue Revised Statutes of Nebraska, and section 76-214, Revised Statutes Cumulative Supplement, 2008; to change access and fee provisions relating to tax statements; and to repeal the original sections.

**LEGISLATIVE BILL 349.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to the Election Act; to amend sections 32-101, 32-1301, 32-1302, 32-1303, 32-1304, 32-1306, and 32-1308, Reissue Revised Statutes of Nebraska; to change provisions relating to recall; to require notification as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 350.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to industrial areas; to amend sections



13-1111, 13-1112, 13-1113, 13-1114, 13-1115, 13-1116, 13-1117, 13-1118, 13-1119, 13-1120, and 13-1121, Reissue Revised Statutes of Nebraska; to change provisions relating to real estate tracts and the designation of industrial areas as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 351.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to limited liability companies; to amend section 21-2601, Reissue Revised Statutes of Nebraska; to provide for charging orders against a member's transferable interest; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 352.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to civil procedure; to amend sections 25-505.01, 25-506.01, and 25-507.01, Reissue Revised Statutes of Nebraska; to change provisions relating to service of summons; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 353.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to civil procedure; to amend section 34-301, Reissue Revised Statutes of Nebraska; to change pleading provisions in an action for disputed corners and boundaries; and to repeal the original section.

**LEGISLATIVE BILL 354.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend section 84-917, Reissue Revised Statutes of Nebraska; to provide for cross-appeals in contested cases; and to repeal the original section.

**LEGISLATIVE BILL 355.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to cigar bars; to amend section 28-1422, Reissue Revised Statutes of Nebraska, and sections 53-101 and 53-103, Revised Statutes Cumulative Supplement, 2008; to provide for an exemption for cigar bars as prescribed; to define a term; to provide duties for cigar bar owners; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Thursday, January 22, 2009 1:30 p.m.

LB190

LB185

LB83

LB78

LB41

(Signed) Brad Ashford, Chairperson

**ANNOUNCEMENT**

The Judiciary Committee elected Senator Lathrop as Vice Chairperson.

**UNANIMOUS CONSENT - Add Cointroducers**

Senators Fulton and Howard asked unanimous consent to add their names as cointroducers to LB27. No objections. So ordered.

**VISITOR**

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

**ADJOURNMENT**

At 11:04 a.m., on a motion by Senator Nelson, the Legislature adjourned until 10:00 a.m., Friday, January 16, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTH DAY - JANUARY 16, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, January 16, 2009

**PRAYER**

The prayer was offered by Pastor Bud Leach, Church of the Nazarene, Falls City.

**ROLL CALL**

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

The roll was called and all members were present except Senators Council, Dubas, Harms, and White who were excused; and Senators Ashford and Christensen who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventh day was approved.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB122	Judiciary (rereferred)
LB245	Transportation and Telecommunications
LB246	Natural Resources
LB247	Health and Human Services
LB248	Revenue
LB249	Revenue
LB250	Health and Human Services
LB251	Revenue
LB252	Judiciary
LB253	Judiciary
LB254	Agriculture
LB255	Transportation and Telecommunications
LB256	Appropriations
LB257	Education

LB258 Judiciary  
 LB259 Banking, Commerce and Insurance  
 LB260 Judiciary  
 LB261 Transportation and Telecommunications  
 LB262 General Affairs  
 LB263 Agriculture  
 LB264 Revenue  
 LB265 Judiciary  
 LB266 General Affairs  
 LB267 Business and Labor  
 LB268 Health and Human Services  
 LB269 Appropriations  
 LB270 Revenue  
 LB271 Revenue  
 LB272 Transportation and Telecommunications  
 LB273 Government, Military and Veterans Affairs  
 LB274 Judiciary  
 LB275 Health and Human Services  
 LB276 Judiciary  
 LB277 Judiciary  
 LB278 Transportation and Telecommunications  
 LB279 Government, Military and Veterans Affairs  
 LB280 Government, Military and Veterans Affairs  
 LB281 Education  
 LB282 Revenue  
 LB283 Education  
 LB284 Judiciary  
 LB285 Judiciary  
 LB286 General Affairs  
 LB287 General Affairs  
 LR6CA General Affairs

(Signed) John Wightman, Chairperson  
 Executive Board

**NOTICE OF COMMITTEE HEARINGS**  
 Business and Labor

Room 2102

Monday, January 26, 2009 1:30 p.m.

LB158  
 LB107

Cole, Charles - Boiler Safety Code Advisory Board  
 DeMartino, Thomas - Boiler Safety Code Advisory Board  
 Kasl, Martin - Boiler Safety Code Advisory Board

Stewart, Kenneth - Boiler Safety Code Advisory Board

(Signed) Steve Lathrop, Chairperson

Banking, Commerce and Insurance

Room 1507

Monday, January 26, 2009 1:30 p.m.

LB192

LB75

LB80

LB87

Tuesday, January 27, 2009 1:30 p.m.

LB32

LB88

LB74

LB113

(Signed) Rich Pahls, Chairperson

General Affairs

Room 1510

Monday, January 26, 2009 1:30 p.m.

LB189

LB266

LR6CA

(Signed) Russ Karpisek, Chairperson

Government, Military and Veterans Affairs

Room 1507

Friday, January 23, 2009 1:30 p.m.

LB7

LB8

LB33

LB55

(Signed) Bill Avery, Chairperson

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of January 15, 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

Axt, Randy

Firearms Owners Association, Nebraska (NFOA)

Cutshall & Nowka

Area Agencies on Aging, Nebraska Association of  
Grand Island Chamber of Commerce

Harding, Mary A.

Conservation Voters, Nebraska League of

Kulesher, Kate M.

Brain Injury Group of Nebraska (BIG-N)

Lillis, John J.

Nebraskans United For Life

Moors, H. Jack

Hastings Exposition and Racing, Inc.

O'Hara, Lindsay & Associates, Inc.

Alter Trading Corporation

Plucker, Julia

Lamar Advertising Company

Moylan, James

Pollock, Andy

Dinsdale Brothers, Inc.

Feller & Company, Inc.

Hayes Feed Yard, Inc

Morrison Enterprises, LLC

NPP, LLC

Wilke Farms, Inc.

Radcliffe, Walter H. of Radcliffe & Associates

2013 US Senior Open Local Organizing Committee

Guaranteed Asset Protection Association

Nebraska Technical Services, Inc.

Sanofi Pasteur, (MultiState Associates, Inc on behalf of)

Telecommunications Association, Nebraska

Ruth Mueller Robak LLC

Sanofi Pasteur, (MultiState Associates, Inc on behalf of)

(Withdrawn 01/12/2009)

Vickers, Tom

Marriage and Family Therapy, The Nebraska Association for

Young, Lora

Nebraska Travel Association

Zaenglein, Norbert

Autobody Association, Nebraska

Zieg, Patricia A.

Apria Healthcare, Inc.

## REPORTS

The following reports were received by the Legislature:

**Economic Development, Department of**

Job Training Cash Fund Report for Fiscal Years 2005-2008

**Environmental Quality, Department of**

2008 Nebraska Groundwater Quality Monitoring Report

**Health and Human Services**

Division of Medicaid and Long-Term Care, State Union on Aging Annual Report on Care Management Units for Fiscal Year 2008

**Performance Audit, Legislative**

State Foster Care Review Board: Authority, Conflicts of Interest, and Management Practices

**Roads, Nebraska Department of**

One-Year and Five-Year Programs of Anticipated Design, Construction, Maintenance, and Improvements for our State's Recreation Roads

### MOTION - Withdraw LB143

Senator Langemeier renewed his motion, MO2, found on page 153, to withdraw LB143.

The Langemeier motion to withdraw the bill prevailed with 43 ayes, 0 nays, and 6 excused and not voting.

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 356.** Introduced by Dubas, 34; Gloor, 35.

A BILL FOR AN ACT relating to children; to amend sections 43-245, 43-247, and 43-2,129, Reissue Revised Statutes of Nebraska; to provide for behavioral health services for certain children without parental relinquishment of custody under the Juvenile Code; to define terms; to provide duties for the Department of Health and Human Services; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 357.** Introduced by Hadley, 37.

A BILL FOR AN ACT relating to cigarette tax; to amend section 77-2608, Reissue Revised Statutes of Nebraska; to change the commission allowed to wholesale dealers; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 358.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to the Comprehensive Health Insurance Pool Act; to amend sections 44-4201, 44-4226, and 44-4227, Reissue Revised Statutes of Nebraska, and sections 44-4221 and 44-4222, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to eligibility under the act, unfair trade practices, major medical expense coverage, and premium and standard risk rates; to provide duties for the board of directors of the pool; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 359.** Introduced by Nelson, 6.

A BILL FOR AN ACT relating to the Nebraska Cultural Preservation Endowment Fund; to amend section 82-331, Reissue Revised Statutes of Nebraska; to restate legislative intent; to change provisions relating to fund transfers; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 360.** Introduced by Cook, 13.

A BILL FOR AN ACT relating to the Land Reutilization Act; to amend sections 77-3201, 77-3203, 77-3205, and 77-3211, Reissue Revised Statutes of Nebraska, and sections 77-3204 and 77-3207, Revised Statutes Cumulative Supplement, 2008; to authorize the creation of an authority by a city of the metropolitan class; and to repeal the original sections.

**LEGISLATIVE BILL 361.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to public meetings; to amend section 84-1413, Reissue Revised Statutes of Nebraska; to change provisions relating to roll call votes; and to repeal the original section.

**LEGISLATIVE BILL 362.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to elections; to amend section 32-607, Reissue Revised Statutes of Nebraska; to change requirements for candidate filing forms; and to repeal the original section.

**LEGISLATIVE BILL 363.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to political committees; to amend section 49-1446.02, Revised Statutes Cumulative Supplement, 2008; to prohibit certain expenditures; and to repeal the original section.

**LEGISLATIVE BILL 364.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1003 and 79-1028.01, Reissue Revised Statutes of Nebraska; to permit exceeding expenditure limits for voluntary termination payments as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.



**LEGISLATIVE BILL 365.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to the Judges Retirement Act; to amend section 24-710, Reissue Revised Statutes of Nebraska; to change retirement annuity provisions; and to repeal the original section.

**LEGISLATIVE BILL 366.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to the State Employees Retirement Act; to amend section 84-1308, Reissue Revised Statutes of Nebraska; to increase the mandatory contribution rate; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 367.** Introduced by Gloor, 35.

A BILL FOR AN ACT relating to health care; to amend section 71-5829.04, Reissue Revised Statutes of Nebraska, and section 71-5829.03, Revised Statutes Cumulative Supplement, 2008; to change health care certificate of need provisions; and to repeal the original sections.

**LEGISLATIVE BILL 368.** Introduced by Mello, 5.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend sections 60-6,214, 60-6,216, 60-6,217, and 60-6,218, Reissue Revised Statutes of Nebraska, and section 60-4,182, Revised Statutes Cumulative Supplement, 2008; to change point system violations relating to reckless driving and willful reckless driving; to change provisions and penalties relating to willful reckless driving; and to repeal the original sections.

**LEGISLATIVE BILL 369.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the Every Woman Matters Program.

**LEGISLATIVE BILL 370.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to the Medical Assistance Act; to amend section 68-911, Revised Statutes Cumulative Supplement, 2008; to require the Department of Health and Human Services to apply for a medicaid waiver to provide coverage for family planning services as prescribed.

**LEGISLATIVE BILL 371.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to public assistance; to amend sections 68-908 and 68-948, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the Medicaid Reform Plan and the Medicaid Reform Council; to harmonize provisions; to eliminate a termination date;

and to repeal the original sections.

**LEGISLATIVE BILL 372.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to driver's licenses; to amend section 60-484.02, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the release of driver's license digital images or digital signatures; to change a penalty; and to repeal the original section.

**LEGISLATIVE BILL 373.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to emergency response personnel; to amend sections 18-1723 and 35-1001, Reissue Revised Statutes of Nebraska; to change provisions relating to death or disability presumptions for a firefighter or police officer and death or disability prima facie evidence requirements for a firefighter or firefighter-paramedic; and to repeal the original sections.

**LEGISLATIVE BILL 374.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1708, Reissue Revised Statutes of Nebraska; to authorize recovery of costs as part of a settlement as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 375.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1801, Reissue Revised Statutes of Nebraska; to increase the claim amount and provide for payment of the costs of suit for certain claims; and to repeal the original section.

**LEGISLATIVE BILL 376.** Introduced by Fulton, 29; Coash, 27; Cook, 13.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.07, Revised Statutes Cumulative Supplement, 2008; to provide an income tax credit for certain qualified residents caring for dependents as prescribed; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 377.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to finance; to adopt the Nebraska Governmental Unit Credit Facility Act; to provide severability; and to declare an emergency.

**LEGISLATIVE BILL 378.** Introduced by Gloor, 35.

A BILL FOR AN ACT relating to medical clinical trials; to require coverage of routine patient care costs by certain insurance policies and benefit plans.

**LEGISLATIVE BILL 379.** Introduced by Haar, 21.

A BILL FOR AN ACT relating to environmental protection; to amend section 81-15,160, Reissue Revised Statutes of Nebraska; to extend a scrap tire grant program; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 380.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to counties; to amend section 23-362, Reissue Revised Statutes of Nebraska; to change a state aid program relating to Indian reservations; to repeal the original section; to outright repeal section 23-362.01, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 381.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 10-615, 32-404, 77-1917.01, and 77-3443, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Cumulative Supplement, 2008; to adopt the Community Improvement District Act and the Transportation Development District Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 382.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to elections; to amend sections 32-101, 32-107, 32-108, 32-114, 32-115, 32-302, 32-306, 32-307, 32-308, 32-310, 32-311.01, 32-314, 32-321, 32-325, 32-813, 32-816, 32-901, 32-902, 32-904, 32-906, 32-907, 32-910, 32-912, 32-913, 32-914, 32-915, 32-916, 32-917, 32-918, 32-919, 32-920, 32-921, 32-922, 32-923, 32-925, 32-927, 32-929, 32-933, 32-934, 32-935, 32-936, 32-937, 32-938, 32-940, 32-941, 32-945, 32-952, 32-1001, 32-1002, 32-1041, 32-1302, 32-1307, 32-1403, 32-1502, 32-1503, 32-1504, 32-1508, 32-1512, 32-1519, 32-1528, 32-1530, 32-1531, and 32-1532, Reissue Revised Statutes of Nebraska; to provide for voter registration on election day as prescribed; to change provisions relating to registration and voting; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 383.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to the Uniform Controlled Substances Act; to amend section 28-401.01, Reissue Revised Statutes of Nebraska; to provide for limited immunity from prosecution as prescribed; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 384.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend section 60-484.02, Revised Statutes Cumulative Supplement, 2008; to authorize release of certain digital information to federal civil enforcement agencies; and to repeal the original section.

**LEGISLATIVE BILL 385.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 13-319, 13-2813, 77-2701.33, and 77-27.142, Reissue Revised Statutes of Nebraska, and sections 77-2701, 77-2701.04, 77-2701.16, and 77-2703, Revised Statutes Cumulative Supplement, 2008; to terminate sales tax exemptions and the sales and use taxes as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 386.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.02 and 77-2701.33, Reissue Revised Statutes of Nebraska, and sections 60-301, 60-3,190, 77-2701, 77-2701.04, 77-2701.16, 77-2701.24, 77-2701.35, 77-2703, 77-2708, 77-2734.02, and 77-4212, Revised Statutes Cumulative Supplement, 2008; to suspend motor vehicle fees and taxes until January 1, 2015; to change collection fees; to change and suspend sales tax exemptions and certain credits until January 1, 2015; to change tax rates as prescribed; to state intent relating to property tax relief; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 387.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to schools; to amend sections 79-1007.18, 79-1008.02, 79-1022, 79-10,120, 79-10,126, 79-2104, and 79-2111, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Cumulative Supplement, 2008; to eliminate certain taxing authority of learning communities; to change state aid calculations; to harmonize provisions; to repeal the original sections; and to outright repeal sections 79-1015, 79-1073, 79-1073.01, and 79-10,126.01, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 388.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to public power districts; to amend section 70-624, Reissue Revised Statutes of Nebraska; to change provisions relating to compensation approval as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 389.** Introduced by Carlson, 38.

A BILL FOR AN ACT relating to agriculture; to amend section 2-4901, Reissue Revised Statutes of Nebraska; to change appointment provisions for the Climate Assessment Response Committee; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 390.** Introduced by Coash, 27.

A BILL FOR AN ACT relating to the Developmental Disabilities Services Act; to amend section 83-1202.01, Reissue Revised Statutes of Nebraska; to state intent regarding reimbursement for assisted services; and to repeal the original section.

**LEGISLATIVE BILL 391.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to education; to amend sections 13-503, 79-1041, 79-1073, 79-1073.01, and 79-2104, Reissue Revised Statutes of Nebraska; to change the manner of distribution of property tax revenue within learning communities; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 392.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to learning communities; to amend sections 32-546.01, 32-606, 79-1007.21, 79-2113, and 79-2117, Reissue Revised Statutes of Nebraska; to provide for nomination of coordinating council members by primary election; to change provisions relating to a new school adjustment; to change provisions relating to elementary learning centers and achievement subcouncils; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 393.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to educational service units; to amend sections 79-1246 and 84-1411, Reissue Revised Statutes of Nebraska; to change provisions relating to the agenda for meetings of the Educational Service Unit Coordinating Council; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 394.** Introduced by Fulton, 29; Gay, 14; Hansen, 42; Howard, 9; Pankonin, 2; Stuthman, 22.

A BILL FOR AN ACT relating to the Medicine and Surgery Practice Act; to amend section 38-2001, Reissue Revised Statutes of Nebraska; to define an act of unprofessional conduct; to define terms relating to unprofessional conduct; to harmonize provisions; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 395.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to health; to amend section 81-664, Reissue Revised Statutes of Nebraska; to adopt the Stroke Registry Act; to redefine a term; and to repeal the original section.

**LEGISLATIVE BILL 396.** Introduced by Gloor, 35.

A BILL FOR AN ACT relating to health care; to amend section 68-901, Revised Statutes Cumulative Supplement, 2008; to adopt the Medical Home Act; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 397.** Introduced by Nordquist, 7; McCoy, 39.

A BILL FOR AN ACT relating to postsecondary education; to amend sections 9-812, 9-836.01, 71-5715, and 85-1412, Reissue Revised Statutes of Nebraska; to adopt the State Scholarship Award Program Act and the Scholarship Assistance Program Act; to change provisions relating to applications under the Nebraska Scholarship Act; to provide for transfer of funds; to eliminate the Nebraska Scholarship Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 85-1901, 85-1902, 85-1903, 85-1904, 85-1905, 85-1906, 85-1907, 85-1908, 85-1909, 85-1910, 85-1911, 85-1912, 85-1913, 85-1914, 85-1915, 85-1916, 85-1917, 85-1918, 85-1919, and 85-1920, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 398.** Introduced by Nordquist, 7.

A BILL FOR AN ACT relating to license plates; to amend section 85-1920, Reissue Revised Statutes of Nebraska, and sections 60-301, 60-393, 60-395, 60-396, 60-3,104, and 60-3,130.04, Revised Statutes Cumulative Supplement, 2008; to provide for collegiate spirit license plates; to provide powers and duties and for the Department of Motor Vehicles; to provide fees; to provide for distribution of proceeds; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 399.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to the Nebraska Scholarship Act; to amend sections 85-502, 85-1903, 85-1906, 85-1907, and 85-1909, Reissue Revised Statutes of Nebraska; to change provisions relating to residency; to redefine terms; and to repeal the original sections.

**LEGISLATIVE BILL 400.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to the Community College Foundation and Equalization Aid Act; to amend section 85-2223, Reissue Revised Statutes of Nebraska; to change provisions relating to fiscal years; and to repeal the original section.

**LEGISLATIVE BILL 401.** Introduced by Friend, 10; McCoy, 39; Pankonin, 2.

A BILL FOR AN ACT relating to highways and roads; to amend sections 39-1110, 39-2201, 39-2203, 39-2212, 39-2213, 39-2215, 39-2215.01,

39-2222, and 39-2223, Reissue Revised Statutes of Nebraska, and sections 66-4,100 and 66-4,144, Revised Statutes Cumulative Supplement, 2008; to adopt the High Priority Surface Transportation Development Act and the Surface Transportation Revolving Fund Act; to authorize issuance of highway bonds; to change highway funding provisions; to create funds; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 402.** Introduced by Avery, 28; Campbell, 25; Coash, 27; Fulton, 29; Haar, 21; McGill, 26; Nantkes, 46; Wallman, 30.

A BILL FOR AN ACT relating to the Convention Center Facility Financing Assistance Act; to amend sections 13-2611 and 13-2612, Reissue Revised Statutes of Nebraska; to change provisions relating to the elections for bonds; to extend the application acceptance deadline; and to repeal the original sections.

**LEGISLATIVE BILL 403.** Introduced by Karpisek, 32; at the request of the Governor.

A BILL FOR AN ACT relating to illegal aliens; to require verification of lawful presence in the United States as prescribed; and to require a report.

**LEGISLATIVE BILL 404.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to cigarettes; to adopt the Reduced Cigarette Ignition Propensity Act; to create a fund; and to provide an operative date.

**LEGISLATIVE BILL 405.** Introduced by Cornett, 45; Campbell, 25; Carlson, 38; Coash, 27; Cook, 13; Friend, 10; Fulton, 29; Gay, 14; Giese, 17; Gloor, 35; Haar, 21; Hadley, 37; Karpisek, 32; Mello, 5; Nordquist, 7; Pankonin, 2; Rogert, 16; Wallman, 30; Wightman, 36.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701, 77-27,228, 77-27,229, 77-27,230, 77-27,231, 77-27,232, 77-27,233, and 77-27,234, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to income tax credits for planned gifts; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 406.** Introduced by Fulton, 29; Campbell, 25; Dierks, 40; Friend, 10; Haar, 21; Harms, 48; McCoy, 39; Mello, 5; Nelson, 6; Nordquist, 7; Stuthman, 22; Wallman, 30.

A BILL FOR AN ACT relating to hospitals; to amend section 71-2048.01, Reissue Revised Statutes of Nebraska; to permit certified nurse midwives to have clinical privileges; and to repeal the original section.

**LEGISLATIVE BILL 407.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to the Veterinary Medicine and Surgery Practice Act; to amend section 38-3301, Reissue Revised Statutes of Nebraska; to provide civil penalties for engaging in the practice of veterinary medicine and surgery without authorization; and to repeal the original section.

**LEGISLATIVE BILL 408.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to veterinary medicine and surgery; to amend sections 38-1,140 and 38-3321, Reissue Revised Statutes of Nebraska; to authorize health care profession or occupation credential holders to consult with veterinarians under certain conditions; and to repeal the original sections.

**LEGISLATIVE BILL 409.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to offenses against animals; to amend sections 28-906, 28-1008, 28-1009, and 28-1013, Reissue Revised Statutes of Nebraska; to provide violations and penalties for offenses against arson dogs; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 410.** Introduced by Karpisek, 32; Council, 11; Nordquist, 7.

A BILL FOR AN ACT relating to elections; to amend sections 32-1119 and 32-1121, Reissue Revised Statutes of Nebraska; to change provisions relating to recounts; and to repeal the original sections.

**LEGISLATIVE BILL 411.** Introduced by Giese, 17.

A BILL FOR AN ACT relating to the State Electrical Act; to amend section 81-2104, Reissue Revised Statutes of Nebraska; to update the reference to the National Electrical Code; and to repeal the original section.

**LEGISLATIVE BILL 412.** Introduced by Giese, 17.

A BILL FOR AN ACT relating to sanitary and improvement districts; to amend section 31-735, Reissue Revised Statutes of Nebraska; to change procedures relating to the conduct of certain district elections; and to repeal the original section.

**LEGISLATIVE BILL 413.** Introduced by Ashford, 20; Nordquist, 7.

A BILL FOR AN ACT relating to postsecondary education; to adopt the College Choice Grant Program Act; and to provide an operative date.

**LEGISLATIVE BILL 414.** Introduced by Ashford, 20.



A BILL FOR AN ACT relating to courts; to amend section 24-201.01, Reissue Revised Statutes of Nebraska; to change the salary of the Supreme Court judges; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 415.** Introduced by Christensen, 44; Coash, 27.

A BILL FOR AN ACT relating to tobacco sales; to prohibit sale from a self-service display; to define terms; to create a penalty; and to provide an operative date.

**LEGISLATIVE BILL 416.** Introduced by Fulton, 29; Friend, 10; Hadley, 37; Hansen, 42; Pahls, 31.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 18-1736, 18-1737, 60-501, 60-1903, 60-1908, and 81-2005, Reissue Revised Statutes of Nebraska, and sections 60-163, 60-180, 60-308, 60-366, 60-373, 60-376, 60-378, 60-380, 60-383, 60-392, 60-395, 60-396, 60-397, 60-398, 60-399, 60-3,100, 60-3,101, 60-3,102, 60-3,105, 60-3,106, 60-3,107, 60-3,108, 60-3,109, 60-3,113, 60-3,114, 60-3,119, 60-3,120, 60-3,121, 60-3,122, 60-3,122.02, 60-3,123, 60-3,124, 60-3,125, 60-3,126, 60-3,128, 60-3,130, 60-3,130.01, 60-3,130.02, 60-3,130.05, 60-3,134, 60-3,135, 60-3,145, 60-3,146, 60-3,147, 60-3,149, 60-3,150, 60-3,151, 60-3,157, 60-3,167, 60-3,175, 60-3,183, 60-3,205, 60-653, 60-683, 60-6,197.01, 60-1306, 60-1901, 60-1902, and 66-1406.02, Revised Statutes Cumulative Supplement, 2008; to provide for one license plate and In Transit decal per vehicle; to change provisions relating to license plates; to harmonize provisions; to provide an operative date; and to repeal the original sections.

## RESOLUTION

**LEGISLATIVE RESOLUTION 7.** Introduced by Fulton, 29.

WHEREAS, the people of Nebraska, through their elected legislators, have chosen over time to provide health care coverage to various vulnerable populations through government-sponsored health care programs such as medicare, medicaid, and the State Children's Health Insurance Program; and

WHEREAS, these programs have served a vital role in the health and well-being of individuals and the general welfare of our state as a whole; and

WHEREAS, because different populations have different health needs, it has been important to the success of government-sponsored health care plans that those needs be taken into consideration when the structure and logistics of the programs are designed and implemented; and

WHEREAS, in some instances health care services involve matters literally of life and death or touch upon deeply personal areas that involve the moral, philosophical, or religious beliefs of families, particularly of parents with children; and

WHEREAS, individuals and families, as citizens and as taxpayers, should be afforded the opportunity to participate in or select health care plan options that do not violate their moral, philosophical, or religious beliefs; and

WHEREAS, the precedent for respecting the beliefs of individuals as they select and access government-sponsored health care programs was established by Congress in the federal employees health benefit system whereby federal employees have the option of choosing a health care plan consistent with their beliefs and values.

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

1. That the Legislature memorializes the members of its congressional delegation and the Congress of the United States to insure that parents of the poor, the working poor, and the disabled will be offered the option to enroll their children in government-sponsored health care plans that respect the beliefs and values of the parents, particularly as they relate to matters of abortion, abortifacients, contraception, sterilization, infanticide, and euthanasia.

2. That copies of this resolution be delivered to the President of the United States, the Speaker of the House of Representatives of the United States, the United States Senate Majority Leader, the Minority Leaders of both the House of Representatives and the Senate, the Secretary of the United States Department of Health and Human Services, and all members of Nebraska's congressional delegation.

Laid over.

### **NOTICE OF COMMITTEE HEARINGS**

Transportation and Telecommunications

Room 1113

Monday, January 26, 2009 1:30 p.m.

LB229  
LB261  
LB222  
LB204

(Signed) Deb Fischer, Chairperson

Judiciary

Room 1113

Friday, January 23, 2009 1:30 p.m.

LB90  
LB201  
LB203  
LB19

(Signed) Brad Ashford, Chairperson

Revenue

Room 1524

Friday, January 23, 2009 1:30 p.m.

LB44  
LB45  
LB251

(Signed) Abbie Cornett, Chairperson

Education

Room 1525

Monday, January 26, 2009 1:30 p.m.

LB206  
LB20  
LB197  
LB102

(Signed) Greg Adams, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Howard asked unanimous consent to add her name as cointroducer to LB81 and LB139. No objections. So ordered.

Senator Cornett asked unanimous consent to add her name as cointroducer to LB92. No objections. So ordered.

Senators Howard and McGill asked unanimous consent to add their names as cointroducers to LB261. No objections. So ordered.

Senator Stuthman asked unanimous consent to add his name as cointroducer to LB334. No objections. So ordered.

Senator Nordquist asked unanimous consent to add his name as cointroducer to LB381. No objections. So ordered.

### PROPOSED RULES CHANGES

The Rules Committee offered the following proposed rules changes:

#### PROPOSED RULES CHANGE 1

**Rule 7, Sec. 4. Shall the Debate Cease.** The previous question shall be in this form, "Shall the debate now close?"

The previous question shall be made only in the normal course of speaking order and shall be in order when demanded by five or more members, and must be sustained by the vote of a majority of the elected members, and until decided shall, except as provided in this section of this rule, preclude further debate and all amendments and motions, except one motion to adjourn. The presiding officer may rule the previous question out of order if in the presiding officer's opinion a full and fair debate has not been afforded, due to the complexity of the subject matter. The ruling of the presiding officer shall be subject to overrule in accordance with Rule 1, Section 12 of these rules.

On a previous question there shall be no debate. All incidental questions of order, arising after a motion is made for a previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

When the previous question shall have been ordered on a proposition under debate, the mover, proponent, or introducer of such proposition shall be given the right to close the debate thereon.

~~After a motion to indefinitely postpone a bill has been offered, and the introducer of the motion has made his or her opening remarks on the motion, the principal introducer of the bill shall immediately be permitted to speak for five minutes on such motion.~~

#### **Rule 6, Sec. 3. General File.**

(f) In the event a motion to indefinitely postpone a bill is made before the bill is read on General File, such motion shall require the affirmative vote of a majority of the elected members. After a motion to indefinitely postpone a bill has been offered, and the introducer of the motion has made his or her opening remarks on the motion, the principal introducer of the bill shall immediately be permitted to speak for five minutes on such motion.

**Rule 6, Sec. 5. Select File.**

(d) A motion to postpone indefinitely. After a motion to indefinitely postpone a bill has been offered, and the introducer of the motion has made his or her opening remarks on the motion, the principal introducer of the bill shall immediately be permitted to speak for five minutes on such motion.

**PROPOSED RULES CHANGE 2**

**Rule 6, Sec. 15. Constitutional Amendments, Votes Required.** ~~When a proposed constitutional amendment does not receive the required four fifths constitutional majority necessary to submit such proposed amendment to the electors at a special election, then the special election language of the bill shall be stricken, and the bill shall be pending on Final Reading, and the question shall be, "Shall the bill pass providing for the submission of such proposition at the next general election?"~~

*Constitutional Amendment. If proposition to submit amendment to electorate at special election fails to receive 4/5 plurality, then amend bill to provide for submission at general election which requires adoption by 3/5 plurality. RRS 49-236.*

When the submitting of a proposed constitutional amendment at a special election does not receive the required four-fifths constitutional majority, then the special election language of the resolution/bill shall be stricken, and the question shall be, "Shall the resolution/bill pass for the submission of such proposed constitutional amendment at the next general election?"

*Amendments proposed by the Legislature; failure to receive required vote of members for special election; place on Final Reading. RRS 49-236.*

**PROPOSED RULES CHANGE 3**

**Rule 2, Sec. 10. Time Limit on Speaking.** The introducer of the matter pending may speak for ten minutes when he or she first presents the matter to the Legislature. Each member shall be allowed to speak up to three times for not more than five minutes on each occasion, upon any one question in deliberation during the legislative day, without leave of the Legislature, unless he or she be the mover, proposer, or introducer of the matter pending in which case he or she shall be permitted to close after speak in reply, but not until every other member choosing to speak shall have spoken or after a motion to cease debate has prevailed. The introducer's close shall be included within the three opportunities permitted for speaking to an issue. Provided, however, the mover, proposer, or introducer of the matter pending may speak for ten minutes when he or she first presents the matter to the Legislature.

**PROPOSED RULES CHANGE 4**

**Rule 1, Sec. 12. Overrule Ruling of the Chair.** The President may speak to a point of order in preference to members, and shall decide the questions or order, subject to a challenge to the Legislature by any member, on which challenge no member may speak more than once, unless by leave of the Legislature. No member may yield time to another member. In the event of a challenge to a ruling of the chair, the ruling shall be restated and the question shall be phrased: "Shall the Chair be overruled?" A majority of those present shall be required to overrule the chair.

**PROPOSED RULES CHANGE 5**

**Rule 6, Sec. 14. Appropriations Bills, Procedure After Veto.** (a) Whenever the Governor shall have vetoed more than one item in an appropriation bill, the Appropriations Committee shall review said veto and the Chairperson of the Appropriations Committee shall report within one legislative day to the Legislature on its fiscal implications, and affect on operations. If the Appropriations Committee by majority vote decides to recommend to the Legislature an override of the veto on any portion of such an appropriation bill, the Chairperson of the Appropriations Committee or his/her designee shall first be permitted an opportunity to move that the entire bill become law notwithstanding the line-item veto therein. The Appropriations Committee recommendation shall not be subject to division nor amendment.

**PROPOSED RULES CHANGE 6**

**Rule 1, Sec. 19. Journal, Governor's Messages, Amendments.**

(b) The Clerk shall enter in the daily Journal messages of the Governor in full, titles of bills, every vote, including the yeas and nays, and a brief statement of the contents of each resolution, petition, memorial, communication, or other paper received from other states presented for the consideration of the Legislature.

*Constitutional amendment, print in full. Const. Art XVI, Sec. 1.*

**PROPOSED RULES CHANGE 7**

**Rule 6, Sec. 3. General File.** (a) The Clerk of the Legislature shall read the number and the title of the bill and the name of the principal introducer as it comes up for consideration on General File. ~~A bill will not be read section by section unless requested by a member of the Legislature.~~

**PROPOSED RULES CHANGE 8**

**Rule 6, Sec. 4. Enrollment and Review.** Bills when advanced to Enrollment and Review shall be reviewed for recommendations relative to arrangement, phraseology, and correlation. Advancement to Enrollment and

Review from General File for such purpose shall require a majority of the elected members. ~~A motion to return to General File from Enrollment and Review shall, for adoption, require the concurrence of a majority of the elected members.~~

**PROPOSED RULES CHANGE 9**

**Rule 3, Sec. 4. Select Committees.** (a) The select committees of the Legislature shall be as follows:

Committee on Committees	13 members
Enrollment and Review	1 member
Reference	9 members
Rules	6 members

(b) The Speaker of the Legislature shall serve as one of the six members and shall be an ex officio member of the Rules Committee. Select committees shall be subject to the same procedural rules as standing committees insofar as they are applicable. In addition, the following provisions shall apply:

(c) Committee on Committees.

(i) The Committee on Committees shall have authority to call before it a committee chairperson and discuss the workload of said committee. It shall hear and dispose of all written complaints filed with said committee by a senator against any committee chairperson. The Committee on Committees shall conduct said hearing in accordance with its own rules.

(d) Enrollment and Review.

(i) The Chairperson of Enrollment and Review shall report bills which have been engrossed for Final Reading and passage. In the absence of the Chairperson, the Vice Chairperson of the Judiciary Committee shall assume the duties of the Chairperson of the Enrollment and Review Committee.

(ii) The bill drafting service shall have supervision of and provide legal services for the Enrollment and Review Committee.

(iii) The Chairperson of Enrollment and Review shall have authority, without being required to include the same specifically in his or her reports and recommendations to the Legislature, in accord with accepted usage:

- (A) To correct the spelling of words, to correct erroneous division and hyphenation of words, to capitalize or decapitalize words, to convert masculine or feminine referents to neutral gender when appropriate, and to change numbers from words to figures or from figures to words, in new and independent acts, in the new matter of amendatory acts, in standing committee reports, and in General File, Select File, and specific amendments.
- (B) To underscore or remove underscoring, as the case requires, in standing committee reports and in General File, Select File, and specific amendments.
- (C) When an amendment to add the emergency clause, the severability clause, or provide an operative date is adopted on Select File which

does not spell out the standard clause or section and make the necessary change in the title, the Chairperson of Enrollment and Review shall also have the authority to add to the engrossed bill the standard clause or section, assigning to it the appropriate section number, and make the necessary change in the title as a matter of course without including such action in his or her reports and recommendations to the Legislature or making any special record thereof.

- (D) To add and/or delete names of introducers to reflect action on the bill while the bill remains in the possession of the Legislature at any stage of consideration.
- (E) To reflect votes on Final Reading as they may occur pursuant to Rule 6, Section 10 and Rule 6, Section 15.

(e) Reference Committee.

(i) The Executive Board shall constitute the Reference Committee. The Reference Committee shall review each bill and resolution and either refer the matter to the appropriate committee or to General File. The appropriate committee is that committee which has subject-matter jurisdiction over the issue or which has traditionally handled the issue.

(ii) All nominations made to the Legislature by the Governor, requiring confirmation by the Legislature shall be referred to the appropriate standing committee and the same procedure shall be followed as governs the handling of other matters before standing committees, unless the Legislature shall otherwise direct by unanimous vote.

(iii) The Clerk of the Legislature's office shall be responsible for the collection of pertinent information on gubernatorial appointments. That information will be distributed to the appropriate standing committee prior to the time of the confirmation hearing. The Clerk's office shall be the "depository" for background information on the individual, a statement of financial interests if applicable, and other biographical information that the committee chair feels is appropriate for the committee to have before it during the confirmation process.

(iv) The committees to which a gubernatorial appointee has been referred for confirmation shall conduct a confirmation hearing. Each appointee shall be required to appear in person before the committee conducting the confirmation hearing. The appearance of the appointee may be waived for good cause as determined by the chair of the committee.

The committee shall prepare a report ~~either approving or rejecting which approves, rejects, or in the event of a tie, makes no recommendation on~~ the appointment. Said report shall be filed with the Clerk of the Legislature. The Legislature shall then have the opportunity to accept or reject the report of the committee.

If the Legislature fails to adopt a report to approve an appointment by a majority vote of the elected members, the appointment is thereby rejected. If the Legislature fails to act the appointment is thereby rejected.

If the report coming from the committee is to reject the appointment, and the Legislature fails to adopt the report by a majority vote of the elected members, then the appointment is thereby approved.



In the event a motion on a report fails to receive either in the affirmative or negative a majority vote of the elected members, then such appointment shall be deemed rejected.

In the event that the committee files a report making no recommendation on the appointment, the report shall be considered by the Legislature within five legislative days, and no later than the scheduled adjournment sine die of the current legislative session. The Legislature shall consider a motion to approve the appointment, which shall require a majority of the elected members for approval. If the Legislature fails to approve the motion, the appointment is thereby rejected.

(v) Any appointment letter received by the Clerk of the Legislature during the last ~~eight~~ ten calendar days of any regular legislative session shall not be acted upon. Acknowledgment of receipt of the appointment shall be deferred until the next regular or special session of the Legislature.

(f) Rules Committee.

All proposed rules changes shall be set for public hearing within five legislative days after their referral to the committee. The hearing shall take place within fifteen legislative days after the referral, and the committee shall take final action on the proposal within ten legislative days after the hearing.

(g) Investigating Committees.

The Committee on Committees may appoint other select committees when authorized by the Legislature. No investigating committee of the Legislature shall be created except by resolution which shall set forth, with supporting statements, the reasons for and the purposes of the investigation, and no committee thus established shall function except during the interim between legislative sessions.

**Add a new sub-section and renumber the remaining sections.**

~~(h)~~ Sec. 6. Redistricting Committee.

~~(i)~~ (a) The Redistricting Committee of the Legislature shall be established as a special committee of the Legislature in January of each year ending in one. The committee is authorized to introduce and exercise jurisdiction over legislative bills and resolutions relating to redistricting and hold hearings regarding such legislation.

~~(ii)~~ (b) The committee shall be comprised of nine members of the Legislature, three from each congressional district existing on January 1 of each year ending in zero. The Executive Board shall appoint the members of the committee in January of each year ending in one. No more than five members appointed to the committee shall be affiliated with the same political party. A vacancy on the committee shall be filled by the Executive Board as soon as possible after the vacancy occurs.

~~(iii)~~ (c) At the first meeting of the committee, the members shall select from among themselves by majority vote one member to serve as chairperson of the committee and one member to serve as vice-chairperson

of the committee. The chair and vice chair shall not be a member of the same political party.

~~(iv)~~ (d) The committee shall continue in existence until all bills containing redistricting plans for which the Legislature has responsibility are passed and signed by the Governor. In the event of a successful legal challenge to any part of a redistricting plan, the committee shall be reconstituted for purposes of reformulating the challenged redistricting plan.

~~(v)~~ (e) The committee shall receive staff support from the office of the director of Legislative Research.

~~(vi)~~ (f) The committee shall, after reviewing previous redistricting guidelines used by the Legislature, adopt substantive and procedural guidelines that will guide the Legislature's redistricting process. During the legislative session of each year ending in one, the substantive guidelines adopted by the committee shall be presented to the Legislature for approval.

~~(vii)~~ (g) The committee shall at the earliest feasible time make available to the public the substantive guidelines prepared by the committee.

~~(viii)~~ (h) The committee shall introduce legislative bills pertaining to redistricting congressional districts and other districts during the legislative session of each year ending in one.

~~(ix)~~ (i) Based upon the information received from the United States Department of Commerce, Bureau of the Census, the committee shall formulate redistricting plans for congressional districts and other districts. The statistics and redistricting plans shall be made available to the Legislature and the public.

~~(x)~~ (j) After the statistics and redistricting plans are made available to the Legislature and the public, the committee shall schedule and conduct, as expeditiously as reasonably possible, at least one public hearing in each congressional district for the purposes of soliciting input on the proposed redistricting plans. Video and other methods may be used in addition to the procedures outlined for public hearings but not in substitution for such procedures.

~~(xi)~~ (k) In addition to the above procedures, legislation introduced for the purpose of complying with the decennial redistricting process in years ending in one, shall follow the normal procedures for any legislation introduced in the Nebraska Legislature.

### **PROPOSED RULES CHANGE 10**

**Rule 3, Sec. 18. Committee Statement.** (a) The chairperson of each committee with the assistance of the legislative staff shall, when reporting a bill, submit with such bill a committee statement which shall contain, but need not be limited to, the following information:

- (1) the one-line title and number of the bill;
- (2) a roll call vote of final committee action taken on the bill;
- (3) the date of the public hearing on the bill;
- (4) a list of all individuals testifying for and against the bill and any organization they represent;

- (5) a summary of the bill's purpose and a description of all major provisions for change in the bill as written and as amended by the committee;
- (6) if committee amendments are to be introduced, a copy of the amendments and an explanation thereof.

The Clerk of the Legislature may reject for filing any bill for which the committee statement fails to contain the information required by this rule.

(b) A copy of the proposed statement shall be distributed to each committee member within five days after final action on the bill has been taken by the committee. A minority or concurring statement bearing the signature or signatures of its proponents and setting forth objections to the bill, to proposed amendments, or to the majority statement may be filed by its author(s) with the Clerk of the Legislature at any time prior to the first hearing of the bill on General File.

(c) A copy of the committee statement and any minority statements submitted shall be distributed to each senator after filing with the Clerk of the Legislature. Copies of such statements shall be made available to the public.

### **PROPOSED RULE CHANGE 11**

**Rule 3, Sec. 7. Chairperson, Vice Chairperson.** (a) The chairperson of each standing and select committee shall be selected by secret ballot on the floor of the Legislature.

(b) The chairperson of a special committee shall be selected in the manner provided by the act authorizing the committee, or if not specified, by the Executive Board.

(c) Each committee shall elect from its membership a vice chairperson to serve in the absence of the chairperson.

(d) The chairperson may, at his or her discretion, assume the title of chairman, chairwoman, or chair for legislative purposes.

### **VISITOR**

The Doctor of the Day was Dr. Kathleen Amyot from Hastings.

### **ADJOURNMENT**

At 10:58 a.m., on a motion by Senator Campbell, the Legislature adjourned until 10:00 a.m., Tuesday, January 20, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**NINTH DAY - JANUARY 20, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, January 20, 2009

**PRAYER**

The prayer was offered by Pastor Todd Burpo, Crossroads Wesleyan Church, Imperial.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Cook and Council who were excused; and Senator Dierks who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighth day was approved.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB288	Health and Human Services
LB289	Appropriations
LB290	Health and Human Services
LB291	Health and Human Services
LB292	Judiciary
LB293	Banking, Commerce and Insurance
LB294	Revenue
LB295	Government, Military and Veterans Affairs
LB296	Revenue
LB297	Banking, Commerce and Insurance
LB298	Appropriations
LB299	Education
LB300	Natural Resources
LB301	Health and Human Services

LB302	Revenue
LB303	Revenue
LB304	Judiciary
LB305	Judiciary
LB306	Judiciary
LB307	Judiciary
LB308	Revenue
LB309	Revenue
LB310	Health and Human Services
LB311	Appropriations
LB312	Appropriations
LB313	Appropriations
LB314	Appropriations
LB315	Appropriations
LB316	Appropriations
LB317	Appropriations
LB318	Appropriations
LB319	Health and Human Services
LB320	Transportation and Telecommunications
LB321	Government, Military and Veterans Affairs
LB322	Government, Military and Veterans Affairs
LB323	Transportation and Telecommunications
LB324	Government, Military and Veterans Affairs
LB325	Government, Military and Veterans Affairs
LB326	Banking, Commerce and Insurance
LB327	Banking, Commerce and Insurance
LB328	Banking, Commerce and Insurance
LB329	Transportation and Telecommunications
LB330	Transportation and Telecommunications
LB331	Transportation and Telecommunications
LB332	Judiciary
LB333	Judiciary
LB334	Transportation and Telecommunications
LB335	Revenue
LB336	Revenue
LB337	Government, Military and Veterans Affairs
LB338	Urban Affairs
LB339	Urban Affairs
LB340	Education
LB341	Health and Human Services
LB342	Health and Human Services
LB343	Judiciary
LB344	Judiciary
LB345	Judiciary
LB346	Health and Human Services
LB347	Judiciary
LB348	Government, Military and Veterans Affairs
LB349	Government, Military and Veterans Affairs
LB350	Government, Military and Veterans Affairs

LB351     Judiciary  
LB352     Judiciary  
LB353     Judiciary  
LB354     Judiciary  
LB355     General Affairs

Keller, Bradley B. - Stem Cell Research Advisory Committee - Health and Human Services  
Morris, Rebecca - Stem Cell Research Advisory Committee - Health and Human Services  
Roop, Dennis R. - Stem Cell Research Advisory Committee - Health and Human Services  
Spangrude, Gerald - Stem Cell Research Advisory Committee - Health and Human Services

(Signed) John Wightman, Chairperson  
Executive Board

### **ANNOUNCEMENTS**

The Building Maintenance Committee elected Senator Hansen as Vice Chairperson.

The Legislative Performance Audit Committee elected Senator Harms as Chairperson.

The Legislative Performance Audit Committee elected Senator Nantkes as Vice Chairperson.

### **NOTICE OF COMMITTEE HEARINGS**

Transportation and Telecommunications

Room 1113

Tuesday, January 27, 2009   1:30 p.m.

LB48  
LB219  
LB331  
LB28

(Signed) Deb Fischer, Chairperson

Agriculture

Room 2102

Tuesday, January 27, 2009 1:30 p.m.

LB130  
LB142  
LB231  
LB71

(Signed) Tom Carlson, Chairperson

Banking, Commerce and Insurance

Room 1507

Tuesday, January 27, 2009 1:30 p.m.

LB259

Tuesday, January 27, 2009 1:30 p.m.

LB113 (cancel)

(Signed) Rich Pahls, Chairperson

Education

Room 1525

Tuesday, January 27, 2009 1:30 p.m.

LB340  
LB283  
LB299  
LB103

(Signed) Greg Adams, Chairperson

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 2, 3, and 4 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 2, 3, and 4.



**SENATOR LANGEMEIER PRESIDING****BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 417.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to the Optometry Practice Act; to amend sections 38-2604, 38-2605, 38-2608, 38-2610, 38-2613, 38-2614, 38-2615, and 38-2617, Reissue Revised Statutes of Nebraska; to redefine terms; to change provisions relating to scope of practice, licensure, certification, and standard of care; and to repeal the original sections.

**LEGISLATIVE BILL 418.** Introduced by Price, 3.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-5023, Revised Statutes Cumulative Supplement, 2008; to require valuation changes among counties included in learning communities; and to repeal the original section.

**LEGISLATIVE BILL 419.** Introduced by Hadley, 37.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-5905, Revised Statutes Cumulative Supplement, 2008; to eliminate the adjusted limit on tax credits under the Nebraska Advantage Microenterprise Tax Credit Act; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 420.** Introduced by Hadley, 37.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.12, Revised Statutes Cumulative Supplement, 2008; to change a sales tax exemption for health clinics; to provide a sales tax exemption for health care practitioner facilities; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 421.** Introduced by Nordquist, 7.

A BILL FOR AN ACT relating to the Compressed Fuel Tax Act; to amend section 66-6,100, Revised Statutes Cumulative Supplement, 2008; to suspend collection of fuel tax on compressed natural gas from July 1, 2009, to January 1, 2015; to provide an operative date; to repeal the original section; and to declare an emergency.

**MOTION - Adopt Permanent Rules**

Senator Lautenbaugh moved to adopt the permanent rules for the One Hundred First Legislature, First Session, and any special sessions held during the 2009 calendar year.

The Rules Committee renewed the proposed rules changes, Proposed Rules Change 1, found on page 188, to Rule 7, Sec. 4, Rule 6, Sec. 3, and Rule 6, Sec. 5.

The Rules Committee's proposed rules change, Proposed Rules Change 1, was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

The Rules Committee renewed the proposed rules change, Proposed Rules Change 2, found on page 189, to Rule 6, Sec. 15.

The Rules Committee's proposed rules change, Proposed Rules Change 2, was adopted with 45 ayes, 0 nays, 1 present and not voting, and 3 excused and not voting.

The Rules Committee renewed the proposed rules change, Proposed Rules Change 3, found on page 189, to Rule 2, Sec. 10.

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

The Rules Committee's proposed rules change, Proposed Rules Change 3, was adopted with 30 ayes, 14 nays, 2 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The Rules Committee renewed the proposed rules change, Proposed Rules Change 4, found on page 190, to Rule 1, Sec. 12.

The Rules Committee's proposed rules change, Proposed Rules Change 4, was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

The Rules Committee renewed the proposed rules change, Proposed Rules Change 5, found on page 190, to Rule 6, Sec. 14.

The Rules Committee withdrew the proposed rules change, Proposed Rules Change 5.

The Rules Committee renewed the proposed rules change, Proposed Rules

Change 6, found on page 190, to Rule 1, Sec. 19.

The Rules Committee's proposed rules change, Proposed Rules Change 6, was adopted with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

The Rules Committee renewed the proposed rules change, Proposed Rules Change 7, found on page 190, to Rule 6, Sec. 3.

The Rules Committee's proposed rules change, Proposed Rules Change 7, was adopted with 32 ayes, 6 nays, 5 present and not voting, and 6 excused and not voting.

The Rules Committee renewed the proposed rules change, Proposed Rules Change 8, found on page 190, to Rule 6, Sec. 4.

The Rules Committee's proposed rules change, Proposed Rules Change 8, was adopted with 40 ayes, 0 nays, 3 present and not voting, and 6 excused and not voting.

The Rules Committee renewed the proposed rules changes, Proposed Rules Change 9, found on page 191, to Rule 3, Sec. 4 and new Sec. 6.

Pending.

### **BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 422.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to veterans; to amend section 80-401.01, Reissue Revised Statutes of Nebraska; to define veteran of the Global War on Terror; and to repeal the original section.

**LEGISLATIVE BILL 423.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to children; to amend sections 42-364, 43-2922, 43-2923, and 43-2929, Reissue Revised Statutes of Nebraska; to change provisions relating to the determination of child custody and provisions of the Parenting Act; and to repeal the original sections.

**LEGISLATIVE BILL 424.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to the Judges Retirement Act; to amend sections 24-703 and 24-703.03, Reissue Revised Statutes of Nebraska; to change the mandatory contribution rates; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 425.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to the Nebraska State Patrol Retirement Act; to amend section 81-2017, Reissue Revised Statutes of Nebraska; to change the mandatory contribution rates; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 426.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to cities of the first class; to amend sections 16-1001, 16-1002, 16-1003, 16-1004, 16-1005, 16-1006, 16-1007, 16-1009, 16-1010, 16-1013, 16-1014, 16-1015, 16-1016, 16-1017, 16-1019, 18-1221, and 18-1723, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Cumulative Supplement, 2008; to name the Police Officers Retirement Act and to change provisions relating to participation, vesting, employee and employer contributions, and tax levies; to eliminate obsolete provisions; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 427.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2301, 84-1503, and 84-1511, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Cumulative Supplement, 2008; to adopt the County Law Enforcement Officer Retirement Act; to provide duties for the Public Employees Retirement Board; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 428.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to deposit and investment of public funds; to amend sections 2-4214, 14-556, 15-847, 15-849, 16-713, 16-715, 16-716, 17-607, 17-720, 30-3209, 77-2305, 77-2318, 77-2326.04, 77-2340, 77-2344, 77-2345, 77-2352, 77-2355, 77-2362, 77-2375, 77-2385, 77-2388, 77-2389, 77-2395, 77-2398, 77-23,100, 77-23,101, 77-23,102, and 77-23,105, Reissue Revised Statutes of Nebraska, and sections 77-2365.01, 77-2365.02, and 77-2387, Revised Statutes Cumulative Supplement, 2008; to authorize the deposit of public funds in credit unions as prescribed; to clarify Federal Deposit Insurance Corporation and National Credit Union Administration coverage; to harmonize provisions; to provide a duty for the Revisor of Statutes; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 429.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act; to amend section 83-183, Reissue Revised Statutes of Nebraska; to change provisions relating to employment of persons committed to the Department of Correctional Services; and to repeal the original section.

**LEGISLATIVE BILL 430.** Introduced by Christensen, 44; Janssen, 15.

A BILL FOR AN ACT relating to firearms; to amend sections 69-2427, 69-2430, 69-2433, and 69-2441, Revised Statutes Cumulative Supplement, 2008; to limit the power of cities and villages to regulate the ownership, possession, or transportation of firearms; to change concealed handgun permit issuance provisions; to provide a residency exception for members of the United States Armed Forces with respect to concealed handgun permits; to authorize security personnel to carry concealed handguns in places of worship as prescribed; to provide for concealed handgun permit reciprocity; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 431.** Introduced by McGill, 26.

A BILL FOR AN ACT relating to the Delayed Deposit Services Licensing Act; to amend section 45-921, Reissue Revised Statutes of Nebraska, and sections 45-901, 45-906, 45-915, 45-919, 45-925, and 45-927, Revised Statutes Cumulative Supplement, 2008; to provide for certain prohibited acts; to provide fees; to provide penalties; to create a data base; to provide powers and duties for the Director of Banking and Finance; to change provisions relating to fines; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 432.** Introduced by Nelson, 6.

A BILL FOR AN ACT relating to state government; to amend sections 69-1317 and 77-2205, Reissue Revised Statutes of Nebraska; to change provisions relating to confidential information, professional finder's fees, and warrants; and to repeal the original sections.

**LEGISLATIVE BILL 433.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to courts; to amend sections 24-312 and 24-517, Reissue Revised Statutes of Nebraska; to change provisions relating to interchange of judges and court jurisdiction; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 434.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to counties; to amend sections 23-202, 23-294, and 23-295, Revised Statutes Cumulative Supplement, 2008; to change ballot questions regarding township organization; and to repeal the original sections.

**LEGISLATIVE BILL 435.** Introduced by Janssen, 15; Gay, 14.

A BILL FOR AN ACT relating to the Public Service Commission; to amend sections 71-1559 and 71-4604.01, Revised Statutes Cumulative Supplement,

2008; to eliminate limitations on certain fees; to create and eliminate funds; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 436.** Introduced by Haar, 21.

A BILL FOR AN ACT relating to public power districts; to amend section 70-1012, Reissue Revised Statutes of Nebraska; to provide for net metering; to state findings; to define terms; to provide duties for electric suppliers and customer-generators; to require a report; to exempt qualified facilities from approval by the Nebraska Power Review Board; to provide severability; and to repeal the original section.

**LEGISLATIVE BILL 437.** Introduced by Haar, 21; Dubas, 34; Nordquist, 7.

A BILL FOR AN ACT relating to energy; to create the Wind Energy Development Zone Task Force; to provide powers and duties for the task force; and to provide a termination date.

**LEGISLATIVE BILL 438.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to water; to amend section 46-2,115, Reissue Revised Statutes of Nebraska, and section 46-290, Revised Statutes Cumulative Supplement, 2008; to prohibit instream appropriations in fully appropriated or overappropriated areas; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 439.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to energy; to adopt the Home Energy Alternatives Act.

**LEGISLATIVE BILL 440.** Introduced by Council, 11; Cook, 13.

A BILL FOR AN ACT relating to the Student Diversity Scholarship Program Act; to amend sections 85-9,178 and 85-9,182, Reissue Revised Statutes of Nebraska; to change provisions relating to the diversity criteria as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 441.** Introduced by Council, 11; Cook, 13.

A BILL FOR AN ACT relating to transcripts; to amend sections 14-813 and 19-2424, Reissue Revised Statutes of Nebraska; to change provisions relating to the costs of transcripts of certain municipal proceedings; and to repeal the original sections.

**LEGISLATIVE BILL 442.** Introduced by Council, 11.

A BILL FOR AN ACT relating to housing; to amend sections 20-331, 20-335, 20-340, and 20-343, Reissue Revised Statutes of Nebraska; to provide for injunctive relief, procedural changes, and for filing of a petition for relief by the commission under the Nebraska Fair Housing Act; and to repeal the original sections.

**LEGISLATIVE BILL 443.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to adult businesses and sexually oriented businesses; to provide for the regulation of such businesses; to state intent; to define terms; to provide penalties; and to provide severability.

**LEGISLATIVE BILL 444.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to escort agencies; to adopt the Escort Services Accountability and Licensing Act; and to provide an operative date.

**LEGISLATIVE BILL 445.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to the Health Insurance Access Act; to amend sections 44-5302, 44-5303, 44-5306, and 44-5307, Reissue Revised Statutes of Nebraska, and section 44-5305, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to legislative intent, defined terms, and policy or contract eligibility and requirements; and to repeal the original sections.

**LEGISLATIVE BILL 446.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to the Engineers and Architects Regulation Act; to amend sections 81-3401 and 81-3432, Reissue Revised Statutes of Nebraska; to provide for a loan repayment program for graduates; to define a term; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 447.** Introduced by Schilz, 47.

A BILL FOR AN ACT relating to the Beginning Farmer Tax Credit Act; to amend section 77-5209, Revised Statutes Cumulative Supplement, 2008; to change qualification provisions; and to repeal the original section.

**LEGISLATIVE BILL 448.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to vaccinations; to require the Department of Health and Human Services to establish a pilot program as prescribed; and to provide for rules and regulations.

**LEGISLATIVE BILL 449.** Introduced by Campbell, 25; Loudon, 49.

A BILL FOR AN ACT relating to the School Employees Retirement Act; to

amend section 79-954, Reissue Revised Statutes of Nebraska; to change provisions relating to the cessation of disability retirement allowance as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 450.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to the Nebraska State Capitol Environs District; to amend section 90-303, Reissue Revised Statutes of Nebraska; to change a height restriction within the district; and to repeal the original section.

**LEGISLATIVE BILL 451.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to the Hearing Aid Instrument Dispensers and Fitters Practice Act; to amend sections 37-413, 38-101, 38-121, 38-167, 38-507, 38-511, 38-512, 38-524, 38-1501, 38-1502, 38-1503, 38-1504, 38-1505, 38-1506, 38-1507, 38-1508, 38-1509, 38-1510, 38-1511, 38-1512, 38-1513, 38-1514, 38-1515, 38-1516, 38-1517, 38-1518, 69-2603, and 86-275, Reissue Revised Statutes of Nebraska, and section 48-120, Revised Statutes Cumulative Supplement, 2008; to rename the act and the applicable license; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 452.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to health care; to adopt the Advance Directives Identification Act.

**LEGISLATIVE BILL 453.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-106, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to notice of excepted occupations; and to repeal the original section.

**LEGISLATIVE BILL 454.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to the Nebraska Health Care Cash Fund; to amend section 71-7611, Revised Statutes Cumulative Supplement, 2008; to change provisions governing use of the fund; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 455.** Introduced by Nordquist, 7; Dubas, 34; Haar, 21; Lathrop, 12; Mello, 5; Schilz, 47.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701, 77-2701.04, and 77-27,235, Revised Statutes Cumulative Supplement, 2008; to provide a renewable energy sales tax credit for certain electricity generators; to provide a sales and use tax exemption for certain purchases of renewable energy equipment; to define terms; to harmonize



provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 456.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend sections 79-1104.01, 79-1104.05, 84-612, and 84-613, Reissue Revised Statutes of Nebraska; to eliminate completed transfers; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 457.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to certified nurse midwives; to amend sections 38-206, 38-603, 38-611, and 38-613, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to scope of practice, authorized activities, and practice agreements; to harmonize provisions; to repeal the original sections; and to outright repeal sections 38-608, 38-609, 38-610, and 38-614, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 458.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to public assistance; to amend section 68-1721, Revised Statutes Cumulative Supplement, 2008; to provide for vocational training as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 459.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the Stay in the Game Program.

**LEGISLATIVE BILL 460.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.12, Revised Statutes Cumulative Supplement, 2008; to change a sales tax exemption for nonprofit hospitals; and to repeal the original section.

**LEGISLATIVE BILL 461.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to the State Department of Education; to amend sections 79-305, 79-306, 79-310, 79-313, and 79-317, Reissue Revised Statutes of Nebraska; to change provisions relating to the Commissioner of Education and the State Board of Education; and to repeal the original sections.

**LEGISLATIVE BILL 462.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-531, Reissue Revised Statutes of Nebraska; to change provisions

relating to human immunodeficiency virus testing; to repeal the original section; and to declare an emergency.

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

A BILL FOR AN ACT relating to veterinary medicine and surgery; to amend sections 38-3301, 38-3302, 38-3314, and 38-3321, Reissue Revised Statutes of Nebraska; to provide for licensure of animal therapists; to change provisions relating to the practice of veterinary medicine and surgery; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 464.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to schools; to amend section 79-217, Reissue Revised Statutes of Nebraska; to require booster immunizations as prescribed for students entering seventh grade; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 465.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to educational service units; to amend sections 79-1218 and 84-1411, Reissue Revised Statutes of Nebraska; to provide for videoconferencing and telephone conferences of board meetings; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 466.** Introduced by Wallman, 30.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 61-218, 66-1345.01, and 66-1345.02, Revised Statutes Cumulative Supplement, 2008; to eliminate an excise tax on corn and grain sorghum; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 467.** Introduced by McCoy, 39; Price, 3.

A BILL FOR AN ACT relating to cities and villages; to amend sections 14-117, 15-104, 15-111, 15-112, 16-117, 16-122, and 17-402, Reissue Revised Statutes of Nebraska; to require voter approval for actions related to annexation of cities or villages; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 468.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Department of Health and Human Services.

**LEGISLATIVE BILL 469.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to revenue and taxation; to create the Agricultural Land Valuation Task Force; to provide powers and duties; to

provide for termination; to state intent; and to declare an emergency.

**LEGISLATIVE BILL 470.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to cities of the metropolitan class; to amend sections 14-109, 15-202, 15-203, 16-205, and 17-525, Reissue Revised Statutes of Nebraska; to establish a limit on certain occupation taxes; and to repeal the original sections.

**LEGISLATIVE BILL 471.** Introduced by Fulton, 29; Haar, 21; McCoy, 39.

A BILL FOR AN ACT relating to public power districts; to amend section 70-1014.01, Reissue Revised Statutes of Nebraska; to change provisions relating to special generation applications; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 472.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to scrap metal; to amend section 69-404, Revised Statutes Cumulative Supplement, 2008; to change payment terms relating to copper and catalytic converters; and to repeal the original section.

**LEGISLATIVE BILL 473.** Introduced by Louden, 49; Christensen, 44; Dierks, 40; Lathrop, 12; Stuthman, 22.

A BILL FOR AN ACT relating to schools; to amend sections 77-3443, 79-1001, 79-1003, 79-1007.13, 79-1073.01, 79-10,120, and 79-2111, Reissue Revised Statutes of Nebraska, and sections 77-3442 and 77-3444, Revised Statutes Cumulative Supplement, 2008; to adopt the Nebraska Elementary Attendance Region Act; to provide for tax levies as prescribed; to provide for Nebraska elementary attendance region aid under the Tax Equity and Educational Opportunities Support Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 474.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-202, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to property exempt from property taxes; and to repeal the original section.

**LEGISLATIVE BILL 475.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to county comptrollers; to amend sections 23-131, 23-135, 23-906, and 23-1302, Reissue Revised Statutes of Nebraska; to eliminate the position of county comptroller; to harmonize provisions; to repeal the original sections; and to outright repeal sections 23-1401, 23-1402, 23-1403, 23-1404, 23-1405, and 23-1407, Reissue

Revised Statutes of Nebraska.

**LEGISLATIVE BILL 476.** Introduced by Stuthman, 22; Sullivan, 41.

A BILL FOR AN ACT relating to education; to adopt the Center for Student Leadership and Extended Learning Act.

**LEGISLATIVE BILL 477.** Introduced by Carlson, 38.

A BILL FOR AN ACT relating to water; to amend sections 46-290, 46-291, 46-701, 46-706, 46-707, and 46-739, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to water transfer permits; to require reports of title as prescribed; to provide for filing instruments of transfer of water rights; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 478.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to alcoholic liquor; to amend sections 37-301 and 53-186, Reissue Revised Statutes of Nebraska; to provide for sale and consumption of alcoholic liquor on property owned or operated by the Game and Parks Commission; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 479.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to early childhood education; to amend section 79-1102.01, Reissue Revised Statutes of Nebraska; to change provisions relating to enrollment age; and to repeal the original section.

**LEGISLATIVE BILL 480.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 13-518 and 13-520, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the Nebraska Budget Act; to change levy limitations; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 481.** Introduced by Haar, 21; Christensen, 44; Dierks, 40; Friend, 10; Fulton, 29; Harms, 48; McCoy, 39; Nordquist, 7.

A BILL FOR AN ACT relating to certified nurse midwives; to amend section 38-613, Reissue Revised Statutes of Nebraska; to eliminate the restriction on attending home deliveries; and to repeal the original section.

**LEGISLATIVE BILL 482.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to the Nebraska Ground Water Management and Protection Act; to amend section 46-731, Reissue Revised Statutes of

Nebraska, and sections 46-713 and 46-714, Revised Statutes Cumulative Supplement, 2008; to eliminate obsolete language; to change provisions relating to meetings; and to repeal the original sections.

**LEGISLATIVE BILL 483.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to the Nebraska Ground Water Management and Protection Act; to amend section 46-714, Revised Statutes Cumulative Supplement, 2008; to provide duties for natural resources districts relating to water well permits as prescribed; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 484.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to insurance; to provide for the partial payment of the proceeds of an insurance policy to a city or village by ordinance as prescribed; and to provide powers and duties for cities, villages, and the Department of Insurance.

**LEGISLATIVE BILL 485.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.39 and 77-2704.13, Reissue Revised Statutes of Nebraska, and sections 77-2701, 77-2701.04, and 77-2701.16, Revised Statutes Cumulative Supplement, 2008; to exempt natural gas from sales and use taxes; to impose an excise tax on natural gas; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 486.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to government; to require certain governmental entities to identify themselves as such in their official name.

**LEGISLATIVE BILL 487.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to emergency responders; to amend section 77-2715.07, Revised Statutes Cumulative Supplement, 2008; to adopt the Volunteer Emergency Responders Incentive Act; to provide for an income tax credit as prescribed; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 488.** Introduced by Gloor, 35; Avery, 28; Price, 3.

A BILL FOR AN ACT relating to veterans; to amend section 80-316, Reissue Revised Statutes of Nebraska; to change provisions relating to eligibility for domiciliary and nursing home care and subsistence; and to repeal the original section.

**LEGISLATIVE BILL 489.** Introduced by Sullivan, 41; Dubas, 34; Flood,

19; Gloor, 35; Hadley, 37; Karpisek, 32; Rogert, 16; Stuthman, 22; Wallman, 30.

A BILL FOR AN ACT relating to health care; to adopt the Area Health Education Centers Act.

**LEGISLATIVE BILL 490.** Introduced by Giese, 17.

A BILL FOR AN ACT relating to the Game Law; to amend section 37-407, Reissue Revised Statutes of Nebraska; to change provisions relating to nonresident permits; and to repeal the original section.

**LEGISLATIVE BILL 491.** Introduced by Haar, 21.

A BILL FOR AN ACT relating to energy; to provide for home energy efficiency loans; to create a fund; to define terms; and to provide duties for the State Energy Office.

**LEGISLATIVE BILL 492.** Introduced by Haar, 21.

A BILL FOR AN ACT relating to appropriations; to state intent relating to funding for certain positions at the University of Nebraska-Lincoln as prescribed; and to declare an emergency.

**LEGISLATIVE BILL 493.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to insurance; to require coverage for cochlear implants as prescribed.

**LEGISLATIVE BILL 494.** Introduced by McCoy, 39; Mello, 5; Nordquist, 7.

A BILL FOR AN ACT relating to dogs; to amend section 54-622, Reissue Revised Statutes of Nebraska, and sections 54-617, 54-620, 54-623, 54-623.01, and 54-624, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to dangerous dogs; to provide a penalty; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 495.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to cities and villages; to amend section 19-916, Reissue Revised Statutes of Nebraska; to change provisions relating to additions and platting as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 496.** Introduced by Fulton, 29; Coash, 27; Lathrop, 12.

A BILL FOR AN ACT relating to traffic enforcement; to amend sections 18-1729 and 60-680, Reissue Revised Statutes of Nebraska, and sections

60-4,182, 60-601, and 60-605, Revised Statutes Cumulative Supplement, 2008; to authorize enforcement of traffic control signal violations by an automated traffic enforcement system as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 497.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to driving under the influence; to amend section 29-2259.01, Reissue Revised Statutes of Nebraska, and sections 60-4,115, 60-4,118.06, 60-6,197.01, 60-6,197.03, and 60-6,211.05, Revised Statutes Cumulative Supplement, 2008; to change provisions and change and provide penalties relating to ignition interlock devices; to eliminate a fund; to harmonize provisions; to repeal the original sections; to outright repeal section 60-6,211.10, Revised Statutes Cumulative Supplement, 2008; and to declare an emergency.

**LEGISLATIVE BILL 498.** Introduced by Fulton, 29; Avery, 28; Campbell, 25; Coash, 27; Haar, 21; McGill, 26; Wallman, 30.

A BILL FOR AN ACT relating to cemeteries; to amend section 12-101, Reissue Revised Statutes of Nebraska; to add trustees to the board of Wyuka Cemetery; to delete obsolete provisions; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 499.** Introduced by Dubas, 34; Sullivan, 41.

A BILL FOR AN ACT relating to civil rights; to allow breast-feeding as prescribed.

**LEGISLATIVE BILL 500.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to cemeteries; to amend sections 16-242 and 17-936, Reissue Revised Statutes of Nebraska, and section 12-402, Revised Statutes Cumulative Supplement, 2008; to authorize certain cities and villages to use funds for the general care of cemeteries as prescribed; to harmonize provisions; and to repeal the original sections.

## NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1003

Tuesday, January 27, 2009 1:30 p.m.

LB135

(Signed) Lavon Heidemann, Chairperson

Urban Affairs

Room 1510

Tuesday, January 27, 2009 1:30 p.m.

LB338

LB339

(Signed) Mike Friend, Chairperson

Revenue

Room 1524

Wednesday, January 28, 2009 1:30 p.m.

LB26

LB218

(Signed) Abbie Cornett, Chairperson

## RESOLUTIONS

### **LEGISLATIVE RESOLUTION 8.** Introduced by Heidemann, 1.

WHEREAS, the Pawnee City Indians won the 2008 Class D Boys Track State Championship; and

WHEREAS, the Pawnee City boys track team defeated the second place team by four and one-half points and the third place team by fourteen and one-half points at the state meet; and

WHEREAS, Bryan Austin qualified for state competition and placed first in the high jump, first in the long jump, and eighth in the four by one hundred relay; and

WHEREAS, Alex Wood qualified for state competition and placed first in the pole vault; and

WHEREAS, Ian Slama qualified for state competition and placed second in the shot put at the state meet; and

WHEREAS, Caleb Wood qualified for state competition and tied for fifth in the pole vault; and

WHEREAS, Taylor Baumert, J.J. Dunn, and Ben Blecha qualified for state competition and placed eighth in the four by one hundred relay; and

WHEREAS, John Musil, Kent Niss, Jace Bausch, Brad Gyhra, and Kent Dunn also qualified for state competition; and

WHEREAS, throughout the year the Pawnee City boys' track team demonstrated that hard work, dedication, and discipline produces remarkable results; and



WHEREAS, such an achievement is made possible not only by the team's performance and coaching guidance, but also through the support of parents, teachers, administrators, and the community.

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

1. That the Legislature recognizes and congratulates the Pawnee City Indians boys' track team for their achievement in claiming the 2008 Class D Boys Track State Championship.

2. That coaches Alan Strong, Candy Sejkora, Drew Offner, Tyler Ferebee, and Rob Voigtlander be applauded for their efforts in teaching, coaching, and providing guidance to the young men on the track team.

3. That a copy of this resolution be sent to the Pawnee City boys' track team and head coach Alan Strong.

Laid over.

#### **LEGISLATIVE RESOLUTION 9.** Introduced by Fulton, 29.

WHEREAS, the State of Nebraska holds an interest in preventing illegal immigration and securing the public health, safety, and welfare against terrorism and criminal activity; and

WHEREAS, protection of the public health, safety, and welfare is most effectively accomplished by the utilization of federal, state, and local law enforcement resources; and

WHEREAS, section 287(g) of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 authorizes the United States Secretary of Homeland Security to enter into agreements with municipal, county, and state law enforcement agencies granting designated officers the authority to perform immigration law enforcement functions, pursuant to a memorandum of agreement; and

WHEREAS, the memorandum of agreement allows municipal, county, and state law enforcement officers to receive the appropriate training in immigration law enforcement from U.S. Immigration and Customs Enforcement officers; and

WHEREAS, memoranda of agreement with other municipal, county, and state law enforcement agencies have improved immigration law enforcement in several states.

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

1. That the Legislature encourages all municipal, county, and state law enforcement agencies in Nebraska to respectively enter into memoranda of agreement, authorized by section 287(g) of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996, with the United States Department of Homeland Security to perform immigration law enforcement functions.

2. That a copy of this resolution be delivered to all municipal, county, and state law enforcement agencies in the State of Nebraska.

Laid over.

### **SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR7 was referred to the Reference Committee.

Pursuant to Rule 4, Section 8, LR9 was referred to the Reference Committee.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Nordquist asked unanimous consent to add his name as cointroducer to LB92 and LB262. No objections. So ordered.

Senator Cornett asked unanimous consent to add her name as cointroducer to LB160 and LB162. No objections. So ordered.

Senator Rogert asked unanimous consent to add his name as cointroducer to LB254, LB374, and LB375. No objections. So ordered.

Senator Janssen asked unanimous consent to add his name as cointroducer to LB285. No objections. So ordered.

Senators Campbell and Stuthman asked unanimous consent to add their names as cointroducers to LB346. No objections. So ordered.

Senator Mello asked unanimous consent to add his name as cointroducer to LB381. No objections. So ordered.

### **WITHDRAW - Cointroducer**

Senator Carlson withdrew his name as cointroducer to LB162.

### **VISITORS**

Visitors to the Chamber were Pack 15, Den 2 of the Cornhusker Council from Lincoln; and Jared Rehtschler from Imperial.

The Doctor of the Day was Dr. David Hoelting from Pender.

### **ADJOURNMENT**

At 12:05 p.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Wednesday, January 21, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**TENTH DAY - JANUARY 21, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**TENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, January 21, 2009

**PRAYER**

The prayer was offered by Senator Pirsch.

**ROLL CALL**

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

The roll was called and all members were present except Senators Cook and Council who were excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the ninth day was approved.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB356	Judiciary
LB357	Revenue
LB358	Banking, Commerce and Insurance
LB359	Appropriations
LB360	Urban Affairs
LB361	Government, Military and Veterans Affairs
LB362	Government, Military and Veterans Affairs
LB363	Government, Military and Veterans Affairs
LB364	Education
LB365	Nebraska Retirement Systems
LB366	Nebraska Retirement Systems
LB367	Health and Human Services
LB368	Transportation and Telecommunications
LB369	Appropriations
LB370	Health and Human Services
LB371	Health and Human Services

LB372 Transportation and Telecommunications  
LB373 Judiciary  
LB374 Judiciary  
LB375 Judiciary  
LB376 Revenue  
LB377 Banking, Commerce and Insurance  
LB378 Banking, Commerce and Insurance  
LB379 Natural Resources  
LB380 Revenue  
LB381 Government, Military and Veterans Affairs  
LB382 Government, Military and Veterans Affairs  
LB383 Judiciary  
LB384 Transportation and Telecommunications  
LB385 Revenue  
LB386 Revenue  
LB387 Education  
LB388 Natural Resources  
LB389 Agriculture  
LB390 Health and Human Services  
LB391 Education  
LB392 Education  
LB393 Education  
LB394 Health and Human Services  
LB395 Health and Human Services  
LB396 Health and Human Services  
LB397 Education  
LB398 Transportation and Telecommunications  
LB399 Education  
LB400 Education  
LB401 Transportation and Telecommunications  
LB402 Government, Military and Veterans Affairs  
LB403 Judiciary  
LB404 General Affairs  
LB405 Revenue  
LB406 Health and Human Services  
LB407 Health and Human Services  
LB408 Health and Human Services  
LB409 Judiciary  
LB410 Government, Military and Veterans Affairs  
LB411 General Affairs  
LB412 Urban Affairs  
LB413 Education  
LB414 Judiciary  
LB415 General Affairs  
LB416 Transportation and Telecommunications  
LR7 Health and Human Services

(Signed) John Wightman, Chairperson  
Executive Board

**NOTICE OF COMMITTEE HEARINGS**

Revenue

Room 1524

Thursday, January 29, 2009 1:30 p.m.

LB94  
LB239  
LB302

(Signed) Abbie Cornett, Chairperson

Government, Military and Veterans Affairs

Room 1507

Wednesday, January 28, 2009 1:30 p.m.

LB116  
LB167  
LB168  
LB207

Thursday, January 29, 2009 1:30 p.m.

LB66  
LB126  
LB322

(Signed) Bill Avery, Chairperson

**COMMITTEE REPORTS**

Banking, Commerce and Insurance

**LEGISLATIVE BILL 11.** Placed on General File.

**LEGISLATIVE BILL 29.** Placed on General File.

**LEGISLATIVE BILL 30.** Placed on General File.

(Signed) Rich Pahls, Chairperson

Transportation and Telecommunications

**LEGISLATIVE BILL 49.** Placed on General File.

**LEGISLATIVE BILL 50.** Placed on General File.

(Signed) Deb Fischer, Chairperson

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 501.** Introduced by Sullivan, 41; Karpisek, 32.

A BILL FOR AN ACT relating to elections; to amend sections 32-960, 77-27,142.01, 77-27,142.02, and 77-27,142.03, Reissue Revised Statutes of Nebraska, and section 13-519, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the submission of certain questions at an election; to change population requirements for elections conducted by mail; and to repeal the original sections.

**LEGISLATIVE BILL 502.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to the Petroleum Release Remedial Action Act; to amend sections 66-1532, Revised Statutes Cumulative Supplement, 2008; to authorize a credit for owners of new tanks required to have private insurance; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 503.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to recreational activities; to amend sections 13-910, 15-258, and 16-226, Reissue Revised Statutes of Nebraska, and section 14-102, Revised Statutes Cumulative Supplement, 2008; to adopt the Nebraska Shooting Range Protection Act; to change provisions relating to the Political Subdivisions Tort Claims Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 504.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to environmental protection; to amend sections 81-1505 and 81-1506, Reissue Revised Statutes of Nebraska; to provide for permits for discharge of dredged or fill material; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 505.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to the Legislature; to create the Economic Development Committee.

**LEGISLATIVE BILL 506.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-697, 60-698, and 60-6,198, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the duty to stop in the event of an accident and driving under the influence of alcohol or drugs; and to repeal the original sections.

**LEGISLATIVE BILL 507.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-323, Reissue Revised Statutes of Nebraska; to change provisions and penalties regarding domestic assault in the third degree; and to repeal the original section.

**LEGISLATIVE BILL 508.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Reissue Revised Statutes of Nebraska; to prohibit certain gang-related initiations; and to repeal the original section.

**LEGISLATIVE BILL 509.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to campaign finance; to amend section 32-1603, Reissue Revised Statutes of Nebraska, and section 49-1455, Revised Statutes Cumulative Supplement, 2008; to redefine election period; and to repeal the original sections.

**LEGISLATIVE BILL 510.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to crime victims; to amend sections 81-1835, 81-1845, and 83-183, Reissue Revised Statutes of Nebraska; to prescribe a defendant surcharge for funding; to provide for certain wages earned by inmates in a work release program and defendant surcharges to be deposited in the Victim's Compensation Fund as prescribed; to create and provide for defendant surcharges to be deposited in the Nebraska Crime Victim Fund and distributed as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 511.** Introduced by Wallman, 30.

A BILL FOR AN ACT relating to health care facilities; to amend section 71-5803.06, Reissue Revised Statutes of Nebraska; to redefine a term for purposes of certificate of need; and to repeal the original section.

**LEGISLATIVE BILL 512.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to airport zoning; to amend sections 3-303 and 3-304, Reissue Revised Statutes of Nebraska; to change provisions relating to the regulation of airport hazards; to prescribe duties; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 513.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to vehicular pursuit; to amend sections 13-911 and 81-8,215.01, Reissue Revised Statutes of Nebraska; to eliminate

subrogation and contribution rights for property damages; and to repeal the original sections.

**LEGISLATIVE BILL 514.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-128, Reissue Revised Statutes of Nebraska, and section 48-121, Revised Statutes Cumulative Supplement, 2008; to change disability compensation provisions; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 515.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to the Emergency Medical Services Practice Act; to amend sections 38-1215, 38-1217, 38-1218, and 38-1224, Reissue Revised Statutes of Nebraska; to change titles of classifications for providers; to provide for skills competency tests and curricula; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 516.** Introduced by Hansen, 42.

A BILL FOR AN ACT relating to the Nebraska State Fairgrounds; to amend section 2-112, Revised Statutes Cumulative Supplement, 2008; to require compensation to certain structures located on the Nebraska State Fairgrounds in Lancaster County; and to repeal the original section.

**LEGISLATIVE BILL 517.** Introduced by Hansen, 42.

A BILL FOR AN ACT relating to the Nebraska Juvenile Code; to amend sections 43-283.01 and 43-292, Reissue Revised Statutes of Nebraska; to provide an additional basis for not reunifying the family and for termination of parental rights; and to repeal the original sections.

**LEGISLATIVE BILL 518.** Introduced by McGill, 26.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-101, 28-105, 28-111, 28-201, 28-302, 28-303, 28-304, 28-305, 28-306, 28-915, 28-915.01, 28-916.01, 28-1213, 28-1214, 28-1219, 28-1223, 28-1224, 28-1227, 28-1229, 28-1231, 28-1233, 28-1234, 28-1235, 28-1236, 28-1237, 28-1238, 28-1239, 28-1239.01, 28-1241, 29-119, 29-1306, 29-1603, 29-2004, 29-2027, 29-2221, 29-2261, 29-2519, 29-2520, 29-2521, 29-2524, 29-4103, 43-283.01, 43-286, 81-1850, 83-961, and 84-205, Reissue Revised Statutes of Nebraska; to change and eliminate provisions and procedures relating to homicide; to change provisions relating to life imprisonment, use of explosives, sentence enhancement, criminal attempt, perjury and false statements; to provide for applicability; to harmonize provisions; to repeal the original sections; and to outright repeal section 29-1512, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 519.** Introduced by McGill, 26.



A BILL FOR AN ACT relating to appropriations; to state intent relating to behavioral health care services; to define terms; to provide for rate increases for payments to behavioral health providers; to create and provide duties for the Provider Reimbursement Rate Commission; and to declare an emergency.

**LEGISLATIVE BILL 520.** Introduced by Hadley, 37; Giese, 17; Wallman, 30.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701 and 77-2715.07, Revised Statutes Cumulative Supplement, 2008; to allow an income tax credit for perpetual conservation easement donations as prescribed; to provide an operative date; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 521.** Introduced by Pankonin, 2.

A BILL FOR AN ACT relating to learning communities; to amend sections 79-1241.03 and 79-2104, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Cumulative Supplement, 2008; to provide for additional tax levy authority; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 522.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Coash, 27; Lathrop, 12; McGill, 26; Rogert, 16; White, 8.

A BILL FOR AN ACT relating to volunteer fire and rescue departments; to amend section 35-901, Reissue Revised Statutes of Nebraska; to change provisions relating to the use of funds, fees, and charges; and to repeal the original section.

**LEGISLATIVE BILL 523.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Coash, 27; Lathrop, 12; McGill, 26; Rogert, 16; White, 8.

A BILL FOR AN ACT relating to volunteer fire and rescue departments; to amend section 35-901, Reissue Revised Statutes of Nebraska; to change provisions regarding the volunteer department trust fund; and to repeal the original section.

**NOTICE OF COMMITTEE HEARINGS**

Judiciary

Room 1113

Wednesday, January 28, 2009 1:30 p.m.

LB155  
LB276  
LB277  
LB244

Thursday, January 29, 2009 1:30 p.m.

LB36  
LB306

(Signed) Brad Ashford, Chairperson

Natural Resources

Room 1525

Wednesday, January 28, 2009 1:30 p.m.

LB184  
LB300  
LB54  
LB56

(Signed) Chris Langemeier, Chairperson

**COMMITTEE REPORTS**

Education

**LEGISLATIVE BILL 61.** Placed on General File.

**LEGISLATIVE BILL 62.** Placed on General File with amendment.  
AM15

- 1 1. On page 3, lines 19 and 20, strike "to begin
- 2 attendance during school year 2009-10" and insert "for any learning
- 3 community established prior to the effective date of this act"; and
- 4 in lines 21 and 22, strike "to begin attendance during any school
- 5 year" and insert "for any learning community established".

(Signed) Greg Adams, Chairperson

### MOTION - Adopt Permanent Rules

Senator Lautenbaugh renewed his motion, found on page 202, to adopt the permanent rules for the One Hundred First Legislature, First Session, and any special sessions held during the 2009 calendar year.

The Rules Committee withdrew the proposed rules changes, Proposed Rules Change 9, found on page 191 and considered on page 203, to Rule 3, Sec. 4 and new Sec. 6.

The Rules Committee withdrew the proposed rules change, Proposed Rules Change 10, found on page 194, to Rule 3, Sec. 18.

The Rules Committee renewed the proposed rules change, Proposed Rules Change 11, found on page 195, to Rule 3, Sec. 7.

The Rules Committee's proposed rules change, Proposed Rules Change 11, was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

The Rules Committee offered the following proposed rules change:

**Rule 3, Sec. 4. Select Committees.** (a) The select committees of the Legislature shall be as follows:

Committee on Committees	13 members
Enrollment and Review	1 member
Reference	9 members
Rules	6 members

(b) The Speaker of the Legislature shall serve as one of the six members and shall be an ex officio member of the Rules Committee. Select committees shall be subject to the same procedural rules as standing committees insofar as they are applicable. In addition, the following provisions shall apply:

(c) Committee on Committees.

(i) The Committee on Committees shall have authority to call before it a committee chairperson and discuss the workload of said committee. It shall hear and dispose of all written complaints filed with said committee by a senator against any committee chairperson. The Committee on Committees shall conduct said hearing in accordance with its own rules.

(d) Enrollment and Review.

(i) The Chairperson of Enrollment and Review shall report bills which have been engrossed for Final Reading and passage. In the absence of the Chairperson, the Vice Chairperson of the Judiciary Committee shall assume the duties of the Chairperson of the Enrollment and Review Committee.

(ii) The bill drafting service shall have supervision of and provide legal services for the Enrollment and Review Committee.

(iii) The Chairperson of Enrollment and Review shall have authority, without being required to include the same specifically in his or her reports and recommendations to the Legislature, in accord with accepted usage:

- (A) To correct the spelling of words, to correct erroneous division and hyphenation of words, to capitalize or decapitalize words, to convert masculine or feminine referents to neutral gender when appropriate, and to change numbers from words to figures or from figures to words, in new and independent acts, in the new matter of amendatory acts, in standing committee reports, and in General File, Select File, and specific amendments.
- (B) To underscore or remove underscoring, as the case requires, in standing committee reports and in General File, Select File, and specific amendments.
- (C) When an amendment to add the emergency clause, the severability clause, or provide an operative date is adopted on Select File which does not spell out the standard clause or section and make the necessary change in the title, the Chairperson of Enrollment and Review shall also have the authority to add to the engrossed bill the standard clause or section, assigning to it the appropriate section number, and make the necessary change in the title as a matter of course without including such action in his or her reports and recommendations to the Legislature or making any special record thereof.
- (D) To add and/or delete names of introducers to reflect action on the bill while the bill remains in the possession of the Legislature at any stage of consideration.
- (E) To reflect votes on Final Reading as they may occur pursuant to Rule 6, Section 10 and Rule 6, Section 15.

(e) Reference Committee.

(i) The Executive Board shall constitute the Reference Committee. The Reference Committee shall review each bill and resolution and either refer the matter to the appropriate committee or to General File. The appropriate committee is that committee which has subject-matter jurisdiction over the issue or which has traditionally handled the issue.

(ii) All nominations made to the Legislature by the Governor, requiring confirmation by the Legislature shall be referred to the appropriate standing committee and the same procedure shall be followed as governs the handling of other matters before standing committees, unless the Legislature shall otherwise direct by unanimous vote.

(iii) The Clerk of the Legislature's office shall be responsible for the collection of pertinent information on gubernatorial appointments. That information will be distributed to the appropriate standing committee prior to the time of the confirmation hearing. The Clerk's office shall be the "depository" for background information on the individual, a statement of financial interests if applicable, and other biographical information that the

committee chair feels is appropriate for the committee to have before it during the confirmation process.

(iv) The committees to which a gubernatorial appointee has been referred for confirmation shall conduct a confirmation hearing. Each appointee shall be required to appear in person before the committee conducting the confirmation hearing. The appearance of the appointee may be waived for good cause as determined by the chair of the committee.

The committee shall prepare a report ~~either approving or rejecting~~ which approves, rejects, or makes no recommendation on the appointment. Said report shall be filed with the Clerk of the Legislature. The Legislature shall then have the opportunity to accept or reject the report of the committee.

If the Legislature fails to adopt a report to approve an appointment by a majority vote of the elected members, the appointment is thereby rejected.

If the report coming from the committee is to reject the appointment, and the Legislature fails to adopt the report by a majority vote of the elected members, then the appointment is thereby approved provided the report receives a majority vote in the negative.

In the event that the committee files a report making no recommendation on the appointment, the report shall be considered by the Legislature within five legislative days, and no later than the scheduled adjournment sine die of the current legislative session. The Legislature shall consider a motion to approve the appointment, which shall require a majority of the elected members for approval. If the Legislature fails to approve the motion, the appointment is thereby rejected.

In the event a motion on a report fails to receive either in the affirmative or negative a majority vote of the elected members, then such appointment shall be deemed rejected.

(v) Any appointment letter received by the Clerk of the Legislature during the last ~~eight~~ ten calendar days of any regular legislative session shall not be acted upon. Acknowledgment of receipt of the appointment shall be deferred until the next regular or special session of the Legislature.

(f) Rules Committee.

All proposed rules changes shall be set for public hearing within five legislative days after their referral to the committee. The hearing shall take place within fifteen legislative days after the referral, and the committee shall take final action on the proposal within ten legislative days after the hearing.

(g) Investigating Committees.

The Committee on Committees may appoint other select committees when authorized by the Legislature. No investigating committee of the Legislature shall be created except by resolution which shall set forth, with supporting statements, the reasons for and the purposes of the investigation, and no committee thus established shall function except during the interim between legislative sessions.

**Add a new sub-section and renumber the remaining sections.**

~~(h)~~ Sec. 6. Redistricting Committee.

~~(i)~~ (a) The Redistricting Committee of the Legislature shall be established as a special committee of the Legislature in January of each year ending in one. The committee is authorized to introduce and exercise jurisdiction over legislative bills and resolutions relating to redistricting and hold hearings regarding such legislation.

~~(ii)~~ (b) The committee shall be comprised of nine members of the Legislature, three from each congressional district existing on January 1 of each year ending in zero. The Executive Board shall appoint the members of the committee in January of each year ending in one. No more than five members appointed to the committee shall be affiliated with the same political party. A vacancy on the committee shall be filled by the Executive Board as soon as possible after the vacancy occurs.

~~(iii)~~ (c) At the first meeting of the committee, the members shall select from among themselves by majority vote one member to serve as chairperson of the committee and one member to serve as vice-chairperson of the committee. The chair and vice chair shall not be a member of the same political party.

~~(iv)~~ (d) The committee shall continue in existence until all bills containing redistricting plans for which the Legislature has responsibility are passed and signed by the Governor. In the event of a successful legal challenge to any part of a redistricting plan, the committee shall be reconstituted for purposes of reformulating the challenged redistricting plan.

~~(v)~~ (e) The committee shall receive staff support from the office of the director of Legislative Research.

~~(vi)~~ (f) The committee shall, after reviewing previous redistricting guidelines used by the Legislature, adopt substantive and procedural guidelines that will guide the Legislature's redistricting process. During the legislative session of each year ending in one, the substantive guidelines adopted by the committee shall be presented to the Legislature for approval.

~~(vii)~~ (g) The committee shall at the earliest feasible time make available to the public the substantive guidelines prepared by the committee.

~~(viii)~~ (h) The committee shall introduce legislative bills pertaining to redistricting congressional districts and other districts during the legislative session of each year ending in one.

~~(ix)~~ (i) Based upon the information received from the United States Department of Commerce, Bureau of the Census, the committee shall formulate redistricting plans for congressional districts and other districts. The statistics and redistricting plans shall be made available to the Legislature and the public.

~~(x)~~ (j) After the statistics and redistricting plans are made available to the Legislature and the public, the committee shall schedule and conduct, as expeditiously as reasonably possible, at least one public hearing in each congressional district for the purposes of soliciting input on the proposed redistricting plans. Video and other methods may be used in addition to the procedures outlined for public hearings but not in substitution for such procedures.

(~~xi~~) (k) In addition to the above procedures, legislation introduced for the purpose of complying with the decennial redistricting process in years ending in one, shall follow the normal procedures for any legislation introduced in the Nebraska Legislature.

The Rules Committee's proposed rules change was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Senator Lautenbaugh renewed his motion, found on page 202 and considered in this day's Journal, to adopt the permanent rules, as amended, for the One Hundred First Legislature, First Session, and any special sessions held during the 2009 calendar year.

The Lautenbaugh motion to adopt permanent rules, as amended, prevailed with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 524.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to handicapped parking; to amend section 18-1741.02, Reissue Revised Statutes of Nebraska; to increase fines for handicapped parking infractions; and to repeal the original section.

**LEGISLATIVE BILL 525.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to cities and villages; to amend sections 13-315, 18-2705, 18-2709, and 18-2717, Reissue Revised Statutes of Nebraska; to change provisions relating to tax levies and economic development programs; and to repeal the original sections.

**LEGISLATIVE BILL 526.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to cities and villages; to amend sections 13-1111, 13-1115, 13-1116, 13-1117, 13-1118, 13-1120, 16-117, and 17-405.01, Reissue Revised Statutes of Nebraska; to provide requirements for land annexation by cities of the first and second class and villages; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 527.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to state-owned motor vehicles; to amend section 81-1025, Reissue Revised Statutes of Nebraska; to require the installation and use of automatic vehicle location system devices in such vehicles; and to repeal the original section.

**LEGISLATIVE BILL 528.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to the Business Corporation Act; to amend sections 21-2014, 21-2015, and 21-2060, Reissue Revised Statutes of Nebraska; to define and redefine terms; to authorize electronic transmissions as a means of notice, delivery, and appointment; and to repeal the original sections.

**LEGISLATIVE BILL 529.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to the Uniform Commercial Code; to amend section 9-531, Uniform Commercial Code, Revised Statutes Cumulative Supplement, 2008; to transfer ownership of certain computer equipment from the Secretary of State to the county clerks as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 530.** Introduced by Sullivan, 41.

A BILL FOR AN ACT relating to early childhood education; to amend section 79-1102.01, Reissue Revised Statutes of Nebraska; to change provisions relating to enrollment age; and to repeal the original section.

**LEGISLATIVE BILL 531.** Introduced by Sullivan, 41.

A BILL FOR AN ACT relating to the Nebraska Advantage Microenterprise Tax Credit Act; to amend section 77-5903, Revised Statutes Cumulative Supplement, 2008; to redefine a term; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 532.** Introduced by Price, 3; McCoy, 39.

A BILL FOR AN ACT relating to counties; to provide for the adoption of ordinances as prescribed.

**LEGISLATIVE BILL 533.** Introduced by Price, 3; McCoy, 39.

A BILL FOR AN ACT relating to the Department of Administrative Services; to amend section 81-1174, Reissue Revised Statutes of Nebraska; to change provisions relating to expense reimbursement; and to repeal the original section.

**LEGISLATIVE BILL 534.** Introduced by Price, 3.

A BILL FOR AN ACT relating to learning communities; to amend section 79-2110, Reissue Revised Statutes of Nebraska; to change provisions relating to diversity plans; and to repeal the original section.

**LEGISLATIVE BILL 535.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to natural resources; to amend sections



2-1504, 2-3229, 2-3234, and 2-3254.07, Reissue Revised Statutes of Nebraska; to change membership of the Nebraska Natural Resources Commission; to change provisions relating to natural resources districts' programs, projects, powers, and duties; and to repeal the original sections.

**LEGISLATIVE BILL 536.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2704.31 and 77-4106, Reissue Revised Statutes of Nebraska, and sections 77-2703.01, 77-2703.04, 77-2711, 77-2712.05, 77-4105, 77-5725, and 77-5726, Revised Statutes Cumulative Supplement, 2008; to authorize creation of transportation development districts; to authorize a local sales tax; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 537.** Introduced by Giese, 17.

A BILL FOR AN ACT relating to fire departments; to amend section 35-302, Reissue Revised Statutes of Nebraska; to change provisions relating to hours of duty of firefighters; and to repeal the original section.

**LEGISLATIVE BILL 538.** Introduced by Giese, 17.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Revised Statutes Cumulative Supplement, 2008; to exempt government employee retirement benefits from state income taxation; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 539.** Introduced by Coash, 27.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701 and 77-2701.04, Revised Statutes Cumulative Supplement, 2008; to authorize a refund of sales and use tax paid on residential building products as prescribed; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 540.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to infants; to amend section 43-4001, Reissue Revised Statutes of Nebraska; to change provisions relating to membership on the Children's Behavioral Health Task Force; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 541.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to the medical assistance program; to amend section 68-912, Revised Statutes Cumulative Supplement, 2008; to exempt certain adult dental services from limitations as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 542.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to dental assistants; to amend sections 38-1135 and 38-1136, Reissue Revised Statutes of Nebraska; to provide for rules and regulations regarding education, preparation, and training; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 543.** Introduced by Campbell, 25.

A BILL FOR AN ACT relating to motor vehicle industry licensing; to amend section 60-1403.01, Reissue Revised Statutes of Nebraska, and section 60-1401.02, Revised Statutes Cumulative Supplement, 2008; to provide an exemption from licensing requirements; to define a term; and to repeal the original sections.

**LEGISLATIVE BILL 544.** Introduced by Giese, 17.

A BILL FOR AN ACT relating to the Election Act; to amend section 32-101, Reissue Revised Statutes of Nebraska; to require the Secretary of State to publish guidelines for election workers; and to repeal the original section.

**LEGISLATIVE BILL 545.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 77-3446, 79-1005.01, 79-1007.18, and 79-1007.19, Reissue Revised Statutes of Nebraska; to redefine a term; to change provisions relating to allocated income tax receipts, the averaging adjustment, and the teacher education adjustment; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 546.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to school funding; to amend sections 9-812, 9-836.01, 79-1011, and 79-1012, Reissue Revised Statutes of Nebraska; to change provisions relating to reorganization incentives; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 547.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to teachers; to amend sections 79-808, 79-8,133, 79-8,134, 79-8,135, 79-8,136, 79-8,137, 79-8,139, and 79-8,140, Reissue Revised Statutes of Nebraska; to provide for rules and regulations relating to specialization; to change provisions relating to loans, loan repayments, and a report under the Attracting Excellence to Teaching Program Act; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 548.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to schools; to amend sections 79-2,105 and 79-318, Reissue Revised Statutes of Nebraska; to change provisions relating to student files and duties of the State Board of Education; and to repeal the original sections.

**LEGISLATIVE BILL 549.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to schools; to amend sections 13-518, 43-2007, 60-658, 79-233, 79-234, 79-237, 79-238, 79-239, 79-240, 79-2,104, 79-319, 79-528, 79-569, 79-598, 79-606, 79-608, 79-611, 79-1003, 79-1007.06, 79-1007.08, 79-1007.16, 79-1007.20, 79-1007.21, 79-1007.22, 79-1014, 79-1065.01, 79-1084, 79-1086, 79-10,110, 79-1110, 79-1127, 79-1148, 79-1149, 79-1150, 79-1161, 79-1204, 79-1212, 79-1241.01, 79-1241.03, 79-1601, 79-1606, and 85-607, Reissue Revised Statutes of Nebraska; to change provisions relating to exempt schools and students, residency, the enrollment option program, student files, qualifications of members of the State Board of Education, transportation, reports, contracts for instruction, certificate fees, the Tax Equity and Educational Opportunities Support Act, school tax levies, modifications, the Special Education Act, educational service units, and certain college admissions as prescribed; to harmonize provisions; to eliminate the Nebraska Equal Opportunity for Displaced Homemakers Act and provisions relating to the Diagnostic Resources Center at Cozad; to repeal the original sections; and to outright repeal sections 48-1301, 48-1302, 48-1303, 48-1304, 48-1305, 48-1306, 48-1309, 79-1168, 79-1169, 79-1170, 79-1171, 79-1172, 79-1173, 79-1174, 79-1175, 79-1176, 79-1177, 79-1178, and 79-1241, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 550.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to the Military Code; to amend sections 55-101, 55-120, 55-125, 55-126, and 55-135, Reissue Revised Statutes of Nebraska; to change provisions relating to Military Department personnel; to provide peace officer powers and duties to National Guard members; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 551.** Introduced by White, 8.

A BILL FOR AN ACT relating to insurance; to amend sections 44-710.01 and 44-761, Reissue Revised Statutes of Nebraska; to extend the limiting age on sickness and accident policies; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 552.** Introduced by White, 8.

A BILL FOR AN ACT relating to construction; to amend section 81-2407, Reissue Revised Statutes of Nebraska; to adopt the Nebraska Construction

Prompt Pay Act; to harmonize provisions; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 553.** Introduced by White, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-1502, 77-1507, 77-1507.01, 77-1510, 77-3506.02, 77-5007, 77-5013, and 77-5015, Revised Statutes Cumulative Supplement, 2008; to change real property valuation protest procedures in counties with more than one hundred thousand inhabitants; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 554.** Introduced by White, 8.

A BILL FOR AN ACT relating to labor and employment; to prohibit certain employers from requiring use of paid leave under certain circumstances; and to provide a penalty.

**LEGISLATIVE BILL 555.** Introduced by White, 8.

A BILL FOR AN ACT relating to the Nebraska Advantage Research and Development Act; to amend section 77-5803, Revised Statutes Cumulative Supplement, 2008; to change the research tax credit; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 556.** Introduced by White, 8.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend section 48-118.01, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to third-party claims; and to repeal the original section.

**LEGISLATIVE BILL 557.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to labor; to amend section 48-219, Reissue Revised Statutes of Nebraska; to provide for a fair share representation contribution by employees who are not members of certain labor organizations for representation provided by the labor organization; to eliminate provisions; to harmonize provisions; to repeal the original section; and to outright repeal sections 48-217 and 48-218, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 558.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to teachers; to amend section 79-1035.02, Reissue Revised Statutes of Nebraska; to provide requirements for use of funds distributed from the temporary school fund; and to repeal the original section.

**LEGISLATIVE BILL 559.** Introduced by Gloor, 35.

A BILL FOR AN ACT relating to the Convention Center Facility Financing Assistance Act; to amend sections 13-2601, 13-2604, 13-2605, and 13-2706, Reissue Revised Statutes of Nebraska, and sections 13-2603 and 13-2610, Revised Statutes Cumulative Supplement, 2008; to provide and change provisions relating to terms, state assistance, financing, and grant applications; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 560.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-2401, 60-2401.01, 60-2402, 60-2403, 60-2405, 60-2406, 60-2407, 60-2408, 60-2409, and 60-2411, Reissue Revised Statutes of Nebraska, and sections 60-166, 60-2404, and 60-2410, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to towing vehicles; to name an act; to provide for maximum fees; and to repeal the original sections.

**LEGISLATIVE BILL 561.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to public power districts; to amend section 70-670, Reissue Revised Statutes of Nebraska; to restrict the power of eminent domain as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 562.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to metropolitan utilities districts; to amend section 14-2102, Reissue Revised Statutes of Nebraska; to provide for the continuance of service of the board of directors in the event of annexation; and to repeal the original section.

**LEGISLATIVE BILL 563.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to labor; to adopt the Contractor Employee Classification Act.

**LEGISLATIVE BILL 564.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to the Contractor Registration Act; to amend sections 48-2101 and 48-2105, Reissue Revised Statutes of Nebraska, and section 48-2104, Revised Statutes Cumulative Supplement, 2008; to require licensure as prescribed; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 565.** Introduced by Loudon, 49; Haar, 21; Schilz, 47; Wallman, 30.

A BILL FOR AN ACT relating to natural resources; to adopt the Woody Biomass Energy Act.

**LEGISLATIVE BILL 566.** Introduced by Dubas, 34; Haar, 21; Mello, 5.

A BILL FOR AN ACT relating to economic development; to amend section 81-1201.21, Reissue Revised Statutes of Nebraska, and sections 77-5708, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726, and 77-5727, Revised Statutes Cumulative Supplement, 2008; to change provisions of the Nebraska Advantage Act to provide incentives for windmill manufacturers; to change provisions relating to use of the Job Training Cash Fund; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 567.** Introduced by Dubas, 34; Haar, 21; Mello, 5; Schilz, 47.

A BILL FOR AN ACT relating to the State Energy Office; to amend sections 81-1602, 81-1603, and 81-1607, Reissue Revised Statutes of Nebraska; to change provisions relating to the State Energy Office and the Director of the State Energy Office; to provide powers and duties for the State Energy Office; to define a term; and to repeal the original sections.

**LEGISLATIVE BILL 568.** Introduced by Dubas, 34; Haar, 21; Mello, 5.

A BILL FOR AN ACT relating to real estate; to amend sections 66-911.01 and 76-404, Reissue Revised Statutes of Nebraska; to provide requirements and conditions for wind leases and easements; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 569.** Introduced by Dubas, 34; Haar, 21.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the State Energy Office for a grant program for school wind projects.

**LEGISLATIVE BILL 570.** Introduced by Nordquist, 7; Nelson, 6.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701, 77-2701.04, and 77-2704.56, Revised Statutes Cumulative Supplement, 2008; to exempt museum memberships from sales and use taxes; to define a term; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 571.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to consumer protection; to adopt the Guaranteed Asset Protection Waiver Act; and to provide severability.

**LEGISLATIVE BILL 572.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to the Nebraska Tobacco Settlement Trust Fund; to amend section 71-7608, Revised Statutes Cumulative Supplement,

2008; to change provisions governing use of certain revenue; to repeal the original section; and to declare an emergency.

### **SENATOR STUTHMAN PRESIDING**

**LEGISLATIVE BILL 573.** Introduced by Nordquist, 7.

A BILL FOR AN ACT relating to the Conveyance Safety Act; to amend sections 48-2503, 48-2507, 48-2508, and 48-2512, Revised Statutes Cumulative Supplement, 2008; to change Conveyance Advisory Committee membership provisions; to change applicability of the act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 574.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1469, 49-1469.05, 49-1469.08, and 49-1479.02, Revised Statutes Cumulative Supplement, 2008; to eliminate a reporting requirement; to provide for a report of expenditures as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 575.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to initiative and referendum petitions; to amend sections 32-1404, 32-1412, and 84-205, Reissue Revised Statutes of Nebraska; to change provisions relating to investigation and prosecution of violations relating to signers and circulators of petitions and to placing measures on the ballot; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 576.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-186, Reissue Revised Statutes of Nebraska; to provide for consumption and sale of liquor on real property in the state park system; and to repeal the original section.

**LEGISLATIVE BILL 577.** Introduced by Rogert, 16.

A BILL FOR AN ACT relating to natural resources districts; to amend sections 2-3211.01, 2-3226.03, 2-3235, 2-3252, 2-3253, 2-3254, 2-3254.02, 2-3254.03, 2-3254.07, and 2-3255, Reissue Revised Statutes of Nebraska; to change and rearrange provisions relating to improvement project areas; to define terms; to harmonize provisions; to repeal the original sections; and to outright repeal sections 2-3254.01, 2-3254.04, 2-3254.05, and 2-3254.06, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 578.** Introduced by Fulton, 29; Avery, 28.

A BILL FOR AN ACT relating to schools; to state intent relating to state aid distributions; and to require certain expenditures as prescribed.

**LEGISLATIVE BILL 579.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to labor; to amend sections 48-602 and 48-648, Revised Statutes Cumulative Supplement, 2008; to adopt the Professional Employer Organization Registration Act; to harmonize unemployment benefit provisions; to provide an operative date; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 580.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-5016, Revised Statutes Cumulative Supplement, 2008; to change a standard of review by the Tax Equalization and Review Commission; and to repeal the original section.

**LEGISLATIVE BILL 581.** Introduced by Carlson, 38.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-958, 2-10,117, 2-2634, 2-5106, and 81-201.05, Reissue Revised Statutes of Nebraska, and section 2-958.01, Revised Statutes Cumulative Supplement, 2008; to change disposition of Pesticide Act registration fees and disposition of funds collected from sales of the Weeds of the Great Plains book; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 582.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to agriculture; to create the Nebraska Invasive Species Council; to state intent, define terms, and provide powers and duties.

**LEGISLATIVE BILL 583.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.02, 77-2704.24, 79-1001, and 85-1517, Reissue Revised Statutes of Nebraska, and sections 77-2701, 77-2701.16, 77-2703.01, 77-2715.07, and 77-3442, Revised Statutes Cumulative Supplement, 2008; to change the sales tax rate; to impose sales tax on services except medical; to impose sales tax on food and provide an income tax credit; to eliminate local option sales taxes; to eliminate property tax authority of community college areas; to provide state funding for school employees, school transportation, and community colleges; to create a fund for property tax relief; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 13-319, 13-322, 13-323, 13-324, 13-325, 13-326, 13-2813, 13-2814, 13-2815, 13-2816, 77-27,142, 77-27,142.01, 77-27,142.02, 77-27,142.03, 77-27,142.04, 77-27,142.05, 77-27,145, 77-27,146, 77-27,147, and 77-27,148, Reissue Revised Statutes of



Nebraska, and sections 77-27,143 and 77-27,144, Revised Statutes Cumulative Supplement, 2008.

**LEGISLATIVE BILL 584.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to ethanol; to adopt the Agricultural Commodities Protection Act.

**LEGISLATIVE BILL 585.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to agriculture; to adopt the Bovine Trichomoniasis Control Act; and to provide a penalty.

**LEGISLATIVE BILL 586.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to the Veterinary Drug Distribution Licensing Act; to amend sections 71-8902, 71-8909, 71-8910, and 71-8922, Revised Statutes Cumulative Supplement, 2008; to exempt veterinarians; to redefine terms; to limit the validity of veterinary drug orders for certain purposes; and to repeal the original sections.

**LEGISLATIVE BILL 587.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701.16, Revised Statutes Cumulative Supplement, 2008; to exempt animal grooming by veterinarians and veterinary technicians from sales tax; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 588.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to animals; to adopt the Dog and Cat Purchase Protection Act; and to provide an operative date.

**LEGISLATIVE BILL 589.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to child custody; to amend sections 42-364 and 43-2929, Reissue Revised Statutes of Nebraska; to designate both parents as joint custodians unless there is proof otherwise; and to repeal the original sections.

**LEGISLATIVE BILL 590.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to the Disabled Persons and Family Support Act; to amend sections 68-1502, 68-1504, 68-1505, 68-1506, 68-1508, 68-1510, 68-1511, 68-1512, 68-1513, 68-1515, 68-1516, 68-1518, and 68-1519, Reissue Revised Statutes of Nebraska, and sections 68-1503 and 68-1509, Revised Statutes Cumulative Supplement, 2008; to provide financial compensation for care given by families at home and special food and medical needs as prescribed; to harmonize provisions; and to repeal the

original sections.

**LEGISLATIVE BILL 591.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to public power; to amend section 70-1014, Reissue Revised Statutes of Nebraska; to change provisions relating to approval of applications for electric generation facilities; and to repeal the original section.

**LEGISLATIVE BILL 592.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to the Rural Health Systems and Professional Incentive Act; to amend section 71-5653, Revised Statutes Cumulative Supplement, 2008; to redefine a term; and to repeal the original section.

**LEGISLATIVE BILL 593.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to agriculture; to amend sections 21-2602, 67-409, 76-1520, 76-1521, 76-1523, and 76-1524, Reissue Revised Statutes of Nebraska, and section 77-5203, Revised Statutes Cumulative Supplement, 2008; to state intent; to define terms; to restrict entity ownership of agricultural land and farm or ranch operations; to harmonize provisions; to provide for severability; and to repeal the original sections.

**LEGISLATIVE BILL 594.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to abortion; to adopt the Women's Health Protection Act; and to provide severability.

**LEGISLATIVE BILL 595.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to motor vehicle accidents; to amend section 60-6,102, Reissue Revised Statutes of Nebraska; to change coroner's examination provisions; to define drugs; and to repeal the original section.

**LEGISLATIVE BILL 596.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to fees; to amend section 33-107.01, Reissue Revised Statutes of Nebraska; to change a legal services fee; and to repeal the original section.

**LEGISLATIVE BILL 597.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to learning communities; to amend section 79-769, Reissue Revised Statutes of Nebraska; to change provisions relating to collaborative focus programs, focus schools, or magnet schools; and to repeal the original section.

**LEGISLATIVE BILL 598.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to crime victims; to amend sections 81-1801, 81-1802, 81-1803, 81-1805, 81-1813, 81-1818, 81-1820, 81-1822, 81-1823, 81-1825, 81-1833, 81-1834, 81-1835, 81-1840, and 81-1841, Reissue Revised Statutes of Nebraska; to authorize a Community Trust; to redefine terms; to change provisions relating to the Nebraska Crime Victim's Reparations Act; and to repeal the original sections.

**LEGISLATIVE BILL 599.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to health care; to amend section 71-401, Revised Statutes Cumulative Supplement, 2008; to require health care facilities and health care practitioner facilities to provide itemized billing statements as prescribed; to eliminate other itemized listing requirements; to repeal the original section; and to outright repeal section 71-2049, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 600.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to pool halls; to amend section 28-1422, Reissue Revised Statutes of Nebraska, and sections 53-101 and 53-103, Revised Statutes Cumulative Supplement, 2008; to provide for an exemption for pool halls as prescribed; to define a term; to provide duties for pool hall owners; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 601.** Introduced by Nordquist, 7; Campbell, 25; Howard, 9.

A BILL FOR AN ACT relating to the Medical Assistance Program; to amend section 68-901, Revised Statutes Cumulative Supplement, 2008; to provide a duty for the Department of Health and Human Services relating to a waiver for certain community-based mental health services; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 602.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-2315, 2-3631, and 2-4016, Reissue Revised Statutes of Nebraska; to provide for expense reimbursement for first purchasers of certain commodities; and to repeal the original sections.

**LEGISLATIVE BILL 603.** Introduced by Health and Human Services Committee: Gay, 14, Chairperson; Campbell, 25; Gloor, 35; Howard, 9; Pankonin, 2; Stuthman, 22; Wallman, 30.

A BILL FOR AN ACT relating to health; to amend section 71-7611, Revised Statutes Cumulative Supplement, 2008; to adopt the Behavioral

Health Workforce Act; to change provisions relating to the Nebraska Health Care Cash Fund; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 604.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to the Pharmacy Practice Act; to amend sections 38-2801, 38-2802, 38-2826, 38-2850, 38-2867, 38-2869, and 38-2873, Reissue Revised Statutes of Nebraska; to define terms and eliminate a term; to change and eliminate provisions relating to medical gas distribution; to harmonize provisions; to repeal the original sections; to outright repeal section 38-2827, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 605.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-131.01, 53-135, and 53-149, Reissue Revised Statutes of Nebraska, and sections 53-101 and 53-132, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to license application and renewal requirements, denial of license applications, transfer of licenses, and storage of alcoholic liquor; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 606.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to the Microenterprise Development Act; to amend sections 81-1298 and 81-12,102, Reissue Revised Statutes of Nebraska; to redefine terms; to change a provision relating to grant qualifications; to state intent; and to repeal the original sections.

**LEGISLATIVE BILL 607.** Introduced by Gay, 14; Avery, 28.

A BILL FOR AN ACT relating to postsecondary education; to amend section 85-1412, Reissue Revised Statutes of Nebraska; to adopt the Higher Education Academic Scholarship Program Act; to provide for appropriations; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 608.** Introduced by Mello, 5.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Supreme Court for salary increases for county court employees; and to declare an emergency.

#### **SENATOR FRIEND PRESIDING**

**LEGISLATIVE BILL 609.** Introduced by Mello, 5; Avery, 28; Campbell, 25; McGill, 26; Nordquist, 7; Sullivan, 41.

A BILL FOR AN ACT relating to child care; to amend section 68-1206, Revised Statutes Cumulative Supplement, 2008; to state intent; to define a term; to provide duties for the Department of Health and Human Services relating to contracts with providers; to change eligibility for a subsidy as prescribed; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 610.** Introduced by Mello, 5; Campbell, 25.

A BILL FOR AN ACT relating to the Medical Assistance Act; to amend section 68-912, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to limitations on services for persons with disabilities; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 611.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to the Nebraska Clean Indoor Act; to amend section 71-5716, Revised Statutes Cumulative Supplement, 2008; to provide cities, villages, and counties with the authority to adopt ordinances or resolutions regarding smoking regulation; to provide an operative date; to provide severability; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 612.** Introduced by Avery, 28; McGill, 26.

A BILL FOR AN ACT relating to school retirement; to amend sections 79-958 and 79-9,113, Reissue Revised Statutes of Nebraska; to prohibit school districts from reimbursing or paying employer retirement contributions as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 613.** Introduced by Dierks, 40.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-4931, 77-5406, and 77-5540, Reissue Revised Statutes of Nebraska, and sections 77-4104.01 and 77-5724, Revised Statutes Cumulative Supplement, 2008; to eliminate a restriction on base-year employees in certain tax incentive programs; and to repeal the original sections.

**LEGISLATIVE BILL 614.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to the Mental Health Practice Act; to amend sections 38-121, 38-2101, 38-2102, 38-2103, 38-2121, 38-2125, 38-2127, 38-2138, and 38-2139, Reissue Revised Statutes of Nebraska; to provide for licensure of macro social workers; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 615.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to cities and counties; to amend sections

18-2601, 18-2602, 18-2603, 18-2604, 18-2605, 18-2606, 18-2607, 18-2608, 18-2609, 23-2901, 23-2902, 23-2903, 23-2904, 23-2905, 23-2906, 23-2907, 23-2908, 23-2909, 23-2911, 31-763, 31-764, 31-765, and 31-766, Reissue Revised Statutes of Nebraska, and sections 77-2602 and 77-27,137.01, Revised Statutes Cumulative Supplement, 2008; to adopt the Family Entertainment and Sports Attraction Act; to rename the Municipal Infrastructure Redevelopment Fund Act; to expand the act to include counties; to rename a fund; to change and eliminate provisions relating to cigarette tax distributions for purposes of county and municipal infrastructure funding; to provide and change provisions relating to purpose, building uses, districts, petitions, hearings, notice, boundaries, boards of trustees, taxes, warrants, and annexation regarding county community buildings; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 77-2602.04, Revised Statutes Cumulative Supplement, 2008; and to declare an emergency.

**LEGISLATIVE BILL 616.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to the Municipal Infrastructure Redevelopment Fund Act; to amend sections 18-2601, 18-2602, 18-2603, 18-2604, 18-2605, 18-2606, 18-2607, 18-2608, and 18-2609, Reissue Revised Statutes of Nebraska, and sections 77-2602 and 77-27,137.01, Revised Statutes Cumulative Supplement, 2008; to rename the act; to expand the act to include counties; to rename a fund; to change provisions relating to cigarette tax distributions for purposes of county and municipal infrastructure funding; to harmonize provisions; to repeal the original sections; and to outright repeal section 77-2602.04, Revised Statutes Cumulative Supplement, 2008.

**LEGISLATIVE BILL 617.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to county community buildings; to amend sections 23-2901, 23-2902, 23-2903, 23-2904, 23-2905, 23-2906, 23-2907, 23-2908, 23-2909, 23-2911, 31-763, 31-764, 31-765, and 31-766, Reissue Revised Statutes of Nebraska; to provide and change provisions relating to purpose, building uses, districts, petitions, hearings, notice, boundaries, boards of trustees, taxes, warrants, and annexation; to define a term; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 618.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to economic development; to adopt the Family Entertainment and Sports Attraction Act.

**LEGISLATIVE BILL 619.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to the Nebraska Mental Health Commitment Act; to amend sections 71-906 and 71-915, Revised Statutes Cumulative Supplement, 2008; to redefine a term; to change provisions relating to

membership on mental health boards; and to repeal the original sections.

**LEGISLATIVE BILL 620.** Introduced by Wightman, 36; Nantkes, 46; Nelson, 6.

A BILL FOR AN ACT relating to the Legislature; to amend section 50-421, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the office of Legislative Audit and Research; and to repeal the original section.

**LEGISLATIVE BILL 621.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to massage therapy; to amend section 38-1708, Reissue Revised Statutes of Nebraska; to provide an exemption from licensure; and to repeal the original section.

**LEGISLATIVE BILL 622.** Introduced by Nordquist, 7.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend section 48-125, Revised Statutes Cumulative Supplement, 2008; to provide time limits and penalties for late payment of medical payments; and to repeal the original section.

**LEGISLATIVE BILL 623.** Introduced by Haar, 21.

A BILL FOR AN ACT relating to presidential elections; to adopt the Interstate Compact on the Agreement Among the States to Elect the President by National Popular Vote.

**LEGISLATIVE BILL 624.** Introduced by Haar, 21.

A BILL FOR AN ACT relating to energy; to provide for energy efficiency loans for public buildings; to create a fund; to define terms; and to provide duties for the State Energy Office.

**LEGISLATIVE BILL 625.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Reissue Revised Statutes of Nebraska; to prohibit the intentional exposure to another of a life-threatening communicable disease; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 626.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1401, 49-14,101.01, and 49-14,101.02, Revised Statutes Cumulative Supplement, 2008; to provide exemptions; to change prohibited activities for public officials and public employees; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 627.** Introduced by Business and Labor Committee: Lathrop, 12, Chairperson; McGill, 26; Schilz, 47; Wallman, 30; White, 8.

A BILL FOR AN ACT relating to the Boiler Inspection Act; to amend section 48-722, Revised Statutes Cumulative Supplement, 2008; to authorize inspections of domestic potable hot water heaters; and to repeal the original section.

**LEGISLATIVE BILL 628.** Introduced by Business and Labor Committee: Lathrop, 12, Chairperson; McGill, 26; Schilz, 47; Wallman, 30; White, 8.

A BILL FOR AN ACT relating to claims against the state; to appropriate funds for the payment of certain claims; to provide for payment of the claims; to authorize agencies to write off certain claims; and to declare an emergency.

**LEGISLATIVE BILL 629.** Introduced by Business and Labor Committee: Lathrop, 12, Chairperson; McGill, 26; Schilz, 47; Wallman, 30; White, 8.

A BILL FOR AN ACT relating to claims against the state; to disapprove certain claims.

**LEGISLATIVE BILL 630.** Introduced by Business and Labor Committee: Lathrop, 12, Chairperson; McGill, 26; Schilz, 47; Wallman, 30; White, 8.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend sections 48-139 and 48-167, Reissue Revised Statutes of Nebraska, and sections 48-120.04, 48-125, 48-144.03, and 48-168, Revised Statutes Cumulative Supplement, 2008; to change applicability of the medical fee schedule as prescribed; to change provisions relating to method of payment, applications, notices, court records, and informal dispute resolution; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 631.** Introduced by Business and Labor Committee: Lathrop, 12, Chairperson; McGill, 26; Schilz, 47; Wallman, 30; White, 8.

A BILL FOR AN ACT relating to the Employment Security Law; to amend sections 48-622.02, 48-622.03, 48-655, 48-665, 48-668, and 48-668.02, Reissue Revised Statutes of Nebraska, and sections 48-612.01, 48-648, 48-648.01, 48-649, 48-652, and 48-654, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to information disclosure, electronic payment, employer accounts, unemployment compensation, and worker training programs; to harmonize provisions; to eliminate an advisory council and a board; to repeal the original sections; to outright repeal section 48-610, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 632.** Introduced by Mello, 5; Dierks, 40; Dubas, 34; Giese, 17; Haar, 21; McGill, 26; Nordquist, 7; Rogert, 16.



A BILL FOR AN ACT relating to revenue and taxation; to adopt the Nebraska Green Building Advantage Act.

**LEGISLATIVE BILL 633.** Introduced by Mello, 5; Howard, 9; Nordquist, 7.

A BILL FOR AN ACT relating to community development; to create the Neighborhood Development Act; to create a fund; and to provide powers and duties.

**LEGISLATIVE BILL 634.** Introduced by Mello, 5; Nordquist, 7.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3504, Revised Statutes Cumulative Supplement, 2008; to redefine household income for homestead exemption purposes; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 635.** Introduced by Mello, 5.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend section 49-1472, Reissue Revised Statutes of Nebraska, and sections 49-1446, 49-1446.01, 49-1455, and 49-1478.01, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to reports to be filed by political party committees; and to repeal the original sections.

**LEGISLATIVE BILL 636.** Introduced by Mello, 5; Lathrop, 12; Lautenbaugh, 18; McCoy, 39; Nordquist, 7; Rogert, 16.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Department of Economic Development; and to declare an emergency.

**LEGISLATIVE BILL 637.** Introduced by Mello, 5.

A BILL FOR AN ACT relating to insurance; to require disclosure of information by health carriers providing group health benefit plan coverages as prescribed; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 638.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to political accountability and disclosure; to amend sections 28-915.01, 49-1415, 49-1456, 49-1457, 49-1459, 49-1461, 49-1465, 49-1470, 49-14,122, 49-14,129, and 49-14,141, Reissue Revised Statutes of Nebraska, and sections 49-1401, 49-1446, 49-1446.04, 49-1447, 49-1455, 49-1458, 49-1463, 49-1463.01, 49-1467, 49-1469, 49-1478, 49-1478.01, 49-1479.01, 49-1479.02, 49-14,123, 49-14,124, 49-14,124.01, 49-14,124.02, 49-14,125, 49-14,126, 49-14,133, and 49-14,140, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to

filing campaign statements and reports; to repeal the Campaign Finance Limitation Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 32-1601, 32-1602, 32-1603, 32-1604, 32-1604.01, 32-1605, 32-1606, 32-1606.01, 32-1607, 32-1608, 32-1608.01, 32-1608.02, 32-1608.03, 32-1609, 32-1610, 32-1611, 32-1612, 32-1613, and 77-27,119.04, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 639.** Introduced by Karpisek, 32.

A BILL FOR AN ACT relating to public meetings; to amend section 84-1411, Reissue Revised Statutes of Nebraska; to change provisions relating to telephone conferencing; and to repeal the original section.

**LEGISLATIVE BILL 640.** Introduced by Schilz, 47; Harms, 48.

A BILL FOR AN ACT relating to the Nebraska Advantage Act; to amend sections 77-5725 and 77-5726, Revised Statutes Cumulative Supplement, 2008; to provide for a local option on whether local option sales and use taxes are refundable; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 641.** Introduced by Schilz, 47.

A BILL FOR AN ACT relating to agriculture; to create a production incentive for renewable diesel; and to create a fund.

**LEGISLATIVE BILL 642.** Introduced by Schilz, 47.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-301, 60-3,104, and 60-3,130.04, Revised Statutes Cumulative Supplement, 2008; to provide for Nebraska agriculture license plates; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 643.** Introduced by Schilz, 47.

A BILL FOR AN ACT relating to electric lines; to amend section 70-311, Reissue Revised Statutes of Nebraska; to extend the distance and time requirements relating to notice of certain road construction; to provide notice requirements for natural resource districts for certain road construction; and to repeal the original section.

**LEGISLATIVE BILL 644.** Introduced by Mello, 5; Haar, 21.

A BILL FOR AN ACT relating to recycling; to amend sections 81-1504.01 and 81-15,160, Reissue Revised Statutes of Nebraska; to adopt the Electronics Recycling Act; to provide fees; to provide for a report regarding and grants from the Waste Reduction and Recycling Incentive Fund; to delete obsolete provisions; to harmonize provisions; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 645.** Introduced by Mello, 5; Haar, 21.

A BILL FOR AN ACT relating to public contracts for services; to amend sections 73-501, 73-502, 73-504, 73-506, 73-507, and 81-154.01, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to certain contracts for services; to harmonize provisions; to repeal the original sections; and to outright repeal sections 73-301, 73-302, 73-303, 73-304, 73-305, 73-306, 73-307, and 73-509, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 646.** Introduced by Christensen, 44; Carlson, 38; Hansen, 42; Schilz, 47; Wallman, 30.

A BILL FOR AN ACT relating to agriculture; to amend section 81-12,128, Reissue Revised Statutes of Nebraska, and section 54-2426, Revised Statutes Cumulative Supplement, 2008; to adopt the Livestock Growth Act; to provide for funding and funding intent; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 647.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to cities and villages; to provide requirements for notice to property owners of annexation proceedings.

**LEGISLATIVE BILL 648.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to highway planning; to state intent relating to funding for a study.

**LEGISLATIVE BILL 649.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-6,294 and 60-6,298, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to special permits for overweight vehicles; to harmonize professions; and to repeal the original sections.

**LEGISLATIVE BILL 650.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-471, 60-501, 60-520, 60-547, and 60-638, Reissue Revised Statutes of Nebraska, and sections 60-101, 60-102, 60-136, 60-301, 60-339, 60-4,126, 60-601, and 60-605, Revised Statutes Cumulative Supplement, 2008; to authorize the operation of minitrucks on public highways as prescribed; to define terms; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 651.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to water resources; to amend section 2-3226.04, Reissue Revised Statutes of Nebraska, and sections 2-3225,

2-3226.05, 2-3226.08, and 2-3226.09, Revised Statutes Cumulative Supplement, 2008; to adopt the Water Resources Revolving Loan Fund Act; to change provisions relating to use of property tax and occupation tax proceeds and river-flow enhancement bond proceeds as prescribed; to provide duties for natural resources districts; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 652.** Introduced by Christensen, 44.

A BILL FOR AN ACT relating to the Enhanced Wireless 911 Services Act; to amend sections 86-442, 86-443, 86-461, 86-462, 86-464, 86-465, and 86-466, Reissue Revised Statutes of Nebraska; to change the membership and duties of the Enhanced Wireless 911 Advisory Board; to change provisions relating to service agreements and compensation of costs; to change duties of the Public Service Commission; to define terms; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 653.** Introduced by Harms, 48; Mello, 5; Wightman, 36.

A BILL FOR AN ACT relating to the Legislature; to create the Legislature's Planning Committee.

**LEGISLATIVE BILL 654.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to schools; to amend section 79-1070, Reissue Revised Statutes of Nebraska; to provide for borrowing for special building fund projects; and to repeal the original section.

**LEGISLATIVE BILL 655.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to community colleges; to amend sections 85-1502 and 85-2229, Reissue Revised Statutes of Nebraska; to require compliance with association requirements for payment of state aid as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 656.** Introduced by Harms, 48; Avery, 28; Haar, 21.

A BILL FOR AN ACT relating to health care; to adopt the Health Care Accessibility and Affordability Act; and to provide a termination date.

**LEGISLATIVE BILL 657.** Introduced by Harms, 48.

A BILL FOR AN ACT relating to the Microenterprise Development Act; to amend sections 81-1276, 81-1295, 81-1296, 81-1297, 81-1298, 81-1299, 81-12,102, 81-12,104, and 84-612, Reissue Revised Statutes of Nebraska; to change provisions relating to surety bond support, purposes, the Microenterprise Partnership Program, grants, and the annual report under the act; to eliminate provisions relating to findings, purposes, terms, grants,

contracts, and rules and regulations under the act; to eliminate the Microenterprise Development Cash Fund; to eliminate provisions relating to Cash Reserve transfers; to harmonize provisions; to repeal the original sections; and to outright repeal sections 81-12,100, 81-12,101, 81-12,103, 81-12,105, and 81-12,105.01, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 658.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to the State Natural Gas Regulation Act; to amend section 66-1802, Reissue Revised Statutes of Nebraska, and sections 66-1801 and 66-1838, Revised Statutes Cumulative Supplement, 2008; to define terms; to provide requirements for infrastructure system replacement mechanisms as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 659.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to community corrections; to state intent; to provide for data collection on individuals released from incarceration as prescribed; to provide for funding; and to declare an emergency.

**LEGISLATIVE BILL 660.** Introduced by Fulton, 29; Harms, 48.

A BILL FOR AN ACT relating to government auditing; to amend sections 84-305 and 84-311, Reissue Revised Statutes of Nebraska, and sections 50-1213, 50-1214, 50-1215, and 77-2711, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to access to information by the Legislative Performance Audit Section and Auditor of Public Accounts; to change and provide penalties; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 661.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to the Medicaid Prescription Drug Act; to amend section 68-954, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to a preferred drug list; and to repeal the original section.

**LEGISLATIVE BILL 662.** Introduced by Janssen, 15; Pirsch, 4.

A BILL FOR AN ACT relating to the Election Act; to amend sections 32-616, 32-617, 32-623, 32-627, and 32-710, Reissue Revised Statutes of Nebraska; to change provisions relating to nomination for office; and to repeal the original sections.

**LEGISLATIVE BILL 663.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to electricity; to amend sections 70-1012 and 70-1012.01, Reissue Revised Statutes of Nebraska; to adopt the Net

Metering Act; to exempt certain utilities from a requirement for approval by the Nebraska Power Review Board; and to repeal the original sections.

**LEGISLATIVE BILL 664.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-186, Reissue Revised Statutes of Nebraska; to change provisions relating to licenses to sell alcoholic liquor on public property; and to repeal the original section.

**LEGISLATIVE BILL 665.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to postsecondary education; to amend section 85-1412, Reissue Revised Statutes of Nebraska; to adopt the Teacher Shortage Loan Repayment Act; to provide for appropriations; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 666.** Introduced by Langemeier, 23; Fischer, 43.

A BILL FOR AN ACT relating to the Niobrara Council; to amend sections 19-902, 23-114, 23-373, 72-2004.01, 72-2007, 72-2008, and 76-2,112, Reissue Revised Statutes of Nebraska; to change and eliminate intent and powers and duties of the council; to change membership; to harmonize provisions; to repeal the original sections; to outright repeal sections 72-2005, 72-2010, 72-2011, and 72-2012, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 667.** Introduced by Sullivan, 41; Carlson, 38; Dubas, 34; Loudon, 49.

A BILL FOR AN ACT relating to fences; to amend section 34-102, Reissue Revised Statutes of Nebraska; to state intent; to change provisions relating to division fences; and to repeal the original section.

**LEGISLATIVE BILL 668.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Reissue Revised Statutes of Nebraska; to create the offenses of assault on an emergency services provider or a health care provider in the first, second, and third degrees; to define terms; to provide penalties; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 669.** Introduced by Coash, 27; Campbell, 25; Pankonin, 2.

A BILL FOR AN ACT relating to courts; to amend sections 24-301.02, 24-503, and 43-2,119, Reissue Revised Statutes of Nebraska; to change the number of district court, county court, and separate juvenile court judges; to provide an operative date; to repeal the original sections; and to declare an

emergency.

**LEGISLATIVE BILL 670.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 84-612, Reissue Revised Statutes of Nebraska, and sections 77-2715.02 and 77-4212, Revised Statutes Cumulative Supplement, 2008; to change income tax calculations; to change funding for the Property Tax Credit Act; to transfer money from the Cash Reserve Fund; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 671.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to death investigations; to amend sections 23-1212, 23-1213, and 23-1218, Reissue Revised Statutes of Nebraska; to change the membership of the Nebraska County Attorney Standards Advisory Council; to provide powers and duties for the council regarding establishment of a region-based state medical examiner system; to create a fund; to authorize a court fee; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 672.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-101, 28-1201, 28-1202, 28-1204, 28-1204.01, 28-1204.04, 28-1205, 28-1206, 28-1207, 28-1208, 28-1212.02, and 28-1212.03, Reissue Revised Statutes of Nebraska; to change provisions and penalties for certain firearms crimes; and to repeal the original sections.

**LEGISLATIVE BILL 673.** Introduced by Price, 3.

A BILL FOR AN ACT relating to appropriations; to state intent relating to community colleges; and to declare an emergency.

**LEGISLATIVE BILL 674.** Introduced by Nantkes, 46.

A BILL FOR AN ACT relating to the University of Nebraska; to provide powers and duties for the Board of Regents of the University of Nebraska; to provide confidentiality for certain audit reports, files, and working papers; to define terms; and to provide a penalty.

**LEGISLATIVE BILL 675.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to abortion; to amend sections 28-326, 28-327, 28-327.01, 28-327.03, and 28-327.04, Reissue Revised Statutes of Nebraska; to provide for additional voluntary and informed consents from the pregnant woman; to define terms; to harmonize provisions; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 676.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to abortion; to amend sections 28-326, 28-327, 28-327.01, 28-327.03, and 28-327.04, Reissue Revised Statutes of Nebraska; to provide for additional voluntary and informed consents from the pregnant woman; to define terms; to harmonize provisions; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 677.** Introduced by Haar, 21.

A BILL FOR AN ACT relating to animals; to amend sections 54-640 and 54-641, Reissue Revised Statutes of Nebraska, and section 54-627, Revised Statutes Cumulative Supplement, 2008; to change provisions of the Commercial Dog and Cat Operator Inspection Act; and to repeal the original sections.

**LEGISLATIVE BILL 678.** Introduced by Haar, 21.

A BILL FOR AN ACT relating to the Open Meetings Act; to amend section 84-1413, Reissue Revised Statutes of Nebraska; to define a term; to change provisions relating to minutes of meetings; and to repeal the original section.

**LEGISLATIVE BILL 679.** Introduced by Legislative Performance Audit Committee: Harms, 48, Chairperson; Flood, 19; Friend, 10; Heidemann, 1; Nantkes, 46; Stuthman, 22; Wightman, 36.

A BILL FOR AN ACT relating to the State Foster Care Review Board; to amend section 43-1302, Reissue Revised Statutes of Nebraska; to require certain disclosure from potential board members as prescribed; and to repeal the original section.

**RESOLUTION****LEGISLATIVE RESOLUTION 10.** Introduced by Price, 3.

WHEREAS, the right to a private, secret ballot when voting on external representation is fundamentally inherent in our representative republic and shall not be infringed upon; and

WHEREAS, passing the Employee Free Choice Act, EFCA, H.R. 800, S. 1041, will replace a federally supervised private ballot election with a system known as "card check" which requires employees to publicly sign cards to vote for unionization; and

WHEREAS, seventy-nine percent of Americans support a worker's right to a federally supervised secret ballot election when deciding whether or not to join a union; and

WHEREAS, the tri-partisan agreement to oppose the EFCA has overwhelming support with 77 percent of Republicans, 82 percent of Democrats, and 79 percent of independents believing in protecting private ballots; and



WHEREAS, even the Chairperson of the United States House of Representatives Education and Labor Committee, Representative Miller, (D-CA), who is a staunch supporter of EFCA, sent a letter to Mexican government officials which stated, " ... we feel that the private ballot is absolutely necessary in order to ensure workers are not intimidated into voting for a union they may otherwise not choose."

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

1. That the Legislature finds that so-called "card check" legislation such as the Employee Free Choice Act is detrimental to the rights of workers and an offense against democratic principles.

2. That the Legislature urges the members of the Nebraska Congressional delegation to support worker freedom by opposing the EFCA and any of its components.

3. That a copy of this resolution be sent to each member of the Nebraska Congressional delegation, the President of the United States Senate, and the Speaker of the United States House of Representatives.

Laid over.

**NOTICE OF COMMITTEE HEARINGS**  
Health and Human Services

Room 1510

Friday, January 30, 2009    1:30 p.m.

LB220  
LB301  
LB310  
LB341

Thursday, January 29, 2009    1:30 p.m.

LB141  
LB230  
LB250  
LB394

Wednesday, January 28, 2009    1:30 p.m.

LB247  
LB268  
LB288  
LB290

(Signed) Tim Gay, Chairperson

**COMMITTEE REPORT**

Banking, Commerce and Insurance

**LEGISLATIVE BILL 31.** Placed on General File with amendment.  
AM17

- 1 1. On page 28, line 5, strike "No", show as stricken,
- 2 and insert "Except as otherwise provided in this section, no"; and
- 3 in line 12 after "C.P.A." insert "No person shall assume or use
- 4 the title or designation enrolled agent or E.A. except a person so
- 5 designated by the Internal Revenue Service.".

(Signed) Rich Pahls, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Giese asked unanimous consent to add his name as cointroducer to LB53 and LB300. No objections. So ordered.

Senators Harms and Pirsch asked unanimous consent to add their names as cointroducers to LB92. No objections. So ordered.

Senator Schilz asked unanimous consent to add his name as cointroducer to LB153. No objections. So ordered.

Senator Dubas asked unanimous consent to add her name as cointroducer to LB286, LB287, and LB300. No objections. So ordered.

Senator Flood asked unanimous consent to add his name as cointroducer to LB334. No objections. So ordered.

Senator Wallman asked unanimous consent to add his name as cointroducer to LB410. No objections. So ordered.

Senator Cornett asked unanimous consent to add her name as cointroducer to LB418. No objections. So ordered.

Senator Nantkes asked unanimous consent to add her name as cointroducer to LB503. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 50 twelfth-grade students and teachers from Syracuse; Senator Utter's wife, Kathy, and Jan O'Keefe, Margaret Schlachter, and Janet Hunter from Hastings; and Senator Carlson's wife, Margo, and Janet Bailey and Judy Butler from Holdrege, Sharon Anderson from Elm Creek, and Ann Gasal from Sutton.

The Doctor of the Day was Dr. Paul Wolfe from Lincoln.

**ADJOURNMENT**

At 12:11 p.m., on a motion by Senator Wallman, the Legislature adjourned until 9:45 a.m., Thursday, January 22, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**ELEVENTH DAY - JANUARY 22, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****ELEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, January 22, 2009

**PRAYER**

The prayer was offered by Senator Dierks.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:45 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Cook, Council, and Hadley who were excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the tenth day was approved.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB417	Health and Human Services
LB418	Revenue
LB419	Revenue
LB420	Revenue
LB421	Revenue
LB422	Government, Military and Veterans Affairs
LB423	Judiciary
LB424	Nebraska Retirement Systems
LB425	Nebraska Retirement Systems
LB426	Nebraska Retirement Systems
LB427	Nebraska Retirement Systems
LB428	Banking, Commerce and Insurance
LB429	Judiciary
LB430	Judiciary
LB431	Banking, Commerce and Insurance
LB432	Banking, Commerce and Insurance

LB433	Judiciary
LB434	Government, Military and Veterans Affairs
LB435	Health and Human Services
LB436	Natural Resources
LB437	Natural Resources
LB438	Natural Resources
LB439	Natural Resources
LB440	Education
LB441	Urban Affairs
LB442	Judiciary
LB443	General Affairs
LB444	Health and Human Services
LB445	Banking, Commerce and Insurance
LB446	Health and Human Services
LB447	Agriculture
LB448	Health and Human Services
LB449	Nebraska Retirement Systems
LB450	Government, Military and Veterans Affairs
LB451	Health and Human Services
LB452	Health and Human Services
LB453	Banking, Commerce and Insurance
LB454	Appropriations
LB455	Revenue
LB456	Appropriations
LB457	Health and Human Services
LB458	Health and Human Services
LB459	Appropriations
LB460	Revenue
LB461	Education
LB462	Health and Human Services
LB463	Health and Human Services
LB464	Health and Human Services
LB465	Government, Military and Veterans Affairs
LB466	Revenue
LB467	Urban Affairs
LB468	Appropriations
LB469	Revenue
LB470	Revenue
LB471	Natural Resources
LB472	Judiciary
LB473	Education
LB474	Revenue
LB475	Government, Military and Veterans Affairs
LB476	Education
LB477	Natural Resources
LB478	General Affairs
LB479	Education
LB480	Revenue
LB481	Health and Human Services

LB482 Natural Resources  
 LB483 Natural Resources  
 LB484 Banking, Commerce and Insurance  
 LB485 Revenue  
 LB486 Government, Military and Veterans Affairs  
 LB487 Revenue  
 LB488 Government, Military and Veterans Affairs  
 LB489 Health and Human Services  
 LB490 Natural Resources  
 LB491 Natural Resources  
 LB492 Appropriations  
 LB493 Banking, Commerce and Insurance  
 LB494 Judiciary  
 LB495 Urban Affairs  
 LB496 Judiciary  
 LB497 Transportation and Telecommunications  
 LB498 General Affairs  
 LB499 Judiciary  
 LB500 General Affairs  
 LR9 Judiciary

(Signed) John Wightman, Chairperson  
Executive Board

### **MOTION - Print in Journal**

Senator Christensen filed the following motion to LB18:  
MO4  
Withdraw bill.

### **SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR10 was referred to the Reference Committee.

### **MOTION - Escort Chief Justice**

Senator Gay moved that a committee of eight be appointed to escort the Chief Justice of the Supreme Court to the Legislative Chamber for the purpose of delivering the State of the Judiciary Address.

The motion prevailed.

The Chair appointed Senators Ashford, Lathrop, Lautenbaugh, Nantkes, Nelson, Pirsch, White, and Wightman to serve on said committee.

The committee escorted Chief Justice Michael G. Heavican to the rostrum where he delivered the following message:

Mr. President, Mr. Speaker, members of the Legislature, fellow justices of the Supreme Court, and guests. I would like to thank all of you for inviting me to address this body again. It is a great honor for me to speak with you today.

I would also like to give a special thanks to Speaker Flood for the opportunity to showcase the judiciary -- the third, and often least understood, branch of government.

Let me begin by introducing the other justices of the Nebraska Supreme Court.

To my immediate right is Justice John Wright of Scottsbluff. To his right is Justice John Gerrard of Norfolk. To the right of Justice Gerrard is Justice Michael McCormack of Omaha.

To my immediate left is Justice William Connolly of Hastings. To Justice Connolly's left is Justice Kenneth Stephan of Lincoln. And to Justice Stephan's left is Justice Lindsey Miller-Lerman of Omaha.

I would like to take a moment to direct your attention to your copy of today's remarks and the accompanying cover photograph. That photo was taken last month during the 100th anniversary celebration of the 7-member Nebraska Supreme Court.

In 1908, the voters of this state approved a long sought-after constitutional amendment expanding the Nebraska Supreme Court from three members to seven members.

The judiciary is not made up of just the Supreme Court, however. Our state judiciary includes judges and employees serving in every county of the state.

The judicial branch also includes the Court of Appeals, 93 district courts, 93 county courts, 3 separate juvenile courts, the Workers' Compensation Court, and the statewide probation system.

Over 41,000 new cases were filed in the district courts statewide in 2008. Of those cases, 8,600 were felony criminal cases.

County courts statewide received over 426,000 new filings. That number is up from 396,000 filings in 2007.

This year in Lancaster County Court there were over 24,000 misdemeanor criminal filings, up from 18,813 last year. In 2007 there were 25,971 new civil cases filed in Douglas County Court. That number jumped to 31,307 new filings this past year. The economic condition of the state is mirrored in the activity of our trial courts.

As for our probation system, over 16,000 individuals were placed on probation during the first 11 months of this past year. Of those individuals, over 13,000 were adults. More than 3,000 juveniles were placed on probation through November 2008. Eighty-four percent of both adults and juveniles who were discharged from probation during this time period successfully completed their term of probation.

The Supreme Court's General Fund appropriations for fiscal year 2007-2008 totaled about \$68 million. But last year the judicial branch also collected \$60 million in fees and fines. That money was re-distributed to local school systems, Nebraska Legal Services, the Law Enforcement Improvement Fund, the state's general fund, and other state and local agencies.



### *"Through the Eyes of the Child"*

Many of you are familiar with the Court's "Through the Eyes of the Child" Initiative. This Initiative is a combination of programs which target abused and neglected children within the juvenile court system.

Many of these children are wards of the state and are in foster care. The Initiative is so named to remind all participants in abuse and neglect cases of the importance of the child's perspective.

All of our judges with juvenile court jurisdiction are actively involved in the Initiative. There are now 25 local teams across the state, each led by a local judge. These teams are comprised of county attorneys, parents' attorneys, guardians ad litem, caseworkers, Health and Human Services administrators, Foster Care Review Board members, Court-Appointed Special Advocates (CASA), service providers, foster parents, and other interested individuals.

These teams meet regularly to address local issues and develop solutions. On a statewide basis, the Initiative offers training, provides assistance to the teams, and continually looks at ways to systemically improve the handling of child abuse and neglect cases.

2009 will be a year of accountability for the Initiative. Processes will be evaluated and goals will be measured. We already know that some goals of the Initiative have yielded positive results.

Last year in this address I spoke to you of the process of "front loading" the system; that is, holding pre-hearing conferences in cases in which children have been removed from abusive or neglectful parents or guardians. The law requires that children be returned to their parents, if possible, before other permanent, safe placements are sought.

Most abusive or neglectful parents have substance abuse and/or mental health problems. The "Through the Eyes of the Child" Initiative's pre-hearing conferences focus on getting services to those parents.

As I noted previously, front-loading is providing positive results around the state. Foster care numbers have been reduced. We think our Initiative has been a major factor in reducing those numbers. However, finding resources to address parental addiction and mental health issues is a problem contributing to longer foster care placement.

I want to also note several procedural changes encouraged by the "Through the Eyes of the Child" Initiative.

Nebraska's youth in foster care have informed judges and lawyers that they believe children should attend their own court hearings -- which was not a common practice several years ago. Some of our teams began implementing the suggested change, and now children attend their own hearings in many parts of the state.

Similar to the lack of attendance by children at court hearings, attendance by foster parents at hearings was unusual in many courts. Two years ago the Legislature passed a new requirement for courts to provide a process for foster parents to supply the court with information regarding children in their care.

Judges have reported that the information received from foster parents is

invaluable. And foster parents appreciate the opportunity to provide input. Judges also report that more foster parents are attending hearings.

### ***Drug Courts***

I would next like to speak to you about drug courts.

The Nebraska Supreme Court now oversees 22 drug courts in 10 of our 12 Judicial Districts. This includes 9 adult drug courts, 6 family dependency drug courts, and 5 juvenile drug courts.

More than 1,300 drug-addicted offenders were served by these courts in the past year. This resulted in more drug-free babies born, more families reunited, and thousands of taxpayer dollars saved.

The goals of drug courts include stabilizing families, protecting children, and improving family safety. This benefits individuals as well as society as a whole. Drug courts are an important element in reaching those goals.

We are currently in the process of creating a state-wide case management database that will collect and report valuable statistical data. One of our primary goals in 2009 is to conduct an evaluation of our drug court programs.

Drug courts involve an intensive use of judicial resources. I applaud those judges who willingly spend the additional time required to administer these courts.

I now want to address several of the judiciary's significant challenges.

### ***Interpreters***

Last year, Nebraska's courts needed interpreters in 21 different languages involving thousands of hours of court time.

It is not unusual in Grand Island, for example, to need interpreters in languages such as Nuer, Dinka, and Nubian in court cases.

Interpreter costs totaled just over \$1 million in 2008. Those costs have risen steadily over the last decade and continue to exhaust resources budgeted for other court projects. However, courts such as the Colfax County Court are using innovative ways to provide interpreter services through technology in an effort to curb costs.

### ***Self-Represented Litigants***

Along with non-English speaking litigants, an ongoing challenge confronting our courts is the growing number of untrained, self-represented litigants in civil cases.

The growing trend of self-representation presents a challenge for judges and court staff alike. The Supreme Court implementation committee on self-represented litigation has provided forms and instructions in certain types of cases in order to assist litigants before they enter the system. Volunteer judges, lawyers, and law professors met throughout the past year to develop these forms and instructions. Those forms are now available online through the Judicial Branch Web site.

Thanks to the Nebraska State Bar Association, the Committee also

developed a successful pilot program in Lancaster County in which volunteer attorneys provide legal assistance. A similar project is slated to begin in Omaha next month.

When discussing challenges to the judiciary, I must also mention the disparity of caseloads in our court system.

I believe I have mentioned judicial districts several times in this address. Nebraska has 12 District Court Judicial Districts and 12 County Court Judicial Districts.

Caseloads are growing in some of those districts, stagnant in some of the districts, and decreasing in other districts.

Our preliminary statistics show that the caseloads per judge in some of our growing districts are roughly twice as large as the caseloads per judge in other districts.

Solving that problem requires more judges, redistricting, or both. Only the Legislature can create new judgeships or change district boundaries.

### ***The Future of the Courts***

The future of the courts is in technology. The court's technology group, in partnership with the Department of Motor Vehicles, is working with the State's Chief Information Officer to expand the capabilities of our Internet system to every courthouse in every county.

This upgrade will enable all courts to communicate effectively. Currently, not all courts have the ability to use the scanning, imaging, and E-filing services developed for their use. This joint venture will solve that problem.

Last year the judicial branch launched an online payment process for traffic tickets and other waivable offenses in courthouses throughout the state. The E-payment system offers drivers a secure online means by which to pay traffic citations, which in turn allows motorists to save time. This option also reduces the administrative load on judges and court staff.

Ninety-two of Nebraska's 93 county courts have collected fines for traffic citations using the E-payment system.

More than 12,000 E-payments had been received by November of 2008, totaling more than \$1.6 million. For every traffic citation fine paid online, court staff is saved 3-5 minutes of work. E-payments currently make up approximately 10% of traffic citations. And that number continues to grow as more drivers become aware of the option to pay online.

### ***E-Filing***

Another large-scale project undergoing expansion and development in the courts is electronic filing.

E-filing will offer every court in every county the potential of 24-hour-a-day filing. Likewise, court filings, subject to court rules protecting individual privacy, will be available for online viewing by litigants and citizens 24 hours a day. E-filing is currently available in three district courts and six county courts.

### ***Completion of the JUSTICE System***

All of the state's courts operate on the same computer system, except for the Douglas County District Court and the Douglas County Separate Juvenile Court. Those two large courts are currently being converted to our statewide computer system.

That conversion will allow the courts to have a uniform statewide E-filing system. That system will eliminate redundant data entry and greatly increase our ability to provide timely information regarding court processes to citizens, litigants, governmental agencies, and other interested parties.

Efficiency will accrue, not just to the court system, but also to the State Patrol, Department of Health and Human Services, Department of Motor Vehicles, and other state agencies.

Special thanks for the cooperation we have received from Douglas County on this project.

### ***Cameras in the Court***

All three branches of government participated in the installation of new digital cameras throughout the State Capitol building this year. For the first time, the Supreme Court and Court of Appeals have the ability to webcast court proceedings directly to the people of the state.

Appellate court proceedings can be viewed on the closed-circuit TV system on Channel 36, or from the Nebraska Educational Television Web site.

Our experience working with the professionals at NETV and the Office of the Chief Information Officer has been a positive one. We owe a great deal to our partners in the public television industry for opening this window to the courts.

Nebraska's trial courts are also experimenting with cameras in the courtroom. Last year, for the first time in Nebraska's history, a district court trial was broadcast over local news networks through the efforts of Judge Paul Korslund from Beatrice.

Here in Lancaster County, Judge Karen Flowers and Judge Steve Burns have worked in cooperation with Nebraska broadcasters to install web cameras in two Lancaster County District courtrooms. These webcasts are available to the news media and are fed directly to the University of Nebraska College of Journalism and the University of Nebraska College of Law for educational purposes.

We expect some courts in Douglas County and Sarpy County to experiment with electronic media in their courtrooms in the near future.

Another example of cameras in our courtrooms occurred last November 15. There was courtroom coverage of Nebraska's National Adoption Day celebrations in Omaha, Lincoln, Hastings, and Grand Island.

Judges in those communities opened their adoption proceedings in a targeted effort to increase awareness of the need for foster families and adoptive parents. This annual celebration is an opportunity initiated by our juvenile court judges to emphasize the need for permanent families for children in foster care and relates back to our "Through the Eyes of the

Child" Initiative.

We believe that Nebraska's courts have a great story to tell, and audio and visual coverage of our courts enhance our ability to tell that story.

### ***Conclusion***

As noted, 2008 marked 100 years of the Nebraska Supreme Court as a 7-member body. Last month the Supreme Court set aside an evening to celebrate those 100 years.

We acknowledge the role that ordinary citizens have had in supporting Nebraska's judiciary. And we acknowledge the role that Nebraska's legislators and governors have played in supporting Nebraska's judiciary.

We look forward to earning that continued support for the next 100 weeks and the next 100 years.

Thank you so much for this opportunity to speak to you today.

The committee escorted the Chief Justice from the Chamber.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Dubas asked unanimous consent to add her name as cointroducer to LB179 and LB180. No objections. So ordered.

Senator Nelson asked unanimous consent to add his name as cointroducer to LB346. No objections. So ordered.

Senators Nantkes and Nordquist asked unanimous consent to add their names as cointroducers to LB653. No objections. So ordered.

### **NOTICE OF COMMITTEE HEARING**

Natural Resources

Room 1525

Thursday, January 29, 2009 1:30 p.m.

LB379

LB482

LB483

(Signed) Chris Langemeier, Chairperson

### **VISITORS**

Visitors to the Chamber were officers of the Nebraska State Bar Association.

The Doctor of the Day was Dr. Romaine Sangha from Omaha.

**ADJOURNMENT**

At 10:20 a.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Friday, January 23, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**TWELFTH DAY - JANUARY 23, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****TWELFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, January 23, 2009

**PRAYER**

The prayer was offered by Senator Stuthman.

**ROLL CALL**

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

The roll was called and all members were present except Senators Carlson, Dubas, and Hadley who were excused; and Senators Ashford, Cornett, Friend, and Sullivan who were excused until they arrive.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB198	General Affairs (rereferred)
LB381	Urban Affairs (rereferred)
LB453	Business and Labor (rereferred)
LB470	Urban Affairs (rereferred)
LB501	Government, Military and Veterans Affairs
LB502	Natural Resources
LB503	Government, Military and Veterans Affairs
LB504	Natural Resources
LB505	Executive Board
LB506	Judiciary
LB507	Judiciary
LB508	Judiciary
LB509	Government, Military and Veterans Affairs
LB510	Judiciary
LB511	Health and Human Services
LB512	Government, Military and Veterans Affairs
LB513	Judiciary
LB514	Business and Labor
LB515	Health and Human Services

LB516	Agriculture
LB517	Judiciary
LB518	Judiciary
LB519	Health and Human Services
LB520	Revenue
LB521	Revenue
LB522	Urban Affairs
LB523	Urban Affairs
LB524	Urban Affairs
LB525	Urban Affairs
LB526	Urban Affairs
LB527	Government, Military and Veterans Affairs
LB528	Banking, Commerce and Insurance
LB529	Government, Military and Veterans Affairs
LB530	Education
LB531	Revenue
LB532	Government, Military and Veterans Affairs
LB533	Government, Military and Veterans Affairs
LB534	Education
LB535	Natural Resources
LB536	Revenue
LB537	Business and Labor
LB538	Revenue
LB539	Revenue
LB540	Health and Human Services
LB541	Health and Human Services
LB542	Health and Human Services
LB543	Transportation and Telecommunications
LB544	Government, Military and Veterans Affairs
LB545	Education
LB546	Education
LB547	Education
LB548	Education
LB549	Education
LB550	Government, Military and Veterans Affairs
LB551	Banking, Commerce and Insurance
LB552	Business and Labor
LB553	Revenue
LB554	Business and Labor
LB555	Revenue
LB556	Business and Labor
LB557	Business and Labor
LB558	Education
LB559	Revenue
LB560	Transportation and Telecommunications
LB561	Natural Resources
LB562	Urban Affairs
LB563	Business and Labor
LB564	Business and Labor



LB565	Natural Resources
LB566	Revenue
LB567	Natural Resources
LB568	Natural Resources
LB569	Appropriations
LB570	Revenue
LB571	Banking, Commerce and Insurance
LB572	Appropriations
LB573	Business and Labor
LB574	Government, Military and Veterans Affairs
LB575	Government, Military and Veterans Affairs
LB576	General Affairs
LB577	Natural Resources
LB578	Education
LB579	Business and Labor
LB580	Revenue
LB581	Agriculture
LB582	Natural Resources
LB583	Revenue
LB584	Agriculture
LB585	Agriculture
LB586	Health and Human Services
LB587	Revenue
LB588	Agriculture
LB589	Judiciary
LB590	Health and Human Services
LB591	Natural Resources
LB592	Health and Human Services
LB593	Agriculture
LB594	Judiciary
LB595	Judiciary
LB596	Judiciary
LB597	Education
LB598	Judiciary
LB599	Health and Human Services
LB600	General Affairs
LB601	Health and Human Services
LB602	Agriculture
LB603	Health and Human Services
LB604	Health and Human Services
LB605	General Affairs
LB606	Banking, Commerce and Insurance
LB607	Education
LB608	Appropriations
LB609	Health and Human Services
LB610	Health and Human Services
LB611	Health and Human Services
LB612	Nebraska Retirement Systems
LB613	Revenue

LB614	Health and Human Services
LB615	Revenue
LB616	Revenue
LB617	Revenue
LB618	Revenue
LB619	Health and Human Services
LB620	Executive Board
LB621	Health and Human Services
LB622	Business and Labor
LB623	Government, Military and Veterans Affairs
LB624	Natural Resources
LB625	Judiciary
LB626	Government, Military and Veterans Affairs
LB627	Business and Labor
LB628	Business and Labor
LB629	Business and Labor
LB630	Business and Labor
LB631	Business and Labor
LB632	Revenue
LB633	Urban Affairs
LB634	Revenue
LB635	Government, Military and Veterans Affairs
LB636	Appropriations
LB637	Banking, Commerce and Insurance
LB638	Government, Military and Veterans Affairs
LB639	Government, Military and Veterans Affairs
LB640	Revenue
LB641	Revenue
LB642	Transportation and Telecommunications
LB643	Natural Resources
LB644	Natural Resources
LB645	Government, Military and Veterans Affairs
LB646	Agriculture
LB647	Urban Affairs
LB648	Appropriations
LB649	Transportation and Telecommunications
LB650	Transportation and Telecommunications
LB651	Natural Resources
LB652	Transportation and Telecommunications
LB653	Executive Board
LB654	Education
LB655	Education
LB656	Health and Human Services
LB657	Banking, Commerce and Insurance
LB658	Urban Affairs
LB659	Judiciary
LB660	Government, Military and Veterans Affairs
LB661	Health and Human Services
LB662	Government, Military and Veterans Affairs

LB663 Natural Resources  
LB664 General Affairs  
LB665 Education  
LB666 Natural Resources  
LB667 Agriculture  
LB668 Judiciary  
LB669 Judiciary  
LB670 Revenue  
LB671 Judiciary  
LB672 Judiciary  
LB673 Appropriations  
LB674 Government, Military and Veterans Affairs  
LB675 Judiciary  
LB676 Judiciary  
LB677 Agriculture  
LB678 Government, Military and Veterans Affairs  
LB679 Health and Human Services  
LR10 Business and Labor

(Signed) John Wightman, Chairperson  
Executive Board

**NOTICE OF COMMITTEE HEARINGS**

Revenue

Room 1524

Friday, January 30, 2009 1:30 p.m.

LB77  
LB159  
LB405

(Signed) Abbie Cornett, Chairperson

Business and Labor

Room 2102

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

LB554  
LB627  
LB573  
LB579

(Signed) Steve Lathrop, Chairperson

## Transportation and Telecommunications

Room 1113

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

LB129  
 LB202  
 LB175  
 LB416

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

LB10  
 LB110  
 LB211  
 LB225  
 LB329  
 LB398  
 LB642

(Signed) Deb Fischer, Chairperson

General Affairs

Room 1510

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

LB137  
 LB232  
 LB262

(Signed) Russ Karpisek, Chairperson

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of January 22, 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

Bargen, David J.  
 Papio Valley Preservation Association  
 Brashear, Kermit A.  
 Sarpy County Board of Commissioners  
 Downey, Robert A.

Capital Humane Society  
 Kutak Rock LLP  
 Recycle Rewards, Inc.  
 Mauk, Daniel S.  
 Norfolk Area Chamber of Commerce  
 O'Hara, Lindsay & Associates, Inc.  
 Humane Society of the United States, The  
 Professional Employer Organizations, National Association of  
 Obst, Robert E.  
 Qwest Communications  
 Pieper, James S.  
 Sarpy County Board of Commissioners  
 Shepherd, Robert L.  
 UST Public Affairs, Inc.  
 Zeeb, Chris M.  
 Firearms Owners Association, Nebraska (NFOA)

### REPORTS

The following reports were received by the Legislature:

#### **Motor Vehicles, Department of**

Annual Report for the Year 2008: Number of Operator's Licenses  
 Suspended Under the License Suspension Act

#### **Roads, Nebraska Department of**

State Highway Commission Quarterly Report

#### **Rural Development Commission**

Annual Report

### MOTION - Withdraw LB18

Senator Christensen renewed his motion, MO4, found on page 263, to withdraw LB18.

The Christensen motion to withdraw the bill prevailed with 39 ayes, 0 nays, 3 present and not voting, and 7 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 1.** Title read. Considered.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 1 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 2.** Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 2 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 3.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 61.** Title read. Considered.

Advanced to Enrollment and Review Initial with 40 ayes, 1 nay, 3 present and not voting, and 5 excused and not voting.

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 49A.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 49, One Hundred First Legislature, First Session, 2009.

### **NOTICE OF COMMITTEE HEARING**

Natural Resources

Room 1525

Friday, January 30, 2009 1:30 p.m.

LB209

LB246

LB490

(Signed) Chris Langemeier, Chairperson

### **COMMITTEE REPORTS**

Natural Resources

**LEGISLATIVE BILL 42.** Placed on General File.

**LEGISLATIVE BILL 43.** Placed on General File.

**LEGISLATIVE BILL 179.** Placed on General File.

**LEGISLATIVE BILL 180.** Placed on General File.

(Signed) Chris Langemeier, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 11.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 29.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 30.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 49.** Title read. Considered.

Senator Stuthman offered the following amendment:

AM36

1. On page 3, line 14, strike "2011" and insert "2013".

The Stuthman amendment lost with 4 ayes, 32 nays, 7 present and not voting, and 6 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.

**LEGISLATIVE BILL 50.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 62.** Title read. Considered.

Committee AM15, found on page 226, was adopted with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 31.** Title read. Considered.

Committee AM17, found on page 258, was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

**COMMITTEE REPORTS**

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 154.** Placed on General File with amendment.  
AM25

- 1 1. Strike original sections 10, 18, 20 to 26, and 30 and  
2 insert the following new section:  
3 Section 1. Section 12-1301, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 12-1301 (1) The Director of Veterans' Affairs may  
6 establish and operate a state veteran cemetery system consisting  
7 of a facility in Box Butte County, a facility in Sarpy County,  
8 and the Nebraska Veterans' Memorial Cemetery in Hall County. The  
9 director may seek and expend private, state, and federal funds for  
10 the establishment, construction, maintenance, administration, and  
11 operation of the cemetery system as provided in this section. Any  
12 gift, bequest, or devise of real property for the cemetery system  
13 shall be subject to the approval requirements of section 81-1108.33  
14 notwithstanding the value of the real property. All funds received  
15 for the construction of the cemetery system shall be remitted to  
16 the State Treasurer for credit to the Veteran Cemetery Construction  
17 Fund. Any funds remaining in the Veteran Cemetery Construction Fund  
18 following the completion of construction of the three facilities  
19 comprising the state veteran cemetery system shall upon such  
20 completion be transferred to the Nebraska Veteran Cemetery System  
21 Endowment Fund, and the Veteran Cemetery Construction Fund shall  
22 thereafter terminate.
- 23 (2)(a) A trust fund to be known as the Nebraska Veteran  
1 Cemetery System Endowment Fund is hereby created. The fund shall  
2 consist of:  
3 (i) Gifts, bequests, grants, or contributions from  
4 private or public sources designated for the maintenance,  
5 administration, or operation of the state veteran cemetery system;  
6 (ii) Any funds transferred from the Veteran Cemetery  
7 Construction Fund following the completion of construction of the  
8 three facilities comprising the state veteran cemetery system; and  
9 (iii) Following the termination of the Veteran Cemetery  
10 Construction Fund, any funds received by the state from any source  
11 for the state veteran cemetery system.
- 12 (b) No revenue from the General Fund shall be remitted  
13 to the Nebraska Veteran Cemetery System Endowment Fund. The  
14 Legislature shall not appropriate or transfer money from the  
15 Nebraska Veteran Cemetery System Endowment Fund for any purpose  
16 other than as provided in this section. Any money in the Nebraska  
17 Veteran Cemetery System Endowment Fund available for investment  
18 shall be invested by the state investment officer pursuant to  
19 the Nebraska Capital Expansion Act and the Nebraska State Funds  
20 Investment Act. No portion of the principal of the Nebraska Veteran



21 Cemetery System Endowment Fund shall be expended for any purpose  
22 except investment pursuant to this subdivision. All investment  
23 earnings from the Nebraska Veteran Cemetery System Endowment Fund  
24 shall be credited on a quarterly basis to the Nebraska Veteran  
25 Cemetery System Operation Fund.

26 (3) There is hereby created the Nebraska Veteran Cemetery  
27 System Operation Fund. Money in the fund shall be used for the  
1 operation, administration, and maintenance of the state veteran  
2 cemetery system. Any money in the fund available for investment  
3 shall be invested by the state investment officer pursuant to  
4 the Nebraska Capital Expansion Act and the Nebraska State Funds  
5 Investment Act.

6 (4) The director may make formal application to the  
7 federal government regarding federal financial assistance for the  
8 construction of any of the facilities comprising the state veteran  
9 cemetery system which is located in a county with a population of  
10 less than one hundred thousand persons when he or she determines  
11 that the requirements for such assistance have been met.

12 (5) The director may make formal application to  
13 the federal government regarding financial assistance for the  
14 construction of any facility comprising a portion of the state  
15 veteran cemetery system located in a county with a population of  
16 more than one hundred thousand persons when sufficient funds have  
17 been remitted to the Nebraska Veteran Cemetery System Endowment  
18 Fund such that (a) the projected annual earnings from such fund  
19 available for transfer to the Nebraska Veteran Cemetery System  
20 Operation Fund plus (b) the projected annual value of formal  
21 agreements that have been entered into between the state and  
22 any political subdivisions or private entities to subsidize or  
23 undertake the operation, administration, or maintenance of any of  
24 the facilities within the state veteran cemetery system, has a  
25 value that is sufficient to fund the operation, administration, and  
26 maintenance of any cemetery created pursuant to this subsection.

27 (6) The director may expend such funds as may be  
1 available for any of the purposes authorized in this section.

2 (7) The director, with the approval of the Governor, may  
3 enter into agreements for cemetery construction, administration,  
4 operation, or maintenance with qualified persons, political  
5 subdivisions, or business entities. The director shall provide  
6 lots in the cemetery system for the interment of deceased veterans  
7 as defined by the National Cemetery Administration of the United  
8 States Department of Veterans Affairs. The director shall provide  
9 lots for the interment of those veterans' spouses, minor children,  
10 and unmarried adult children who were physically or mentally  
11 disabled and incapable of self-support. Section 12-501 does not  
12 apply to the state veteran cemetery system.

13 (8) The Veteran Cemetery Construction Fund is created.  
14 Any money in the fund available for investment shall be invested  
15 by the state investment officer pursuant to the Nebraska Capital

- 16 Expansion Act and the Nebraska State Funds Investment Act.  
 17 ~~(9) The Nebraska Veterans Cemetery Advisory Board is~~  
 18 ~~created. The board shall consist of seven members. One member~~  
 19 ~~shall be the director who shall serve as the chairperson of the~~  
 20 ~~board. Three members of the board shall be veterans appointed by~~  
 21 ~~the Governor from a list of candidates forwarded by the county~~  
 22 ~~board of each county within which a state veteran cemetery system~~  
 23 ~~facility is located. Three members with experience in cemetery~~  
 24 ~~administration or operation, one from each congressional district,~~  
 25 ~~shall be appointed by the Governor. The members of the board shall~~  
 26 ~~receive no compensation but shall be reimbursed for their actual~~  
 27 ~~and necessary expenses in the discharge of their duties as provided~~  
 1 ~~in sections 81-1174 to 81-1177. The board shall meet from time~~  
 2 ~~to time as requested by the director to review the status of the~~  
 3 ~~state veteran cemetery system, to recommend actions to facilitate~~  
 4 ~~the development of the system, to assist in fundraising from public~~  
 5 ~~or private sources for the construction, operation, administration,~~  
 6 ~~and maintenance of the system, and to advise the director on~~  
 7 ~~the most appropriate actions for the state to undertake in the~~  
 8 ~~development of the system and the priorities for action.~~  
 9 ~~(10)(9)~~ The director may adopt and promulgate rules and  
 10 regulations to carry out this section. The rules and regulations  
 11 shall include requirements for proof of residency, cost of burial  
 12 if any, and standards for cemeteries, including decorations and  
 13 headstones.  
 14 2. On page 51, line 17, after "sections" insert  
 15 "12-1301,".  
 16 3. On page 52, line 4, strike "66-1701,"; and in line 9  
 17 strike "85-1539, 85-1540,".  
 18 4. Renumber the remaining sections accordingly.

(Signed) Bill Avery, Chairperson

Health and Human Services

**LEGISLATIVE BILL 91.** Placed on General File.

**LEGISLATIVE BILL 196.** Placed on General File.

(Signed) Tim Gay, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 11.** Introduced by Lathrop, 12; Adams, 24; Cornett, 45; Gay, 14; Harms, 48; Stuthman, 22; Wallman, 30.

WHEREAS, the One Hundredth Legislature, Second Session, 2008, adopted Legislative Resolution 283 to establish the Developmental Disabilities Special Investigative Committee of the Legislature. The committee was authorized to study the quality of care and related staffing

issues at the Beatrice State Developmental Center, investigate the placement and quality of care statewide for the developmentally disabled in Nebraska, and determine how and why such services to the developmentally disabled were permitted to decline to the current level as documented by the United States Department of Justice report; and

WHEREAS, the committee issued a report of its findings and recommendations on December 15, 2008. Among other findings the committee concluded that the state is likely to lose its federal medicaid funding for the Beatrice State Developmental Center, that various improvements need to be made to the community-based programs, and that the developmental disability waiting list includes 1,865 families who, absent some change in direction by the State of Nebraska, will remain on the waiting list indefinitely. The committee also made various recommendations for improvement of services to the developmentally disabled in the State of Nebraska. Those recommendations related not only to improvements at the Beatrice State Developmental Center but community-based programs as well as the provision of services to the developmentally disabled individuals who would otherwise sit indefinitely on the state's waiting lists. To ensure the recommendations of the committee are implemented, the committee recommended that the Legislature continue oversight of these issues: "The LR 283 Committee should be reauthorized at the beginning of the next legislative session. This investigative committee should work with the Health and Human Services Committee to ensure that the terms of the DOJ Consent Decree as well as the recommendations herein are implemented in a timely fashion."

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

1. That the Legislature hereby calls for the Executive Board of the Legislative Council to meet forthwith and reappoint the special committee of the Legislature known as the Developmental Disabilities Special Investigative Committee of the Legislature. The committee shall consist of the same seven members of the Legislature appointed by the executive board as follows: Senator Greg Adams, Senator Abbie Cornett, Senator Tim Gay, Senator John Harms, Senator Steve Lathrop, Senator Arnie Stuthman, and Senator Norm Wallman. The chairperson shall be Senator Steve Lathrop. The vice-chairperson shall be Senator John Harms. The executive board is hereby authorized to provide the committee with a legal counsel, committee clerk, and other staff as required by the committee from existing legislative staff. The executive board is also authorized to hire outside legal counsel, consultants, and investigators as required by the committee. The committee shall be an investigative committee and is hereby authorized to hold hearings and issue subpoenas as is deemed necessary by the committee.

2. The Developmental Disabilities Special Investigative Committee of the Legislature is hereby authorized to continue to study the quality of care and related staffing issues at the Beatrice State Developmental Center. The committee shall also continue to investigate the placement and quality of care statewide for the developmentally disabled in Nebraska, including the determination of whether adequate funding and capacity exists for persons

to be served in the community, options for service provisions for current residents of the Beatrice State Developmental Center at other twenty-four-hour care facilities in the state, and the staffing practices at twenty-four-hour care facilities and the relationship of those practices to the quality of care provided to the developmentally disabled. The committee shall also provide oversight to ensure that the terms of the United States Department of Justice Consent Decree and the recommendations from the Report of the Developmental Disabilities Special Investigative Committee dated December 15, 2008, are implemented in a timely fashion.

3. The committee shall issue a report with its findings as the circumstances warrant.

Laid over.

### **SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR11 was referred to the Reference Committee.

### **COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 1.** Placed on Select File.

**LEGISLATIVE BILL 2.** Placed on Select File.

**LEGISLATIVE BILL 3.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

### **MOTION - Print in Journal**

Senator Pirsch filed the following motion to LB672:

MO5

Withdraw bill.

### **NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Friday, January 30, 2009 1:30 p.m.

LB156

LB216

LB79

(Signed) Brad Ashford, Chairperson

**COMMITTEE REPORTS**

## Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Rex Fisher - Game and Parks Commission

Aye: 6 Senators Cook, Fischer, Haar, Langemeier, McCoy, Schilz. Nay: 0.  
Absent: 2 Senators Carlson, Dubas.

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Brian Dunnigan - Director, Department of Natural Resources

Aye: 6 Senators Cook, Fischer, Haar, Langemeier, McCoy, Schilz. Nay: 0.  
Absent: 2 Senators Carlson, Dubas.

(Signed) Chris Langemeier, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Janssen asked unanimous consent to add his name as cointroducer to LB36 and LB455. No objections. So ordered.

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB91. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB122. No objections. So ordered.

Senator Stuthman asked unanimous consent to add his name as cointroducer to LB300. No objections. So ordered.

Senator Nantkes asked unanimous consent to add her name as cointroducer to LB306 and LB307. No objections. So ordered.

Senator Campbell asked unanimous consent to add her name as cointroducer to LB307. No objections. So ordered.

Senators Christensen, Council, Hansen, Harms, Janssen, Lathrop, McGill, Nelson, Schilz, and Stuthman asked unanimous consent to add their names as cointroducers to LB405. No objections. So ordered.

Senator Lathrop asked unanimous consent to add his name as cointroducer to LB579. No objections. So ordered.

Senator Dierks asked unanimous consent to add his name as cointroducer to LB605. No objections. So ordered.

Senators Mello and Nordquist asked unanimous consent to add their names as cointroducers to LB676. No objections. So ordered.

### **WITHDRAW - Cointroducer**

Senator Fulton withdrew his name as cointroducer to LB63.

### **VISITORS**

Visitors to the Chamber were University of Nebraska Dental Hygiene Students from Lincoln; Senator McCoy's parents, John and Tracy McCoy, from Omaha; and members and student members of the Nebraska Dental Hygienists' Association from District 32.

The Doctor of the Day was Dr. Alex Dworak from Omaha.

### **ADJOURNMENT**

At 10:56 a.m., on a motion by Senator Christensen, the Legislature adjourned until 10:00 a.m., Monday, January 26, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRTEENTH DAY - JANUARY 26, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****THIRTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, January 26, 2009

**PRAYER**

The prayer was offered by Pastor Rick Fine, Bible Fellowship Church, Falls City.

**ROLL CALL**

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

The roll was called and all members were present except Senators Council and Nelson who were excused; and Senators Ashford, Christensen, Cornett, Friend, Haar, and Heidemann who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twelfth day was approved.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB464	Education (rereferred)
LB673	Education (rereferred)
LR11	Executive Board

(Signed) John Wightman, Chairperson  
Executive Board

**COMMITTEE REPORTS**  
Enrollment and Review

**LEGISLATIVE BILL 61.** Placed on Select File.  
**LEGISLATIVE BILL 11.** Placed on Select File.  
**LEGISLATIVE BILL 29.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**  
Agriculture

**LEGISLATIVE BILL 99.** Placed on General File.

**LEGISLATIVE BILL 100.** Placed on General File.

**LEGISLATIVE BILL 101.** Placed on General File.

(Signed) Tom Carlson, Chairperson

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 24.** Placed on General File.

(Signed) Bill Avery, Chairperson

**NOTICE OF COMMITTEE HEARINGS**  
Banking, Commerce and Insurance

Room 1507

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

LB297

LB177

LB327

LB377

(Signed) Rich Pahls, Chairperson

Education

Room 1525

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

LB479

LB530

LB464

LB558

LB665

LB547

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

LB228

LB64



LB163  
LB281  
LB393

(Signed) Greg Adams, Chairperson

## RESOLUTION

### LEGISLATIVE RESOLUTION 12. Introduced by Gay, 14.

WHEREAS, Ian Burns 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 achievement 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: Tenderfoot, Second Class, First Class, Star, Life, and Eagle. Throughout his Scouting experience, Ian Burns has learned, been tested on, and has 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.

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

1. That the Legislature congratulates Ian Burns on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Ian Burns.

Laid over.

## EXECUTIVE BOARD ANNOUNCEMENT

The Executive Board announced the following committee assignments:

### The Community Corrections Council

Senator Brenda Council

Senator Pete Pirsch

### The Interstate Compact for Adult Supervision

Senator Mark Christensen

### Streamlined Sales and Use Tax System

Senator Robert Giese

Senator Rich Pahls

Homeland Security Policy Group

Senator Scott Price

Senator Heath Mello

**MOTION - Withdraw LB672**

Senator Pirsch renewed his motion, MO5, found on page 284, to withdraw LB672.

The Pirsch motion to withdraw the bill prevailed with 40 ayes, 0 nays, 1 present and not voting, and 8 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 49A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 1.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 2.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 3.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 61.** Senator Adams offered the following amendment:

AM41

- 1 1. On page 2, strike beginning with "February" in line 24
- 2 through "year" in line 25, show as stricken, and insert "April 1,
- 3 2009, and February 1 of each year thereafter".

The Adams amendment was adopted with 41 ayes, 0 nays, 2 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 179.** Title read. Considered.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 1 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 180.** Title read. Considered.

Senator Lautenbaugh offered the following amendment:

FA2

On page 6, line 15 delete after "counties" to line 16 through "population".

Senator Lautenbaugh moved for a call of the house. The motion prevailed with 36 ayes, 1 nay, and 12 not voting.

Senator Lautenbaugh requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Ashford	Cornett	Karpisek	Mello	Pankonin
Avery	Friend	Lathrop	Nantkes	Pirsch
Coash	Fulton	Lautenbaugh	Nordquist	Price
Cook	Howard	McGill	Pahls	White

Voting in the negative, 24:

Campbell	Fischer	Hadley	Louden	Sullivan
Carlson	Flood	Hansen	McCoy	Utter
Christensen	Gay	Harms	Rogert	Wallman
Dierks	Giese	Janssen	Schilz	Wightman
Dubas	Gloor	Langemeier	Stuthman	

Excused and not voting, 5:

Adams	Council	Haar	Heidemann	Nelson
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The Lautenbaugh amendment lost with 20 ayes, 24 nays, and 5 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review Initial with 41 ayes, 2 nays, 1 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 154.** Title read. Considered.

Committee AM25, found on page 280, was adopted with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

Senator Harms offered the following amendment:

AM39

- 1 1. On page 51, line 25, strike beginning with "3-801"
- 2 through "3-806,".

**SENATOR ROBERT PRESIDING**

The Harms amendment was adopted with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 91.** Title read. Considered.

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

**LEGISLATIVE BILL 196.** Title read. Considered.

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

**COMMITTEE REPORTS**

## Urban Affairs

**LEGISLATIVE BILL 85.** Placed on General File.

(Signed) Mike Friend, Chairperson

## Revenue

**LEGISLATIVE BILL 44.** Placed on General File.

**LEGISLATIVE BILL 45.** Placed on General File.

**LEGISLATIVE BILL 120.** Placed on General File.

**LEGISLATIVE BILL 251.** Placed on General File.

**LEGISLATIVE BILL 166.** Placed on General File with amendment.

AM16

- 1 1. Strike original section 17.
- 2 2. On page 5, strike beginning with "and" in line 15
- 3 through line 17, show the old matter as stricken, and insert an
- 4 underscored period.
- 5 3. On page 36, line 3, strike "77-1704.01,".
- 6 4. Renumber the remaining sections accordingly.

(Signed) Abbie Cornett, Chairperson

## Judiciary

**LEGISLATIVE BILL 41.** Placed on General File.

**LEGISLATIVE BILL 123.** Placed on General File.

(Signed) Brad Ashford, Chairperson

**COMMITTEE REPORTS**

Enrollment and Review

- LEGISLATIVE BILL 1.** Placed on Final Reading.  
**LEGISLATIVE BILL 2.** Placed on Final Reading.  
**LEGISLATIVE BILL 3.** Placed on Final Reading.  
**LEGISLATIVE BILL 61.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 30.** Placed on Select File.**LEGISLATIVE BILL 49.** Placed on Select File with amendment.  
ER8002

- 1 1. On page 4, line 17; and page 5, line 5, after  
 2 "implementation" insert "date".

**LEGISLATIVE BILL 50.** Placed on Select File.**LEGISLATIVE BILL 62.** Placed on Select File with amendment.  
ER8003

- 1 1. On page 1, line 5, after the semicolon insert "to  
 2 harmonize provisions";  
 3 2. On page 8, line 19, after "79-2110" insert an  
 4 underscored comma.

(Signed) Jeremy Nordquist, Chairperson

**RESOLUTION****LEGISLATIVE RESOLUTION 13.** Introduced by Pahls, 31.

WHEREAS, Dr. Don Stroh served as Superintendent of Millard Public Schools from 1955 to 1989; and

WHEREAS, Millard, Nebraska was a small town with a population of about 400 located west of Omaha in the 1950's; and

WHEREAS, Dr. Stroh led the Millard Public Schools through an explosive growth period, numerous successful bond issues, and the addition of new school buildings almost every year under his leadership; and

WHEREAS, under Dr. Stroh's leadership Millard Public Schools became one of the largest school districts in the state located in a growing metropolitan area; and

WHEREAS, Millard Public Schools is noted for its devotion to excellence in education; and

WHEREAS, Dr. Stroh has been and continues to be a leader in the Millard community, serving on community boards and committees and actively promoting and improving the Good Life in Millard; and

WHEREAS, Dr. Stroh is celebrating his birthday on January 29.

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

1. That the Legislature extends its congratulations to Dr. Stroh.
2. That a copy of this resolution be sent to Dr. Stroh.

Laid over.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Giese asked unanimous consent to add his name as cointroducer to LB200. No objections. So ordered.

Senators Howard and Rogert asked unanimous consent to add their names as cointroducers to LB206. No objections. So ordered.

Senator Sullivan asked unanimous consent to add her name as cointroducer to LB405. No objections. So ordered.

Senators Carlson, Christensen, Dierks, Flood, Hadley, Hansen, Lautenbaugh, McCoy, Pankonin, Rogert, Schilz, Sullivan, Utter, and Wightman asked unanimous consent to add their names as cointroducers to LB438. No objections. So ordered.

Senator Stuthman asked unanimous consent to add his name as cointroducer to LB449. No objections. So ordered.

Senator Pankonin asked unanimous consent to add his name as cointroducer to LB489. No objections. So ordered.

Senator Ashford asked unanimous consent to add his name as cointroducer to LB656. No objections. So ordered.

Senators Carlson, Christensen, Dierks, Hadley, Hansen, Lautenbaugh, McCoy, Pankonin, Price, Rogert, Schilz, Sullivan, Utter, and Wightman asked unanimous consent to add their names as cointroducers to LB666. No objections. So ordered.

Senator Pankonin asked unanimous consent to add his name as cointroducer to LB671. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were members of the Governor's Youth Advisory Council from across the state.

The Doctor of the Day was Dr. Carol LaCroix from Omaha.

**ADJOURNMENT**

At 11:47 a.m., on a motion by Senator Sullivan, the Legislature adjourned until 9:00 a.m., Tuesday, January 27, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature





**FOURTEENTH DAY - JANUARY 27, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FOURTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, January 27, 2009

**PRAYER**

The prayer was offered by Pastor Nathan Reckling, Countryside Alliance Church, Princeton.

**ROLL CALL**

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

The roll was called and all members were present except Senator Nelson who was excused; and Senators Ashford, Gay, and Sullivan who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirteenth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 31.** Placed on Select File with amendment.  
ER8004

- 1 1. On page 1, line 7, after "to" insert "define and".
- 2 2. On page 10, line 11; and page 24, line 25, strike
- 3 "CPA" and insert "C.P.A.".

**LEGISLATIVE BILL 179.** Placed on Select File.

**LEGISLATIVE BILL 49A.** Placed on Select File.

**LEGISLATIVE BILL 180.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

Banking, Commerce and Insurance

**LEGISLATIVE BILL 75.** Placed on General File.

**LEGISLATIVE BILL 80.** Placed on General File.

**LEGISLATIVE BILL 192.** Placed on General File.

(Signed) Rich Pahls, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

Banking, Commerce and Insurance

Room 1507

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

- LB152
- LB157
- LB432
- LB528

(Signed) Rich Pahls, Chairperson

Urban Affairs

Room 1510

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

- LB128
- LB412
- LB441
- LB522
- LB523

(Signed) Mike Friend, Chairperson

Agriculture

Room 1524

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

- LB677
- LB241
- LB588
- LB389

(Signed) Tom Carlson, Chairperson

**MOTIONS - Approve Appointments**

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 285:

Department of Natural Resources  
Brian Dunnigan, Director

Voting in the affirmative, 38:

Adams	Council	Haar	Lautenbaugh	Pirsch
Avery	Dierks	Hadley	Louden	Price
Campbell	Fischer	Hansen	McCoy	Rogert
Carlson	Flood	Howard	Mello	Schilz
Christensen	Friend	Janssen	Nantkes	Utter
Coash	Fulton	Karpisek	Nordquist	Wightman
Cook	Giese	Langemeier	Pahls	
Cornett	Gloor	Lathrop	Pankonin	

Voting in the negative, 0.

Present and not voting, 7:

Dubas	Heidemann	Stuthman	White
Harms	McGill	Wallman	

Excused and not voting, 4:

Ashford	Gay	Nelson	Sullivan
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The appointment was confirmed with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 285:

Game and Parks Commission  
Rex Fisher

Voting in the affirmative, 38:

Campbell	Fischer	Hansen	McCoy	Price
Carlson	Flood	Howard	McGill	Rogert
Christensen	Friend	Janssen	Mello	Schilz
Coash	Fulton	Karpisek	Nantkes	Sullivan
Cook	Giese	Langemeier	Nordquist	Utter
Cornett	Gloor	Lathrop	Pahls	Wightman
Council	Haar	Lautenbaugh	Pankonin	
Dierks	Hadley	Louden	Pirsch	

Voting in the negative, 0.

Present and not voting, 8:

Adams	Dubas	Heidemann	Wallman
Avery	Harms	Stuthman	White

Excused and not voting, 3:

Ashford	Gay	Nelson
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The appointment was confirmed with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 99.** Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 100.** Title read. Considered.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 101.** Title read. Considered.

Advanced to Enrollment and Review Initial with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 24.** Title read. Considered.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 85.** Title read. Considered.

**SENATOR LANGEMEIER PRESIDING**

**SENATOR ROBERT PRESIDING**

Advanced to Enrollment and Review Initial with 36 ayes, 2 nays, 10 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 44.** Title read. Considered.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 45.** Title read. Considered.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 120.** Title read. Considered.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 251.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 166.** Title read. Considered.

Committee AM16, found on page 292, was adopted with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 41.** Title read. Considered.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 123.** Title read. Considered.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 154.** Placed on Select File with amendment.  
ER8005

1 1. Strike beginning with "sections" on page 1, line 1,  
2 through page 3, line 9, and insert "sections 12-1301, 29-3922,  
3 29-3927, 38-2881, 38-2886, 38-2888, 42-917, 44-5230, 44-5255,  
4 44-5263, 66-1337, 66-1518, 81-15,124.01, 85-1655, 86-401, 86-593,  
5 86-597, and 86-598, Reissue Revised Statutes of Nebraska, and  
6 sections 66-1519, 71-702, 71-801, and 71-810, Revised Statutes  
7 Cumulative Supplement, 2008; to eliminate obsolete provisions;  
8 to repeal the Small Business Development Authority Act, the  
9 Nebraska Transit and Rail Advisory Council Act, the Behavioral  
10 Health Oversight Commission, the Broadband Services Task Force,  
11 the Donor Registry of Nebraska Advisory Board, the Health Benefit  
12 Plan Committee, the Indigent Defense Standards Advisory Council,  
13 the Nebraska Commission on the Status of Women, the Nebraska  
14 Lewis and Clark Bicentennial Commission, the Nebraska Veterans  
15 Cemetery Advisory Board, the Public Health Clinic Formulary  
16 Advisory Committee, the Regional Interoperability Advisory Board,  
17 the Special Education Services Task Force, the Tax Policy Reform  
18 Commission, the Teen Tobacco Education and Prevention Project  
19 Committee, the Vote Nebraska Initiative, an ethanol advisory  
20 committee, a postsecondary education advisory committee, a  
21 technical advisory committee for petroleum products, a working  
22 group studying sex offender treatment, and certain funds; to  
23 harmonize provisions; to repeal the original sections; and to  
1 outright repeal sections 29-3932, 32-1701, 44-5236, 44-5262,  
2 58-301, 58-302, 58-303, 58-304, 58-305, 58-306, 58-307, 58-308,  
3 58-309, 58-310, 58-311, 58-312, 58-313, 58-314, 58-315, 58-316,  
4 58-317, 58-318, 58-319, 58-320, 58-321, 58-322, 58-323, 58-324,  
5 58-325, 71-5715, 74-1501, 74-1502, 74-1503, 74-1504, 74-1505,  
6 74-1506, 74-1507, 74-1508, 74-1509, 74-1510, 74-1511, 74-1512,  
7 74-1513, 74-1514, 77-2704.19, 79-11,151, 79-11,152, 79-11,153,  
8 79-11,154, 81-8,255, 81-8,256, 81-8,257, 81-8,258, 81-8,259,  
9 81-8,260, 81-8,260.01, 81-8,260.02, 81-8,307, 81-8,308, 81-15,189,  
10 81-15,190, 86-418.01, and 86-599, Reissue Revised Statutes of  
11 Nebraska, and sections 71-818, 71-1227, 71-1228, 71-4823, 77-6001,  
12 77-6002, 77-6003, 77-6004, 77-6005, 77-6006, and 77-6007, Revised  
13 Statutes Cumulative Supplement, 2008."

14 2. On page 51, line 12, strike beginning with the first  
15 "the" through the comma; in line 18 strike "48-621,."; in line 19  
16 strike "81-1201.21,."; strike beginning with "85-1501" in line 19  
17 through "85-1535," in line 20; and in line 21 strike "86-594,".

**LEGISLATIVE BILL 91.** Placed on Select File.

**LEGISLATIVE BILL 196.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORTS

Natural Resources

**LEGISLATIVE BILL 105.** Placed on General File with amendment.  
AM6

- 1 1. On page 35, line 24, reinstate the stricken "leases";
- 2 and in line 25 strike "has an interest in".
- 3 2. On page 36, strike beginning with "as" in line
- 4 3 through "acres" in line 5 and insert "or has a leasehold
- 5 interest and an ownership interest in farm or ranch land used for
- 6 agricultural purposes which when added together".

(Signed) Chris Langemeier, Chairperson

Business and Labor

**LEGISLATIVE BILL 158.** Placed on General File with amendment.  
AM48

- 1 1. On page 2, line 17, after "Patrol" insert "or
- 2 agencies accredited through the Commission on Accreditation for
- 3 Law Enforcement Agencies".
- 4 2. On page 3, strike beginning with "which" in line 1
- 5 through "knowledge" in line 2.
- 6 3. On page 5, line 1, after "officer" insert "who is the
- 7 subject of an investigation".

(Signed) Steve Lathrop, Chairperson

### NOTICE OF COMMITTEE HEARINGS

Revenue

Room 1524

Wednesday, February 4, 2009 1:30 p.m.

LB248  
LB69  
LB70  
LB303  
LB538

Thursday, February 5, 2009 1:30 p.m.

LB117  
LB376  
LB309  
LB282

Friday, February 6, 2009 1:30 p.m.

LB335  
LB95  
LB162  
LB520

(Signed) Abbie Cornett, Chairperson

Health and Human Services

Room 1510

Thursday, February 5, 2009 1:30 p.m.

LB275  
LB346  
LB519  
LB540  
LB619

Friday, February 6, 2009 1:30 p.m.

LB395  
LB435  
LB448  
LB462  
LB611

(Signed) Tim Gay, Chairperson

### AMENDMENTS - Print in Journal

Senator Avery filed the following amendment to LB154:  
AM50

- 1 1. Insert the following new section:
- 2 Sec. 7. Section 38-2889, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 38-2889 ~~(1)~~The board may appoint formulary advisory
- 5 committees as deemed necessary for the determination of formularies
- 6 for delegated dispensing permittees.
- 7 ~~(2) The Public Health Clinic Formulary Advisory Committee~~
- 8 ~~is created. The committee shall consist of eight members as~~
- 9 ~~follows:~~
- 10 ~~(a) Two members designated by the board;~~
- 11 ~~(b) Two members who are employees of the department~~
- 12 ~~with knowledge of and interest in reproductive health and sexually~~
- 13 ~~transmitted diseases;~~
- 14 ~~(c) Two members who are licensed pharmacists in this~~



15 state and who are selected by the director. The Nebraska  
 16 Pharmacists Association may submit to the director a list of five  
 17 persons of recognized ability in the profession. If such a list is  
 18 submitted, the director shall consider the names on such list and  
 19 may appoint one or more of the persons so named. The director may  
 20 appoint any qualified person even if such person is not named on  
 21 the list submitted by the association; and

22 ~~(d) Two members who are employees of public health  
 23 clinics which hold or will hold a delegated dispensing permit and  
 1 who are selected by the director from names recommended by such  
 2 public health clinics.~~

3 ~~(3) Designations and recommendations shall be made and  
 4 submitted to the director in July prior to the third quarter  
 5 meeting of the committee. Members shall serve for terms of two  
 6 years each beginning with the third quarter meeting. Members may  
 7 serve for consecutive terms as approved by the director. The  
 8 director may remove a member of the committee for inefficiency,  
 9 neglect of duty, or misconduct in office.~~

10 2. On page 51, line 18, after the second comma insert  
 11 "38-2889,".

12 3. Renumber the remaining sections accordingly.

Senator Utter filed the following amendment to LB85:  
 AM57

1 1. On page 4, line 1, after "statutes" insert "except  
 2 that voter approval by a majority of the registered voters voting  
 3 on the issue at a primary or general election is required".

### UNANIMOUS CONSENT - Add Cointroducer

Senator Howard asked unanimous consent to add her name as cointroducer to LB250. No objections. So ordered.

### VISITORS

Visitors to the Chamber were Dr. Juan Ramon Reyes from Nicaragua and Mike Koebernick from Lincoln.

The Doctor of the Day was Dr. Mark Butler from Lincoln.

### ADJOURNMENT

At 11:52 a.m., on a motion by Senator Hadley, the Legislature adjourned until 10:30 a.m., Wednesday, January 28, 2009.

Patrick J. O'Donnell  
 Clerk of the Legislature



**FIFTEENTH DAY - JANUARY 28, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FIFTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, January 28, 2009

**PRAYER**

The prayer was offered by Senator Dierks.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:30 a.m., President Sheehy presiding.

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

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fourteenth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 99.** Placed on Select File with amendment.  
ER8007

- 1 1. On page 4, line 2, strike "such" and insert "the";
- 2 in line 17 strike "these responsibilities" and insert "the
- 3 responsibilities in this section"; in line 21 after "to" insert an
- 4 underscored comma; and in line 22 strike "for: Testing" and insert
- 5 "for testing".
- 6 2. On page 5, line 5, after "portion" insert "thereof".
- 7 3. On page 7, line 11, after "livestock" insert an
- 8 underscored comma.

**LEGISLATIVE BILL 100.** Placed on Select File.

**LEGISLATIVE BILL 101.** Placed on Select File.

**LEGISLATIVE BILL 24.** Placed on Select File.

**LEGISLATIVE BILL 85.** Placed on Select File.

**LEGISLATIVE BILL 44.** Placed on Select File.

**LEGISLATIVE BILL 45.** Placed on Select File.

**LEGISLATIVE BILL 120.** Placed on Select File with amendment.  
ER8006

1 1. On page 4, line 7, strike the underscored comma.

**LEGISLATIVE BILL 251.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

### **REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB447	Revenue (rereferred)
LB641	Agriculture (rereferred)

(Signed) John Wightman, Chairperson  
Executive Board

### **COMMITTEE REPORT**

Business and Labor

The Business and Labor Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Charles Cole - Boiler Safety Code Advisory Board  
Thomas DeMartino - Boiler Safety Code Advisory Board  
Martin Kasl - Boiler Safety Code Advisory Board  
Kenneth Stewart - Boiler Safety Code Advisory Board

VOTE: Aye: Senators Carlson, Council, Lathrop, McGill, Schilz, Wallman, White. Nay: None. Absent: None.

(Signed) Steve Lathrop, Chairperson

### **NOTICE OF COMMITTEE HEARINGS**

Government, Military and Veterans Affairs

Room 1507

Wednesday, February 4, 2009 1:30 p.m.

LB131  
LB133  
LB273

Thursday, February 5, 2009 1:30 p.m.

LB86  
LB191  
LB227  
LB295

Friday, February 6, 2009 1:30 p.m.

LB337  
LB348  
LB350

(Signed) Bill Avery, Chairperson

Banking, Commerce and Insurance

Room 1507

Monday, February 9, 2009 1:30 p.m.

LB113 (reschedule)  
LB328  
LB428

Tuesday, February 10, 2009 1:30 p.m.

LB176  
LB484  
LB551

Tuesday, February 17, 2009 1:30 p.m.

LB149  
LB378  
LB493

Monday, February 23, 2009 1:30 p.m.

LB293  
LB431  
LB571

Tuesday, February 24, 2009 1:30 p.m.

LB326  
LB358  
LB445

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

LB606  
LB657  
LB637

(Signed) Rich Pahls, Chairperson

Revenue

Room 1524

Wednesday, February 11, 2009 1:30 p.m.

LB531  
LB171  
LB555  
LB419

Thursday, February 12, 2009 1:30 p.m.

LB613  
LB566  
LB487  
LB112

(Signed) Abbie Cornett, Chairperson

Nebraska Retirement Systems

Room 1525

Thursday, February 5, 2009 12:10 p.m.

Gail Werner-Robertson - Nebraska Investment Council

LB23  
LB205

(Signed) Dave Pankonin, Chairperson

**COMMITTEE REPORTS**

General Affairs

**LEGISLATIVE BILL 189.** Placed on General File.

(Signed) Russ Karpisek, Chairperson

## Banking, Commerce and Insurance

**LEGISLATIVE BILL 74.** Placed on General File.

**LEGISLATIVE BILL 87.** Placed on General File.

**LEGISLATIVE BILL 259.** Placed on General File with amendment.  
AM4

1 1. Insert the following new sections:

2 Sec. 6. Section 16-716, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 16-716 The treasurer shall not have on deposit in any  
5 bank, capital stock financial institution, or qualifying mutual  
6 financial institution at any time more than the amount insured  
7 or guaranteed by the Federal Deposit Insurance Corporation plus  
8 the maximum amount of the bond given by the bank, capital stock  
9 financial institution, or qualifying mutual financial institution  
10 if the bank, capital stock financial institution, or qualifying  
11 mutual financial institution gives a surety bond, nor in any bank,  
12 capital stock financial institution, or qualifying mutual financial  
13 institution giving a personal bond, more than the amount insured  
14 or guaranteed by the Federal Deposit Insurance Corporation plus  
15 one-half of the amount of the bond of such bank, capital stock  
16 financial institution, or qualifying mutual financial institution,  
17 and the amount so on deposit any time with any such bank,  
18 capital stock financial institution, or qualifying mutual financial  
19 institution shall not in either case exceed the amount insured  
20 or guaranteed by the Federal Deposit Insurance Corporation plus  
21 the paid-up capital stock and surplus of such bank, capital stock  
22 financial institution, or qualifying mutual financial institution.

23 The city treasurer shall not be liable for any loss  
1 sustained by reason of the failure of any such bonded depository  
2 whose bond has been duly approved by the mayor as provided in  
3 section 16-714 or which has, in lieu of a surety bond, given  
4 security as provided in section 16-715.

5 Sec. 10. Section 30-3209, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 30-3209 (1) Corporate trustees authorized by Nebraska law  
8 to exercise fiduciary powers and holding retirement or pension  
9 funds for the benefit of employees or former employees of cities,  
10 villages, school districts, public power districts, or other  
11 governmental or political subdivisions may invest and reinvest  
12 such funds in such securities and investments as are authorized  
13 for trustees, guardians, conservators, personal representatives, or  
14 administrators under the laws of Nebraska. Retirement or pension  
15 funds of such cities, villages, districts, or subdivisions may be  
16 invested in annuities issued by life insurance companies authorized  
17 to do business in Nebraska. Except as provided in subsection  
18 (2) of this section, any other retirement or pension funds  
19 of cities, including cities operating under home rule charters,

20 villages, school districts except as provided in section 79-9,107,  
21 public power districts, and all other governmental or political  
22 subdivisions may be invested and reinvested, as the governing body  
23 of such city, village, school district, public power district, or  
24 other governmental or political subdivision may determine, in the  
25 following classes of securities and investments: (a) Bonds, notes,  
26 or other obligations of the United States or those guaranteed  
27 by or for which the credit of the United States is pledged  
1 for the payment of the principal and interest or dividends  
2 thereof; (b) bonds or other evidences of indebtedness of the  
3 State of Nebraska and full faith and credit obligations of or  
4 obligations unconditionally guaranteed as to principal and interest  
5 by any other state of the United States; (c) bonds, notes, or  
6 obligations of any municipal or political subdivision of the  
7 State of Nebraska which are general obligations of the issuer  
8 thereof and revenue bonds or debentures of any city, county, or  
9 utility district of this state when the earnings available for  
10 debt service have, for a five-year period immediately preceding  
11 the date of purchase, averaged not less than one and one-half  
12 times such debt service requirements; (d) bonds and debentures  
13 issued either singly or collectively by any of the twelve federal  
14 land banks, the twelve intermediate credit banks, or the thirteen  
15 banks for cooperatives under the supervision of the Farm Credit  
16 Administration; (e) certificates of deposit of banks which are  
17 members of the Federal Deposit Insurance Corporation or capital  
18 stock financial institutions, and if the amount deposited exceeds  
19 the amount of insurance available thereon, then the excess shall  
20 be secured in the same manner as for the deposit of public funds;  
21 (f) accounts with building and loan associations, qualifying mutual  
22 financial institutions, or federal savings and loan associations  
23 in the State of Nebraska to the extent that such accounts are  
24 insured or guaranteed by the Federal Deposit Insurance Corporation;  
25 (g) bonds or other interest-bearing obligations of any corporation  
26 organized under the laws of the United States or any state thereof  
27 if (i) at the time the purchase is made, they are given, by at  
1 least one statistical organization whose publication is in general  
2 use, one of the three highest ratings given by such organization  
3 and (ii) not more than five percent of the fund shall be invested  
4 in the obligations of any one issuer; (h) direct short-term  
5 obligations, generally classified as commercial paper, of any  
6 corporation organized or existing under the laws of the United  
7 States or any state thereof with a net worth of ten million dollars  
8 or more; and (i) preferred or common stock of any corporation  
9 organized under the laws of the United States or of any state  
10 thereof with a net worth of ten million dollars or more if (i)  
11 not more than fifty percent of the total investments at the time  
12 such investment is made is in this class and not more than five  
13 percent is invested in each of the first five years and (ii) not  
14 more than five percent thereof is invested in the securities of any



15 one corporation. Notwithstanding the percentage limits stated in  
16 this subsection, the cash proceeds of the sale of such preferred or  
17 common stock may be reinvested in any securities authorized under  
18 this subdivision. No city, village, school district, public power  
19 district, or other governmental subdivision or the governing body  
20 thereof shall be authorized to sell any securities short, buy on  
21 margin, or buy, sell, or engage in puts and calls. Section 77-2366  
22 shall apply to deposits in capital stock financial institutions.  
23 Section 77-2365.01 shall apply to deposits in qualifying mutual  
24 financial institutions.

25 (2) Notwithstanding the limitations prescribed in  
26 subsection (1) of this section, trustees holding retirement or  
27 pension funds for the benefit of employees or former employees  
1 of any city of the metropolitan class, metropolitan utilities  
2 district, or county in which a city of the metropolitan class is  
3 located shall invest such funds in investments of the nature which  
4 individuals of prudence, discretion, and intelligence acquire or  
5 retain in dealing with the property of another. Such investments  
6 shall not be made for speculation but for investment, considering  
7 the probable safety of their capital as well as the probable income  
8 to be derived. The trustees shall not buy on margin, buy call  
9 options, or buy put options. The trustees may lend any security  
10 if cash, United States Government obligations, or United States  
11 Government agency obligations with a market value equal to or  
12 exceeding the market value of the security lent are received as  
13 collateral. If shares of stock are purchased under this subsection,  
14 all proxies may be voted by the trustees. The asset allocation  
15 restrictions set forth in subsection (1) of this section shall  
16 not be applicable to the funds of pension or retirement systems  
17 administered by or on behalf of a city of the metropolitan class,  
18 metropolitan utilities district, or county in which a city of the  
19 metropolitan class is located.

20 2. On page 22, line 21, strike "federal farm credit  
21 system", show as stricken, and insert "Federal Farm Credit System".

22 3. On page 26, line 5, strike "act", show as stricken,  
23 and insert "Public Funds Deposit Security Act".

24 4. On page 35, line 17, strike "21" and insert "23"; and  
25 in line 20 after "16-715," insert "16-716," and after "17-720,"  
26 insert "30-3209,".

27 5. Renumber the remaining sections accordingly.

(Signed) Rich Pahls, Chairperson

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 1.**

A BILL FOR AN ACT relating to settlement escrow; to repeal sections that are obsolete; and to outright repeal sections 25-2922, 25-2923, 25-2924, 25-2925, 25-2926, 25-2927, 25-2928, and 25-2929, Reissue Revised Statutes of Nebraska.

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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Ashford          Sullivan

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

**LEGISLATIVE BILL 2.**

A BILL FOR AN ACT relating to the Nebraska Transit and Rail Advisory Council Act; to repeal sections that are obsolete; and to outright repeal sections 74-1501, 74-1502, 74-1503, 74-1504, 74-1505, 74-1506, 74-1507, 74-1508, 74-1509, 74-1510, 74-1511, 74-1512, 74-1513, and 74-1514, Reissue Revised Statutes of Nebraska.

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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Sullivan

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

### LEGISLATIVE BILL 3.

A BILL FOR AN ACT relating to the Nebraska Venture Capital Forum Act; to repeal sections that are obsolete; and to outright repeal sections 81-12,106, 81-12,107, 81-12,108, 81-12,109, 81-12,110, 81-12,111, 81-12,112, 81-12,113, 81-12,114, 81-12,115, and 81-12,116, Reissue Revised Statutes of Nebraska.

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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Sullivan

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

**LEGISLATIVE BILL 61.** With Emergency Clause.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1022, 79-1023, 79-1026.01, 79-1027, and 79-1031.01, Reissue Revised Statutes of Nebraska; to change certification dates as prescribed; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Sullivan

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

**GENERAL FILE**

**LEGISLATIVE BILL 75.** Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LBs 1, 2, 3, and 61.

**GENERAL FILE**

**LEGISLATIVE BILL 80.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 192.** Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 105.** Title read. Considered.

Committee AM6, found on page 303, was considered.

Pending.

**NOTICE OF COMMITTEE HEARINGS**

Natural Resources

Room 1525

Wednesday, February 4, 2009 1:30 p.m.

LB491

LB565

LB624

Thursday, February 5, 2009 1:30 p.m.

LB477

LB438

Friday, February 6, 2009 1:30 p.m.

LB577

Wednesday, February 11, 2009 1:30 p.m.

LB436

LB663

(Signed) Chris Langemeier, Chairperson

Judiciary

Room 1113

Wednesday, February 4, 2009 1:30 p.m.

- LB40
- LB304
- LB305
- LB433
- LB343

(Signed) Brad Ashford, Chairperson

Government, Military and Veterans Affairs

Room 1507

Wednesday, February 11, 2009 1:30 p.m.

- LB324
- LB325
- LB434
- LB544

Thursday, February 12, 2009 1:30 p.m.

- LB279
- LB280
- LB450
- LB512

(Signed) Bill Avery, Chairperson

**COMMITTEE REPORTS**

Natural Resources

**LEGISLATIVE BILL 5.** Placed on General File.

**LEGISLATIVE BILL 53.** Placed on General File.

(Signed) Chris Langemeier, Chairperson

Transportation and Telecommunications

**LEGISLATIVE BILL 28.** Placed on General File.

**LEGISLATIVE BILL 48.** Placed on General File.

**LEGISLATIVE BILL 204.** Placed on General File.

**LEGISLATIVE BILL 331.** Placed on General File.

**LEGISLATIVE BILL 108.** Indefinitely postponed.

(Signed) Deb Fischer, Chairperson

Appropriations

**LEGISLATIVE BILL 135.** Placed on General File.

(Signed) Lavon Heidemann, Chairperson

### **PRESENTED TO THE GOVERNOR**

Presented to the Governor on January 28, 2009, at 11.02 a.m. were the following: LBs 1, 2, 3, and 61e.

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

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Dierks, Haar, Lathrop, and Pahls asked unanimous consent to add their names as cointroducers to LB92. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB342. No objections. So ordered.

Senators Coash, Giese, and Stuthman asked unanimous consent to add their names as cointroducers to LB438. No objections. So ordered.

Senators Giese and Stuthman asked unanimous consent to add their names as cointroducers to LB666. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Joyce Margirtz from North Platte; Ladonna and Duane Kimle from Kenesaw; Bonnie Burling from Kenesaw; Jeri, Keith, Micah, Rebekah, Elizabeth, and Caleb Pobanz from Grand Island; and former Senator Carroll Burling from Kenesaw.

The Doctor of the Day was Dr. Jay Matzke from Gothenburg.

### **ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Avery, the Legislature adjourned until 10:30 a.m., Thursday, January 29, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature





**SIXTEENTH DAY - JANUARY 29, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SIXTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, January 29, 2009

**PRAYER**

The prayer was offered by Pastor Tyler Hauptmeier, St. Peter's Lutheran Church, Wymore.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:30 a.m., Senator Rogert presiding.

The roll was called and all members were present except Senators Ashford, Cornett, Friend, Wallman, and White who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifteenth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 166.** Placed on Select File with amendment.  
ER8009

1 1. On page 1, line 6, strike "77-1704.01,".

**LEGISLATIVE BILL 41.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORT**

Banking, Commerce and Insurance

**LEGISLATIVE BILL 32.** Placed on General File.

(Signed) Rich Pahls, Chairperson

**NOTICE OF COMMITTEE HEARING**  
Business and Labor

Room 2102

Monday, February 9, 2009 1:30 p.m.

LB51  
LB194  
LB243  
LB630  
LB631

(Signed) Steve Lathrop, Chairperson

**AMENDMENT - Print in Journal**Senator Nelson filed the following amendment to LB80:  
AM79

- 1 1. Insert the following new section:
- 2 Sec. 6. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.
- 4 2. On page 6, lines 19 and 21, strike "2010" and insert
- 5 "2009".

**SELECT FILE****LEGISLATIVE BILL 11.** Advanced to Enrollment and Review for Engrossment.**LEGISLATIVE BILL 29.** Advanced to Enrollment and Review for Engrossment.**LEGISLATIVE BILL 30.** Advanced to Enrollment and Review for Engrossment.**LEGISLATIVE BILL 49.** ER8002, found on page 293, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 49A.** Advanced to Enrollment and Review for Engrossment.**LEGISLATIVE BILL 50.** Advanced to Enrollment and Review for Engrossment.**LEGISLATIVE BILL 62.** ER8003, found on page 293, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 31.** ER8004, found on page 297, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 179.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 180.** Senator Nordquist offered the following amendment:

AM60

- 1 1. On page 6, strike lines 14 through 16 and insert:  
 2 "(i) Grants for reimbursement of costs for the  
 3 deconstruction of abandoned buildings:  
 4 (A) Within cities of the second class, villages, and  
 5 counties of five thousand or fewer population; or  
 6 (B) In cities of the metropolitan class, primary class,  
 7 or first class, within areas with a high concentration of poverty,  
 8 as determined by the most recent federal decennial census, which  
 9 contain a majority of the census tracts which each contain a  
 10 percentage of persons below the poverty line of greater than thirty  
 11 percent, and all census tracts contiguous to such tract or tracts,  
 12 as determined by the most recent federal decennial census.  
 13 Eligible".

Senator Nordquist moved for a call of the house. The motion prevailed with 29 ayes, 2 nays, and 18 not voting.

Senator Nordquist requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Ashford	Council	Lathrop	Nelson	Rogert
Campbell	Fulton	Lautenbaugh	Nordquist	Sullivan
Coash	Giese	McGill	Pahls	Wallman
Cook	Howard	Mello	Pirsch	White
Cornett	Karpisek	Nantkes	Price	

Voting in the negative, 24:

Adams	Fischer	Haar	Janssen	Schilz
Avery	Flood	Hadley	Langemeier	Stuthman
Carlson	Friend	Hansen	Louden	Utter
Christensen	Gay	Harms	McCoy	Wightman
Dubas	Gloor	Heidemann	Pankonin	

Present and not voting, 1:

Dierks

The Nordquist amendment lost with 24 ayes, 24 nays, and 1 present and not voting.

The Chair declared the call raised.

Senator Lautenbaugh offered the following amendment:

FA3

Strike "five" and insert "fifteen" on page 6 line 15.

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

Senator Lautenbaugh requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Ashford	Cornett	Lathrop	Nordquist	Wallman
Campbell	Council	Lautenbaugh	Pahls	White
Coash	Giese	Mello	Pirsch	
Cook	Howard	Nelson	Regert	

Voting in the negative, 25:

Adams	Fischer	Hansen	Langemeier	Pankonin
Carlson	Flood	Harms	Louden	Schilz
Christensen	Gay	Heidemann	McCoy	Stuthman
Dierks	Gloor	Janssen	McGill	Utter
Dubas	Hadley	Karpisek	Nantkes	Wightman

Present and not voting, 6:

Avery	Fulton	Price
Friend	Haar	Sullivan

The Lautenbaugh amendment lost with 18 ayes, 25 nays, and 6 present and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 154.** ER8005, found on page 302, was adopted.

Senator Avery renewed his amendment, AM50, found on page 304.

The Avery amendment was adopted with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 91.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 196.** Advanced to Enrollment and Review for Engrossment.

### COMMITTEE REPORTS

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 7.** Placed on General File.

**LEGISLATIVE BILL 55.** Placed on General File.

**LEGISLATIVE BILL 8.** Indefinitely postponed.

(Signed) Bill Avery, Chairperson

## Education

**LEGISLATIVE BILL 20.** Placed on General File.

**LEGISLATIVE BILL 102.** Placed on General File with amendment.  
AM43

- 1 1. On page 2, line 5, after "Nebraska" insert an
- 2 underscored period; and strike lines 6 through 12.

(Signed) Greg Adams, Chairperson

**NOTICE OF COMMITTEE HEARING**  
Executive Board

Room 2102

Thursday, February 12, 2009 12:00 p.m.

LR1CA  
LR5CA  
LB505

(Signed) John Wightman, Chairperson

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 105A.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 105, One Hundred First Legislature, First Session, 2009.

**EXPLANATION OF VOTES**

Had I been present, I would have voted "aye" on final passage of LBs 1, 2, 3, and 61.

(Signed) Kate Sullivan

**GENERAL FILE**

**LEGISLATIVE BILL 105.** Committee AM6, found on page 303 and considered on page 317, was renewed.

**SPEAKER FLOOD PRESIDING**

**RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR8 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR8.

**SENATOR ROBERT PRESIDING****GENERAL FILE**

**LEGISLATIVE BILL 105.** Committee AM6, found on page 303 and considered on page 317 and in this day's Journal, was renewed.

Pending.

**COMMITTEE REPORT**

Judiciary

**LEGISLATIVE BILL 201.** Placed on General File with amendment.  
AM83

- 1 1. Insert the following new section:
- 2     Sec. 3. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.
- 4 2. On page 3, line 3, after "(a)(1)" insert "and
- 5 subsection (c)"; in line 8 strike "ongoing" and insert
- 6 "continuing"; and in line 17 after the period insert "Subsection
- 7 (c) of section 43-1238 shall apply to any proceeding under this
- 8 subsection.".

(Signed) Brad Ashford, Chairperson

**NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Thursday, February 5, 2009 1:30 p.m.

LB170

LB46

LB47

LB118

LB352

LB353

(Signed) Brad Ashford, Chairperson

**AMENDMENTS - Print in Journal**

Senator Avery filed the following amendment to LB53:  
AM38

- 1 1. On page 5, line 17, strike "fifty" and insert
- 2 "twenty-five".

Senator Haar filed the following amendment to LB53:

AM87

1 1. Insert the following new section:

2 Sec. 5. Section 70-612, Reissue Revised Statutes of

3 Nebraska, is amended to read:

4 70-612 (1) Subject to the provisions of Chapter 70,  
5 article 6, and subject to the approval of the Nebraska Power Review  
6 Board, the board of directors of a district may amend the petition  
7 for its creation to provide for the division of the territory of  
8 such district into two or more subdivisions for the nomination and  
9 election of some or all of the directors. Each subdivision shall  
10 be composed of one or more voting precincts, or divided voting  
11 precincts, and the total population of each such subdivision shall  
12 be approximately the same. Two or more subdivisions may be combined  
13 for election purposes, and members of the board of directors to  
14 be elected from such combined subdivisions may be nominated and  
15 elected at large when not less than seventy-five percent of the  
16 population of the combined subdivisions is within the corporate  
17 limits of any city.

18 (2)(a) In the event a district formed includes all  
19 or part of two or more counties and is ~~(a)-(i)~~ engaged in  
20 furnishing electric light and power and more than fifty percent  
21 of its customers are rural customers or ~~(b)-(ii)~~ engaged in  
22 furnishing electric light and power and in the business of owning  
23 and operating irrigation works, then and in that event such  
1 subdivisions may be formed by following precinct or county boundary  
2 lines without regard to population if in the judgment of the  
3 Nebraska Power Review Board the interests of the rural users  
4 of electricity or of users of irrigation water service in such  
5 district will not be prejudiced thereby.

6 (b) When tallying the votes cast for candidates for board  
7 of directors of such district, the following shall apply:

8 (i) The votes of persons residing within a public power  
9 district, electric cooperative, or municipality which purchases  
10 less than twenty percent of its electricity from such district  
11 shall not be eligible to vote in such elections; and

12 (ii) The votes of persons residing within a public power  
13 district, electric cooperative, or municipality which purchases  
14 twenty percent or more of its electricity from such district  
15 shall be weighted based on the percentage of its electricity that  
16 such public power district, electric cooperative, or municipality  
17 purchases from the district.

18 ~~(2)-(3)~~ Any public power district or public power and  
19 irrigation district owning and operating irrigation works may, with  
20 approval of the Nebraska Power Review Board, add representation  
21 on its board of directors from any county which is outside its  
22 chartered territory but in which is located some or all of such  
23 irrigation works.

24 2. Renumber the remaining sections and amend the repealer  
25 accordingly.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Cook and Lautenbaugh asked unanimous consent to add their names as cointroducers to LB252. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB276 and LB277. No objections. So ordered.

Senator Sullivan asked unanimous consent to add her name as cointroducer to LB653. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 19 seventh- and eleventh-twelfth grade students and teachers from Rising City.

The Doctor of the Day was Dr. Randy Kohl from Firth.

### **ADJOURNMENT**

At 12:01 p.m., on a motion by Senator Hansen, the Legislature adjourned until 10:30 a.m., Friday, January 30, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTEENTH DAY - JANUARY 30, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, January 30, 2009

**PRAYER**

The prayer was offered by Pastor Muriel Kaufman Graber, Beatrice Mennonite Church, Beatrice.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:30 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Fischer who was excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixteenth day was approved.

**MESSAGE FROM THE GOVERNOR**

January 29, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 1, 2, 3, and 61e were received in my office on January 28, 2009.

These bills were signed and delivered to the Secretary of State on January 29, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 123.** Placed on Select File with amendment.  
ER8011

- 1 1. On page 16, line 24, strike "Phenylacet"
- 2 and insert "Phenylacetone. Trade"; and in line 25 strike
- 3 "Phenyl-2-propanone;one. Trade" and insert "Phenyl-2-propanone;".

**LEGISLATIVE BILL 75.** Placed on Select File with amendment.  
ER8010

- 1 1. On page 1, line 3, after "usage" insert "and".

**LEGISLATIVE BILL 80.** Placed on Select File with amendment.  
ER8008

- 1 1. On page 2, line 15; page 3, line 18; and page 4, line
- 2 2, after "(g)" insert "of this section".
- 3 2. On page 3, line 17, after "(e)" insert "of this
- 4 section"; and in line 18 after "(c)" insert "of this section".

**LEGISLATIVE BILL 192.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

Transportation and Telecommunications

Room 1113

Monday, February 9, 2009 1:30 p.m.

LB245

LB181

LB217

Tuesday, February 10, 2009 1:30 p.m.

LB272

LB330

LB183

LB652

(Signed) Deb Fischer, Chairperson

## General Affairs

Room 1510

Monday, February 9, 2009 1:30 p.m.

LB198  
 LB404  
 LB355  
 LB600

(Signed) Russ Karpisek, Chairperson

**COMMITTEE REPORT**

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 52.** Placed on General File with amendment.  
 AM109

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 80-410, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 80-410 (1) The Director of Veterans' Affairs, all members  
 6 of the Veterans' Advisory Commission, all state service officers,  
 7 all assistant state service officers, ~~all county veterans service~~  
 8 ~~officers,~~ and all personnel, except certain special and clerical  
 9 help, of the state veterans service offices, shall have served  
 10 in the armed forces of the United States during the dates set  
 11 forth in section 80-401.01, shall have been discharged or otherwise  
 12 separated with a characterization of honorable from such service,  
 13 and shall have been bona fide residents of the State of Nebraska  
 14 continuously for at least five years immediately prior to their  
 15 assuming a position in any of the offices mentioned.  
 16 (2) All county veterans service officers shall have  
 17 served on active duty in the armed forces of the United States,  
 18 other than active duty for training, shall have been discharged or  
 19 otherwise separated with a characterization of honorable from the  
 20 service, and shall have been bona fide residents of the State of  
 21 Nebraska continuously for at least five years immediately prior to  
 22 assuming any such position.  
 23 ~~(2)~~~~(3)~~ All members of the county veterans service  
 1 committees and all personnel, except certain special and clerical  
 2 help, of the county veterans service offices shall have all of  
 3 the qualifications described in subsection ~~(1)~~~~(2)~~ of this section,  
 4 except that such persons may have been discharged or otherwise  
 5 separated with a characterization of general (under honorable  
 6 conditions).  
 7 Sec. 2. Original section 80-410, Reissue Revised Statutes  
 8 of Nebraska, is repealed.

(Signed) Bill Avery, Chairperson

### RESOLUTION

**LEGISLATIVE RESOLUTION 14.** Introduced by Giese, 17; Dierks, 40; Flood, 19; Rogert, 16; Sullivan, 41.

WHEREAS, Judge Patrick Rogers received the Distinguished Judge for Improvement of the Judicial System Award at the Nebraska Supreme Court's annual judicial dinner on October 23, 2008; and

WHEREAS, Judge Patrick Rogers served as a county court judge in the sixth judicial district from 1995 to 2001, and has served as a district court judge in the seventh judicial district since 2001; and

WHEREAS, Judge Patrick Rogers will serve as presiding judge for the seventh judicial district, serving Antelope, Cuming, Knox, Madison, Pierce, Stanton, and Wayne counties, until his retirement on January 31, 2009; and

WHEREAS, Judge Patrick Rogers helped establish and oversee the Northeast Nebraska Adult Drug Court in conjunction with Judge Robert Ensz; and

WHEREAS, Judge Patrick Rogers has been a member of the Nebraska Supreme Court's Interpreter Advisory Committee since its inception, promoting access to the court system by non-English speaking litigants; and

WHEREAS, Judge Patrick Rogers has frequently turned his career experience into an educational opportunity for other judges, providing legislative updates and conducting peer teaching on the subject of dealing with self-represented litigants.

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

1. That the Legislature recognizes Judge Patrick Rogers for his many years of distinguished service to the Nebraska judicial system, commends his dedication to promoting access to the courts, and extends its best wishes for his continued happiness and success.

2. That a copy of this resolution be sent to Judge Patrick Rogers.

Laid over.

### REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of January 29, 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

American Communications Group, Inc.  
EHPV (Big Red) Lottery Services, LLC d/b/a Big Red Keno

Babcock, Marsha L.  
 Mechanical Contractors Assn. of Omaha  
 Hartnett, D. Paul  
 Metropolitan Community College  
 Jones, Randall S.  
 American Red Cross  
 Lamb, Amy  
 Occupational Therapy Association, Nebraska  
 Larsen, Carlin L.  
 Qwest Communications  
 Miya, Pamela A.  
 March of Dimes Birth Defects Foundation  
 (Withdrawn 01/28/2009)  
 Peetz, Natalie, Peetz & Company  
 Tenaska  
 Ruth Mueller Robak LLC  
 EHPV (Big Red) Lottery Services, LLC d/b/a Big Red Keno  
 (Withdrawn 01/27/2009)  
 Vigilnet America Inc. (Withdrawn 01/27/2009)

### **MOTION - Approve Appointments**

Senator Lathrop moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 308:

Boiler Safety Code Advisory Board  
 Charles Cole  
 Thomas DeMartino  
 Martin Kasl  
 Kenneth Stewart

Voting in the affirmative, 38:

Campbell	Giese	Karpisek	Nelson	Stuthman
Carlson	Haar	Langemeier	Nordquist	Sullivan
Christensen	Hadley	Lathrop	Pahls	Utter
Coash	Hansen	Louden	Pankonin	Wallman
Dierks	Harms	McCoy	Pirsch	White
Dubas	Heidemann	McGill	Price	Wightman
Flood	Howard	Mello	Rogert	
Friend	Janssen	Nantkes	Schilz	

Voting in the negative, 0.

Present and not voting, 10:

Adams	Avery	Cornett	Fulton	Gloor
Ashford	Cook	Council	Gay	Lautenbaugh

Excused and not voting, 1:

Fischer

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

### GENERAL FILE

**LEGISLATIVE BILL 105.** Committee AM6, found on page 303 and considered on pages 317, 325, and 326, was renewed.

The committee amendment was adopted with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

Senator Langemeier offered the following amendment:

FA4

Page 6, line 5, strike the words "in any one" and insert "per".

Page 6, line 6, strike "a" and insert "the immediate".

Page 6, line 9, strike "a subsequent" and insert "the following".

The Langemeier amendment was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 14 nays, 5 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 105A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 7 nays, 9 present and not voting, and 2 excused and not voting.

### NOTICE OF COMMITTEE HEARINGS

Judiciary

Room 1113

Friday, February 6, 2009 1:30 p.m.

LB669

LB332

LB333

LB344

(Signed) Brad Ashford, Chairperson

Executive Board

Room 2102

Friday, February 20, 2009 12:00 p.m.

LB16  
 LB620  
 LB653

Monday, February 9, 2009 12:00 p.m.

LR11

(Signed) John Wightman, Chairperson

Revenue

Room 1524

Wednesday, February 11, 2009 1:30 p.m.

LB583  
 LB634

(Signed) Abbie Cornett, Chairperson

**AMENDMENT - Print in Journal**

Senator McGill filed the following amendment to LB85:  
 AM104

- 1 1. On page 3, line 5, strike "(a)" and the last comma;
- 2 and in line 6 strike beginning with "(b)" through "infrastructure".

**COMMITTEE REPORT**

Judiciary

**LEGISLATIVE BILL 151.** Placed on General File with amendment.  
 AM49

- 1 1. On page 26, reinstate the stricken matter in lines 16
- 2 through 25; in line 18 strike beginning with the reinstated "may"
- 3 through the semicolon in line 21, show as stricken, and insert
- 4 "(A) are stored behind a counter, in an area not accessible to
- 5 customers, or in a locked case so that a customer needs assistance
- 6 from an employee to access the drug product; (B) are sold by a
- 7 person, eighteen years of age or older, in the course of his or her
- 8 employment to a customer eighteen years of age or older with the
- 9 following restrictions: No customer shall be allowed to purchase,
- 10 receive, or otherwise acquire more than three and six-tenths grams

11 of ephedrine base during a twenty-four-hour period; no customer  
 12 shall purchase, receive, or otherwise acquire more than nine grams  
 13 of ephedrine base during a thirty-day period; and the customer  
 14 shall display a valid driver's or operator's license, a Nebraska  
 15 state identification card, a military identification card, an alien  
 16 registration card, or a passport as proof of identification; (C)";  
 17 in line 22 after the reinstated semicolon insert "(D)"; and in line  
 18 24 after the reinstated "and" insert "(E)".  
 19 2. On page 27, reinstate the stricken matter in lines 1  
 20 through 6; in line 4 strike the reinstated "(A)", show as stricken  
 21 and insert "(I)"; in line 5 strike the reinstated "(B)", show as  
 22 stricken and insert "(II)"; and in line 6 strike the reinstated  
 23 "(C)", show as stricken and insert "(III)".

(Signed) Brad Ashford, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 15.** Introduced by Gloor, 35.

WHEREAS, Senator Don Elrod served the state as a member of the Legislature for six years with dedication, thought, and care; and

WHEREAS, Senator Elrod's colleagues respected his leadership abilities by electing him chairperson of the Labor Committee and the Education Committee; and

WHEREAS, Senator Elrod was born May 8, 1925, in Loup City; and

WHEREAS, Senator Elrod died on Tuesday, January 27, 2009, at the Grand Island Veterans Affairs Medical Center.

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

1. That the Legislature extends its condolences to the family of Don Elrod.

Laid over.

## GENERAL FILE

**LEGISLATIVE BILL 189.** Title read. Considered.

Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, 2 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 74.** Title read. Considered.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 87.** Title read. Considered.



Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 11.** Placed on Final Reading.

**LEGISLATIVE BILL 29.** Placed on Final Reading.

**LEGISLATIVE BILL 30.** Placed on Final Reading.

**LEGISLATIVE BILL 49.** Placed on Final Reading.

**LEGISLATIVE BILL 49A.** Placed on Final Reading.

**LEGISLATIVE BILL 50.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORT

Banking, Commerce and Insurance

**LEGISLATIVE BILL 88.** Placed on General File.

(Signed) Rich Pahls, Chairperson

### NOTICE OF COMMITTEE HEARINGS

Agriculture

Room 1524

Tuesday, February 10, 2009 1:30 p.m.

LB254

LB263

LB581

LB641

Tuesday, February 17, 2009 1:30 p.m.

LB98

(Signed) Tom Carlson, Chairperson

### AMENDMENT - Print in Journal

Senator Carlson filed the following amendment to LB99:

AM116

- 1 1. On page 11, line 6, before the period insert "unless
- 2 such costs are clearly unreasonable or result from the gross or
- 3 willful negligence of the department or its employees or agents".

**UNANIMOUS CONSENT - Add Cointroducers**

Senators Mello and Nordquist asked unanimous consent to add their names as cointroducers to LB158. No objections. So ordered.

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB322. No objections. So ordered.

Senator Wallman asked unanimous consent to add his name as cointroducer to LB434. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB610. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Catherine, Sarah, John Patrick, and David Nicholson from Bellevue; Former Senator Lowen Kruse from Omaha; and Dr. Mary Case from Seattle, Washington.

The Doctor of the Day was Dr. Robert Rhodes from Lincoln.

**ADJOURNMENT**

At 11:54 a.m., on a motion by Senator Gay, the Legislature adjourned until 10:00 a.m., Monday, February 2, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTEENTH DAY - FEBRUARY 2, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****EIGHTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, February 2, 2009

**PRAYER**

The prayer was offered by Pastor Fred Richart, First United Methodist Church, Auburn.

**ROLL CALL**

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

The roll was called and all members were present except Senator Avery who was excused; and Senators Christensen and Cornett who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventeenth day was approved.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LR 12 and 13 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LR 12 and 13.

**GENERAL FILE**

**LEGISLATIVE BILL 158.** Title read. Considered.

Committee AM48, found on page 303, was considered.

Pending.

**COMMITTEE REPORTS**

Natural Resources

**LEGISLATIVE BILL 184.** Placed on General File.

**LEGISLATIVE BILL 379.** Placed on General File.

(Signed) Chris Langemeier, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

Education

Room 1525

Monday, February 9, 2009 1:30 p.m.

LB221

LB215

LB578

LB545

Tuesday, February 10, 2009 1:30 p.m.

LB240

LB364

LB654

(Signed) Greg Adams, Chairperson

Urban Affairs

Room 1510

Tuesday, February 10, 2009 1:30 p.m.

LB467

LB526

LB647

Tuesday, February 17, 2009 1:30 p.m.

LB174

LB360

LB470

Tuesday, February 24, 2009 1:30 p.m.

LB633

LB381

LB525

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

LB562

LB658

Tuesday, March 10, 2009 1:30 p.m.

LB495

LB524

(Signed) Mike Friend, Chairperson

Revenue

Room 1524

Wednesday, February 11, 2009 1:30 p.m.

LB171 (cancel)

LB555 (cancel)

(Signed) Abbie Cornett, Chairperson

## RESOLUTION

### LEGISLATIVE RESOLUTION 16. Introduced by Karpisek, 32.

WHEREAS, Houston Volk, of Troop 270 in Friend, has achieved the rank of Eagle Scout in the Boy Scouts of America; 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. For his community service project Houston cleaned, painted, and organized a room in the Friend Library that will be used to store family genealogy, old photographs, records, and memorabilia. The room is called the Heritage Room; and

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

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

1. That the Legislature congratulates Houston Volk on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Houston Volk.

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 158.** Committee AM48, found on page 303 and considered in this day's Journal, was renewed.

**SENATOR LANGEMEIER PRESIDING****PRESIDENT SHEEHY PRESIDING**

The committee amendment was adopted with 36 ayes, 1 nay, 8 present and not voting, and 4 excused and not voting.

Senator White moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

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

Voting in the affirmative, 26:

Adams	Gay	Lautenbaugh	Pahls	Wallman
Ashford	Giese	McGill	Pankonin	White
Cook	Haar	Mello	Pirsch	
Cornett	Howard	Nantkes	Price	
Flood	Karpisek	Nelson	Rogert	
Fulton	Lathrop	Nordquist	Sullivan	

Voting in the negative, 16:

Campbell	Fischer	Harms	McCoy
Carlson	Gloor	Heidemann	Schilz
Coash	Hadley	Janssen	Utter
Council	Hansen	Louden	Wightman

Present and not voting, 3:

Christensen	Dierks	Stuthman
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Excused and not voting, 4:

Avery	Dubas	Friend	Langemeier
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Advanced to Enrollment and Review Initial with 26 ayes, 16 nays, 3 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

**COMMITTEE REPORT**  
Revenue

**LEGISLATIVE BILL 165.** Placed on General File with amendment.  
AM121

1 1. Strike original section 9 and insert the following new  
2 sections:  
3 Sec. 12. Section 77-2715.07, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:  
5 77-2715.07 (1) There shall be allowed to qualified  
6 resident individuals as a nonrefundable credit against the income  
7 tax imposed by the Nebraska Revenue Act of 1967:  
8 (a) A credit equal to the federal credit allowed under  
9 section 22 of the Internal Revenue Code; and  
10 (b) A credit for taxes paid to another state as provided  
11 in section 77-2730.  
12 (2) There shall be allowed to qualified resident  
13 individuals against the income tax imposed by the Nebraska Revenue  
14 Act of 1967:

15 (a) For returns filed reporting federal adjusted  
16 gross incomes of greater than twenty-nine thousand dollars, a  
17 nonrefundable credit equal to twenty-five percent of the federal  
18 credit allowed under section 21 of the Internal Revenue Code of  
19 1986, as amended;

20 (b) For returns filed reporting federal adjusted gross  
21 income of twenty-nine thousand dollars or less, a refundable credit  
22 equal to a percentage of the federal credit allowable under section  
23 21 of the Internal Revenue Code of 1986, as amended, whether or  
1 not the federal credit was limited by the federal tax liability.  
2 The percentage of the federal credit shall be one hundred percent  
3 for incomes not greater than twenty-two thousand dollars, and  
4 the percentage shall be reduced by ten percent for each one  
5 thousand dollars, or fraction thereof, by which the reported  
6 federal adjusted gross income exceeds twenty-two thousand dollars;

7 ~~(c) A refundable credit for individuals who qualify for~~  
8 ~~an income tax credit as an owner of agricultural assets under the~~  
9 ~~Beginning Farmer Tax Credit Act for all taxable years beginning or~~  
10 ~~deemed to begin on or after January 1, 2001, under the Internal~~  
11 ~~Revenue Code of 1986, as amended; and a refundable credit as~~  
12 ~~provided in section 77-5209.01 for individuals who qualify for an~~  
13 ~~income tax credit as a qualified beginning farmer or livestock~~  
14 ~~producer under the Beginning Farmer Tax Credit Act for all taxable~~  
15 ~~years beginning or deemed to begin on or after January 1, 2006,~~  
16 ~~under the Internal Revenue Code of 1986, as amended;~~

17 (d) A refundable credit for individuals who qualify for  
18 an income tax credit under the Nebraska Advantage Microenterprise  
19 Tax Credit Act or the Nebraska Advantage Research and Development  
20 Act; and

21 (e) A refundable credit equal to ten percent of the

22 federal credit allowed under section 32 of the Internal Revenue  
23 Code of 1986, as amended.

24 (3) There shall be allowed to all individuals as a  
25 nonrefundable credit against the income tax imposed by the Nebraska  
26 Revenue Act of 1967:

27 (a) A credit for personal exemptions allowed under  
1 section 77-2716.01;

2 (b) A credit for contributions to certified community  
3 betterment programs as provided in the Community Development  
4 Assistance Act. Each partner, each shareholder of an electing  
5 subchapter S corporation, each beneficiary of an estate or trust,  
6 or each member of a limited liability company shall report his or  
7 her share of the credit in the same manner and proportion as he  
8 or she reports the partnership, subchapter S corporation, estate,  
9 trust, or limited liability company income; and

10 (c) A credit for investment in a biodiesel facility as  
11 provided in section 77-27,236.

12 (4) There shall be allowed as a credit against the income  
13 tax imposed by the Nebraska Revenue Act of 1967:

14 (a) A credit to all resident estates and trusts for taxes  
15 paid to another state as provided in section 77-2730; ~~and~~

16 (b) A credit to all estates and trusts for contributions  
17 to certified community betterment programs as provided in the  
18 Community Development Assistance Act; ~~and-~~

19 (c) A refundable credit for individuals who qualify for  
20 an income tax credit as an owner of agricultural assets under the  
21 Beginning Farmer Tax Credit Act for all taxable years beginning  
22 or deemed to begin on or after January 1, 2009, under the  
23 Internal Revenue Code of 1986, as amended. The credit allowed  
24 for each partner, shareholder, member, or beneficiary of a  
25 partnership, corporation, limited liability company, or estate  
26 or trust qualifying for an income tax credit as an owner of  
27 agricultural assets under the Beginning Farmer Tax Credit Act  
1 shall be equal to the partner's, shareholder's, member's, or  
2 beneficiary's portion of the amount of tax credit distributed  
3 pursuant to subsection (4) of section 77-5211.

4 (5)(a) For all taxable years beginning on or after  
5 January 1, 2007, and before January 1, 2009, under the Internal  
6 Revenue Code of 1986, as amended, there shall be allowed to each  
7 partner, shareholder, member, or beneficiary of a partnership,  
8 subchapter S corporation, limited liability company, or estate or  
9 trust a nonrefundable credit against the income tax imposed by  
10 the Nebraska Revenue Act of 1967 equal to fifty percent of the  
11 partner's, shareholder's, member's, or beneficiary's portion of the  
12 amount of franchise tax paid to the state under sections 77-3801 to  
13 77-3807 by a financial institution.

14 (b) For all taxable years beginning on or after January  
15 1, 2009, under the Internal Revenue Code of 1986, as amended,  
16 there shall be allowed to each partner, shareholder, member, or



17 beneficiary of a partnership, subchapter S corporation, limited  
18 liability company, or estate or trust a nonrefundable credit  
19 against the income tax imposed by the Nebraska Revenue Act of 1967  
20 equal to the partner's, shareholder's, member's, or beneficiary's  
21 portion of the amount of franchise tax paid to the state under  
22 sections 77-3801 to 77-3807 by a financial institution.

23 (c) Each partner, shareholder, member, or beneficiary  
24 shall report his or her share of the credit in the same manner  
25 and proportion as he or she reports the partnership, subchapter S  
26 corporation, limited liability company, or estate or trust income.  
27 If any partner, shareholder, member, or beneficiary cannot fully  
1 utilize the credit for that year, the credit may not be carried  
2 forward or back.

3 Sec. 13. Section 77-2761, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 77-2761 An income tax return with respect to the income  
6 tax imposed by the provisions of the Nebraska Revenue Act of 1967  
7 shall be made by the following:

8 (1) Every resident individual who is required to file a  
9 federal income tax return for the taxable year;

10 (2) Every nonresident individual who has income from  
11 sources in this state;

12 (3) Every resident estate or trust which is required to  
13 file a federal income tax return except a simple trust not required  
14 to file under subsection (2) of section 77-2717;

15 (4) Every nonresident estate or trust which has taxable  
16 income from sources within this state;

17 (5) Every corporation or any other entity taxed as a  
18 corporation under the Internal Revenue Code which is required  
19 to file a federal income tax return except the small business  
20 corporations not required to file under subsection ~~(6)~~(7) of  
21 section 77-2734.01;

22 (6) Every limited liability company having one or more  
23 nonresident members or with taxable income derived from sources  
24 outside the state except the limited liability companies not  
25 required to file under subsection ~~(6)~~(7) of section 77-2734.01;  
26 and

27 (7) Every partnership having one or more nonresident  
1 partners or with taxable income derived from sources outside the  
2 state.

3 Sec. 15. Section 77-5211, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5 77-5211 (1) Except as otherwise disallowed under  
6 subsection (5) of this section, an owner of agricultural assets  
7 shall be allowed a credit to be applied against the state income  
8 tax liability of such owner for agricultural assets rented on a  
9 rental agreement basis, including cash rent of agricultural assets  
10 or cash equivalent of a share-rent rental, to qualified beginning  
11 farmers or livestock producers. Such asset shall be rented at

12 prevailing community rates as determined by the board.

13 (2) The credit allowed shall be for renting agricultural  
14 assets used for farming or livestock production. Such credit  
15 shall be granted by the Department of Revenue only after approval  
16 and certification by the board and a written three-year rental  
17 agreement for such assets is entered into between an owner of  
18 agricultural assets and a qualified beginning farmer or livestock  
19 producer. An owner of agricultural assets or qualified beginning  
20 farmer or livestock producer may terminate such agreement for  
21 reasonable cause upon approval by the board. If an agreement is  
22 terminated without fault on the part of the owner of agricultural  
23 assets as determined by the board, the tax credit shall not be  
24 retroactively disallowed. If an agreement is terminated with fault  
25 on the part of the owner of agricultural assets as determined by  
26 the board, any prior tax credits claimed by such owner shall be  
27 disallowed and recaptured and shall be immediately due and payable  
1 to the State of Nebraska.

2 (3) A credit may be granted to an owner of agricultural  
3 assets for renting agricultural assets, including cash rent of  
4 agricultural assets or cash equivalent of a share-rent agreement,  
5 to any qualified beginning farmer or livestock producer for a  
6 period of three years. An owner of agricultural assets shall not be  
7 eligible for further credits under the Beginning Farmer Tax Credit  
8 Act unless the rental agreement is terminated prior to the end of  
9 the three-year period through no fault of the owner of agricultural  
10 assets. If the board finds that such a termination was not the  
11 fault of the owner of agricultural assets, it may approve the owner  
12 for credits arising from a subsequent qualifying rental agreement  
13 with a different qualified beginning farmer or livestock producer.

14 (4) Any credit allowable to a partnership, a corporation,  
15 a ~~syndicate~~, limited liability company, or an estate or trust  
16 may be distributed to the partners, members, shareholders, or  
17 beneficiaries. Any credit distributed shall be distributed in the  
18 same manner as income is distributed.

19 (5) The credit allowed under this section shall not be  
20 allowed to an owner of agricultural assets for a rental agreement  
21 with a beginning farmer or livestock producer who is a relative,  
22 as defined in section 36-702, of the owner of agricultural assets  
23 or of a partner, member, shareholder, or trustee of the owner  
24 of agricultural assets unless the rental agreement is included in  
25 a written succession plan. Such succession plan shall be in the  
26 form of a written contract or other instrument legally binding the  
27 parties to a process and timetable for the transfer of agricultural  
1 assets from the owner of agricultural assets to the beginning  
2 farmer or livestock producer. The succession plan shall provide  
3 for the transfer of assets to be completed within a period of  
4 no longer than thirty years, except that when the asset to be  
5 transferred is land owned by an individual, the period of transfer  
6 may be for a period up to the date of death of the owner. The

7 owner of agricultural assets shall be allowed the credit provided  
 8 for qualified rental agreements under this section if the board  
 9 certifies the plan as providing a reasonable manner and probability  
 10 of successful transfer.

11 Sec. 19. Original section 77-2761, Reissue Revised  
 12 Statutes of Nebraska, and sections 77-2715.07 and 77-5211, Revised  
 13 Statutes Cumulative Supplement, 2008, are repealed.

14 2. On page 10, lines 15 through 17, strike the new matter  
 15 and insert "ancillary services, except for conference bridging  
 16 services, and intrastate telecommunications services, except for  
 17 value-added, nonvoice data service".

18 3. On page 14, strike beginning with "If" in line 13  
 19 through line 23 and show the old matter as stricken.

20 4. On page 20, line 20, strike the new matter; and in  
 21 line 22 strike "is", show as stricken, and insert "and ancillary  
 22 services are".

23 5. On page 24, line 11, after "service" insert "or a  
 24 sale of a prepaid wireless calling service"; in lines 13 and 14  
 25 strike beginning with "mobile" through "telecommunications", show  
 26 as stricken, and insert "a prepaid wireless calling".

27 6. On page 58, line 8, strike "77-2704.12,".

1 7. Correct the operative date section so that the  
 2 sections added by this amendment become operative on their  
 3 effective date with the emergency clause.

4 8. Renumber the remaining sections and correct internal  
 5 references accordingly.

(Signed) Abbie Cornett, Chairperson

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 31.** Placed on Final Reading.  
 ST9003

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

1. On page 7, lines 18 and 23, "subsection" has been struck, shown as  
 stricken, and "section" inserted.

2. On page 12, line 13, "accounts" has been struck and "accountants"  
 inserted.

3. On page 25, line 19, the stricken matter has been reinstated.

4. On page 27, lines 15 and 16, the comma has been struck; and in line 15  
 "or" has been inserted after "accountant".

**LEGISLATIVE BILL 62.** Placed on Final Reading.

**LEGISLATIVE BILL 91.** Placed on Final Reading.  
 ST9004

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

1. On page 2, line 6, the comma has been struck.

**LEGISLATIVE BILL 154.** Placed on Final Reading.

ST9002

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

1. In the E & R amendments, ER8005, on page 1, line 3, after "38-2888," insert "38-2889,".

**LEGISLATIVE BILL 179.** Placed on Final Reading.

**LEGISLATIVE BILL 180.** Placed on Final Reading.

**LEGISLATIVE BILL 196.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

## NOTICE OF COMMITTEE HEARINGS

Revenue

Room 1524

Wednesday, February 18, 2009 1:30 p.m.

LB171 (reschedule)

LB555 (reschedule)

LB670

LB121

Thursday, February 19, 2009 1:30 p.m.

LB480

LB420

LB460

LB485

Friday, February 20, 2009 1:30 p.m.

LB13

LB270

LB271

Wednesday, February 25, 2009 1:30 p.m.

LB536

LB421

LB138

LB264

Thursday, February 26, 2009 1:30 p.m.

LB212  
LB213  
LB553  
LB580

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

LB59  
LB357  
LB67  
LB447

Wednesday, March 4, 2009 1:30 p.m.

LB57  
LB65  
LB233  
LB9

Thursday, March 5, 2009 1:30 p.m.

LB58  
LB234  
LB632  
LB539  
LB455

Wednesday, March 11, 2009 1:30 p.m.

LB161  
LB127  
LB296  
LB570

Thursday, March 12, 2009 1:30 p.m.

LB336  
LB210  
LB466  
LB587

Wednesday, March 18, 2009 1:30 p.m.

LB249  
LB186  
LB640

Thursday, March 19, 2009 1:30 p.m.

LB615  
LB616  
LB617  
LB618  
LB559

Friday, March 20, 2009 1:30 p.m.

LB385  
LB386

Wednesday, March 25, 2009 1:30 p.m.

LB380  
LB294  
LB474  
LB308

Thursday, March 26, 2009 1:30 p.m.

LB521  
LB418  
LB469

(Signed) Abbie Cornett, Chairperson

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Cook asked unanimous consent to add her name as cointroducer to LB306. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB449. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Mary Nutting from Ericson and Michael Nutting from Creighton; and Family and Consumer Science teachers and students from across the state.

The Doctor of the Day was Dr. Eric Thomsen from Beatrice.

### **ADJOURNMENT**

At 12:01 p.m., on a motion by Senator Dierks, the Legislature adjourned until 9:00 a.m., Tuesday, February 3, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**NINETEENTH DAY - FEBRUARY 3, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****NINETEENTH DAY**

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

**PRAYER**

The prayer was offered by Father Brendan Kelly, Blessed Sacrament Church, Lincoln.

**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 Avery and Cornett who were excused; and Senators Ashford, Dubas, Heidemann, and Karpisek who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighteenth day was approved.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 17.** Introduced by Utter, 33.

WHEREAS, Grant Eddy has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; 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. Grant's community service project involved repairs and maintenance at a local park; and

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

WHEREAS, Grant will be recognized for his service to the Boy Scouts of America and will achieve the rank of Eagle Scout on February 8, 2009.

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

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

Laid over.

## COMMITTEE REPORTS

### Agriculture

**LEGISLATIVE BILL 142.** Placed on General File with amendment.  
AM56

- 1 1. On page 2, strike beginning with "unless" in line 9
- 2 through the period in line 15 and insert "if the brand committee
- 3 has been duly notified of the existence of a lien or security
- 4 interest against livestock owned or thereafter acquired by the
- 5 owner of such brand by the holder of such lien or security
- 6 interest. Written notification from the holder of such lien or
- 7 security interest that the lien or security interest has been
- 8 satisfied or consent from the holder of such lien or security
- 9 interest shall be required in order for the brand committee
- 10 to accept for recording an instrument selling, assigning, or
- 11 transferring such recorded brand.".

**LEGISLATIVE BILL 231.** Placed on General File with amendment.  
AM75

- 1 1. On page 2, line 6, strike "four", show as stricken,
- 2 and insert "five"; in line 10 strike "and" and show as stricken; in
- 3 line 12 after "designee" insert ", and the Director of the Nebraska
- 4 State Historical Society or his or her designee"; and in line 15
- 5 strike ", ex officio".

(Signed) Tom Carlson, Chairperson

## NOTICE OF COMMITTEE HEARING

Nebraska Retirement Systems

Room 1525

Wednesday, February 11, 2009 12:10 p.m.

Janis Elliott - Public Employees Retirement Board

LB188

LB366

(Signed) Dave Pankonin, Chairperson



**GENERAL FILE**

**LEGISLATIVE BILL 259.** Title read. Considered.

Committee AM4, found on page 311, was adopted with 42 ayes, 0 nays, 1 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 1 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 5.** Title read. Considered.

Senator Campbell offered the following amendment:  
AM132

1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 37-513, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 37-513 (1) It shall be unlawful to shoot at any wildlife  
6 from any highway or roadway, which includes that area of land from  
7 the center of the traveled surface to the right-of-way on either  
8 side. Any person violating this subsection shall be guilty of a  
9 Class III misdemeanor and shall be fined at least fifty dollars.

10 (2)(a) ~~It shall be unlawful to trap any wildlife in~~  
11 ~~the county road right of way, except that the commission may~~  
12 ~~allow trapping of raptors within the county road right of way in~~  
13 ~~accordance with sections 37-497 to 37-4,103. Any county may enact a~~  
14 resolution prohibiting the trapping of wildlife in the county road  
15 right-of-way.

16 (b) For purposes of this subsection, county road  
17 right-of-way means the area which has been designated a part of the  
18 county road system and which has not been vacated pursuant to law.

19 Sec. 2. Section 37-614, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 37-614 (1) When a person pleads guilty to or is convicted  
22 of any violation listed in this subsection, the court shall, in  
23 addition to any other penalty, revoke and require the immediate  
1 surrender of all permits to hunt, fish, and harvest fur held by  
2 such person and suspend the privilege of such person to hunt,  
3 fish, and harvest fur and to purchase such permits for a period  
4 of not less than one nor more than three years. The court shall  
5 consider the number and severity of the violations of the Game Law  
6 in determining the length of the revocation and suspension. The  
7 violations shall be:

8 (a) Carelessly or purposely killing or causing injury to  
9 livestock with a firearm or bow and arrow;

10 (b) Purposely taking or having in his or her possession  
11 a number of game animals, game fish, game birds, or fur-bearing  
12 animals exceeding twice the limit established pursuant to section

13 37-314;

14 (c) Taking any species of wildlife protected by the Game  
15 Law during a closed season in violation of section 37-502;

16 (d) Resisting or obstructing any officer or any employee  
17 of the commission in the discharge of his or her lawful duties in  
18 violation of section 37-609; and

19 (e) Being a habitual offender of the Game Law.

20 (2) When a person pleads guilty to or is convicted of any  
21 violation listed in this subsection, the court may, in addition to  
22 any other penalty, revoke and require the immediate surrender of  
23 all permits to hunt, fish, and harvest fur held by such person and  
24 suspend the privilege of such person to hunt, fish, and harvest  
25 fur and to purchase such permits for a period of not less than  
26 one nor more than three years. The court shall consider the number  
27 and severity of the violations of the Game Law in determining the  
1 length of the revocation and suspension. The violations shall be:

2 (a) Hunting, fishing, or fur harvesting without a permit  
3 in violation of section 37-411;

4 (b) Hunting from a vehicle, aircraft, or boat in  
5 violation of section 37-513, 37-514, 37-515, 37-535, or 37-538;

6 and

7 ~~(c) Trapping wildlife in the county right-of-way in  
8 violation of section 37-513; and~~

9 ~~(d)-(c) Knowingly taking any wildlife on private land  
10 without permission in violation of section 37-722.~~

11 (3) When a person pleads guilty to or is convicted of  
12 any violation of the Game Law or the rules and regulations of the  
13 commission not listed in subsection (1) or (2) of this section, the  
14 court may, in addition to any other penalty, revoke and require  
15 the immediate surrender of all permits to hunt, fish, and harvest  
16 fur held by such person and suspend the privilege of such person  
17 to hunt, fish, and harvest fur and to purchase such permits for a  
18 period of one year.

19 Sec. 3. Original sections 37-513 and 37-614, Reissue  
20 Revised Statutes of Nebraska, are repealed.

21 Sec. 4. Since an emergency exists, this act takes effect  
22 when passed and approved according to law.

## **PRESIDENT SHEEHY PRESIDING**

Pending.

## **COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 105.** Placed on Select File with amendment.  
ER8012

- 1 1. In lieu of the Langemeier amendment, FA4, strike
- 2 original section 4 and all amendments thereto and insert the

3 following new section:

4 Sec. 4. Section 37-327, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 37-327 (1) The commission shall establish fees for  
7 licenses, permits, stamps, bands, registrations, and certificates  
8 issued under the Game Law and the State Boat Act and shall  
9 establish the fee required by section 37-562 as provided in such  
10 law, act, and section. The commission shall not increase any fee  
11 more than six percent ~~in any one per year~~, except that if a fee has  
12 not been increased by such percentage in ~~a~~ the immediately prior  
13 year after 1993, the difference between a six percent increase  
14 and the actual percentage increase in such prior year may be  
15 added to the percentage increase in ~~a subsequent~~ the following  
16 year. Such fees shall be collected and disposed of as provided  
17 in such law, act, and section. The commission shall, as provided  
18 in such law, act, and section, establish issuance fees to be  
19 retained by authorized agents of such licenses, permits, stamps,  
20 bands, registrations, and certificates under such law, act, and  
21 section. The commission shall establish such fees by the adoption  
22 and promulgation of rules and regulations.

23 (2) Prior to establishing any fee, the commission shall,  
1 at least thirty days prior to the hearing required in section  
2 84-907, make the following information available for public review:

3 (a) The commission's policy on the minimum cash balance  
4 to be maintained in the fund in which the revenue from the fee  
5 being established is deposited and the justification in support of  
6 such policy;

7 (b) Monthly estimates of cash fund revenue, expenditures,  
8 and ending balances for the current fiscal year and the following  
9 two fiscal years for the fund in which the revenue from the fee  
10 being established is deposited. Estimates shall be prepared for  
11 both the current fee schedule and the proposed fee schedule; and

12 (c) A statement of the reasons for establishing the fee  
13 at the proposed level.

14 (3) The commission may adopt and promulgate rules and  
15 regulations to establish fees for expired licenses, permits,  
16 stamps, bands, registrations, and certificates issued under the  
17 Game Law and the State Boat Act. The commission shall collect the  
18 fees and remit them to the State Treasurer for credit to the State  
19 Game Fund.

**LEGISLATIVE BILL 105A.** Placed on Select File.

**LEGISLATIVE BILL 189.** Placed on Select File.

**LEGISLATIVE BILL 74.** Placed on Select File.

**LEGISLATIVE BILL 87.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

Judiciary

**LEGISLATIVE BILL 90.** Placed on General File.**LEGISLATIVE BILL 83.** Placed on General File with amendment.  
AM96

- 1 1. On page 2, line 23; and page 3, line 2, after  
 2 "held" insert "as a pet, but that is not used for a commercial  
 3 agricultural operation,".  
 4 2. On page 3, line 6, after "member" insert "or any  
 5 domestic animal that is owned, possessed, leased, kept, or held  
 6 as a pet, but that is not used for a commercial agricultural  
 7 operation, by the petitioner or any such family or household  
 8 member".

(Signed) Brad Ashford, Chairperson

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 167.** Placed on General File.**LEGISLATIVE BILL 168.** Placed on General File.**LEGISLATIVE BILL 207.** Placed on General File.**LEGISLATIVE BILL 322.** Placed on General File.**LEGISLATIVE BILL 116.** Indefinitely postponed.

(Signed) Pete Pirsch, Vice Chairperson

**NOTICE OF COMMITTEE HEARINGS**

Natural Resources

Room 1525

Wednesday, February 18, 2009 1:30 p.m.

LB437

LB561

LB568

Thursday, February 19, 2009 1:30 p.m.

Mark Spurgin - Game and Parks Commission

LB471

LB567

LB591

Friday, February 20, 2009 1:30 p.m.

Stephen Lichter - Nebraska Power Review Board

LB535

LB643

Wednesday, February 25, 2009 1:30 p.m.

LB666

Thursday, February 26, 2009 1:30 p.m.

LB651

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

LB502

LB504

Wednesday, March 4, 2009 1:30 p.m.

LB388

LB582

Wednesday, March 11, 2009 1:30 p.m.

LB439

LB644

(Signed) Chris Langemeier, Chairperson

### **MOTION - Print in Journal**

Senator Howard filed the following motion to LB614:

MO6

Withdraw bill.

### **GENERAL FILE**

**LEGISLATIVE BILL 5.** The Campbell amendment, AM132, found in this day's Journal, was renewed.

Senator Friend offered the following motion:

MO8

Bracket until June 2, 2009.

Senator Friend moved for a call of the house. The motion prevailed with 40 ayes, 1 nay, and 8 not voting.

Senator Friend requested a roll call vote on his motion to bracket.

Voting in the affirmative, 18:

Adams	Dierks	Haar	Nantkes	Stuthman
Campbell	Friend	Howard	Nordquist	Utter
Cook	Giese	Karpisek	Pankonin	
Council	Gloor	Lathrop	Rogert	

Voting in the negative, 27:

Ashford	Fulton	Janssen	Mello	Wallman
Carlson	Gay	Langemeier	Nelson	White
Christensen	Hadley	Lautenbaugh	Pahls	Wightman
Coash	Hansen	Louden	Pirsch	
Fischer	Harms	McCoy	Schilz	
Flood	Heidemann	McGill	Sullivan	

Excused and not voting, 4:

Avery	Cornett	Dubas	Price
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The Friend motion to bracket failed with 18 ayes, 27 nays, and 4 excused and not voting.

The Chair declared the call raised.

The Campbell amendment, AM132, found in this day's Journal, was renewed.

Senator Campbell moved for a call of the house. The motion prevailed with 40 ayes, 1 nay, and 8 not voting.

The Campbell amendment was adopted with 25 ayes, 17 nays, 4 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Stuthman offered the following motion:

MO7

Indefinitely postpone.

Pending.

**NOTICE OF COMMITTEE HEARINGS**  
Education

Room 1525

Tuesday, February 10, 2009 1:30 p.m.

LB240 (cancel)

(Signed) Greg Adams, Chairperson

Health and Human Services

Room 1510

Wednesday, February 11, 2009 1:30 p.m.

LB371

LB396

LB541

LB610

LB656

Thursday, February 12, 2009 1:30 p.m.

LB27

LB367

LB451

LB511

(Signed) Tim Gay, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Giese asked unanimous consent to add his name as cointroducer to LB449. No objections. So ordered.

Senator Harms asked unanimous consent to add his name as cointroducer to LB520. No objections. So ordered.

Senator Mello asked unanimous consent to add his name as cointroducer to LB555. No objections. So ordered.

**VISITOR**

The Doctor of the Day was Dr. Thomas Wolf from Fremont.

**ADJOURNMENT**

At 12:00 p.m., on a motion by Senator Utter, the Legislature adjourned until 9:00 a.m., Wednesday, February 4, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTIETH DAY - FEBRUARY 4, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****TWENTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 4, 2009

**PRAYER**

The prayer was offered by Pastor Howard Jordan, Bible Baptist Church, Beatrice.

**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 Senator Avery who was excused; and Senators Ashford, Cornett, Dierks, Friend, Gay, Louden, and Nantkes who were excused until they arrive.

**PRESIDENT SHEEHY PRESIDING****CORRECTIONS FOR THE JOURNAL**

The Journal for the nineteenth day was approved.

**COMMITTEE REPORT**  
Enrollment and Review

**LEGISLATIVE BILL 158.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Wednesday, February 11, 2009 1:30 p.m.

LB347

LB252

LB409

LB494

LB472

(Signed) Brad Ashford, Chairperson

**AMENDMENT - Print in Journal**Senator Langemeier filed the following amendment to LB105:  
AM175

- 1 1. On page 29, line 2, strike "eleven" and insert
- 2 "eight".

**MESSAGES FROM THE GOVERNOR**

January 30, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Highway Commission:

David Copple, 3405 Rolling Hills Drive, Norfolk, NE 68701

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate of appointment and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

January 30, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Coordinating Commission for Postsecondary Education:

John Winkleblack, 707 California Street, Tilden, NE 68781

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate of appointment and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### **REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

**LB/LR Committee**  
LB660 Judiciary (referred)

Copple, David - Nebraska Highway Commission - Transportation and Telecommunications

Winkleblack, John - Coordinating Commission for Postsecondary Education - Education

(Signed) John Wightman, Chairperson  
Executive Board

### **MOTION - Withdraw LB614**

Senator Howard renewed her motion, MO6, found on page 357, to withdraw LB614.

The Howard motion to withdraw the bill prevailed with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 99.** ER8007, found on page 307, was adopted.

Senator Carlson renewed his amendment, AM116, found on page 337.

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

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 100.** Senator Council offered the following amendment:

FA5

Reinstate the language stricken on line 21 on page 10.

The Council amendment was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 101.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 24.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 85.** Senator Utter renewed his amendment, AM57, found on page 305.

**SPEAKER FLOOD PRESIDING**

Senator Friend moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 33 ayes, 3 nays, and 13 not voting.

The Utter amendment lost with 15 ayes, 24 nays, 7 present and not voting, and 3 excused and not voting.

Senator McGill renewed her amendment, AM104, found on page 335.

The McGill amendment was adopted with 40 ayes, 2 nays, 6 present and not voting, and 1 excused and not voting.

Senator Pirsch offered the following amendment:

FA7

Amend page 2 line 19 as follows: limits as they existed as of the date twenty

years prior to the issuance of any urban growth bonds by a municipality under the authority of this section.

Senator Pirsch withdrew his amendment.

Senator Pirsch offered the following amendment:

AM193

- 1 1. On page 2, line 19, strike "on January 1, 1988" and
- 2 insert "as of the date twenty years prior to the issuance of any
- 3 urban growth bonds by a municipality under the authority of this
- 4 section".

The Pirsch amendment was adopted with 33 ayes, 3 nays, 12 present and not voting, and 1 excused and not voting.

Pending.

## COMMITTEE REPORTS

### Revenue

**LEGISLATIVE BILL 89.** Placed on General File with amendment.

AM92

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 77-4001, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 77-4001 Sections 77-4001 to 77-4025 and section 3 of this
- 6 act shall be known and may be cited as the Tobacco Products Tax
- 7 Act.
- 8 Sec. 2. Section 77-4002, Reissue Revised Statutes of
- 9 Nebraska, is amended to read:
- 10 77-4002 For purposes of the Tobacco Products Tax Act,
- 11 unless the context otherwise requires, the definitions found in
- 12 sections 77-4003 to 77-4007 and section 3 of this act shall be
- 13 used.
- 14 Sec. 3. Snuff means any finely cut, ground, or powered
- 15 tobacco that is not intended to be smoked.
- 16 Sec. 4. Section 77-4008, Reissue Revised Statutes of
- 17 Nebraska, is amended to read:
- 18 77-4008 ~~(1)(a)~~ A tax is hereby imposed upon the first
- 19 owner of tobacco products to be sold in this state. ~~The tax~~
- 20 (b) The tax on snuff shall be forty cents per ounce and
- 21 a proportionate tax at the like rate on all fractional parts of an
- 22 ounce. Such tax shall be computed based on the net weight as listed
- 23 by the manufacturer.
- 1 (c) The tax on tobacco products other than snuff shall
- 2 be twenty percent of ~~(a)(i)~~ the purchase price of such tobacco
- 3 products paid by the first owner or ~~(b)(ii)~~ the price at which
- 4 a first owner who made, manufactured, or fabricated the tobacco

5 product sells the items to others. ~~Such tax~~

6 (d) The tax on tobacco products shall be in addition to  
7 all other taxes.

8 (2) Whenever any person who is licensed under section  
9 77-4009 purchases tobacco products from another person licensed  
10 under section 77-4009, the seller shall be liable for the payment  
11 of the tax.

12 ~~(3) On and after October 1, 2002, and continuing until~~  
13 ~~October 1, 2004, the Tax Commissioner shall remit the amount~~  
14 ~~collected pursuant to this section to the State Treasurer, and the~~  
15 ~~State Treasurer shall credit three fourths of such amount to the~~  
16 ~~General Fund and one fourth of such amount to the Cash Reserve~~  
17 ~~Fund. On and after October 1, 2004, amounts collected~~ Amounts  
18 collected pursuant to this section shall be used and distributed  
19 pursuant to section 77-4025.

20 Sec. 5. Section 77-4014, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 77-4014 (1) On or before the tenth day of each calendar  
23 month, ~~commencing on or after January 1, 1988,~~ every person  
24 licensed under subsection (1) of section 77-4009 shall file a  
25 return with the Tax Commissioner showing either the quantity and  
26 the price of each tobacco product brought or caused to be brought  
1 into this state for sale or the quantity and the price of each  
2 tobacco product made, manufactured, or fabricated in this state for  
3 sale in this state, whichever is applicable, during the preceding  
4 calendar month. For snuff, such return shall also include the net  
5 weight as listed by the manufacturer.

6 (2) Every person licensed pursuant to subsection (2) of  
7 section 77-4009 shall, in the manner described in subsection (1)  
8 of this section, file a return showing in detail the different  
9 kinds, quantity, and wholesale sales price of each tobacco product  
10 shipped or transported to retailers in this state to be sold by  
11 such retailers during the preceding calendar month. For snuff,  
12 such return shall also include the net weight as listed by the  
13 manufacturer.

14 (3) Returns shall be made upon forms furnished and  
15 prescribed by the Tax Commissioner. Each return shall be  
16 accompanied by a remittance for the full tax liability shown, less  
17 an amount of such liability equal to any amount allowed a payer of  
18 the sales and use tax pursuant to subdivision (1)(d) of section  
19 77-2708 as compensation to reimburse the licensee for his or her  
20 expenses incurred in complying with the Tobacco Products Tax Act.

21 Sec. 6. Section 77-4017, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 77-4017 (1) Every licensee shall keep complete and  
24 accurate records for all places of business, including itemized  
25 invoices of tobacco products (a) held, purchased, manufactured, or  
26 brought in or caused to be brought into this state or (b) for a  
licensee located outside of this state, shipped or transported to

27 retailers in this state. For snuff, such records shall also include  
 1 the net weight as listed by the manufacturer.

2 (2) All books, records, and other papers and documents  
 3 required to be kept by this section shall be preserved for a period  
 4 of at least three years after the due date of the tax imposed  
 5 by the Tobacco Products Tax Act unless the Tax Commissioner, in  
 6 writing, authorizes their destruction or disposal at an earlier  
 7 date.

8 (3) At any time during usual business hours, duly  
 9 authorized agents or employees of the Tax Commissioner may enter  
 10 any place of business of a licensee and inspect the premises,  
 11 the records required to be kept pursuant to this section, and  
 12 the tobacco products contained in such place of business for  
 13 purposes of determining whether or not such licensee is in full  
 14 compliance with the act. Refusal to permit such inspection by a  
 15 duly authorized agent or employee of the Tax Commissioner shall be  
 16 grounds for revocation, cancellation, or suspension of the license.

17 Sec. 7. This act becomes operative on October 1, 2009.

18 Sec. 8. Original sections 77-4001, 77-4002, 77-4008,  
 19 77-4014, and 77-4017, Reissue Revised Statutes of Nebraska, are  
 20 repealed.

(Signed) Abbie Cornett, Chairperson

Banking, Commerce and Insurance

**LEGISLATIVE BILL 177.** Placed on General File with amendment.  
 AM123

- 1 1. On page 4, line 1, strike "five" and insert "three"
- 2 and after "placing" insert ", temporarily lifting, or removing".

**LEGISLATIVE BILL 377.** Placed on General File.

(Signed) Rich Pahls, Chairperson

Transportation and Telecommunications

**LEGISLATIVE BILL 219.** Placed on General File.

**LEGISLATIVE BILL 110.** Placed on General File with amendment.  
 AM181 is available in the Bill Room.

**LEGISLATIVE BILL 261.** Placed on General File with amendment.  
 AM182

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 60-4,111.01, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 60-4,111.01 (1) The Department of Motor Vehicles,

6 the courts, or law enforcement agencies may store or compile  
7 information acquired from an operator's license or state  
8 identification card for their statutorily authorized purposes.

9 ~~(2) No Except as otherwise provided in subsection (3)~~  
10 ~~or (4) of this section, no person having use of or access to~~  
11 ~~machine-readable information encoded on an operator's license or a~~  
12 ~~state identification card shall compile, store, preserve, trade, or~~  
13 ~~sell such information. Violation of this subsection shall be Any~~  
14 ~~person who trades or sells such information shall be guilty of a~~  
15 ~~Class IV felony. Any person who compiles, stores, or preserves such~~  
16 ~~information except as authorized in subsection (3) or (4) of this~~  
17 ~~section shall be guilty of a Class IV felony.~~

18 (3) For purposes of compliance with and enforcement of  
19 restrictions on the purchase of alcohol, lottery tickets, and  
20 tobacco products, a retailer who sells any of such items pursuant  
21 to a license issued under the applicable statutory provision may  
22 scan machine-readable information encoded on an operator's license  
23 or a state identification card presented for the purpose of such  
1 a sale. The retailer may store the following information obtained  
2 from the license or card: Age and license or card identification  
3 number. The retailer shall post a sign at the point of sale  
4 of any of such items stating that the license or card will be  
5 scanned and that the age and identification number will be stored.  
6 The stored information may be used by a law enforcement agency  
7 for purposes of enforcement of the restrictions on the purchase  
8 of alcohol, lottery tickets, and tobacco products. The programmer  
9 for computer software designed to store such information shall  
10 certify to the retailer that the software is capable of storing  
11 only the information allowed by this subsection. Intentional or  
12 grossly negligent programming by the programmer which allows for  
13 the storage of more than the age and identification number shall be  
14 a Class IV felony. A retailer who knowingly stores more information  
15 than the age and identification number from the operator's license  
16 or state identification card shall be guilty of a Class IV felony.

17 (4) A person having use of or access to machine-readable  
18 information encoded on an operator's license or a state  
19 identification card may scan, compile, store, and preserve such  
20 information:

21 (a) For purposes of providing such information to a  
22 consumer reporting agency subject to and in compliance with the  
23 federal Fair Credit Reporting Act, 15 U.S.C. 1681, as such act  
24 existed on January 1, 2009;

25 (b) As necessary to effect, administer, or enforce a  
26 transaction requested by the holder of the license or card;

27 (c) To protect against or prevent actual or potential  
1 fraud, unauthorized transactions, claims, or other liability; or

2 (d) For resolving a dispute or inquiry by the holder of  
3 the license or card.



- 4 Sec. 2. Original section 60-4,111.01, Reissue Revised  
5 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 10.** Indefinitely postponed.

(Signed) Deb Fischer, Chairperson

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 18.** Introduced by Gay, 14; Cornett, 45.

WHEREAS, Inez Boyd has demonstrated her commitment to her community and the State of Nebraska by devoting nearly three decades of her life to public service; and

WHEREAS, Inez Boyd was first elected to public office as a member of the Bellevue City Council and served in that position from 1972 to 1982; and

WHEREAS, Inez Boyd served as the Mayor of Bellevue from 1986 to 1994; and

WHEREAS, Inez Boyd served as a Sarpy County Commissioner from 2000 to 2008; and

WHEREAS, Inez Boyd was a member of the Bellevue Chamber of Commerce, Board of Directors from 1986 to 1996; and

WHEREAS, Inez Boyd was a member of the League of Nebraska Municipalities, including serving as president and as a member of the board of directors for several years; and

WHEREAS, Inez Boyd was a member of the Great Plains Girl Scout Council, including serving as president and a member of the board of directors for four years; and

WHEREAS, Inez Boyd has been a member of the Board of Directors for United Way/CHAD; and

WHEREAS, Inez Boyd has been recognized for her work and has been named Sarpy County Chamber of Commerce Business Leader of the Year, as well as the Bellevue Leader's Person of the Year.

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

1. That Inez Boyd be recognized for her dedication and congratulated on her retirement from elected office.

2. That Inez Boyd is encouraged to continue to share her many skills and her experience and explore future public service opportunities.

3. That a copy of this resolution be sent to Inez Boyd.

Laid over.

**SELECT FILE**

**LEGISLATIVE BILL 85.** Senator McGill offered the following amendment:

AM66

- 1 1. On page 4, after line 9 insert the following new
- 2 subsection:
- 3 "(6) For purposes of this section, municipality means a
- 4 city of the primary or metropolitan class.".

The McGill amendment lost with 13 ayes, 24 nays, 11 present and not voting, and 1 excused and not voting.

Senator Janssen offered the following amendment:

AM67

- 1 1. On page 3, line 3, after "district" insert "and that
- 2 levied at least ninety percent of the maximum levy pursuant to
- 3 section 77-3442 in the prior fiscal year".

Senator Janssen moved for a call of the house. The motion prevailed with 42 ayes, 1 nay, and 6 not voting.

Senator Janssen requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Adams	Hadley	Lautenbaugh	Pirsch
Carlson	Heidemann	Louden	Schilz
Christensen	Howard	Nelson	Stuthman
Fischer	Janssen	Pankonin	Utter

Voting in the negative, 32:

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

Excused and not voting, 1:

Avery

The Janssen amendment lost with 16 ayes, 32 nays, and 1 excused and not voting.

The Chair declared the call raised.

Senator Friend offered the following amendment:

FA8

On page 3, in line 3, after "ordinance" insert: "approved by a vote of two-thirds of the members of its governing body".

The Friend amendment was adopted with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

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

Voting in the affirmative, 36:

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

Voting in the negative, 10:

Adams	Hadley	Howard	Louden	Stuthman
Fischer	Heidemann	Janssen	Pirsch	Utter

Present and not voting, 2:

Christensen Lautenbaugh

Excused and not voting, 1:

Avery

Advanced to Enrollment and Review for Engrossment with 36 ayes, 10 nays, 2 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 120.** ER8006, found on page 308, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 251.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 166.** ER8009, found on page 321, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 123.** ER8011, found on page 330, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 75.** ER8010, found on page 330, was adopted.

Advanced to Enrollment and Review for Engrossment.

### COMMITTEE REPORT

Banking, Commerce and Insurance

**LEGISLATIVE BILL 432.** Placed on General File with amendment.  
AM177

- 1 1. Strike section 2.
- 2 2. On page 3, line 6, strike "a holder" and insert "an
- 3 owner"; and in line 8 after "Revenue" insert ", except that the
- 4 Auditor of Public Accounts shall have unrestricted access to such
- 5 records".
- 6 3. Renumber the remaining section and correct the
- 7 repealer accordingly.

(Signed) Rich Pahls, Chairperson

### AMENDMENTS - Print in Journal

Senator Stuthman filed the following amendment to LB5:  
AM179

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 37-513, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 37-513 (1) It shall be unlawful to shoot at any wildlife
- 6 from any highway or roadway, which includes that area of land from
- 7 the center of the traveled surface to the right-of-way on either
- 8 side. Any person violating this subsection shall be guilty of a
- 9 Class III misdemeanor and shall be fined at least fifty dollars.
- 10 (2)(a) ~~It shall be unlawful to trap any wildlife in the county~~
- 11 ~~road right-of-way, except that the commission may allow trapping~~
- 12 ~~of raptors within the county road right-of-way in accordance with~~
- 13 ~~sections 37-497 to 37-4,103.~~
- 14 (b) For purposes of this subsection, county road
- 15 right-of-way means the area which has been designated a part of the
- 16 county road system and which has not been vacated pursuant to law.
- 17 Sec. 2. Section 37-559, Reissue Revised Statutes of
- 18 Nebraska, is amended to read:
- 19 37-559 (1) Any farmer or rancher owning or operating a
- 20

21 farm or ranch may destroy or have destroyed any predator preying on  
 22 livestock or poultry or causing other agricultural depredation on  
 23 land owned or controlled by him or her without a permit issued by  
 1 the commission.

2 (2) Notwithstanding subsection (2) of section 37-513,  
 3 a county may request permission from the commission to permit  
 4 trapping of wildlife in a designated area of the county road  
 5 right-of-way for reasonable wildlife management purposes as  
 6 determined by the commission and if the county board has reason to  
 7 believe that wildlife management is a concern in such area. The  
 8 commission shall require signs to be posted within the designated  
 9 area to provide notice of such traps.

10 ~~(2)-(3)~~ This section shall not be construed to allow ~~such~~  
 11 ~~farmer or rancher~~ any person to destroy or have destroyed species  
 12 which are protected by the provisions of sections 37-314 and 37-501  
 13 to 37-503, the Nongame and Endangered Species Conservation Act,  
 14 the federal Endangered Species Act, the federal Fish and Wildlife  
 15 Coordination Act, as amended, 16 U.S.C. 661 et seq., the federal  
 16 Bald and Golden Eagle Protection Act, as amended, 16 U.S.C. 668 et  
 17 seq., the federal Migratory Bird Treaty Act, as amended, 16 U.S.C.  
 18 703 et seq., or rules and regulations adopted and promulgated  
 19 pursuant to such provisions.

20 Sec. 3. Original sections 37-513 and 37-559, Reissue  
 21 Revised Statutes of Nebraska, are repealed.

22 Sec. 4. Since an emergency exists, this act takes effect  
 23 when passed and approved according to law.

Senator Wightman filed the following amendment to LB5:  
 AM185

(Amendments to AM132)

- 1 1. On page 1, line 15, after "right-of-way" insert "or in
- 2 a certain area of the right-of-way as designated by the county".

Senator Lathrop filed the following amendment to LB192:  
 FA6

Strike Sections 2 and 3.

### UNANIMOUS CONSENT - Add Cointroducers

Senator Coash asked unanimous consent to add his name as cointroducer to  
 LB306. No objections. So ordered.

Senator Haar asked unanimous consent to add his name as cointroducer to  
 LB499. No objections. So ordered.

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

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB675 and LB676. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Harry Merrihew from Ashby; Dale Caskey from Bassett; 24 twelfth-grade students, teacher, and sponsors from Hartington; and 23 eleventh-grade students from Kearney Catholic School, Kearney.

The Doctor of the Day was Dr. Michael Sayers from Lincoln.

### **ADJOURNMENT**

At 11:56 a.m., on a motion by Senator Nantkes, the Legislature adjourned until 9:00 a.m., Thursday, February 5, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**TWENTY-FIRST DAY - FEBRUARY 5, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****TWENTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, February 5, 2009

**PRAYER**

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

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Avery who was excused; and Senators Ashford, Friend, Heidemann, and Pankonin who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twentieth day was approved.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 259.** Placed on Select File with amendment.  
ER8013

- 1 1. On page 1, line 3, after the first comma insert
- 2 "16-716," and after "17-720," insert "30-3209,".
- 3 2. On page 19, line 14, strike the comma.
- 4 3. In the Standing Committee amendment, AM4, renumber
- 5 section 6 as section 7.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

General Affairs

**LEGISLATIVE BILL 137.** Placed on General File.

**LEGISLATIVE BILL 232.** Placed on General File.

(Signed) Russ Karpisek, Chairperson

## Banking, Commerce and Insurance

**LEGISLATIVE BILL 152.** Placed on General File.

**LEGISLATIVE BILL 327.** Placed on General File with amendment.  
AM122

- 1 1. Insert the following new section:
- 2 Sec. 13. (1) A licensee shall file notice with the
- 3 director within thirty calendar days of any material changes in
- 4 information provided in a licensee's application as prescribed by
- 5 the director.
- 6 (2) A licensee shall file a report with the director
- 7 within five business days after the licensee has reason to know of
- 8 the occurrence of any of the following events:
- 9 (a) The filing of a petition by or against the licensee
- 10 under any bankruptcy law of the United States for bankruptcy or
- 11 reorganization;
- 12 (b) The filing of a petition by or against the licensee
- 13 for receivership, the commencement of any other judicial or
- 14 administrative proceeding for its dissolution or reorganization,
- 15 or the making of a general assignment for the benefit of its
- 16 creditors;
- 17 (c) The commencement of a proceeding to revoke or suspend
- 18 the licensee's license in a state or country in which the licensee
- 19 engages in business or is licensed;
- 20 (d) The cancellation or other impairment of the
- 21 licensee's bond or other security;
- 22 (e) A charge or conviction of the licensee or of an
- 23 executive officer, manager, or director of, or person in control
- 1 of, the licensee for a felony; or
- 2 (f) A charge or conviction of an authorized agent for a
- 3 felony.
- 4 2. On page 15, strike beginning with "is" in line 8
- 5 through "function" in line 12 and insert "has the power to elect
- 6 a majority of executive officers, managers, directors, trustees, or
- 7 other persons exercising managerial authority of a licensee or any
- 8 person in control of a licensee"; and in line 21 strike "section
- 9 12" and insert "sections 12 and 13".
- 10 3. On page 23, strike beginning with "14" in line 15
- 11 through "19" in line 16 and insert "13, 15, 16, 17, 18, and 20".
- 12 4. Renumber the remaining sections accordingly.

(Signed) Rich Pahls, Chairperson



**NOTICE OF COMMITTEE HEARING**  
General Affairs

Room 1510

Monday, February 23, 2009 1:30 p.m.

LB478  
LB576  
LB664  
LB605

(Signed) Russ Karpisek, Chairperson

**MESSAGE FROM THE GOVERNOR**

January 30, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being  
reappointed to the Foster Care Review Board:

Dave Schroeder, 1103 Arrowhead Ct., Lexington, NE 68850  
Mary Jo Pankoke, 3516 South 17th Street, Lincoln, NE 68502  
Georgie Scurfield, 360 Windsor Drive, Papillion, NE 68046  
Dr. Mario Scalora, UNL - 238 Burnett Hall, Lincoln, NE 68588

The aforementioned appointees are respectfully submitted for your  
consideration. Copies of the appointment certificates and background  
information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 24.** Placed on Final Reading.

**LEGISLATIVE BILL 99.** Placed on Final Reading.

**LEGISLATIVE BILL 100.** Placed on Final Reading.

**LEGISLATIVE BILL 101.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 5.** Senator Stuthman withdrew his motion MO7, found on page 358, to indefinitely postpone.

Senator Stuthman renewed his amendment, AM179, found on page 372.

Senator Carlson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 5 nays, and 17 not voting.

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

The Stuthman amendment lost with 10 ayes, 27 nays, 9 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Stuthman offered the following motion:

MO9

Reconsider the vote taken on AM179.

The Stuthman motion to reconsider failed with 10 ayes, 23 nays, 14 present and not voting, and 2 excused and not voting.

Senator Wightman renewed his amendment, AM185, found on page 373.

Pending.

**ANNOUNCEMENT**

The Chair announced today is Senator Dubas' birthday.

**GENERAL FILE**

**LEGISLATIVE BILL 5.** The Wightman amendment, AM185, found on page 373 and considered in this day's Journal, was renewed.

Senator Loudon moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 32 ayes, 1 nay, and 16 not voting.

The Wightman amendment was adopted with 39 ayes, 3 nays, 4 present and not voting, and 3 excused and not voting.

Senator Haar offered the following amendment:

FA9

Add a new section: All Nebraska tourism promotional brochures carry a warning which reads: "Ditches in Nebraska may contain traps"

Senator Fulton moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 31 ayes, 2 nays, and 16 not voting.

The Haar amendment lost with 4 ayes, 37 nays, 5 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 10 nays, 6 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 53.** Title read. Considered.

Senator Haar renewed the Avery amendment, AM38, found on page 326.

Senator Haar offered the following amendment to the Avery amendment: AM211

(Amendments to AM38)

- 1 1. On page 1, line 2, before the period insert "; and
- 2 in line 18 after 'requirements' insert 'if the purchasing public
- 3 electric utility serves a city of the primary class".

Pending.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

Pankoke, Mary Jo - Foster Care Review Board - Health and Human Services

Scalora, Mario - Foster Care Review Board - Health and Human Services

Schroeder, Dave - Foster Care Review Board - Health and Human Services

Scurfield, Georgie - Foster Care Review Board - Health and Human Services

(Signed) John Wightman, Chairperson  
Executive Board

**COMMITTEE REPORT**

Revenue

**LEGISLATIVE BILL 302.** Placed on General File.

(Signed) Abbie Cornett, Chairperson

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 85.** Placed on Final Reading.

**LEGISLATIVE BILL 120.** Placed on Final Reading.

**LEGISLATIVE BILL 251.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**AMENDMENT - Print in Journal**

Senator Fischer filed the following amendment to LB204:

AM84

- 1 1. On page 3, strike line 25.
- 2 2. On page 4, strike line 1 through 8 and insert "has the
- 3 same meaning as in section 75-362.".
- 4 3. On page 6, strike lines 1 through 9, show the old
- 5 matter as stricken, and insert "has the same meaning as in section
- 6 75-362.".

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Giese asked unanimous consent to add his name as cointroducer to LB12 and LB64. No objections. So ordered.

Senator McCoy asked unanimous consent to add his name as cointroducer to LB17. No objections. So ordered.

Senator Coash asked unanimous consent to add his name as cointroducer to LB68. No objections. So ordered.

Senator McGill asked unanimous consent to add her name as cointroducer to LB346. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Senator Utter's son, Mark Utter, from South Sioux City; members of Leadership Kearney from Kearney; members of Leadership Local from across the state; members of Youth Leadership Kearney from Kearney; and former Senator Jim Cudaback from Riverdale.

The Doctor of the Day was Dr. Benjamin Barraclough from Lincoln.

**ADJOURNMENT**

At 11:59 a.m., on a motion by Senator Haar, the Legislature adjourned until 9:00 a.m., Friday, February 6, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTY-SECOND DAY - FEBRUARY 6, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****TWENTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, February 6, 2009

**PRAYER**

The prayer was offered by Senator Gloor.

**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 Senator Avery who was excused; and Senators Dierks, Gay, and Louden who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-first day was approved.

**NOTICE OF COMMITTEE HEARING**

Transportation and Telecommunications

Room 1113

Tuesday, February 17, 2009 1:30 p.m.

LB106  
LB255  
LB497

(Signed) Deb Fischer, Chairperson

**RESOLUTION****LEGISLATIVE RESOLUTION 19.** Introduced by Hadley, 37.

WHEREAS, Eric S. Warren and Daniel K. Gibbs have 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 their scouting experience, Eric and Daniel have 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. Eric, for his Eagle Scout community service project, built a 9' x 9' picnic shelter for the Great Platte River Road Archway. Daniel, for his Eagle Scout community service project, made the windsocks at the Kearney Regional Airport more visible to pilots in the air; and

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

WHEREAS, Eric and Daniel, through their 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 Eric S. Warren and Daniel K. Gibbs on achieving the rank of Eagle Scout.

2. That copies of this resolution be sent to Eric S. Warren and Daniel K. Gibbs.

Laid over.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of February 5, 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

Balch, Mary Spaulding  
National Right to Life Committee

Blomstedt, Matthew L.  
Educational Service Unit Coordinating Council



Brashear, Kermit A.  
 Lutheran Home, The  
 Bromm, Curt  
 KZ Co.  
 Lower Platte Basin Fully Appropriated Review Effort  
 Cutshall & Nowka  
 Meda Pharmaceutical Inc.  
 Donaldson, R. Eric  
 Altria Client Services Inc. and its Affiliates (formerly Philip Morris USA Inc.)  
 Kissel/Erickson & Sederstrom Associates, LLC  
 Keane Organization  
 Levy, David C.  
 Midwest Wind Energy  
 Lightner, Patricia  
 HSBC GR Corp.  
 Pappas, James E.  
 Bellevue Public Schools  
 League of Human Dignity  
 Ruth Mueller Robak LLC  
 Midlands Mentoring Partnership  
 Money Services Roundtable, The  
 Schmit Industries, Inc.  
 E-Energy  
 Siouxland Ethanol LLC

## REPORTS

The following reports were received by the Legislature:

### **Auditor of Public Accounts**

Audit Report of the Nebraska Public Employees Retirement Systems - School Employees, Judges, and State Patrol Retirement Plans for the year ended June 30, 2008

### **Health and Human Services**

Annual Report for the Year 2008 - Number of Licenses Suspended Under the Child Support Enforcement License Suspension Act

New Hire Report to the Legislature

State Disbursement Unit Report to the Legislature - Calendar Year 2008

Waiver of Training Requirements for Relative Foster Care Annual Report

### **Investment Finance Authority, Nebraska (NIFA)**

2006 Series A, B, C, D, E, and F Community Development Loan Notes (City of Lincoln Program-2006) as of December 31, 2008

Drinking Water State Revolving Fund Revenue Bonds Series 2008 A, Quarterly Report

Single Family Housing Revenue Bonds Series 2008 CDE

Single Family Housing Revenue Bonds Series 2008 FGH

### **Railway Council, Nebraska**

Annual Report

**Treasurer, State**

State of Nebraska Comprehensive Annual Financial Report for the year ended June 30, 2008

State of Nebraska Annual Budgetary Report for the year ended June 30, 2008

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 11.**

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to amend section 81-885.14, Reissue Revised Statutes of Nebraska; to change licensing fees; to change a provision relating to revocation or denial of a license; 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	Friend	Howard	Nantkes	Sullivan
Christensen	Fulton	Janssen	Nordquist	Utter
Coash	Giese	Karpisek	Pahls	Wallman
Cook	Gloor	Langemeier	Pankonin	White
Cornett	Haar	Lathrop	Pirsch	Wightman
Council	Hadley	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 5:

Avery	Dierks	Gay	Louden	Nelson
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 29.**

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to amend section 81-885.19, Reissue Revised Statutes of Nebraska; to change requirements relating to management of branch offices as prescribed; 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	Friend	Howard	Nantkes	Sullivan
Christensen	Fulton	Janssen	Nordquist	Utter
Coash	Giese	Karpisek	Pahls	Wallman
Cook	Gloor	Langemeier	Pankonin	White
Cornett	Haar	Lathrop	Pirsch	Wightman
Council	Hadley	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 5:

Avery	Dierks	Gay	Louden	Nelson
-------	--------	-----	--------	--------

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

**LEGISLATIVE BILL 30.**

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to amend sections 81-885.02, 81-885.05, 81-885.09, 81-885.10, 81-885.15, 81-885.24, 81-885.25, 81-885.29, 81-885.43, 81-885.44, 81-885.46, 81-885.48, and 81-887.03, Reissue Revised Statutes of Nebraska; to change provisions relating to the act and the powers of the State Real Estate Commission as prescribed; to provide for civil penalties; to provide powers and duties for the Attorney General; to harmonize provisions; to repeal the original sections; and to outright repeal section 81-885.47, Reissue Revised Statutes of Nebraska.

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, 46:

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

Voting in the negative, 0.

Excused and not voting, 3:

Avery                      Dierks                      Louden

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 LB31 with 44 ayes, 0 nays, 2 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 31.**

A BILL FOR AN ACT relating to the Public Accountancy Act; to amend sections 1-105, 1-106, 1-109, 1-110, 1-111, 1-114, 1-116, 1-118, 1-119, 1-120, 1-122, 1-126, 1-134, 1-135, 1-136, 1-136.01, 1-136.02, 1-136.04, 1-137, 1-138, 1-148, 1-151, 1-152, 1-155, 1-156, 1-157, 1-158, 1-159, 1-161, 1-162, 1-162.01, 1-164.01, 1-164.02, 1-167, 1-168, 1-170, and 1-171, Reissue Revised Statutes of Nebraska; to define and redefine terms; to rename a fund; to change certificate and permit requirements; to provide for practice privileges; to eliminate obsolete provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 1-123, 1-125, 1-133, 1-136.03, 1-153, 1-154, and 1-163, Reissue Revised Statutes of Nebraska.

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

Voting in the negative, 0.

Present and not voting, 2:

Coash            Lathrop

Excused and not voting, 3:

Avery            Dierks            Louden

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

**ANNOUNCEMENT**

The Chair announced today is Senator Wallman's birthday.

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 49.**

A BILL FOR AN ACT relating to vehicles and motorboats; to amend sections 18-1214, 23-186, 37-1201, and 83-123, Reissue Revised Statutes of Nebraska, and sections 60-101, 60-111, and 60-320, Revised Statutes Cumulative Supplement, 2008; to require that titling and registration of vehicles and motorboats be performed by county treasurers as prescribed; to provide powers and duties for the Director of Motor Vehicles; 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, 45:

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

Voting in the negative, 0.

Present and not voting, 1:

Stuthman

Excused and not voting, 3:

Avery                      Dierks                      Louden

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

#### **LEGISLATIVE BILL 49A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 49, One Hundred First Legislature, First Session, 2009.

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, 45:

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

Voting in the negative, 0.

Present and not voting, 1:

Stuthman

Excused and not voting, 3:

Avery            Dierks            Louden

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

**LEGISLATIVE BILL 50.**

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-1401.02, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to manufacturers; 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, 46:

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

Voting in the negative, 0.

Excused and not voting, 3:

Avery            Dierks            Louden

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 LB62 with 42 ayes, 1 nay, 3 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 62.** With Emergency Clause.

A BILL FOR AN ACT relating to schools; to amend sections 79-233, 79-237, 79-238, 79-1007.22, and 79-2110, Reissue Revised Statutes of Nebraska; to change provisions relating to the enrollment option program and learning communities; to provide a duty for the State Department of Education; 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, 46:

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

Voting in the negative, 0.

Excused and not voting, 3:

Avery	Dierks	Louden
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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 LB154 with 43 ayes, 1 nay, 2 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 154.**

A BILL FOR AN ACT relating to government; to amend sections 12-1301, 29-3922, 29-3927, 38-2881, 38-2886, 38-2888, 38-2889, 42-917, 44-5230, 44-5255, 44-5263, 66-1337, 66-1518, 81-15,124.01, 85-1655, 86-401, 86-593, 86-597, and 86-598, Reissue Revised Statutes of Nebraska, and sections 66-1519, 71-702, 71-801, and 71-810, Revised Statutes Cumulative Supplement, 2008; to eliminate obsolete provisions; to repeal the Small



Business Development Authority Act, the Nebraska Transit and Rail Advisory Council Act, the Behavioral Health Oversight Commission, the Broadband Services Task Force, the Donor Registry of Nebraska Advisory Board, the Health Benefit Plan Committee, the Indigent Defense Standards Advisory Council, the Nebraska Commission on the Status of Women, the Nebraska Lewis and Clark Bicentennial Commission, the Nebraska Veterans Cemetery Advisory Board, the Public Health Clinic Formulary Advisory Committee, the Regional Interoperability Advisory Board, the Special Education Services Task Force, the Tax Policy Reform Commission, the Teen Tobacco Education and Prevention Project Committee, the Vote Nebraska Initiative, an ethanol advisory committee, a postsecondary education advisory committee, a technical advisory committee for petroleum products, a working group studying sex offender treatment, and certain funds; to harmonize provisions; to repeal the original sections; and to outright repeal sections 29-3932, 32-1701, 44-5236, 44-5262, 58-301, 58-302, 58-303, 58-304, 58-305, 58-306, 58-307, 58-308, 58-309, 58-310, 58-311, 58-312, 58-313, 58-314, 58-315, 58-316, 58-317, 58-318, 58-319, 58-320, 58-321, 58-322, 58-323, 58-324, 58-325, 71-5715, 74-1501, 74-1502, 74-1503, 74-1504, 74-1505, 74-1506, 74-1507, 74-1508, 74-1509, 74-1510, 74-1511, 74-1512, 74-1513, 74-1514, 77-2704.19, 79-11,151, 79-11,152, 79-11,153, 79-11,154, 81-8,255, 81-8,256, 81-8,257, 81-8,258, 81-8,259, 81-8,260, 81-8,260.01, 81-8,260.02, 81-8,307, 81-8,308, 81-15,189, 81-15,190, 86-418.01, and 86-599, Reissue Revised Statutes of Nebraska, and sections 71-818, 71-1227, 71-1228, 71-4823, 77-6001, 77-6002, 77-6003, 77-6004, 77-6005, 77-6006, and 77-6007, Revised Statutes Cumulative Supplement, 2008.

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, 45:

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

Voting in the negative, 0.

Present and not voting, 2:

Louden            Rogert

Excused and not voting, 2:

Avery            Dierks

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

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 179.** With Emergency Clause.

A BILL FOR AN ACT relating to the Nebraska Resources Development Fund; to amend section 2-1588, Reissue Revised Statutes of Nebraska; to change provisions relating to adjustments to project limits; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Avery            Dierks

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 180.**

A BILL FOR AN ACT relating to solid waste; to amend sections 13-2042.01 and 81-15,160, Reissue Revised Statutes of Nebraska; to change provisions relating to a landfill disposal fee; to provide for grants for deconstruction of abandoned buildings; 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, 45:

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

Voting in the negative, 2:

Council            Wallman

Excused and not voting, 2:

Avery            Dierks

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

**LEGISLATIVE BILL 196.**

A BILL FOR AN ACT relating to the Rural Health Systems and Professional Incentive Act; to amend sections 71-5666, 71-5667, and 71-5668, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to student loan recipient agreements; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Avery                      Dierks

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

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 11, 29, 30, 31, 49, 49A, 50, 62, 154, 179, 180, and 196.

### **COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 75.** Placed on Final Reading.

**LEGISLATIVE BILL 123.** Placed on Final Reading.

**LEGISLATIVE BILL 166.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

### **COMMITTEE REPORT**

Education

**LEGISLATIVE BILL 299.** Placed on General File with amendment.

AM70

1      1. On page 3, line 16, after "of" insert "fire safety".

(Signed) Greg Adams, Chairperson

### **NOTICE OF COMMITTEE HEARINGS**

Education

Room 1525

Tuesday, February 17, 2009    1:30 p.m.

Linda Poole - Technical Advisory Committee for Statewide Assessment

Dallas Watkins - Technical Advisory Committee for Statewide Assessment

Wayne Camara - Technical Advisory Committee for Statewide Assessment

Brian Gong - Executive Director, Technical Advisory Committee for Statewide Assessment

Richard Sawyer - Technical Advisory Committee for Statewide Assessment

Monday, February 23, 2009 1:30 p.m.

LB22  
LB387  
LB391

Tuesday, February 24, 2009 1:30 p.m.

LB534  
LB597  
LB392

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

LB440  
LB21  
LB399  
LB397

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

LB655  
LB673  
LB400  
LB607  
LB413

Monday, March 9, 2009 1:30 p.m.

LB473  
LB546  
LB235

Tuesday, March 10, 2009 1:30 p.m.

LB476  
LB257  
LB461  
LB549  
LB548

Tuesday, March 17, 2009 1:30 p.m.

LB240 (reschedule)

(Signed) Greg Adams, Chairperson

**ANNOUNCEMENT**

Senator Schilz designates LB646 as his priority bill.

**SELECT FILE**

**LEGISLATIVE BILL 80.** ER8008, found on page 330, was adopted.

Senator Nelson renewed his amendment, AM79, found on page 322.

The Nelson amendment was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 192.** Senator Lathrop renewed his amendment, FA6, found on page 373.

The Lathrop amendment was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 105.** ER8012, found on page 354, was adopted.

Senator Langemeier withdrew his amendment, AM175, found on page 362.

Senator Langemeier offered the following amendment:  
AM227 is available in the Bill Room.

**SENATOR ROBERT PRESIDING**

The Langemeier amendment was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 189.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 87.** Advanced to Enrollment and Review for Engrossment.

**COMMITTEE REPORT**  
Enrollment and Review

**LEGISLATIVE BILL 5.** Placed on Select File with amendment.  
ER8014

- 1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 Section 1. Section 37-513, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 37-513 (1) It shall be unlawful to shoot at any wildlife  
6 from any highway or roadway, which includes that area of land from  
7 the center of the traveled surface to the right-of-way on either  
8 side. Any person violating this subsection shall be guilty of a  
9 Class III misdemeanor and shall be fined at least fifty dollars.
- 10 (2)(a) ~~It shall be unlawful to trap any wildlife in~~  
11 ~~the county road right of way, except that the commission may~~  
12 ~~allow trapping of raptors within the county road right of way in~~  
13 ~~accordance with sections 37-497 to 37-4103. Any county may enact a~~  
14 resolution prohibiting the trapping of wildlife in the county road  
15 right-of-way or in a certain area of the right-of-way as designated  
16 by the county.
- 17 (b) For purposes of this subsection, county road  
18 right-of-way means the area which has been designated a part of the  
19 county road system and which has not been vacated pursuant to law.
- 20 Sec. 2. Section 37-614, Reissue Revised Statutes of  
21 Nebraska, is amended to read:  
22 37-614 (1) When a person pleads guilty to or is convicted  
23 of any violation listed in this subsection, the court shall, in  
1 addition to any other penalty, revoke and require the immediate  
2 surrender of all permits to hunt, fish, and harvest fur held by  
3 such person and suspend the privilege of such person to hunt,  
4 fish, and harvest fur and to purchase such permits for a period  
5 of not less than one nor more than three years. The court shall  
6 consider the number and severity of the violations of the Game Law  
7 in determining the length of the revocation and suspension. The  
8 violations shall be:  
9 (a) Carelessly or purposely killing or causing injury to  
10 livestock with a firearm or bow and arrow;  
11 (b) Purposely taking or having in his or her possession  
12 a number of game animals, game fish, game birds, or fur-bearing  
13 animals exceeding twice the limit established pursuant to section  
14 37-314;  
15 (c) Taking any species of wildlife protected by the Game  
16 Law during a closed season in violation of section 37-502;  
17 (d) Resisting or obstructing any officer or any employee  
18 of the commission in the discharge of his or her lawful duties in  
19 violation of section 37-609; and  
20 (e) Being a habitual offender of the Game Law.  
21 (2) When a person pleads guilty to or is convicted of any

22 violation listed in this subsection, the court may, in addition to  
 23 any other penalty, revoke and require the immediate surrender of  
 24 all permits to hunt, fish, and harvest fur held by such person and  
 25 suspend the privilege of such person to hunt, fish, and harvest  
 26 fur and to purchase such permits for a period of not less than  
 27 one nor more than three years. The court shall consider the number

1 and severity of the violations of the Game Law in determining the  
 2 length of the revocation and suspension. The violations shall be:

3 (a) Hunting, fishing, or fur harvesting without a permit  
 4 in violation of section 37-411;

5 (b) Hunting from a vehicle, aircraft, or boat in  
 6 violation of section 37-513, 37-514, 37-515, 37-535, or 37-538;  
 7 and

8 ~~(c) Trapping wildlife in the county right-of-way in  
 9 violation of section 37-513; and~~

10 ~~(d)(c)~~ Knowingly taking any wildlife on private land  
 11 without permission in violation of section 37-722.

12 (3) When a person pleads guilty to or is convicted of  
 13 any violation of the Game Law or the rules and regulations of the  
 14 commission not listed in subsection (1) or (2) of this section, the  
 15 court may, in addition to any other penalty, revoke and require  
 16 the immediate surrender of all permits to hunt, fish, and harvest  
 17 fur held by such person and suspend the privilege of such person  
 18 to hunt, fish, and harvest fur and to purchase such permits for a  
 19 period of one year.

20 Sec. 3. Original sections 37-513 and 37-614, Reissue  
 21 Revised Statutes of Nebraska, are repealed.

22 Sec. 4. Since an emergency exists, this act takes effect  
 23 when passed and approved according to law.

24 2. On page 1, lines 4 and 5, strike "harmonize  
 25 provisions" and insert "authorize counties to prohibit trapping  
 26 wildlife in county road rights-of-way".

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORT

Judiciary

**LEGISLATIVE BILL 343.** Placed on General File.

(Signed) Brad Ashford, Chairperson

### PRESENTED TO THE GOVERNOR

Presented to the Governor on February 6, 2009, at 10:00 a.m. were the  
 following: LBs 11, 29, 30, 31, 49, 49A, 50, 62e, 154, 179e, 180, and 196.

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



**GENERAL FILE**

**LEGISLATIVE BILL 53.** Senator Haar withdrew his amendment AM211, found on page 379.

The Avery amendment, AM38, found on page 326 and considered on page 379, was renewed.

Senator Loudon moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 3 nays, and 20 not voting.

Senator Haar withdrew the Avery amendment, AM38.

Senator Haar offered the following amendment:  
AM222

- 1 1. Insert the following new section:
- 2 Sec. 5. Section 70-610, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 70-610 (1) After the selection of the original board of
- 5 directors of a district as provided for in sections 70-604 and
- 6 70-609, successors shall be nominated and elected as provided in
- 7 section 32-512. Elections shall be conducted as provided in the
- 8 Election Act.
- 9 (2) A candidate for director shall be a registered voter
- 10 residing within the chartered territory or subdivision as defined
- 11 in the charter of the district or a retail customer duly certified
- 12 in accordance with subsection (3) of section 70-604.03, except that
- 13 not more than one member of the board of a district serving more
- 14 than fifty counties shall be a resident of a city of the primary
- 15 class served by a public electric utility having one or more
- 16 participation contracts as described in subdivision (2) of section
- 17 70-604.02 with such district.
- 18 (3) Each public power district shall pay for the election
- 19 expenses of nominating and electing its directors as provided in
- 20 this section. Except as otherwise provided in this section, the
- 21 district shall pay to each county in which the name of one or
- 22 more candidates appears upon the ballot as follows: Counties having
- 23 a population of less than three thousand inhabitants, one hundred
- 1 dollars; counties having a population of at least three thousand
- 2 but less than nine thousand inhabitants, one hundred fifty dollars;
- 3 counties having a population of at least nine thousand but less
- 4 than fourteen thousand inhabitants, two hundred dollars; counties
- 5 having a population of at least fourteen thousand but less than
- 6 twenty thousand inhabitants, two hundred fifty dollars; counties
- 7 having a population of at least twenty thousand but less than
- 8 sixty thousand inhabitants, three hundred dollars; counties having
- 9 a population of at least sixty thousand but less than one hundred

10 thousand inhabitants, fifteen hundred dollars; counties having a  
11 population of at least one hundred thousand but less than two  
12 hundred thousand inhabitants, three thousand dollars; and counties  
13 having a population of two hundred thousand inhabitants or more,  
14 fifty-five hundred dollars. The population of a county for purposes  
15 of this section shall be the population as determined by the most  
16 recent federal decennial census.

17 When the name of one or more candidates of a district  
18 appears on ballots in less than one-half of the precincts in a  
19 county, the cost to the district shall be reduced fifty percent.  
20 Election expenses shall be due and payable by each public power  
21 district within thirty days after receipt of a statement from the  
22 county.

23 (4) In lieu of the payment of election expenses pursuant  
24 to subsection (3) of this section, a district shall pay for the  
25 election expenses of nominating and electing its board of directors  
26 pursuant to subsection (2) of section 32-1203 upon request of a  
27 county. The election expenses shall be due and payable by the  
1 district within thirty days after receipt from the county of an  
2 itemized statement of election expenses owed by the district.  
3 This subsection shall not be construed to authorize reimbursement  
4 for expenses not directly attributable to nominating and electing  
5 members of the board of directors.

6 2. On page 5, line 14, after "delivery" insert "(a)"; and  
7 in line 18 after "requirements" insert "or (b) pursuant to one or  
8 more participation contracts with a public electric utility serving  
9 a city of the primary class, which contracts supply twenty-five  
10 percent or more of such city's annual energy requirements".

11 3. Amend the repealer and renumber the remaining sections  
12 accordingly.

Senator Karpisek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 3 nays, and 17 not voting.

Senator Haar moved for a call of the house. The motion failed with 7 ayes, 29 nays, and 13 not voting.

Senator Haar requested a roll call vote on his amendment.

The Haar amendment lost with 3 ayes, 34 nays, 7 present and not voting, and 5 excused and not voting.

Pending.

**COMMITTEE REPORTS**  
Health and Human Services

**LEGISLATIVE BILL 84.** Placed on General File.

**LEGISLATIVE BILL 195.** Placed on General File.

**LEGISLATIVE BILL 394.** Placed on General File.

**LEGISLATIVE BILL 132.** Placed on General File with amendment.  
AM165

1 1. On page 2, line 12, after the period insert "No person  
2 shall lease space on the premises of a barber shop to engage  
3 in the practice of barbering as an independent contractor or a  
4 self-employed person without obtaining a booth rental permit as  
5 provided in section 7 of this act." and after "licenses" insert  
6 "and booth rental permits"; in line 14 strike "good", show as  
7 stricken, and insert "valid"; in line 17 after "license" insert  
8 "or person who fails to renew his or her booth rental permit";  
9 in line 18 after "license" insert "or booth rental permit"; in  
10 line 22 after "license" insert "and any booth rental permit"; and  
11 in line 25 strike the last "or", show as stricken, and insert an  
12 underscored comma.

13 2. On page 3, line 1, after "schools" insert ", or booths  
14 under a booth rental permit"; in line 2 after "person" insert ",  
15 partnership, limited liability company, or corporation"; in lines  
16 3 and 4 strike "he or she" and insert "such person or entity"; in  
17 line 6 strike "it" and insert "such person or entity"; and in line  
18 14 strike "Barber Act" and insert "act".

19 3. On page 12, strike beginning with "from" in line 24  
20 through line 25.

21 4. On page 13, line 1, strike "in" through "act" and  
22 insert "under subsection (1) of this section"; in line 3 strike  
23 "such" and insert "the"; and in lines 3 and 4 strike "to the  
1 applicant" and insert "in which the applicant is licensed".

2 5. On page 15, line 10, after "issued" insert "without  
3 examination".

(Signed) Tim Gay, Chairperson

**NOTICE OF COMMITTEE HEARING**  
Agriculture

Room 2102

Tuesday, February 24, 2009 1:30 p.m.

LB646  
LB585  
LB602

(Signed) Tom Carlson, Chairperson

**AMENDMENTS - Print in Journal**

Senator Haar filed the following amendment to LB53:

FA10

On page 5, line 17, strike fifty and insert thirty.

Senator Utter filed the following amendment to LB259:

AM196

1 1. Insert the following new sections:

2 Sec. 2. Section 12-1102, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 12-1102 For purposes of the Burial Pre-Need Sale Act,  
5 unless the context otherwise requires:

6 (1) Agent shall mean any person who acts for or on behalf  
7 of a pre-need seller in making pre-need sales;

8 (2) Burial or funeral merchandise or services shall mean  
9 all items of real or personal property or a combination of both  
10 or services, sold or offered for sale to the general public  
11 by any pre-need seller, which may be used in any manner in  
12 connection with a funeral or the interment, entombment, inurnment,  
13 or other alternate disposition of human remains. Such term shall  
14 not include a lot or grave space or a crypt or niche located in a  
15 mausoleum, columbarium, or lawn crypt upon which construction has  
16 been substantially completed;

17 (3) Columbarium shall mean an aboveground structure or  
18 building which is used or intended to be used for the inurnment  
19 of human remains in a niche. A columbarium may be combined with a  
20 mausoleum;

21 (4) Crypt or niche shall mean a chamber in a lawn crypt,  
22 columbarium, or mausoleum of sufficient size to inter or entomb  
23 cremated or noncremated human remains;

1 (5) Delivery shall mean the act of performing the service  
2 required by or the act of placing the item purchased in the  
3 physical possession of the pre-need purchaser, including, but not  
4 limited to, the installing or depositing of the item sold on or  
5 in real property owned by or designated by the person entitled to  
6 receive such item, except that (a) the pre-need burial of a vault  
7 shall constitute delivery only if the burial is with the consent  
8 of the pre-need purchaser and the pre-need seller has made other  
9 pre-need vault burials prior to January 1, 1986, and (b) delivery  
10 of a crypt or niche in a mausoleum, lawn crypt, or columbarium or  
11 a marker or monument may be accomplished by delivery of a document  
12 of title;

13 (6) Department shall mean the Department of Insurance;

14 (7) Director shall mean the Director of Insurance;

15 (8) Document of title shall mean a deed, bill of sale,  
16 warehouse receipt, or any other document which meets the following

17 requirements:

18 (a) The effect of the document is to immediately vest the  
19 ownership of the item described in the person purchasing the item;

20 (b) The document states the exact location of such item;  
21 and

22 (c) The document gives assurances that the item described  
23 exists in substantially completed form and is subject to delivery  
24 upon request;

25 (9) Human remains shall mean the body of a deceased  
26 person;

27 (10) Lawn crypt shall mean an inground burial receptacle  
1 of single or multiple depth, installed in multiples of ten or more  
2 in a large mass excavation, usually constructed of concrete and  
3 installed on gravel or other drainage underlayment and which acts  
4 as an outer container for the interment of human remains;

5 (11) Letter of credit shall mean an irrevocable  
6 undertaking issued by any financial institution which qualifies as  
7 a trustee under the Burial Pre-Need Sale Act, given to a pre-need  
8 seller and naming the director as the beneficiary, in which the  
9 issuer agrees to honor drafts or other demands for payment by the  
10 beneficiary up to a specified amount;

11 (12) Lot or grave space shall mean a space in a cemetery  
12 intended to be used for the inground interment of human remains;

13 (13) Marker, monument, or lettering shall mean an object  
14 or method used to memorialize, locate, and identify human remains;

15 (14) Master trust agreement shall mean an agreement  
16 between a pre-need seller and a trustee, a copy of which has been  
17 filed with the department, under which proceeds from pre-need sales  
18 may be deposited by the pre-need seller;

19 (15) Mausoleum shall mean an aboveground structure or  
20 building which is used or intended to be used for the entombment  
21 of human remains in a crypt. A mausoleum may be combined with a  
22 columbarium;

23 (16) Pre-need purchaser shall mean a member of the  
24 general public purchasing burial or funeral merchandise or services  
25 or a marker, monument, or lettering from a pre-need seller for  
26 personal use;

27 (17) Pre-need sale shall mean any sale by any pre-need  
1 seller to a pre-need purchaser of:

2 (a) Any items of burial or funeral merchandise or  
3 services which are not purchased for the immediate use in a  
4 funeral or burial of human remains;

5 (b) Any unspecified items of burial or funeral  
6 merchandise or services which items will be specified either at  
7 death or at a later date; or

8 (c) A marker, monument, or lettering which will not be  
9 delivered within six months of the date of the sale;

10 (18) Pre-need seller shall mean any person, partnership,  
11 limited liability company, corporation, or association on whose

12 behalf pre-need sales are made to the general public;

13 (19) Substantially completed shall mean that time when  
14 the mausoleum, columbarium, or lawn crypt being constructed is then  
15 ready for the interment, entombment, or inurnment of human remains;

16 (20) Surety bond shall mean an undertaking given by an  
17 incorporated surety company naming the director as the beneficiary  
18 and conditioned upon the faithful performance of a contract for  
19 the construction of a mausoleum, columbarium, or lawn crypt by a  
20 pre-need seller;

21 (21) Trust account shall mean either a separate trust  
22 account established pursuant to the Burial Pre-Need Sale Act for  
23 a specific pre-need purchaser by a pre-need seller or multiple  
24 accounts held under a master trust agreement when it is required by  
25 the act that all or some portion of the proceeds of such pre-need  
26 sale be placed in trust by the pre-need seller;

27 (22) Trustee shall mean a bank, trust company, building  
1 and loan association, or credit union within the state whose  
2 deposits or accounts are insured or guaranteed by the Federal  
3 Deposit Insurance Corporation or the National Credit Union Share  
4 Insurance Fund;

5 (23) Trust principal shall mean all deposits, including  
6 amounts retained as required by section 12-1114, made to a trust  
7 account by a pre-need seller less all withdrawals occasioned by  
8 delivery or cancellation; and

9 (24) Vault shall mean an item of burial or funeral  
10 merchandise or services which is an inground burial receptacle  
11 installed individually, as opposed to lawn crypts, which is  
12 constructed of concrete, steel, or any other material, and which  
13 acts as an outer container for the interment of human remains.

14 Sec. 3. Section 12-1107, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 12-1107 (1) Banks which do not have a separate trust  
17 department and building and loan associations and credit unions  
18 acting as trustees under the Burial Pre-Need Sale Act shall accept  
19 trust funds only to the extent that the full amount of all of such  
20 funds is insured or guaranteed by the Federal Deposit Insurance  
21 Corporation or the National Credit Union Share Insurance Fund.

22 (2) Banks with a separate trust department and trust  
23 companies acting as trustees under the Burial Pre-Need Sale Act  
24 when investing or reinvesting trust funds shall have the power to  
25 deal with such funds as a prudent trustee would deal with the  
26 funds and shall have all of the powers granted to a trustee by the  
27 Nebraska Uniform Trust Code, but the Uniform Principal and Income  
1 Act shall not be applicable and all income, whether from interest,  
2 dividends, capital gains, or any other source, shall be considered  
3 as income.

4 Sec. 13. Section 72-1268.03, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 72-1268.03 The state investment officer shall not have

7 on deposit in any bank, capital stock financial institution, or  
8 qualifying mutual financial institution giving a guaranty bond  
9 more than the amount insured or guaranteed by the Federal Deposit  
10 Insurance Corporation plus the maximum amount of the bond given by  
11 such bank, capital stock financial institution, or qualifying  
12 mutual financial institution or in any bank, capital stock  
13 financial institution, or qualifying mutual financial institution  
14 giving a personal bond more than the amount insured or guaranteed  
15 by the Federal Deposit Insurance Corporation plus one-half of the  
16 amount of the bond given by such bank, capital stock financial  
17 institution, or qualifying mutual financial institution. All bonds  
18 of such depositories shall be deposited with and held by the state  
19 investment officer.

20 2. On page 32, line 20, after "insurance" insert "or  
21 guarantee".

22 3. On page 35, line 17, strike "21" and all amendments  
23 thereto and insert "26"; in line 19 after "2-4214," insert  
24 "12-1102, 12-1107, "; and in line 20 after "17-720," insert  
25 "72-1268.03, ".

26 4. Renumber the remaining sections accordingly.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator McCoy asked unanimous consent to add his name as cointroducer to LB141, LB594, and LB675. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB378. No objections. So ordered.

Senators Flood, Friend, Janssen, and Lautenbaugh asked unanimous consent to add their names as cointroducers to LB675. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Mathew Gillespie from Omaha; Jim and Bev Fauver from Wahoo; Senator Louden's cousin, Katie Strong, from Washington D.C.; and Senator Wallman's son, daughter, and grandchildren, Dave Wallman from Omaha and Amy, Laynie, and Thomas Madden from Des Moines.

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

### **ADJOURNMENT**

At 12:10 p.m., on a motion by Senator Adams, the Legislature adjourned until 10:00 a.m., Monday, February 9, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature





**TWENTY-THIRD DAY - FEBRUARY 9, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****TWENTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, February 9, 2009

**PRAYER**

The prayer was offered by Pastor Clint Poppe, Good Shepard Lutheran Church, Lincoln.

**ROLL CALL**

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

The roll was called and all members were present except Senators Avery and Dierks who were excused; and Senator Ashford who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-second day was approved.

**COMMITTEE REPORTS**

Natural Resources

**LEGISLATIVE BILL 300.** Placed on General File.

(Signed) Chris Langemeier, Chairperson

Judiciary

**LEGISLATIVE BILL 305.** Placed on General File.

**LEGISLATIVE BILL 156.** Indefinitely postponed.

**LEGISLATIVE BILL 185.** Indefinitely postponed.

**LEGISLATIVE BILL 203.** Indefinitely postponed.

(Signed) Brad Ashford, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

Agriculture

Room 1510

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

LB593

LB224

LB516

Room 2102

Tuesday, March 10, 2009 1:30 p.m.

LB584

LB667

(Signed) Tom Carlson, Chairperson

Natural Resources

Room 1525

Friday, February 20, 2009 1:30 p.m.

Patrick Bourne - Nebraska Power Review Board

(Signed) Chris Langemeier, Chairperson

**ANNOUNCEMENT**

Senator Giese designates LB334 as his priority bill.

**RESOLUTION****LEGISLATIVE RESOLUTION 20.** Introduced by Fulton, 29.

WHEREAS, engineers plan, design, and implement engineering works that propel the nation's economy, enhance our quality of life, and safeguard America's infrastructure; and

WHEREAS, Nebraska will look, more than before, to the knowledge and skill of engineers to bridge the gap between science, theory, and practical application in creative and innovative ways to meet the challenges of the future; and

WHEREAS, National Engineers Week was founded in 1951 and is celebrated at the time of George Washington's birthday, who himself was a military engineer and land surveyor; and

WHEREAS, Engineers Week encourages young math and science students to realize the practical power of their knowledge; and

WHEREAS, Engineers Week raises public understanding and appreciation of engineers' contributions to society.

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

1. That the Legislature recognizes the contributions and achievements of Nebraska's engineers and that the week of February 15th through the 21st, 2009, be recognized as Engineers Week in Nebraska.

2. That a copy of this resolution be delivered to the American Council of Engineering Companies/Nebraska.

Laid over.

### **UNANIMOUS CONSENT - Room Change**

Senator Wightman asked unanimous consent that the Executive Board conduct its hearing on Monday, February 9, 2009, in Room 1524 instead of Room 2102. No objections. So ordered.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 14 and 15 were adopted.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 14 and 15.

### **GENERAL FILE**

**LEGISLATIVE BILL 53.** Senator Lathrop offered the following motion: MO12

Reconsider the vote taken on AM222.

Senator Lathrop asked unanimous consent to withdraw his motion to reconsider. No objections. So ordered.

Senator Haar withdrew his amendments, AM87 and FA10, found on pages 327 and 404.

Advanced to Enrollment and Review Initial with 36 ayes, 2 nays, 7 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 28.** Title read. Considered.

Advanced to Enrollment and Review Initial with 40 ayes, 3 nays, 3 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 48.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 204.** Title read. Considered.

Senator Fischer renewed her amendment, AM84, found on page 380.

The Fischer amendment was adopted with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 331.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 135.** Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 32.** Title read. Considered.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

## COMMITTEE REPORT

### Revenue

**LEGISLATIVE BILL 164.** Placed on General File with amendment. AM234

- 1 1. Strike original sections 6, 10, and 11 and insert the
- 2 following new sections:
- 3 Sec. 6. Section 77-5725, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 77-5725 (1) Applicants may qualify for benefits under the
- 6 Nebraska Advantage Act in one of six tiers:
- 7 (a) Tier 1, investment in qualified property of at least
- 8 one million dollars and the hiring of at least ten new employees.
- 9 There shall be no new project applications for benefits under this
- 10 tier filed ~~on or after January 1, 2011, December 31, 2015,~~ without
- 11 further authorization of the Legislature. All complete project
- 12 applications filed ~~on or before January 1, 2011, December 31,~~
- 13 2015, shall be considered by the Tax Commissioner and approved if

14 the project and taxpayer qualify for benefits. Agreements may be  
15 executed with regard to completed project applications filed on or  
16 before ~~January 1, 2011~~ December 31, 2015. All project agreements  
17 pending, approved, or entered into before such date shall continue  
18 in full force and effect;

19 (b) Tier 2, investment in qualified property of at least  
20 three million dollars and the hiring of at least thirty new  
21 employees;

22 (c) Tier 3, the hiring of at least thirty new employees.

23 There shall be no new project applications for benefits under this  
1 tier filed ~~on or after January 1, 2011~~ December 31, 2015, without  
2 further authorization of the Legislature. All complete project  
3 applications filed on or before January 1, 2011, December 31,  
4 2015, shall be considered by the Tax Commissioner and approved if  
5 the project and taxpayer qualify for benefits. Agreements may be  
6 executed with regard to completed project applications filed on or  
7 before ~~January 1, 2011~~ December 31, 2015. All project agreements  
8 pending, approved, or entered into before such date shall continue  
9 in full force and effect;

10 (d) Tier 4, investment in qualified property of at least  
11 ten million dollars and the hiring of at least one hundred new  
12 employees;

13 (e) Tier 5, investment in qualified property of at least  
14 thirty million dollars. Failure to maintain an average number of  
15 equivalent employees as defined in section 77-5727 greater than or  
16 equal to the number of equivalent employees in the base year shall  
17 result in a partial recapture of benefits; and

18 (f) Tier 6, investment in qualified property of at least  
19 ten million dollars and the hiring of at least seventy-five new  
20 employees or the investment in qualified property of at least  
21 one hundred million dollars and the hiring of at least fifty new  
22 employees. Agreements may be executed with regard to completed  
23 project applications filed before January 1, 2016. All project  
24 agreements pending, approved, or entered into before such date  
25 shall continue in full force and effect.

26 (2) When the taxpayer has met the required levels of  
27 employment and investment contained in the agreement for a tier 1,  
1 tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be  
2 entitled to the following incentives:

3 (a) A refund of all sales and use taxes for a tier 2,  
4 tier 4, tier 5, or tier 6 project or a refund of one-half of all  
5 sales and use taxes for a tier 1 project paid under the Local  
6 Option Revenue Act, the Nebraska Revenue Act of 1967, and sections  
7 13-319, 13-324, and 13-2813 from the date of the application  
8 through the meeting of the required levels of employment and  
9 investment for all purchases, including rentals, of:

10 (i) Qualified property used as a part of the project;

11 (ii) Property, excluding motor vehicles, based in this  
12 state and used in both this state and another state in connection

13 with the project except when any such property is to be used for  
14 fundraising for or for the transportation of an elected official;

15 (iii) Tangible personal property by the owner of the  
16 improvement to real estate that is incorporated into real estate as  
17 a part of a project; and

18 (iv) Tangible personal property by a contractor or  
19 repairperson after appointment as a purchasing agent of the owner  
20 of the improvement to real estate. The refund shall be based on  
21 fifty percent of the contract price, excluding any land, as the  
22 cost of materials subject to the sales and use tax; and

23 (b) A refund of all sales and use taxes for a tier 2,  
24 tier 4, tier 5, or tier 6 project or a refund of one-half of all  
25 sales and use taxes for a tier 1 project paid under the Local  
26 Option Revenue Act, the Nebraska Revenue Act of 1967, and sections  
27 13-319, 13-324, and 13-2813 on the types of purchases, including  
1 rentals, listed in subdivision (a) of this subsection for such  
2 taxes paid during each year of the entitlement period in which  
3 the taxpayer is at or above the required levels of employment and  
4 investment.

5 (3) Any taxpayer who qualifies for a tier 1, tier 2,  
6 tier 3, or tier 4 project shall be entitled to a credit equal to  
7 three percent times the average wage of new employees times the  
8 number of new employees if the average wage of the new employees  
9 equals at least sixty percent of the Nebraska average annual wage  
10 for the year of application. The credit shall equal four percent  
11 times the average wage of new employees times the number of new  
12 employees if the average wage of the new employees equals at least  
13 seventy-five percent of the Nebraska average annual wage for the  
14 year of application. The credit shall equal five percent times the  
15 average wage of new employees times the number of new employees  
16 if the average wage of the new employees equals at least one  
17 hundred percent of the Nebraska average annual wage for the year of  
18 application. The credit shall equal six percent times the average  
19 wage of new employees times the number of new employees if the  
20 average wage of the new employees equals at least one hundred  
21 twenty-five percent of the Nebraska average annual wage for the  
22 year of application. For computation of such credit:

23 (a) Average annual wage means the total compensation paid  
24 to employees during the year at the project who are not base-year  
25 employees and who are paid wages equal to at least sixty percent  
26 of the Nebraska average weekly wage for the year of application,  
27 excluding any compensation in excess of one million dollars paid  
1 to any one employee during the year, divided by the number of  
2 equivalent employees making up such total compensation;

3 (b) Average wage of new employees means the average  
4 annual wage paid to employees during the year at the project who  
5 are not base-year employees and who are paid wages equal to at  
6 least sixty percent of the Nebraska average weekly wage for the  
7 year of application, excluding any compensation in excess of one

8 million dollars paid to any one employee during the year; and

9 (c) Nebraska average annual wage means the Nebraska  
10 average weekly wage times fifty-two.

11 (4) Any taxpayer who qualifies for a tier 6 project shall  
12 be entitled to a credit equal to ten percent times the total  
13 compensation paid to all employees, other than base-year employees,  
14 excluding any compensation in excess of one million dollars paid to  
15 any one employee during the year, employed at the project.

16 (5) Any taxpayer who has met the required levels of  
17 employment and investment for a tier 2 or tier 4 project shall  
18 receive a credit equal to ten percent of the investment made in  
19 qualified property at the project. Any taxpayer who has met the  
20 required levels of investment and employment for a tier 1 project  
21 shall receive a credit equal to three percent of the investment  
22 made in qualified property at the project. Any taxpayer who has  
23 met the required levels of investment and employment for a tier  
24 6 project shall receive a credit equal to fifteen percent of the  
25 investment made in qualified property at the project.

26 (6) The credits prescribed in subsections (3), (4), and  
27 (5) of this section shall be allowable for compensation paid and  
1 investments made during each year of the entitlement period that  
2 the taxpayer is at or above the required levels of employment and  
3 investment.

4 (7) The credit prescribed in subsection (5) of this  
5 section shall also be allowable during the first year of the  
6 entitlement period for investment in qualified property at the  
7 project after the date of the application and before the required  
8 levels of employment and investment were met.

9 (8)(a) A taxpayer who has met the required levels of  
10 employment and investment for a tier 4 or tier 6 project shall  
11 receive the incentive provided in this subsection. A taxpayer who  
12 has a project for an Internet web portal and who has met the  
13 required level of investment for a tier 5 project shall receive the  
14 incentive provided in this subsection for property in subdivision  
15 (8)(b)(ii) of this section. Such investment and hiring of new  
16 employees shall be considered a required level of investment and  
17 employment for this subsection and for the recapture of benefits  
18 under this subsection only.

19 (b) The following property used in connection with such  
20 project or projects and acquired by the taxpayer, whether by  
21 lease or purchase, after the date the application was filed shall  
22 constitute separate classes of personal property:

23 (i) Turbine-powered aircraft, including turboprop,  
24 turbojet, and turbofan aircraft, except when any such aircraft is  
25 used for fundraising for or for the transportation of an elected  
26 official;

27 (ii) Computer systems, made up of equipment that is  
1 interconnected in order to enable the acquisition, storage,  
2 manipulation, management, movement, control, display, transmission,

3 or reception of data involving computer software and hardware, used  
 4 for business information processing which require environmental  
 5 controls of temperature and power and which are capable of  
 6 simultaneously supporting more than one transaction and more than  
 7 one user. A computer system includes peripheral components which  
 8 require environmental controls of temperature and power connected  
 9 to such computer systems. Peripheral components shall be limited to  
 10 additional memory units, tape drives, disk drives, power supplies,  
 11 cooling units, data switches, and communication controllers;

12 (iii) Depreciable personal property used for a  
 13 distribution facility, including, but not limited to, storage  
 14 racks, conveyor mechanisms, forklifts, and other property used to  
 15 store or move products;

16 (iv) Personal property which is business equipment  
 17 located in a single project if the business equipment is involved  
 18 directly in the manufacture or processing of agricultural products;  
 19 and

20 (v) For a tier 6 project, any other personal property  
 21 located at the project.

22 (c) Such property shall be eligible for exemption from  
 23 the tax on personal property from the first January 1 following  
 24 the date of acquisition for property in subdivision (8)(b)(i)  
 25 of this section, or from the first January 1 following the end  
 26 of the year during which the required levels were exceeded for  
 27 property in subdivisions (8)(b)(ii), (iii), (iv), and (v) of this  
 1 section, through the ninth December 31 after the first year any  
 2 property included in subdivisions (8)(b)(ii), (iii), (iv), and (v)  
 3 of this section qualifies for the exemption. In order to receive  
 4 the property tax exemptions allowed by subdivision (8)(b) of this  
 5 section, the taxpayer shall annually file a claim for exemption  
 6 with the Tax Commissioner on or before May 1. The form and  
 7 supporting schedules shall be prescribed by the Tax Commissioner  
 8 and shall list all property for which exemption is being sought  
 9 under this section. A separate claim for exemption must be filed  
 10 for each project and each county in which property is claimed  
 11 to be exempt. A copy of this form must also be filed with the  
 12 county assessor in each county in which the applicant is requesting  
 13 exemption. The Tax Commissioner shall determine the eligibility  
 14 of each item listed for exemption and, on or before August 1,  
 15 certify such to the taxpayer and to the affected county assessor.  
 16 In determining the eligibility of items of personal property for  
 17 exemption, the Tax Commissioner is limited to the question of  
 18 whether the property claimed as exempt by the taxpayer falls  
 19 within the classes of property described in subdivision (8)(b) of  
 20 this section. The determination of whether a taxpayer is eligible  
 21 to obtain exemption for personal property based on meeting the  
 22 required levels of investment and employment is the responsibility  
 23 of the Tax Commissioner.

24 (9)-(9)(a) The investment thresholds in this section for



25 a particular year of application shall be adjusted by the method  
 26 provided in this subsection.

27 (b) For tier 1, tier 2, tier 4, and tier 5, beginning

1 ~~Beginning~~ Beginning October 1, 2006, and each October 1 thereafter, the  
 2 average ~~average~~ Producer Price Index for all commodities, published by  
 3 the United States Department of Labor, Bureau of Labor Statistics,  
 4 for the most recent ~~available period~~ twelve available periods  
 5 shall be divided by the Producer Price Index for the first  
 6 quarter of 2006 and the result multiplied by the applicable  
 7 investment threshold. The investment thresholds shall be adjusted  
 8 for cumulative inflation since 2006.

9 (c) For tier 6, beginning October 1, 2008, and each  
 10 October 1 thereafter, the average Producer Price Index for all  
 11 commodities, published by the United States Department of Labor,  
 12 Bureau of Labor Statistics, for the most recent twelve available  
 13 periods shall be divided by the Producer Price Index for the  
 14 first quarter of 2008 and the result multiplied by the applicable  
 15 investment threshold. The investment thresholds shall be adjusted  
 16 for cumulative inflation since 2008.

17 (d) If the resulting amount is not a multiple of one  
 18 million dollars, the amount shall be rounded to the next lowest one  
 19 million dollars.

20 (e) The investment thresholds established by this  
 21 subsection apply for purposes of project qualifications for all  
 22 applications filed on or after January 1 of the following year for  
 23 all years of the project. Adjustments do not apply to projects  
 24 after the year of application.

25 Sec. 10. Section 77-5806, Revised Statutes Cumulative  
 26 Supplement, 2008, is amended to read:

27 77-5806 The Nebraska Advantage Research and Development  
 1 Act shall be operative for all tax years beginning or deemed to  
 2 begin on or after January 1, 2006, under the Internal Revenue Code  
 3 of 1986, as amended. No business firm shall be allowed to first  
 4 claim the credit for any tax year beginning or deemed to begin ~~on~~  
 5 ~~or after January 1, 2011,~~ December 31, 2015, under the Internal  
 6 Revenue Code of 1986, as amended.

7 Sec. 11. Section 77-5905, Revised Statutes Cumulative  
 8 Supplement, 2008, is amended to read:

9 77-5905 (1) If the Department of Revenue determines  
 10 that an application meets the requirements of section 77-5904 and  
 11 that the investment or employment is eligible for the credit and  
 12 (a) the applicant is actively engaged in the operation of the  
 13 microbusiness or will be actively engaged in the operation upon its  
 14 establishment, (b) the majority of the assets of the microbusiness  
 15 are located in a distressed area or will be upon its establishment,  
 16 (c) the applicant will make new investment or employment in the  
 17 microbusiness, and (d) the new investment or employment will create  
 18 new income or jobs in the distressed area, the department shall  
 19 approve the application and authorize tentative tax credits to the

20 applicant within the limits set forth in this section and certify  
 21 the amount of tentative tax credits approved for the applicant.  
 22 Applications for tax credits shall be considered in the order in  
 23 which they are received.

24 (2) The department may approve applications up to the  
 25 adjusted limit for each calendar year beginning January 1, 2006,  
 26 through December 31, ~~2010~~2015. After applications totaling the  
 27 adjusted limit have been approved for a calendar year, no further  
 1 applications shall be approved for that year. The adjusted limit  
 2 in a given year is two million dollars plus tentative tax credits  
 3 that were not granted by the end of the preceding year. Tax credits  
 4 shall not be allowed for a taxpayer receiving benefits under the  
 5 Employment and Investment Growth Act, the Nebraska Advantage Act,  
 6 or the Nebraska Advantage Rural Development Act.

(Signed) Abbie Cornett, Chairperson

### ATTORNEY GENERAL'S OPINION

#### Opinion 09005

DATE: February 9, 2009

SUBJECT: Scope of Practice for Physical Therapists.

REQUESTED BY: Abbie Cornett, Senator  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General  
Dale A. Comer, Assistant Attorney General

You have requested our opinion whether joint manipulation is within the scope of practice for physical therapists under current Nebraska law. You have informed us that there is some confusion on this issue and that you are considering introducing legislation which would clarify that joint manipulation is not within the scope of practice of physical therapists. Further, your request letter states that it is your understanding that "joint manipulation is a separate and distinct procedure from 'mobilization,' in that manipulation commences where mobilization ends and carries the joint beyond the normal physiological range of motion, producing a joint cavitation." For the reasons set forth below, it is our view that legislative action is not necessary to the extent your inquiry concerns physical therapists' authority to perform any procedure which carries a joint beyond its normal range of motion.

#### Applicable Law

In the current Physical Therapy Practice Act, the term "physical therapy" is defined to include:

Alleviating impairment, functional limitation, or disabilities by designing, implementing, or modifying therapeutic interventions which may include any of the following: Therapeutic exercise; functional training in home, community, or work integration or reintegration related to physical movement and mobility; therapeutic massage; mobilization or manual therapy; recommendation, application, and fabrication of assistive, adaptive, protective, and supportive devices and equipment; airway clearance techniques; integumentary protection techniques; nonsurgical debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction; but which does not include the making of a medical diagnosis.

Neb. Rev. Stat. § 38-2914(2) (Supp. 2007) (emphasis added).

The term "mobilization or manual therapy" is defined within the Act as follows:

Mobilization or manual therapy means a group of techniques comprising a continuum of skilled passive movements to the joints or related soft tissues, or both, throughout the normal physiological range of motion that are applied at varying speeds and amplitudes, without limitation.

Neb. Rev. Stat. § 38-2910 (Supp. 2007).

### Analysis

The terms "manipulation" and "joint manipulation" are not defined or mentioned in the Physical Therapy Practice Act or elsewhere in Nebraska statutes. It is our understanding that there are differing views as to the meaning of these terms. The medical literature which we have reviewed is less than conclusive as to whether the term "manipulation" includes only movement of a joint beyond its normal physiological range of motion or whether it also might include movement of a joint within its normal physiological range of motion. Physical therapy textbooks and other resources appear to sometimes define manipulation as equivalent to mobilization and at other times discuss manipulation and mobilization as two different procedures.

It is clear, however, under current Nebraska statutes that, pursuant to Neb. Rev. Stat. § 38 2910, physical therapists may perform mobilization or manual therapy and that those mobilization or manual therapy techniques are statutorily limited to the normal physiological range of motion. Physical therapists in Nebraska may not perform any type of manual therapy, mobilization manipulation or joint manipulation which carries the joint beyond the normal physiological range of motion. Furthermore, we believe the literature is clear that a specific type of procedure known as a Grade V

mobilization or Grade V manipulation requires movement beyond the normal range of motion. Therefore, physical therapists in Nebraska may not perform Grade V mobilization or Grade V manipulations.

Legislative history, such as the introducer's statement of intent and floor debate, may be used by a court to construe a statute which is "reasonably considered ambiguous." *Sydow v. City of Grand Island*, 263 Neb. 389, 397, 639 N.W.2d 913, 921 (2002). To the extent that the current Physical Therapy Practice Act may be considered ambiguous because the term manipulation is neither mentioned nor defined, it is appropriate for us to consider the legislative history of the current Act. We have reviewed the legislative history of LB 994, Laws 2006, from which the current Physical Therapy Act is derived. That legislative history indicates that LB 994 originally included the term manipulation but opposition to inclusion of that language arose during floor debate and the term was removed. The term "mobilization or manual therapy" was then added, which term is defined as "skilled passive movements . . . throughout the normal physiological range of motion. . . ." In our view, this legislative history lends some support to the definition of joint manipulation which you employ in your request letter.

Further, Neb. Rev. Stat. § 38-2902 states "[n]othing in the act shall be construed to expand the scope of practice of physical therapy as it existed prior to July 14, 2006." The previous statutory scope of practice for physical therapy did not reference the term "manipulation." Neb. Rev. Stat. § 71-2801 (Reissue (2003)). We found no evidence suggesting that procedures beyond the normal range of motion were considered part of the physical therapy scope of practice.

Finally, the Legislature created a process for professions to follow if they wish to expand the scope of their practice. Neb. Rev. Stat. § 71-6202 provides

The purpose of the Nebraska Regulation of Health Professions Act is to establish guidelines for . . . those licensed or regulated health professions which seek to change their scope of practice.

This process is commonly referred to as the "407" process, named after the legislation LB 407. The burden lies on the profession seeking to expand the scope of its practice to provide justification and assurance that the public will benefit and not be harmed. We believe that if physical therapists wish to include any procedures beyond the scope of the normal range of motion in the scope of their practice they must avail themselves of the 407 process or seek legislative change.

### **Conclusion**

As discussed above, under the existing statutes, physical therapists may not perform treatment techniques which move joints beyond their normal physiological range of motion. Therefore, if manipulation is defined as

treatment which moves joints beyond their normal physiological range of motion, it is not within the current scope of practice for physical therapists, including Grade V manipulation. The actual practice of physical therapy must not exceed its statutory scope as it existed on July 14, 2006. To the extent that the physical therapists believe a need exists to expand the scope of their practice they must follow the 407 process established by the legislature or seek legislative change.

Sincerely,  
JON BRUNING  
Attorney General

(Signed) Dale A. Comer  
Assistant Attorney General

cc: Patrick J. O'Donnell  
Clerk of the Legislature

09-060-20

## RESOLUTION

**LEGISLATIVE RESOLUTION 21.** Introduced by Flood, 19.

WHEREAS, the NEBRASKAland Foundation, on Saturday, February 28, 2009, at the annual Statehood Day dinner held in the Nebraska State Capitol, will present the Distinguished NEBRASKAlander Award, along with the WagonMaster Award, the Trailblazer Award, and the Pioneer Award; and

WHEREAS, the WagonMaster Award will be presented to Jack Pollock of Ogallala. Mr. Pollock, a longtime Nebraska newspaperman, has received the Henry Fonda Award and the Friend of the Travel Industry Award and has been inducted into the Nebraska Newspaper Hall of Fame. He currently serves on the boards of the Keith County Community Foundation and the Petrified Wood Gallery in Ogallala, Nebraska. He also serves on the Keith County Visitors Committee; and

WHEREAS, the Pioneer Award will be presented to Ron Hull of Lincoln. Mr. Hull has been a pioneer in public television. From 1982 to 1988 he was director of the Program Fund for the Corporation for Public Broadcasting in Washington, D.C., and he has been a tireless fundraiser for Nebraska Educational Television. He also served as chairperson of the Nebraska Lewis and Clark Bicentennial Commission; and

WHEREAS, the Trailblazer Award will be presented to the Honorable Douglas Bereuter of Alamo, California. Mr. Bereuter has enjoyed a distinguished career in public service. He started in various roles in state government under Governor Tiemann. He served as a Nebraska state senator, and he also served for twenty-six years in the United States House of Representatives. Since September 1, 2004, he has been the president of The Asia Foundation, a nonprofit, nongovernmental organization committed to the development of the Asia-Pacific region; and

WHEREAS, the Distinguished NEBRASKAlander Award will be presented to the Woods family of Lincoln. The Woods family has been involved in a wide variety of enterprises for seven generations dating back to 1873, including residential and commercial development (Woods Brothers Realty), nurseries, farming, telephone service (Lincoln Telephone & Telegraph), street-car service, truck and aviation manufacturing (Arrow Aircraft Corporation), art acquisition, law, and charitable enterprises (Woods Charitable Fund and the Lincoln Community Foundation).

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

1. That the Legislature extends its appreciation to the honorees for their service to the State of Nebraska.

2. That a copy of this resolution be given to all honorees.

Laid over.

### AMENDMENT - Print in Journal

Senator Nelson filed the following amendment to LB325:  
AM169

- 1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 32-328, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 32-328 (1) The election commissioner or county clerk  
6 shall, upon the personal application of any registered voter or  
7 whenever informed of any error and after due investigation, correct  
8 any error in the voter registration register. For such purpose,  
9 the election commissioner or county clerk may summon witnesses and  
10 compel their attendance to appear at the office of the election  
11 commissioner or county clerk to give testimony pertaining to  
12 residence, qualifications, or any other facts required to be  
13 entered in the voter registration register. Such testimony shall be  
14 transcribed and become a part of his or her records.  
15 (2) If the name of any registered voter of any precinct  
16 does not appear on the precinct list of registered voters through  
17 an error and the election commissioner or county clerk informs  
18 the precinct inspector or judge of election that credible evidence  
19 exists that substantiates that an error has been made, the precinct  
20 inspector or judge of election shall enter the correction in the  
21 precinct list of registered voters, initial the correction, and  
22 authorize the receiving board to issue the proper ballots to the  
23 voter as directed by the election commissioner or county clerk  
1 and receive his or her vote. The election commissioner or county  
2 clerk shall designate whether the voter is entitled to a regular  
3 ballot or a provisional ballot as provided in section 32-915. All  
4 corrections shall be entered on the voter registration register as  
5 soon as possible after the election.

6 Sec. 2. Section 32-329, Reissue Revised Statutes of  
7 Nebraska, is amended to read:  
8 32-329 (1) The Secretary of State with the assistance  
9 of the election commissioners and county clerks shall perform  
10 list maintenance with respect to the computerized statewide voter  
11 registration list on a regular basis. The list maintenance shall be  
12 conducted in a manner that ensures that:

13 (a) The name of each registered voter appears in the  
14 computerized list;

15 (b) Only persons who have been entered into the register  
16 in error or who are not eligible to vote are removed from the  
17 computerized list; and

18 (c) Duplicate names are eliminated from the computerized  
19 list.

20 (2) The election commissioner or county clerk shall  
21 verify the voter registration register by using (a) the National  
22 Change of Address program of the United States Postal Service  
23 and a confirmation notice pursuant to subsection (3) of this  
24 section or (b) the biennial mailing of a nonforwardable notice  
25 to each registered voter. The Secretary of State shall provide  
26 biennial training for the election commissioners and county clerks  
27 responsible for maintaining voter registration lists. No name shall  
1 be removed from the voter registration register for the sole reason  
2 that such person has not voted for any length of time.

3 (3) When an election commissioner or county clerk  
4 receives information from the National Change of Address program  
5 of the United States Postal Service that a registered voter has  
6 moved from the address at which he or she is registered to  
7 vote, the election commissioner or county clerk shall ~~immediately~~  
8 update the voter registration register to indicate that the voter  
9 may have moved and mail a confirmation notice by forwardable  
10 first-class mail. If a nonforwardable notice under subdivision  
11 (2)(b) of this section is returned as undeliverable, the election  
12 commissioner or county clerk shall mail a confirmation notice  
13 by forwardable first-class mail. The confirmation notice shall  
14 include a confirmation letter and a preaddressed, postage-paid  
15 confirmation card. The confirmation letter shall contain statements  
16 substantially as follows:

17 (a) The election commissioner or county clerk has  
18 received information that you have moved to a different residence  
19 address from that appearing on the voter registration register;

20 (b) If you have not moved or you have moved to a  
21 new residence within this county, you should return the enclosed  
22 confirmation card by the regular registration deadline prescribed  
23 in section 32-302. If you fail to return the card by the deadline,  
24 you will be required to affirm or confirm your address prior to  
25 being allowed to vote. If you are required to affirm or confirm  
26 your address, it may result in a delay at your polling place; and

27 (c) If you have moved out of the county, you must

1 reregister to be eligible to vote. This can be accomplished by mail  
 2 or in person. For further information, contact your local election  
 3 commissioner or county clerk.

4 (4) The election commissioner or county clerk shall  
 5 maintain for a period of not less than two years a record of  
 6 each confirmation letter indicating the date it was mailed and the  
 7 person to whom it was mailed.

8 (5) If information from the National Change of Address  
 9 program or the nonforwardable notice under subdivision (2)(b)  
 10 of this section indicates that the voter has moved outside the  
 11 jurisdiction and the election commissioner or county clerk receives  
 12 no response to the confirmation letter and the voter does not offer  
 13 to vote at any election held prior to and including the second  
 14 statewide federal general election following the mailing of the  
 15 confirmation notice, the voter's registration shall be canceled  
 16 and his or her name shall be deleted from the voter registration  
 17 register.

18 Sec. 3. Section 32-607, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20 32-607 All candidate filing forms shall contain the  
 21 following statement: I hereby swear that I will abide by the laws  
 22 of the State of Nebraska regarding the results of the primary and  
 23 general elections, that I am a registered voter and qualified to be  
 24 elected, and that I will serve if elected. Candidate filing forms  
 25 shall be filed with the following filing officers:

26 (1) For candidates for national, state, or congressional  
 27 office, directors of public power and irrigation districts,  
 1 directors of reclamation districts, directors of natural resources  
 2 districts, members of the boards of educational service units,  
 3 members of governing boards of community colleges, delegates to  
 4 national conventions, and other offices filled by election held in  
 5 more than one county and judges desiring retention, in the office  
 6 of the Secretary of State;

7 (2) For officers elected within a county, in the office  
 8 of the election commissioner or county clerk. If the candidate is  
 9 not a resident of the county, he or she shall submit a certificate  
 10 of registration obtained under section 32-316 with the candidate  
 11 filing form;

12 (3) For officers in school districts which include land  
 13 in adjoining counties, in the office of the election commissioner  
 14 or county clerk of the county in which the greatest number of  
 15 registered voters entitled to vote for the officers reside. If the  
 16 candidate is not a resident of the county, he or she shall submit a  
 17 certificate of registration obtained under section 32-316 with the  
 18 candidate filing form; and

19 (4) For city or village officers, in the office of the  
 20 ~~city or village clerk, except that in the case of joint elections,~~  
 21 ~~the filing may be either in the office of the election commissioner~~  
 22 ~~or county clerk, or in the office of the city or village clerk with~~



23 ~~deputized personnel. When the city or village clerk is deputized to~~  
 24 ~~take filings, he or she shall return all filings to the office of~~  
 25 ~~the election commissioner or county clerk by the end of the next~~  
 26 ~~business day following the filing deadline.~~

27 Sec. 4. Section 32-914.02, Reissue Revised Statutes of  
 1 Nebraska, is amended to read:

2 32-914.02 If a person who is registered to vote moves  
 3 to a new residence within the same county and precinct and has  
 4 continuously resided in such county and precinct since registering  
 5 to vote but the voter registration register has not been changed  
 6 to reflect the move, the person shall be entitled to vote at the  
 7 polling place for the new residence. The election commissioner or  
 8 county clerk shall designate whether such a person is entitled  
 9 to a regular ballot upon completing a registration application to  
 10 update his or her voter registration record at the polling place  
 11 or a provisional ballot as provided in section 32-915. The election  
 12 commissioner or county clerk shall update the voter registration  
 13 register to reflect the change of address.

14 Sec. 5. Section 32-915, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16 32-915 (1) A person whose name does not appear on the  
 17 precinct list of registered voters at the polling place for the  
 18 precinct in which he or she resides, whose name appears on the  
 19 precinct list of registered voters at the polling place for the  
 20 precinct in which he or she resides at a different residence  
 21 address as described in section 32-914.02, or whose name appears  
 22 with a notation that he or she received a ballot for early voting  
 23 may vote a provisional ballot if he or she:

24 (a) Claims that he or she is a registered voter who has  
 25 continuously resided in the county in which the precinct is located  
 26 since registering to vote;

27 (b) Is not entitled to vote under section 32-914.01 or  
 1 32-914.02;

2 (c) Has not registered to vote or voted in any other  
 3 county since registering to vote in the county in which the  
 4 precinct is located;

5 (d) Has appeared to vote at the polling place for the  
 6 precinct to which the person would be assigned based on his or her  
 7 residence address; and

8 (e) Completes and signs a registration application before  
 9 voting.

10 (2) A voter whose name appears on the precinct list  
 11 of registered voters for the polling place with a notation  
 12 that the voter is required to present identification pursuant  
 13 to section 32-318.01 but fails to present identification may vote a  
 14 provisional ballot if he or she completes and signs a registration  
 15 application before voting.

16 (3) Each person voting by provisional ballot shall  
 17 enclose his or her ballot in an envelope marked Provisional

18 Ballot and shall, by signing the certification on the front of the  
 19 envelope or a separate form attached to the envelope, certify to  
 20 the following facts:

21 (a) I am a registered voter in ..... County;

22 (b) My name did not appear on the precinct list of  
 23 registered voters;

24 (c) I registered to vote on or about this date  
 25 .....

26 (d) I registered to vote

27 .... in person at the election office or a voter  
 1 registration site,

2 .... by mail,

3 .... on a form through the Department of Motor Vehicles,

4 .... on a form through another state agency,

5 .... in some other way;

6 (e) I have not resided outside of this county or voted

7 outside of this county since registering to vote in this county;

8 (f) My current address is shown on the registration

9 application completed as a requirement for voting by provisional  
 10 ballot; and

11 (g) I am eligible to vote in this election and I have not  
 12 voted and will not vote in this election except by this ballot.

13 (4) The voter shall sign the certification under penalty  
 14 of election falsification. The following statements shall be on  
 15 the front of the envelope or on the attached form: By signing the  
 16 front of this envelope or the attached form you are certifying to  
 17 the information contained on this envelope or the attached form  
 18 under penalty of election falsification. Election falsification  
 19 is a Class IV felony and may be punished by up to five years  
 20 imprisonment, a fine of up to ten thousand dollars, or both.

21 (5) If the person's name does not appear on the precinct  
 22 list of registered voters for the polling place and the judge or  
 23 clerk of election determines that the person's residence address is  
 24 located in another precinct within the same county, the judge or  
 25 clerk of election shall direct the person to his or her correct  
 26 polling place to vote.

27 Sec. 6. Section 32-930, Reissue Revised Statutes of  
 1 Nebraska, is amended to read:

2 32-930 If a person is challenged on the ground that he  
 3 or she is not eighteen years of age or, during the years in which  
 4 a statewide general election is held, that he or she will not be  
 5 eighteen years of age by the first Tuesday after the first Monday  
 6 in November of such year, the person shall answer the following  
 7 question on the form provided by the election commissioner or  
 8 county clerk: Will you be ~~eighteen years of age to the best of~~  
 9 ~~your knowledge and belief by the statewide general election of this~~  
 10 year? at least eighteen years of age on or before the first Tuesday  
 11 following the first Monday in November of this year?

12 Sec. 7. Original sections 32-328, 32-329, 32-607,

13 32-914.02, 32-915, and 32-930, Reissue Revised Statutes of  
14 Nebraska, are repealed.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Mello asked unanimous consent to add his name as cointroducer to LB303 and LB476. No objections. So ordered.

Senator Janssen asked unanimous consent to add his name as cointroducer to LB676. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Larry Rader from Hastings; and members of the Nebraska Bankers Association Leadership Program from across the state.

The Doctor of the Day was Dr. Jeff Harrison from Papillion.

### **ADJOURNMENT**

At 11:50 a.m., on a motion by Senator Pirsch, the Legislature adjourned until 9:00 a.m., Tuesday, February 10, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTY-FOURTH DAY - FEBRUARY 10, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****TWENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, February 10, 2009

**PRAYER**

The prayer was offered by Pastor Robert Snell, Southern Heights Presbyterian Church, Lincoln.

**ROLL CALL**

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

The roll was called and all members were present except Senator Avery who was excused; and Senators Ashford, Christensen, Coash, and Cornett who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-third day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 80.** Placed on Final Reading.

**LEGISLATIVE BILL 87.** Placed on Final Reading.

**LEGISLATIVE BILL 189.** Placed on Final Reading.

**LEGISLATIVE BILL 192.** Placed on Final Reading.

ST9005

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

1. Sections 4 to 13 have been renumbered as sections 2 to 11, respectively.
2. On page 1, line 2, "44-710.03, 44-710.04," has been struck; and the matter beginning with "to" in line 7 through line 8 has been struck.
3. On page 34, lines 6 and 13, "9" has been struck and "7" inserted.
4. On page 51, line 23, "44-710.03, 44-710.04," has been struck.

(Signed) Jeremy Nordquist, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

Nebraska Retirement Systems

Room 1525

Wednesday, February 18, 2009 12:10 p.m.

LB365  
 LB424  
 LB612

Wednesday, February 25, 2009 12:10 p.m.

LB81  
 LB242  
 LB425

Wednesday, March 4, 2009 12:10 p.m.

LB187  
 LB449  
 LB140

Wednesday, March 11, 2009 12:10 p.m.

Nebraska Public Employees Retirement Systems Annual Report  
 Nebraska Investment Council Annual Report

Wednesday, March 18, 2009 12:10 p.m.

LB426  
 LB427

(Signed) Dave Pankonin, Chairperson

**COMMITTEE REPORT**

Health and Human Services

**LEGISLATIVE BILL 220.** Placed on General File with amendment.  
 AM217

- 1 1. On page 12, line 13; and page 36, line 2, strike "and"
- 2 and insert "or".
- 3 2. On page 25, line 19, strike "and", show as stricken,
- 4 and insert "or".
- 5 3. On page 28, line 10, reinstate the stricken "drugs
- 6 which are"; in line 11 strike "doses of"; and in line 12 strike
- 7 "doses" and insert "drugs".
- 8 4. On page 30, line 8, strike "of the", show as stricken,
- 9 and insert "or signatures of".

(Signed) Tim Gay, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 7.** Title read. Considered.

**PRESIDENT SHEEHY PRESIDING**

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

**COMMITTEE REPORTS**

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 131.** Placed on General File.

**LEGISLATIVE BILL 133.** Placed on General File.

(Signed) Pete Pirsch, Vice Chairperson

Urban Affairs

**LEGISLATIVE BILL 522.** Placed on General File.

(Signed) Mike Friend, Chairperson

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 219A.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 219, One Hundred First Legislature, First Session, 2009; to reduce an appropriation; to provide an operative date; and to declare an emergency.

**GENERAL FILE**

**LEGISLATIVE BILL 55.** Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 20.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 102.** Title read. Considered.

Committee AM43, found on page 325, was adopted with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 201.** Title read. Considered.

Committee AM83, found on page 326, was considered.

### **SENATOR ROBERT PRESIDING**

The committee amendment was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

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

**LEGISLATIVE BILL 52.** Title read. Considered.

Committee AM109, found on page 331, was considered.

### **SPEAKER FLOOD PRESIDING**

Pending.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 16 and 17 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 16 and 17.

### **GENERAL FILE**

**LEGISLATIVE BILL 52.** Committee AM109, found on page 331 and considered in this day's Journal, was renewed.

Pending.



**NOTICE OF COMMITTEE HEARINGS**  
Health and Human Services

Room 1510

Wednesday, February 18, 2009 1:30 p.m.

LB172  
LB319  
LB370  
LB458  
LB679

Thursday, February 19, 2009 1:30 p.m.

LB489  
LB601  
LB603  
LB661

Friday, February 20, 2009 1:30 p.m.

LB407  
LB408  
LB463  
LB586

(Signed) Tim Gay, Chairperson

**COMMITTEE REPORT**  
Executive Board

**LEGISLATIVE RESOLUTION 11.** Reported to the Legislature for further consideration with the following amendment:  
AM281

- 1 1. Strike the third Resolved paragraph and insert the
- 2 following new Resolved paragraphs:
- 3 "3. The Developmental Disabilities Special Investigative
- 4 Committee of the Legislature shall issue a report with its findings
- 5 as the circumstances warrant.
- 6 4. The Developmental Disabilities Special Investigative
- 7 Committee of the Legislature is hereby authorized to continue its
- 8 work until the beginning of the One Hundred Second Legislature,
- 9 First Session."

(Signed) John Wightman, Chairperson

**AMENDMENT - Print in Journal**

Senator Lathrop filed the following amendment to LB90:  
AM290

- 1 1. Insert the following new sections:
- 2 Section 1. Section 29-4204, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 29-4204 The audiovisual communication system and the
- 5 facilities for an audiovisual court appearance shall:
- 6 (1) Operate so that the detainee or prisoner and the
- 7 judge or magistrate can see each other simultaneously and converse
- 8 with each other verbally and documents can be transmitted between
- 9 the judge or magistrate and the detainee or prisoner;
- 10 (2) Operate so that the detainee or prisoner and his
- 11 or her counsel, if any, are both physically in the same location
- 12 during the audiovisual court appearance; or if ~~the detainee or~~
- 13 ~~prisoner waives the right to have counsel physically present and~~
- 14 the detainee or prisoner and his or her counsel are in different
- 15 locations, operate so that the detainee or prisoner and counsel
- 16 can communicate privately and confidentially and be allowed to
- 17 confidentially transmit papers back and forth; and
- 18 (3) Be at locations conducive to judicial proceedings.
- 19 Audiovisual court proceedings may be conducted in the courtroom,
- 20 the judge's or magistrate's chambers, or any other location
- 21 suitable for audiovisual communications. The locations shall be
- 22 sufficiently lighted for use of the audiovisual equipment. The
- 23 location provided for the judge or magistrate to preside shall be
- 1 accessible to the public and shall be operated so that interested
- 2 persons have an opportunity to observe the proceeding.
- 3 Sec. 2. Original section 29-4204, Reissue Revised
- 4 Statutes of Nebraska, is repealed.
- 5 2. Renumber the remaining section accordingly.

**UNANIMOUS CONSENT - Add Cointroducer**

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

**VISITORS**

Visitors to the Chamber were Elizabeth Samelson, Joanne Jensen, and Laurel Johnson from Bloomfield and Brenda Johnson from Norfolk; members of Change to Win Labor Group from across the state; Pat Hoban from North Platte, Donna Wineman and Glenda Willnerd from Lincoln, and Lloyd Cook from Auburn; 25 fifth- and sixth-grade students and teachers from St. Mary's, Lincoln; members of Nebraska State Education Association-Retired from across the state; Jo Anne Bourquard from the National Conference of State Legislatures; and Deb Witt from South Sioux City.

The Doctor of the Day was Dr. Marlon Weiss from Lincoln.

**ADJOURNMENT**

At 11:59 a.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Wednesday, February 11, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTY-FIFTH DAY - FEBRUARY 11, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****TWENTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 11, 2009

**PRAYER**

The prayer was offered by Pastor Rick Johnson, St. Paul's Lutheran Church, DeWitt.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Ashford, Avery, and Cornett who were excused; and Senator Karpisek who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-fourth day was approved.

**COMMITTEE REPORTS**

Judiciary

**LEGISLATIVE BILL 669.** Placed on General File.

**LEGISLATIVE BILL 47.** Placed on General File with amendment.  
AM240

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 30-2302, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 30-2302 The intestate share of the surviving spouse is:
- 6 (1) if there is no surviving issue or parent of the
- 7 decedent, the entire intestate estate;
- 8 (2) if there is no surviving issue but the decedent
- 9 is survived by a parent or parents, the first ~~fifty-one~~ hundred
- 10 thousand dollars, plus one-half of the balance of the intestate
- 11 estate;
- 12 (3) if there are surviving issue all of whom are issue

13 of the surviving spouse also, the first fifty-one hundred thousand  
 14 dollars, plus one-half of the balance of the intestate estate;

15 (4) if there are surviving issue one or more of whom  
 16 are not issue of the surviving spouse, one-half of the intestate  
 17 estate.

18 Sec. 2. Section 30-2485, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20 30-2485 (a) All claims against a decedent's estate which  
 21 arose before the death of the decedent, including claims of  
 22 the state and any subdivision thereof, whether due or to become  
 23 due, absolute or contingent, liquidated or unliquidated, founded  
 1 on contract, tort, or other legal basis, if not barred earlier  
 2 by other statute of limitations, are barred against the estate,  
 3 the personal representative, and the heirs and devisees of the  
 4 decedent, unless presented as follows:

5 (1) Within two months after the date of the first  
 6 publication of notice to creditors if notice is given in compliance  
 7 with sections 25-520.01 and 30-2483, except that claims barred by  
 8 the nonclaim statute at the decedent's domicile before the first  
 9 publication for claims in this state are also barred in this state.  
 10 If any creditor has a claim against a decedent's estate which arose  
 11 before the death of the decedent and which was not presented within  
 12 the time allowed by this subdivision, including any creditor who  
 13 did not receive notice, such creditor may apply to the court within  
 14 sixty days after the expiration date provided in this subdivision  
 15 for additional time and the court, upon good cause shown, may allow  
 16 further time not to exceed thirty days;

17 (2) Within three years after the decedent's death if  
 18 notice to creditors has not been given in compliance with sections  
 19 25-520.01 and 30-2483.

20 (b) All claims, other than for ~~administration expenses,~~  
 21 costs and expenses of administration as defined in section  
 22 30-2487, against a decedent's estate which arise at or after  
 23 the death of the decedent, including claims of the state and any  
 24 subdivision thereof, whether due or to become due, absolute or  
 25 contingent, liquidated or unliquidated, founded on contract, tort,  
 26 or other legal basis, are barred against the estate, the personal  
 27 representative, and the heirs and devisees of the decedent, unless  
 1 presented as follows:

2 (1) A claim based on a contract with the personal  
 3 representative, within four months after performance by the  
 4 personal representative is due;

5 (2) Any other claim, within four months after it arises.

6 (c) Nothing in this section affects or prevents:

7 (1) Any proceeding to enforce any mortgage, pledge, or  
 8 other lien upon property of the estate; or

9 (2) To the limits of the insurance protection only, any  
 10 proceeding to establish liability of the decedent or the personal  
 11 representative for which he or she is protected by liability

12 insurance.

13 Sec. 3. Section 30-2487, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 30-2487 (a) If the applicable assets of the estate are  
16 insufficient to pay all claims in full, the personal representative  
17 shall make payment in the following order:

18 (1) Costs and expenses of administration;

19 (2) Reasonable funeral expenses;

20 (3) Debts and taxes with preference under federal law;

21 (4) Reasonable and necessary medical and hospital

22 expenses of the last illness of the decedent, including

23 compensation of persons attending the decedent and claims filed by  
24 the Department of Health and Human Services pursuant to section  
25 68-919;

26 (5) Debts and taxes with preference under other laws of  
27 this state;

1 (6) All other claims.

2 (b) No preference shall be given in the payment of any  
3 claim over any other claim of the same class, and a claim due and  
4 payable shall not be entitled to a preference over claims not due.

5 (c) For purposes of this section and section 30-2485,  
6 costs and expenses of administration includes expenses incurred in  
7 taking possession or control of estate assets and the management,  
8 protection, and preservation of the estate assets, expenses related  
9 to the sale of estate assets, and expenses in the day-to-day  
10 operation and continuation of business interests for the benefit of  
11 the estate.

12 Sec. 4. Section 30-24,125, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 30-24,125 (a) Thirty days after the death of a decedent,  
15 any person indebted to the decedent or having possession of  
16 tangible personal property or an instrument evidencing a debt,  
17 obligation, stock, or chose in action belonging to the decedent  
18 shall make payment of the indebtedness or deliver the tangible  
19 personal property or an instrument evidencing a debt, obligation,  
20 stock, or chose in action to a person claiming to be the successor  
21 of the decedent upon being presented an affidavit made by or on  
22 behalf of the successor stating:

23 (1) the value of all of the personal property in the  
24 decedent's estate, wherever located, less liens and encumbrances,  
25 does not exceed ~~twenty-five~~ fifty thousand dollars;

26 (2) thirty days have elapsed since the death of the  
27 decedent as shown in a certified or authenticated copy of the  
1 decedent's death certificate attached to the affidavit;

2 (3) the claiming successor's relationship to the decedent  
3 or, if there is no relationship, the basis of the successor's claim  
4 to the personal property;

5 (4) the person or persons claiming as successors under  
6 the affidavit swear or affirm that all statements in the affidavit

7 are true and material and further acknowledge that any false  
8 statement may subject the person or persons to penalties relating  
9 to perjury under section 28-915;

10 (5) no application or petition for the appointment of  
11 a personal representative is pending or has been granted in any  
12 jurisdiction; and

13 (6) the claiming successor is entitled to payment or  
14 delivery of the property.

15 (b) A transfer agent of any security shall change the  
16 registered ownership on the books of a corporation from the  
17 decedent to the successor or successors upon the presentation of an  
18 affidavit as provided in subsection (a).

19 (c) In addition to compliance with the requirements of  
20 subsection (a), a person seeking a transfer of a certificate  
21 of title to a motor vehicle, motorboat, all-terrain vehicle, or  
22 minibike shall be required to furnish to the Department of Motor  
23 Vehicles an affidavit showing applicability of this section and  
24 compliance with the requirements of this section to authorize the  
25 department to issue a new certificate of title.

26 Sec. 5. Section 30-24,129, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1 30-24,129 (a) Thirty days after the death of a decedent,  
2 any person claiming as successor to the decedent's interest in real  
3 property in this state may file or cause to be filed on his or her  
4 behalf, with the register of deeds office of a county in which the  
5 real property of the decedent that is the subject of the affidavit  
6 is located, an affidavit describing the real property owned by the  
7 decedent and the interest of the decedent in the property. The  
8 affidavit shall be signed by all persons claiming as successors or  
9 by parties legally acting on their behalf and shall be prima facie  
10 evidence of the facts stated in the affidavit. The affidavit shall  
11 state:

12 (1) the value of the decedent's interest in all real  
13 property in the decedent's estate located in this state does  
14 not exceed ~~twenty five~~ thirty thousand dollars. The value of the  
15 decedent's interest shall be determined from the value of the  
16 property as shown on the assessment rolls for the year in which the  
17 decedent died;

18 (2) thirty days have elapsed since the death of the  
19 decedent as shown in a certified or authenticated copy of the  
20 decedent's death certificate attached to the affidavit;

21 (3) no application or petition for the appointment of  
22 a personal representative is pending or has been granted in any  
23 jurisdiction;

24 (4) the claiming successor is entitled to the real  
25 property by reason of the homestead allowance, exempt property  
26 allowance, or family allowance, by intestate succession, or by  
27 devise under the will of the decedent;

1 (5) the claiming successor has made an investigation and



2 has been unable to determine any subsequent will;  
 3 (6) no other person has a right to the interest of the  
 4 decedent in the described property;  
 5 (7) the claiming successor's relationship to the decedent  
 6 and the value of the entire estate of the decedent; and  
 7 (8) the person or persons claiming as successors under  
 8 the affidavit swear or affirm that all statements in the affidavit  
 9 are true and material and further acknowledge that any false  
 10 statement may subject the person or persons to penalties relating  
 11 to perjury under section 28-915.  
 12 (b) The recorded affidavit and certified or authenticated  
 13 copy of the decedent's death certificate shall also be recorded  
 14 by the claiming successor in any other county in this state in  
 15 which the real property of the decedent that is the subject of the  
 16 affidavit is located.  
 17 Sec. 6. Original sections 30-2302, 30-2485, 30-2487,  
 18 30-24,125, and 30-24,129, Reissue Revised Statutes of Nebraska, are  
 19 repealed.

**LEGISLATIVE BILL 170.** Indefinitely postponed.

(Signed) Brad Ashford, Chairperson

**NOTICE OF COMMITTEE HEARINGS**  
 Appropriations

Room 1003

Monday, February 23, 2009 1:30 p.m.

LB311  
 LB312  
 LB313  
 LB314  
 LB315  
 LB316  
 LB317  
 LB318  
 LB456

(Signed) Lavon Heidemann, Chairperson

## Government, Military and Veterans Affairs

Room 1507

Wednesday, February 18, 2009 1:30 p.m.

LB125  
LB349  
LB382

Thursday, February 19, 2009 1:30 p.m.

LB678  
LB361  
LB639  
LB465

Friday, February 20, 2009 1:30 p.m.

LB321  
LB503  
LB529  
LB532

Wednesday, February 25, 2009 1:30 p.m.

LB662  
LB362  
LB410  
LB501

Thursday, February 26, 2009 1:30 p.m.

LB402  
LB422  
LB488  
LB550

Wednesday, March 4, 2009 1:30 p.m.

LB574  
LB626  
LB635  
LB638

Thursday, March 5, 2009 1:30 p.m.

LB363  
LB486

LB509

Wednesday, March 11, 2009 1:30 p.m.

LB575

LB623

LB645

LB674

Thursday, March 12, 2009 1:30 p.m.

LB475

LB527

LB533

(Signed) Bill Avery, Chairperson

Judiciary

Room 1113

Wednesday, February 18, 2009 1:30 p.m.

LB34

LB403

LR9

Thursday, February 19, 2009 1:30 p.m.

LB274

LB429

LB260

LB307

Friday, February 20, 2009 1:30 p.m.

LB35

LB63

LB508

(Signed) Brad Ashford, Chairperson

**RESOLUTION****LEGISLATIVE RESOLUTION 22.** Introduced by Pirsch, 4.

WHEREAS, Alegent Health is the largest not-for-profit, faith-based healthcare system in Nebraska and southwestern Iowa with nine acute care hospitals; and

WHEREAS, Alegent Health offers a continuum of care from women's and children's services, primary care, wellness counseling, and senior care to cardiovascular services, orthopedics, oncology, physical rehabilitation, and behavioral health; and

WHEREAS, Alegent Health has worked for three years to revolutionize health care by opening and transparently reporting quality scores and costs to consumers; and

WHEREAS, the Network for Regional Healthcare Improvement analyzed the quality scores from the Centers for Medicare and Medicaid Services and the patient satisfaction scores and arrived at a ranking of the top one hundred twenty-one hospitals in the country; and

WHEREAS, Alegent Health was ranked number one in the nation in this analysis and as a top performer in the Centers for Medicare and Medicaid Services' pay-for-performance project bringing positive national attention to Nebraska; and

WHEREAS, the nine thousand employees of Alegent Health deserve special recognition for their exceptional teamwork and knowledge which contributed to these outstanding rankings; and

WHEREAS, Alegent Health provided over twenty-six million dollars in charity care in Fiscal Year 2008 to the citizens of Nebraska and the communities in which they serve; and

WHEREAS, the accomplishments of Nebraska-based businesses should be recognized by the Legislature.

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

1. That the Legislature recognizes and congratulates the staff of Alegent Health.

2. That a copy of this resolution be sent to Wayne Sensor, Chief Executive Office of Alegent Health, and the staff of Alegent Health in Omaha, Nebraska.

Laid over.

**AMENDMENT - Print in Journal**

Senator Pirsch filed the following amendment to LB74:  
AM284

- 1 1. On page 3, line 6, after the period insert "Any bank
- 2 which offers letters of credit for consideration to depositors
- 3 pursuant to this section shall post a notice in the lobby of
- 4 each office of such bank stating that letters of credit issued by

5 the Federal Home Loan Bank of Topeka which provide coverage for  
 6 deposits in excess of the amounts insured by the Federal Deposit  
 7 Insurance Corporation may be available to depositors of the bank.  
 8 Provision of a letter of credit issued by the Federal Home Loan  
 9 Bank of Topeka by a bank to a depositor shall be at the discretion  
 10 of the bank. The notice required under this section shall be  
 11 sufficient if made in substantially the following form:

12 Notice

13 This bank is a member of the Federal Home Loan Bank  
 14 of Topeka and offers for consideration Federal Home Loan Bank of  
 15 Topeka letters of credit which provide coverage for deposits in  
 16 excess of the amounts insured by the Federal Deposit Insurance  
 17 Corporation. Please contact a representative of the bank to  
 18 determine if such a letter of credit is available to you."

### GENERAL FILE

**LEGISLATIVE BILL 52.** Committee AM109, found on page 331 and considered on page 432, was adopted with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 151.** Title read. Considered.

Committee AM49, found on page 335, was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 88.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 1 nay, 7 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 184.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 53.** Placed on Select File.

**LEGISLATIVE BILL 28.** Placed on Select File.

**LEGISLATIVE BILL 48.** Placed on Select File.

**LEGISLATIVE BILL 204.** Placed on Select File with amendment.  
ER8015

- 1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 Section 1. Section 60-4,141.01, Reissue Revised Statutes  
4 of Nebraska, is amended to read:  
5 60-4,141.01 (1) No person shall operate a commercial  
6 motor vehicle upon the highways of this state while his or her  
7 commercial driver's license or privilege to operate a commercial  
8 motor vehicle is suspended, revoked, or canceled, ~~or~~ while subject  
9 to a disqualification or an out-of-service order, or while there is  
10 an out-of-service order in effect for the commercial motor vehicle  
11 being operated or for the motor carrier operation. ~~Any person~~  
12 ~~who operates a commercial motor vehicle upon the highways of this~~  
13 ~~state in violation of this subsection shall be subject to section~~  
14 ~~60-4,108.~~  
15 (2) No person shall operate a commercial motor vehicle  
16 transporting hazardous materials upon the highways of this state  
17 while his or her commercial driver's license or privilege to  
18 operate a commercial motor vehicle is suspended, revoked, or  
19 canceled, while subject to a disqualification or an out-of-service  
20 order, or while there is an out-of-service order in effect for the  
21 commercial motor vehicle being operated or for the motor carrier  
22 operation.  
23 (3) No person shall operate a commercial motor vehicle  
1 transporting sixteen or more passengers including the driver  
2 upon the highways of this state while his or her commercial  
3 driver's license or privilege to operate a commercial motor  
4 vehicle is suspended, revoked, or canceled, while subject to a  
5 disqualification or an out-of-service order, or while there is an  
6 out-of-service order in effect for the commercial motor vehicle  
7 being operated or for the motor carrier operation.  
8 (2)-(4) No person shall operate a commercial motor  
9 vehicle upon the highways of this state while he or she is  
10 disqualified under section 60-4,168. ~~A person violating this~~  
11 ~~subsection is subject to section 60-4,108.~~  
12 (5) Any person operating a commercial motor vehicle in  
13 violation of subsection (1), (2), (3), or (4) of this section shall  
14 (a) for a first such offense, be guilty of a Class II misdemeanor,  
15 and the court shall, as a part of the judgment of conviction,  
16 order such person not to operate any commercial motor vehicle for  
17 any purpose for a period of one year from the date ordered by the  
18 court and also order the commercial driver's license of such person  
19 to be revoked for a like period and (b) for each subsequent such  
20 offense, be guilty of a Class II misdemeanor, and the court shall,  
21 as a part of the judgment of conviction, order such person not to  
22 operate any motor vehicle for any purpose for a period of two years  
23 from the date ordered by the court and also order the commercial  
24 driver's license of such person to be revoked for a like period.

25 Such orders of the court shall be administered upon sentencing,  
 26 upon final judgment of any appeal or review, or upon the date that  
 27 any probation is revoked, whichever is later.

1 (6) For purposes of this section, out-of-service order  
 2 has the same meaning as in section 75-362.

3 Sec. 2. Section 60-4,168.01, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 60-4,168.01 (1) ~~A-Except as provided in subsection (2)~~  
 6 ~~of this section, a person who is convicted of violating an~~  
 7 ~~out-of-service order while operating a commercial motor vehicle~~  
 8 ~~which is transporting nonhazardous materials shall be subject to~~  
 9 ~~disqualification as follows-except as provided in subsection (2)~~  
 10 ~~of this section:~~

11 (a) A person shall be disqualified from operating a  
 12 commercial motor vehicle for a period of at least ~~ninety-one~~  
 13 ~~hundred eighty~~ days but no more than one year upon a court  
 14 conviction for violating an out-of-service order;

15 (b) A person shall be disqualified from operating a  
 16 commercial motor vehicle for a period of at least ~~one year-two~~  
 17 ~~years~~ but no more than five years upon a second court conviction  
 18 for violating an out-of-service order, which arises out of a  
 19 separate incident, during any ten-year period; ~~and beginning on or~~  
 20 ~~after October 1, 1996; and~~

21 (c) A person shall be disqualified from operating a  
 22 commercial motor vehicle for a period of at least three years  
 23 but no more than five years upon a third or subsequent court  
 24 conviction for violating an out-of-service order, which arises out  
 25 of a separate incident, during any ten-year period. ~~beginning on or~~  
 26 ~~after October 1, 1996.~~

27 (2) A person who is convicted of violating an  
 1 out-of-service order while operating a commercial motor vehicle  
 2 ~~while which is~~ transporting hazardous materials required to  
 3 be placarded pursuant to section 75-364 or while operating a  
 4 commercial motor vehicle designed or used to transport sixteen  
 5 or more passengers, including the driver, shall be subject to  
 6 disqualification as follows:

7 (a) A person shall be disqualified from operating a  
 8 commercial motor vehicle for a period of at least one hundred  
 9 eighty days but no more than two years upon conviction for  
 10 violating an out-of-service order; and

11 (b) A person shall be disqualified from operating a  
 12 commercial motor vehicle for a period of at least three years but  
 13 no more than five years upon a second or subsequent conviction for  
 14 violating an out-of-service order, which arises out of a separate  
 15 incident, during any ten-year period. ~~beginning on or after October~~  
 16 ~~1, 1996.~~

17 (3) For purposes of this section, out-of-service order  
 18 has the same meaning as in section 75-362. shall mean a declaration  
 19 by an authorized enforcement officer of a federal, state, Canadian,

20 Mexican, or local authority that a driver is out of service  
 21 pursuant to 49 C.F.R. 386.72, 392.5, 395.13, or 396.9; compatible  
 22 laws enacted by other jurisdictions; 49 C.F.R. 392.5, 395.13, or  
 23 396.9 as adopted pursuant to section 75-363; or the North American  
 24 Uniform Out of Service Criteria.  
 25 Sec. 3. Original sections 60-4,141.01 and 60-4,168.01,  
 26 Reissue Revised Statutes of Nebraska, are repealed.

**LEGISLATIVE BILL 331.** Placed on Select File.

**LEGISLATIVE BILL 135.** Placed on Select File.

**LEGISLATIVE BILL 32.** Placed on Select File.

**LEGISLATIVE BILL 7.** Placed on Select File.

**LEGISLATIVE BILL 55.** Placed on Select File.

**LEGISLATIVE BILL 20.** Placed on Select File.

**LEGISLATIVE BILL 102.** Placed on Select File.

**LEGISLATIVE BILL 201.** Placed on Select File with amendment.  
 ER8016

- 1 1. On page 1, line 4, strike the second "and"; and in
- 2 line 5 after "section" insert "; and to declare an emergency".

(Signed) Jeremy Nordquist, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 379.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 142.** Title read. Considered.

Committee AM56, found on page 352, was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Senator Stuthman offered the following amendment:

FA11

Page 2 line 17 strike fifty and reinstate thirty five.

The Stuthman amendment lost with 12 ayes, 23 nays, 7 present and not voting, and 7 excused and not voting.

Pending.



**COMMITTEE REPORTS**

## Transportation and Telecommunications

**LEGISLATIVE BILL 202.** Placed on General File.

**LEGISLATIVE BILL 92.** Placed on General File with amendment.  
AM305

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

3 Section 1. Section 60-601, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5 60-601 Sections 60-601 to 60-6,377 and section 2 of this  
6 act shall be known and may be cited as the Nebraska Rules of the  
7 Road.

8 Sec. 2. (1)(a) A driver in a vehicle on a  
9 controlled-access highway approaching or passing a stopped  
10 authorized emergency vehicle or road assistance vehicle which makes  
11 use of proper audible or visual signals shall proceed with due care  
12 and caution as described in subdivision (b) of this subsection.

13 (b) On a controlled-access highway with at least two  
14 adjacent lanes of travel in the same direction on the same side  
15 of the highway where a stopped authorized emergency vehicle or  
16 road assistance vehicle is using proper audible or visual signals,  
17 the driver of the vehicle shall proceed with due care and caution  
18 and yield the right-of-way by moving into a lane at least one  
19 moving lane apart from the stopped authorized emergency vehicle  
20 or road assistance vehicle unless directed otherwise by a peace  
21 officer or other authorized emergency personnel. If moving into  
22 another lane is not possible because of weather conditions, road  
23 conditions, or the immediate presence of vehicular or pedestrian  
1 traffic or because the controlled-access highway does not have  
2 two available adjacent lanes of travel in the same direction on  
3 the same side of the highway where such a stopped authorized  
4 emergency vehicle or road assistance vehicle is located, the  
5 driver of the approaching or passing vehicle shall reduce his  
6 or her speed, maintain a safe speed with regard to the location  
7 of the stopped authorized emergency vehicle or road assistance  
8 vehicle, the weather conditions, the road conditions, and vehicular  
9 or pedestrian traffic, and proceed with due care and caution  
10 or proceed as directed by a peace officer or other authorized  
11 emergency personnel or road assistance personnel.

12 (c) Any person who violates this subsection is guilty of  
13 a traffic infraction for a first offense and Class IIIA misdemeanor  
14 for a second or subsequent offense.

15 (2) The Department of Roads shall erect and maintain  
16 or cause to be erected and maintained signs giving notice of  
17 subsection (1) of this section along controlled-access highways.  
18 This section is not effective for a controlled-access highway until  
19 such signs are erected and maintained along such highway.

- 20 (3) Enforcement of subsection (1) of this section  
 21 shall not be accomplished using simulated situations involving an  
 22 authorized emergency vehicle or a road assistance vehicle.  
 23 (4) This section does not relieve the driver of an  
 24 authorized emergency vehicle or a road assistance vehicle from the  
 25 duty to drive with due regard for the safety of all persons using  
 26 the highway.  
 27 (5) For purposes of this section, road assistance vehicle  
 1 includes a vehicle operated by the Department of Roads, a  
 2 Nebraska State Patrol motorist assistance vehicle, and a United  
 3 States Department of Transportation registered towing or roadside  
 4 assistance vehicle. A road assistance vehicle shall emit a warning  
 5 signal utilizing properly displayed emergency indicators such as  
 6 strobe, rotating, or oscillating lights when stopped along a  
 7 highway.  
 8 Sec. 3. Original section 60-601, Revised Statutes  
 9 Cumulative Supplement, 2008, is repealed.

(Signed) Deb Fischer, Chairperson

Banking, Commerce and Insurance

**LEGISLATIVE BILL 113.** Placed on General File with amendment.  
 AM301

- 1 1. Insert the following new section:
- 2 Sec. 6. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

(Signed) Rich Pahls, Chairperson

## NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1003

Tuesday, February 24, 2009 1:30 p.m.

Agency 59 - Board of Geologists  
 Agency 45 - Barber Examiners, Board of  
 Agency 30 - Electrical Board, State  
 Agency 74 - Power Review Board, Nebraska  
 Agency 41 - State Real Estate Commission  
 Agency 53 - Real Property Appraiser Board  
 Agency 63 - Public Accountancy, Nebraska Board of  
 Agency 32 - Educational Lands and Funds, Board of  
 Agency 62 - Land Surveyors, State Board of Examiners for  
 Agency 36 - Racing Commission, Nebraska State  
 Agency 58 - Board of Engineers and Architects  
 Agency 66 - Abstracters Board of Examiners

Agency 73 - Landscape Architects, State Board of

Wednesday, February 25, 2009 1:30 p.m.

Agency 57 - Oil and Gas Conservation Commission, Nebraska

Agency 18 - Dept. of Agriculture (Potato Bd. & Poultry/Egg)

Agency 39 - Brand Committee, Nebraska

Agency 56 - Wheat Board, Nebraska

Agency 60 - Ethanol Board, Nebraska

Agency 61 - Dairy Industry Development Board, Nebraska

Agency 86 - Dry Bean Commission

Agency 88 - Corn Development, Utilization and Marketing Board

Agency 92 - Grain Sorghum Board, Nebraska

Thursday, February 26, 2009 1:30 p.m.

Agency 16 - Revenue, Department of

Agency 93 - Tax Equalization and Review Commission

Agency 54 - Historical Society, Nebraska State

(Signed) Lavon Heidemann, Chairperson

Business and Labor

Room 2102

Monday, February 23, 2009 1:30 p.m.

LB556

LB622

LB453

LB514

(Signed) Steve Lathrop, Chairperson

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 110A.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 110, One Hundred First Legislature, First Session, 2009.

**VISITORS**

Visitors to the Chamber were 25 twelfth-grade students, teacher, and sponsor from Elkhorn; Tatiana Korvarikova and Jaroslava Prochazkova from Prague, Czech Republic and Dr. Barbara Trout from Lincoln; Nikki Harris and Kristie Biodrowski from Omaha; and members of the Norfolk JOOI Club from Norfolk.

The Doctor of the Day was Dr. Jay Matzke from Gothenburg.

**ADJOURNMENT**

At 11:58 a.m., on a motion by Senator Karpisek, the Legislature adjourned until 9:00 a.m., Thursday, February 12, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**TWENTY-SIXTH DAY - FEBRUARY 12, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**TWENTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, February 12, 2009

**PRAYER**

The prayer was offered by Senator Wallman.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Ashford, Avery, and Cornett who were excused; and Senator Louden who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-fifth day was approved.

**NOTICE OF COMMITTEE HEARINGS**

Transportation and Telecommunications

Room 1113

Monday, February 23, 2009 1:30 p.m.

LB320  
LB323  
LB401

Tuesday, February 24, 2009 1:30 p.m.

David Copple - Nebraska Highway Commission  
Steven Riehle - Board of Public Roads Classifications and Standards

LB109  
LB114  
LB650

(Signed) Deb Fischer, Chairperson

**CORRECTED COMMUNICATIONS**

February 11, 2009

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

Subject: University of Nebraska at Kearney - Men's Hall and Randall Hall Improvements

Dear Mr. O'Donnell:

Please accept the attached letter dated February 11, 2009, as a replacement for the January 5, 2009, letter requesting approval of the above referenced projects. We used incorrect language in the request paragraph to describe the funding source we're requesting from the legislature.

Thank you for your consideration of these projects.

(Signed) Respectfully submitted,  
Rebecca Koller  
Director of Facilities Planning and  
Management

February 11, 2009

Mr. Patrick O'Donnell  
Clerk of the Legislature  
Room 2018  
State Capitol Building  
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Pursuant to the Provisions of Section 85-408, R.R.S. of Nebraska, 1943 Legislative approval is required for the following University of Nebraska projects:

**University of Nebraska at Kearney - Men's Hall and Randall Hall Improvements.** This project will provide improvements that are part of the second phase of residential renewal at UNK. The Men's Hall and Randall Hall improvement project will do a partial renovation in each building to install fire sprinklers and update the audible fire alarm systems; demolish and expand existing restrooms to meet current

codes; inspect and repair/replace the domestic water, sanitary sewer and HVAC piping; install new elevators in both facilities and modify the lobbies for accessibility; and update all public area lighting, floor, wall and ceiling finishes. Men's Hall will receive new fan coil units to provide both heating and cooling of spaces. Stout Hall will be demolished after the renovation of Randall Hall is completed and the new elevator and entry will be constructed in its place along with select window replacement. This project is estimated to cost \$4,960,000.

The expenditure relates to the Bond Resolution dated December 1, 1964, authorizing the issuance of Revenue Bonds by the Board of Regents. The board has heretofore issued revenue bonds payable from the revenues and fees derived from the ownership and operation of the dormitories and other facilities for the housing and boarding of students, student unions, student health facilities and other facilities for the activities of students located on the campus of the University of Nebraska-Lincoln, under which a 1986 Surplus Fund was created.

Section 6.2 of the Resolution requires the Board to operate the facilities in an efficient, sound and economical manner and to keep all facilities and betterments thereto in good repair, working order and condition and to make all necessary and proper repairs, renewals, replacements, additions, extension and betterments thereto, so that at all times the business carried on in connection therewith shall be properly and advantageously conducted.

**Request.** The University requests approval of the improvements to Men's Hall and Randall Hall at the University of Nebraska at Kearney in the amount of \$4,960,000 to be financed from the University of Nebraska at Kearney Student Fees and Facilities Revenue Bond Surplus Fund.

The Board of Regents authorized this expenditure at its September 5, 2008, meeting.

The Nebraska Coordinating Commission for Postsecondary Education approved the expenditures for this project on December 11, 2008. The CCPE Bond Project Evaluation Forms indicating approval of the projects are attached.

Thank you for your consideration of these projects.

Respectfully submitted,  
(Signed) Donal J. Burns  
Corporation Secretary

## REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of February 11, 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

Donovan, Steve  
Ducks Unlimited, Great Plains  
Radcliffe, Walter H. of Radcliffe & Associates  
Waste Connections, Inc. (Withdrawn 02/06/2009)  
Wright, Lee  
Farmers Insurance Group

## REPORTS

The following reports were received by the Legislature:

### **Education, Department of**

Report of Implementation of Multicultural Education

### **Health and Human Services**

Disabled Persons and Family Support Program - Fiscal Year 2008

## RESOLUTION

**LEGISLATIVE RESOLUTION 11.** Read. Considered.

Committee AM281, found on page 433, was adopted with 42 ayes, 0 nays, 2 present and not voting, and 5 excused and not voting.

LR11, as amended, was adopted with 43 ayes, 0 nays, 1 present and not voting, and 5 excused and not voting.

## COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 52.** Placed on Select File.

**LEGISLATIVE BILL 151.** Placed on Select File.

**LEGISLATIVE BILL 88.** Placed on Select File.

**LEGISLATIVE BILL 184.** Placed on Select File.

**LEGISLATIVE BILL 379.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson



**GENERAL FILE**

**LEGISLATIVE BILL 142.** Considered.

Senator Hansen offered the following amendment:

AM315

- 1 1. On page 2, line 17, strike "fifty" and insert "forty".

The Hansen amendment was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 90.** Title read. Considered.

Senator Lathrop renewed his amendment, AM290, found on page 434.

The Lathrop amendment was adopted with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 83.** Title read. Considered.

Committee AM96, found on page 356, was considered.

Senator McGill offered the following amendment to the committee amendment:

AM326

(Amendments to Standing Committee amendments, AM96)

- 1 1. On page 1, lines 3 and 6, strike "agricultural" and
- 2 insert "livestock".

**SENATOR ROBERT PRESIDING**

Pending.

**COMMITTEE REPORTS**

Education

**LEGISLATIVE BILL 464.** Placed on General File.

**LEGISLATIVE BILL 64.** Placed on General File with amendment.  
AM59

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Sections 1 to 5 of this act shall be known and

4 may be cited as the Lindsay Ann Burke Act.

5 Sec. 2. The Legislature finds and declares that all  
6 students have a right to work and study in a safe, supportive  
7 environment that is free from harassment, intimidation, and  
8 violence. The Legislature further finds that when a student is a  
9 victim of dating violence, his or her academic life suffers and his  
10 or her safety at school is jeopardized. The Legislature therefor  
11 finds and declares that a policy to create a better understanding  
12 and awareness of dating violence shall be adopted by each school  
13 district. It is the intent of the Legislature to require each  
14 school district to establish a policy for educating staff and  
15 students about dating violence.

16 Sec. 3. For purposes of the Lindsay Ann Burke Act, unless  
17 the context otherwise requires:

18 (1) Dating partner means any person, regardless of  
19 gender, involved in an intimate relationship with another person  
20 primarily characterized by the expectation of affectionate  
21 involvement whether casual, serious, or long-term;

22 (2) Dating violence means a pattern of behavior where one  
23 person uses threats of, or actually uses, physical, sexual, verbal,  
1 or emotional abuse to control his or her dating partner;

2 (3) Department means the State Department of Education;  
3 and

4 (4) School district has the same meaning as in section  
5 79-101.

6 Sec. 4. (1) On or before March 1, 2010, the department  
7 shall develop and adopt a model dating violence policy to assist  
8 school districts in developing policies for dating violence.

9 (2) On or before July 1, 2010, each school district shall  
10 develop and adopt a specific policy to address incidents of dating  
11 violence involving students at school, which shall be made a part  
12 of the requirements for accreditation in accordance with section  
13 79-703. Such policy shall include a statement that dating violence  
14 will not be tolerated.

15 (3) To ensure notice of a school district's dating  
16 violence policy, the policy shall be published in any school  
17 district handbook, manual, or similar publication that sets forth  
18 the comprehensive rules, procedures, and standards of conduct for  
19 students at school.

20 (4) Each school district shall provide dating violence  
21 training to staff deemed appropriate by a school district's  
22 administration. The dating violence training shall include, but  
23 not be limited to, basic awareness of dating violence, warning  
24 signs of dating violence, and the school district's dating violence  
25 policy. The dating violence training may be provided by any school  
26 district or combination of school districts, an educational service  
27 unit, or any combination of educational service units.

1 (5) Each school district shall inform the students'  
2 parents or legal guardians of the school district's dating violence

- 3 policy. If requested, the school district shall provide the parents  
 4 or legal guardians a copy of the school district's dating violence  
 5 policy and relevant information.  
 6 (6) This section does not prevent a victim of dating  
 7 violence from seeking redress under any other available law, either  
 8 civil or criminal and does not create or alter any existing tort  
 9 liability.  
 10 Sec. 5. Each school district shall incorporate dating  
 11 violence education that is age-appropriate into the school  
 12 program. Dating violence education shall include, but not be  
 13 limited to, defining dating violence, recognizing dating violence  
 14 warning signs, and identifying characteristics of healthy dating  
 15 relationships.

**LEGISLATIVE BILL 163.** Placed on General File with amendment.  
 AM298

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 79-544, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 79-544 No member of a school board shall be ~~employed as~~  
 6 ~~a teacher by engaged in a contract to teach pursuant to sections~~  
 7 79-817 to 79-821 with the school district which he or she serves as  
 8 a board member.  
 9 Sec. 2. Original section 79-544, Reissue Revised Statutes  
 10 of Nebraska, is repealed.

(Signed) Greg Adams, Chairperson

Natural Resources

**LEGISLATIVE BILL 56.** Placed on General File with amendment.  
 AM310

- 1 1. On page 6, line 5, strike "with willful negligence"  
 2 and insert "negligently"; and in line 20 strike "by willful  
 3 negligence on the part of" and insert "negligently by".  
 4 2. On page 7, line 22, strike "three" and insert "five".

(Signed) Chris Langemeier, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 23.** Introduced by Janssen, 15; Coash, 27; Giese, 17; Karpisek, 32; Langemeier, 23; Rogert, 16.

WHEREAS, Donald Smeal was inducted into the Nebraska Business Hall of Fame on February 5, 2009; and

WHEREAS, Mr. Smeal and the businesses he founded, including Smeal Fire Apparatus Company, have been fixtures of the community of Snyder, Nebraska, for over fifty years; and

WHEREAS, Mr. Smeal was instrumental in founding and keeping his businesses in Dodge County; and

WHEREAS, Mr. Smeal, in addition to being a great businessman, was an even better human being.

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

1. That the Legislature posthumously honors Donald Smeal for his business acumen, charity, hospitality, and philanthropy to the great State of Nebraska.

2. That the Legislature commends Smeal Fire Apparatus Company and its employees for continuing Mr. Smeal's legacy.

3. That the Legislature congratulates Mr. Smeal and his family for his induction into the Nebraska Business Hall of Fame.

4. That a copy of this resolution be sent to Smeal Fire Apparatus Company and to the family of Mr. Smeal.

Laid over.

**AMENDMENT - Print in Journal**

Senator Flood filed the following amendment to LB55:  
AM325

- 1 1. Strike the original sections 2 and 3 and insert the
- 2 following new section:
- 3 Sec. 2. Original section 23-1201.02, Reissue Revised
- 4 Statutes of Nebraska, is repealed.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Utter asked unanimous consent to add his name as cointroducer to LB56. No objections. So ordered.

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB90. No objections. So ordered.

Senators Christensen and Gay asked unanimous consent to add their names as cointroducers to LB420. No objections. So ordered.

Senator Giese asked unanimous consent to add his name as cointroducer to LB558. No objections. So ordered.

Senators Carlson, Christensen, and Fischer asked unanimous consent to add their names as cointroducers to LB675. No objections. So ordered.

**VISITOR**

The Doctor of the Day was Dr. Kristin Maricle from Omaha.

**ADJOURNMENT**

At 11:58 a.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Tuesday, February 17, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTY-SEVENTH DAY - FEBRUARY 17, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**TWENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, February 17, 2009

**PRAYER**

The prayer was offered by Pastor Art Grimm, St. John's Lutheran Church, Beatrice.

**ROLL CALL**

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

The roll was called and all members were present except Senators Janssen and White who were excused; and Senators Cornett, Dierks, and Heidemann who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-sixth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 142.** Placed on Select File with amendment.  
ER8018

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 54-1,100, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 54-1,100 A recorded brand is the property of the person
- 6 causing such record to be made and is subject to sale, assignment,
- 7 transfer, devise, and descent as personal property. ~~Instruments~~
- 8 Any instrument of writing evidencing the sale, assignment, or
- 9 transfer of a recorded brand shall be ~~recorded by~~ effective upon
- 10 its recording with the Nebraska Brand Committee. No such instrument
- 11 shall be accepted for recording if the brand committee has been
- 12 duly notified of the existence of a lien or security interest
- 13 against livestock owned or thereafter acquired by the owner of such
- 14 brand by the holder of such lien or security interest. Written

15 notification from the holder of such lien or security interest that  
 16 the lien or security interest has been satisfied or consent from  
 17 the holder of such lien or security interest shall be required in  
 18 order for the brand committee to accept for recording an instrument  
 19 selling, assigning, or transferring such recorded brand. The fee  
 20 for recording such an instrument shall be established by the brand  
 21 committee and shall not be more than ~~thirty five~~ forty dollars.  
 22 Such ~~instruments~~ instrument shall give notice to all third persons  
 23 of the matter recorded in the ~~instruments~~ instrument and shall  
 1 be acknowledged by a notary public or any other officer qualified  
 2 under law to administer oaths.  
 3 Sec. 2. Original section 54-1,100, Reissue Revised  
 4 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 90.** Placed on Select File with amendment.  
 ER8017

1 1. On page 1, strike beginning with "remove" in line 1  
 2 through line 4 and insert "amend section 29-4204, Reissue Revised  
 3 Statutes of Nebraska; to eliminate certain requirements regarding  
 4 audiovisual court appearances; to repeal the original section; and  
 5 to outright repeal section 29-4203, Reissue Revised Statutes of  
 6 Nebraska.".

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORTS

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 434.** Placed on General File.

**LEGISLATIVE BILL 348.** Placed on General File with amendment.  
 AM191

1 1. Strike original sections 2 to 4 and insert the  
 2 following new section:  
 3 Sec. 2. Original section 76-214, Revised Statutes  
 4 Cumulative Supplement, 2008, is repealed.

(Signed) Bill Avery, Chairperson



**MESSAGE FROM THE GOVERNOR**

February 12, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 11, 29, 30, 31, 49, 49A, 50, 62e, 154, 179e, 180, and 196 were received in my office on February 6, 2009.

These bills were signed and delivered to the Secretary of State on February 12, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**COMMITTEE REPORT  
Enrollment and Review****Correctly Enrolled**

The following resolution was correctly enrolled: LR11.

(Signed) Jeremy Nordquist, Chairperson

**ENROLLED RESOLUTION**

**LEGISLATIVE RESOLUTION 11.** Introduced by Lathrop, 12; Adams, 24; Cornett, 45; Gay, 14; Harms, 48; Stuthman, 22; Wallman, 30.

WHEREAS, the One Hundredth Legislature, Second Session, 2008, adopted Legislative Resolution 283 to establish the Developmental Disabilities Special Investigative Committee of the Legislature. The committee was authorized to study the quality of care and related staffing issues at the Beatrice State Developmental Center, investigate the placement and quality of care statewide for the developmentally disabled in Nebraska, and determine how and why such services to the developmentally disabled were permitted to decline to the current level as documented by the United States Department of Justice report; and

WHEREAS, the committee issued a report of its findings and recommendations on December 15, 2008. Among other findings the committee concluded that the state is likely to lose its federal medicaid funding for the Beatrice State Developmental Center, that various improvements need to be made to the community-based programs, and that the developmental disability waiting list includes 1,865 families who, absent

some change in direction by the State of Nebraska, will remain on the waiting list indefinitely. The committee also made various recommendations for improvement of services to the developmentally disabled in the State of Nebraska. Those recommendations related not only to improvements at the Beatrice State Developmental Center but community-based programs as well as the provision of services to the developmentally disabled individuals who would otherwise sit indefinitely on the state's waiting lists. To ensure the recommendations of the committee are implemented, the committee recommended that the Legislature continue oversight of these issues: "The LR 283 Committee should be reauthorized at the beginning of the next legislative session. This investigative committee should work with the Health and Human Services Committee to ensure that the terms of the DOJ Consent Decree as well as the recommendations herein are implemented in a timely fashion."

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

1. That the Legislature hereby calls for the Executive Board of the Legislative Council to meet forthwith and reappoint the special committee of the Legislature known as the Developmental Disabilities Special Investigative Committee of the Legislature. The committee shall consist of the same seven members of the Legislature appointed by the executive board as follows: Senator Greg Adams, Senator Abbie Cornett, Senator Tim Gay, Senator John Harms, Senator Steve Lathrop, Senator Arnie Stuthman, and Senator Norm Wallman. The chairperson shall be Senator Steve Lathrop. The vice-chairperson shall be Senator John Harms. The executive board is hereby authorized to provide the committee with a legal counsel, committee clerk, and other staff as required by the committee from existing legislative staff. The executive board is also authorized to hire outside legal counsel, consultants, and investigators as required by the committee. The committee shall be an investigative committee and is hereby authorized to hold hearings and issue subpoenas as is deemed necessary by the committee.

2. The Developmental Disabilities Special Investigative Committee of the Legislature is hereby authorized to continue to study the quality of care and related staffing issues at the Beatrice State Developmental Center. The committee shall also continue to investigate the placement and quality of care statewide for the developmentally disabled in Nebraska, including the determination of whether adequate funding and capacity exists for persons to be served in the community, options for service provisions for current residents of the Beatrice State Developmental Center at other twenty-four-hour care facilities in the state, and the staffing practices at twenty-four-hour care facilities and the relationship of those practices to the quality of care provided to the developmentally disabled. The committee shall also provide oversight to ensure that the terms of the United States Department of Justice Consent Decree and the recommendations from the Report of the Developmental Disabilities Special Investigative Committee dated December 15, 2008, are implemented in a timely fashion.

3. The Developmental Disabilities Special Investigative Committee of the Legislature shall issue a report with its findings as the circumstances warrant.

4. The Developmental Disabilities Special Investigative Committee of the Legislature is hereby authorized to continue its work until the beginning of the One Hundred Second Legislature, First Session.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LR11.

**NOTICE OF COMMITTEE HEARINGS**

General Affairs

Room 1510

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

LB286

LB287

LB415

Monday, March 9, 2009 1:30 p.m.

LB411

LB498

LB500

LB443

(Signed) Russ Karpisek, Chairperson

**MESSAGES FROM THE GOVERNOR**

February 10, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Educational Telecommunications Commission:

Kim Dinsdale, 1919 West LaMar Ave., Grand Island, NE 68803

The aforementioned appointee is respectfully submitted for your

consideration. Copies of the certificate of appointment and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

February 10, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Environmental Trust Board:

Rodney Christen, 71850 617th Avenue, Steinauer, NE 68441

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Environmental Trust Board:

Robert Krohn, 1427 South 85th Avenue, Omaha, NE 68124  
Barbara Batie, 43590 Road 761, Lexington, NE 68850

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates of appointment and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

February 11, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Board of Emergency Medical Services:

Dr. Theresa Hatcher, 101 Martin Drive, Bellevue, NE 68005  
Troy Hiemer, 310 5th Street, Columbus, NE 68601

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates of appointment and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### **AMENDMENT - Print in Journal**

Senator Howard filed the following amendment to LB92:  
AM328

(Amendments to Standing Committee amendments, AM305)

1. On page 2, strike lines 18 and 19.

### **ANNOUNCEMENT**

The Chair announced today is Senator Harms' birthday.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 20 and 21 were adopted.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 20 and 21.

### **SELECT FILE**

**LEGISLATIVE BILL 74.** Senator Pirsch renewed his amendment, AM284, found on page 444.

The Pirsch amendment was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 259.** ER8013, found on page 375, was adopted.

Senator Utter renewed his amendment, AM196, found on page 404.

The Utter amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 5.** ER8014, found on page 399, was adopted.

Senator Stuthman offered the following amendment:

AM345

(Amendments to E & R amendments, ER8014)

- 1 1. Strike section 2.
- 2 2. On page 1, reinstate the stricken matter beginning
- 3 with "It" in line 10 through "that" in line 11; in line 13 strike
- 4 "Any" and insert "any"; and in line 14 strike "prohibiting" and
- 5 insert "allowing".
- 6 3. Renumber the remaining sections and correct the
- 7 repealer accordingly.

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

Senator Stuthman requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 15:

Ashford	Haar	McGill	Pankonin	Sullivan
Campbell	Howard	Nordquist	Pirsch	Utter
Cornett	Lathrop	Pahls	Stuthman	Wightman

Voting in the negative, 29:

Adams	Council	Giese	Karpisek	Nantkes
Avery	Dierks	Gloor	Langemeier	Nelson
Carlson	Dubas	Hadley	Lautenbaugh	Price
Christensen	Fischer	Hansen	Louden	Schilz
Coash	Flood	Harms	McCoy	Wallman
Cook	Fulton	Heidemann	Mello	

Present and not voting, 3:

Friend	Gay	Rogert
--------	-----	--------

Excused and not voting, 2:

Janssen	White
---------	-------

The Stuthman amendment lost with 15 ayes, 29 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Lathrop offered the following amendment:

AM347

(Amendments to E & R amendments, ER8014)

- 1 1. On page 1, after line 16, insert the following new
- 2 subdivision:
- 3 "(b) Any person trapping wildlife in the county road
- 4 right-of-way shall be civilly liable for any damage or harm to
- 5 another person or any domestic animal. For purposes of this
- 6 subdivision, domestic animal means any horse, dog, or cat, and cat
- 7 means a cat which is a household pet."; and in line 17 strike
- 8 "(b)", show as stricken, and insert "(c)".

Pending.

### AMENDMENT - Print in Journal

Senator Haar filed the following amendment to LB53:

AM340

- 1 1. Insert the following new section:
- 2 Sec. 5. Section 70-670, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 70-670 In addition to any other rights and powers
- 5 hereinabove conferred upon any district organized under or subject
- 6 to Chapter 70, article 6, each such district shall have and
- 7 exercise the power of eminent domain to acquire from any person,
- 8 firm, association, or private corporation any and all property
- 9 owned, used, or operated, or useful for operation, in the
- 10 generation, transmission, or distribution of electrical energy,
- 11 including an existing electric utility system or any part thereof,
- 12 except that such district may not exercise the power of eminent
- 13 domain over any property outside the chartered territory of the
- 14 district. The procedure to condemn property shall be exercised
- 15 in the manner set forth in Chapter 76, article 7. In the case
- 16 of the acquisition through the exercise of the power of eminent
- 17 domain of an existing electric utility system or part thereof, the
- 18 Attorney General shall, upon request of any district, represent
- 19 such district in the institution and prosecution of condemnation
- 20 proceedings. After acquisition of an existing electric utility
- 21 system through the exercise of the power of eminent domain, the
- 22 district shall reimburse the state for all costs and expenses
- 23 incurred in the condemnation proceedings by the Attorney General.
- 1 2. Amend the repealer and renumber the remaining sections
- 2 accordingly.

**MOTION - Print in Journal**

Senator Haar filed the following motion to LB53:

MO13

Bracket until June 4, 2009.

**AMENDMENT - Print in Journal**

Senator Langemeier filed the following amendment to LB5:

FA12

Amend ER8014

Line 13, strike "enact a" and in line 14 strike "resolution" and insert "regulate by resolution".

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Gloor asked unanimous consent to add his name as cointroducer to LB113. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Senator Nordquist's brother, Luke Nordquist, from Omaha; Ted and Ramona Thieman from Petersburg; Senator Harms' wife, Patricia Harms, from Scottsbluff; and members of Leadership Tomorrow from Grand Island.

The Doctor of the Day was Dr. David Hoelting from Pender.

**ADJOURNMENT**

At 11:57 a.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Wednesday, February 18, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTY-EIGHTH DAY - FEBRUARY 18, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**TWENTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 18, 2009

**PRAYER**

The prayer was offered by Pastor Kenneth Leischner, First Christian Church, Falls City.

**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 Ashford, Avery, Cornett, and Gay who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-seventh day was approved.

**COMMITTEE REPORTS**

Health and Human Services

**LEGISLATIVE BILL 250.** Placed on General File with amendment. AM250 is available in the Bill Room.

**LEGISLATIVE BILL 290.** Placed on General File with amendment. AM293

- 1 1. Strike the original section and insert the following
- 2 new section:
- 3 Section 1. (1) No individual who has been convicted of
- 4 a felony or of any crime involving moral turpitude, or who has
- 5 been charged with or indicted for a felony or crime involving moral
- 6 turpitude and there has been no final resolution of the prosecution
- 7 of the crime, shall provide transportation services under contract
- 8 with the Department of Health and Human Services, whether as an
- 9 employee or as a volunteer, for vulnerable adults as defined in
- 10 section 28-371 or for persons under nineteen years of age.
- 11 (2) In order to assure compliance with subsection (1)
- 12 of this section, any individual who will be providing such

13 transportation services to such vulnerable adults or persons under  
14 nineteen years of age and any individual who is providing such  
15 services on the effective date of this act shall be subject  
16 to a national criminal history record information check by the  
17 Department of Health and Human Services through the Nebraska State  
18 Patrol.

19 (3) In addition to the national criminal history record  
20 information check required in subsection (2) of this section,  
21 all individuals employed to provide transportation services under  
22 contract with the Department of Health and Human Services to  
23 vulnerable adults or persons under nineteen years of age shall  
1 submit to a national criminal history record information check  
2 every two years during the period of such employment.

3 (4) Individuals shall submit two full sets of  
4 fingerprints to the Nebraska State Patrol to be submitted to  
5 the Federal Bureau of Investigation for the national criminal  
6 history record information check required under this section. The  
7 individual shall pay the actual cost of fingerprinting and the  
8 national criminal history record information check.

9 (5)(a) Individuals shall authorize release of the results  
10 and contents of a national criminal history record information  
11 check under this section to the employer and the Department of  
12 Health and Human Services as provided in this section.

13 (b) The Nebraska State Patrol shall not release the  
14 contents of a national criminal history record information check  
15 under this section to the employer or the individual but shall only  
16 indicate in writing to the employer and the individual whether the  
17 individual has a criminal record.

18 (c) The Nebraska State Patrol shall release the results  
19 and the contents of a national criminal history record information  
20 check under this section in writing to the department in accordance  
21 with applicable federal law.

22 (6) The Department of Health and Human Services may  
23 develop and implement policies that provide for administrative  
24 exceptions to the prohibition in subsection (1) of this section,  
25 including, but not limited to, situations in which relatives of  
26 the vulnerable adult or person under nineteen years of age provide  
27 transportation services for such vulnerable adult or person under  
1 nineteen years of age or situations in which the circumstances  
2 of the crime or the elapsed time since the commission of the  
3 crime do not warrant the prohibition. Any decision made by the  
4 department regarding an administrative exception under this section  
5 is discretionary and is not appealable.

6 (7) An individual who does not comply with this section  
7 is guilty of a Class V misdemeanor.

**LEGISLATIVE BILL 540.** Placed on General File with amendment.  
AM115

- 1 1. On page 2, line 22, after the semicolon insert "and
- 2 (g) The probation administrator or his or her designee.";
- 3 and strike lines 23 through 25 and show the old matter as stricken.
- 4 2. On page 3, strike lines 1 through 5 and show the old
- 5 matter as stricken; and in line 6 reinstate the stricken matter.

**LEGISLATIVE BILL 150.** Indefinitely postponed.

**LEGISLATIVE BILL 611.** Indefinitely postponed.

(Signed) Tim Gay, Chairperson

**SELECT FILE**

**LEGISLATIVE BILL 5.** Senator Stuthman offered the following motion:  
MO14

Bracket until May 29, 2009.

**SENATOR CARLSON PRESIDING**

Senator Lautenbaugh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 37 ayes, 3 nays, and 9 not voting.

Senator Stuthman moved for a call of the house. The motion prevailed with 44 ayes, 0 nays, and 5 not voting.

Senator Stuthman requested a roll call vote on his motion to bracket.

Voting in the affirmative, 14:

Adams	Cornett	Howard	Nantkes	Utter
Campbell	Dierks	Lathrop	Nordquist	White
Cook	Haar	McGill	Pankonin	

Voting in the negative, 30:

Carlson	Flood	Hadley	Langemeier	Pahls
Christensen	Friend	Hansen	Lautenbaugh	Pirsch
Coash	Fulton	Harms	Louden	Price
Council	Gay	Heidemann	McCoy	Schilz
Dubas	Giese	Janssen	Mello	Sullivan
Fischer	Gloor	Karpisek	Nelson	Wightman

Present and not voting, 4:

Ashford	Rogert	Stuthman	Wallman
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Excused and not voting, 1:

Avery

The Stuthman motion to bracket failed with 14 ayes, 30 nays, 4 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

**COMMITTEE REPORT**  
Nebraska Retirement Systems

**LEGISLATIVE BILL 23.** Indefinitely postponed.

(Signed) Dave Pankonin, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 24.** Introduced by Rogert, 16.

WHEREAS, Alexandra Linderm, an esteemed resident of Oakland, Nebraska, and a student at West Point Elementary School, has achieved national recognition for exemplary volunteer service by receiving a 2009 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Linderm earned this award by giving generously of her time and energy to a project called "Diapers for Honduras"; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Ms. Linderm who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates and honors Alexandra Linderm as a recipient of a Prudential Spirit of Community Award, recognizes her outstanding record of volunteer service, peer leadership, and community spirit, and extends best wishes for her continued success and happiness.

2. That a copy of this resolution be sent to Alexandra Linderm.

Laid over.

**LEGISLATIVE RESOLUTION 25.** Introduced by Loudon, 49.

WHEREAS, Sydney Swanson, an esteemed resident of Alliance, Nebraska, and a student at Alliance High School, has achieved national recognition for exemplary volunteer service by receiving a 2009 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Swanson earned this award by giving generously of her time and energy to organize a donation drive that collected 125 winter coats for less fortunate children in her town, plus an additional 50 coats for developmentally disabled adults. She then secured a grant to expand her drive to other cities in Nebraska; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Ms. Swanson who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates and honors Sydney Swanson as a recipient of a Prudential Spirit of Community Award, recognizes her outstanding record of volunteer service, peer leadership, and community spirit, and extends best wishes for her continued success and happiness.

2. That a copy of this resolution be sent to Sydney Swanson.

Laid over.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 669A.** Introduced by Ashford, 20; Coash, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 669, One Hundred First Legislature, First Session, 2009; to provide an operative date; and to declare an emergency.

**NOTICE OF COMMITTEE HEARINGS**  
Health and Human Services

Room 1510

Wednesday, February 25, 2009 1:30 p.m.

- LB136
- LB291
- LB342
- LB390
- LB590

(Signed) Tim Gay, Chairperson

Judiciary

Room 1113

Wednesday, February 25, 2009 1:30 p.m.

- LB253
- LB356
- LB345
- LB414
- LB596

(Signed) Brad Ashford, Chairperson

**COMMITTEE REPORTS**  
Nebraska Retirement Systems

The Nebraska Retirement Systems Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Janis Elliott - Public Employees Retirement Board

Aye: 6 Senators Heidemann, Karpisek, Loudon, Mello, Nordquist, Pankonin. Nay: 0. Absent: 0.

The Nebraska Retirement Systems Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Gail Werner-Robertson - Nebraska Investment Council

Aye: 6 Senators Heidemann, Karpisek, Loudon, Mello, Nordquist, Pankonin. Nay: 0. Absent: 0.

(Signed) Dave Pankonin, Chairperson

### **EXECUTIVE BOARD ANNOUNCEMENT**

Pursuant to LR11 (2009), the Executive Board met and reappointed the following senators to the Developmental Disabilities Special Investigative Committee:

Senators Adams, Cornett, Gay, Harms, Lathrop, Stuthman, and Wallman.

Also, pursuant to LR11, Senator Lathrop will continue as Chairperson and Senator Harms will continue as Vice Chairperson.

### **REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

Batie, Barbara - Nebraska Environmental Trust Board - Natural Resources  
Christen, Rodney - Nebraska Environmental Trust Board - Natural Resources  
Dinsdale, Kim - Nebraska Educational Telecommunications Commission - Education  
Hatcher, Theresa - Board of Emergency Medical Services - Health and Human Services  
Hiemer, Troy - Board of Emergency Medical Services - Health and Human Services  
Krohn, Robert - Nebraska Environmental Trust Board - Natural Resources

(Signed) John Wightman, Chairperson  
Executive Board

### **SELECT FILE**

**LEGISLATIVE BILL 5.** Senator Lathrop renewed his amendment, AM347, found on page 471.

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

Senator Lathrop requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 18:

Ashford	Gloor	Lathrop	Nordquist	Wallman
Avery	Haar	McGill	Pankonin	White
Campbell	Howard	Mello	Rogert	
Cornett	Karpisek	Nantkes	Stuthman	

Voting in the negative, 30:

Adams	Dubas	Giese	Langemeier	Pirsch
Carlson	Fischer	Hadley	Lautenbaugh	Price
Christensen	Flood	Hansen	Louden	Schilz
Coash	Friend	Harms	McCoy	Sullivan
Cook	Fulton	Heidemann	Nelson	Utter
Council	Gay	Janssen	Pahls	Wightman

Excused and not voting, 1:

Dierks

The Lathrop amendment lost with 18 ayes, 30 nays, and 1 excused and not voting.

The Chair declared the call raised.

Senator Langemeier renewed his amendment, FA12, found on page 472.

The Langemeier amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Pending.

## RESOLUTION

**LEGISLATIVE RESOLUTION 26.** Introduced by Lautenbaugh, 18; Carlson, 38; Christensen, 44; Dubas, 34; Fulton, 29; McCoy, 39; Price, 3; Schilz, 47.

WHEREAS, Barack Obama, President of the United States, has promised that one of the top priorities of his new administration is to sign into law the "Freedom of Choice Act", not yet introduced to the 111th Congress, but previously introduced to the 110th Congress as H.R.1964 and S.1173, which purports to classify abortion as a "fundamental right", equal in stature to the right to free speech and the right to vote - rights that, unlike abortion, are specifically enumerated in the United States Constitution; and

WHEREAS, the federal "Freedom of Choice Act" would invalidate any "statute, ordinance, regulation, administrative order, decision, policy, practice, or other action" of any federal, state, or local government or governmental official (or any person acting under government authority) that would "deny or interfere with a woman's right to choose" abortion, or



that would "discriminate against the exercise of the right . . . in the regulation or provision of benefits, facilities, services, or information"; and

WHEREAS, the federal "Freedom of Choice Act" would nullify any federal or state law "enacted, adopted, or implemented before, on, or after the date of its enactment" and would effectively prevent the State of Nebraska from enacting similar protective measures in the future; and

WHEREAS, the federal "Freedom of Choice Act" would invalidate more than five hundred fifty federal and state abortion-related laws, laws supported by the majority of the American public; and

WHEREAS, the federal "Freedom of Choice Act" would specifically invalidate the following common-sense, protective laws properly enacted by the State of Nebraska: Sections 28-325 to 28-345, Reissue Revised Statutes of Nebraska; and

WHEREAS, the federal "Freedom of Choice Act" will not make abortion safe or rare, but will instead actively promote and subsidize abortion with state and federal tax dollars and do nothing to ensure its safety; and

WHEREAS, the federal "Freedom of Choice Act" will protect and promote the abortion industry, sacrifice women and their health to a radical political ideology of unregulated abortion-on-demand, and silence the voices of everyday Americans who want to engage in a meaningful public discussion and debate over the availability, safety, and even desirability of abortion.

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

1. That the Legislature strongly opposes the federal "Freedom of Choice Act" and urges Congress to summarily reject it.

2. That the Legislature strongly opposes the federal "Freedom of Choice Act" because it seeks to circumvent the states' general legislative authority as guaranteed under the Tenth Amendment to the United States Constitution.

3. That the Legislature strongly opposes the federal "Freedom of Choice Act" because it seeks to undermine the right and responsibility of the states and the people to debate, vote on, and determine abortion policy.

4. That the Legislature strongly opposes the federal "Freedom of Choice Act" because the protection of women's health through state regulations on abortion is a compelling state interest that should not be nullified by Congress.

5. That the Legislature strongly opposes the federal "Freedom of Choice Act" because its enactment would nullify sections 28-325 to 28-345, Reissue Revised Statutes of Nebraska, laws that the Legislature and the people of Nebraska strongly support.

6. That the Secretary of State of Nebraska transmit a copy of this resolution to the Governor of Nebraska, President of the United States, President of the United States Senate, and Speaker of the United States House of Representatives.

Laid over.

**SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR26 was referred to the Reference Committee.

**RESOLUTIONS****LEGISLATIVE RESOLUTION 27.** Introduced by Heidemann, 1.

WHEREAS, Jacob Buss, an esteemed resident of Tecumseh and a student at Johnson County Central High School, has achieved national recognition for exemplary volunteer service by receiving a 2009 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Mr. Buss earned this award by giving generously of his time and energy to the American Cancer Society's Relay for Life fundraiser, serving as the entertainment committee chair for two years and as chairperson of the entire fundraiser this year; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Mr. Buss who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates and honors Jacob Buss as a recipient of a 2009 Prudential Spirit of Community Award, recognizes his outstanding record of volunteer service, peer leadership, and community spirit, and extends best wishes for his continued success and happiness.

2. That a copy of this resolution be sent to Jacob Buss.

Laid over.

**LEGISLATIVE RESOLUTION 28.** Introduced by Flood, 19; Ashford, 20.

WHEREAS, former state Senator Richard F. Proud, of Battlement Mesa, Colorado, died on January 24, 2009, in Rifle, Colorado, at the age of 87; and

WHEREAS, Richard F. Proud served as a Second Lieutenant in the United States Navy during World War II and was commander of the landing craft LCT912 in the Pacific theater; and

WHEREAS, Richard F. Proud was a retired attorney and served in the Nebraska Legislature from 1965 to 1975, representing Legislative District 12 in Omaha. He also served as Speaker of the Legislature in 1973 and 1974; and

WHEREAS, Richard F. Proud became widely known in 1974 when he was invited to speak with President Richard Nixon about the difficulties faced by the farming industry; and

WHEREAS, Richard F. Proud is survived by his wife, Jean, his children, Carol, John, and George, and his eight grandchildren.

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

1. That the Legislature expresses and extends its sympathy and condolences to the family of Richard F. Proud.

2. That a copy of this resolution be sent to the family of Richard F. Proud.

Laid over.

### SELECT FILE

**LEGISLATIVE BILL 5.** Senator Haar offered the following amendment:  
AM238

(Amendments to E & R amendments, ER8014)

- 1 1. On page 1, line 13, after the stricken period insert
- 2 "Any person who intends to trap in a county road right-of-way
- 3 shall first obtain permission from the landowner whose property is
- 4 adjacent to the right-of-way to place such traps and shall, at the
- 5 trapper's expense, erect a sign each two hundred feet along the
- 6 line of traps to provide notice of such traps. Any person violating
- 7 this subsection shall be guilty of a Class V misdemeanor.
- 8 (b)"; and in line 17 strike "(b)", show as stricken, and
- 9 insert "(c)".

The Haar amendment lost with 14 ayes, 20 nays, 10 present and not voting, and 5 excused and not voting.

Senator Stuthman offered the following amendment:  
AM371

(Amendments to E & R amendments, ER8014)

- 1 1. On page 1, line 16, after the period insert "Any
- 2 county prohibiting trapping by resolution shall erect signs in
- 3 locations in the county designated by the county board providing
- 4 notice of such prohibition.".

Senator Stuthman withdrew his amendment.

Senator Haar offered the following amendment:  
AM374

(Amendments to E & R amendments, ER8014)

- 1 1. On page 1, line 16, after the period insert "Any
- 2 person trapping wildlife in a county road right-of-way shall not
- 3 use traps larger than those permitted by the commission on the
- 4 effective date of this act.".

Senator Haar moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

The Haar amendment was adopted with 25 ayes, 5 nays, 14 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

### REFERENCE COMMITTEE REPORT

The Executive Board submits the following report:

**LB/LR**     **Committee**  
LR26        Judiciary

(Signed) John Wightman, Chairperson  
Executive Board

### COMMITTEE REPORT

Education

**LEGISLATIVE BILL 547.** Placed on General File with amendment. AM365 is available in the Bill Room.

(Signed) Greg Adams, Chairperson

### AMENDMENTS - Print in Journal

Senator Haar filed the following amendment to LB53:  
AM332

- 1     1. On page 5, line 6, strike "and" and show as stricken.
- 2     2. On page 6, line 1, strike the period, show as
- 3 stricken, and insert "; and
- 4     (3) If not included within the geographical area
- 5 described in subdivision (1) or (2) of this section, any voting
- 6 precinct located within a thirty-mile radius of an electric
- 7 generation facility operated by such district."

Senator Flood filed the following amendment to LB219A:  
AM369

- 1     1. On page 3, after line 10 insert:
- 2     "The unexpended cash fund and federal fund appropriation
- 3 balances existing on June 30, 2009, are hereby reappropriated
- 4 to Program 644 to meet FY2008-09 obligations. Any reappropriated
- 5 balances remaining after FY2008-09 obligations have been met shall

6 be transferred to the Department of Roads, for Program 568, no  
7 later than September 30, 2009.".

### VISITORS

Visitors to the Chamber were 5 twelfth-grade students and teacher from Lexington; Andrew Brittenham from Superior; Arlynn, Emily, Andrew, and Victoria Aldinger from Holdrege; members of Nebraska Christian Home Educators Association from across the state; members of Leadership Tomorrow from across the state; and Ron and Kay Pavelka from Glenvil.

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

### ADJOURNMENT

At 12:00 p.m., on a motion by Senator Loudon, the Legislature adjourned until 9:00 a.m., Thursday, February 19, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTY-NINTH DAY - FEBRUARY 19, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****TWENTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, February 19, 2009

**PRAYER**

The prayer was offered by Pastor Barton W. Tarman, Presbyterian Church, Santa Barbara, California.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Nantkes who was excused; and Senators Ashford, Avery, Cornett, Dierks, and Loudon who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-eighth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 74.** Placed on Final Reading.

**LEGISLATIVE BILL 259.** Placed on Final Reading.  
ST9007

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

1. On page 1, line 2, "12-1102, 12-1107," has been inserted after the first comma; and in line 3 "72-1268.03," has been inserted before "77-2305".

(Signed) Jeremy Nordquist, Chairperson

**UNANIMOUS CONSENT - Room Changes**

Senator Carlson asked unanimous consent that the Agriculture Committee conduct its hearing on Tuesday, March 3, 2009, in Room 1510 instead of Room 2102. No objections. So ordered.

Senator Friend asked unanimous consent that the Urban Affairs Committee conduct its hearing on Tuesday, March 3, 2009, in Room 2102 instead of Room 1510. No objections. So ordered.

### RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 18 and 19 were adopted.

### PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 18 and 19.

### SELECT FILE

**LEGISLATIVE BILL 5.** Senator Langemeier offered the following amendment:

AM383

(Amendments to E & R amendments, ER8014)

- 1 1. On page 1, lines 13 through 16, strike the new matter
- 2 and all amendments thereto and insert "Any county may adopt a
- 3 resolution having the force and effect of law to prohibit the
- 4 trapping of wildlife in the county road right-of-way or in a
- 5 certain area of the right-of-way as designated by the county.
- 6 (b) A person trapping wildlife in a county road
- 7 right-of-way is not allowed to use traps in the county road
- 8 right-of-way that are larger than those allowed by the commission
- 9 as of February 1, 2009, on any land owned or controlled by the
- 10 commission."; and in line 17 strike "(b)", show as stricken, and
- 11 insert "(c)".
- 12 2. Strike AM374.

The Langemeier amendment was adopted with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

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

Advanced to Enrollment and Review for Engrossment with 30 ayes, 8 nays, 5 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 53.** Senator Haar renewed his amendment, AM340, found on page 471.

**SENATOR LANGEMEIER PRESIDING**

**PRESIDENT SHEEHY PRESIDING**



The Haar amendment lost with 4 ayes, 26 nays, 15 present and not voting, and 4 excused and not voting.

Pending.

**AMENDMENT - Print in Journal**

Senator Wightman filed the following amendment to LB120:  
AM380

(Amendments to Final Reading copy)

- 1 1. On page 2, line 17, after "month" insert "or fraction
- 2 thereof".

**EXPLANATION OF VOTE**

Had I been present, I would have voted "aye" on the adoption of LR11.

(Signed) Tom White

**NOTICE OF COMMITTEE HEARINGS**

Judiciary

Room 1113

Thursday, February 26, 2009 1:30 p.m.

LB144  
LB292  
LB373  
LB354  
LB208

(Signed) Brad Ashford, Chairperson

Health and Human Services

Room 1510

Thursday, February 26, 2009 1:30 p.m.

Mary Jo Pankoke - Foster Care Review Board  
Mario Scalora - Foster Care Review Board  
Dave Schroeder - Foster Care Review Board  
Georgie Scurfield - Foster Care Review Board

LB515  
LB542  
LB592

LB599  
LB609

(Signed) Tim Gay, Chairperson

**SELECT FILE**

**LEGISLATIVE BILL 53.** Senator Haar renewed his amendment, AM332, found on page 484.

Senator Haar withdrew his amendment.

Senator Haar renewed his motion, MO13, found on page 472, to bracket until June 4, 2009.

Senator Haar moved for a call of the house. The motion prevailed with 39 ayes, 0 nays, and 10 not voting.

Senator Haar requested a roll call vote on his motion to bracket.

Voting in the affirmative, 6:

Council	McGill	Nordquist
Haar	Mello	White

Voting in the negative, 33:

Adams	Fulton	Heidemann	Nelson	Stuthman
Ashford	Gay	Janssen	Pahls	Sullivan
Carlson	Giese	Karpisek	Pankonin	Utter
Christensen	Gloor	Langemeier	Pirsch	Wallman
Fischer	Hadley	Lautenbaugh	Price	Wightman
Flood	Hansen	Louden	Rogert	
Friend	Harms	McCoy	Schilz	

Present and not voting, 8:

Avery	Coash	Cornett	Howard
Campbell	Cook	Dubas	Lathrop

Excused and not voting, 2:

Dierks	Nantkes
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The Haar motion to bracket failed with 6 ayes, 33 nays, 8 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 28.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 48.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 204.** ER8015, found on page 446, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 331.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 135.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 32.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 7.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 55.** Senator Flood renewed his amendment, AM325, found on page 460.

The Flood amendment was adopted with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 20.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 102.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 201.** ER8016, found on page 448, was adopted.

Advanced to Enrollment and Review for Engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 165.** Title read. Considered.

Committee AM121, found on page 343, was considered.

Pending.

**COMMITTEE REPORT**

Revenue

**LEGISLATIVE BILL 335.** Placed on General File.

(Signed) Abbie Cornett, Chairperson

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 202A.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 202, One Hundred First Legislature, First Session, 2009.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 29.** Introduced by Pirsch, 4; Mello, 5; Nordquist, 7.

WHEREAS, a key component of creating and educating a successful generation is a solid background in economic and financial literacy; and

WHEREAS, the universities, colleges, and schools of Nebraska are leading the way by promoting and improving economic literacy for today's students and tomorrow's workers, leaders, citizens, and entrepreneurs; and

WHEREAS, this statewide initiative to advance economic literacy is the mission of the Nebraska Council on Economic Education; and

WHEREAS, the Nebraska Council on Economic Education ensures that all students have an ongoing education in economics and enhances teachers' understanding of economics; and

WHEREAS, the council is a national leader in developing online student academic competitions and standards assessment resources; and

WHEREAS, the council supports five Centers for Economic Education throughout the state, located at the Universities of Nebraska at Kearney, Lincoln, and Omaha and at the state colleges in Chadron and Wayne; and

WHEREAS, the centers work closely and partner with educators in their regions to provide world-class economic and financial literacy education programs to Nebraska's students; and

WHEREAS, the accomplishments of the state's educational organizations should be recognized by the Legislature.

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

1. That the Legislature recognizes and congratulates the dedicated staff of the Nebraska Council on Economic Education.

2. That a copy of this resolution be sent to Roger B. Butters, Ph.D., President of the Nebraska Council on Economic Education, Lincoln, Nebraska.

Laid over.

### **COMMITTEE REPORT**

Education

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Wayne Camara - Technical Advisory Committee for Statewide Assessment  
Brian Gong - Executive Director, Technical Advisory Committee for Statewide Assessment

Linda Poole - Technical Advisory Committee for Statewide Assessment

Richard Sawyer - Technical Advisory Committee for Statewide Assessment

Dallas Watkins - Technical Advisory Committee for Statewide Assessment

Aye: 7 Senators Adams, Avery, Cornett, Giese, Haar, Howard, Sullivan.  
Nay: 0. Absent: 1 Senator Ashford.

(Signed) Greg Adams, Chairperson

### **NOTICE OF COMMITTEE HEARINGS**

Appropriations

Room 1524

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

Agency 48 - Coordinating Commission for Postsecondary Education

Agency 50 - Nebraska State College System

Agency 83 - Community College Aid

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

LB37

LB492

LB454

Agency 47 - Educational Telecommunications Commission, Nebraska  
Agency 51 - University of Nebraska System

Room 1003

Wednesday, March 4, 2009 1:30 p.m.

Agency 21 - State Fire Marshal  
Agency 35 - Liquor Control Commission, Nebraska  
Agency 64 - State Patrol, Nebraska  
Agency 78 - Nebraska Commission on Law Enforcement and Criminal  
Justice  
Agency 46 - Correctional Services, Department of

Thursday, March 5, 2009 1:30 p.m.

Agency 81 - Commission for the Blind and Visually Impaired  
Agency 67 - Equal Opportunity Commission  
Agency 68 - Mexican-American Commission  
Agency 70 - Foster Care Review Board, State  
Agency 76 - Indian Commission, Nebraska  
Agency 82 - Commission for the Deaf and Hard of Hearing

Room 1524

Monday, March 9, 2009 1:30 p.m.

LB12  
LB96  
LB569

Agency 71 - Nebraska Energy Office  
Agency 18 - Agriculture, Department of  
Agency 29 - Natural Resources, Department of  
Agency 52 - State Fair Board  
Agency 84 - Environmental Quality, Department of

Tuesday, March 10, 2009 1:30 p.m.

LB608

Agency 5 - Supreme Court  
Agency 11 - Attorney General  
Agency 15 - Parole, Nebraska Board of  
Agency 94 - Public Advocacy, Commission on  
Agency 9 - Secretary of State

Room 1003

Wednesday, March 11, 2009 1:30 p.m.

LB256  
 LB289  
 LB124  
 LB182  
 LB636  
 LB298

Agency 31 - Military Department  
 Agency 33 - Game and Parks Commission  
 Agency 72 - Economic Development, Department of

Thursday, March 12, 2009 1:30 p.m.

LB193

Agency 19 - Banking, Department of  
 Agency 22 - Insurance, Department of  
 Agency 23 - Labor, Department of  
 Agency 87 - Accountability and Disclosure Commission  
 Agency 65 - Administrative Services, Department of

Room 1524

Tuesday, March 17, 2009 1:30 p.m.

LB359

Agency 13 - Education, Department of  
 Agency 34 - Library Commission, Nebraska  
 Agency 69 - Arts Council, Nebraska

Room 1003

Wednesday, March 18, 2009 1:30 p.m.

LB648

Agency 24 - Motor Vehicles, Department of  
 Agency 40 - Motor Vehicle Licensing Board, Nebraska  
 Agency 17 - Aeronautics, Department of  
 Agency 27 - Roads, Department of

Thursday, March 19, 2009 1:30 p.m.

Agency 7 - Governor  
Agency 8 - Lieutenant Governor  
Agency 10 - Auditor of Public Accounts  
Agency 12 - State Treasurer  
Agency 14 - Public Service Commission  
Agency 3 - Legislative Council

Friday, March 20, 2009 1:30 p.m.

Agency 28 - Veterans' Affairs, Department of  
Agency 37 - Workers' Compensation Court  
Agency 75 - Investment Council, Nebraska  
Agency 77 - Industrial Relations, Commission of  
Agency 85 - Public Employees Retirement Board, Nebraska

Room 1524

Monday, March 23, 2009 1:30 p.m.

LB269  
LB572  
LB459  
LB369

Agency 25 - Health and Human Services

Tuesday, March 24, 2009 1:30 p.m.

LB169  
LB178  
LB236  
LB468

Agency 25 - Health and Human Services

(Signed) Lavon Heidemann, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Gay asked unanimous consent to add his name as cointroducer to LB458. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB506. No objections. So ordered.

Senator Mello asked unanimous consent to add his name as cointroducer to LB532. No objections. So ordered.



Senators Fischer and Langemeier asked unanimous consent to add their names as cointroducers to LB561. No objections. So ordered.

Senators Price and Schilz asked unanimous consent to add their names as cointroducers to LB675. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Jackie Lemmer from Chambers; and Senator McCoy's brother, Bart McCoy, from Omaha.

The Doctor of the Day was Dr. Nathan DeNell from Lincoln.

### **ADJOURNMENT**

At 12:00 p.m., on a motion by Senator Schilz, the Legislature adjourned until 9:00 a.m., Friday, February 20, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**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 &amp; 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



**THIRTY-FIRST DAY - FEBRUARY 23, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****THIRTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, February 23, 2009

**PRAYER**

The prayer was offered by Pastor Robert Chitwood, Brownville Christian Church, Brownville.

**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 Ashford, Dierks, and Haar who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirtieth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 7.** Placed on Final Reading.

**LEGISLATIVE BILL 20.** Placed on Final Reading.

**LEGISLATIVE BILL 32.** Placed on Final Reading.

**LEGISLATIVE BILL 55.** Placed on Final Reading.

ST9009

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

1. On page 1, lines 1 and 4, "sections" has been struck and "section" inserted; in line 2 "and 32-507" has been struck; and in lines 3 and 4 "and Attorney General" has been struck.

**LEGISLATIVE BILL 102.** Placed on Final Reading.

**LEGISLATIVE BILL 120.** Placed on Final Reading Second.

**LEGISLATIVE BILL 135.** Placed on Final Reading.

**LEGISLATIVE BILL 201.** Placed on Final Reading.

**LEGISLATIVE BILL 331.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORTS

Banking, Commerce and Insurance

**LEGISLATIVE BILL 528.** Placed on General File with amendment.  
AM247

- 1 1. Insert the following new sections:
- 2 Section 1. Section 21-2003, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 21-2003 (1) A document shall satisfy the requirements of
- 5 this section and of any other provision of law that adds to or
- 6 varies these requirements to be entitled to filing by the Secretary
- 7 of State.
- 8 (2) The Business Corporation Act shall require or permit
- 9 filing the document in the office of the Secretary of State.
- 10 (3) The document shall contain the information required
- 11 by the act. It may contain other information as well.
- 12 (4) The document shall be typewritten or printed.
- 13 (5) The document shall be in the English language. A
- 14 corporate name shall not be required to be in English if written
- 15 in English letters or Arabic or Roman numerals. The certificate of
- 16 existence required of foreign corporations shall not be required to
- 17 be in English if accompanied by a reasonably authenticated English
- 18 translation.
- 19 (6) The document shall be executed:
- 20 (a) By the chairperson of the board of directors of a
- 21 domestic or foreign corporation, by its president, or by another of
- 22 its officers;
- 23 (b) If directors have not been selected or the
- 1 corporation has not been formed, by an incorporator; or
- 2 (c) If the corporation is in the hands of a receiver,
- 3 trustee, or other court-appointed fiduciary, by that fiduciary.
- 4 (7) The person executing the document shall sign it and
- 5 state beneath or opposite his or her signature his or her name
- 6 and the capacity in which he or she signs. The document may, but
- 7 shall not be required to, contain (a) the corporate seal, (b) an
- 8 attestation by the secretary or an assistant secretary, and (c) an
- 9 acknowledgment, verification, or proof.
- 10 (8) If the Secretary of State has prescribed a mandatory
- 11 form for the document under section 21-2004, the document shall be
- 12 in or on the prescribed form.
- 13 (9) The document shall be delivered to the Secretary of
- 14 State for filing and shall be accompanied by one exact or conformed
- 15 copy, except as provided in sections 21-2033 and 21-20,176, the

16 correct filing fee, and any tax, license fee, or penalty required  
17 by law. For purposes of this subsection, delivered means physical  
18 delivery of the document by hand, mail, or commercial delivery and  
19 does not include delivery by electronic transmission.

20 Sec. 5. Section 21-20,186, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 21-20,186 (1) A corporation shall furnish its  
23 shareholders annual financial statements which may be consolidated  
24 or combined statements of the corporation and one or more of its  
25 subsidiaries, as appropriate, that include a balance sheet as of  
26 the end of the fiscal year, an income statement for that year, and  
27 a statement of changes in shareholders' equity for that year unless  
1 such information appears elsewhere in the financial statements. If  
2 financial statements are prepared for the corporation on the basis  
3 of generally accepted accounting principles, the annual financial  
4 statements shall also be prepared on that basis.

5 (2) If the annual financial statements are reported upon  
6 by a public accountant, the accountant's report shall accompany  
7 the financial statements. If not, the financial statements shall  
8 be accompanied by a statement of the president or the person  
9 responsible for the corporation's accounting records:

10 (a) Stating his or her reasonable belief whether the  
11 financial statements were prepared on the basis of generally  
12 accepted accounting principles and, if not, describing the basis of  
13 preparation; and

14 (b) Describing any respects in which the statements  
15 were not prepared on a basis of accounting consistent with the  
16 statements prepared for the preceding year.

17 (3) A corporation shall ~~mail-deliver~~ the annual financial  
18 statements to each shareholder within one hundred twenty days after  
19 the close of each fiscal year. Thereafter, on written request from  
20 a shareholder who was not ~~mailed-delivered~~ the statements, the  
21 corporation shall ~~mail-deliver to him or her~~ the latest financial  
22 statements.

23 2. On page 5, line 23, strike the second comma and show  
24 as stricken; and in line 25 strike "voice mail".

25 3. On page 9, line 19, after "sections" insert  
26 "21-2003,", strike "and", and after the last comma insert "and  
27 21-20,186,".

1 4. Renumber the remaining sections accordingly.

(Signed) Rich Pahls, Chairperson

## Revenue

**LEGISLATIVE BILL 162.** Placed on General File with amendment. AM357

- 1 1. On page 4, line 5, after property insert "or any  
 2 person who earns less than five thousand dollars annually for  
 3 construction services"; and strike lines 7 through 12 and insert  
 4 the following new subsection:  
 5 "(2) An exemption from the requirements under subsection  
 6 (1) of this section does not exempt a contractor from withholding  
 7 requirements under the Nebraska Revenue Act of 1967.".  
 8 2. On page 6, line 12, after "be" insert "signed by the  
 9 applicant and" and after the period insert "The commissioner  
 10 may adopt and promulgate rules and regulations to establish  
 11 the criteria for acceptability of filing documents and making  
 12 payments electronically. The criteria may include requirements for  
 13 electronic signatures. The commissioner may refuse to accept any  
 14 electronic filings or payments that do not meet the criteria  
 15 established."; and strike lines 17 through 25, show the old matter  
 16 as stricken, and insert the following new subsection:  
 17 "(2) A contractor shall not be required to pay the fee  
 18 under subsection (1) of this section if: (a) The contractor  
 19 is self-employed and does not pay more than three thousand  
 20 dollars annually to employ other persons in the business and  
 21 the application contains a statement made under oath or equivalent  
 22 affirmation setting forth such information; or (b) the contractor  
 23 only engages in the construction of water wells or installation  
 1 of septic systems. At any time that a contractor no longer  
 2 qualifies for exemption from the fee, the fee shall be paid to the  
 3 department. Any false statement made under subdivision (2)(a) of  
 4 this section shall be a violation of section 28-915.01.".  
 5 3. On page 7, strike line 1 and show as stricken.

(Signed) Abbie Cornett, Chairperson

### **MOTION - Approve Appointments**

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 493:

Technical Advisory Committee for Statewide Assessment

Wayne Camara  
 Brian Gong, Executive Director  
 Linda Poole  
 Richard Sawyer  
 Dallas Watkins

Voting in the affirmative, 46:



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

Voting in the negative, 0.

Excused and not voting, 3:

Ashford          Dierks          Haar

The appointments were confirmed with 46 ayes, 0 nays, and 3 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 89.** Committee AM92, found on page 365 and considered on page 523, was adopted with 37 ayes, 3 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 3 nays, 6 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 231.** Title read. Considered.

Committee AM75, found on page 352, was adopted with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

### SENATOR LANGEMEIER PRESIDING

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

### SENATOR ROGERT PRESIDING

**LEGISLATIVE BILL 167.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 6 nays, 7 present and not voting, and 1 excused and not voting.

### SPEAKER FLOOD PRESIDING

**RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR22 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR22.

**SENATOR ROBERT PRESIDING****ANNOUNCEMENT**

Senator Ashford designates LB63 as his priority bill.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 31.** Introduced by Flood, 19; Rogert, 16.

WHEREAS, the recent economic downturn has had a significant impact on the steel industry in the United States, and over 25,000 United States steelworkers have lost their jobs; and

WHEREAS, Nucor Corporation, a Fortune 500 Company and national manufacturer of steel products, has continued to demonstrate a commitment to its employees, including over 900 employees in Norfolk, Nebraska; and

WHEREAS, Nucor has not closed any of its plants and practices a no-lay-off policy for its more than 20,000 employees; and

WHEREAS, Nucor and its family of diverse companies, including Nucor Steel, Nucor Cold Finish, Vulcraft, and Nucor Detailing Center, have developed a long-term relationship with Norfolk, Nebraska, and have demonstrated the strength of American steel; and

WHEREAS, Nucor is North America's largest recycler and its emphasis on safety, the environment, and social responsibility have been an integral part of its success; and

WHEREAS, Nucor employees work hard making the finest quality steel products; and

WHEREAS, Nucor employees play hard and are actively involved in the community through activities such as the TeamMates Mentoring Program and Norfolk Area United Way.

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

1. That the Legislature recognizes Nucor Corporation for its dedication to its employees and to the communities in which it has facilities.

2. That a copy of this resolution be sent to Nucor's chief executive officer, Daniel R. DiMicco, all Nucor facilities in the State of Nebraska, and to each member of Nebraska's congressional delegation.

Laid over.

**AMENDMENTS - Print in Journal**

Senator Fischer filed the following amendment to LB204:  
AM429

(Amendments to Final Reading copy)

- 1 1. On page 3, line 18, after "any" insert "commercial".

Senator Carlson filed the following amendment to LB254:  
AM420

- 1 1. On page 3, strike beginning with "If" in line 17  
2 through the period in line 24 and insert "The application shall be  
3 accompanied by an annual license fee of one hundred dollars.".  
4 2. On page 4, strike beginning with "dollars" in line  
5 2 through "hundred" in line 6 and insert "fifty dollars or  
6 seventy-five"; and in line 8 after the period insert "All fees  
7 collected pursuant to this section shall be remitted to the State  
8 Treasurer for credit to the Pesticide Administrative Cash Fund.".

**COMMITTEE REPORTS**

## Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Patrick Bourne - Nebraska Power Review Board  
Stephen Lichter - Nebraska Power Review Board

Aye: 8 Senators Carlson, Cook, Dubas, Fischer, Haar, Langemeier, McCoy, Schilz. Nay: 0. Absent: 0.

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Mark Spurgin - Game and Parks Commission

Aye: 8 Senators Carlson, Cook, Dubas, Fischer, Haar, Langemeier, McCoy, Schilz. Nay: 0. Absent: 0.

(Signed) Chris Langemeier, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB167. No objections. So ordered.

Senator Wallman asked unanimous consent to add his name as cointroducer to LB476. No objections. So ordered.

Senators Campbell and Gay asked unanimous consent to add their names as cointroducers to LB532. No objections. So ordered.

### **VISITOR**

The Doctor of the Day was Dr. Stephanie Riccalarsen from Omaha.

### **ADJOURNMENT**

At 11:55 a.m., on a motion by Senator Heidemann, the Legislature adjourned until 9:00 a.m., Tuesday, February 24, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRTY-SECOND DAY - FEBRUARY 24, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****THIRTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, February 24, 2009

**PRAYER**

The prayer was offered by Pastor Donella Silveira, Immanuel Lutheran Church, Chadron.

**ROLL CALL**

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

The roll was called and all members were present except Senator Heidemann who was excused; and Senators Adams, Avery, Cornett, and Loudon who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-first day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 165.** Placed on Select File with amendment. ER8019 is available in the Bill Room.

**LEGISLATIVE BILL 89.** Placed on Select File with amendment. ER8021

- 1 1. In the Standing Committee amendments, AM92:
- 2 a. Insert the following new section:
- 3 Sec. 7. Section 77-4025, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 77-4025 There is hereby created a cash fund in the
- 6 Department of Revenue to be known as the Tobacco Products
- 7 Administration Cash Fund. ~~Except as otherwise provided in section~~
- 8 ~~77-4008, all~~ All revenue collected or received by the Tax
- 9 Commissioner from the license fees and taxes imposed by the Tobacco
- 10 Products Tax Act shall be remitted to the State Treasurer for
- 11 credit to the Tobacco Products Administration Cash Fund. All costs

12 required for administration of the Tobacco Products Tax Act shall  
 13 be paid from such fund. Credits and refunds allowed under the act  
 14 shall be paid from the Tobacco Products Administration Cash Fund.  
 15 Any receipts, after credits and refunds, in excess of the amounts  
 16 sufficient to cover the costs of administration may be transferred  
 17 to the General Fund at the direction of the Legislature. ~~The State~~  
 18 ~~Treasurer shall transfer two million five hundred thousand dollars~~  
 19 ~~from the Tobacco Products Administration Cash Fund to the General~~  
 20 ~~Fund within fifteen days after November 1, 2002.~~ Any money in the  
 21 Tobacco Products Administration Cash Fund available for investment  
 22 shall be invested by the state investment officer pursuant to  
 23 the Nebraska Capital Expansion Act and the Nebraska State Funds  
 1 Investment Act.  
 2 b. On page 1, line 14, strike "powered" and insert  
 3 "powdered";  
 4 c. On page 4, line 19, strike "and 77-4017" and insert  
 5 "77-4017, and 77-4025"; and  
 6 d. Renumber the remaining sections accordingly.  
 7 2. On page 1, strike beginning with "77-4004" in line 2  
 8 through "77-4024" in line 3 and insert "77-4008, 77-4014, 77-4017,  
 9 and 77-4025"; and in line 5 after the first semicolon insert "to  
 10 eliminate obsolete provisions;".

**LEGISLATIVE BILL 231.** Placed on Select File with amendment.  
 ER8020

- 1 1. On page 1, line 3, strike "provide requirements for  
 2 the legislative member" and insert "change provisions relating to  
 3 membership and voting".

**LEGISLATIVE BILL 167.** Placed on Select File with amendment.  
 ER8022

- 1 1. On page 2, line 9, strike the comma.

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORTS

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 450.** Placed on General File.

**LEGISLATIVE BILL 512.** Placed on General File.

**LEGISLATIVE BILL 544.** Placed on General File.

**LEGISLATIVE BILL 325.** Placed on General File with amendment.  
 AM474

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 32-328, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 32-328 (1) The election commissioner or county clerk

6 shall, upon the personal application of any registered voter or  
7 whenever informed of any error and after due investigation, correct  
8 any error in the voter registration register. For such purpose,  
9 the election commissioner or county clerk may summon witnesses and  
10 compel their attendance to appear at the office of the election  
11 commissioner or county clerk to give testimony pertaining to  
12 residence, qualifications, or any other facts required to be  
13 entered in the voter registration register. Such testimony shall be  
14 transcribed and become a part of his or her records.

15 (2) If the name of any registered voter of any precinct  
16 does not appear on the precinct list of registered voters through  
17 an error and the election commissioner or county clerk informs  
18 the precinct inspector or judge of election that credible evidence  
19 exists that substantiates that an error has been made, the precinct  
20 inspector or judge of election shall enter the correction in the  
21 precinct list of registered voters, initial the correction, and  
22 authorize the receiving board to issue the proper ballots to the  
23 voter as directed by the election commissioner or county clerk  
1 and receive his or her vote. The election commissioner or county  
2 clerk shall designate whether the voter is entitled to a regular  
3 ballot or a provisional ballot as provided in section 32-915. All  
4 corrections shall be entered on the voter registration register as  
5 soon as possible after the election.

6 Sec. 2. Section 32-329, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 32-329 (1) The Secretary of State with the assistance  
9 of the election commissioners and county clerks shall perform  
10 list maintenance with respect to the computerized statewide voter  
11 registration list on a regular basis. The list maintenance shall be  
12 conducted in a manner that ensures that:

13 (a) The name of each registered voter appears in the  
14 computerized list;

15 (b) Only persons who have been entered into the register  
16 in error or who are not eligible to vote are removed from the  
17 computerized list; and

18 (c) Duplicate names are eliminated from the computerized  
19 list.

20 (2) The election commissioner or county clerk shall  
21 verify the voter registration register by using (a) the National  
22 Change of Address program of the United States Postal Service  
23 and a confirmation notice pursuant to subsection (3) of this  
24 section or (b) the biennial mailing of a nonforwardable notice  
25 to each registered voter. The Secretary of State shall provide  
26 biennial training for the election commissioners and county clerks  
27 responsible for maintaining voter registration lists. No name shall  
1 be removed from the voter registration register for the sole reason  
2 that such person has not voted for any length of time.

3 (3) When an election commissioner or county clerk  
4 receives information from the National Change of Address program

5 of the United States Postal Service that a registered voter has  
6 moved from the address at which he or she is registered to  
7 vote, the election commissioner or county clerk shall ~~immediately~~  
8 update the voter registration register to indicate that the voter  
9 may have moved and mail a confirmation notice by forwardable  
10 first-class mail. If a nonforwardable notice under subdivision  
11 (2)(b) of this section is returned as undeliverable, the election  
12 commissioner or county clerk shall mail a confirmation notice  
13 by forwardable first-class mail. The confirmation notice shall  
14 include a confirmation letter and a preaddressed, postage-paid  
15 confirmation card. The confirmation letter shall contain statements  
16 substantially as follows:

17 (a) The election commissioner or county clerk has  
18 received information that you have moved to a different residence  
19 address from that appearing on the voter registration register;

20 (b) If you have not moved or you have moved to a  
21 new residence within this county, you should return the enclosed  
22 confirmation card by the regular registration deadline prescribed  
23 in section 32-302. If you fail to return the card by the deadline,  
24 you will be required to affirm or confirm your address prior to  
25 being allowed to vote. If you are required to affirm or confirm  
26 your address, it may result in a delay at your polling place; and

27 (c) If you have moved out of the county, you must  
1 reregister to be eligible to vote. This can be accomplished by mail  
2 or in person. For further information, contact your local election  
3 commissioner or county clerk.

4 (4) The election commissioner or county clerk shall  
5 maintain for a period of not less than two years a record of  
6 each confirmation letter indicating the date it was mailed and the  
7 person to whom it was mailed.

8 (5) If information from the National Change of Address  
9 program or the nonforwardable notice under subdivision (2)(b)  
10 of this section indicates that the voter has moved outside the  
11 jurisdiction and the election commissioner or county clerk receives  
12 no response to the confirmation letter and the voter does not offer  
13 to vote at any election held prior to and including the second  
14 statewide federal general election following the mailing of the  
15 confirmation notice, the voter's registration shall be canceled  
16 and his or her name shall be deleted from the voter registration  
17 register.

18 Sec. 3. Section 32-607, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 32-607 All candidate filing forms shall contain the  
21 following statement: I hereby swear that I will abide by the laws  
22 of the State of Nebraska regarding the results of the primary and  
23 general elections, that I am a registered voter and qualified to be  
24 elected, and that I will serve if elected. Candidate filing forms  
25 shall be filed with the following filing officers:

26 (1) For candidates for national, state, or congressional



27 office, directors of public power and irrigation districts,  
 1 directors of reclamation districts, directors of natural resources  
 2 districts, members of the boards of educational service units,  
 3 members of governing boards of community colleges, delegates to  
 4 national conventions, and other offices filled by election held in  
 5 more than one county and judges desiring retention, in the office  
 6 of the Secretary of State;

7 (2) For officers elected within a county, in the office  
 8 of the election commissioner or county clerk. If the candidate is  
 9 not a resident of the county, he or she shall submit a certificate  
 10 of registration obtained under section 32-316 with the candidate  
 11 filing form;

12 (3) For officers in school districts which include land  
 13 in adjoining counties, in the office of the election commissioner  
 14 or county clerk of the county in which the greatest number of  
 15 registered voters entitled to vote for the officers reside. If the  
 16 candidate is not a resident of the county, he or she shall submit a  
 17 certificate of registration obtained under section 32-316 with the  
 18 candidate filing form; and

19 (4) For city or village officers, in the office of the  
 20 ~~city or village clerk, except that in the case of joint elections,~~  
 21 ~~the filing may be either in the office of the election commissioner~~  
 22 ~~or county clerk, or in the office of the city or village clerk with~~  
 23 ~~deputized personnel. When the city or village clerk is deputized to~~  
 24 ~~take filings, he or she shall return all filings to the office of~~  
 25 ~~the election commissioner or county clerk by the end of the next~~  
 26 ~~business day following the filing deadline.~~

27 Sec. 4. Section 32-914.02, Reissue Revised Statutes of  
 1 Nebraska, is amended to read:

2 32-914.02 If a person who is registered to vote moves  
 3 to a new residence within the same county and precinct and has  
 4 continuously resided in such county and precinct since registering  
 5 to vote but the voter registration register has not been changed  
 6 to reflect the move, the person shall be entitled to vote at the  
 7 polling place for the new residence. The election commissioner or  
 8 county clerk shall designate whether such a person is entitled  
 9 to a regular ballot upon completing a registration application to  
 10 update his or her voter registration record at the polling place  
 11 or a provisional ballot as provided in section 32-915. The election  
 12 commissioner or county clerk shall update the voter registration  
 13 register to reflect the change of address.

14 Sec. 5. Section 32-915, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16 32-915 (1) A person whose name does not appear on the  
 17 precinct list of registered voters at the polling place for the  
 18 precinct in which he or she resides, whose name appears on the  
 19 precinct list of registered voters at the polling place for the  
 20 precinct in which he or she resides at a different residence  
 21 address as described in section 32-914.02, or whose name appears

22 with a notation that he or she received a ballot for early voting  
 23 may vote a provisional ballot if he or she:

24 (a) Claims that he or she is a registered voter who has  
 25 continuously resided in the county in which the precinct is located  
 26 since registering to vote;

27 (b) Is not entitled to vote under section 32-914.01 or  
 1 32-914.02;

2 (c) Has not registered to vote or voted in any other  
 3 county since registering to vote in the county in which the  
 4 precinct is located;

5 (d) Has appeared to vote at the polling place for the  
 6 precinct to which the person would be assigned based on his or her  
 7 residence address; and

8 (e) Completes and signs a registration application before  
 9 voting.

10 (2) A voter whose name appears on the precinct list  
 11 of registered voters for the polling place with a notation  
 12 that the voter is required to present identification pursuant  
 13 to section 32-318.01 but fails to present identification may vote a  
 14 provisional ballot if he or she completes and signs a registration  
 15 application before voting.

16 (3) Each person voting by provisional ballot shall  
 17 enclose his or her ballot in an envelope marked Provisional  
 18 Ballot and shall, by signing the certification on the front of the  
 19 envelope or a separate form attached to the envelope, certify to  
 20 the following facts:

21 (a) I am a registered voter in ..... County;

22 (b) My name did not appear on the precinct list of  
 23 registered voters;

24 (c) I registered to vote on or about this date  
 25 .....

26 (d) I registered to vote

27 .... in person at the election office or a voter  
 1 registration site,

2 .... by mail,

3 .... on a form through the Department of Motor Vehicles,

4 .... on a form through another state agency,

5 .... in some other way;

6 (e) I have not resided outside of this county or voted  
 7 outside of this county since registering to vote in this county;

8 (f) My current address is shown on the registration  
 9 application completed as a requirement for voting by provisional  
 10 ballot; and

11 (g) I am eligible to vote in this election and I have not  
 12 voted and will not vote in this election except by this ballot.

13 (4) The voter shall sign the certification under penalty  
 14 of election falsification. The following statements shall be on  
 15 the front of the envelope or on the attached form: By signing the  
 16 front of this envelope or the attached form you are certifying to

17 the information contained on this envelope or the attached form  
 18 under penalty of election falsification. Election falsification  
 19 is a Class IV felony and may be punished by up to five years  
 20 imprisonment, a fine of up to ten thousand dollars, or both.

21 (5) If the person's name does not appear on the precinct  
 22 list of registered voters for the polling place and the judge or  
 23 clerk of election determines that the person's residence address is  
 24 located in another precinct within the same county, the judge or  
 25 clerk of election shall direct the person to his or her correct  
 26 polling place to vote.

27 Sec. 6. Section 32-930, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 32-930 If a person is challenged on the ground that he  
 3 or she is not eighteen years of age or, during the years in which  
 4 a statewide general election is held, that he or she will not be  
 5 eighteen years of age by the first Tuesday after the first Monday  
 6 in November of such year, the person shall answer the following  
 7 question on the form provided by the election commissioner or  
 8 county clerk: Will you be ~~eighteen years of age to the best of~~  
 9 ~~your knowledge and belief by the statewide general election of this~~  
 10 ~~year?~~ at least eighteen years of age on or before the first Tuesday  
 11 following the first Monday in November of this year?

12 Sec. 7. Original sections 32-328, 32-329, 32-607,  
 13 32-914.02, 32-915, and 32-930, Reissue Revised Statutes of  
 14 Nebraska, are repealed.

(Signed) Bill Avery, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 32.** Introduced by Stuthman, 22.

WHEREAS, the Howells High School wrestling team won the 2009 Class D State Wrestling Championship; and

WHEREAS, the Howells High School wrestling team clinched the title with a team score of 141; and

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

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

1. That the Howells High School wrestling team be congratulated for their exemplary effort this season.

2. That a copy of this resolution be sent to Head Coach Brian Jones and the Howells High School wrestling team.

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 403.** Title read. Considered.

Committee AM413, found on page 518, was considered.

**SENATOR CARLSON PRESIDING**

Pending.

**COMMITTEE REPORTS**

## Judiciary

**LEGISLATIVE BILL 274.** Placed on General File.

**LEGISLATIVE BILL 429.** Placed on General File.

(Signed) Brad Ashford, Chairperson

Urban Affairs

**LEGISLATIVE BILL 526.** Placed on General File.

**LEGISLATIVE BILL 128.** Placed on General File with amendment.  
AM180

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Pursuant to Article XI, section 1, of the
- 4 Constitution of Nebraska, the Legislature authorizes the investment
- 5 of public endowment funds by any city having a population of
- 6 more than five thousand inhabitants in the manner required of a
- 7 prudent investor who shall act with care, skill, and diligence
- 8 under the prevailing circumstance and in such investments as the
- 9 governing body of such city, acting in a fiduciary capacity for the
- 10 exclusive purpose of protecting and benefiting such investment, may
- 11 determine.
- 12 Sec. 2. Since an emergency exists, this act takes effect
- 13 when passed and approved according to law.

**LEGISLATIVE BILL 338.** Placed on General File with amendment.  
AM192

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 15-268, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 15-268 A ~~primary~~ city of the primary class may provide
- 6 for the destruction and removal of weeds and worthless vegetation
- 7 growing upon any lot or lots or lands within the corporate limits
- 8 of such city or upon the streets and alleys abutting upon any
- 9 lot or lots or lands, and such city may require the owner or

10 owners of such lot or lots or lands to destroy and remove the same  
 11 therefrom and from the streets and alleys abutting thereon. If, ~~the~~  
 12 ~~owner or owners fail, neglect, or refuse,~~ after five days' notice  
 13 by publication, ~~or by certified United States mail, or by the~~  
 14 conspicuous posting of the notice on the lot or land upon which the  
 15 nuisance exists, the owner or owners fail, neglect, or refuse to  
 16 destroy or remove the same, nuisance, the city, through its proper  
 17 officers, shall destroy and remove the ~~same nuisance,~~ or cause the  
 18 ~~same nuisance~~ to be destroyed or removed, from the lot or lots or  
 19 lands and streets and alleys abutting thereon and shall assess the  
 20 cost thereof against such lot or lots or lands, as provided by  
 21 ordinance.

22 Sec. 2. Section 16-230, Reissue Revised Statutes of  
 23 Nebraska, is amended to read:

1 16-230 (1) A city of the first class by ordinance may  
 2 require lots or pieces of ground within the city or within  
 3 ~~two miles of the corporate limits of the city the city's~~  
 4 extraterritorial zoning jurisdiction to be drained or filled so  
 5 as to prevent stagnant water or any other nuisance accumulating  
 6 thereon. ~~Except as provided in subsection (6) of this section,~~  
 7 the city may require the owner or occupant of all lots and  
 8 pieces of ground within the city to keep the lots and pieces  
 9 of ground and the adjoining streets and alleys free of any  
 10 growth of twelve inches or more in height of weeds, grasses, or  
 11 worthless vegetation, and it may prohibit and control the throwing,  
 12 depositing, or accumulation of litter on any lot or piece of ground  
 13 within the city.

14 (2) ~~Any Except as provided in subsection (6) of this~~  
 15 section, any city of the first class may by ordinance declare it  
 16 to be a nuisance to permit or maintain any growth of twelve inches  
 17 or more in height of weeds, grasses, or worthless vegetation or to  
 18 litter or cause litter to be deposited or remain thereon except in  
 19 proper receptacles.

20 (3) Any owner or occupant of a lot or piece of ground  
 21 shall, upon conviction of violating ~~such any ordinance authorized~~  
 22 under this section, be guilty of a Class V misdemeanor.

23 (4) Notice to abate and remove such nuisance shall be  
 24 given to each owner or owner's duly authorized agent and to the  
 25 occupant, if any, by personal service or certified mail. If notice  
 26 by personal service or certified mail is unsuccessful, notice shall  
 27 be given by publication in a newspaper of general circulation in  
 1 the city or by conspicuously posting the notice on the lot or  
 2 ground upon which the nuisance is to be abated and removed. Within  
 3 five days after receipt of such notice or publication or posting,  
 4 whichever is applicable, if the owner or occupant of the lot or  
 5 piece of ground does not request a hearing with the city or fails  
 6 to comply with the order to abate and remove the nuisance, the city  
 7 may have such work done. The costs and expenses of any such work  
 8 shall be paid by the owner. If unpaid for two months after such

9 work is done, the city may either (a) levy and assess the costs and  
 10 expenses of the work upon the lot or piece of ground so benefited  
 11 in the same manner as other special taxes for improvements are  
 12 levied and assessed or (b) recover in a civil action the costs  
 13 and expenses of the work upon the lot or piece of ground and the  
 14 adjoining streets and alleys.

15 (5) For purposes of this section:

16 (a) Litter includes, but is not limited to: (i) Trash,  
 17 rubbish, refuse, garbage, paper, rags, and ashes; (ii) wood,  
 18 plaster, cement, brick, or stone building rubble; (iii) grass,  
 19 leaves, and worthless vegetation; (iv) offal and dead animals;  
 20 and (v) any machine or machines, vehicle or vehicles, or parts of  
 21 a machine or vehicle which have lost their identity, character,  
 22 utility, or serviceability as such through deterioration,  
 23 dismantling, or the ravages of time, are inoperative or unable to  
 24 perform their intended functions, or are cast off, discarded, or  
 25 thrown away or left as waste, wreckage, or junk; ~~and~~

26 (b) Weeds includes, but is not limited to, bindweed  
 27 (Convolvulus arvensis), puncture vine (Tribulus terrestris),  
 1 leafy spurge (Euphorbia esula), Canada thistle (Cirsium arvense),  
 2 perennial peppergrass (Lepidium draba), Russian knapweed (Centaurea  
 3 picris), Johnson grass (Sorghum halepense), nodding or musk  
 4 thistle, quack grass (Agropyron repens), perennial sow thistle  
 5 (Sonchus arvensis), horse nettle (Solanum carolinense), bull  
 6 thistle (Cirsium lanceolatum), buckthorn (Rhamnus sp.) (tourn),  
 7 hemp plant (Cannabis sativa), and ragweed (Ambrosiaceae); and-

8 (c) Weeds, grasses, and worthless vegetation does not  
 9 include vegetation applied or grown on a lot or piece of ground  
 10 outside the corporate limits of the city but inside the city's  
 11 extraterritorial zoning jurisdiction expressly for the purpose of  
 12 weed or erosion control.

13 (6) A city of the first class by ordinance may declare it  
 14 to be a nuisance to permit or maintain any growth of eight inches  
 15 or more in height of weeds, grasses, or worthless vegetation on any  
 16 lot or piece of ground located within the corporate limits of the  
 17 city during any calendar year if, within the same calendar year,  
 18 the city has, pursuant to subsection (4) of this section, acted  
 19 to remove weeds, grasses, or worthless vegetation exceeding twelve  
 20 inches in height on the same lot or piece of ground and had to seek  
 21 recovery of the costs and expenses of such work from the owner.

22 Sec. 3. Section 17-563, Reissue Revised Statutes of  
 23 Nebraska, is amended to read:

24 17-563 (1) ~~Each~~ Except as provided in subsection (6) of  
 25 this section, a city of the second class and village by ordinance  
 26 (a) may require lots or pieces of ground within the city or village  
 27 to be drained or filled so as to prevent stagnant water or any  
 1 other nuisance accumulating thereon, (b) -It may require the  
 2 owner or occupant of any lot or piece of ground within the city  
 3 or village to keep the lot or piece of ground and the adjoining

4 streets and alleys free of any growth of twelve inches or more in  
5 height of weeds, grasses, or worthless vegetation, and ~~it (c)~~ may  
6 prohibit and control the throwing, depositing, or accumulation of  
7 litter on any lot or piece of ground within the city or village.

8 (2) ~~Any~~ Except as provided in subsection (6) of this  
9 section, any city of the second class and village may by ordinance  
10 declare it to be a nuisance to permit or maintain any growth of  
11 twelve inches or more in height of weeds, grasses, or worthless  
12 vegetation or to litter or cause litter to be deposited or remain  
13 thereon except in proper receptacles.

14 (3) Any owner or occupant of a lot or piece of ground  
15 shall, upon conviction of violating ~~such any ordinance~~ authorized  
16 under this section, be guilty of a Class V misdemeanor.

17 (4) Notice to abate and remove such nuisance shall be  
18 given to each owner or owner's duly authorized agent and to the  
19 occupant, if any, by personal service or certified mail. If notice  
20 by personal service or certified mail is unsuccessful, notice shall  
21 be given by publication in a newspaper of general circulation in  
22 the city or by conspicuously posting the notice on the lot or  
23 ground upon which the nuisance is to be abated and removed. Within  
24 five days after receipt of such notice or publication or posting,  
25 whichever is applicable, if the owner or occupant of the lot or  
26 piece of ground does not request a hearing with the city or village  
27 or fails to comply with the order to abate and remove the nuisance,  
1 the city or village may have such work done. The costs and expenses  
2 of any such work shall be paid by the owner. If unpaid for two  
3 months after such work is done, the city or village may either (a)  
4 levy and assess the costs and expenses of the work upon the lot or  
5 piece of ground so benefited in the same manner as other special  
6 taxes for improvements are levied and assessed or (b) recover in  
7 a civil action the costs and expenses of the work upon the lot or  
8 piece of ground and the adjoining streets and alleys.

9 (5) For purposes of this section:

10 (a) Litter includes, but is not limited to: (i) Trash,  
11 rubbish, refuse, garbage, paper, rags, and ashes; (ii) wood,  
12 plaster, cement, brick, or stone building rubble; (iii) grass,  
13 leaves, and worthless vegetation; (iv) offal and dead animals;  
14 and (v) any machine or machines, vehicle or vehicles, or parts of  
15 a machine or vehicle which have lost their identity, character,  
16 utility, or serviceability as such through deterioration,  
17 dismantling, or the ravages of time, are inoperative or unable to  
18 perform their intended functions, or are cast off, discarded, or  
19 thrown away or left as waste, wreckage, or junk; and

20 (b) Weeds includes, but is not limited to, bindweed  
21 (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*),  
22 leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*),  
23 perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea*  
24 *picris*), Johnson grass (*Sorghum halepense*), nodding or musk  
25 thistle, quack grass (*Agropyron repens*), perennial sow thistle

26 (Sonchus arvensis), horse nettle (Solanum carolinense), bull  
 27 thistle (Cirsium lanceolatum), buckthorn (Rhamnus sp.) (toun),  
 1 hemp plant (Cannabis sativa), and ragweed (Ambrosiaceae).

2 (6) A city of the second class or village by ordinance  
 3 may declare it to be a nuisance to permit or maintain any growth  
 4 of eight inches or more in height of weeds, grasses, or worthless  
 5 vegetation on any lot or piece of ground located within the  
 6 corporate limits of the city or village during any calendar year  
 7 if, within the same calendar year, the city has, pursuant to  
 8 subsection (4) of this section, acted to remove weeds, grasses, or  
 9 worthless vegetation exceeding twelve inches in height on the same  
 10 lot or piece of ground and had to seek recovery of the costs and  
 11 expenses of such work from the owner.

12 Sec. 4. Original sections 15-268, 16-230, and 17-563,  
 13 Reissue Revised Statutes of Nebraska, are repealed.

**LEGISLATIVE BILL 339.** Placed on General File with amendment.  
 AM197

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

3 Section 1. Section 18-2102.01, Reissue Revised Statutes  
 4 of Nebraska, is amended to read:

5 18-2102.01 Cities of all classes and villages of this  
 6 state are hereby granted power and authority to create community  
 7 redevelopment authorities and limited community redevelopment  
 8 authorities.

9 (1) Whenever an authority or limited authority is created  
 10 it shall bear the name of the city creating it and shall be  
 11 legally known as the Community Redevelopment Authority of the City  
 12 (or Village) of ..... (name of city or village) or the  
 13 Limited Community Redevelopment Authority of the City (or Village)  
 14 of ..... (name of city or village).

15 (2) When it is determined by the governing body of any  
 16 city by ordinance in the exercise of its discretion that it is  
 17 expedient to create a community redevelopment authority or limited  
 18 community redevelopment authority, the mayor of the city or, if  
 19 the mayor shall fail to act within ninety days after the passage  
 20 of the ordinance, the president or other presiding officer other  
 21 than the mayor of the governing body, with the approval of the  
 22 governing body of the city, shall appoint five or seven persons  
 23 who shall constitute the authority or the limited authority. The  
 1 terms of office of the members of ~~the a five-member~~ authority  
 2 initially appointed shall be for one year, two years, three years,  
 3 four years, and five years, as designated by the mayor, president,  
 4 other presiding officer, or city manager in making the respective  
 5 appointments. The terms of office of the members of a seven-member  
 6 authority initially appointed shall be one member each for one  
 7 year, two years, and five years, and two members each for three  
 8 years and four years, as designated by the mayor, president,



9 other presiding officer, or city manager in making the respective  
 10 appointments. As the terms of the members of the authority expire  
 11 in cities not having the city manager form of government, the  
 12 mayor, with the approval of the governing body of the city, shall  
 13 appoint or reappoint a member of the authority for a term of  
 14 five years to succeed the member whose term expires. In cities  
 15 having the city manager form of government, the city manager shall  
 16 appoint or reappoint the members with the approval of the governing  
 17 body. The terms of office of the members of a limited community  
 18 redevelopment authority shall be for the duration of only one  
 19 single specific limited pilot project authorized in the ordinance  
 20 creating the limited community redevelopment authority, and the  
 21 terms of the members of a limited community redevelopment authority  
 22 shall expire upon the completion of the single specific limited  
 23 pilot project authorized in the ordinance creating the limited  
 24 community redevelopment authority.

25 A governing body may at its option submit an ordinance  
 26 which creates a community redevelopment authority or a limited  
 27 community redevelopment authority to the electors of the city  
 1 for approval by a majority vote of the electors voting on the  
 2 ordinance. On submitting the ordinance for approval, the governing  
 3 body is authorized to call, by the ordinance, a special or general  
 4 election and to submit, after thirty days' notice of the time  
 5 and place of holding the election and according to the manner  
 6 and method otherwise provided by law for the calling, conducting,  
 7 canvassing, and certifying of the result of city elections on the  
 8 submission of propositions to the electors, the proposition to be  
 9 stated on the ballot as follows:

10 Shall the City (or Village) of ..... (name of  
 11 city or village) create a Community Redevelopment Authority of the  
 12 City (or Village) of ..... (name of city or village)?

13 ... Yes

14 ... No.

15 When the ordinance submitted to the electors for approval  
 16 by a majority vote of the electors voting on the ordinance is to  
 17 create a limited community redevelopment authority the proposition  
 18 shall be stated on the ballot as follows:

19 Shall the City (or Village) of ..... (name of  
 20 city or village) create a Limited Community Redevelopment Authority  
 21 of the City (or Village) of ..... (name of city or  
 22 village)?

23 ... Yes

24 ... No.

25 Vacancies shall be filled for any unexpired term in the  
 26 same manner as the original appointment. Members of the authority  
 27 so appointed shall hold office until their successors have been  
 1 appointed and qualified. Members of a limited authority shall hold  
 2 office as provided in this section. All members of the authority  
 3 shall serve without compensation, but shall be entitled to be

4 reimbursed for all necessary expenses incurred.

5 (3) Any authority established under this section shall  
6 organize by electing one of its members chairperson and another  
7 vice-chairperson, shall have power to employ counsel, a director  
8 who shall be ex officio secretary of the authority, and such other  
9 officers and employees as may be desired, and shall fix the term  
10 of office, qualifications, and compensation of each. The holder of  
11 the office of community redevelopment administrator or coordinator  
12 of the city may, but need not, be appointed the director but at no  
13 additional compensation by the authority. Community redevelopment  
14 authorities of cities of the first and second class and villages  
15 may secure the services of a director, community redevelopment  
16 administrator, or coordinator, and other officers and employees as  
17 may be desired through contract with the Department of Economic  
18 Development upon terms which are mutually agreeable. Any authority  
19 established under this section may validly and effectively act on  
20 all matters requiring a resolution or other official action by a  
21 ~~majority vote of its membership~~ the concurrence of three members of  
22 a five-member authority or four members of a seven-member authority  
23 present and voting at a meeting of the authority, if a quorum  
24 ~~of four is present.~~ Orders, requisitions, warrants, and other  
25 documents may be executed by the chairperson or vice-chairperson or  
26 by or with others designated in its bylaws.

27 (4) No member or employee of any authority established  
1 under this section shall have any interest directly or indirectly  
2 in any contract for property, materials, or services to be required  
3 by such authority.

4 (5) The authority shall keep an accurate account of all  
5 its activities and of all receipts and disbursements and make an  
6 annual report of such activities, receipts, and disbursements to  
7 the governing body of the city.

8 (6) The governing body of a city creating a community  
9 redevelopment authority or a limited community redevelopment  
10 authority is hereby authorized to appropriate and loan to the  
11 authority a sum not exceeding ten thousand dollars for the purposes  
12 of paying expenses of organizing and supervising the work of the  
13 authority at the beginning of its activities. The loan shall be  
14 authorized by resolution of the governing body which shall set  
15 forth the terms and time of the repayment of the loan. The loan may  
16 be appropriated out of the general funds or any sinking fund.

17 (7) All income, revenue, profits, and other funds  
18 received by any authority established under this section from  
19 whatever source derived, or appropriated by the city, or realized  
20 from tax receipts or comprised in the special revenue fund of the  
21 city designated for the authority or from the proceeds of bonds,  
22 or otherwise, shall be deposited with the city treasurer as ex  
23 officio treasurer of the authority without commingling the money  
24 with any other money under his or her control and disbursed by  
25 him or her by check, draft, or order only upon warrants, orders,

26 or requisitions by the chairperson of the authority or other  
 27 person authorized by the authority which shall state distinctly  
 1 the purpose for which the same are drawn. A permanent record shall  
 2 be kept by the authority of all warrants, orders, or requisitions  
 3 so drawn, showing the date, amount, consideration, and to whom  
 4 payable. When paid, the same shall be canceled and kept on file  
 5 by the city treasurer. The books of any authority established  
 6 under this section shall from time to time be audited upon the  
 7 order of the governing body of the municipality in such manner  
 8 as it may direct, and all books and records of the authority  
 9 shall at all times be open to public inspection. The authority  
 10 may contract with the holders of any of its bonds or notes as to  
 11 collection, custody, securing investment, and payment of any money  
 12 of the authority or any money held in trust or otherwise for the  
 13 payment of bonds or notes or in any way to secure bonds or notes.  
 14 The authority may carry out the contract notwithstanding that  
 15 such contract may be inconsistent with the previous provisions of  
 16 this subdivision. All banks, capital stock financial institutions,  
 17 qualifying mutual financial institutions, and trust companies are  
 18 hereby authorized to give security for the deposits of money of any  
 19 authority established under the provisions of this section pursuant  
 20 to the Public Funds Deposit Security Act. Section 77-2366 applies  
 21 to deposits in capital stock financial institutions. Section  
 22 77-2365.01 shall apply to deposits in qualifying mutual financial  
 23 institutions.  
 24 Sec. 2. Original section 18-2102.01, Reissue Revised  
 25 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 412.** Placed on General File with amendment.  
 AM134

- 1 1. On page 7, lines 24 and 25, strike the new matter and
- 2 insert "5 p.m. on the date set for the election.".

(Signed) Mike Friend, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 403.** Senator Janssen offered the following  
 amendment to the committee amendment:  
 AM435

(Amendments to Standing Committee amendments, AM413)

- 1 1. Insert the following new section:
- 2 Sec. 16. Section 85-502, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 85-502 Rules and regulations established by the governing
- 5 board of each state postsecondary educational institution shall
- 6 require as a minimum that a person is not deemed to have
- 7 established a residence in this state, for purposes of sections
- 8 85-501 to 85-504, unless such person is lawfully present in the

9 United States and

10 (1) Such person is of legal age or is an emancipated  
11 minor and has established a home in Nebraska where he or she  
12 is habitually present for a minimum period of one hundred eighty  
13 days, with the bona fide intention of making this state his or her  
14 permanent residence, supported by documentary proof;

15 (2) The parents, parent, or guardian having custody of a  
16 minor registering in the educational institution have established  
17 a home in Nebraska where such parents, parent, or guardian are  
18 or is habitually present with the bona fide intention to make  
19 this state their, his, or her permanent residence, supported by  
20 documentary proof. If a student has matriculated in any state  
21 postsecondary educational institution while his or her parents,  
22 parent, or guardian had an established home in this state, and the  
1 parents, parent, or guardian ceases to reside in the state, such  
2 student shall not thereby lose his or her resident status if such  
3 student has the bona fide intention to make this state his or her  
4 permanent residence, supported by documentary proof;

5 (3) Such student is of legal age and is a dependent for  
6 federal income tax purposes of a parent or former guardian who  
7 has established a home in Nebraska where he or she is habitually  
8 present with the bona fide intention of making this state his or  
9 her permanent residence, supported by documentary proof;

10 (4) Such student is a nonresident of this state prior  
11 to marriage and marries a person who has established a home in  
12 Nebraska where he or she is habitually present with the bona fide  
13 intention of making this state his or her permanent residence,  
14 supported by documentary proof;

15 (5) ~~Except as provided in subdivision (8) of this~~  
16 ~~section, such~~ Such student, if an alien, ~~has applied to or~~  
17 ~~has a petition pending with the United States Immigration and~~  
18 ~~Naturalization Service to attain lawful status under federal~~  
19 ~~immigration law and~~ has established a home in Nebraska for a  
20 period of at least one hundred eighty days where he or she is  
21 habitually present with the bona fide intention to make this state  
22 his or her permanent residence, supported by documentary proof;

23 (6) Such student is a staff member or a dependent of a  
24 staff member of the University of Nebraska, one of the Nebraska  
25 state colleges, or one of the community college areas who joins  
26 the staff immediately prior to the beginning of a term from an  
27 out-of-state location; or

1 (7) Such student is on active duty with the armed  
2 services of the United States and has been assigned a permanent  
3 duty station in Nebraska, or is a legal dependent of a person on  
4 active duty with the armed services of the United States assigned a  
5 permanent duty station in Nebraska; ~~or~~

6 (8)(a) ~~Such student resided with his or her parent,~~  
7 ~~guardian, or conservator while attending a public or private high~~  
8 ~~school in this state and:~~

- 9 (i) Graduated from a public or private high school in  
 10 this state or received the equivalent of a high school diploma in  
 11 this state;
- 12 (ii) Resided in this state for at least three years  
 13 before the date the student graduated from the high school or  
 14 received the equivalent of a high school diploma;
- 15 (iii) Registered as an entering student in a state  
 16 postsecondary educational institution not earlier than the 2006  
 17 fall semester; and
- 18 (iv) Provided to the state postsecondary educational  
 19 institution an affidavit stating that he or she will file  
 20 an application to become a permanent resident at the earliest  
 21 opportunity he or she is eligible to do so.
- 22 (b) If the parent, guardian, or conservator with whom the  
 23 student resided ceases to reside in the state, such student shall  
 24 not lose his or her resident status under this subdivision if the  
 25 student has the bona fide intention to make this state his or her  
 26 permanent residence, supported by documentary proof.
- 27 2. Renumber the remaining sections and correct the  
 1 repealer accordingly.

Pending.

## COMMITTEE REPORTS

### Education

**LEGISLATIVE BILL 221.** Placed on General File with amendment.  
 AM438

- 1 1. Strike the original sections and insert the following  
 2 new sections:
- 3 Section 1. Section 79-575, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:
- 5 79-575 The secretary of a school district shall draw and  
 6 sign all orders upon the treasurer for all money to be disbursed  
 7 by the district and all warrants upon the county treasurer for  
 8 money raised for district purposes or apportioned to the district  
 9 by the county treasurer and shall present the same to the president  
 10 to be countersigned. No warrant, ~~check, or other instrument drawn~~  
 11 upon bank depository funds of the district shall be issued until  
 12 so countersigned. No warrant, check, or other instrument drawn upon  
 13 bank depository funds of the district shall be countersigned by the  
 14 president until the amount for which ~~the warrant-it~~ is drawn is  
 15 written upon its face. Facsimile signatures of board members may  
 16 be used, and a person or persons delegated by the board may sign  
 17 and validate all warrants, checks, and other instruments drawn upon  
 18 bank depository funds of the district.
- 19 Sec. 2. Section 79-592, Reissue Revised Statutes of  
 20 Nebraska, is amended to read:
- 21 79-592 The treasurer of a Class V school district shall

22 receive all taxes of the school district from the county treasurer.  
 23 The treasurer of the school district shall attend all meetings of  
 1 the board of education of the Class V district when required to  
 2 do so, shall prepare and submit in writing a monthly report of  
 3 the state of the district's finances, and shall pay school money  
 4 only either upon a warrant signed by the president, or in the  
 5 president's absence by the vice president, and countersigned by  
 6 the secretary or upon a check or other instrument drawn upon bank  
 7 depository funds of the school district. The treasurer shall also  
 8 perform such other duties as designated by the board of education.  
 9 Before entering into the discharge of his or her duties and during  
 10 the entire time he or she so serves, the treasurer shall give  
 11 bond or evidence of equivalent insurance coverage payable to the  
 12 board in such amount as may be required by the board, but in no  
 13 event less than two hundred thousand dollars, conditioned for the  
 14 faithful discharge of his or her duties as treasurer of the school  
 15 district, for the safekeeping and proper disbursement of all funds  
 16 and money of the school district received by the treasurer. Such  
 17 bond shall be signed by one or more surety companies of recognized  
 18 responsibility, to be approved by the board. The cost of the bond  
 19 or insurance shall be paid by the school district. Such bond or  
 20 insurance coverage may be enlarged at any time the board may deem  
 21 an enlargement or additional bond or insurance coverage to be  
 22 necessary.  
 23 Sec. 3. Original sections 79-575 and 79-592, Reissue  
 24 Revised Statutes of Nebraska, are repealed.

(Signed) Greg Adams, Chairperson

Health and Human Services

**LEGISLATIVE BILL 462.** Placed on General File.

**LEGISLATIVE BILL 27.** Placed on General File with amendment.  
 AM321

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 68-901, Revised Statutes Cumulative  
 4 Supplement, 2008, is amended to read:  
 5 68-901 Sections 68-901 to 68-956 and sections 2 to 6 of  
 6 this act shall be known and may be cited as the Medical Assistance  
 7 Act.  
 8 Sec. 2. Section 85-1,138, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:  
 10 ~~85-1,138~~ Sections ~~85-1,138 to 85-1,142-2~~ to 6 of this act  
 11 shall be known and may be cited as the Autism Treatment Program  
 12 Act.  
 13 Sec. 3. Section 85-1,139, Reissue Revised Statutes of  
 14 Nebraska, is amended to read:

15 ~~85-1,139~~ The purposes purpose of the Autism Treatment  
 16 Program Act are is to ~~(1) create the Autism Treatment Program~~  
 17 ~~administered by the Center for Autism Spectrum Disorders at the~~  
 18 ~~University of Nebraska Medical Center and (2) provide for the~~  
 19 ~~development and administration~~ of a waiver or an amendment to an  
 20 existing waiver under the medical assistance program established in  
 21 section 68-903.

22 Sec. 4. Section 85-1,140, Reissue Revised Statutes of  
 23 Nebraska, is amended to read:

1 ~~85-1,140~~ The Autism Treatment Program is created. The  
 2 program shall be administered by the department. ~~Center for~~  
 3 ~~Autism Spectrum Disorders at the University of Nebraska Medical~~  
 4 ~~Center. The program shall provide or coordinate the provision of~~  
 5 ~~statewide intensive early intervention services based on behavioral~~  
 6 ~~principles for children with a medical diagnosis of an autism~~  
 7 ~~spectrum disorder or an educational verification of autism. The~~  
 8 ~~program shall utilize private funds and funds transferred by the~~  
 9 ~~Legislature from the Nebraska Health Care Cash Fund to the Autism~~  
 10 ~~Treatment Program Cash Fund. Transfers from the Nebraska Health~~  
 11 ~~Care Cash Fund in any fiscal year shall be contingent upon the~~  
 12 ~~receipt of private matching funds for such program, with no less~~  
 13 ~~than one dollar of private funds received for every two dollars~~  
 14 ~~transferred from the Nebraska Health Care Cash Fund. Transfers~~  
 15 ~~from the Nebraska Health Care Cash Fund under this section and~~  
 16 ~~section 71-7611 shall be utilized as the state match for the~~  
 17 ~~waiver established under section 85-1,142 upon the approval of such~~  
 18 ~~waiver.~~

19 Sec. 5. Section 85-1,141, Reissue Revised Statutes of  
 20 Nebraska, is amended to read:

21 ~~85-1,141~~ (1) The Autism Treatment Program Cash Fund  
 22 is created. The fund shall include revenue transferred from the  
 23 Nebraska Health Care Cash Fund and revenue received from gifts,  
 24 grants, bequests, donations, other similar donation arrangements,  
 25 or other contributions from public or private sources. ~~The Autism~~  
 26 ~~Treatment Program Cash Fund shall be administered by the Center~~  
 27 ~~for Autism Spectrum Disorders at the University of Nebraska Medical~~  
 1 ~~Center for purposes of the Autism Treatment Program created in~~  
 2 ~~section 85-1,140. The department shall administer the fund. The~~  
 3 Autism Treatment Program Cash Fund shall be used as the state's  
 4 matching share for the waiver established under section 6 of this  
 5 act and for expenses incurred in the administration of the Autism  
 6 Treatment Program. Any money in the fund available for investment  
 7 shall be invested by the state investment officer pursuant to  
 8 the Nebraska Capital Expansion Act and the Nebraska State Funds  
 9 Investment Act.

10 (2) The program shall utilize private funds deposited in  
 11 the Autism Treatment Program Cash Fund and funds transferred by the  
 12 Legislature from the Nebraska Health Care Cash Fund to the Autism  
 13 Treatment Program Cash Fund. Transfers from the Nebraska Health

14 Care Cash Fund in any fiscal year shall be contingent upon the  
 15 receipt of private matching funds for such program, with no less  
 16 than one dollar of private funds received for every two dollars  
 17 transferred from the Nebraska Health Care Cash Fund. No donations  
 18 from a provider of services under Title XIX of the federal Social  
 19 Security Act shall be deposited into the Autism Treatment Program  
 20 Cash Fund.

21 Sec. 6. Section 85-1,142, Reissue Revised Statutes of  
 22 Nebraska, is amended to read:

23 ~~85-1,142~~ (1) ~~The Department of Health and Human Services~~  
 24 department shall apply for a waiver or an amendment to an  
 25 existing waiver under the medical assistance program established  
 26 in section 68-903 for the purpose of providing medical assistance  
 27 for intensive early intervention services based on behavioral  
 1 principles for children with a medical diagnosis of an autism  
 2 spectrum disorder or an educational verification of autism. Such  
 3 waiver shall not be construed to create an entitlement to services  
 4 provided under such waiver.

5 (2) It is the intent of the Legislature that such  
 6 waiver (a) require means testing for and cost-sharing by recipient  
 7 families, (b) limit eligibility only to children for whom such  
 8 services have been initiated prior to the age of nine years,  
 9 (c) limit the number of children served according to available  
 10 funding, (d) require demonstrated progress toward the attainment  
 11 of treatment goals as a condition for continued receipt of medical  
 12 assistance benefits for such treatment, (e) be developed in  
 13 consultation with the Health and Human Services Committee of  
 14 the Legislature and the federal Centers for Medicare and Medicaid  
 15 Services and with the input of parents and families of children  
 16 with autism spectrum disorders and organizations advocating on  
 17 behalf of such persons, and (f) be submitted to the federal Centers  
 18 for Medicare and Medicaid Services as soon as practicable, but no  
 19 later than ~~July 1, 2008~~. September 1, 2009.

20 Sec. 7. Section 71-7611, Revised Statutes Cumulative  
 21 Supplement, 2008, is amended to read:

22 71-7611 (1) The Nebraska Health Care Cash Fund is  
 23 created. The State Treasurer shall transfer (a) fifty-six million  
 24 four hundred thousand dollars no later than July 30, 2008, and  
 25 (b) fifty-five million seven hundred thousand dollars annually  
 26 thereafter no later than July 15 from the Nebraska Medicaid  
 27 Intergovernmental Trust Fund and the Nebraska Tobacco Settlement  
 1 Trust Fund to the Nebraska Health Care Cash Fund, except that such  
 2 amount shall be reduced by the amount of the unobligated balance  
 3 in the Nebraska Health Care Cash Fund at the time the transfer is  
 4 made. On or before May 1, 2008, the State Treasurer shall transfer  
 5 from the Nebraska Medicaid Intergovernmental Trust Fund and the  
 6 Nebraska Tobacco Settlement Trust Fund an additional two hundred  
 7 fifty thousand dollars to the Nebraska Health Care Cash Fund.  
 8 The state investment officer upon consultation with the Nebraska



9 Investment Council shall advise the State Treasurer on the amounts  
10 to be transferred from the Nebraska Medicaid Intergovernmental  
11 Trust Fund and from the Nebraska Tobacco Settlement Trust  
12 Fund under this section in order to sustain such transfers in  
13 perpetuity. The state investment officer shall report to the  
14 Legislature on or before October 1 of every even-numbered year on  
15 the sustainability of such transfers. Except as otherwise provided  
16 by law, no more than the amount specified in subdivisions (1)(a)  
17 and (b) of this subsection may be appropriated or transferred from  
18 the Nebraska Health Care Cash Fund in any fiscal year.

19 (2) Any money in the Nebraska Health Care Cash Fund  
20 available for investment shall be invested by the state investment  
21 officer pursuant to the Nebraska Capital Expansion Act and the  
22 Nebraska State Funds Investment Act.

23 (3) One million dollars in the Nebraska Health Care Cash  
24 Fund is designated shall be transferred each year for to the Autism  
25 Treatment Program Act Cash Fund for five fiscal years beginning  
26 in fiscal year 2007-08 on a date determined by the Department of  
27 Health and Human Services but no later than ninety days after a  
1 waiver under section 6 of this act has been approved and shall be  
2 distributed with matching private funds from the Autism Treatment  
3 Program Cash Fund and matching funds from Title XIX of the federal  
4 Social Security Act in each fiscal year as follows: (a) First, to  
5 the Department of Health and Human Services for costs related to  
6 application, and implementation, and administration of the a waiver  
7 pursuant to section 6 of this act; (b) second, to the department  
8 for other medical costs for children who would not otherwise  
9 qualify for medicaid except for the waiver; and (c) third, the  
10 balance to fund services pursuant to the waiver. the Autism  
11 Treatment Program Cash Fund. The State Treasurer shall transfer the  
12 balance of the funding to the Autism Treatment Program Cash Fund  
13 based on the estimated costs of administrative and other medical  
14 costs as determined by the Legislature through the appropriation  
15 process. The transfers to the Autism Treatment Program Cash Fund  
16 in any fiscal year shall be contingent upon the receipt of private  
17 matching funds under the Autism Treatment Program Act, with no less  
18 than one dollar of private funds received for every two dollars  
19 transferred from the Nebraska Health Care Cash Fund to the Autism  
20 Treatment Program Cash Fund.

21 (4) The University of Nebraska and postsecondary  
22 educational institutions having colleges of medicine in Nebraska  
23 and their affiliated research hospitals in Nebraska, as a condition  
24 of receiving any funds appropriated or transferred from the  
25 Nebraska Health Care Cash Fund, shall not discriminate against any  
26 person on the basis of sexual orientation.

27 (5) The State Treasurer shall transfer two hundred  
1 thousand dollars from the Nebraska Health Care Cash Fund to the  
2 University of Nebraska Medical Center Cash Fund for the Nebraska  
3 Regional Poison Center within fifteen days after each July 1.

4 Sec. 8. Original sections 85-1,138, 85-1,139, 85-1,140,  
 5 85-1,141, and 85-1,142, Reissue Revised Statutes of Nebraska,  
 6 and sections 68-901 and 71-7611, Revised Statutes Cumulative  
 7 Supplement, 2008, are repealed.

8 Sec. 9. Since an emergency exists, this act takes effect  
 9 when passed and approved according to law.

**LEGISLATIVE BILL 341.** Placed on General File with amendment.  
 AM119

- 1 1. On page 2, lines 19 through 21, strike the new  
 2 matter and insert "and drugs for the treatment and prevention of  
 3 tuberculosis which are provided through the department and are  
 4 dispensed at no charge to the patient".  
 5 2. On page 4, lines 12 through 16, strike the new matter;  
 6 after line 16 insert the following new subdivision:  
 7 "(7) Nurse practitioners who dispense drugs for the  
 8 treatment and prevention of tuberculosis which are provided through  
 9 the department and are dispensed at no charge to the patient with  
 10 proper labeling and patient counseling"; in line 17 strike "(7)",  
 11 show as stricken and insert "(8)"; and in line 24 strike "(8)",  
 12 show as stricken, and insert "(9)".  
 13 3. On page 5, line 1, strike "(9)", show as stricken,  
 14 and insert "(10)"; in line 7 strike "(10)", show as stricken, and  
 15 insert "(11)"; and in line 11 strike "(11)", show as stricken, and  
 16 insert "(12)".

**LEGISLATIVE BILL 511.** Placed on General File with amendment.  
 AM414

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 71-5803.09, Reissue Revised Statutes  
 4 of Nebraska, is amended to read:  
 5 71-5803.09 Intermediate care facility has the same  
 6 meaning as in section 71-420 and includes an intermediate care  
 7 facility for the mentally retarded ~~which that has sixteen or more~~  
 8 beds. Intermediate care facility for the mentally retarded has the  
 9 same meaning as in section 71-421.  
 10 Sec. 2. Original section 71-5803.09, Reissue Revised  
 11 Statutes of Nebraska, is repealed.  
 12 Sec. 3. Since an emergency exists, this act takes effect  
 13 when passed and approved according to law.

**LEGISLATIVE BILL 301.** Indefinitely postponed.

(Signed) Tim Gay, Chairperson

**RESOLUTION****LEGISLATIVE RESOLUTION 33.** Introduced by Stuthman, 22.

WHEREAS, Scott Morton, Troop 151, son of Brad and Janet Morton, of Monroe, 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, Scott 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. For his Eagle Scout community service project, Scott cleaned up a vacant building which previously had been the site of a hospital in Genoa, Nebraska. Scott sold the scrap metal and earned \$156. This money was donated to the American Legion Edward Larson Post 144 in Genoa, Nebraska, for their Veteran's Memorial Wall fundraiser. A total of 117.5 hours was spent on the project; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Scott was awarded the rank of Eagle Scout on January 15, 2009, thereby joining 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 Scott Morton on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Scott Morton.

Laid over.

**AMENDMENT - Print in Journal**

Senator Loudon filed the following amendment to LB184:  
AM453

1. On page 2, strike lines 8 through 23 and insert:
2. "(2) The department is authorized to administer any
3. surface water rights however established.".

**GENERAL FILE**

**LEGISLATIVE BILL 403.** Senator Friend offered the following motion:  
MO15  
Recommit to committee.

**SENATOR ROBERT PRESIDING**

Senator Friend withdrew his motion to recommit to committee.

The Janssen amendment, AM435, found in this day's Journal, to the committee amendment, was renewed.

Pending.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 464A.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 464, One Hundred First Legislature, First Session, 2009.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 34.** Introduced by Gay, 14.

WHEREAS, Jordan Somer, an esteemed resident of Papillion, Nebraska, has achieved national recognition for exemplary volunteer service as a Distinguished Finalist for the 2009 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Somer earned this award by giving generously of her time and energy to the "Miss Amazing Pageant," which helps girls and women with disabilities build self-esteem in a secure environment; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Ms. Somer who use their considerable talents and resources to serve others.

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

1. That the Legislature congratulates Jordan Somer on being named as one of the top youth volunteers in Nebraska for 2009, in the 14th annual Prudential Spirit of Community Awards.

2. That a copy of this resolution be sent to Jordan Somer.

Laid over.

### **AMENDMENT - Print in Journal**

Senator Karpisek filed the following amendment to LB403:  
AM440

(Amendments to Standing Committee amendments, AM413)

- 1 1. On page 1, line 19, before the second comma insert
- 2 "involving direct payment of financial assistance".

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

Senator Gloor asked unanimous consent to add his name as cointroducer to LB403. No objections. So ordered.

### **WITHDRAW - Cointroducer**

Senator Howard withdrew her name as cointroducer to LB261.

### **VISITORS**

Visitors to the Chamber were 14 fourth-grade students and teachers from St. Paul Lutheran, Beatrice; 20 fourth-grade students and sponsors from Elmwood-Murdock, Elmwood; members of Leadership Sarpy from Sarpy County; and Nebraska FBLA state officers from across the state.

The Doctor of the Day was Dr. Christine Keim from Lincoln.

### **ADJOURNMENT**

At 11:56 a.m., on a motion by Senator Gay, the Legislature adjourned until 9:00 a.m., Wednesday, February 25, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**THIRTY-THIRD DAY - FEBRUARY 25, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****THIRTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 25, 2009

**PRAYER**

The prayer was offered by Senator Utter.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Avery, Cornett, Dierks, Friend, and Heidemann who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-second day was approved.

**AMENDMENT - Print in Journal**

Senator Cornett filed the following amendment to LB89:  
AM452

(Amendments to Standing Committee amendments, AM92)

- 1 On page 1, line 20, strike "forty" and insert
- 2 "forty-four".

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 23, 24, 25, 27, and 28 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 23, 24, 25, 27, and 28.

**MOTIONS - Approve Appointments**

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 531:

Game and Parks Commission  
Mark Spurgin

Voting in the affirmative, 41:

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

Voting in the negative, 0.

Present and not voting, 3:

Gloor            Pahls            Stuthman

Excused and not voting, 5:

Avery            Cornett            Dierks            Friend            Heidemann

The appointment was confirmed with 41 ayes, 0 nays, 3 present and not voting, and 5 excused and not voting.

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 531:

Nebraska Power Review Board  
Patrick Bourne  
Stephen Lichter

Voting in the affirmative, 40:



Adams	Fischer	Harms	McCoy	Price
Campbell	Flood	Howard	McGill	Rogert
Carlson	Friend	Janssen	Mello	Schilz
Christensen	Fulton	Karpisek	Nantkes	Sullivan
Coash	Giese	Langemeier	Nelson	Utter
Cook	Haar	Lathrop	Nordquist	Wallman
Council	Hadley	Lautenbaugh	Pankonin	White
Dubas	Hansen	Louden	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 5:

Ashford	Gay	Gloor	Pahls	Stuthman
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Excused and not voting, 4:

Avery	Cornett	Dierks	Heidemann
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The appointments were confirmed with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 403.** Committee AM413, found on page 518 and considered on page 540, was renewed.

Senator Janssen renewed his amendment, AM435, found on page 547 and considered on page 556, to the committee amendment.

Senator Janssen withdrew and refiled his amendment, AM435.

Senator Karpisek renewed his amendment, AM440, found on page 557, to the committee amendment.

Senator Ashford offered the following motion:

MO16

Bracket until June 3, 2009.

Pending.

**NOTICE OF COMMITTEE HEARINGS**  
Health and Human Services

Room 1510

Wednesday, March 4, 2009 1:00 p.m.

Bradley B. Keller - Stem Cell Research Advisory Committee  
Gerald Spangrude - Stem Cell Research Advisory Committee  
Troy Hiemer - Board of Emergency Medical ServicesLB214  
LB417  
LB444  
LB621

(Signed) Tim Gay, Chairperson

Judiciary

Room 1113

Thursday, March 5, 2009 12:00 p.m.

LB403 (AM435)

Wednesday, March 4, 2009 1:30 p.m.

LB153  
LB517  
LB199  
LB506  
LB238

(Signed) Brad Ashford, Chairperson

**RESOLUTION****LEGISLATIVE RESOLUTION 35.** Introduced by Carlson, 38.

WHEREAS, the Department of Aeronautics annually presents the Nebraska Airport of the Year Award; and

WHEREAS, Brewster Field in Holdrege, Nebraska, is a general aviation airport that is eligible for the award; and

WHEREAS, Brewster Field hosted the 2008 Nebraska State Fly-in, which demonstrated Brewster Field's outstanding public relations and community support; and

WHEREAS, Brewster Field proved exemplary in other areas considered by the Department of Aeronautics in making the award, including maintenance and development activities; and

WHEREAS, such activities earned Brewster Field the 2008 Nebraska Airport of the Year Award.

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

1. That the Legislature congratulates Brewster Field in Holdrege, Nebraska, for receiving the 2008 Nebraska Airport of the Year Award.
2. That a copy of this resolution be sent to Brewster Field.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 403.** The Ashford motion, MO16, found in this day's Journal, to bracket until June 3, 2009, was renewed.

Senator Janssen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 4 nays, and 17 not voting.

Senator Ashford withdrew his motion to bracket.

The Karpisek amendment, AM440, found on page 557 and considered in this day's Journal, to the committee amendment, was renewed.

Senator Janssen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 36 ayes, 2 nays, and 11 not voting.

The Karpisek amendment was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Committee AM413, found on page 518 and considered on page 540 and in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 40 ayes, 2 nays, 6 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 45 ayes, 2 nays, 1 present and not voting, and 1 excused and not voting.

**COMMITTEE REPORTS**

Executive Board

**LEGISLATIVE RESOLUTION 1CA.** Indefinitely postponed.**LEGISLATIVE RESOLUTION 5CA.** Indefinitely postponed.**LEGISLATIVE BILL 505.** Indefinitely postponed.

(Signed) John Wightman, Chairperson

Transportation and Telecommunications

**LEGISLATIVE BILL 175.** Placed on General File.**LEGISLATIVE BILL 183.** Placed on General File with amendment.  
AM3241 1. On page 2, lines 24 and 25, strike "and commitment".**LEGISLATIVE BILL 272.** Indefinitely postponed.

(Signed) Deb Fischer, Chairperson

**AMENDMENT - Print in Journal**Senator White filed the following amendment to LB403:  
AM491

(Amendments to Standing Committee amendments, AM413)

- 1 1. Insert the following section:  
2 Sec. 16. (1) After December 31, 2010, every employer  
3 who employs twenty-five or more employees shall, after hiring  
4 an employee, verify the work eligibility status of the employee  
5 by registering with and using a federal immigration verification  
6 system as defined in section 7 of this act. Such employers shall  
7 not knowingly employ an undocumented worker as such actions are  
8 described in 8 U.S.C. 1324a and any applicable federal rules and  
9 regulations, as such law, rule, and regulation existed on January  
10 1, 2009.  
11 (2) An employer found to have violated subsection (1) of  
12 this section shall be liable to the state and any political  
13 subdivision for any public funds expended to provide public  
14 benefits, as defined in section 2 of this act, to undocumented  
15 workers or members of such workers' families. Whenever an employer  
16 is found to have violated subsection (1) of this section, each  
17 state agency and political subdivision having jurisdiction over  
18 the employer or employees of such employer shall investigate  
19 to determine whether public funds have been expended to provide  
20 services for undocumented workers or members of such workers'  
21 families and shall pursue to the fullest extent allowed by law to

22 recover such funds from the employer.

1 2. Renumber the remaining sections accordingly.

### **COMMITTEE REPORT**

#### Transportation and Telecommunications

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

David Copple - Nebraska Highway Commission

Steven Riehle - Board of Public Roads Classifications and Standards

Aye: 8 Senators Campbell, Fischer, Gay, Hadley, Janssen, Lautenbaugh, Loudon, Stuthman. Nay: 0. Absent: 0.

(Signed) Deb Fischer, Chairperson

### **NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Thursday, March 5, 2009 12:00 p.m.

LB403 (AM491)

(Signed) Brad Ashford, Chairperson

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 36.** Introduced by Gay, 14.

WHEREAS, Ryan Ruffner 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 achievement 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, Ryan Ruffner 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.

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

1. That the Legislature congratulates Ryan Ruffner on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Ryan Ruffner.

Laid over.

### COMMITTEE REPORT

Transportation and Telecommunications

**LEGISLATIVE BILL 129.** Placed on General File with amendment. AM485

- 1 1. On page 2, line 22, strike "registered" and insert
- 2 "first-class, registered,".
- 3 2. On page 3, line 14, strike "shall" and insert "may".

(Signed) Deb Fischer, Chairperson

### UNANIMOUS CONSENT - Add Cointroducers

Senators Flood and Loudon asked unanimous consent to add their names as cointroducers to LB153. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB507. No objections. So ordered.

### VISITORS

Visitors to the Chamber were Joel and Mary Plisek from Louisville; members of Scottsbluff/Gering United Chamber of Commerce and Leadership Scotts Bluff; Dan Yost from Hastings; and Duane Biede from Hastings.

The Doctor of the Day was Dr. Jay Matzke from Gothenburg.

### ADJOURNMENT

At 11:54 a.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, February 26, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRTY-FOURTH DAY - FEBRUARY 26, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****THIRTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, February 26, 2009

**PRAYER**

The prayer was offered by Dr. Dan Flanagan, St. Paul's United Methodist Church, Papillion.

**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 Senator Council who was excused; and Senators Friend and Lautenbaugh who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-third day was approved.

**ANNOUNCEMENT**

Senator Rogert designates LB260 as his priority bill.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 37.** Introduced by Fischer, 43.

WHEREAS, Caleb Hoyt of Ainsworth High School won the 2009 Class C State Wrestling Championship in the 135-pound division; and

WHEREAS, Caleb Hoyt is a four-time state qualifier in wrestling and holds a 3.0 cumulative GPA; and

WHEREAS, Caleb Hoyt finished with a career record of 125-29, ranking fourth all-time in career victories at Ainsworth High School; and

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

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

1. That the Legislature congratulates Caleb Hoyt on his state championship in wrestling and his career achievements.
2. That a copy of this resolution be sent to Caleb Hoyt.

Laid over.

**LEGISLATIVE RESOLUTION 38.** Introduced by Harms, 48.

WHEREAS, Lane Matthew Laucomer, of Troop 13, Scottsbluff, 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, Lane 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. Lane earned 24 merit badges and served his troop in a variety of leadership roles. For his Eagle Scout community service project, Lane remodeled a Sunday school classroom, painted a shed, and completed landscaping at Bethel Baptist Church in Scottsbluff; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, on March 21, 2009, Lane will receive the rank of Eagle Scout and, 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 Lane Matthew Laucomer on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Lane Matthew Laucomer.

Laid over.

**ANNOUNCEMENT**

Pursuant to Rule 8, Sec. 3, the Appropriations Committee presented its preliminary report on February 26, 2009, summarizing the recommended appropriations for the following biennium.



**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 680.** Introduced by Appropriations Committee: Heidemann, 1, Chairperson; Fulton, 29; Hansen, 42; Harms, 48; Mello, 5; Nantkes, 46; Nelson, 6; Nordquist, 7; Wightman, 36.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to carry out the federal American Recovery and Reinvestment Act of 2009; to provide an operative date; and to declare an emergency.

**GENERAL FILE**

**LEGISLATIVE BILL 168.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 207.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 177.** Title read. Considered.

**SENATOR ROBERT PRESIDING**

Committee AM123, found on page 367, was adopted with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 377.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 219.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 1 nay, 15 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 219A.** Title read. Considered.

Senator Flood renewed his amendment, AM369, found on page 484.

The Flood amendment was adopted with 30 ayes, 0 nays, 17 present and not

voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 110.** Title read. Considered.

**SENATOR STUTHMAN PRESIDING**

Committee AM181, found on page 367, was considered.

Pending.

**NOTICE OF COMMITTEE HEARINGS**  
Health and Human Services

Room 1510

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

Rebecca Morris - Stem Cell Research Advisory Committee  
Dennis R. Roop - Stem Cell Research Advisory Committee

LB406  
LB457  
LB481

(Signed) Tim Gay, Chairperson

Judiciary

Room 1113

Thursday, March 5, 2009 2:00 p.m.

LB594  
LB675  
LB676  
LR26

(Signed) Brad Ashford, Chairperson

Business and Labor

Room 2102

Monday, March 9, 2009 1:30 p.m.

LB557  
LB267

(Signed) Steve Lathrop, Chairperson

## COMMITTEE REPORT

Judiciary

**LEGISLATIVE BILL 260.** Placed on General File with amendment.  
AM456

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

3 Section 1. Sections 1 to 12 of this act shall be known  
4 and may be cited as the Nebraska Claims for Wrongful Conviction and  
5 Imprisonment Act.

6 Sec. 2. The Legislature finds that innocent persons who  
7 have been wrongfully convicted of crimes and subsequently imprisoned  
8 have been uniquely victimized, have distinct problems reentering  
9 society, and have difficulty achieving legal redress due to a  
10 variety of substantive and technical obstacles in the law. The  
11 Legislature also finds that such persons should have an available  
12 avenue of redress. In light of the particular and substantial  
13 horror of being imprisoned for a crime one did not commit,  
14 the Legislature intends by enactment of the Nebraska Claims for  
15 Wrongful Conviction and Imprisonment Act that persons who can  
16 demonstrate that they were wrongfully convicted shall immediately  
17 receive services upon release as provided in section 6 of this  
18 act and persons who can meet the higher standard of proving their  
19 actual innocence shall be able to receive monetary compensation.

20 Sec. 3. In order to present an actionable claim for  
21 wrongful conviction and imprisonment, a claimant must verify the  
22 claim and establish by documentary evidence that:

23 (1) He or she has been convicted of one or more felony  
1 crimes and subsequently sentenced to a term of imprisonment for  
2 such felony crime or crimes and has served all or any part of the  
3 sentence;

4 (2) Due to exoneration based upon actual innocence;

5 (a) He or she was pardoned for the crime or crimes for  
6 which he or she was sentenced on grounds which are the basis for  
7 the complaint;

8 (b) The statute on which the information or indictment  
9 was based violated the United States Constitution or the  
10 Constitution of Nebraska;

11 (c) The judgment of conviction was vacated; or

12 (d) The judgment of conviction was reversed;

13 (3) If there was a vacatur or reversal, either the  
14 information or indictment was dismissed or, if a new trial was  
15 held, the defendant was found not guilty;

16 (4) His or her claim is not time-barred by section 9 of  
17 this act; and

18 (5) He or she is or was not concurrently imprisoned for  
19 any felony crime or crimes for which a valid judgment of conviction

20 exists or existed.

21 Sec. 4. All claims seeking recovery under the Nebraska  
22 Claims for Wrongful Conviction and Imprisonment Act from the state  
23 shall be filed with the State Claims Board in the manner provided  
24 in the State Tort Claims Act. All claims seeking recovery under the  
25 Nebraska Claims for Wrongful Conviction and Imprisonment Act from a  
26 political subdivision shall be filed in the manner provided in the  
27 Political Subdivisions Tort Claims Act.

1 Sec. 5. To obtain a judgment in his or her favor, a  
2 claimant must prove by clear and convincing evidence:

3 (1) The elements required under section 3 of this act;

4 (2) That he or she did not commit any of the crimes  
5 charged in the information or indictment; and

6 (3) That he or she did not commit or suborn perjury,  
7 fabricate evidence, or otherwise make a false statement to cause  
8 or bring about his or her conviction or the conviction of another.  
9 However, neither a confession or admission, coerced by a wrongful  
10 act by an employee of the state or a political subdivision,  
11 and later found to be false, nor a guilty plea to a crime the  
12 claimant did not commit, constitutes bringing about his or her own  
13 conviction under the Nebraska Claims for Wrongful Conviction and  
14 Imprisonment Act.

15 Sec. 6. If the State Claims Board or a court finds that  
16 the claimant was wrongfully convicted and incarcerated pursuant to  
17 section 3 of this act, the court may award:

18 (1) Damages for the physical injury of wrongful  
19 conviction and incarceration which shall be not less than  
20 twenty-five thousand dollars for each year of incarceration, with  
21 an additional twenty-five thousand dollars for each year served on  
22 death row. This amount shall reflect:

23 (a) An adjustment for inflation from the date of  
24 enactment by the method provided in section 151 of the Internal  
25 Revenue Code of 1986, as amended, and partial years the claimant  
26 served; and

27 (b) Consideration of:

1 (i) Economic damages, including, but not limited to:

2 (A) Lost wages;

3 (B) Costs associated with his or her criminal defense and  
4 efforts to prove innocence; and

5 (C) Medical and dental expenses incurred or expected to  
6 be incurred after release;

7 (ii) Noneconomic damages for:

8 (A) Personal physical injuries or physical sickness; and

9 (B) Any nonphysical injuries or sickness incurred during  
10 or as a result of incarceration;

11 (2) Up to five years of physical and mental health care  
12 through the state employees group health insurance program, to  
13 be offset by any amount provided through the claimant's employer  
14 during that time period;

15 (3) Reimbursement for any tuition and fees paid for  
16 the education of the claimant at any community college in this  
17 state, any state college in this state, or the University of  
18 Nebraska, including any necessary assistance to meet the criteria  
19 required therefor, or a mutually agreed upon vocational program,  
20 and employment skills development training;

21 (4) Compensation for child support payments owed by the  
22 claimant that became due and interest on child support arrearages  
23 that accrued during the time served in prison but were not paid;

24 (5) Compensation for any reasonable costs incurred by  
25 the claimant for immediate services secured upon exoneration  
26 and release, including housing, transportation and subsistence,  
27 reintegrative services, and mental and physical health care costs  
1 incurred by the claimant for the time period between his or her  
2 release from wrongful incarceration and the date of his or her  
3 award; and

4 (6) Reasonable attorney's fees for bringing a claim under  
5 the Nebraska Claims for Wrongful Conviction and Incarceration Act,  
6 calculated at ten percent of the damage award plus expenses.  
7 Reasonable attorney's fees, exclusive of expenses, shall not exceed  
8 seventy-five thousand dollars. Such fees shall not be deducted from  
9 the compensation due the claimant, and the claimant's counsel is  
10 not entitled to receive additional fees from the claimant.

11 Sec. 7. (1) The damage award under section 6 of this act  
12 shall not be subject to:

13 (a) Any state taxes, except for those portions of the  
14 judgment awarded as attorney's fees for bringing a claim under the  
15 Nebraska Claims for Wrongful Conviction and Imprisonment Act; or

16 (b) Treatment as gross income to a claimant under the  
17 Nebraska Revenue Act of 1967.

18 (2) The damage award shall not be offset by any expenses  
19 incurred by the state or any political subdivision, including, but  
20 not limited to:

21 (a) Expenses incurred:

22 (i) To secure the claimant's custody; or

23 (ii) To feed, clothe, or provide medical services for the  
24 claimant; or

25 (b) The value of any services or reduction in fees for  
26 service, or the value thereof, to be provided to the claimant that  
27 may be awarded to the claimant pursuant to the act.

1 (3) If the court finds that any property of the claimant  
2 was subjected to a lien pursuant to defense services rendered by  
3 the state to defend the client in connection with the criminal case  
4 that resulted in his or her wrongful conviction, the court shall  
5 extinguish the lien.

6 Sec. 8. (1) The Board of Pardons, upon the issuance of  
7 a full pardon on or after the effective date of this act, shall  
8 provide a copy of the Nebraska Claims for Wrongful Conviction and  
9 Imprisonment Act at the time the pardon is issued to the individual

10 pardoned. The individual shall acknowledge, in writing, his or  
11 her receipt of a copy of the act on a form established by the  
12 board, which acknowledgement shall be retained on file by the board  
13 as part of its official records and shall be admissible in any  
14 proceeding filed by a claimant under the act.

15 (2) In the event a claimant granted a full pardon on  
16 or after the effective date of this act shows he or she did not  
17 receive a copy of the information required by this section, he or  
18 she shall receive a one-year extension on the three-year statute of  
19 limitations provided in section 9 of this act.

20 Sec. 9. A claim for compensation brought under the  
21 Nebraska Claims for Wrongful Conviction and Imprisonment Act shall  
22 be filed within two years after either the grant of a pardon or the  
23 grant of judicial relief. Any action by the state challenging or  
24 appealing the grant of such judicial relief shall toll the two-year  
25 period. Persons convicted, incarcerated, and released from custody  
26 prior to the effective date of this act shall file a claim under  
27 the act within three years after the effective date of this act.

1 Sec. 10. Either party to an action for compensation  
2 brought under the Nebraska Claims for Wrongful Conviction and  
3 Imprisonment Act is entitled to the rights of appeal afforded  
4 parties in a civil action.

5 Sec. 11. (1) Any person convicted and subsequently  
6 imprisoned for one or more crimes who, on the grounds of actual  
7 innocence, is either pardoned or whose conviction is reversed or  
8 vacated on the basis of newly discovered evidence, and either  
9 the charges are dismissed or he or she is subsequently retried  
10 and acquitted, shall receive up to two years of immediate  
11 services needed upon release, including, but not limited to:  
12 Housing; secondary or postsecondary education; vocational training;  
13 transportation; subsistence monetary assistance; reintegrative  
14 services; and mental, physical, and dental health care. The need  
15 for these services shall be determined through a review by the  
16 Department of Health and Human Services and provided by the  
17 appropriate state entities or political subdivisions.

18 (2) When a conviction is vacated, a judge may order that  
19 services similar to those in this section be provided.

20 Sec. 12. (1) Upon obtaining a postconviction exoneration  
21 for actual innocence through either a pardon based on innocence  
22 from an erroneous felony conviction or a judicial order vacating or  
23 reversing an erroneous felony conviction, a person may petition the  
24 district court in which the erroneous felony conviction occurred  
25 for an order to expunge all records of the erroneous felony  
26 conviction. The petition shall be accompanied by a certified  
27 copy of the pardon or judicial order vacating or reversing the  
1 erroneous felony conviction. The petitioner shall serve a copy of  
2 the petition on the county attorney of the county in which the  
3 erroneous felony conviction occurred. If the county attorney files  
4 no objection to the petition, the court may grant the petition.

5 (2) If the county attorney files an objection to the  
 6 petitioner's request for expunging the criminal record of the  
 7 erroneous felony conviction, the court shall conduct a hearing on  
 8 the matter.

9 (3) If a court determines that the petition is warranted  
 10 and orders the expunction of all records pertaining to the  
 11 petitioner's erroneous felony conviction, a law enforcement agency  
 12 may gain access to such person's expunged records only with a court  
 13 order upon good cause showing that access to the expunged records  
 14 is required for the performance of official law enforcement duties.

15 (4) If a court determines that the petition is warranted  
 16 and orders the expunction of all records pertaining to the  
 17 petitioner's erroneous felony conviction, the court shall notify  
 18 the Nebraska State Patrol and any other law enforcement agency to  
 19 expunge all records pertaining to the petitioner's erroneous felony  
 20 conviction.

21 (5) The Nebraska State Patrol, any other law enforcement  
 22 agency involved, and the court shall provide written notice of the  
 23 expunction by certified mail to the petitioner.

24 (6) A person who obtains a court order to expunge all  
 25 records pertaining to such person's erroneous felony conviction may  
 26 lawfully answer and swear under oath that an arrest, prosecution,  
 27 or conviction pertaining to the erroneous conviction never  
 1 occurred.

2 (7) Any party may appeal a final order granting or  
 3 denying the expunction of records pertaining to the erroneous  
 4 felony conviction.

(Signed) Brad Ashford, Chairperson

## GENERAL FILE

**LEGISLATIVE BILL 110.** Senator Nordquist offered the following amendment to the committee amendment:

AM276

1 1. Insert the following new section:

2 Sec. 14. Section 85-1920, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 85-1920 The Nebraska Scholarship Fund is created. Money  
 5 in the fund shall include amounts credited pursuant to section  
 6 3 of this act and amounts transferred from the State Lottery  
 7 Operation Trust Fund pursuant to section 9-812. For fiscal years  
 8 2003-04 and 2004-05, two million dollars shall be used to carry  
 9 out the Nebraska Scholarship Act, and the remainder accruing to  
 10 the Nebraska Scholarship Fund shall be transferred to the General  
 11 Fund. For fiscal year 2005-06, two million five hundred thousand  
 12 dollars shall be used to carry out the Nebraska Scholarship Act,  
 13 and the remainder accruing to the Nebraska Scholarship Fund shall  
 14 be transferred to the General Fund. For fiscal year 2006-07

15 and each fiscal year thereafter, all amounts accruing to the  
 16 Nebraska Scholarship Fund shall be used to carry out the Nebraska  
 17 Scholarship Act. Any money in the fund available for investment  
 18 shall be invested by the state investment officer pursuant to  
 19 the Nebraska Capital Expansion Act and the Nebraska State Funds  
 20 Investment Act.

21 2. On page 5, line 9, after "Fund" insert "except that  
 22 if specialty license plates are designed pursuant to section 4  
 23 of this act for a private, nonprofit college or university or a  
 1 state college, the State Treasurer shall credit forty-three percent  
 2 of the fee for initial issuance and renewal of such specialty  
 3 license plates to the Department of Motor Vehicles Cash Fund and  
 4 fifty-seven percent of the fee to the Nebraska Scholarship Fund".

5 3. Renumber the remaining sections and correct the  
 6 repealer section accordingly.

The Nordquist amendment lost with 10 ayes, 23 nays, 14 present and not voting, and 2 excused and not voting.

Committee AM181, found on page 367 and considered in this day's Journal, was renewed.

The committee amendment was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 4 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 110A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 261.** Title read. Considered.

Committee AM182, found on page 367, was considered.

Senator Fischer offered the following amendment to the committee amendment:

AM323

(Amendments to Standing Committee amendments, AM182)

1 1. On page 1, line 21, after "issued" insert "or a  
 2 contract".

Pending.



**COMMITTEE REPORTS**  
Health and Human Services

**LEGISLATIVE BILL 458.** Placed on General File.

**LEGISLATIVE BILL 172.** Placed on General File with amendment.  
AM333

- 1 1. On page 4, strike lines 2 through 4 and insert
- 2 "consist of all recoveries for the state's costs and attorney's
- 3 fees received pursuant to subdivision (2)(b) of section 68-940 and
- 4 sections 68-936 and 68-939, except".

(Signed) Tim Gay, Chairperson

**MOTIONS - Print in Journal**

Senator Gay filed the following motion to LB668:  
MO17  
Withdraw bill.

Senator Langemeier filed the following motion to LB184:  
MO18  
Recommit to Natural Resources Committee.

**AMENDMENTS - Print in Journal**

Senator Nelson filed the following amendment to LB432:  
AM501

- 1 1. On page 3, strike lines 9 through 16, show the
- 2 old matter as stricken, and insert "A professional finders' fee
- 3 shall be limited to ten percent of the total amount of the
- 4 property presumed abandoned. To claim any such fee, the finder
- 5 shall disclose to the owner the nature, location, and value of the
- 6 property, notice of when such property was reported to the State
- 7 Treasurer, and notice that the property may be claimed by the owner
- 8 from the State Treasurer free of charge. If the property has not
- 9 yet been abandoned, the finder shall disclose to the owner the
- 10 nature, location, and value of the property, notice of when such
- 11 property will be reported to the State Treasurer, if known, and
- 12 notice that the property may be claimed by the owner from the State
- 13 Treasurer free of charge.".

Senator Avery filed the following amendment to LB167:  
AM489

- 1 1. On page 2, line 4, after the period insert "Any such
- 2 program shall be made available to all state employees.".

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

**LB/LR**     **Committee**  
LB680     Appropriations

(Signed) John Wightman, Chairperson  
Executive Board

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Hansen asked unanimous consent to add his name as cointroducer to LB153. No objections. So ordered.

Senator McGill asked unanimous consent to add her name as cointroducer to LB356. No objections. So ordered.

Senator McCoy asked unanimous consent to add his name as cointroducer to LB507. No objections. So ordered.

**WITHDRAW - Cointroducer**

Senator Fischer withdrew her name as cointroducer to LB184.

**VISITORS**

Visitors to the Chamber were 41 fourth-grade students, teachers, and sponsors from Eagle.

The Doctor of the Day was Dr. Richard Gustafson from Lincoln.

**ADJOURNMENT**

At 11:59 a.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Friday, February 27, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRTY-FIFTH DAY - FEBRUARY 27, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****THIRTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, February 27, 2009

**PRAYER**

The prayer was offered by Captain Rhegan Stansbury, Salvation Army, Beatrice.

**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 Cornett and Karpisek who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-fourth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 403.** Placed on Select File with amendment.  
ER8023

- 1 1. In the Standing Committee amendments, AM413, on
- 2 page 4, strike lines 9 through 21 and insert the following
- 3 new subdivisions:
- 4 "(a) Federal immigration verification system means the
- 5 electronic verification of the work authorization program of
- 6 the Illegal Immigration Reform and Immigrant Responsibility Act
- 7 of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or
- 8 an equivalent federal program designated by the United States
- 9 Department of Homeland Security or other federal agency authorized
- 10 to verify the work eligibility status of a newly hired employee
- 11 pursuant to the Immigration Reform and Control of Act 1986;
- 12 (b) Public contractor means any contractor and his or
- 13 her subcontractors who are a party to a contract with a public
- 14 employer; and
- 15 (c) Public employer means any agency or political

16 subdivision of the State of Nebraska."

17 2. On page 1, strike beginning with "illegal" in line 1  
 18 through line 3 and insert "government; to amend sections 77-27,187,  
 19 77-5701, 77-5801, and 77-5901, Revised Statutes Cumulative  
 20 Supplement, 2008; to require verification of lawful presence for  
 21 purposes of public benefits; to require verification of work  
 22 eligibility status for purposes of public employment, employment  
 23 under public contracts, and certain tax incentives; to provide  
 1 duties for the Department of Labor; to harmonize provisions; to  
 2 provide an operative date; and to repeal the original sections."

**LEGISLATIVE BILL 168.** Placed on Select File.

**LEGISLATIVE BILL 207.** Placed on Select File.

**LEGISLATIVE BILL 177.** Placed on Select File.

**LEGISLATIVE BILL 377.** Placed on Select File.

**LEGISLATIVE BILL 219.** Placed on Select File with amendment.  
 ER8024

1 1. On page 1, strike beginning with "change" in line 7  
 2 through "prescribed" in line 9 and insert "harmonize provisions".

**LEGISLATIVE BILL 219A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORTS

Banking, Commerce and Insurance

**LEGISLATIVE BILL 328.** Placed on General File.

(Signed) Rich Pahls, Chairperson

General Affairs

**LEGISLATIVE BILL 355.** Placed on General File with amendment.  
 AM445

1 1. Strike section 4 and insert the following new  
 2 sections:  
 3 Sec. 4. No county resolution or city ordinance that  
 4 prohibits smoking in indoor areas shall apply to cigar bars as  
 5 defined in section 53-103.  
 6 Sec. 5. Section 71-5730, Revised Statutes Cumulative  
 7 Supplement, 2008, is amended to read:  
 8 71-5730 The following indoor areas are exempt from  
 9 section 71-5729:  
 10 (1) Guestrooms and suites that are rented to guests and  
 11 are designated as smoking rooms, except that not more than twenty  
 12 percent of rooms rented to guests in an establishment may be  
 13 designated as smoking rooms. All smoking rooms on the same floor

14 shall be contiguous, and smoke from such rooms shall not infiltrate  
 15 into areas where smoking is prohibited under the Nebraska Clean  
 16 Indoor Air Act;

17 (2) Indoor areas used in connection with a research  
 18 study on the health effects of smoking conducted in a scientific  
 19 or analytical laboratory under state or federal law or at a  
 20 college or university approved by the Coordinating Commission for  
 21 Postsecondary Education; ~~and~~

22 (3) Tobacco retail outlets; ~~and~~

23 (4) Cigar bars as defined in section 53-103.

1 2. On page 2, line 19; and page 11, line 8, strike

2 "profits" and insert "revenue".

3 3. On page 2, line 19, after the period insert "A copy

4 of the proof of gross revenue shall also be sent to the Nebraska  
 5 Liquor Control Commission.".

6 4. Renumber the remaining sections and correct the  
 7 repealer accordingly.

(Signed) Russ Karpisek, Chairperson

## NOTICE OF COMMITTEE HEARINGS

Business and Labor

Room 2102

Monday, March 23, 2009 1:30 p.m.

LB564

LB628

LB629

LR10

(Signed) Steve Lathrop, Chairperson

Transportation and Telecommunications

Room 1113

Monday, March 9, 2009 1:30 p.m.

LB372

LB384

LB543

Tuesday, March 10, 2009 1:30 p.m.

LB334

LB649

LB93

(Signed) Deb Fischer, Chairperson

**MESSAGE FROM THE GOVERNOR**

February 26, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 24, 75e, 80e, 85, 87e, 99e, 100, 101e, 123, 166e, 189, 192, and 251e were received in my office on February 20, 2009.

These bills were signed and delivered to the Secretary of State on February 26, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**ANNOUNCEMENT**

Senator Council designates LB307 as her priority bill.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of February 26, 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

Vickers, Tom  
Career Schools Coalition

**ANNOUNCEMENT**

The Chair announced March 1 is Senator Fischer's and Senator Sullivan's birthdays.

**MOTION - Approve Appointments**

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 565:

Nebraska Highway Commission

David Copple

Board of Public Roads Classifications and Standards

Steven Riehle

Voting in the affirmative, 44:

Adams	Council	Haar	Louden	Pirsch
Ashford	Dubas	Hadley	McCoy	Price
Avery	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Friend	Howard	Nantkes	Sullivan
Christensen	Fulton	Janssen	Nelson	Utter
Coash	Gay	Langemeier	Nordquist	Wallman
Cook	Giese	Lathrop	Pahls	Wightman
Cornett	Gloor	Lautenbaugh	Pankonin	

Voting in the negative, 0.

Present and not voting, 4:

Dierks	Hansen	Rogert	White
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Excused and not voting, 1:

Karpisek

The appointments were confirmed with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

**MOTION - Withdraw LB668**

Senator Gay renewed his motion, MO17, found on page 577, to withdraw LB668.

The Gay motion to withdraw the bill prevailed with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 5.** With Emergency Clause.

A BILL FOR AN ACT relating to the Game Law; to amend sections 37-513 and 37-614, Reissue Revised Statutes of Nebraska; to eliminate a restriction and a penalty on trapping wildlife in county road rights-of-way; to authorize counties to prohibit trapping wildlife in county road rights-of-way; 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, 31:

Carlson	Gay	Janssen	Nantkes	Wallman
Christensen	Giese	Karpisek	Nelson	White
Coash	Gloor	Langemeier	Pahls	Wightman
Dubas	Hadley	Lautenbaugh	Pirsch	
Fischer	Hansen	Louden	Price	
Flood	Harms	McCoy	Schilz	
Fulton	Heidemann	Mello	Sullivan	

Voting in the negative, 17:

Adams	Cornett	Haar	Nordquist	Utter
Ashford	Council	Howard	Pankonin	
Campbell	Dierks	Lathrop	Rogert	
Cook	Friend	McGill	Stuthman	

Present and not voting, 1:

Avery

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"



Voting in the affirmative, 30:

Carlson	Fulton	Harms	Louden	Pirsch
Christensen	Gay	Heidemann	McCoy	Price
Coash	Giese	Janssen	Mello	Schilz
Dubas	Gloor	Karpisek	Nantkes	Sullivan
Fischer	Hadley	Langemeier	Nelson	White
Flood	Hansen	Lautenbaugh	Pahls	Wightman

Voting in the negative, 18:

Adams	Cook	Friend	McGill	Stuthman
Ashford	Cornett	Haar	Nordquist	Utter
Avery	Council	Howard	Pankonin	
Campbell	Dierks	Lathrop	Rogert	

Present and not voting, 1:

Wallman

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

#### **LEGISLATIVE BILL 7.**

A BILL FOR AN ACT relating to clerks of the district court; to amend section 32-524, Reissue Revised Statutes of Nebraska; to provide a residency requirement; to harmonize provisions; 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, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Wallman

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

**LEGISLATIVE BILL 20.** With Emergency Clause.

A BILL FOR AN ACT relating to the Access College Early Scholarship Program Act; to amend sections 85-2105 and 85-2106, Reissue Revised Statutes of Nebraska; to change provisions relating to the powers and duties of the Coordinating Commission for Postsecondary Education with respect to scholarships awarded under the act and a report requirement; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 28.**

A BILL FOR AN ACT relating to law enforcement; to amend sections 60-3,135 and 60-480.01, Revised Statutes Cumulative Supplement, 2008; to authorize the issuance of undercover license plates and undercover driver's licenses to federal law enforcement agencies; 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, 48:

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

Voting in the negative, 1:

Council

Not voting, 0.

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

**LEGISLATIVE BILL 32.** With Emergency Clause.

A BILL FOR AN ACT relating to banks and banking; to amend section 8-113, Reissue Revised Statutes of Nebraska; to change provisions relating to the unauthorized use of the word bank; 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, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Friend

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 48.** With Emergency Clause.

A BILL FOR AN ACT relating to motor carriers; to amend sections 75-363 and 75-364, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to adoption of federal Motor Carrier Safety Regulations and federal Hazardous Material Regulations; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 53.**

A BILL FOR AN ACT relating to public power districts; to amend sections 70-603, 70-604.01, 70-604.05, and 70-681, Reissue Revised Statutes of Nebraska, and section 70-604.02, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to formation, territory, and operating area of districts; 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, 41:

Adams	Fischer	Harms	Nantkes	Stuthman
Ashford	Flood	Heidemann	Nelson	Sullivan
Avery	Friend	Howard	Nordquist	Utter
Carlson	Fulton	Janssen	Pahls	Wallman
Christensen	Gay	Karpisek	Pankonin	Wightman
Cook	Giese	Langemeier	Pirsch	
Cornett	Gloor	Lautenbaugh	Price	
Dierks	Hadley	Louden	Rogert	
Dubas	Hansen	McCoy	Schilz	

Voting in the negative, 5:

Coash	Haar	Lathrop	McGill	White
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Present and not voting, 3:

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

### **LEGISLATIVE BILL 55.**

A BILL FOR AN ACT relating to attorneys; to amend section 23-1201.02, Reissue Revised Statutes of Nebraska; to change requirements for the office of county attorney; 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, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Louden

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

**LEGISLATIVE BILL 74.** With Emergency Clause.

A BILL FOR AN ACT relating to banking; to amend section 8-133, Reissue Revised Statutes of Nebraska; to authorize the pledging of Federal Home Loan Bank of Topeka letters of credit as security for private deposits; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 91.**

A BILL FOR AN ACT relating to children; to amend section 43-117, Reissue Revised Statutes of Nebraska; to change provisions relating to department payments on behalf of certain children; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

#### **LEGISLATIVE BILL 102.**

A BILL FOR AN ACT relating to schools; to provide a definition of high school graduate for purposes of postsecondary educational financial aid; and to provide a duty for the Revisor of Statutes.

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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

**LEGISLATIVE BILL 120.**

A BILL FOR AN ACT relating to inheritance tax; to amend sections 77-2018.04 and 77-2018.07, Reissue Revised Statutes of Nebraska, and section 77-2010, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to estate administration expenses and penalties; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

**LEGISLATIVE BILL 135.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2008, LB606A, section 1; to change an appropriation as prescribed; 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, 49:



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

Voting in the negative, 0.

Not voting, 0.

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 201.** With Emergency Clause.

A BILL FOR AN ACT relating to children; to amend section 43-1230, Reissue Revised Statutes of Nebraska; to change provisions relating to the international application of the Uniform Child Custody Jurisdiction and Enforcement Act; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 LB204 to Select File**

Senator Fischer moved to return LB204 to Select File for her specific amendment, AM429, found on page 531.

The Fischer motion to return prevailed with 45 ayes, 0 nays, and 4 present and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 204.** The Fischer specific amendment, AM429, found on page 531, was adopted with 46 ayes, 0 nays, and 3 present and not voting.

Advanced to Enrollment and Review for Reengrossment.

**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 LB259 with 42 ayes, 0 nays, and 7 present and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 259.** With Emergency Clause.

A BILL FOR AN ACT relating to deposit and investment of public funds; to amend sections 2-4214, 12-1102, 12-1107, 14-556, 15-847, 15-849, 16-713, 16-715, 16-716, 17-607, 17-720, 30-3209, 72-1268.03, 77-2305, 77-2318, 77-2326.04, 77-2340, 77-2344, 77-2345, 77-2352, 77-2355, 77-2362, 77-2375, 77-2385, 77-2388, 77-2389, 77-2395, 77-2398, 77-23,100, 77-23,101, 77-23,102, and 77-23,105, Reissue Revised Statutes of Nebraska, and sections 77-2365.02 and 77-2387, Revised Statutes Cumulative Supplement, 2008; to clarify Federal Deposit Insurance Corporation coverage; to harmonize provisions; to provide a duty for the Revisor of Statutes; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 LB331 with 47 ayes, 0 nays, and 2 present and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 331.** With Emergency Clause.

A BILL FOR AN ACT relating to transportation; to amend sections 18-1739 and 75-301, Reissue Revised Statutes of Nebraska, and sections 60-3,122.02, 60-3,137, 60-3,193.01, 60-3,198, 60-3,205, 60-462.01, 60-462.02, 60-480.01, 60-4,147.02, 60-6,265, 60-6,267, 66-1406.02, 75-363, 75-364, 75-369.03, 75-386, 75-393, 75-394, 75-396, 75-397, and 75-398, Revised Statutes Cumulative Supplement, 2008; to adopt by reference updates to certain federal laws and regulations relating to parking for disabled persons, operators' licenses, hazardous material endorsement requirements under the USA PATRIOT Act, occupant protection systems, motor carrier safety, hazardous materials transportation, and the Unified Carrier Registration System; to change provisions relating to Gold Star Family plates and fleet vehicle registration; to change an implementation date; to authorize the issuance of undercover license plates to Department of Insurance investigators; to adopt by reference updates to the International Registration Plan; to eliminate provisions relating to the single state insurance registration system for motor carriers; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 75-348, 75-349, 75-350, 75-351, 75-353, 75-354, 75-355, 75-358, and 75-390, Reissue Revised Statutes of Nebraska, and section 75-395, 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

### SELECT FILE

**LEGISLATIVE BILL 52.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 151.** Senator Stuthman renewed his amendment, AM300, found on page 516.

Senator Stuthman offered the following amendment to his amendment:  
AM523

(Amendments to AM300)

- 1 1. Insert the following new section:
- 2 Sec. 6. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

The Stuthman amendment was adopted with 27 ayes, 0 nays, and 22 present and not voting.

The Stuthman amendment, AM300, as amended, was adopted with 28 ayes, 0 nays, and 21 present and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 379.** Advanced to Enrollment and Review for Engrossment.

**SENATOR LANGEMEIER PRESIDING**

**LEGISLATIVE BILL 142.** ER8018, found on page 463, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 90.** ER8017, found on page 464, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 89.** ER8021, found on page 533, was adopted.

Senator Cornett renewed her amendment, AM452, found on page 559.

The Cornett amendment was adopted with 26 ayes, 4 nays, 18 present and not voting, and 1 excused and not voting.

Senator Stuthman offered the following amendment:

AM313

(Amendments to Standing Committee amendments, AM92)

- 1 1. Insert the following new section:
- 2 Sec. 7. The Department of Revenue shall report annually
- 3 to the Revenue Committee of the Legislature the effects of the tax
- 4 policy changes made by this legislative bill, including:
- 5 (1) The impact of the change on taxpayers;
- 6 (2) Snuff revenue collections under the weight-based tax
- 7 method and an estimation of revenue under an ad valorem method
- 8 using reliable tobacco price trend data indicating pricing for
- 9 snuff based on the ad valorem rate in effect at time of the
- 10 conversion; and
- 11 (3) Recommendations to ensure progressive tax revenue and
- 12 a competitive marketplace.
- 13 The committee shall provide a copy of the report to
- 14 the Attorney General to ensure consumer protection, to prevent
- 15 unfair trade practices, and to prevent monopolization of the snuff
- 16 business.
- 17 2. On page 1, lines 5 and 12, strike "section 3" and
- 18 insert "sections 3 and 7".
- 19 3. Renumber the remaining sections accordingly.

The Stuthman amendment lost with 4 ayes, 20 nays, 22 present and not voting, and 3 excused and not voting.

**SPEAKER FLOOD PRESIDING**

Pending.

**COMMITTEE REPORT**  
**Enrollment and Review**

**Correctly Enrolled**

The following bill was correctly enrolled: LB5.

(Signed) Jeremy Nordquist, Chairperson

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 5, 7, 20, 28, 32, 48, 53, 55, 74, 91, 102, 120, 135, 201, 259, and 331.

**SELECT FILE**

**LEGISLATIVE BILL 89.** Considered.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 231.** ER8020, found on page 534, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 167.** ER8022, found on page 534, was adopted.

Senator Avery renewed his amendment, AM489, found on page 577.

The Avery amendment was adopted with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**MOTION - Suspend Rules**

Senator Ashford offered the following motion to LB403:  
MO19

Suspend Rule 3, Section 14, to permit cancellation of the March 5, 2009, Judiciary Committee public hearings on LB403, amendments AM435 and AM491.

The Ashford motion to suspend the rules prevailed with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

**NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Thursday, March 5, 2009 12:00 p.m.

LB403 (AM435) (cancel)

LB403 (AM491) (cancel)

(Signed) Brad Ashford, Chairperson

**UNANIMOUS CONSENT - Time Change**

Senator Ashford asked unanimous consent that the Judiciary Committee conduct its hearing on Thursday, March 5, 2009, at 1:30 p.m. instead of 2:00 p.m. No objections. So ordered.

**NOTICE OF COMMITTEE HEARINGS**

Nebraska Retirement Systems

Room 1525

Wednesday, March 18, 2009 12:10 p.m.

LB427 (cancel)

Wednesday, March 25, 2009 12:10 p.m.

LB427 (reschedule)

(Signed) Dave Pankonin, Chairperson

Education

Room 1525

Monday, March 9, 2009 1:30 p.m.

Hearing on Progress Toward Attainment of Higher Education Priorities  
(required pursuant to Section 85-1429)

(Signed) Greg Adams, Chairperson

## COMMITTEE REPORTS

## Education

**LEGISLATIVE BILL 73.** Placed on General File with amendment. AM468

1 1. Strike sections 2 to 5 and insert the following new  
2 sections:

3 Sec. 2. For purposes of the Interstate Compact on  
4 Educational Opportunity for Military Children and sections 2 to  
5 5 of this act:

6 (1) Council means the State Council on Educational  
7 Opportunity for Military Children;

8 (2) Department means the State Department of Education;

9 (3) Local education agency means a school district as  
10 defined in section 79-101; and

11 (4) State superintendent of education means the  
12 Commission of Education.

13 Sec. 3. The department shall oversee and provide  
14 coordination for the state's participation in and compliance with  
15 the Interstate Compact on Educational Opportunity for Military  
16 Children. The department shall provide staff support for the  
17 council created in section 4 of this act.

18 Sec. 4. (1) The State Council on Educational Opportunity  
19 for Military Children is created within the department. The council  
20 shall consist of:

21 (a) The following ex officio members:

22 (i) The Commissioner of Education;

23 (ii) The chairperson of the Education Committee of the  
1 Legislature, who shall serve as a nonvoting member of the council;

2 (iii) The compact commissioner appointed pursuant to  
3 section 5 of this act; and

4 (iv) The military family education liaison, who shall  
5 serve as a member of the council after his or her appointment  
6 pursuant to subsection (3) of this section; and

7 (b) The following members appointed by the State Board of  
8 Education:

9 (i) The superintendent of a school district that has a  
10 high concentration of children of military families; and

11 (ii) A representative of a military installation located  
12 in this state.

13 (2) The members of the council appointed by the State  
14 Board of Education shall serve three-year terms. Vacancies in  
15 the council shall be filled in the same manner as the initial  
16 appointments. The members of the council shall be reimbursed for  
17 their actual and necessary expenses as provided in sections 81-1174  
18 to 81-1177.

19 (3) The council shall have the following duties:

20 (a) To advise the department with regards to the  
21 state's participation and compliance with the Interstate Compact on



22 Educational Opportunity for Military Children; and  
 23 (b) To appoint a military family education liaison to  
 24 assist families and the state in implementing the compact.  
 25 Sec. 5. The student achievement coordinator appointed  
 26 pursuant to section 79-11,150 shall serve as the compact  
 27 commissioner and shall be responsible for administering the state's  
 1 participation in the Interstate Compact on Educational Opportunity  
 2 for Military Children.

**LEGISLATIVE BILL 103.** Placed on General File with amendment.  
 AM404

- 1 1. Strike original section 1.
- 2 2. On page 5, line 12, after "The" insert "base amount
- 3 for the"; in line 15 strike "amounts", show as stricken, and insert
- 4 "amount"; and in line 16 strike "2008", show as stricken, and
- 5 insert "2010".
- 6 3. On page 7, line 19, strike "sections 85-408 and" and
- 7 insert "section"; and in line 20 strike "are" and insert "is".
- 8 4. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 197.** Placed on General File with amendment.  
 AM464

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 85-1802, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 85-1802 For purposes of sections 85-1801 to 85-1814:
- 6 (1) Administrative fund means the ~~administrative fund~~
- 7 College Savings Plan Administrative Fund created in section
- 8 85-1807;
- 9 (2) Beneficiary means the individual designated by a
- 10 participation agreement to benefit from advance payments of higher
- 11 education costs on behalf of the beneficiary;
- 12 (3) Benefits means the payment of higher education costs
- 13 on behalf of a beneficiary by the trust during the beneficiary's
- 14 attendance at an institution of higher education;
- 15 (4) Endowment fund means the ~~endowment fund~~ College
- 16 Savings Plan Endowment Fund created in section 85-1807;
- 17 (5) Expense fund means the College Savings Plan Expense
- 18 Fund created in section 85-1807;
- 19 ~~(5)-(6)~~ Higher education costs means the certified costs
- 20 of tuition and fees, books, supplies, and equipment required for
- 21 enrollment or attendance at an institution of higher education.
- 22 Reasonable room and board expenses, based on the minimum amount
- 23 applicable for the institution of higher education during the
- 1 period of enrollment, shall be included as a higher education cost
- 2 for those students enrolled on at least a half-time basis. Higher
- 3 education costs shall not include any amounts in excess of those
- 4 allowed by section 529 of the Internal Revenue Code;

5 ~~(6)-(7)~~ Institution of higher education means an  
 6 institution described in section 529 of the Internal Revenue Code  
 7 which is eligible to participate in the United States Department of  
 8 Education's student aid programs;

9 ~~(7)-(8)~~ Nebraska educational savings plan trust means the  
 10 trust created in section 85-1804;

11 ~~(8)-(9)~~ Nebraska institution of higher education means an  
 12 institution described in section 529 of the Internal Revenue Code  
 13 which is eligible to participate in the United States Department of  
 14 Education's student aid program and which is located in Nebraska;

15 ~~(9)-(10)~~ Participant means an individual, an individual's  
 16 legal representative, or any other legal entity authorized to  
 17 establish a savings account under section 529 of the Internal  
 18 Revenue Code who has entered into a participation agreement for  
 19 the advance payment of higher education costs on behalf of a  
 20 beneficiary;

21 ~~(10)-(11)~~ Participation agreement means an agreement  
 22 between a participant and the Nebraska educational savings plan  
 23 trust entered into under sections 85-1801 to 85-1814;

24 ~~(11)-(12)~~ Program fund means the ~~program fund~~ College  
 25 Savings Plan Program Fund created in section 85-1807;

26 ~~(12)-(13)~~ Refund penalty means the amount assessed by the  
 1 State Treasurer for cancellation of a participation agreement or  
 2 other refund which is not considered a de minimis penalty pursuant  
 3 to section 529 of the Internal Revenue Code;

4 ~~(13)-(14)~~ Section 529 of the Internal Revenue Code means  
 5 such section of the code and the regulations interpreting such  
 6 section, as such section and regulations existed on April 18, 2001;  
 7 and

8 ~~(14)-(15)~~ Tuition and fees means the quarter or semester  
 9 charges imposed to attend an institution of higher education and  
 10 required as a condition of enrollment.

11 Sec. 2. Section 85-1807, Reissue Revised Statutes of  
 12 Nebraska, is amended to read:

13 85-1807 (1) The State Treasurer shall deposit money  
 14 received by the Nebraska educational savings plan trust into  
 15 ~~three-four funds: The program fund, the endowment fund, and~~  
 16 ~~the administrative fund. The College Savings Plan Program Fund,~~  
 17 the College Savings Plan Expense Fund, the College Savings Plan  
 18 Endowment Fund, and the College Savings Plan Administrative Fund.  
 19 The State Treasurer shall deposit money received by the trust  
 20 into the appropriate fund. The State Treasurer and Accounting  
 21 Administrator of the Department of Administrative Services shall  
 22 determine the state fund types necessary to comply with section 529  
 23 of the Internal Revenue Code and state policy. The money in the  
 24 funds shall be invested by the state investment officer pursuant  
 25 to policies established by the Nebraska Investment Council. The  
 26 program fund, the expense fund, the administrative fund, and the  
endowment fund shall be separately administered. The Nebraska

27 educational savings plan trust shall be operated with no General  
1 Fund appropriations.

2 (2) All money paid by participants in connection with  
3 participation agreements and all investment income earned on such  
4 money shall be deposited as received into separate accounts within  
5 the program fund. All money received by the trust from the proceeds  
6 of gifts and other endowments for the purposes of the trust and  
7 all investment income earned on such money shall be deposited as  
8 received into the endowment fund. The program fund, administrative  
9 fund, and endowment fund shall be separately administered. Any  
10 gifts, grants, or donations to the trust for deposit to the  
11 endowment fund shall be a grant, gift, or donation to the state  
12 for the accomplishment of a valid public eleemosynary, charitable,  
13 and educational purpose and shall not be included in the income of  
14 the donor for state income tax purposes. Contributions to the trust  
15 made by participants or received in the form of gifts, grants, or  
16 donations may only be made in the form of cash. All funds generated  
17 in connection with participation agreements shall be deposited into  
18 the appropriate accounts within the program fund. A participant  
19 or beneficiary shall not provide investment direction regarding  
20 program contributions or earnings held by the trust. Money accrued  
21 by participants in the program fund may be used for payments to any  
22 institution of higher education.

23 (3) The College Savings Plan Administrative Fund is  
24 created. Money from the trust transferred from the expense fund to  
25 the administrative fund in an amount authorized by an appropriation  
26 from the Legislature shall be utilized to pay for the costs  
27 of administering, operating, and maintaining the trust, to the  
1 extent permitted by section 529 of the Internal Revenue Code. The  
2 administrative fund shall not be credited with any money other than  
3 money transferred from the expense fund in an amount authorized by  
4 an appropriation by the Legislature or any interest income earned  
5 on the balances held in the administrative fund. Any money in  
6 the administrative fund available for investment shall be invested  
7 by the state investment officer pursuant to the Nebraska Capital  
8 Expansion Act and the Nebraska State Funds Investment Act.

9 (2)-(4) The College Savings Plan Endowment Fund is  
10 created. All money received by the trust from the proceeds of  
11 gifts and other endowments for the purposes of the trust and  
12 all investment income earned on such money shall be deposited as  
13 received into the endowment fund. Any gifts, grants, or donations  
14 to the trust for deposit to the endowment fund shall be a grant,  
15 gift, or donation to the state for the accomplishment of a valid  
16 public eleemosynary, charitable, and educational purpose and shall  
17 not be included in the income of the donor for state income tax  
18 purposes. Contributions to the trust received in the form of gifts,  
19 grants, or donations may only be made in the form of cash. Each  
20 beneficiary under a participation agreement shall receive a pro  
21 rata share of the interest earned in the endowment fund each year

22 after any transfers to the ~~administrative endowment~~ fund have been  
 23 made. The amount received from the endowment fund shall be in the  
 24 ratio that the principal amount paid by the participant under the  
 25 participation agreement and investment income earned to date under  
 26 the agreement bears to the principal amount of all money, funds,  
 27 and securities then held in the program fund, but not to exceed  
 1 the amount which, in combination with the current payment due from  
 2 the program fund, equals the beneficiary's higher education costs  
 3 for the current period of enrollment. ~~Money accrued by participants~~  
 4 ~~in the program fund may be used for payments to any institution~~  
 5 ~~of higher education.~~ No rights to any money derived from the  
 6 endowment fund shall exist if money payable under the participation  
 7 agreement is paid to an institution of higher education which is  
 8 not a Nebraska institution of higher education. Any money in the  
 9 endowment fund available for investment shall be invested by the  
 10 state investment officer pursuant to the Nebraska Capital Expansion  
 11 Act and the Nebraska State Funds Investment Act.

12 (5) The College Savings Plan Expense Fund is created.  
 13 The expense fund shall be used to pay costs associated with the  
 14 Nebraska educational savings plan trust and shall be funded with  
 15 fees assessed to the program fund. The State Treasurer shall  
 16 transfer from the expense fund to the State Investment Officer's  
 17 Cash Fund an amount equal to the pro rata share of the budget  
 18 appropriated to the Nebraska Investment Council as permitted in  
 19 section 72-1249.02, to cover reasonable expenses incurred for  
 20 investment management of the Nebraska educational savings plan  
 21 trust. Annually and prior to such transfer to the State Investment  
 22 Officer's Cash Fund, the State Treasurer shall report to the  
 23 budget division of the Department of Administrative Services and to  
 24 the Legislative Fiscal Analyst the amounts transferred during the  
 25 previous fiscal year. The State Treasurer may transfer funds from  
 26 the expense fund to the endowment fund. The amount of any transfer  
 27 from the expense fund to the endowment fund shall not result in a  
 1 remaining balance in the expense fund that is less than one hundred  
 2 and fifty percent of the most recent annual appropriation provided  
 3 by the Legislature for the cost of administering the Nebraska  
 4 educational savings plan trust. Any money in the expense fund  
 5 available for investment shall be invested by the state investment  
 6 officer pursuant to the Nebraska Capital Expansion Act and the  
 7 Nebraska State Funds Investment Act.

8 Sec. 3. Original sections 85-1802 and 85-1807, Reissue  
 9 Revised Statutes of Nebraska, are repealed.

10 Sec. 4. The following section is outright repealed:  
 11 Section 85-1803, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 530.** Placed on General File with amendment.  
 AM376

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

- 3 Section 1. Section 79-1102.01, Reissue Revised Statutes  
 4 of Nebraska, is amended to read:  
 5 79-1102.01 For school ~~year~~ years 2008-09 and 2009-10, any  
 6 early childhood education program as defined in section 79-1101  
 7 established by a school board or an educational service unit that  
 8 is not receiving a grant pursuant to section 79-1103 or funding  
 9 through the Tax Equity and Educational Opportunities Support Act  
 10 may enroll children who meet the age requirements to be enrolled  
 11 in kindergarten pursuant to section 79-214, but who are not then  
 12 enrolled in kindergarten and who are not of mandatory attendance  
 13 age pursuant to section 79-201.  
 14 Sec. 2. Original section 79-1102.01, Reissue Revised  
 15 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 387.** Indefinitely postponed.

**LEGISLATIVE BILL 534.** Indefinitely postponed.

(Signed) Greg Adams, Chairperson

Judiciary

**LEGISLATIVE BILL 208.** Placed on General File.

**LEGISLATIVE BILL 354.** Placed on General File.

**LEGISLATIVE BILL 292.** Placed on General File with amendment.  
 AM496

- 1 1. Insert the following new sections:  
 2 Sec. 20. Section 84-907.03, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 84-907.03 There is hereby created the Secretary of State  
 5 Administration Cash Fund. The fund shall consist of revenue  
 6 received to defray costs as authorized in sections 84-901 to  
 7 84-908. The revenue shall be collected by the Secretary of State  
 8 and remitted to the State Treasurer for credit to the fund. The  
 9 fund shall be used to (1) offset expenses incurred as a result of  
 10 such sections, ~~and~~ (2) administer the Address Confidentiality Act,  
 11 and (3) administer the Nebraska Uniform Athlete Agents Act.  
 12 Any money in the fund available for investment shall be  
 13 invested by the state investment officer pursuant to the Nebraska  
 14 Capital Expansion Act and the Nebraska State Funds Investment Act.  
 15 Sec. 23. Original section 84-907.03, Reissue Revised  
 16 Statutes of Nebraska, is repealed.  
 17 2. On page 11, line 7, after the period insert "Such fees  
 18 shall be collected by the Secretary of State and remitted to the  
 19 State Treasurer for credit to the Secretary of State Administration  
 20 Cash Fund.".  
 21 3. Renumber the remaining sections accordingly.

(Signed) Brad Ashford, Chairperson

## Natural Resources

**LEGISLATIVE BILL 483.** Placed on General File with amendment. AM502 is available in the Bill Room.

(Signed) Chris Langemeier, Chairperson

## Revenue

**LEGISLATIVE BILL 112.** Placed on General File.

(Signed) Abbie Cornett, Chairperson

**AMENDMENT - Print in Journal**

Senator Rogert filed the following amendment to LB260:  
AM524

(Amendments to Standing Committee amendments, AM456)

- 1 1. Insert the following new sections:
- 2 Sec. 13. Section 81-8,210, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 81-8,210 For purposes of the State Tort Claims Act:
- 5 (1) State agency includes all departments, agencies,
- 6 boards, bureaus, and commissions of the State of Nebraska and
- 7 corporations the primary function of which is to act as, and
- 8 while acting as, instrumentalities or agencies of the State of
- 9 Nebraska but shall not include corporations that are essentially
- 10 private corporations or entities created pursuant to the Interlocal
- 11 Cooperation Act or the Joint Public Agency Act. State agency does
- 12 not include any contractor with the State of Nebraska;
- 13 (2) State Claims Board means the board created by section
- 14 81-8,220;
- 15 (3) Employee of the state means any one or more officers
- 16 or employees of the state or any state agency and shall include
- 17 duly appointed members of boards or commissions when they are
- 18 acting in their official capacity. State employee does not include
- 19 any employee of an entity created pursuant to the Interlocal
- 20 Cooperation Act or the Joint Public Agency Act or any contractor
- 21 with the State of Nebraska;
- 22 (4) Tort claim means any claim against the State of
- 1 Nebraska for money only on account of damage to or loss of property
- 2 or on account of personal injury or death caused by the negligent
- 3 or wrongful act or omission of any employee of the state, while
- 4 acting within the scope of his or her office or employment, under
- 5 circumstances in which the state, if a private person, would be
- 6 liable to the claimant for such damage, loss, injury, or death but
- 7 does not include any claim accruing before January 1, 1970, ~~and any~~
- 8 claim against an employee of the state for money only on account

9 of damage to or loss of property or on account of personal injury  
10 or death caused by the negligent or wrongful act or omission of  
11 the employee while acting within the scope of his or her employment  
12 occurring on or after August 25, 1989, and any claim allowed under  
13 the Nebraska Claims for Wrongful Conviction and Imprisonment Act;  
14 (5) Award means any amount determined by the Risk Manager  
15 or State Claims Board to be payable to a claimant under section  
16 81-8,211 or the amount of any compromise or settlement under  
17 section 81-8,218; and  
18 (6) Risk Manager means the Risk Manager appointed under  
19 section 81-8,239.01.  
20 Sec. 14. Original section 81-8,210, Reissue Revised  
21 Statutes of Nebraska, is repealed.  
22 2. On page 2, strike beginning with "All" in line 24  
23 through line 27.

## ANNOUNCEMENT

Senator Langemeier designates LB483 as his priority bill.

## RESOLUTION

**LEGISLATIVE RESOLUTION 39.** Introduced by Gloor, 35.

WHEREAS, Grand Island Senior High School won the Class A team title at the 2009 State Wrestling Championship, the school's first team title since 1973; and

WHEREAS, Grand Island Senior High School scored 252.5 points, outscoring the runner-up by 107 points. The team's point total set a new Class A state record; and

WHEREAS, Grand Island Senior High School had twelve individual medalists. Four wrestlers won individual state titles, including Andrew Riedy, Blake Fruchtl, Alec Chanthapatheth, and Nate Westerby. Other medalists included Riley Allen, Carlos Rodriguez, Mathew Rice, Mike Bolan, Beau Jepson, Cory Frankenberg, Coleman Westerby, and Alan Taylor; and

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

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

1. That the Legislature congratulates Grand Island Senior High School on winning the Class A team title at the 2009 State Wrestling Championship.

2. That a copy of this resolution be sent to the Grand Island Senior High School wrestling team and their coaches.

Laid over.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on February 27, 2009, at 11:37 a.m. were the following: LBs 5, 7, 20e, 28, 32e, 48e, 53, 55, 74e, 91, 102, 120, 135e, 201e, 259e, and 331e.

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

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Price asked unanimous consent to add his name as cointroducer to LB98. No objections. So ordered.

Senator McCoy asked unanimous consent to add his name as cointroducer to LB647. No objections. So ordered.

**WITHDRAW - Cointroducer**

Senator Schilz withdrew his name as cointroducer to LB184.

**VISITORS**

Visitors to the Chamber were Congressman Adrian Smith from Gering; Ryan Johnson from Omaha; members of the Attorney General's Youth Advisory Council from across the state; Ed and Janese Ericson from North Platte; Austin Lutz and Lori Pankonin from Imperial; and Paul Rieken from Beatrice.

The Doctor of the Day was Dr. Dorothy Zink from Omaha.

**ADJOURNMENT**

At 11:51 a.m., on a motion by Senator Fischer, the Legislature adjourned until 10:00 a.m., Monday, March 2, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**THIRTY-SIXTH DAY - MARCH 2, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****THIRTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 2, 2009

**PRAYER**

The prayer was offered by Pastor Darin Corder, Bennet Community Church, Bennet.

**ROLL CALL**

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

The roll was called and all members were present except Senators Nordquist and Schilz who were excused; and Senators Adams, Dierks, and Heidemann who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-fifth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 110.** Placed on Select File with amendment.  
ER8025

- 1 1. In the Standing Committee amendments, AM181, on page
- 2 6, line 6, strike "plate" and insert "plates".
- 3 2. On page 1, line 3, after "60-3,128," insert
- 4 "60-3,129,"; strike beginning with "to" in line 6 through the first
- 5 semicolon in line 7; in line 8 after the last semicolon insert
- 6 "and"; and strike beginning with the semicolon in line 9 through
- 7 "2008" in line 11.

**LEGISLATIVE BILL 110A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

## COMMITTEE REPORTS

## Revenue

**LEGISLATIVE BILL 121.** Placed on General File with amendment.  
AM530

1 1. Insert the following new section:

2 Section 1. Section 13-519, Revised Statutes Cumulative  
3 Supplement, 2008, is amended to read:  
4 13-519 (1)(a) Subject to subdivisions (1)(b) and (c) of  
5 this section, for all fiscal years beginning on or after July  
6 1, 1998, no governmental unit shall adopt a budget containing  
7 a total of budgeted restricted funds more than the last prior  
8 year's total of budgeted restricted funds plus allowable growth  
9 plus the basic allowable growth percentage of the base limitation  
10 established under section 77-3446. For the second fiscal year in  
11 which a county will receive a full year of receipts from the  
12 tax imposed in sections 77-27,223 to 77-27,227, the prior year's  
13 total of restricted funds shall be the prior year's total of  
14 restricted funds plus the total receipts from the tax imposed in  
15 sections 77-27,223 to 77-27,227 in the prior year. For fiscal years  
16 2010-11, 2011-12, and 2012-13 in which a county will reassume the  
17 assessment function pursuant to section 77-1340 or section 8 of  
18 this act, the prior year's total of restricted funds shall be the  
19 prior year's total of restricted funds plus the total budgeted  
20 for the reassumption of the assessment function. If a governmental  
21 unit transfers the financial responsibility of providing a service  
22 financed in whole or in part with restricted funds to another  
23 governmental unit or the state, the amount of restricted funds  
1 associated with providing the service shall be subtracted from  
2 the last prior year's total of budgeted restricted funds for the  
3 previous provider and may be added to the last prior year's total  
4 of restricted funds for the new provider. For governmental units  
5 that have consolidated, the calculations made under this section  
6 for consolidating units shall be made based on the combined total  
7 of restricted funds, population, or full-time equivalent students  
8 of each governmental unit.

9 (b) For all fiscal years beginning on or after July 1,  
10 2005, the last prior year's total of budgeted restricted funds  
11 shall be increased for a community college area by adding to such  
12 area's fiscal year base-year revenue the amount of revenue to be  
13 collected under subdivision (2)(c) of section 85-1517 that is in  
14 excess of the amount budgeted under this subdivision in the prior  
15 fiscal year.

16 (c) For all fiscal years beginning on or after July  
17 1, 2008, educational service units may exceed the limitations  
18 of subdivision (1)(a) of this section to the extent that one  
19 hundred ten percent of the needs for the educational service unit  
20 calculated pursuant to section 79-1241.03 exceeds the budgeted  
21 restricted funds allowed pursuant to subdivision (1)(a) of this

22 section.

23 (2) A governmental unit may exceed the limit provided in  
24 subdivisions (1)(a) and (b) of this section for a fiscal year by up  
25 to an additional one percent upon the affirmative vote of at least  
26 seventy-five percent of the governing body.

27 (3) A governmental unit may exceed the applicable  
1 allowable growth percentage otherwise prescribed in this section  
2 by an amount approved by a majority of legal voters voting on  
3 the issue at a special election called for such purpose upon the  
4 recommendation of the governing body or upon the receipt by the  
5 county clerk or election commissioner of a petition requesting an  
6 election signed by at least five percent of the legal voters of  
7 the governmental unit. The recommendation of the governing body  
8 or the petition of the legal voters shall include the amount  
9 and percentage by which the governing body would increase its  
10 budgeted restricted funds for the ensuing year over and above  
11 the current year's budgeted restricted funds. The county clerk or  
12 election commissioner shall call for a special election on the  
13 issue within fifteen days after the receipt of such governing body  
14 recommendation or legal voter petition. The election shall be held  
15 pursuant to the Election Act, and all costs shall be paid by the  
16 governing body. The issue may be approved on the same question as a  
17 vote to exceed the levy limits provided in section 77-3444.

18 (4) In lieu of the election procedures in subsection (3)  
19 of this section, any governmental unit may exceed the allowable  
20 growth percentage otherwise prescribed in this section by an amount  
21 approved by a majority of legal voters voting at a meeting of  
22 the residents of the governmental unit, called after notice is  
23 published in a newspaper of general circulation in the governmental  
24 unit at least twenty days prior to the meeting. At least ten  
25 percent of the registered voters residing in the governmental unit  
26 shall constitute a quorum for purposes of taking action to exceed  
27 the allowable growth percentage. If a majority of the registered  
1 voters present at the meeting vote in favor of exceeding the  
2 allowable growth percentage, a copy of the record of that action  
3 shall be forwarded to the Auditor of Public Accounts along with  
4 the budget documents. The issue to exceed the allowable growth  
5 percentage may be approved at the same meeting as a vote to exceed  
6 the limits or final levy allocation provided in section 77-3444.

7 2. On page 25, line 11, strike "2, 3, 4, 12, and 14" and  
8 insert "3, 4, 5, 13, and 15"; in line 18 after "sections" insert  
9 "13-519,".

10 3. Renumber the remaining sections and correct internal  
11 references accordingly.

(Signed) Abbie Cornett, Chairperson

## Education

**LEGISLATIVE BILL 206.** Placed on General File with amendment.  
AM512

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

3 Section 1. Sections 1 to 6 of this act shall be known and  
4 may be cited as the In the Line of Duty Dependent Education Act.

5 Sec. 2. The Legislature finds and declares that:

6 (1) Nebraska's law enforcement officers and firefighters  
7 place their lives at risk in the line of duty to protect the  
8 citizens and property of this state;

9 (2) The services performed by Nebraska law enforcement  
10 officers and firefighters are necessary for the protection of the  
11 citizens and property of this state;

12 (3) Nebraska law enforcement officers and firefighters  
13 have lost or may lose their lives in the performance of their  
14 official duties; and

15 (4) Nebraska law enforcement officers and firefighters  
16 perform dangerous and hazardous acts in order to protect the  
17 citizens and property of this state.

18 It is the intent of the Legislature to recognize the  
19 ultimate sacrifice made by Nebraska law enforcement officers and  
20 firefighters who are killed in the line of duty on or after the  
21 effective date of this act by providing a postsecondary educational  
22 benefit for their surviving children to attend state universities,  
23 state colleges, and community colleges located in Nebraska.

1 Sec. 3. For purposes of the In the Line of Duty Dependent  
2 Education Act:

3 (1) Associate degree program means a degree program at  
4 a community college, state college, or state university which  
5 typically requires completion of an organized program of study of  
6 at least sixty semester credit hours or an equivalent that can be  
7 shown to accomplish the same goal. Associate degree program does  
8 not include a baccalaureate degree program;

9 (2) Baccalaureate degree program means a degree program  
10 at a community college, state college, or state university which  
11 typically requires completion of an organized program of study of  
12 at least one hundred twenty semester credit hours or an equivalent  
13 that can be shown to accomplish the same goal;

14 (3) Child means a resident or nonresident of Nebraska who  
15 is the child by birth or adoption of a Nebraska law enforcement  
16 officer killed in the line of duty or a Nebraska firefighter killed  
17 in the line of duty;

18 (4) Community college means a public postsecondary  
19 educational institution which is part of the community college  
20 system and includes all branches and campuses of such institution  
21 located within the State of Nebraska;

22 (5) Education benefit means the In the Line of Duty

23 Dependent Education Benefit established under section 4 of this  
24 act;

25 (6) Fatal injury means an event occurring in the line of  
26 duty which is a proximate cause in the death of a law enforcement  
27 officer or firefighter;

1 (7) Firefighter means a member of a paid or volunteer  
2 fire department in Nebraska, including a member of a rescue squad  
3 associated with a paid or volunteer fire department in Nebraska,  
4 and a member of an emergency medical services ambulance squad;

5 (8) Law enforcement officer means any person who is  
6 responsible for the prevention or detection of crime or the  
7 enforcement of the penal, traffic, or highway laws of the State of  
8 Nebraska or any political subdivision of the state for more than  
9 one hundred hours per year and who is authorized by law to make  
10 arrests;

11 (9) Line of duty means any action that a Nebraska law  
12 enforcement officer or firefighter is authorized or obligated by  
13 law, rule, or regulation to perform, related to or as a condition  
14 of employment or service;

15 (10) State college means a public postsecondary  
16 educational institution which is part of the Nebraska state college  
17 system and includes all branches and campuses of such institution  
18 located within the State of Nebraska;

19 (11) State university means a public postsecondary  
20 educational institution which is part of the University of Nebraska  
21 and includes all branches and campuses of such institution located  
22 within the State of Nebraska;

23 (12) Tuition and fees means the charges and cost of  
24 tuition and fees as set by the governing body of a state  
25 university, state college, or community college; and

26 (13) Volunteer fire department means a volunteer  
27 department as defined in section 35-1303 located in Nebraska which  
provides fire protection services within Nebraska.

2 Sec. 4. (1) The In the Line of Duty Dependent Education  
3 Benefit is established for children of law enforcement officers  
4 and firefighters killed in the line of duty. In order for a child  
5 to be eligible for the benefit, the law enforcement officer or  
6 firefighter must have incurred the fatal injury on or after the  
7 effective date of this act.

8 (2) Notwithstanding the provisions of this section, a  
9 death that occurs as the direct and proximate result of a  
10 preexisting physical condition, disease, or illness shall be  
11 excluded from eligibility under this section unless the aggravation  
12 of such condition, disease, or illness caused by being in the line  
13 of duty was a direct and proximate cause of death.

14 (3) Any child who is the child of a law enforcement  
15 officer killed in the line of duty as provided in subsection (1)  
16 of this section or of a firefighter killed in the line of duty  
17 as provided in such subsection shall be eligible for the education

18 benefit if the child is twenty-five years of age or younger. An  
19 eligible child shall meet all admission requirements of the state  
20 university, state college, or community college to which he or she  
21 is applying.

22 (4) The education benefit shall be provided only for  
23 full-time undergraduate students who are pursuing studies leading  
24 to a degree from an associate degree program or a baccalaureate  
25 degree program. The eligible child may receive the education  
26 benefit for up to five years if he or she otherwise continues to be  
27 eligible for participation. All education benefits received under  
1 the In the Line of Duty Dependent Education Act shall cease when  
2 the eligible child reaches twenty-six years of age.

3 (5) A child becomes eligible for the education benefit  
4 after he or she has applied for federal financial aid grants and  
5 state scholarships and grants to cover tuition and fees. The child  
6 must provide a record of application for such financial aid to the  
7 state university, state college, or community college to which he  
8 or she is applying.

9 (6) The state university, state college, or community  
10 college shall waive tuition and fees remaining due after  
11 subtracting awarded federal financial aid grants and state  
12 scholarships and grants for an eligible child during the time the  
13 child is enrolled as a full-time student. To remain eligible,  
14 the child must comply with all requirements of the institution  
15 for continued attendance and award of an associate degree or a  
16 baccalaureate degree.

17 (7) An application for an education benefit shall include  
18 a certified copy of the eligible child's birth certificate or  
19 applicable adoption record and verification of the death of the law  
20 enforcement officer or firefighter who was the child's parent.

21 (8) Verification of the death of the law enforcement  
22 officer or firefighter shall be made by obtaining a certificate  
23 of eligibility from the following sources: (a) Certificates of  
24 eligibility for the children of law enforcement officers shall  
25 be obtained from the Superintendent of Law Enforcement and  
26 Public Safety; (b) certificates of eligibility for the children  
27 of firefighters, except as provided in subdivision (c) of this  
1 subsection, shall be obtained from the State Fire Marshal; and (c)  
2 certificates of eligibility for the children of emergency medical  
3 services ambulance squads that are not associated with a paid or  
4 volunteer fire department shall be obtained from the Department of  
5 Health and Human Services.

6 (9) Within forty-five days after receipt of a completed  
7 application, the state university, state college, or community  
8 college shall send written notice of the applicant's eligibility or  
9 ineligibility for the education benefit. If the child is determined  
10 not to be eligible for the benefit, the notice shall include  
11 the reason or reasons for such determination and an indication  
12 that an appeal of the determination may be made pursuant to the

13 Administrative Procedure Act.

14 (10) Upon a determination of eligibility for the child to  
 15 obtain the education benefit, the state university, state college,  
 16 or community college is prohibited from charging the child, the  
 17 child's surviving parent, or the child's guardian any tuition or  
 18 fees as long as the child remains eligible.

19 Sec. 5. Each state university, state college, or  
 20 community college shall adopt the procedures, rules, and  
 21 regulations necessary to carry out the In the Line of Duty  
 22 Dependent Education Act.

23 Sec. 6. A finding that a student qualifies for an  
 24 education benefit pursuant to the In Line of Duty Dependent  
 25 Education Act shall not be admissible as evidence for any other  
 26 purpose.

27 Sec. 7. Since an emergency exists, this act takes effect  
 1 when passed and approved according to law.

(Signed) Greg Adams, Chairperson

Judiciary

**LEGISLATIVE BILL 356.** Placed on General File with amendment.  
 AM529

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

3 Section 1. It is the intent of the Legislature to  
 4 appropriate from the General Fund fifteen million dollars for  
 5 fiscal year 2009-10 and fifteen million dollars for fiscal year  
 6 2010-11 to the Department of Health and Human Services - Behavioral  
 7 Health, Program 38, Behavioral Health Aid, for behavioral health  
 8 services for children under the Nebraska Behavioral Health  
 9 Services Act. Such services shall include, but not be limited  
 10 to, the expansion of the Professional Partners Program and  
 11 services provided on a sliding-fee schedule basis. General Funds  
 12 appropriated pursuant to this section shall be excluded from the  
 13 calculation of county matching funds under subsection (3) of  
 14 section 71-808, shall be allocated to the regional behavioral  
 15 health authorities, and shall be distributed based on the 2008  
 16 allocation formula.

17 Sec. 2. Section 71-804, Revised Statutes Cumulative  
 18 Supplement, 2008, is amended to read:

19 71-804 For purposes of the Nebraska Behavioral Health  
 20 Services Act:

21 (1) Behavioral health disorder means mental illness  
 22 or alcoholism, drug abuse, problem gambling, or other addictive  
 23 disorder;

1 (2) Behavioral health region means a behavioral health  
 2 region established in section 71-807;

3 (3) Behavioral health services means services,

4 including, but not limited to, consumer-provided services, support  
 5 services, inpatient and outpatient services, and residential and  
 6 nonresidential services, provided for the prevention, diagnosis,  
 7 and treatment of behavioral health disorders and the rehabilitation  
 8 and recovery of persons with such disorders;

9 (4) Children means Nebraska residents under nineteen  
 10 years of age;

11 ~~(4)-(5)~~ Community-based behavioral health services or  
 12 community-based services means behavioral health services that are  
 13 not provided at a regional center;

14 ~~(5)-(6)~~ Department means the Department of Health and  
 15 Human Services;

16 ~~(6)-(7)~~ Director means the Director of Behavioral Health;

17 ~~(7)-(8)~~ Division means the Division of Behavioral Health  
 18 of the department;

19 ~~(8)-(9)~~ Medical assistance program means the program  
 20 established pursuant to the Medical Assistance Act;

21 ~~(9)-(10)~~ Public behavioral health system means the  
 22 statewide array of behavioral health services for children  
 23 and adults provided by the public sector or private sector  
 24 and supported in whole or in part with funding received and  
 25 administered by the department, including behavioral health  
 26 services provided under the medical assistance program;

27 ~~(10)-(11)~~ Regional center means one of the state  
 1 hospitals for the mentally ill designated in section 83-305;  
 2 and

3 ~~(11)-(12)~~ Regional center behavioral health services or  
 4 regional center services means behavioral health services provided  
 5 at a regional center.

6 Sec. 3. Section 71-808, Revised Statutes Cumulative  
 7 Supplement, 2008, is amended to read:

8 71-808 (1) A regional behavioral health authority shall  
 9 be established in each behavioral health region by counties acting  
 10 under provisions of the Interlocal Cooperation Act. Each regional  
 11 behavioral health authority shall be governed by a regional  
 12 governing board consisting of one county board member from each  
 13 county in the region. Board members shall serve for staggered  
 14 terms of three years and until their successors are appointed and  
 15 qualified. Board members shall serve without compensation but shall  
 16 be reimbursed for their actual and necessary expenses as provided  
 17 in sections 81-1174 to 81-1177.

18 (2) The regional governing board shall appoint a regional  
 19 administrator who shall be responsible for the administration  
 20 and management of the regional behavioral health authority. Each  
 21 regional behavioral health authority shall encourage and facilitate  
 22 the involvement of consumers in all aspects of service planning  
 23 and delivery within the region and shall coordinate such activities  
 24 with the office of consumer affairs within the division. Each  
 25 regional behavioral health authority shall establish and utilize



26 a regional advisory committee consisting of consumers, providers,  
 27 and other interested parties and may establish and utilize such  
 1 other task forces, subcommittees, or other committees as it deems  
 2 necessary and appropriate to carry out its duties under this  
 3 section.

4 (3) Each county in a behavioral health region shall  
 5 provide funding for the operation of the behavioral health  
 6 authority and for the provision of behavioral health services  
 7 in the region. The total amount of funding provided by counties  
 8 under this subsection shall be equal to one dollar for every three  
 9 dollars from the General Fund. The division shall annually certify  
 10 the total amount of county matching funds to be provided. At least  
 11 forty percent of such amount shall consist of local and county  
 12 tax revenue, and the remainder shall consist of other nonfederal  
 13 sources. The regional governing board of each behavioral health  
 14 authority, in consultation with all counties in the region, shall  
 15 determine the amount of funding to be provided by each county  
 16 under this subsection. Any General Funds transferred from regional  
 17 centers for the provision of community-based behavioral health  
 18 services after July 1, 2004, and funds appropriated pursuant to  
 19 this legislative bill shall be excluded from any calculation of  
 20 county matching funds under this subsection.

21 Sec. 4. Original sections 71-804 and 71-808, Revised  
 22 Statutes Cumulative Supplement, 2008, are repealed.

(Signed) Brad Ashford, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 260.** Title read. Considered.

Committee AM456, found on page 571, was considered.

Senator Rogert withdrew his amendment, AM524, found on page 606.

Senator Rogert offered the following amendment to the committee amendment:

AM545

1 1. Strike the original sections and all amendments  
 2 thereto and insert the following new sections:  
 3 Section 1. Sections 1 to 11 of this act shall be known  
 4 and may be cited as the Nebraska Claims for Wrongful Conviction and  
 5 Imprisonment Act.  
 6 Sec. 2. The Legislature finds that innocent persons who  
 7 have been wrongly convicted of crimes and subsequently imprisoned  
 8 have been uniquely victimized, have distinct problems reentering  
 9 society, and have difficulty achieving legal redress due to a  
 10 variety of substantive and technical obstacles in the law. The  
 11 Legislature also finds that such persons should have an available

12 avenue of redress. In light of the particular and substantial  
 13 horror of being imprisoned for a crime one did not commit,  
 14 the Legislature intends by enactment of the Nebraska Claims for  
 15 Wrongful Conviction and Imprisonment Act that persons who can  
 16 demonstrate that they were wrongfully convicted shall have a claim  
 17 against the state as provided in the act.

18 Sec. 3. In order to recover under the Nebraska Claims for  
 19 Wrongful Conviction and Imprisonment Act, the claimant shall prove  
 20 each of the following by a preponderance of the evidence:

21 (1) That he or she was convicted of one or more felony  
 22 crimes and subsequently sentenced to a term of imprisonment for  
 23 such felony crime or crimes and has served all or any part of the  
 1 sentence;

2 (2) That the Board of Pardons has pardoned the claimant  
 3 or that a court has vacated the conviction of the claimant based  
 4 upon a finding that the claimant was innocent of the felony crimes  
 5 for which he or she was convicted;

6 (3) That he or she did not commit or suborn perjury,  
 7 fabricate evidence, or otherwise make a false statement to cause  
 8 or bring about his or her conviction or the conviction of another.  
 9 However, neither a guilty plea, nor a confession or admission  
 10 coerced by law enforcement and later found to be false, constitutes  
 11 bringing about his or her own conviction; and

12 (4) Damages under section 4 of this act.

13 Sec. 4. (1) A claimant under the Nebraska Claims  
 14 for Wrongful Conviction and Imprisonment Act shall recover the  
 15 following damages found to directly result from the wrongful  
 16 conviction:

17 (a) For a loss of the claimant's freedom an amount equal  
 18 to twenty-five thousand dollars for each year of imprisonment or  
 19 fifty thousand dollars for each year spent on death row;

20 (b) Physical and emotional pain and suffering experienced  
 21 by the claimant to date and reasonably certain to be experienced in  
 22 the future;

23 (c) Lost wages and lost earning capacity;

24 (d) Medical expenses incurred in the treatment of the  
 25 claimant's injuries to date and reasonably certain to be incurred  
 26 in the future;

27 (e) The reasonable costs of necessary vocational  
 1 rehabilitation to restore the claimant's earning capacity to a  
 2 level equivalent to his or her earning capacity immediately prior  
 3 to the wrongful conviction; and

4 (f) Costs incurred with his or her criminal defense and  
 5 expenses related to establishing the claimant's innocence.

6 (2) The following costs shall not offset damages:

7 (a) Costs of imprisonment; and

8 (b) Value of any care or education provided to the  
 9 claimant while he or she is imprisoned.

10 (3) No damages shall be payable to the claimant for those

11 periods of time during which he or she was imprisoned for any  
12 unrelated criminal offense.

13 Sec. 5. Upon successful presentation of a claim under the  
14 Nebraska Claims for Wrongful Conviction and Imprisonment Act, the  
15 claimant shall receive an award of reasonable attorney's fees to be  
16 determined by the court.

17 Sec. 6. If the court finds that any property of the  
18 claimant was subjected to a lien pursuant to defense services  
19 rendered by the state to defend the client in connection with the  
20 criminal case that resulted in his or her wrongful conviction, the  
21 court shall extinguish the lien.

22 Sec. 7. The Board of Pardons, upon the issuance of a  
23 full pardon on or after the effective date of this act, shall  
24 provide a copy of the Nebraska Claims for Wrongful Conviction and  
25 Imprisonment Act at the time the pardon is issued to the individual  
26 pardoned. The individual shall acknowledge, in writing, his or  
27 her receipt of a copy of the act on a form established by the  
1 board, which acknowledgement shall be retained on file by the board  
2 as part of its official records and shall be admissible in any  
3 proceeding filed by a claimant under the act.

4 Sec. 8. (1) Upon obtaining a postconviction exoneration  
5 for actual innocence through either a pardon based on innocence  
6 from an erroneous felony conviction or a judicial order vacating or  
7 reversing an erroneous felony conviction, a person may petition the  
8 district court in which the erroneous felony conviction occurred  
9 for an order to expunge all records of the erroneous felony  
10 conviction. The petition shall be accompanied by a certified  
11 copy of the pardon or judicial order vacating or reversing the  
12 erroneous felony conviction. The petitioner shall serve a copy of  
13 the petition on the county attorney of the county in which the  
14 erroneous felony conviction occurred. If the county attorney files  
15 no objection to the petition, the court may grant the petition.

16 (2) If the county attorney files an objection to the  
17 petitioner's request for expunging the criminal record of the  
18 erroneous felony conviction, the court shall conduct a hearing on  
19 the matter.

20 (3) If a court determines that the petition is warranted  
21 and orders the expunction of all records pertaining to the  
22 petitioner's erroneous felony conviction, a law enforcement agency  
23 may gain access to such person's expunged records only with a court  
24 order upon good cause showing that access to the expunged records  
25 is required for the performance of official law enforcement duties.

26 (4) If a court determines that the petition is warranted  
27 and orders the expunction of all records pertaining to the  
1 petitioner's erroneous felony conviction, the court shall notify  
2 the Nebraska State Patrol and any other law enforcement agency to  
3 expunge all records pertaining to the petitioner's erroneous felony  
4 conviction.

5 (5) The Nebraska State Patrol, any other law enforcement

6 agency involved, and the court shall provide written notice of the  
 7 expunction by certified mail to the petitioner.

8 (6) A person who obtains a court order to expunge all  
 9 records pertaining to such person's erroneous felony conviction may  
 10 lawfully answer and swear under oath that an arrest, prosecution,  
 11 or conviction pertaining to the erroneous conviction never  
 12 occurred.

13 (7) Any party may appeal a final order granting or  
 14 denying the expunction of records pertaining to the erroneous  
 15 felony conviction.

16 Sec. 9. Nothing contained in the Nebraska Claims for  
 17 Wrongful Conviction and Imprisonment Act shall preclude the state  
 18 from providing services to the claimant upon exoneration and the  
 19 reasonable value of services provided shall be treated as an  
 20 advance against any award or judgment.

21 Sec. 10. Claims brought pursuant to the Nebraska Claims  
 22 for Wrongful Conviction and Imprisonment Act shall be made under  
 23 the State Tort Claims Act.

24 Sec. 11. Nothing in the Nebraska Claims for Wrongful  
 25 Conviction and Imprisonment Act shall limit the claimant from  
 26 making any other claim available against any other party or based  
 27 upon any other theory of recovery.

1 Sec. 12. Section 81-8,210, Reissue Revised Statutes of  
 2 Nebraska, is amended to read:

3 81-8,210 For purposes of the State Tort Claims Act:

4 (1) State agency includes all departments, agencies,  
 5 boards, bureaus, and commissions of the State of Nebraska and  
 6 corporations the primary function of which is to act as, and  
 7 while acting as, instrumentalities or agencies of the State of  
 8 Nebraska but shall not include corporations that are essentially  
 9 private corporations or entities created pursuant to the Interlocal  
 10 Cooperation Act or the Joint Public Agency Act. State agency does  
 11 not include any contractor with the State of Nebraska;

12 (2) State Claims Board means the board created by section  
 13 81-8,220;

14 (3) Employee of the state means any one or more officers  
 15 or employees of the state or any state agency and shall include  
 16 duly appointed members of boards or commissions when they are  
 17 acting in their official capacity. State employee does not include  
 18 any employee of an entity created pursuant to the Interlocal  
 19 Cooperation Act or the Joint Public Agency Act or any contractor  
 20 with the State of Nebraska;

21 (4) Tort claim means any claim against the State of  
 22 Nebraska for money only on account of damage to or loss of property  
 23 or on account of personal injury or death caused by the negligent  
 24 or wrongful act or omission of any employee of the state, while  
 25 acting within the scope of his or her office or employment, under  
 26 circumstances in which the state, if a private person, would be  
 27 liable to the claimant for such damage, loss, injury, or death but

1 does not include any claim accruing before January 1, 1970, ~~and~~ any  
2 claim against an employee of the state for money only on account  
3 of damage to or loss of property or on account of personal injury  
4 or death caused by the negligent or wrongful act or omission of  
5 the employee while acting within the scope of his or her employment  
6 occurring on or after August 25, 1989, and any claim allowed under  
7 the Nebraska Claims for Wrongful Conviction and Imprisonment Act;

8 (5) Award means any amount determined by the Risk Manager  
9 or State Claims Board to be payable to a claimant under section  
10 81-8,211 or the amount of any compromise or settlement under  
11 section 81-8,218; and

12 (6) Risk Manager means the Risk Manager appointed under  
13 section 81-8,239.01.

14 Sec. 13. Section 81-8,227, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 81-8,227 (1) Except as provided in subsection (2) of this  
17 section, every ~~Every~~ tort claim permitted under the State Tort  
18 Claims Act shall be forever barred unless within two years after  
19 such claim accrued the claim is made in writing to the Risk Manager  
20 in the manner provided by such act. The time to begin suit under  
21 such act shall be extended for a period of six months from the date  
22 of mailing of notice to the claimant by the Risk Manager or State  
23 Claims Board as to the final disposition of the claim or from the  
24 date of withdrawal of the claim under section 81-8,213 if the time  
25 to begin suit would otherwise expire before the end of such period.

26 (2)(a) The date of a qualifying pardon from the Board of  
27 Pardons or a vacation of a conviction by a court shall be the date  
1 the claimant's claim shall accrue under the Nebraska Claims for  
2 Wrongful Conviction and Imprisonment Act for purposes of complying  
3 with the notice and filing requirements of the State Tort Claims  
4 Act.

5 (b) A claim for compensation brought under the Nebraska  
6 Claims for Wrongful Conviction and Imprisonment Act shall be filed  
7 within two years after either the grant of a pardon or the grant of  
8 judicial relief. Any action by the state challenging or appealing  
9 the grant of such judicial relief shall toll the two-year period.  
10 Persons convicted, incarcerated, and released from custody prior to  
11 the effective date of this act shall file a claim under the act  
12 within three years after the effective date of this act.

13 (c) In the event a claimant granted a full pardon on  
14 or after the effective date of this act shows he or she did not  
15 receive a copy of the information required by this section, he or  
16 she shall receive a one-year extension of the notice and statute of  
17 limitations requirements of the State Tort Claims Act.

18 (d) Notwithstanding any other provision of law, failure  
19 to file any applicable notice of claim shall not bar filing of a  
20 claim under the act.

21 (2)-(3) If a claim is made or filed under any other law  
22 of this state and a determination is made by a state agency or

23 court that the State Tort Claims Act provides the exclusive remedy  
 24 for the claim, the time to make a claim and begin suit under such  
 25 act shall be extended for a period of six months from the date of  
 26 the court order making such determination or the date of mailing  
 27 of notice to the claimant of such determination by a state agency  
 1 if the time to make the claim and to begin suit under such act  
 2 would otherwise expire before the end of such period. The time to  
 3 begin a suit under such act may be further extended as provided in  
 4 subsection (1) of this section.

5 ~~(3)~~(4) If a claim is brought under the Nebraska  
 6 Hospital-Medical Liability Act, the filing of a request for review  
 7 under section 44-2840 shall extend the time to begin suit under  
 8 the State Tort Claims Act an additional ninety days following the  
 9 issuance of the opinion by the medical review panel if the time to  
 10 begin suit under the State Tort Claims Act would otherwise expire  
 11 before the end of such ninety-day period.

12 ~~(4)~~(5) This section and section 25-213 shall constitute  
 13 the only statutes of limitations applicable to the State Tort  
 14 Claims Act.

15 Sec. 14. Original sections 81-8,210 and 81-8,227, Reissue  
 16 Revised Statutes of Nebraska, are repealed.

#### **SPEAKER FLOOD PRESIDING**

Pending.

#### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 29 and 30 were adopted.

#### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 29 and 30.

#### **GENERAL FILE**

**LEGISLATIVE BILL 260.** The Rogert amendment, AM545, found in this day's Journal, to the committee amendment, was renewed.

Pending.

**COMMITTEE REPORT**  
Enrollment and Review

**LEGISLATIVE BILL 204.** Placed on Final Reading Second.  
ST9010

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

1. In the Fischer amendment, AM429, on page 1, line 1, "the first" has been inserted after "after".

(Signed) Jeremy Nordquist, Chairperson

**NOTICE OF COMMITTEE HEARING**  
General Affairs

Room 1510

Monday, March 9, 2009 1:30 p.m.

Judy Pearl-Lee - Nebraska Arts Council

(Signed) Russ Karpisek, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 40.** Introduced by Harms, 48; Louden, 49.

WHEREAS, Celesta M. Allen will celebrate her 107th birthday on March 2, 2009; and

WHEREAS, Celesta Allen's birthday will be honored with an open house at the Northfield Villa in Gering, Nebraska, on March 7, 2009; and

WHEREAS, the celebration of Celesta Allen's 107th birthday is worthy of recognition by the Nebraska Legislature.

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

1. That the Legislature wishes Celesta M. Allen a very happy 107th birthday.

2. That a copy of this resolution be sent to Celesta M. Allen.

Laid over.

**LEGISLATIVE RESOLUTION 41.** Introduced by Giese, 17.

WHEREAS, John Kingsbury was appointed to the State Highway Commission in 1996 by Governor Ben Nelson and was reappointed by Governors Mike Johanns and Dave Heineman; and

WHEREAS, John Kingsbury was a tireless advocate for the communities of northeast Nebraska during his time as the commissioner for District No. 3; and

WHEREAS, John Kingsbury was instrumental in supporting the expansion of Nebraska Highway 35 and its designation as a planned expressway in the Nebraska expressway system; and

WHEREAS, John Kingsbury resigned from the State Highway Commission in December 2008 after twelve years of distinguished service.

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

1. That the Legislature recognizes and congratulates John Kingsbury for his many years of service on the State Highway Commission, commends his dedication to economic development in northeast Nebraska, and extends its best wishes for his continued happiness and success.

2. That a copy of this resolution be sent to John Kingsbury.

Laid over.

### COMMITTEE REPORT

#### Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Robert Krohn - Nebraska Environmental Trust Board

Aye: 7 Senators Carlson, Cook, Dubas, Fischer, Haar, Langemeier, McCoy.  
Nay: 0. Absent: 1 Senator Schilz.

(Signed) Chris Langemeier, Chairperson

### AMENDMENTS - Print in Journal

Senator Lathrop filed the following amendment to LB260:  
AM549

(Amendments to AM545)

- 1 1. On page 1, line 20, strike "a preponderance of the"
- 2 and insert "clear and convincing".
- 3 2. On page 2, line 5, after the semicolon insert "and";
- 4 in line 11 strike "; and" and insert an underscored period; strike
- 5 line 12; and in line 15 after "found" insert "by a preponderance of
- 6 the evidence".
- 7 3. On page 8, line 20, strike "act" and insert "Nebraska
- 8 Claims for Wrongful Conviction and Imprisonment Act".



Senator Wallman filed the following amendment to LB260:

FA15

Amend AM545

On page 2, line 18, strike "twenty-five" and insert "ten".

#### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Sullivan asked unanimous consent to add her name as cointroducer to LB153. No objections. So ordered.

Senator Cornett asked unanimous consent to add her name as cointroducer to LB675. No objections. So ordered.

#### **WITHDRAW - Cointroducer**

Senator Sullivan withdrew her name as cointroducer to LB666.

#### **VISITORS**

Visitors to the Chamber were 30 fourth-grade students and teachers from York.

The Doctor of the Day was Dr. Andrea VerMaas from Blair.

#### **ADJOURNMENT**

At 12:01 p.m., on a motion by Senator Mello, the Legislature adjourned until 9:00 a.m., Tuesday, March 3, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**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



**THIRTY-EIGHTH DAY - MARCH 4, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****THIRTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, March 4, 2009

**PRAYER**

The prayer was offered by Pastor Clayton Lundstedt, Wymore Church of Christ, Wymore.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Ashford, Avery, Cornett, Friend, Harms, and White who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-seventh day was approved.

**MOTION - Print in Journal**

Senator Fulton filed the following motion to LR7:  
MO20  
Withdraw resolution.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 32, 33, and 34 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 32, 33, and 34.

**MOTION - Approve Appointment**

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 624:

Nebraska Environmental Trust Board  
Robert Krohn

Voting in the affirmative, 35:

Adams	Dubas	Hadley	McCoy	Price
Campbell	Fischer	Hansen	McGill	Rogert
Carlson	Flood	Howard	Mello	Schilz
Christensen	Fulton	Karpisek	Nelson	Stuthman
Coash	Gay	Langemeier	Nordquist	Sullivan
Cook	Giese	Lautenbaugh	Pahls	Wallman
Council	Gloor	Louden	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 8:

Dierks	Heidemann	Lathrop	Pankonin
Haar	Janssen	Nantkes	Utter

Excused and not voting, 6:

Ashford	Cornett	Harms
Avery	Friend	White

The appointment was confirmed with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

**AMENDMENT - Print in Journal**

Senator Lathrop filed the following amendment to LB260:  
FA21  
Amend AM545  
Strike Sec. 14.

**GENERAL FILE**

**LEGISLATIVE BILL 260.** Committee AM456, found on page 571 and considered on page 617, as amended, was renewed.

Senator Fulton renewed his amendment, AM556, found on page 641, to the committee amendment.

Senator Fulton withdrew and refiled his amendment, AM556.

Senator Lautenbaugh withdrew his amendments, FA16 and FA17, found on page 641.

Senator Gloor withdrew and refiled his amendment, AM567, found on page 642.

Senator Pirsch withdrew his amendment, FA18, found on page 642.

Senator Lautenbaugh withdrew and refiled his amendment, AM572, found on page 642.

Senator Pirsch withdrew his amendments, FA19 and FA20, found on page 642.

Senator Carlson offered the following amendment to the committee amendment:

AM577

(Amendments to AM545)

- 1 1. On page 2, after line 16, insert the following new
- 2 subdivision:
- 3 "(a)(i) For a loss of the claimant's freedom an
- 4 amount equal to twenty-five thousand dollars for each year of
- 5 imprisonment, if the time of imprisonment is twenty years or more,
- 6 or fifty thousand dollars for each year spent on death row, if the
- 7 time spent on death row is ten years or more;
- 8 (ii) Physical and emotional pain and suffering
- 9 experienced by the claimant to date and reasonably certain to be
- 10 experienced in the future; and
- 11 (iii) Lost wages and lost earning capacity;"; in
- 12 line 17 strike "(a)" and insert "(b)(i)(A)"; in line 18 after
- 13 "imprisonment" insert ", if the time of imprisonment is less than
- 14 twenty years."; in line 19 after "row" insert ", if the time spent
- 15 on death row is less than ten years"; in line 20 strike "(b)" and
- 16 insert "(B)"; in line 22 after the semicolon insert "and"; in line
- 17 23 strike "(c)" and insert "(C)" and after the semicolon insert
- 18 "and"; after line 23 insert the following new subdivision:
- 19 "(ii) The amounts awarded under subdivision (b) of this
- 20 subsection shall not total more than five hundred thousand dollars
- 21 combined; and"; in line 24 strike "(d)" and insert "(c)(i)(A)"; and
- 22 in line 27 strike "(e)" and insert "(B)".
- 1 2. On page 3, line 4, strike "(f)" and insert "(C)";
- 2 in line 5 strike the period and insert "; and"; and after line 5
- 3 insert the following new subdivision:
- 4 "(ii) The amounts awarded under subdivision (c) of this
- 5 subsection shall not total more than five hundred thousand dollars
- 6 combined."

Senator Carlson withdrew and refiled his amendment, AM577.

Senator Pirsch offered the following amendment to the committee amendment:

AM582

(Amendments to AM545)

- 1 1. On page 2, line 2, after "claimant" insert "based upon
- 2 an express written finding that the claimant was innocent of the
- 3 felony crimes for which he or she was convicted"; and in line 4,
- 4 strike "a" and insert "an express written".
- 5 2. On page 4, line 5, strike "based on" and insert
- 6 "with an express written finding of"; and in lines 6 and 7 strike
- 7 "vacating or reversing" and insert "with an express written finding
- 8 of innocence that vacates or reverses".

### SENATOR FISCHER PRESIDING

Senator Langemeier moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 1 nay, and 14 not voting.

Senator Pirsch moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

The Pirsch amendment lost with 11 ayes, 25 nays, 11 present and not voting, and 2 excused and not voting.

Committee AM456, found on page 571 and considered on page 617 and in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review Initial with 37 ayes, 6 nays, 4 present and not voting, and 2 excused and not voting.

### COMMITTEE REPORTS

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 402.** Placed on General File.

**LEGISLATIVE BILL 550.** Placed on General File.

**LEGISLATIVE BILL 361.** Placed on General File with amendment.

AM552

- 1 1. Strike the original sections and insert the following
- 2 sections:
- 3 Section 1. Section 79-1218, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:



5 79-1218 The board of each educational service unit shall  
6 meet and organize by naming one of its members as president, one  
7 as vice president, and one as secretary. The board shall employ a  
8 treasurer who shall be paid a salary to be fixed by the board.

9 The board of the educational service unit shall determine  
10 the participation of the educational service unit in providing  
11 supplementary educational services. If the board of the educational  
12 service unit does not provide supplementary educational services,  
13 it shall meet during each succeeding January to determine the  
14 participation in providing supplementary educational services  
15 for that calendar year. Meetings may be held by means of  
16 videoconferencing or telephone conference in accordance with  
17 subsections (2) and (3) of section 84-1411.

18 Sec. 2. Section 84-1411, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 84-1411 (1) Each public body shall give reasonable  
21 advance publicized notice of the time and place of each meeting  
22 by a method designated by each public body and recorded in its  
23 minutes. Such notice shall be transmitted to all members of the  
1 public body and to the public. Such notice shall contain an  
2 agenda of subjects known at the time of the publicized notice  
3 or a statement that the agenda, which shall be kept continually  
4 current, shall be readily available for public inspection at the  
5 principal office of the public body during normal business hours.  
6 Agenda items shall be sufficiently descriptive to give the public  
7 reasonable notice of the matters to be considered at the meeting.  
8 Except for items of an emergency nature, the agenda shall not  
9 be altered later than (a) twenty-four hours before the scheduled  
10 commencement of the meeting or (b) forty-eight hours before the  
11 scheduled commencement of a meeting of a city council or village  
12 board scheduled outside the corporate limits of the municipality.  
13 The public body shall have the right to modify the agenda to  
14 include items of an emergency nature only at such public meeting.

15 (2) A meeting of a state agency, state board, state  
16 commission, state council, or state committee, of an advisory  
17 committee of any such state entity, of an organization created  
18 under the Interlocal Cooperation Act, the Joint Public Agency  
19 Act, or the Municipal Cooperative Financing Act, of the governing  
20 body of a public power district having a chartered territory  
21 of more than fifty counties in this state, of a board of  
22 an educational service unit, or of the governing body of a  
23 risk management pool or its advisory committees organized in  
24 accordance with the Intergovernmental Risk Management Act may be  
25 held by means of videoconferencing or, in the case of the Judicial  
26 Resources Commission in those cases specified in section 24-1204,  
27 by telephone conference, if:

1 (a) Reasonable advance publicized notice is given;

2 (b) Reasonable arrangements are made to accommodate the  
3 public's right to attend, hear, and speak at the meeting, including

4 seating, recordation by audio or visual recording devices, and  
5 a reasonable opportunity for input such as public comment or  
6 questions to at least the same extent as would be provided if  
7 videoconferencing or telephone conferencing was not used;

8 (c) At least one copy of all documents being considered  
9 is available to the public at each site of the videoconference or  
10 telephone conference;

11 (d) At least one member of the state entity, advisory  
12 committee, board, or governing body is present at each site of the  
13 videoconference or telephone conference; and

14 (e) No more than one-half of the state entity's, advisory  
15 committee's, or governing body's meetings in a calendar year are  
16 held by videoconference or telephone conference.

17 Videoconferencing, telephone conferencing, or  
18 conferencing by other electronic communication shall not be used  
19 to circumvent any of the public government purposes established  
20 in the Open Meetings Act.

21 (3) A meeting of a board of an educational service  
22 unit, the governing body of an entity formed under the Interlocal  
23 Cooperation Act, the Joint Public Agency Act, or the Municipal  
24 Cooperative Financing Act, or of the governing body of a risk  
25 management pool or its advisory committees organized in accordance  
26 with the Intergovernmental Risk Management Act may be held by  
27 telephone conference call if:

1 (a) The territory represented by the educational service  
2 unit or member public agencies of the entity or pool covers more  
3 than one county;

4 (b) Reasonable advance publicized notice is given  
5 which identifies each telephone conference location at which an  
6 educational service unit board member or a member of the entity's  
7 or pool's governing body will be present;

8 (c) All telephone conference meeting sites identified in  
9 the notice are located within public buildings used by members of  
10 the educational service unit board or entity or pool or at a place  
11 which will accommodate the anticipated audience;

12 (d) Reasonable arrangements are made to accommodate the  
13 public's right to attend, hear, and speak at the meeting, including  
14 seating, recordation by audio recording devices, and a reasonable  
15 opportunity for input such as public comment or questions to  
16 at least the same extent as would be provided if a telephone  
17 conference call was not used;

18 (e) At least one copy of all documents being considered  
19 is available to the public at each site of the telephone conference  
20 call;

21 (f) At least one member of the educational service unit  
22 board or governing body of the entity or pool is present at each  
23 site of the telephone conference call identified in the public  
24 notice;

25 (g) The telephone conference call lasts no more than one

26 hour; and

27 (h) No more than one-half of the entity's or pool's  
1 meetings in a calendar year are held by telephone conference call,  
2 except that a governing body of a risk management pool that meets  
3 at least quarterly and the advisory committees of the governing  
4 body may each hold more than half of their meetings by telephone  
5 conference call if the governing body's quarterly meetings are not  
6 held by telephone conference call or videoconferencing.

7 Nothing in this subsection shall prevent the  
8 participation of consultants, members of the press, and  
9 other nonmembers of the governing body at sites not identified in  
10 the public notice. Telephone conference calls, emails, faxes, or  
11 other electronic communication shall not be used to circumvent any  
12 of the public government purposes established in the Open Meetings  
13 Act.

14 (4) The secretary or other designee of each public body  
15 shall maintain a list of the news media requesting notification  
16 of meetings and shall make reasonable efforts to provide advance  
17 notification to them of the time and place of each meeting and the  
18 subjects to be discussed at that meeting.

19 (5) When it is necessary to hold an emergency meeting  
20 without reasonable advance public notice, the nature of the  
21 emergency shall be stated in the minutes and any formal action  
22 taken in such meeting shall pertain only to the emergency.  
23 Such emergency meetings may be held by means of electronic or  
24 telecommunication equipment. The provisions of subsection (4)  
25 of this section shall be complied with in conducting emergency  
26 meetings. Complete minutes of such emergency meetings specifying  
27 the nature of the emergency and any formal action taken at the  
1 meeting shall be made available to the public by no later than the  
2 end of the next regular business day.

3 (6) A public body may allow a member of the public or  
4 any other witness other than a member of the public body to appear  
5 before the public body by means of video or telecommunications  
6 equipment.

7 Sec. 3. Section 84-1413, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 84-1413 (1) Each public body shall keep minutes of all  
10 meetings showing the time, place, members present and absent, and  
11 the substance of all matters discussed.

12 (2) Any action taken on any question or motion duly moved  
13 and seconded shall be by roll call vote of the public body in open  
14 session, and the record shall state how each member voted or if the  
15 member was absent or not voting. The requirements of a roll call  
16 or viva voce vote shall be satisfied by a municipality, a county,  
17 a joint entity created pursuant to the Interlocal Cooperation Act,  
18 a joint public agency created pursuant to the Joint Public Agency  
19 Act, or an agency formed under the Municipal Cooperative Financing  
20 Act which utilizes an electronic voting device which allows the

21 yeas and nays of each member of ~~the such county board,~~ city  
 22 council, ~~or~~ village board, or governing body to be readily seen by  
 23 the public.

24 (3) The vote to elect leadership within a public body may  
 25 be taken by secret ballot, but the total number of votes for each  
 26 candidate shall be recorded in the minutes.

27 (4) The minutes of all meetings and evidence and  
 1 documentation received or disclosed in open session shall be  
 2 public records and open to public inspection during normal business  
 3 hours.

4 (5) Minutes shall be written and available for inspection  
 5 within ten working days or prior to the next convened meeting,  
 6 whichever occurs earlier, except that cities of the second class  
 7 and villages may have an additional ten working days if the  
 8 employee responsible for writing the minutes is absent due to a  
 9 serious illness or emergency.

10 Sec. 4. Original sections 79-1218, 84-1411, and 84-1413,  
 11 Reissue Revised Statutes of Nebraska, are repealed.

**LEGISLATIVE BILL 422.** Placed on General File with amendment.  
 AM327

- 1 1. On page 4, strike beginning with "and" in line 23
- 2 through "Afghanistan" in line 24.

**LEGISLATIVE BILL 488.** Placed on General File with amendment.  
 AM504

- 1 1. On page 2, line 6, after "served" insert "on active
- 2 duty"; and in line 7 after "States" insert "other than active duty
- 3 for training".

**LEGISLATIVE BILL 501.** Placed on General File with amendment.  
 AM551

- 1 1. Insert the following new section:
- 2 Sec. 2. Section 32-607, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 32-607 All candidate filing forms shall contain the
- 5 following statement: I hereby swear that I will abide by the laws
- 6 of the State of Nebraska regarding the results of the primary and
- 7 general elections, that I am a registered voter and qualified to
- 8 be elected, and that I will serve if elected. Candidate filing
- 9 forms shall also contain the candidate's name; residence address;
- 10 mailing address if different from the residence address; telephone
- 11 number; office sought; and party affiliation if the office sought
- 12 is a partisan office. Candidate filing forms shall be filed with
- 13 the following filing officers:
- 14 (1) For candidates for national, state, or congressional
- 15 office, directors of public power and irrigation districts,
- 16 directors of reclamation districts, directors of natural resources
- 17 districts, members of the boards of educational service units,

18 members of governing boards of community colleges, delegates to  
 19 national conventions, and other offices filled by election held in  
 20 more than one county and judges desiring retention, in the office  
 21 of the Secretary of State;

22 (2) For officers elected within a county, in the office  
 23 of the election commissioner or county clerk. If the candidate is  
 1 not a resident of the county, he or she shall submit a certificate  
 2 of registration obtained under section 32-316 with the candidate  
 3 filing form;

4 (3) For officers in school districts which include land  
 5 in adjoining counties, in the office of the election commissioner  
 6 or county clerk of the county in which the greatest number of  
 7 registered voters entitled to vote for the officers reside. If the  
 8 candidate is not a resident of the county, he or she shall submit a  
 9 certificate of registration obtained under section 32-316 with the  
 10 candidate filing form; and

11 (4) For city or village officers, in the office of the  
 12 city or village clerk, except that in the case of joint elections,  
 13 the filing may be either in the office of the election commissioner  
 14 or county clerk or in the office of the city or village clerk with  
 15 deputized personnel. When the city or village clerk is deputized to  
 16 take filings, he or she shall return all filings to the office of  
 17 the election commissioner or county clerk by the end of the next  
 18 business day following the filing deadline.

19 2. On page 8, line 10, after "sections" insert "32-607,".

20 3. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 227.** Indefinitely postponed.

(Signed) Bill Avery, Chairperson

**NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Wednesday, March 11, 2009 1:30 p.m.

LB97  
 LB15  
 LB496  
 LB671  
 LB430

(Signed) Brad Ashford, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 43.** Introduced by Dierks, 40.

WHEREAS, the Ewing Tigers won the 2008 Class D-2 State Football Championship; and

WHEREAS, the Ewing Tigers achieved a 49-24 victory over a previously undefeated Humphrey St. Francis team in the Class D-2 championship game; and

WHEREAS, the Ewing Tigers were led by their quarterback, Brett Kaczor, who threw for three touchdowns and ran for three additional touchdowns during the championship game; and

WHEREAS, Ewing's defense was as impressive as its offense, with both teams agreeing that the Ewing defense made the big difference in the game and gave Ewing the victory; and

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

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

1. That the Legislature congratulates the Ewing Tigers on winning the 2008 Class D-2 State Football Championship.

2. That coach Brock Eichelberger be congratulated for his efforts in teaching, coaching, and providing guidance to the members of the Ewing Tigers football team.

3. That a copy of this resolution be sent to the Ewing Tigers football team and their coach, Brock Eichelberger.

Laid over.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 544A.** Introduced by Giese, 17.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 544, One Hundred First Legislature, First Session, 2009.

**ANNOUNCEMENTS**

The Banking, Commerce and Insurance Committee designates LB327 as its priority bill.

The Nebraska Retirement Systems Committee designates LB188 as its priority bill.

**GENERAL FILE**

**LEGISLATIVE BILL 307.** Title read. Considered.

**SPEAKER FLOOD PRESIDING**

**SENATOR LANGEMEIER PRESIDING**

Pending.

**COMMITTEE REPORTS**

Natural Resources

**LEGISLATIVE BILL 577.** Indefinitely postponed.

(Signed) Chris Langemeier, Chairperson

Business and Labor

**LEGISLATIVE BILL 51.** Indefinitely postponed.

(Signed) Steve Lathrop, Chairperson

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 356A.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 356, One Hundred First Legislature, First Session, 2009.

**ANNOUNCEMENT**

Senator Janssen designates LB111 as his priority bill.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Janssen asked unanimous consent to add his name as cointroducer to LB111. No objections. So ordered.

Senator Mello asked unanimous consent to add his name as cointroducer to LB136. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 20 twelfth-grade students and teacher from Lawrence-Nelson, Nelson; members of Bellevue Chamber of Commerce Leadership Group from Bellevue; 55 fourth-grade students and teachers from Morton Elementary, Lexington; and constituents from Madison County.

**ADJOURNMENT**

At 11:54 a.m., on a motion by Senator Pahls, the Legislature adjourned until 9:00 a.m., Thursday, March 5, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**THIRTY-NINTH DAY - MARCH 5, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****THIRTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 5, 2009

**PRAYER**

The prayer was offered by Pastor Jimmy Shelbourn, First Presbyterian Church, Beatrice.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Cook, Council, and Wightman who were excused; and Senators Ashford, Christensen, Cornett, Dierks, Friend, Schilz, and Sullivan who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-eighth day was approved.

**COMMITTEE REPORT**

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 273.** Placed on General File with amendment.  
AM550

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 33-117, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 33-117 (1) The several sheriffs shall charge and collect
- 6 fees at the rates specified in this section. The rates shall be
- 7 as follows: (a) Serving a capias with commitment or bail bond and
- 8 return, two dollars; (b) serving a search warrant, two dollars; (c)
- 9 arresting under a search warrant, two dollars for each person so
- 10 arrested; (d) unless otherwise specifically listed in subdivisions
- 11 (f) to (s) of this subsection, serving a summons, subpoena, order
- 12 of attachment, order of replevin, other order of the court, notice
- 13 of motion, other notice, other writ or document, or any combination

14 thereof, including any accompanying or attached documents, ~~ten~~  
 15 twelve dollars for each person served, except that when more than  
 16 one person is served at the same time and location in the same  
 17 case, the service fee shall be ~~ten-twelve~~ dollars for the first  
 18 person served at that time and location and ~~two-three~~ dollars ~~and~~  
 19 ~~fifty cents~~ for each other person served at that time and location;  
 20 (e) making a return of each summons, subpoena, order of attachment,  
 21 order of replevin, other order of the court, notice of motion,  
 22 other notice, or other writ or document, whether served or not,  
 23 ~~five-six~~ dollars; (f) taking and filing a replevin bond or other  
 1 indemnification to be furnished and approved by the sheriff, one  
 2 dollar; (g) making a copy of any process, bond, or other paper not  
 3 otherwise provided for in this section, twenty-five cents per page;  
 4 (h) traveling each mile actually and necessarily traveled within  
 5 or without their several counties in their official duties, three  
 6 cents more per mile than the rate provided in section 81-1176,  
 7 except that the minimum fee shall be fifty cents when the service  
 8 is made within one mile of the courthouse, and, as far as is  
 9 expedient, all papers in the hands of the sheriff at any one time  
 10 shall be served in one or more trips by the most direct route  
 11 or routes and only one mileage fee shall be charged for a single  
 12 trip, the total mileage cost to be computed as a unit for each  
 13 trip and the combined mileage cost of each trip to be prorated  
 14 among the persons or parties liable for the payment of same;  
 15 (i) levying a writ or a court order and return thereof, ~~fifteen~~  
 16 eighteen dollars; (j) summoning a grand jury, not including mileage  
 17 to be paid by the county, ten dollars; (k) summoning a petit jury,  
 18 not including mileage to be paid by the county, twelve dollars;  
 19 (l) summoning a special jury, for each person impaneled, fifty  
 20 cents; (m) calling a jury for a trial of a case or cause, fifty  
 21 cents; (n) executing a writ of restitution or a writ of assistance  
 22 and return, ~~fifteen-eighteen~~ dollars; (o) calling an inquest to  
 23 appraise lands and tenements levied on by execution, one dollar;  
 24 (p) calling an inquest to appraise goods and chattels taken by an  
 25 order of attachment or replevin, one dollar; (q) advertising a sale  
 26 in a newspaper in addition to the price of printing, one dollar;  
 27 (r) advertising in writing for a sale of real or personal property,  
 1 five dollars; and (s) making deeds for land sold on execution or  
 2 order of sale, five dollars.

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

10 (b) In real estate foreclosure, when any party to the  
 11 original action purchases the property or when no money is received  
 12 or disbursed by the sheriff, the commission shall be computed

13 pursuant to subdivision (a) of this subsection but shall not exceed  
14 two hundred dollars.

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

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

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

6 Sec. 2. Original section 33-117, Reissue Revised Statutes  
7 of Nebraska, is repealed.

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

(Signed) Bill Avery, Chairperson

## RESOLUTION

### LEGISLATIVE RESOLUTION 44. Introduced by McCoy, 39.

WHEREAS, Tyler Meuret, of Troop 549 in Omaha, 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, Tyler 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. For his Eagle Scout community service project, Tyler built four display stands for Omaha's Henry Doorly Zoo to hold aquariums, reptiles, and insects for public viewing. The display stands will also be used during educational classes to display educational material. Tyler taught swimming lessons to children for several weeks in order to earn money for his project; and

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

WHEREAS, Tyler, 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 Tyler Meuret on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Tyler Meuret.

Laid over.

### ANNOUNCEMENT

Senator Wightman designates LB121 as his priority bill.

### NOTICE OF COMMITTEE HEARING General Affairs

Room 1510

Monday, March 23, 2009 1:30 p.m.

Stanley Elsasser - State Electrical Board  
George Morrissey - State Electrical Board  
Jeanne Ross - Nebraska Arts Council  
Louise Kent - Nebraska Arts Council  
Vicki Bromm - Nebraska Arts Council  
Robert Nefsky - Nebraska Arts Council  
Julie Jacobson - Nebraska Arts Council

(Signed) Russ Karpisek, Chairperson

### AMENDMENT - Print in Journal

Senator Louden filed the following amendment to LB184:  
AM543

- 1 1. On page 2, strike lines 8 through 23 and insert the
- 2 following new subdivisions:
- 3 "(2)(a) The department is authorized to administer any
- 4 riparian water right that has been validated and recognized in a
- 5 court order from a court of lawful jurisdiction in the state.
- 6 (b) The only surface water appropriations that may be
- 7 closed for a riparian water right are appropriations held by
- 8 persons who were parties to the lawsuit validating the riparian
- 9 water right or appropriations with a priority date subsequent to
- 10 the date of the court order."

**REPORT**

The following report was received by the Legislature:

**Revenue, Nebraska Department of**

Redevelopment Projects for Cities Using Tax Increment Financing in  
2008

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 4, 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

Abdouch, Michael D.  
Vickers, Tom  
Peetz, Natalie, Peetz & Company  
Coventry Insurance  
Ruth Mueller Robak LLC  
Complete Nutrition, Inc.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 35 and 36 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 35 and 36.

**MOTION - Withdraw LR7**

Senator Fulton renewed his motion, MO20, found on page 645, to withdraw LR7.

The Fulton motion to withdraw the resolution prevailed with 30 ayes, 0 nays, 9 present and not voting, and 10 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 483.** Title read. Considered.

Committee AM502, found on page 606, was adopted with 39 ayes, 0 nays, 4 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 4 present and not voting, and 6 excused and not voting.

### COMMITTEE REPORTS

Transportation and Telecommunications

**LEGISLATIVE BILL 60.** Placed on General File.

**LEGISLATIVE BILL 111.** Placed on General File.

**LEGISLATIVE BILL 278.** Placed on General File.

**LEGISLATIVE BILL 222.** Indefinitely postponed.

**LEGISLATIVE BILL 225.** Indefinitely postponed.

**LEGISLATIVE BILL 323.** Indefinitely postponed.

**LEGISLATIVE BILL 329.** Indefinitely postponed.

**LEGISLATIVE BILL 398.** Indefinitely postponed.

**LEGISLATIVE BILL 560.** Indefinitely postponed.

**LEGISLATIVE BILL 642.** Indefinitely postponed.

(Signed) Deb Fischer, Chairperson

### NOTICE OF COMMITTEE HEARING

Judiciary

Room 1113

Thursday, March 12, 2009 1:30 p.m.

LB82

LB284

LB265

(Signed) Brad Ashford, Chairperson

### ANNOUNCEMENT

The Transportation and Telecommunications Committee designates LB497 as its priority bill.

### COMMITTEE REPORT

Enrollment and Review

**LEGISLATIVE BILL 260.** Placed on Select File with amendment.  
ER8026

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Sections 1 to 11 of this act shall be known
- 4 and may be cited as the Nebraska Claims for Wrongful Conviction and
- 5 Imprisonment Act.

6     Sec. 2. The Legislature finds that innocent persons who  
7 have been wrongly convicted of crimes and subsequently imprisoned  
8 have been uniquely victimized, have distinct problems reentering  
9 society, and have difficulty achieving legal redress due to a  
10 variety of substantive and technical obstacles in the law. The  
11 Legislature also finds that such persons should have an available  
12 avenue of redress. In light of the particular and substantial  
13 horror of being imprisoned for a crime one did not commit,  
14 the Legislature intends by enactment of the Nebraska Claims for  
15 Wrongful Conviction and Imprisonment Act that persons who can  
16 demonstrate that they were wrongfully convicted shall have a claim  
17 against the state as provided in the act.

18     Sec. 3. In order to recover under the Nebraska Claims for  
19 Wrongful Conviction and Imprisonment Act, the claimant shall prove  
20 each of the following by clear and convincing evidence:

21     (1) That he or she was convicted of one or more felony  
22 crimes and subsequently sentenced to a term of imprisonment for  
23 such felony crime or crimes and has served all or any part of the  
1 sentence;

2     (2) That the Board of Pardons has pardoned the claimant  
3 or that a court has vacated the conviction of the claimant based  
4 upon a finding that the claimant was innocent of the felony crimes  
5 for which he or she was convicted; and

6     (3) That he or she did not commit or suborn perjury,  
7 fabricate evidence, or otherwise make a false statement to cause  
8 or bring about his or her conviction or the conviction of another.  
9 However, neither a guilty plea, nor a confession or admission  
10 coerced by law enforcement and later found to be false, constitutes  
11 bringing about his or her own conviction.

12     Sec. 4. (1) A claimant under the Nebraska Claims  
13 for Wrongful Conviction and Imprisonment Act shall recover the  
14 following damages found by a preponderance of the evidence to  
15 directly result from the wrongful conviction:

16     (a) For a loss of the claimant's freedom, an amount equal  
17 to twenty-five thousand dollars for each year of imprisonment or  
18 fifty thousand dollars for each year spent on death row;

19     (b) Physical and emotional pain and suffering experienced  
20 by the claimant to date and reasonably certain to be experienced in  
21 the future;

22     (c) Lost wages and lost earning capacity;

23     (d) Medical expenses incurred in the treatment of the  
24 claimant's injuries to date and reasonably certain to be incurred  
25 in the future;

26     (e) The reasonable costs of necessary vocational  
27 rehabilitation to restore the claimant's earning capacity to a  
1 level equivalent to his or her earning capacity immediately prior  
2 to the wrongful conviction; and

3     (f) Costs incurred with his or her criminal defense and  
4 expenses related to establishing the claimant's innocence.

5 (2) The following costs shall not offset damages:

6 (a) Costs of imprisonment; and

7 (b) Value of any care or education provided to the  
8 claimant while he or she is imprisoned.

9 (3) No damages shall be payable to the claimant for those  
10 periods of time during which he or she was imprisoned for any  
11 unrelated criminal offense.

12 Sec. 5. Upon successful presentation of a claim under the  
13 Nebraska Claims for Wrongful Conviction and Imprisonment Act, the  
14 claimant shall receive an award of reasonable attorney's fees to be  
15 determined by the court.

16 Sec. 6. If the court finds that any property of the  
17 claimant was subjected to a lien pursuant to defense services  
18 rendered by the state to defend the client in connection with the  
19 criminal case that resulted in his or her wrongful conviction, the  
20 court shall extinguish the lien.

21 Sec. 7. The Board of Pardons, upon the issuance of a  
22 full pardon on or after the effective date of this act, shall  
23 provide a copy of the Nebraska Claims for Wrongful Conviction and  
24 Imprisonment Act at the time the pardon is issued to the individual  
25 pardoned. The individual shall acknowledge, in writing, his or  
26 her receipt of a copy of the act on a form established by the  
1 board, which acknowledgement shall be retained on file by the board  
2 as part of its official records and shall be admissible in any  
3 proceeding filed by a claimant under the act.

4 Sec. 8. (1) Upon obtaining a postconviction exoneration  
5 for actual innocence through either a pardon based on innocence  
6 from an erroneous felony conviction or a judicial order vacating or  
7 reversing an erroneous felony conviction, a person may petition the  
8 district court in which the erroneous felony conviction occurred  
9 for an order to expunge all records of the erroneous felony  
10 conviction. The petition shall be accompanied by a certified  
11 copy of the pardon or judicial order vacating or reversing the  
12 erroneous felony conviction. The petitioner shall serve a copy of  
13 the petition on the county attorney of the county in which the  
14 erroneous felony conviction occurred. If the county attorney files  
15 no objection to the petition, the court may grant the petition.

16 (2) If the county attorney files an objection to the  
17 petitioner's request for expunging the criminal record of the  
18 erroneous felony conviction, the court shall conduct a hearing on  
19 the matter.

20 (3) If a court determines that the petition is warranted  
21 and orders the expunction of all records pertaining to the  
22 petitioner's erroneous felony conviction, a law enforcement agency  
23 may gain access to such person's expunged records only with a court  
24 order upon good cause showing that access to the expunged records  
25 is required for the performance of official law enforcement duties.

26 (4) If a court determines that the petition is warranted  
and orders the expunction of all records pertaining to the



27 petitioner's erroneous felony conviction, the court shall notify  
1 the Nebraska State Patrol and any other law enforcement agency to  
2 expunge all records pertaining to the petitioner's erroneous felony  
3 conviction.

4 (5) The Nebraska State Patrol, any other law enforcement  
5 agency involved, and the court shall provide written notice of the  
6 expunction by certified mail to the petitioner.

7 (6) A person who obtains a court order to expunge all  
8 records pertaining to such person's erroneous felony conviction may  
9 lawfully answer and swear under oath that an arrest, prosecution,  
10 or conviction pertaining to the erroneous conviction never  
11 occurred.

12 (7) Any party may appeal a final order granting or  
13 denying the expunction of records pertaining to the erroneous  
14 felony conviction.

15 Sec. 9. Nothing contained in the Nebraska Claims for  
16 Wrongful Conviction and Imprisonment Act shall preclude the state  
17 from providing services to the claimant upon exoneration, and  
18 the reasonable value of services provided shall be treated as an  
19 advance against any award or judgment.

20 Sec. 10. Claims brought pursuant to the Nebraska Claims  
21 for Wrongful Conviction and Imprisonment Act shall be made under  
22 the State Tort Claims Act.

23 Sec. 11. Nothing in the Nebraska Claims for Wrongful  
24 Conviction and Imprisonment Act shall limit the claimant from  
25 making any other claim available against any other party or based  
26 upon any other theory of recovery.

27 Sec. 12. Section 81-8,210, Reissue Revised Statutes of  
1 Nebraska, is amended to read:

2 81-8,210 For purposes of the State Tort Claims Act:

3 (1) State agency includes all departments, agencies,  
4 boards, bureaus, and commissions of the State of Nebraska and  
5 corporations the primary function of which is to act as, and  
6 while acting as, instrumentalities or agencies of the State of  
7 Nebraska but shall not include corporations that are essentially  
8 private corporations or entities created pursuant to the Interlocal  
9 Cooperation Act or the Joint Public Agency Act. State agency does  
10 not include any contractor with the State of Nebraska;

11 (2) State Claims Board means the board created by section  
12 81-8,220;

13 (3) Employee of the state means any one or more officers  
14 or employees of the state or any state agency and shall include  
15 duly appointed members of boards or commissions when they are  
16 acting in their official capacity. State employee does not include  
17 any employee of an entity created pursuant to the Interlocal  
18 Cooperation Act or the Joint Public Agency Act or any contractor  
19 with the State of Nebraska;

20 (4) Tort claim means any claim against the State of  
21 Nebraska for money only on account of damage to or loss of property

22 or on account of personal injury or death caused by the negligent  
 23 or wrongful act or omission of any employee of the state, while  
 24 acting within the scope of his or her office or employment, under  
 25 circumstances in which the state, if a private person, would be  
 26 liable to the claimant for such damage, loss, injury, or death but  
 27 does not include any claim accruing before January 1, 1970, ~~and any~~  
 1 claim against an employee of the state for money only on account  
 2 of damage to or loss of property or on account of personal injury  
 3 or death caused by the negligent or wrongful act or omission of  
 4 the employee while acting within the scope of his or her employment  
 5 occurring on or after August 25, 1989, and any claim allowed under  
 6 the Nebraska Claims for Wrongful Conviction and Imprisonment Act;

7 (5) Award means any amount determined by the Risk Manager  
 8 or State Claims Board to be payable to a claimant under section  
 9 81-8,211 or the amount of any compromise or settlement under  
 10 section 81-8,218; and

11 (6) Risk Manager means the Risk Manager appointed under  
 12 section 81-8,239.01.

13 Sec. 13. Section 81-8,227, Reissue Revised Statutes of  
 14 Nebraska, is amended to read:

15 81-8,227 (1) Except as provided in subsection (2) of this  
 16 section, every ~~Every~~ tort claim permitted under the State Tort  
 17 Claims Act shall be forever barred unless within two years after  
 18 such claim accrued the claim is made in writing to the Risk Manager  
 19 in the manner provided by such act. The time to begin suit under  
 20 such act shall be extended for a period of six months from the date  
 21 of mailing of notice to the claimant by the Risk Manager or State  
 22 Claims Board as to the final disposition of the claim or from the  
 23 date of withdrawal of the claim under section 81-8,213 if the time  
 24 to begin suit would otherwise expire before the end of such period.

25 (2)(a) The date of a qualifying pardon from the Board of  
 26 Pardons or a vacation of a conviction by a court shall be the date  
 27 the claimant's claim shall accrue under the Nebraska Claims for  
 1 Wrongful Conviction and Imprisonment Act for purposes of complying  
 2 with the notice and filing requirements of the State Tort Claims  
 3 Act.

4 (b) A claim for compensation brought under the Nebraska  
 5 Claims for Wrongful Conviction and Imprisonment Act shall be filed  
 6 within two years after either the grant of a pardon or the grant of  
 7 judicial relief. Any action by the state challenging or appealing  
 8 the grant of such judicial relief shall toll the two-year period.  
 9 Persons convicted, incarcerated, and released from custody prior to  
 10 the effective date of this act shall file a claim under the act  
 11 within three years after the effective date of this act.

12 (c) In the event a claimant granted a full pardon on  
 13 or after the effective date of this act shows he or she did not  
 14 receive a copy of the information required by this section, he or  
 15 she shall receive a one-year extension of the notice and statute of  
 16 limitations requirements of the State Tort Claims Act.

17 (d) Notwithstanding any other provision of law, failure  
 18 to file any applicable notice of claim shall not bar filing of  
 19 a claim under the Nebraska Claims for Wrongful Conviction and  
 20 Imprisonment Act.

21 ~~(2)~~(3) If a claim is made or filed under any other law  
 22 of this state and a determination is made by a state agency or  
 23 court that the State Tort Claims Act provides the exclusive remedy  
 24 for the claim, the time to make a claim and begin suit under such  
 25 act shall be extended for a period of six months from the date of  
 26 the court order making such determination or the date of mailing  
 27 of notice to the claimant of such determination by a state agency  
 1 if the time to make the claim and to begin suit under such act  
 2 would otherwise expire before the end of such period. The time to  
 3 begin a suit under such act may be further extended as provided in  
 4 subsection (1) of this section.

5 ~~(3)~~(4) If a claim is brought under the Nebraska  
 6 Hospital-Medical Liability Act, the filing of a request for review  
 7 under section 44-2840 shall extend the time to begin suit under  
 8 the State Tort Claims Act an additional ninety days following the  
 9 issuance of the opinion by the medical review panel if the time to  
 10 begin suit under the State Tort Claims Act would otherwise expire  
 11 before the end of such ninety-day period.

12 ~~(4)~~(5) This section and section 25-213 shall constitute  
 13 the only statutes of limitations applicable to the State Tort  
 14 Claims Act.

15 Sec. 14. Original sections 81-8,210 and 81-8,227, Reissue  
 16 Revised Statutes of Nebraska, are repealed.

17 2. On page 1, strike beginning with "civil" in line  
 18 1 through line 2 and insert "claims against the state; to  
 19 amend sections 81-8,210 and 81-8,227, Reissue Revised Statutes  
 20 of Nebraska; to adopt the Nebraska Claims for Wrongful Conviction  
 21 and Imprisonment Act; to change provisions relating to tort claims  
 22 under the State Tort Claims Act; and to repeal the original  
 23 sections."

(Signed) Jeremy Nordquist, Chairperson

## GENERAL FILE

**LEGISLATIVE BILL 346.** Title read. Considered.

Committee AM546, found on page 632, was considered.

**SENATOR LANGEMEIER PRESIDING**

**PRESIDENT SHEEHY PRESIDING**

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

Senator Howard moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The motion to cease debate prevailed with 26 ayes, 4 nays, 11 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

The committee amendment was adopted with 38 ayes, 0 nays, 3 present and not voting, and 8 excused and not voting.

Pending.

### COMMITTEE REPORTS

#### General Affairs

**LEGISLATIVE BILL 286.** Placed on General File.

**LEGISLATIVE BILL 415.** Indefinitely postponed.

(Signed) Russ Karpisek, Chairperson

#### Revenue

**LEGISLATIVE BILL 447.** Placed on General File.

**LEGISLATIVE BILL 531.** Placed on General File.

(Signed) Abbie Cornett, Chairperson

### ANNOUNCEMENTS

Senator Carlson designates LB98 as his priority bill.

Senator Hadley designates LB420 as his priority bill.

### BILL ON FIRST READING

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

**LEGISLATIVE BILL 547A.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 547, One Hundred First Legislature, First Session, 2009; and to declare an emergency.

**GENERAL FILE**

**LEGISLATIVE BILL 346.** Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 5 present and not voting, and 8 excused and not voting.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Haar asked unanimous consent to add his name as cointroducer to LB136, LB346, and LB356. No objections. So ordered.

Senator Coash asked unanimous consent to add his name as cointroducer to LB153. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Ben Steffen from Humboldt; 4 students and teacher from Joint University of Omaha and Omaha Public Schools School Program; Richard Gowdy from Washington, D.C.; 40 fourth-grade students and teachers from Rockbrook Elementary, Omaha; and Phil Demuth from Lincoln.

The Doctor of the Day was Dr. Harold Pumphrey from Lincoln.

**ADJOURNMENT**

At 12:04 p.m., on a motion by Senator Carlson, the Legislature adjourned until 10:00 a.m., Monday, March 9, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FORTIETH DAY - MARCH 9, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FORTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 9, 2009

**PRAYER**

The prayer was offered by Pastor Jimmie Byrd, Church of the Living God, Omaha.

**ROLL CALL**

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

The roll was called and all members were present except Senator Lautenbaugh who was excused; and Senators Ashford, Christensen, Cornett, and Mello who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-ninth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 483.** Placed on Select File with amendment.  
ER8027

- 1 1. On page 1, line 3, strike "duties" and insert "powers
- 2 and duties for the Department of Natural Resources and".

**LEGISLATIVE BILL 346.** Placed on Select File with amendment.  
ER8028

- 1 1. On page 1, strike beginning with "the" in line 1
- 2 through line 5 and insert "children; to amend section 71-801,
- 3 Revised Statutes Cumulative Supplement, 2008; to adopt the Children
- 4 and Family Behavioral Health Support Act; to harmonize provisions;
- 5 to repeal the original section; and to declare an emergency.".

(Signed) Jeremy Nordquist, Chairperson

**MESSAGE FROM THE GOVERNOR**

March 5, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 5, 7, 20e, 28, 32e, 48e, 53, 55, 74e, 91, 102, 120, 135e, 201e, 259e, and 331e were received in my office on February 27, 2009.

These bills were signed and delivered to the Secretary of State on March 5, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**ANNOUNCEMENT**

The Government, Military and Veterans Affairs Committee designates LB361 and LB322 as its priority bills.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 37, 38, and 39 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 37, 38, and 39.

**ANNOUNCEMENT**

The Chair announced today is Senator Hadley's birthday.

**GENERAL FILE**

**LEGISLATIVE BILL 327.** Title read. Considered.

Committee AM122, found on page 376, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.



**NOTICE OF COMMITTEE HEARING**  
Education

Room 1525

Tuesday, March 24, 2009 1:30 p.m.

Kim Dinsdale - Nebraska Educational Telecommunications Commission

(Signed) Greg Adams, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 45.** Introduced by Avery, 28.

WHEREAS, the Nebraska National Guard has played a major role in support of Operation Noble Eagle in the United States; Operation Enduring Freedom in Afghanistan; and Operation Iraqi Freedom in Iraq; and

WHEREAS, Nebraska National Guard missions have included security, force protection, transportation, logistic support, quick reaction force, forward area support, rear area support, medical support, aviation maintenance, aviation support, medical evacuation (air and ground), reconnaissance, surveillance, law and order (police investigation), and direct support maintenance; and

WHEREAS, Nebraska National Guard missions have included aerial refueling, maintenance, engineering, supply mobility support, financial management, and security; and

WHEREAS, more than four thousand two hundred members of the Nebraska National Guard have deployed to more than twenty foreign countries during the last five years; and

WHEREAS, the Purple Heart, awarded to members of the United States Armed Forces wounded or killed as a direct result of enemy actions, has been presented to Captain Drew J. Marr, Sergeant Julius D. Aquino, Specialist Nathan W. Turnbull, and Private Justin D. Hitz; and

WHEREAS, the Army Commendation Medal with Valor, awarded for heroism, meritorious achievement, or meritorious service, has been presented to First Lieutenant Clayton W. Engelman.

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

1. That the Legislature expresses its gratitude and wishes to honor these individuals for their sacrifice and service to the State of Nebraska and the United States of America.

2. That a copy of this resolution be sent to all the soldiers mentioned in this resolution.

Laid over.

**LEGISLATIVE RESOLUTION 46.** Introduced by Heidemann, 1.

WHEREAS, Tyler Eaton, son of Kevin and Robin Zimmerman, Andrew Schawang, son of Rick and Lisa Schawang, Jason Hall, son of Jim and Cheryl Hall, Matthew Goff, son of Lonnie and Kim Goff, and Patrick Malcolm, son of Dr. Terry and Mary Malcolm, of Troop 396 in Falls City, Nebraska, have 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 their scouting experience, Tyler, Andrew, Jason, Matthew, and Patrick have 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, Tyler's community service project consisted of removing hundreds of cedar saplings from Indian Cave State Park; Andrew's project involved making crosses that he distributed to various places, including nursing homes, hospices, and to the shut-ins; Jason's project consisted of painting fire hydrants in Falls City according to a color code that reflects the water capacity of the hydrant; Matthew's project involved organizing efforts to install sidewalks through the Itha-Krumme Memorial Arboretum; and Patrick's project consisted of leading efforts to remove damaged and dying trees and replacing the trees with new plantings in Rulo; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Tyler, Andrew, Jason, Matthew, and Patrick, through their 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 Tyler Eaton, Andrew Schawang, Jason Hall, Matthew Goff, and Patrick Malcolm on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Tyler Eaton, Andrew Schawang, Jason Hall, Matthew Goff, and Patrick Malcolm.

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 356.** Title read. Considered.

Committee AM529, found on page 615, was considered.

Pending.

**COMMITTEE REPORTS**

## Revenue

**LEGISLATIVE BILL 555.** Placed on General File with amendment. AM367

- 1 1. On page 2, line 9, reinstate the stricken "fifteen"
- 2 and strike "thirty".

**LEGISLATIVE BILL 77.** Indefinitely postponed.

**LEGISLATIVE BILL 95.** Indefinitely postponed.

**LEGISLATIVE BILL 117.** Indefinitely postponed.

**LEGISLATIVE BILL 119.** Indefinitely postponed.

**LEGISLATIVE BILL 138.** Indefinitely postponed.

**LEGISLATIVE BILL 171.** Indefinitely postponed.

**LEGISLATIVE BILL 239.** Indefinitely postponed.

**LEGISLATIVE BILL 270.** Indefinitely postponed.

**LEGISLATIVE BILL 271.** Indefinitely postponed.

**LEGISLATIVE BILL 282.** Indefinitely postponed.

**LEGISLATIVE BILL 303.** Indefinitely postponed.

**LEGISLATIVE BILL 309.** Indefinitely postponed.

**LEGISLATIVE BILL 376.** Indefinitely postponed.

**LEGISLATIVE BILL 487.** Indefinitely postponed.

**LEGISLATIVE BILL 538.** Indefinitely postponed.

**LEGISLATIVE BILL 566.** Indefinitely postponed.

**LEGISLATIVE BILL 634.** Indefinitely postponed.

**LEGISLATIVE BILL 670.** Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

Banking, Commerce and Insurance

**LEGISLATIVE BILL 445.** Placed on General File.

**LEGISLATIVE BILL 657.** Placed on General File.

**LEGISLATIVE BILL 297.** Placed on General File with amendment. AM424

- 1 1. Insert the following new section:
- 2 Sec. 12. No new eligible beginning farmer linked deposit
- 3 loan or new eligible small business linked deposit loan shall be
- 4 made after June 30, 2019.
- 5 2. On page 4, line 23, strike "(3)(a)" and insert "(3)".

- 6 3. On page 5, strike line 9 and insert "not exceed two  
 7 million dollars in FY2009-10, two million dollars in FY2010-11,  
 8 four million dollars in FY2011-12, four million dollars in  
 9 FY2012-13, six million dollars in FY2013-14, six million dollars  
 10 in FY2014-15, eight million dollars in FY2015-16, eight million  
 11 dollars in FY2016-17, ten million dollars in FY2017-18, and ten  
 12 million dollars in FY2018-19."  
 13 4. Renumber the remaining section and correct internal  
 14 references accordingly.

**LEGISLATIVE BILL 157.** Indefinitely postponed.

**LEGISLATIVE BILL 293.** Indefinitely postponed.

**LEGISLATIVE BILL 326.** Indefinitely postponed.

**LEGISLATIVE BILL 484.** Indefinitely postponed.

**LEGISLATIVE BILL 606.** Indefinitely postponed.

(Signed) Rich Pahls, Chairperson

#### **AMENDMENT - Print in Journal**

Senator Langemeier filed the following amendment to LB105:  
 AM277

(Amendments to AM277)

- 1 1. On page 21, line 27, strike "subsections (6) and (7)"  
 2 and insert "subsection (6)".  
 3 2. On page 22, strike lines 22 through 25; and in line 26  
 4 strike "(8)" and insert "(7)".

#### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 346A.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 346, One Hundred First Legislature, First Session, 2009; and to declare an emergency.

#### **GENERAL FILE**

**LEGISLATIVE BILL 356.** Committee AM529, found on page 615 and considered in this day's Journal, was renewed.

Pending.

**ANNOUNCEMENTS**

Senator Fischer designates LB54 as her priority bill.

Senator Heidemann designates LB300 as his priority bill.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Cornett asked unanimous consent to add her name as cointroducer to LB198. No objections. So ordered.

Senator Mello asked unanimous consent to add his name as cointroducer to LB539. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Kalina Fong from Hastings; 20 twelfth-grade students and teacher from Benson High, Omaha; members of Nebraska Travel Association from across the state; 21 students and teacher from Hildreth-Wilcox High School; and 51 fourth-grade students and teachers from Norman Rockwell Elementary, Millard.

The Doctor of the Day was Dr. Carol LaCroix from Omaha.

**ADJOURNMENT**

At 11:59 a.m., on a motion by Senator Price, the Legislature adjourned until 9:00 a.m., Tuesday, March 10, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FORTY-FIRST DAY - MARCH 10, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FORTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 10, 2009

**PRAYER**

The prayer was offered by Reverend L. Bill Woods, People's Mission Missionary Baptist Church, Omaha.

**ROLL CALL**

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

The roll was called and all members were present except Senator Cornett who was excused; and Senators Fulton, Karpisek, and Nantkes who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fortieth day was approved.

**ANNOUNCEMENT**

Senator Gloor designates LB396 as his priority bill.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 47.** Introduced by Coash, 27.

WHEREAS, the 450 acre area of the City of Lincoln known as the Boulevards Historic District has been officially listed on the National Register of Historic Places; and

WHEREAS, the Boulevards Historic District contains such historic public buildings as the Westminster Presbyterian Church, Tifereth Israel Synagogue, Irving Middle School, and Sheridan Elementary School; and

WHEREAS, the Boulevards Historic District provides landmark examples of early twentieth century Period Revival architecture such as the Mark Woods House and the Frank Spalding House; and

WHEREAS, the landscape architecture of the Boulevards Historic District was designed by Ernst Herminghaus, designer of the State Capitol grounds, and "the dean of American landscape architecture," Jens Jensen; and

WHEREAS, the development of the Lincoln Country Club and the Boulevards Historic District contributed greatly to Lincoln's future community development; and

WHEREAS, the Boulevards Historic District has been and continues to be home to many Lincoln residents who have greatly contributed to the development of the City of Lincoln and of the State of Nebraska.

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

1. That the Legislature congratulates Mr. Ed Zimmer, Lincoln Historic Preservation Planner, the Nebraska State Historical Society, the City of Lincoln, and the residents of the Boulevards Historic District on this auspicious designation.

2. That a copy of this resolution be delivered to the City of Lincoln.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 346A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 105A.** Advanced to Enrollment and Review for Engrossment.

### GENERAL FILE

**LEGISLATIVE BILL 356.** Committee AM529, found on page 615 and considered on pages 675 and 676, was renewed.

The committee amendment 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 44 ayes, 0 nays, 2 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 356A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.



**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 327.** Placed on Select File with amendment. ER8029 is available in the Bill Room.

**LEGISLATIVE BILL 346A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**ANNOUNCEMENTS**

Senator Cook designates LB340 as her priority bill.

Senator Adams designates LB545 as his priority bill.

**NOTICE OF COMMITTEE HEARINGS**

Education

Room 1525

Tuesday, March 17, 2009 1:30 p.m.

Michelle Suarez - Board of Trustees of the Nebraska State Colleges  
 William Roskens - Board of Trustees of the Nebraska State Colleges  
 Stan Carpenter - Nebraska Educational Telecommunications Commission  
 Clay Smith - Nebraska Educational Telecommunications Commission

Tuesday, March 24, 2009 1:30 p.m.

John Winkleblack - Coordinating Commission for Postsecondary Education

(Signed) Greg Adams, Chairperson

**AMENDMENT - Print in Journal**

Senator Giese filed the following amendment to LB121:  
 AM628

- 1 1. Strike original section 3 and insert the following new
- 2 sections:
- 3 Sec. 4. Section 32-519, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 32-519 (1) Except as provided in this section and
- 6 sections 22-417 and 77-1340, at the statewide general election
- 7 in 1990 and each four years thereafter, a county assessor shall
- 8 be elected in each county having a population of more than three
- 9 thousand five hundred inhabitants and more than one thousand two
- 10 hundred tax returns. The county assessor shall serve for a term of
- 11 four years.

12 (2) The county board of any county shall order the  
 13 submission of the question of electing a county assessor in the  
 14 county to the registered voters of the county at the next statewide  
 15 general election upon presentation of a petition to the county  
 16 board (a) conforming to the provisions of section 32-628, (b)  
 17 not less than sixty days before any statewide general election,  
 18 (c) signed by at least ten percent of the registered voters of  
 19 the county secured in not less than two-fifths of the townships  
 20 or precincts of the county, and (d) asking that the question be  
 21 submitted to the registered voters in the county. The form of  
 22 submission upon the ballot shall be as follows: For election of  
 23 county assessor; Against election of county assessor. If a majority  
 1 of the votes cast on the question are against the election of a  
 2 county assessor in such county, the duties of the county assessor  
 3 shall be performed by the county clerk and the office of county  
 4 assessor shall either cease with the expiration of the term of  
 5 the incumbent or continue to be abolished if no such office exists  
 6 at such time. If a majority of the votes cast on the question  
 7 are in favor of the election of a county assessor, the office  
 8 shall continue or a county assessor shall be elected at the next  
 9 statewide general election.

10 (3) The county board shall submit the election of a  
 11 county assessor to the registered voters of the county at a special  
 12 election called for that purpose when required pursuant to section  
 13 77-1340. A county assessor elected at a special election shall  
 14 serve until a successor is elected at the next statewide general  
 15 election.

16 ~~(3)-(4)~~ The county assessor shall meet the qualifications  
 17 found in sections 23-3202 and 23-3204. The county assessor shall be  
 18 elected on the partisan ballot.

19 Sec. 5. Section 32-559, Reissue Revised Statutes of  
 20 Nebraska, is amended to read:

21 32-559 Except as provided in section 77-3444, any  
 22 election of a county assessor pursuant to section 77-1340 or  
 23 any issue to be submitted to the registered voters at a special  
 24 election by a political subdivision shall be certified by the clerk  
 25 of the political subdivision to the election commissioner or county  
 26 clerk at least fifty days prior to the election. A special election  
 27 may be held by mail as provided in sections 32-952 to 32-959.

1 Any other special election under this section shall be subject to  
 2 section 32-405.

3 In lieu of submitting the issue at a special election,  
 4 any political subdivision may submit the issue at a statewide  
 5 primary or general election or at any scheduled county election,  
 6 except that no such issue shall be submitted at a statewide  
 7 election or scheduled county election unless the issue to be  
 8 submitted has been certified by the clerk of the political  
 9 subdivision to the election commissioner or county clerk by March  
 10 1 for the primary election and by September 1 for the general

11 election. After the election commissioner or county clerk has  
12 received the certification of the issue to be submitted, he or she  
13 shall be responsible for all matters relating to the submission of  
14 the issue to the registered voters, except that the clerk of the  
15 political subdivision shall be responsible for the publication or  
16 posting of any required special notice of the submission of such  
17 issue other than the notice required to be given of the statewide  
18 election issues. The election commissioner or county clerk shall  
19 prepare the ballots and issue ballots for early voting and shall  
20 also conduct the submission of the issue, including the receiving  
21 and counting of the ballots on the issue. The election returns  
22 shall be made to the election commissioner or county clerk. The  
23 ballots shall be counted and canvassed at the same time and in  
24 the same manner as the other ballots. Upon completion of the  
25 canvass of the vote by the county canvassing board, the election  
26 commissioner or county clerk shall certify the election results to  
27 the governing body of the political subdivision. The canvass by the  
1 county canvassing board shall have the same force and effect as if  
2 made by the governing body of the political subdivision.

3 2. On page 10, strike beginning with "The" in line 24  
4 through line 25 and insert "The appointed assessor shall continue  
5 to perform the county assessor's duties until (a) an assessor is  
6 elected at the next statewide general election for appointments  
7 which will be effective July 1, 2010, or (b) an assessor is elected  
8 at a special election and the county canvassing board declares  
9 a winner under the Election Act for appointments which will be  
10 effective July 1, 2011.".

11 3. On page 11, line 1, strike "the next election.".

12 4. On page 13, line 12, after "next" insert "statewide  
13 general".

14 5. Renumber the remaining sections, correct internal  
15 references accordingly, and correct the operative date section  
16 and repealer so that the sections added by this amendment become  
17 operative on their effective date.

## GENERAL FILE

**LEGISLATIVE BILL 63.** Title read. Considered.

Committee AM212, found on page 629, was considered.

Pending.

## ANNOUNCEMENT

Senator Utter designates LB477 as his priority bill.

**AMENDMENTS - Print in Journal**

Senator Pirsch filed the following amendment to LB63:

AM637

(Amendments to Standing Committee amendments, AM212)

1 1. Insert the following new sections:

2 Sec. 15. Section 28-1207, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 28-1207 (1) Any person who knowingly possesses, receives,  
5 sells, or leases, other than by delivery to law enforcement  
6 officials, any firearm from which the manufacturer's identification  
7 mark or serial number has been removed, defaced, altered, or  
8 destroyed, commits the offense of possession of a defaced firearm.

9 (2) Possession of a defaced firearm is a Class ~~IV~~III  
10 felony.

11 Sec. 16. Section 28-1208, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 28-1208 (1) Any person who intentionally removes,  
14 defaces, covers, alters, or destroys the manufacturer's  
15 identification mark or serial number or other distinguishing  
16 numbers on any firearm commits the offense of defacing a firearm.

17 (2) Defacing a firearm is a Class ~~IV~~III felony.

18 Sec. 18. Section 28-1212.03, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 28-1212.03 Any person who possesses, receives, retains,  
21 or disposes of a stolen firearm knowing that it has been or  
22 believing that it has been stolen shall be guilty of a Class ~~IV~~  
1 III felony unless the firearm is possessed, received, retained, or  
2 disposed of with intent to restore it to the owner.

3 2. On page 42, line 23, strike "28-1212.02," and insert  
4 "28-1207, 28-1208, 28-1212.02, 28-1212.03,".

5 3. Renumber the remaining sections and correct internal  
6 references accordingly.

Senator Pirsch filed the following amendment to LB63:

AM638

(Amendments to Standing Committee amendments, AM212)

1 1. Insert the following new section:

2 Sec. 35. The Office of Violence Prevention shall conduct  
3 public awareness activities designed to publicize the increased  
4 penalties under this legislative bill for violent criminal  
5 offenses. The public awareness activities may include, but need  
6 not be limited to, public service announcements, information kits,  
7 brochures, posters, booklets, billboards, and radio and television  
8 promotions.

9 2. Renumber the remaining sections accordingly.

**ANNOUNCEMENT**

Senator Wightman announced the Executive Board will hold an executive session Wednesday, March 11, 2009, at 8:30 a.m., in Room 2102.

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Howard asked unanimous consent to add her name as cointroducer to LB235. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Bob and Wilma Knuth from Wahoo and Doris Hartman from Seward; members of Leadership Nebraska City from Nebraska City; Travis Moore from Kearney; members of Girl Scout Troop 918 from Omaha and Bellevue; and members of Girl Scouts - Spirit of Nebraska from across the state.

**ADJOURNMENT**

At 12:02 p.m., on a motion by Senator Cook, the Legislature adjourned until 9:00 a.m., Wednesday, March 11, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FORTY-SECOND DAY - MARCH 11, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FORTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, March 11, 2009

**PRAYER**

The prayer was offered by Pastor Janet Goodman Banks, Reach Out Christian Center, Lincoln.

**ROLL CALL**

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

The roll was called and all members were present except Senators Christensen, Cook, and Cornett who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-first day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 356.** Placed on Select File with amendment.  
ER8030

- 1 1. In the Standing Committee amendment, AM529, on page 1,
- 2 line 10, strike "Partners" and insert "Partner".
- 3 2. On page 1, strike beginning with "children" in line
- 4 1 through line 7 and insert "behavioral health services; to
- 5 amend sections 71-804 and 71-808, Revised Statutes Cumulative
- 6 Supplement, 2008; to state intent regarding funding for behavioral
- 7 health services for children; to provide for the allocation and
- 8 distribution of the funds; to define children; to exclude such
- 9 funding from the calculation of county matching funds; and to
- 10 repeal the original sections."

**LEGISLATIVE BILL 356A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORT**

General Affairs

**LEGISLATIVE BILL 498.** Placed on General File.

(Signed) Russ Karpisek, Chairperson

**ANNOUNCEMENTS**

Senator McGill designates LB551 as her priority bill.

The Agriculture Committee designates LB224 and LB241 as its priority bills.

Senator Harms designates LB458 as his priority bill.

Senator Nantkes designates LB206 as her priority bill.

Senator Mello designates LB555 as his priority bill.

**ANNOUNCEMENT**

The Chair announced March 10 was Senator Haar's birthday.

**GENERAL FILE****LEGISLATIVE BILL 63.** Committee AM212, found on page 629 and considered on page 683, was renewed.

Senator Pirsch renewed his amendment, AM637, found on page 684, to the committee amendment.

**SENATOR CARLSON PRESIDING**

Pending.

**COMMITTEE REPORTS**

Nebraska Retirement Systems

**LEGISLATIVE BILL 188.** Placed on General File with amendment.  
AM611

1 1. Insert the following new sections:

2 Sec. 7. Section 81-2017, Reissue Revised Statutes of

3 Nebraska, is amended to read:

4 81-2017 (1) Commencing July 1, ~~2005, 2009~~, each officer

5 while in the service of the Nebraska State Patrol shall pay or have

6 paid on his or her behalf a sum equal to ~~thirteen~~-fifteen percent

7 of his or her monthly compensation. Such amounts shall be deducted

8 monthly by the Director of Administrative Services who shall draw



9 a warrant monthly in the amount of the total deductions from the  
10 compensation of members of the Nebraska State Patrol in accordance  
11 with subsection (4) of this section, and the State Treasurer shall  
12 credit the amount of such warrant to the State Patrol Retirement  
13 Fund. The director shall cause a detailed report of all monthly  
14 deductions to be made each month to the board.

15 (2) In addition, commencing July 1, 2005, there shall  
16 be assessed against the appropriation of the Nebraska State Patrol  
17 a sum equal to the amount of fifteen percent of each officer's  
18 monthly compensation which shall be credited to the State Patrol  
19 Retirement Fund.

20 (3) For the fiscal year beginning on July 1, 2002,  
21 and each fiscal year thereafter, the actuary for the board shall  
22 perform an actuarial valuation of the system using the entry  
23 age actuarial cost method. Under this method, the actuarially  
1 required funding rate is equal to the normal cost rate, plus  
2 the contribution rate necessary to amortize the unfunded actuarial  
3 accrued liability on a level payment basis. The normal cost under  
4 this method shall be determined for each individual member on  
5 a level percentage of salary basis. The normal cost amount is  
6 then summed for all members. Beginning July 1, 2006, any existing  
7 unfunded liabilities shall be reinitialized and amortized over a  
8 thirty-year period, and during each subsequent actuarial valuation,  
9 changes in the funded actuarial accrued liability due to changes  
10 in benefits, actuarial assumptions, the asset valuation method, or  
11 actuarial gains or losses shall be measured and amortized over  
12 a thirty-year period beginning on the valuation date of such  
13 change. If the unfunded actuarial accrued liability under the  
14 entry age actuarial cost method is zero or less than zero on  
15 an actuarial valuation date, then all prior unfunded actuarial  
16 accrued liabilities shall be considered fully funded and the  
17 unfunded actuarial accrued liability shall be reinitialized and  
18 amortized over a thirty-year period as of the actuarial valuation  
19 date. If the actuarially required contribution rate exceeds the  
20 rate of all contributions required pursuant to the Nebraska State  
21 Patrol Retirement Act, there shall be a supplemental appropriation  
22 sufficient to pay for the differences between the actuarially  
23 required contribution rate and the rate of all contributions  
24 required pursuant to the Nebraska State Patrol Retirement Act.  
25 Such valuation shall be on the basis of actuarial assumptions  
26 recommended by the actuary, approved by the board, and kept on file  
27 with the board.

1 (4) The state shall pick up the member contributions  
2 required by this section for all compensation paid on or after  
3 January 1, 1985, and the contributions so picked up shall  
4 be treated as employer contributions in determining federal tax  
5 treatment under the Internal Revenue Code as defined in section  
6 49-801.01, except that the state shall continue to withhold federal  
7 income taxes based upon these contributions until the Internal

8 Revenue Service or the federal courts rule that, pursuant to  
 9 section 414(h) of the code, these contributions shall not be  
 10 included as gross income of the member until such time as they  
 11 are distributed or made available. The state shall pay these  
 12 member contributions from the same source of funds which is used  
 13 in paying earnings to the member. The state shall pick up these  
 14 contributions by a compensation deduction through a reduction in  
 15 the cash compensation of the member. Member contributions picked  
 16 up shall be treated for all purposes of the Nebraska State Patrol  
 17 Retirement Act in the same manner and to the extent as member  
 18 contributions made prior to the date picked up.

19 Sec. 20. This act becomes operative on July 1, 2009.

20 Sec. 22. Since an emergency exists, this act takes effect  
 21 when passed and approved according to law.

22 2. On page 28, line 23, strike "under section  
 23 84-1313.01".

24 3. Renumber the remaining sections and correct internal  
 25 references and the repealer accordingly.

(Signed) Dave Pankonin, Chairperson

Health and Human Services

**LEGISLATIVE BILL 599.** Placed on General File.

**LEGISLATIVE BILL 604.** Placed on General File.

**LEGISLATIVE BILL 371.** Placed on General File with amendment.  
 AM607

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

3 Section 1. Section 68-908, Revised Statutes Cumulative  
 4 Supplement, 2008, is amended to read:

5 68-908 (1) The department shall administer the medical  
 6 assistance program.

7 (2) The department may (a) enter into contracts and  
 8 interagency agreements, (b) adopt and promulgate rules and  
 9 regulations, (c) adopt fee schedules, (d) apply for and implement  
 10 waivers and managed care plans for eligible recipients, and (e)  
 11 perform such other activities as necessary and appropriate to carry  
 12 out its duties under the Medical Assistance Act.

13 (3) The department shall maintain the confidentiality  
 14 of information regarding applicants for or recipients of medical  
 15 assistance and such information shall only be used for purposes  
 16 related to administration of the medical assistance program and the  
 17 provision of such assistance or as otherwise permitted by federal  
 18 law.

19 (4)(a) The department shall prepare ~~a biennial~~ an annual  
 20 summary and analysis of the medical assistance program for  
 21 legislative and public review, including, but not limited to,

22 a description of eligible recipients, covered services, provider  
 23 reimbursement, program trends and projections, program budget and  
 1 expenditures, the status of implementation of the Medicaid Reform  
 2 Plan, and recommendations for program changes.

3 (b) The department shall provide a draft report of such  
 4 summary and analysis to the Medicaid Reform Council no later  
 5 than ~~October 1 of each even-numbered~~ September 15 of each year.  
 6 The council shall conduct a public meeting no later than October  
 7 ~~15-1 of such each~~ year to discuss and receive public comment  
 8 regarding such report. The council shall provide any comments and  
 9 recommendations regarding such report in writing to the department  
 10 ~~and the committee~~ no later than November 1 of ~~such each~~ year. The  
 11 department shall submit a final report of such summary and analysis  
 12 to the Governor, the Legislature, and the council no later than  
 13 December 1 of ~~such year~~. each year. Such final report shall include  
 14 a response to each specific comment provided by the council.

15 Sec. 2. Section 68-948, Revised Statutes Cumulative  
 16 Supplement, 2008, is amended to read:

17 68-948 (1) The Medicaid Reform Council is established.  
 18 The council shall consist of ten persons appointed by ~~the~~  
 19 ~~chairperson of the committee, in consultation with the committee,~~  
 20 the Governor. The chairperson of the Health and Human Services  
 21 Committee of the Legislature or his or her designee shall serve  
 22 as an ex officio nonvoting member of the council. , and the  
 23 ~~department.~~ The council shall include, but not be limited to, at  
 24 least one representative from each of the following: Providers,  
 25 recipients of medical assistance, advocates for such recipients,  
 26 business representatives, insurers, and elected officials. The  
 27 ~~chairperson of the committee~~ Governor shall appoint the chairperson  
 1 of the council. Members of the council may be reimbursed for their  
 2 actual and necessary expenses as provided in sections 81-1174 to  
 3 81-1177.

4 (2) The council shall (a) oversee and ~~support~~ advise  
 5 the department regarding implementation of reforms to the medical  
 6 assistance program, including, but not limited to, reforms such as  
 7 those contained in the Medicaid Reform Plan, (b) conduct at least  
 8 ~~two~~ public meetings annually at least quarterly and other meetings  
 9 at the call of the chairperson of the council, in consultation  
 10 with the department, ~~and the chairperson of the committee,~~ and (c)  
 11 provide comments and recommendations to the department regarding  
 12 the administration of the medical assistance program and any  
 13 proposed changes to such program.

14 ~~(3) The Medicaid Reform Council and this section~~  
 15 ~~terminate on June 30, 2010.~~

16 (3) The department shall provide the council with any  
 17 reports, data, analysis, or other such information upon which the  
 18 department relied, which provided a basis for the department's  
 19 proposed reforms, or which the department otherwise intends to  
 20 present to the council at least two weeks prior to the quarterly

21 meeting.

22 (4) Beginning June 30, 2010, the terms of the existing  
 23 members of the council shall be extended as follows: One-half  
 24 of the members shall serve for two-year terms and one-half of  
 25 the members shall serve for four-year terms as determined by the  
 26 Governor. Thereafter all members shall serve for four-year terms.  
 27 Members may be reappointed at the discretion of the Governor.

1 Appointments to the council occurring as a result of replacement of  
 2 an existing member at the expiration of the member's term or due to  
 3 resignation of an existing member shall be made by the Governor.

4 Sec. 3. Original sections 68-908 and 68-948, Revised

5 Statutes Cumulative Supplement, 2008, are repealed.

**LEGISLATIVE BILL 390.** Placed on General File with amendment.  
 AM578

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

3 Section 1. Section 68-901, Revised Statutes Cumulative  
 4 Supplement, 2008, is amended to read:

5 68-901 Sections 68-901 to 68-956 and section 2 of this  
 6 act shall be known and may be cited as the Medical Assistance Act.

7 Sec. 2. On or before June 30, 2009, the department  
 8 shall submit an application to the Centers for Medicare and  
 9 Medicaid Services of the United States Department of Health and  
 10 Human Services for a waiver amending the state medicaid plan to  
 11 revise the method of reimbursement to provide for a daily rate  
 12 for community-based assisted developmental disability services.  
 13 No later than sixty days after approval of the waiver, the  
 14 department shall provide reimbursement for community-based assisted  
 15 developmental disability services on a daily basis rather than an  
 16 hourly basis.

17 Sec. 3. Original section 68-901, Revised Statutes  
 18 Cumulative Supplement, 2008, is repealed.

19 Sec. 4. Since an emergency exists, this act takes effect  
 20 when passed and approved according to law.

**LEGISLATIVE BILL 446.** Placed on General File with amendment.  
 AM528

1 1. Strike section 3 and insert the following new section:

2 Sec. 3. (1) The board may repay qualified educational  
 3 debt owed by an eligible graduate. Such repayment shall be made  
 4 from the Engineers and Architects Regulation Fund. To be eligible  
 5 for loan repayment, a recipient shall be a graduate of (a) a  
 6 National Architectural Accrediting Board-accredited architecture  
 7 program in Nebraska or (b) an ABET-accredited engineering program  
 8 in Nebraska and shall have obtained qualified educational debt.

9 (2) For purposes of this section, qualified educational  
 10 debt means government and commercial loans obtained by a student  
 11 for postsecondary education tuition, other educational expenses,

12 and reasonable living expenses, as determined by the board.  
 13 (3) The board may adopt and promulgate rules and  
 14 regulations governing any loan repayment under this section.

**LEGISLATIVE BILL 451.** Placed on General File with amendment.  
 AM575

1 1. Strike section 16 and insert the following new  
 2 section:  
 3 Sec. 16. Section 38-1508, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 38-1508 The board shall consist of five professional  
 6 members and one public member appointed pursuant to section  
 7 38-158. The members shall meet the requirements of sections  
 8 38-164 and 38-165. The professional members shall consist of  
 9 three licensed hearing aid-instrument dispensers and fitters,  
 10 specialists, one otolaryngologist, and one audiologist until one  
 11 licensed hearing instrument specialist vacates his or her office  
 12 or his or her term expires, whichever occurs first, at which  
 13 time the professional members of the board shall consist of three  
 14 licensed hearing instrument specialists, at least one of whom does  
 15 not hold a license as an audiologist, one otolaryngologist, and  
 16 one audiologist. At the expiration of the four-year terms of the  
 17 members serving on December 1, 2008, successors shall be appointed  
 18 for five-year terms.  
 19 2. On page 16, line 13, after the period insert "A person  
 20 holding a license issued under the act prior to the effective date  
 21 of this act may continue to practice under such license until it  
 22 expires under the terms of the license.".

(Signed) Tim Gay, Chairperson

Transportation and Telecommunications

**LEGISLATIVE BILL 372.** Placed on General File with amendment.  
 AM648

1 1. On page 2, line 23, after "state" insert "or federal".

**LEGISLATIVE BILL 320.** Indefinitely postponed.

**LEGISLATIVE BILL 384.** Indefinitely postponed.

**LEGISLATIVE BILL 543.** Indefinitely postponed.

(Signed) Deb Fischer, Chairperson

**ANNOUNCEMENTS**

Senator Nordquist designates LB601 as his priority bill.

Senator Avery designates LB136 as his priority bill.

The Revenue Committee designates LB164 and LB213 as its priority bills.

**NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Wednesday, March 18, 2009 1:30 p.m.

LB499

LB147

LB285

LB122

LB237

(Signed) Brad Ashford, Chairperson

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 172A.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 172, One Hundred First Legislature, First Session, 2009.

**LEGISLATIVE BILL 603A.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 603, One Hundred First Legislature, First Session, 2009.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 48.** Introduced by Adams, 24.

WHEREAS, the Seward Bluejays won the 2009 Class B Girls' State Basketball Championship at the Bob Devaney Sports Center; and

WHEREAS, coach Tom Trvdy led his team, the Seward Bluejays, to a perfect unbeaten season of 25-0; and

WHEREAS, the Seward Bluejays beat Pius X 39-35 in the championship game; and

WHEREAS, the team and the coach exhibited outstanding talent, athleticism, and determination in finishing a perfect season.

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

1. That the Legislature congratulates the Seward Bluejays on winning the 2009 Class B Girls' State Basketball Championship.

2. That coach Tom Trvdy be congratulated for his efforts in teaching, coaching, and providing guidance to the members of the Seward Bluejays girls' basketball team.

3. That a copy of this resolution be sent to the Seward Bluejays and their coach, Tom Trvdy.

Laid over.

### COMMITTEE REPORTS

#### General Affairs

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Judy Pearl-Lee - Nebraska Arts Council

Aye: 8 Senators Coash, Cook, Dierks, Dubas, Friend, Karpisek, Price, Rogert. Nay: 0. Absent: 0.

(Signed) Russ Karpisek, Chairperson

#### Health and Human Services

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Bradley B. Keller - Stem Cell Research Advisory Committee

Rebecca Morris - Stem Cell Research Advisory Committee

Dennis R. Roop - Stem Cell Research Advisory Committee

Gerald Spangrude - Stem Cell Research Advisory Committee

Aye: 7 Senators Campbell, Gay, Gloor, Howard, Pankonin, Stuthman, Wallman. Nay: 0. Absent: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Mary Jo Pankoke - Foster Care Review Board  
 Mario Scalora - Foster Care Review Board  
 Dave Schroeder - Foster Care Review Board  
 Georgie Scurfield - Foster Care Review Board

Aye: 7 Senators Campbell, Gay, Gloor, Howard, Pankonin, Stuthman, Wallman. Nay: 0. Absent: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Clifford Carlson - Commission for the Deaf and Hard of Hearing  
 Luana Duennerman - Commission for the Deaf and Hard of Hearing  
 Steven Manning - Commission for the Deaf and Hard of Hearing  
 Jan Moore - Commission for the Deaf and Hard of Hearing

Aye: 7 Senators Campbell, Gay, Gloor, Howard, Pankonin, Stuthman, Wallman. Nay: 0. Absent: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Carol Jenkins - Commission for the Blind and Visually Impaired

Aye: 7 Senators Campbell, Gay, Gloor, Howard, Pankonin, Stuthman, Wallman. Nay: 0. Absent: 0.

(Signed) Tim Gay, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 63.** The Pirsch amendment, AM637, found on page 684 and considered in this day's Journal, to the committee amendment, was renewed.

### SPEAKER FLOOD PRESIDING

Pending.



**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 40 and 41 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 40 and 41.

**GENERAL FILE**

**LEGISLATIVE BILL 63.** The Pirsch amendment, AM637, found on page 684 and considered in this day's Journal, to the committee amendment, was renewed.

**SENATOR CARLSON PRESIDING**

Senator Lautenbaugh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

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

The Pirsch amendment was adopted with 47 ayes, 0 nays, and 2 present and not voting.

The Chair declared the call raised.

Senator Pirsch renewed his amendment, AM638, found on page 684, to the committee amendment.

Senator Lautenbaugh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Pirsch moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Pirsch amendment lost with 14 ayes, 25 nays, and 10 present and not voting.

The Chair declared the call raised.

Senator Lathrop offered the following amendment to the committee amendment:

AM675

(Amendments to Standing Committee amendments, AM212)

- 1 1. On page 6, line 22, strike "firearm" and insert
- 2 "handgun".
- 3 2. On page 13, line 7, strike "(1)", show as stricken,
- 4 and insert "(1)(a)"; strike beginning with "who" in line 9 through
- 5 the comma in line 10; in line 13 after the comma insert "or (b)
- 6 any person who possesses any firearm or brass or iron knuckles and
- 7 who has been convicted within the past seven years of a misdemeanor
- 8 crime of domestic violence."; in line 18 reinstate the stricken
- 9 "deadly weapon"; and in lines 19 and 20 strike "knife or brass or
- 10 iron knuckles" and insert "which is not a firearm".

### SENATOR ROBERT PRESIDING

The Lathrop amendment was adopted with 40 ayes, 0 nays, and 9 present and not voting.

Committee AM212, found on page 629 and considered on page 683 and in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 45 ayes, 1 nay, and 3 present and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 1 nay, 3 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 121.** Title read. Considered.

Committee AM530, found on page 610, was considered.

Pending.

### RESOLUTION

**LEGISLATIVE RESOLUTION 49.** Introduced by Wightman, 36.

WHEREAS, the Ravenna Blue Jays won the 2009 Class C-2 Girls' State Basketball Championship; and

WHEREAS, Ravenna rallied in the second half to claim a 45-40 victory over Aquinas High School; and

WHEREAS, Ravenna's victory capped off a perfect season with a 27-0 record; and

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

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

1. That the Legislature congratulates the Ravenna Blue Jays on winning the 2009 Class C-2 Girls' State Basketball Championship.

2. That a copy of this resolution be sent to the Blue Jays and their head coach, Jeff Thober.

Laid over.

### ANNOUNCEMENTS

The Transportation and Telecommunications Committee designates LB202 as its priority bill.

The Nebraska Retirement Systems Committee designates LB426 as its priority bill.

Senator Dierks designates LB463 as his priority bill.

Senator Gay designates LB603 as his priority bill.

### AMENDMENTS - Print in Journal

Senator Janssen filed the following amendment to LB121:  
AM663

- 1 1. On page 4, lines 8 and 9; and page 23, line 16, strike
- 2 "2011-12, and 2012-13" and insert "through 2013-14".
- 3 2. On page 10, strike beginning with "The" in line 5
- 4 through the period in line 18 and insert "Beginning July 1, 2010,
- 5 the Property Tax Administrator shall bill each county for which
- 6 the Property Tax Administrator has assumed the assessment function
- 7 under this section for the services rendered on a quarterly basis.
- 8 Beginning July 1, 2010, through June 30, 2011, the Property Tax
- 9 Administrator shall bill twenty-five percent of the cost of the
- 10 services rendered; beginning July 1, 2011, through June 30, 2012,
- 11 the Property Tax Administrator shall bill fifty percent of the cost
- 12 of the services rendered; and beginning July 1, 2012, through June
- 13 30, 2013, the Property Tax Administrator shall bill seventy-five
- 14 percent of the cost of the services rendered. Reimbursements to
- 15 the Department of Revenue shall be credited to the Department of
- 16 Revenue Property Assessment Division Cash Fund.
- 17 (7) The county board of a county may, by resolution,
- 18 reassume the assessment function prior to November 1, 2009, for
- 19 fiscal year 2010-11, prior to September 1, 2010, for fiscal year
- 20 2011-12, and prior to September 1, 2011, for fiscal year 2012-13."
- 21 3. On page 12, lines 14, 19, and 22; page 13, lines 7 and
- 22 8; and page 16, line 6, strike "2012" and insert "2013".
- 23 4. On page 25, line 12, strike "2012" and insert "2013".

- 1 5. In the Standing Committee amendments, AM530, on page  
 2 1, line 16, strike "2011-12, and 2012-13" and insert "through  
 3 2013-14".

Senator Gay filed the following amendment to LB260:  
 AM586

(Amendments to AM545)

- 1 1. On page 2, strike lines 18 and 19 and insert "to  
 2 twenty thousand dollars for each year of imprisonment".  
 3 2. On page 3, after line 12, insert the following new  
 4 subsection:  
 5 "(4) Damages awarded under this section shall not exceed  
 6 five hundred thousand dollars per claimant.".

**NOTICE OF COMMITTEE HEARING**  
 Business and Labor

Room 2102

Monday, March 23, 2009 1:30 p.m.

LR10 (cancel)

(Signed) Steve Lathrop, Chairperson

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 290A.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 290, One Hundred First Legislature, First Session, 2009.

**MOTIONS - Print in Journal**

Senator Ashford filed the following motion to LB669:  
 MO21  
 Recommit to Judiciary Committee.

Senator Price filed the following motion to LR10:  
 MO22  
 Withdraw resolution.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Howard asked unanimous consent to add her name as cointroducer to LB517. No objections. So ordered.

Senator Giese asked unanimous consent to add his name as cointroducer to LB646. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Senator Carlson's wife, Margo, from Holdrege and Vicki and Steve Klears from Minnesota; Jonathon Manning from Dallas, Texas; Deb Sorensen-Peery, Wanda Samson, and Crystal Aguilar from Fremont; 67 fourth-grade students and teachers from Bellfield Elementary, Fremont; and Greg Beistler from Lincoln.

The Doctor of the Day was Dr. Jay Matzke from Gothenburg.

**ADJOURNMENT**

At 12:02 p.m., on a motion by Senator Fulton, the Legislature adjourned until 9:00 a.m., Thursday, March 12, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FORTY-THIRD DAY - MARCH 12, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FORTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 12, 2009

**PRAYER**

The prayer was offered by Chief Bishop Robert Tyler, Church of the Living God, 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 Friend, Gay, Pankonin, and Stuthman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-second day was approved.

**ANNOUNCEMENTS**

Senator Stuthman designates LB476 as his priority bill.

The Education Committee designates LB392 and LB549 as its priority bills.

Senator Campbell designates LB342 as her priority bill.

The Health and Human Services Committee designates LB288 and LB195 as its priority bills.

Senator Loudon designates LB449 as his priority bill.

Senator Sullivan designates LB489 as her priority bill.

Senator Pankonin designates LB134 as his priority bill.

Senator Hansen designates LB517 as his priority bill.

Senator Flood designates LB36 as his priority bill.

## REPORTS

The following reports were received by the Legislature:

### **Coordinating Commission for Postsecondary Education**

2009 Nebraska Higher Education Progress Report

### **Education, Department of**

Chief Negotiator's Report of the State Employee Collective Bargaining Act, for Labor Negotiations between the Department of Education and the Nebraska Association of Public Employees, AFSCME, Local 61, for the 2009-2011 Biennium

### **Fiscal Office, Legislative**

Monthly Consensus Estimate of General Fund Receipts

### **Revenue, Nebraska Department of**

Monthly Consensus Estimate of General Fund Receipts

## REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 11, 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, Kristen

Realtors Association, Nebraska

Hurst, Lisa

ife Technologies Corporation

Kissel/Erickson & Sederstrom Associates, LLC

BP Alternative Energy

Mines, Mick

Humane Society, Nebraska

Pappas, James E.

UNO Faculty AAUP

## MOTION - Withdraw LR10

Senator Price renewed his motion, MO22, found on page 700, to withdraw LR10.

The Price motion to withdraw the resolution prevailed with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.



**WITHDRAW - Motion to LB669**

Senator Ashford withdrew his motion, MO21, found on page 700, to recommit LB669 to Judiciary Committee.

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 52.**

A BILL FOR AN ACT relating to veterans service offices; to amend section 80-410, Reissue Revised Statutes of Nebraska; to change provisions relating to employment qualifications; to harmonize provisions; 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	Dierks	Hansen	Louden	Rogert
Avery	Dubas	Harms	McCoy	Schilz
Campbell	Fischer	Heidemann	McGill	Stuthman
Carlson	Flood	Howard	Mello	Sullivan
Christensen	Fulton	Janssen	Nantkes	Utter
Coash	Giese	Karpisek	Nordquist	Wallman
Cook	Gloor	Langemeier	Pahls	White
Cornett	Haar	Lathrop	Pirsch	Wightman
Council	Hadley	Lautenbaugh	Price	

Voting in the negative, 0.

Present and not voting, 2:

Ashford      Nelson

Excused and not voting, 3:

Friend      Gay      Pankonin

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

**LEGISLATIVE BILL 89.**

A BILL FOR AN ACT relating to the Tobacco Products Tax Act; to amend sections 77-4001, 77-4002, 77-4008, 77-4014, 77-4017, and 77-4025, Reissue Revised Statutes of Nebraska; to change the tax on snuff; to define a

term; to eliminate obsolete provisions; to harmonize provisions; to provide an operative date; 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, 39:

Adams	Cornett	Hadley	McGill	Rogert
Ashford	Dubas	Hansen	Mello	Schilz
Avery	Fischer	Harms	Nantkes	Sullivan
Campbell	Flood	Heidemann	Nelson	Utter
Carlson	Fulton	Howard	Nordquist	Wallman
Christensen	Giese	Langemeier	Pahls	White
Coash	Gloor	Lautenbaugh	Pirsch	Wightman
Cook	Haar	McCoy	Price	

Voting in the negative, 5:

Council	Janssen	Karpisek	Louden	Stuthman
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Present and not voting, 2:

Dierks	Lathrop
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Excused and not voting, 3:

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

### **LEGISLATIVE BILL 90.**

A BILL FOR AN ACT relating to audiovisual court appearances; to amend section 29-4204, Reissue Revised Statutes of Nebraska; to eliminate certain requirements regarding audiovisual court appearances; to repeal the original section; and to outright repeal section 29-4203, Reissue Revised Statutes of Nebraska.

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, 46:

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

Voting in the negative, 0.

Excused and not voting, 3:

Friend            Gay            Pankonin

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

**LEGISLATIVE BILL 142.**

A BILL FOR AN ACT relating to the Livestock Brand Act; to amend section 54-1,100, Reissue Revised Statutes of Nebraska; to change provisions relating to recorded brands; to change a fee; 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, 45:

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

Voting in the negative, 1:

Stuthman

Excused and not voting, 3:

Friend            Gay            Pankonin

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

**LEGISLATIVE BILL 167.**

A BILL FOR AN ACT relating to the Department of Administrative Services; to amend section 81-1117.05, Reissue Revised Statutes of Nebraska; to provide for state employee participation in employee discount programs as prescribed; to change provisions relating to payments by electronic funds transfer; 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	Council	Hadley	Louden	Rogert
Ashford	Dierks	Harms	McCoy	Schilz
Avery	Dubas	Heidemann	McGill	Stuthman
Campbell	Fischer	Howard	Mello	Sullivan
Carlson	Flood	Janssen	Nantkes	Utter
Christensen	Fulton	Karpisek	Nordquist	Wallman
Coash	Giese	Langemeier	Pahls	White
Cook	Gloor	Lathrop	Pirsch	Wightman
Cornett	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Present and not voting, 2:

Hansen	Nelson
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Excused and not voting, 3:

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

**LEGISLATIVE BILL 204.**

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-4,141.01 and 60-4,168.01, Reissue Revised Statutes of Nebraska; to change certain penalty provisions relating to prohibited operations of commercial motor vehicles; 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, 46:

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

Voting in the negative, 0.

Excused and not voting, 3:

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

### LEGISLATIVE BILL 231.

A BILL FOR AN ACT relating to the Rural Development Commission; to amend section 81-3602, Reissue Revised Statutes of Nebraska; to change provisions relating to membership and voting as prescribed; 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, 45:

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

Voting in the negative, 0.

Present and not voting, 1:

Janssen

Excused and not voting, 3:

Friend            Gay            Pankonin

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

**LEGISLATIVE BILL 379.** With Emergency Clause.

A BILL FOR AN ACT relating to environmental protection; to amend section 81-15,160, Reissue Revised Statutes of Nebraska; to extend a scrap tire grant program; 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, 46:

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

Voting in the negative, 0.

Excused and not voting, 3:

Friend            Gay            Pankonin

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 LB151 with 43 ayes, 1 nay, 2 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 151.** With Emergency Clause.

A BILL FOR AN ACT relating to controlled substances; to amend sections 28-405, 28-456, and 28-456.01, Reissue Revised Statutes of Nebraska; to harmonize drug names with federal regulations; to change and eliminate provisions relating to food and drug products containing ephedrine or pseudoephedrine; to harmonize provisions; to repeal the original sections; to outright repeal sections 28-448 and 28-454, 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, 46:

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

Voting in the negative, 0.

Excused and not voting, 3:

Friend	Gay	Pankonin
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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.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 52, 89, 90, 142, 167, 204, 231, 379, and 151.

**MOTION - Return LB105 to Select File**

Senator Langemeier moved to return LB105 to Select File for his specific amendment, AM277, found on page 676.

The Langemeier motion to return prevailed with 44 ayes, 0 nays, 2 present and not voting, and 3 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 105.** The Langemeier specific amendment, AM277, found on page 676, was adopted with 45 ayes, 0 nays, 1 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 121.** Committee AM530, found on page 610 and considered on page 698, was renewed.

**SENATOR LANGEMEIER PRESIDING****SENATOR CARLSON PRESIDING**

Pending.

**COMMITTEE REPORTS**

Health and Human Services

**LEGISLATIVE BILL 463.** Placed on General File with amendment. AM620

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 38-1,140, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 38-1,140 Any person who holds a valid credential in
- 6 the State of Nebraska in a health care profession or occupation
- 7 regulated under the Uniform Credentialing Act may consult with a
- 8 licensed veterinarian ~~who has contracted with or is employed by an~~
- 9 ~~accredited zoological park or garden regarding an animal on behalf~~
- 10 ~~of such zoological park or garden~~ or perform collaborative animal
- 11 health care tasks on an animal under the care of such veterinarian
- 12 ~~for such zoological park or garden~~ if all such tasks are performed
- 13 under the immediate supervision of such veterinarian. Engaging in
- 14 such conduct is hereby authorized and shall not be considered a
- 15 part of the credential holder's scope of practice or a violation of
- 16 the credential holder's scope of practice.



17 Sec. 2. Section 38-3301, Reissue Revised Statutes of  
 18 Nebraska, is amended to read:

19 38-3301 Sections 38-3301 to 38-3330 and sections 4, 5,  
 20 and 8 to 11 of this act shall be known and may be cited as the  
 21 Veterinary Medicine and Surgery Practice Act.

22 Sec. 3. Section 38-3302, Reissue Revised Statutes of  
 23 Nebraska, is amended to read:

1 38-3302 For purposes of the Veterinary Medicine and  
 2 Surgery Practice Act and elsewhere in the Uniform Credentialing  
 3 Act, unless the context otherwise requires, the definitions found  
 4 in sections 38-3303 to 38-3318 and sections 4 and 5 of this act  
 5 apply.

6 Sec. 4. Health care therapy means health care activities  
 7 that require the exercise of judgment for which licensure is  
 8 required under the Uniform Credentialing Act.

9 Sec. 5. Licensed animal therapist means an individual  
 10 who (1) has and maintains an undisciplined license under the  
 11 Uniform Credentialing Act for a health care profession other  
 12 than veterinary medicine and surgery, (2) has met the standards  
 13 for additional training regarding the performance of that health  
 14 care profession on animals as required by rules and regulations  
 15 adopted and promulgated by the department upon the recommendation  
 16 of the board, and (3) is licensed as an animal therapist by the  
 17 department.

18 Sec. 6. Section 38-3314, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20 38-3314 Unlicensed assistant means an individual who is  
 21 not a licensed veterinarian, ~~or~~ a licensed veterinary technician,  
 22 or a licensed animal therapist and who is working in veterinary  
 23 medicine.

24 Sec. 7. Section 38-3321, Reissue Revised Statutes of  
 25 Nebraska, is amended to read:

26 38-3321 No person may practice veterinary medicine and  
 27 surgery in the state who is not a licensed veterinarian, no  
 1 person may perform delegated animal health care tasks in the  
 2 state who is not a licensed veterinary technician or an unlicensed  
 3 assistant performing such tasks within the limits established under  
 4 subdivision (2) of section 38-3326, and no person may perform  
 5 health care therapy on animals in the state who is not a licensed  
 6 animal therapist. The Veterinary Medicine and Surgery Practice Act  
 7 shall not be construed to prohibit:

8 (1) An employee of the federal, state, or local  
 9 government from performing his or her official duties;

10 (2) A person who is a student in a veterinary school from  
 11 performing duties or actions assigned by his or her instructors  
 12 or from working under the direct supervision of a licensed  
 13 veterinarian;

14 (3) A person who is a student in an approved veterinary  
 15 technician program from performing duties or actions assigned by

16 his or her instructors or from working under the direct supervision  
 17 of a licensed veterinarian or a licensed veterinary technician;

18 (4) Any merchant or manufacturer from selling feed or  
 19 feeds whether medicated or nonmedicated;

20 (5) A veterinarian regularly licensed in another state  
 21 from consulting with a licensed veterinarian in this state;

22 (6) Any merchant or manufacturer from selling from his or  
 23 her established place of business medicines, appliances, or other  
 24 products used in the prevention or treatment of animal diseases  
 25 or any merchant or manufacturer's representative from conducting  
 26 educational meetings to explain the use of his or her products or  
 27 from investigating and advising on problems developing from the use  
 1 of his or her products;

2 (7) An owner of livestock or a bona fide farm or ranch  
 3 employee from performing any act of vaccination, surgery, pregnancy  
 4 testing, or the administration of drugs in the treatment of  
 5 domestic animals under his or her custody or ownership nor the  
 6 exchange of services between persons or bona fide employees who are  
 7 principally farm or ranch operators or employees in the performance  
 8 of these acts;

9 (8) A member of the faculty of a veterinary school  
 10 or veterinary science department from performing his or her  
 11 regular functions, or a person lecturing or giving instructions  
 12 or demonstrations at a veterinary school or veterinary science  
 13 department or in connection with a continuing competency activity;

14 (9) Any person from selling or applying any pesticide,  
 15 insecticide, or herbicide;

16 (10) Any person from engaging in bona fide scientific  
 17 research which reasonably requires experimentation involving  
 18 animals;

19 (11) Any person from treating or in any manner caring for  
 20 domestic chickens, turkeys, or waterfowl, which are specifically  
 21 exempted from the Veterinary Medicine and Surgery Practice Act;

22 (12) Any person from performing dehorning or castrating  
 23 livestock, not to include equidae.

24 For purposes of the Veterinary Medicine and Surgery  
 25 Practice Act, castration shall be limited to the removal or  
 26 destruction of male testes; or

27 (13) Any person who holds a valid credential in the  
 1 State of Nebraska in a health care profession or occupation  
 2 regulated under the Uniform Credentialing Act from consulting  
 3 with a licensed veterinarian ~~who has contracted with or is~~  
 4 ~~employed by an accredited zoological park or garden regarding~~  
 5 ~~an animal on behalf of such zoological park or garden~~ or performing  
 6 collaborative animal health care tasks on an animal under the care  
 7 of such veterinarian ~~for such zoological park or garden~~ if all  
 8 such tasks are performed under the immediate supervision of such  
 9 veterinarian.

10 Sec. 8. (1) In addition to the remedies authorized in

11 section 38-140 or 38-1,124, a person who engages in the practice of  
12 veterinary medicine and surgery without being licensed or otherwise  
13 authorized to do so under the Veterinary Medicine and Surgery  
14 Practice Act shall be subject to a civil penalty of not less than  
15 one thousand dollars nor more than five thousand dollars for the  
16 first offense and not less than five thousand dollars nor more than  
17 ten thousand dollars for the second or subsequent offense. If a  
18 violation continues after notification, this constitutes a separate  
19 offense.

20 (2) The civil penalties shall be assessed in a civil  
21 action brought for such purpose by the Attorney General in the  
22 district court of the county in which the violation occurred.

23 (3) Any civil penalty assessed and unpaid under this  
24 section shall constitute a debt to the State of Nebraska which  
25 may be collected in the manner of a lien foreclosure or sued for  
26 and recovered in any proper form of action in the name of the  
27 State of Nebraska in the district court of the county in which the  
1 violinator resides or owns property. The department may also collect  
2 in such action attorney's fees and costs incurred in the collection  
3 of the civil penalty. The department shall, within thirty days  
4 after receipt, transmit any collected civil penalty to the State  
5 Treasurer to be disposed of in accordance with Article VII, section  
6 5, of the Constitution of Nebraska.

7 Sec. 9. Each applicant for a license as an animal  
8 therapist in this state shall present to the department:

9 (1) Proof that the applicant holds and maintains an  
10 undisciplined license under the Uniform Credentialing Act for a  
11 health care profession other than veterinary medicine and surgery;

12 (2) Proof that the applicant has met the standards for  
13 additional training regarding the performance of that health care  
14 profession on animals as required by rules and regulations adopted  
15 and promulgated by the department upon the recommendation of the  
16 board; and

17 (3) Such other information and proof as the department,  
18 with the recommendation of the board, may require by rule and  
19 regulation.

20 Sec. 10. (1) A licensed animal therapist may perform  
21 health care therapy on an animal only if:

22 (a) The health care therapy is consistent with the  
23 licensed animal therapist's training required for the license  
24 referred to under subdivision (1) of section 9 of this act;

25 (b) The owner of the animal presents to the licensed  
26 animal therapist a prior letter of referral for health care  
27 therapy that includes a veterinary medical diagnosis and  
1 evaluation completed by a licensed veterinarian who has a  
2 veterinarian-client-patient relationship with the owner and the  
3 animal and has made the diagnosis and evaluation within ninety days  
4 immediately preceding the date of the initiation of the health care  
5 therapy; and

6 (c) The licensed animal therapist provides health care  
7 therapy reports at least monthly to the referring veterinarian,  
8 except that a report is not required for any month in which health  
9 care therapy was not provided.

10 (2) A licensed veterinarian who prepares a letter of  
11 referral for health care therapy by a licensed animal therapist  
12 shall not be liable for damages caused to the animal as a result of  
13 the health care therapy performed by the licensed animal therapist.

14 Sec. 11. In addition to the grounds for disciplinary  
15 action found in sections 38-178 and 38-179, a license to practice  
16 as a licensed animal therapist may be denied, refused renewal,  
17 limited, revoked, or suspended or have other disciplinary measures  
18 taken against it in accordance with section 38-196 when the  
19 applicant or licensee is subjected to disciplinary measures with  
20 regard to his or her license referred to under subdivision (1) of  
21 section 9 of this act.

22 Sec. 12. Section 71-8909, Revised Statutes Cumulative  
23 Supplement, 2008, is amended to read:

24 71-8909 Veterinary drug distributor means any person or  
25 entity, ~~other than a pharmacy,~~ that engages in the distribution  
26 of veterinary legend drugs in the State of Nebraska ~~other than a~~  
27 pharmacy or a veterinarian licensed under the Uniform Credentialing  
1 Act acting within the scope of practice of veterinary medicine and  
2 surgery as defined in section 38-3312.

3 Sec. 13. Section 71-8910, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5 71-8910 Veterinary drug order means a lawful order or  
6 prescription of a veterinarian licensed to practice in this  
7 state, ~~which order or prescription is~~ issued pursuant to a bona  
8 fide veterinarian-client-patient relationship. For purposes of the  
9 Veterinary Drug Distribution Licensing Act, a veterinary drug order  
10 expires and becomes void one hundred eighty days after the date of  
11 issue.

12 Sec. 14. Original sections 38-1,140, 38-3301, 38-3302,  
13 38-3314, and 38-3321, Reissue Revised Statutes of Nebraska,  
14 and sections 71-8909 and 71-8910, Revised Statutes Cumulative  
15 Supplement, 2008, are repealed.

**LEGISLATIVE BILL 515.** Placed on General File with amendment.  
AM498 is available in the Bill Room.

(Signed) Tim Gay, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

Judiciary

Room 1113

Thursday, March 19, 2009 1:30 p.m.

LB38  
LB39  
LB145  
LB258  
LB383

Friday, March 20, 2009 1:30 p.m.

LB625  
LB507  
LB513  
LB598

(Signed) Brad Ashford, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 50.** Introduced by Harms, 48; Louden, 49.

WHEREAS, the Minatare High School cheer team took home two state titles at the 2009 Nebraska State Cheer and Dance Championships; and

WHEREAS, Minatare took first place in the Class D Nonbuilding/Nontumbling cheer category; and

WHEREAS, Minatare also took first place in the Class D Hip Hop dance category, the team's second straight title in this category; and

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

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

1. That the Legislature congratulates the Minatare High School cheer team on winning two state titles at the 2009 Nebraska State Cheer and Dance Championships.

2. That a copy of this resolution be sent to the Minatare High School cheer team and their coach, LeAnn Nuss.

Laid over.

**COMMITTEE REPORT**

Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Barbara Batie - Nebraska Environmental Trust Board  
Rodney Christen - Nebraska Environmental Trust Board

Aye: 8 Senators Carlson, Cook, Dubas, Fischer, Haar, Langemeier, McCoy, Schilz. Nay: 0. Absent: 0.

(Signed) Chris Langemeier, Chairperson

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 63A.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 63, One Hundred First Legislature, First Session, 2009; and to declare an emergency.

**LEGISLATIVE BILL 72A.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 72, One Hundred First Legislature, First Session, 2009.

**ANNOUNCEMENTS**

Senator Lathrop designates LB292 as his priority bill.

The Business and Labor Committee designates LB630 as its priority bill.

Senator Price designates LB532 as his priority bill.

The General Affairs Committee designates LB286 and LB198 as its priority bills.

Senator Coash designates LB159 as his priority bill.

The Natural Resources Committee designates LB436 as its priority bill.

Senator Wallman designates LB68 as his priority bill.

The Judiciary Committee designates LB35 as its priority bill.

The Urban Affairs Committee designates LB495 and LB658 as its priority bills.

Senator Friend designates LB285 as his priority bill.

Senator Cornett designates LB615 as her priority bill.

The Business and Labor Committee designates LB622 as its priority bill.

The Natural Resources Committee designates LB561 as its priority bill.

Senator Lautenbaugh designates LB355 as his priority bill.

Senator Haar designates LB547 as his priority bill.

### **GENERAL FILE**

**LEGISLATIVE BILL 121.** Committee AM530, found on page 610 and considered on page 698 and in this day's Journal, was renewed.

Senator Lautenbaugh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

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

The committee amendment was adopted with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Giese withdrew his amendment, AM628, found on page 681.

Senator Janssen renewed his amendment, AM663, found on page 699.

Senator Janssen moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

### **SENATOR ROBERT PRESIDING**

The Janssen amendment was adopted with 47 ayes, 0 nays, and 2 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review Initial with 37 ayes, 3 nays, 7 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 111.** Title read. Considered.

Pending.

**AMENDMENT - Print in Journal**

Senator Coash filed the following amendment to LB411:  
AM666

- 1 1. On page 2, line 19, strike "which", show as stricken,
- 2 and insert "except section 210.12(B). The".

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on March 12, 2009, at 9:42 a.m. were the following: LBs 52, 89, 90, 142, 167, 204, 231, 379e, and 151e.

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

**NOTICE OF COMMITTEE HEARING**

Appropriations

Room 1525

Thursday, March 26, 2009 1:30 p.m.

LB680

(Signed) Lavon Heidemann, Chairperson

**COMMITTEE REPORTS**

Revenue

**LEGISLATIVE BILL 159.** Placed on General File.

**LEGISLATIVE BILL 9.** Placed on General File with amendment.  
AM709

- 1 1. On page 2, line 8, before "corn" insert "and" and
- 2 strike ", and biofuel".

**LEGISLATIVE BILL 460.** Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson



## Agriculture

**LEGISLATIVE BILL 98.** Placed on General File with amendment.  
AM641

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 2-958.01, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 2-958.01 The Noxious Weed and Invasive Plant Species
- 6 Assistance Fund is created. The fund may be used to carry out the
- 7 purposes of section 2-958.02. The State Treasurer shall credit to
- 8 the fund any funds transferred pursuant to section 54-857, funds
- 9 or appropriated to the fund by the Legislature, and funds received
- 10 as gifts or grants or other private or public funds obtained for
- 11 the purposes set forth in section 2-958.02. Any money in the fund
- 12 available for investment shall be invested by the state investment
- 13 officer pursuant to the Nebraska Capital Expansion Act and the
- 14 Nebraska State Funds Investment Act.
- 15 Sec. 2. Section 2-958.02, Reissue Revised Statutes of
- 16 Nebraska, is amended to read:
- 17 2-958.02 (1) From funds available in the Noxious Weed and
- 18 Invasive Plant Species Assistance Fund, the director may administer
- 19 a grant program to assist local control authorities and other weed
- 20 management entities in the cost of implementing and maintaining
- 21 noxious weed control programs and in addressing special weed
- 22 control problems as provided in this section.
- 23 (2) The director shall receive applications by local
- 1 control authorities and weed management entities for assistance
- 2 under this subsection and, in consultation with the advisory
- 3 committee created under section 2-965.01, award grants for any of
- 4 the following eligible purposes:
- 5 (a) To conduct applied research to solve locally
- 6 significant weed management problems;
- 7 (b) To demonstrate innovative control methods or land
- 8 management practices which have the potential to reduce landowner
- 9 costs to control noxious weeds or improve the effectiveness of
- 10 noxious weed control;
- 11 (c) To encourage the formation of weed management
- 12 entities;
- 13 (d) To respond to introductions or infestations of
- 14 invasive plants that threaten or potentially threaten the
- 15 productivity of cropland and rangeland over a wide area;
- 16 (e) To respond to introductions and infestations of
- 17 invasive plant species that threaten or potentially threaten the
- 18 productivity and biodiversity of wildlife and fishery habitats on
- 19 public and private lands;
- 20 (f) To respond to special weed control problems involving
- 21 weeds not included in the list of noxious weeds promulgated by
- 22 rule and regulation of the director if the director has approved a

23 petition to bring such weeds under the county control program;

24 (g) To conduct monitoring or surveillance activities  
 25 to detect, map, or determine the distribution of invasive plant  
 26 species and to determine susceptible locations for the introduction  
 27 or spread of invasive plant species; and

1 (h) To conduct educational activities.

2 (3) The director shall select and prioritize applications  
 3 for assistance under subsection (2) of this section based on the  
 4 following considerations:

5 (a) The seriousness of the noxious weed or invasive plant  
 6 problem or potential problem addressed by the project;

7 (b) The ability of the project to provide timely  
 8 intervention to save current and future costs of control and  
 9 eradication;

10 (c) The likelihood that the project will prevent or  
 11 resolve the problem or increase knowledge about resolving similar  
 12 problems in the future;

13 (d) The extent to which the project will leverage federal  
 14 funds and other nonstate funds;

15 (e) The extent to which the applicant has made progress  
 16 in addressing noxious weed or invasive plant problems;

17 (f) The extent to which the project will provide a  
 18 comprehensive approach to the control or eradication of noxious  
 19 weeds;

20 (g) The extent to which the project will reduce the total  
 21 population or area of infestation of a noxious weed;

22 (h) The extent to which the project uses the principles  
 23 of integrated vegetation management and sound science; and

24 (i) Such other factors that the director determines to be  
 25 relevant.

26 (4) The director shall receive applications for grants  
 27 under this subsection and shall award grants to recipients and  
 1 programs eligible under this subsection. Priority shall be given to  
 2 grant applicants whose proposed programs are consistent with ~~the~~  
 3 policy established in vegetation management goals and priorities  
 4 and plans and policies of the Riparian Vegetation Management  
 5 Task Force created pursuant to section 2-968. Beginning in fiscal  
 6 year 2007-08, 2009-10, it is the intent of the Legislature to  
 7 appropriate two million dollars annually for the management of  
 8 vegetation within the banks of a natural stream or within one  
 9 hundred feet of the banks of a channel of any natural stream. Such  
 10 funds shall only be used to pay for activities and equipment as  
 11 part of vegetation management programs that have as their primary  
 12 objective improving conveyance of streamflow in natural streams.  
 13 Grants from funds appropriated as provided in this subsection shall  
 14 be disbursed only to weed management entities, local weed control  
 15 authorities, and natural resources districts, whose territory  
 16 includes one or more fully appropriated or overappropriated river  
 17 basins as designated by the Department of Natural Resources with

18 priority ~~for the first year~~ given to fully appropriated river  
19 basins that are the subject of an interstate compact or decree.  
20 The Game and Parks Commission shall assist grant recipients in  
21 implementing grant projects under this subsection, and interlocal  
22 agreements under the Interlocal Cooperation Act or the Joint Public  
23 Agency Act shall be utilized whenever possible in carrying out the  
24 grant projects. This subsection terminates on June 30, ~~2009~~, 2013.

25 (5) Nothing in this section shall be construed to relieve  
26 control authorities of their duties and responsibilities under the  
27 Noxious Weed Control Act or the duty of a person to control the  
1 spread of noxious weeds on lands owned and controlled by him or  
2 her.

3 (6) The Department of Agriculture may adopt and  
4 promulgate necessary rules and regulations to carry out this  
5 section.

6 (7)(a) The director shall apply for a grant from the  
7 Nebraska Environmental Trust Fund prior to the application deadline  
8 in September of 2009 for grants to be awarded and funded in April  
9 of 2010.

10 (b) The director shall apply for a grant from the Natural  
11 Resources Conservation Service of the United States Department of  
12 Agriculture prior to July 31, 2009.

13 Sec. 3. Section 2-967, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 2-967 The Riparian Vegetation Management Task Force is  
16 created. The Governor shall appoint the members of the task force.  
17 The members shall include one surface water project representative  
18 from each river basin that has been determined to be fully  
19 appropriated pursuant to section 46-714 or 46-720 or designated as  
20 overappropriated pursuant to section 46-713 by the Department  
21 of Natural Resources; one representative from the Department  
22 of Agriculture, the Department of Environmental Quality, the  
23 Department of Natural Resources, the office of the Governor, the  
24 office of the State Forester, the Game and Parks Commission, and  
25 the University of Nebraska; two representatives nominated by the  
26 Nebraska Association of Resources Districts; two representatives  
27 nominated by the Nebraska Weed Control Association; one riparian  
1 landowner from each of the state's congressional districts; and one  
2 representative from the Nebraska Environmental Trust. In addition  
3 to such members, any member of the Legislature may serve as a  
4 member of the task force at his or her option. For administrative  
5 and budgetary purposes only, the task force shall be housed within  
6 the Department of Agriculture. This section terminates on June 30,  
7 ~~2009~~, 2013.

8 Sec. 4. Section 2-968, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 2-968 The Riparian Vegetation Management Task Force, in  
11 consultation with appropriate federal agencies, shall develop and  
12 prioritize vegetation management goals and objectives, analyze the

13 cost-effectiveness of available vegetation treatment, and develop  
 14 plans and policies to achieve such goals and objectives. Any plan  
 15 shall utilize the principles of integrated vegetation management  
 16 and sound science. The task force shall convene within thirty  
 17 days after the appointment of the members is complete to elect a  
 18 chairperson and conduct such other business as deemed necessary.  
 19 The efforts of the task force shall be initially directed toward  
 20 river basins designated by the Department of Natural Resources as  
 21 fully appropriated or overappropriated. Task force meetings shall  
 22 be held in communities within the Republican River and Platte River  
 23 basins. ~~The task force shall make preliminary recommendations to~~  
 24 ~~the Governor and the Legislature regarding funding and legislation~~  
 25 ~~needed to achieve its goals on or before December 15, 2007, and~~  
 26 ~~each year thereafter,~~ with a final report due to the Governor  
 27 and the Legislature prior to June 30, ~~2009,~~ 2013. It is the  
 1 intent of the Legislature that expenses of the task force ~~be~~  
 2 ~~paid from funds appropriated for Laws 2007, LB 701, and shall not~~  
 3 exceed twenty-five thousand dollars per fiscal year. This section  
 4 terminates on June 30, ~~2009,~~ 2013.

5 Sec. 5. Section 2-5106, Reissue Revised Statutes of  
 6 Nebraska, is amended to read:

7 2-5106 The Buffer Strip Incentive Fund is created.  
 8 Proceeds raised from fees imposed for the registration of  
 9 pesticides and earmarked for the fund pursuant to section 2-2634,  
 10 proceeds raised from federal grants earmarked for the fund, and  
 11 any proceeds raised from public or private donations made to the  
 12 fund shall be remitted to the State Treasurer for credit to the  
 13 fund. The fund shall be administered by the department to maintain  
 14 the buffer strip program and for expenses directly related to  
 15 the program, including necessary expenses of the department in  
 16 carrying out its duties and responsibilities under the Buffer  
 17 Strip Act, except that on July 1, 2009, or as soon thereafter as  
 18 administratively possible, the State Treasurer shall transfer five  
 19 hundred thousand dollars from the Buffer Strip Incentive Fund to  
 20 the Noxious Weed and Invasive Plant Species Assistance Fund. The  
 21 annual cost of administering the buffer strip program shall not  
 22 exceed ten percent of the total annual proceeds credited to the  
 23 fund. Such administrative costs shall include funds allocated by  
 24 the department to the districts for their administrative costs. Any  
 25 money in the fund available for investment shall be invested by the  
 26 state investment officer pursuant to the Nebraska Capital Expansion  
 27 Act and the Nebraska State Funds Investment Act.

1 Sec. 6. Original sections 2-958.02, 2-967, 2-968, and  
 2 2-5106, Reissue Revised Statutes of Nebraska, and section 2-958.01,  
 3 Revised Statutes Cumulative Supplement, 2008, are repealed.

4 Sec. 7. Since an emergency exists, this act takes effect  
 5 when passed and approved according to law.

(Signed) Tom Carlson, Chairperson

## Education

**LEGISLATIVE BILL 548.** Placed on General File with amendment.  
AM714

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 79-1022, Reissue Revised Statutes of
- 4 Nebraska, as amended by section 1, Legislative Bill 61, One Hundred
- 5 First Legislature, First Session, 2009, is amended to read:
- 6 79-1022 (1) On or before ~~April~~June 1, 2009, and on or
- 7 before February 1 of each year thereafter, the department shall
- 8 determine the amounts to be distributed to each local system
- 9 and each district pursuant to the Tax Equity and Educational
- 10 Opportunities Support Act and shall certify the amounts to
- 11 the Director of Administrative Services, the Auditor of Public
- 12 Accounts, each learning community, and each district. The amount
- 13 to be distributed to each district that is not a member of
- 14 a learning community from the amount certified for a local
- 15 system shall be proportional based on: (a) For school fiscal
- 16 years prior to school fiscal year 2008-09, the weighted formula
- 17 students attributed to each district in the local system; and
- 18 (b) for school fiscal year 2008-09 and each school fiscal year
- 19 thereafter, the formula students attributed to each district in
- 20 the local system. For the first five complete school fiscal years
- 21 for a learning community, the amount to be distributed to each
- 22 district that is a member of such learning community shall be
- 23 determined pursuant to section 79-1015. For each school fiscal year
- 1 thereafter, the amount to be distributed to each district that
- 2 is a member of a learning community from the amount certified
- 3 for the local system shall be proportional based on the formula
- 4 needs calculated for each district in the local system. On or
- 5 before ~~April~~June 1, 2009, and February 1 of each year thereafter,
- 6 the department shall report the necessary funding level to the
- 7 Governor, the Appropriations Committee of the Legislature, and
- 8 the Education Committee of the Legislature. Certified state aid
- 9 amounts, including adjustments pursuant to section 79-1065.02,
- 10 shall be shown as budgeted non-property-tax receipts and deducted
- 11 prior to calculating the property tax request in the district's
- 12 general fund budget statement as provided to the Auditor of Public
- 13 Accounts pursuant to section 79-1024.
- 14 (2) Except as provided in subsection (8) of section
- 15 79-1016 and sections 79-1033 and 79-1065.02, the amounts certified
- 16 pursuant to subsection (1) of this section shall be distributed in
- 17 ten as nearly as possible equal payments on the last business day
- 18 of each month beginning in September of each ensuing school fiscal
- 19 year and ending in June of the following year, except that when a
- 20 school district is to receive a monthly payment of less than one
- 21 thousand dollars, such payment shall be one lump-sum payment on

22 the last business day of December during the ensuing school fiscal  
23 year.

24 Sec. 2. Section 79-1023, Reissue Revised Statutes of  
25 Nebraska, as amended by section 2, Legislative Bill 61, One Hundred  
26 First Legislature, First Session, 2009, is amended to read:

27 79-1023 (1) On or before ~~April~~June 1, 2009, and on or  
1 before February 1 of each year thereafter, the department shall  
2 determine and certify to each school district the maximum general  
3 fund budget of expenditures minus the special education budget of  
4 expenditures for the immediately following school fiscal year.

5 (2) For school fiscal years prior to 2008-09, no Class  
6 II, III, IV, V, or VI district shall increase its general fund  
7 budget of expenditures more than the local system's applicable  
8 allowable growth rate.

9 (3) For school fiscal year 2008-09 and each school fiscal  
10 year thereafter, except as provided in section 79-1028.01, no  
11 school district shall have a general fund budget of expenditures  
12 minus special grant funds and the special education budget of  
13 expenditures more than the greater of (a) the product of the  
14 difference of the general fund budget of expenditures minus special  
15 grant funds and the special education budget of expenditures for  
16 the immediately preceding school fiscal year multiplied by the sum  
17 of one plus the local system's applicable allowable growth rate or  
18 (b) the difference of one hundred twenty percent of formula need  
19 for such school fiscal year minus the product of the sum of one  
20 plus the basic allowable growth rate for such school fiscal year  
21 multiplied by the special education budget of expenditures as filed  
22 on the school district budget statement on or before September 20  
23 for the immediately preceding school fiscal year.

24 Sec. 3. Section 79-1026.01, Reissue Revised Statutes of  
25 Nebraska, as amended by section 3, Legislative Bill 61, One Hundred  
26 First Legislature, First Session, 2009, is amended to read:

27 79-1026.01 For school fiscal year 2008-09 and each school  
1 fiscal year thereafter, on or before ~~April~~June 1, 2009, and on  
2 or before February 1 of each year thereafter, the department shall  
3 determine and certify to each Class II, III, IV, or V district an  
4 applicable allowable growth rate carried out at least four decimal  
5 places as follows:

6 (1) The department shall establish a target budget level  
7 range of general fund operating expenditure levels for each school  
8 fiscal year for each school district which shall begin at twenty  
9 percent less than the school district's formula need and end at the  
10 school district's formula need. The beginning point of the range  
11 shall be assigned a number equal to the maximum allowable growth  
12 rate established in section 79-1025, and the end point of the range  
13 shall be assigned a number equal to the basic allowable growth rate  
14 as prescribed in such section such that the lower end of the range  
15 shall be assigned the maximum allowable growth rate and the higher  
16 end of the range shall be assigned the basic allowable growth rate;

17 and

18 (2) For each school fiscal year, each school district's  
 19 general fund operating expenditures shall be compared to its target  
 20 budget level along the range described in subdivision (1) of  
 21 this section to arrive at an applicable allowable growth rate  
 22 as follows: If each school district's general fund operating  
 23 expenditures fall below the lower end of the range, such applicable  
 24 allowable growth rate shall be the maximum growth rate identified  
 25 in section 79-1025. If each school district's general fund  
 26 operating expenditures are greater than the higher end of the  
 27 range, the school district's allowable growth rate shall be the  
 1 basic allowable growth rate identified in such section. If each  
 2 school district's general fund operating expenditures fall between  
 3 the lower end and the higher end of the range, the department shall  
 4 use a linear interpolation calculation between the end points of  
 5 the range to arrive at the applicable allowable growth rate for the  
 6 school district.

7 Sec. 4. Section 79-1027, Reissue Revised Statutes of  
 8 Nebraska, as amended by section 4, Legislative Bill 61, One Hundred  
 9 First Legislature, First Session, 2009, is amended to read:

10 79-1027 No district shall adopt a budget, which includes  
 11 total requirements of depreciation funds, necessary employee  
 12 benefit fund cash reserves, and necessary general fund cash  
 13 reserves, exceeding the applicable allowable reserve percentages  
 14 of total general fund budget of expenditures as specified in the  
 15 schedule set forth in this section.

Average daily membership of district	Allowable reserve percentage
0 - 471	45
471.01 - 3,044	35
3,044.01 - 10,000	25
10,000.01 and over	20

23 On or before ~~April~~ June 1, 2009, and on or before  
 24 February 1 each year thereafter, the department shall determine and  
 25 certify each district's applicable allowable reserve percentage.

26 Each district with combined necessary general fund cash  
 27 reserves, total requirements of depreciation funds, and necessary  
 1 employee benefit fund cash reserves less than the applicable  
 2 allowable reserve percentage specified in this section may,  
 3 notwithstanding the district's applicable allowable growth rate,  
 4 increase its necessary general fund cash reserves such that the  
 5 total necessary general fund cash reserves, total requirements  
 6 of depreciation funds, and necessary employee benefit fund  
 7 cash reserves do not exceed such applicable allowable reserve  
 8 percentage.

9 Sec. 5. Section 79-1031.01, Reissue Revised Statutes of  
 10 Nebraska, as amended by section 5, Legislative Bill 61, One Hundred  
 11 First Legislature, First Session, 2009, is amended to read:

12 79-1031.01 The Appropriations Committee of the  
 13 Legislature shall annually include the amount necessary to fund  
 14 the state aid that will be certified to school districts on or  
 15 before ~~April-June~~ June 1, 2009, and on or before February 1 for each  
 16 school year thereafter in its recommendations to the Legislature  
 17 to carry out the requirements of the Tax Equity and Educational  
 18 Opportunities Support Act.

19 Sec. 6. Original sections 79-1022, 79-1023, 79-1026.01,  
 20 79-1027, and 79-1031.01, Reissue Revised Statutes of Nebraska, as  
 21 amended by sections 1, 2, 3, 4, and 5, respectively, Legislative  
 22 Bill 61, One Hundred First Legislature, First Session, 2009, are  
 23 repealed.

24 Sec. 7. Since an emergency exists, this act takes effect  
 25 when passed and approved according to law.

(Signed) Greg Adams, Chairperson

Business and Labor

**LEGISLATIVE BILL 107.** Placed on General File with amendment.  
 AM490

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

3 Section 1. Section 29-431, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 29-431 As used in sections 28-416, 29-422, 29-424,  
 6 29-425, and 29-431 to 29-434 and section 2 of this act, unless  
 7 the context otherwise requires, infraction shall mean the violation  
 8 of any law, ordinance, order, rule, or regulation, not including  
 9 those related to traffic, which is not otherwise declared to be  
 10 a misdemeanor or a felony. Infraction shall include violations of  
 11 section 60-6,267.

12 Sec. 2. (1) Any employee of an employer as defined  
 13 in section 48-801 who has not been given a specific reason for  
 14 termination at the time of such termination may request, in writing  
 15 within seven days after termination, such reason. The employer  
 16 shall provide the employee a specific reason for the termination  
 17 in writing within seven days after receipt of such request to the  
 18 employee's last-known address that was provided to the employer.

19 (2) Noncompliance with subsection (1) of this section  
 20 shall not create a separate cause of action or affect or apply to  
 21 a common-law or statutory action for recovery in tort and shall not  
 22 affect or change the common-law definition and interpretation of  
 23 the employment-at-will doctrine.

1 (3) This section shall be construed as providing  
 2 a minimum standard and not as repealing or negating any  
 3 collective-bargaining agreement or any provision of law  
 4 specifically setting forth the rights of a particular group or  
 5 groups of employees.



6 (4) An employer who violates this section shall be guilty  
 7 of an infraction as defined in section 29-431 and shall be subject  
 8 to a fine pursuant to section 29-436.  
 9 Sec. 3. The Revisor of Statutes shall assign section 2 of  
 10 this act to Chapter 48, article 2.  
 11 Sec. 4. Original section 29-431, Reissue Revised Statutes  
 12 of Nebraska, is repealed.

(Signed) Steve Lathrop, Chairperson  
 Executive Board

**LEGISLATIVE BILL 620.** Placed on General File.

**LEGISLATIVE BILL 16.** Placed on General File with amendment.  
 AM692 is available in the Bill Room.

(Signed) John Wightman, Chairperson  
 General Affairs

**LEGISLATIVE BILL 411.** Placed on General File.  
**LEGISLATIVE BILL 500.** Placed on General File.

(Signed) Russ Karpisek, Chairperson

**ANNOUNCEMENTS**

Senator Pahls designates LB385 as his priority bill.

The Banking, Commerce and Insurance Committee designates LB328 as its  
 priority bill.

The Executive Board designates LB16 and LB653 as its priority bills.

Senator Karpisek designates LB568 as his priority bill.

Senator Christensen designates LB681 as his priority bill.

Senator McCoy designates LB675 as his priority bill.

Senator Pirsch designates LB671 as his priority bill.

Senator Nelson designates LB160 as his priority bill.

Senator White designates LB633 as his priority bill.

The Legislative Performance Audit Committee designates LB620 and LB679 as its priority bills.

Senator Fulton designates LB430 as his priority bill.

#### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Council asked unanimous consent to add her name as cointroducer to LB111 and LB356. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB489. No objections. So ordered.

#### **WITHDRAW - Cointroducers**

Senators Lautenbaugh and Rogert withdrew their names as cointroducers to LB64.

#### **VISITORS**

Visitors to the Chamber were 6 students, teacher, and sponsor from Nebraska College of Technical Agriculture, Curtis; and Kate Fitzgerald from Norfolk.

#### **ADJOURNMENT**

At 12:00 p.m., on a motion by Senator Coash, the Legislature adjourned until 10:00 a.m., Tuesday, March 17, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**FORTY-FOURTH DAY - MARCH 17, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FORTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 17, 2009

**PRAYER**

The prayer was offered by Reverend Dwight Ford, Grace City Church, Omaha.

**ROLL CALL**

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

The roll was called and all members were present except Senators Christensen and White who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-third day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 105.** Placed on Final Reading.  
ST9006

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

1. In the Langemeier amendment, AM227, on page 31, line 10, "permits" has been struck and "permit" inserted.

2. On page 1, line 3, "37-438," has been struck; in line 4 "37-448," has been struck; the matter beginning with "37-458" in line 5 through "37-4,108" in line 7 has been struck and "37-477, 37-479, 37-481" inserted; and in line 9 the matter beginning with the first comma through "37-1227" has been struck.

3. On page 2, line 1, "certain" has been inserted after "of"; and in line 2 "and the State Boat Act" has been struck.

**LEGISLATIVE BILL 105A.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 63.** Placed on Select File with amendment.  
ER8031 is available in the Bill Room.

**LEGISLATIVE BILL 121.** Placed on Select File with amendment.  
ER8032 is available in the Bill Room.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

Banking, Commerce and Insurance

**LEGISLATIVE BILL 551.** Placed on General File.

(Signed) Rich Pahls, Chairperson

Business and Labor

**LEGISLATIVE BILL 627.** Placed on General File with amendment.  
AM230

- 1 1. On page 4, strike lines 1 through 4 and insert the
- 2 following new subsection:
- 3 "(4) A boiler that is used as a water heater to supply
- 4 potable hot water and that is not otherwise exempt from inspection
- 5 under the act pursuant to section 48-726 shall be subject to
- 6 inspection at least once every twenty-four months in accordance
- 7 with a schedule of inspection established by the commissioner by
- 8 rule and regulation.".

(Signed) Steve Lathrop, Chairperson

General Affairs

**LEGISLATIVE BILL 198.** Placed on General File with amendment.  
AM679 is available in the Bill Room.

**LEGISLATIVE BILL 287.** Placed on General File with amendment.  
AM536

- 1 1. Strike the original sections and insert the following
- 2 new 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. 4. Original sections 9-255.04, 9-347, and 9-347.01,  
 8 Reissue Revised Statutes of Nebraska, are repealed.

(Signed) Russ Karpisek, Chairperson

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 532.** Placed on General File with amendment.  
 AM678

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

3 Section 1. In addition to the powers granted in section  
 4 23-104, counties may regulate by ordinance:

5 (1) Parking, as it pertains to snow removal for and  
 6 access by emergency vehicles to residential and commercial areas;

7 (2) Motor vehicles as defined in section 60-339 that are  
 8 abandoned on public or private property;

9 (3) Graffiti on public or private property;

10 (4) False alarms caused by an emergency alarm system; and

11 (5) Public indecency, including public nudity.

12 Any ordinance adopted by the county shall be enforced by  
 13 a fine not exceeding five hundred dollars for each offense and  
 14 recoverable costs and attorney's fees or other penalty adopted by  
 15 ordinance.

16 Sec. 2. The county board shall provide notice of the  
 17 time when any ordinance is set for consideration before the  
 18 board. Such notice shall appear in at least two publications of a  
 19 newspaper published or of general circulation in the county. The  
 20 publication shall state the entire wording of the ordinance. The  
 21 last publication shall be not less than five days nor more than  
 22 two weeks prior to the time set for the hearing for public comment  
 23 on the adoption of any such ordinance. Final action by the county  
 1 board shall not be taken on the proposed ordinance until after at  
 2 least one public hearing has been arranged for and held thereon  
 3 by the county board. Thereafter the ordinance may be amended and  
 4 adopted or adopted as proposed.

5 Sec. 3. County ordinances shall be adopted pursuant to  
 6 rules and regulations as the county board may provide, and all such  
 7 ordinances may be proved by the certificate of the county clerk  
 8 under the seal of the county. When printed or published in book



9 or pamphlet form and purporting to be published by authority of  
 10 the county, such ordinances shall be read and received in evidence  
 11 in all courts and places without further proof. The adoption and  
 12 publication or posting of the ordinance shall be sufficiently  
 13 proved by a certificate under the seal of the county, from the  
 14 county clerk, showing that such ordinance was adopted, and when and  
 15 in what paper the ordinance was published, or when, by whom, and  
 16 where the ordinance was posted. When ordinances are published in  
 17 book or pamphlet form, purporting to be published by authority of  
 18 the county board, the ordinance need not be otherwise published,  
 19 and such book or pamphlet shall be received as evidence of the  
 20 adoption and legal publication of such ordinances, as of the dates  
 21 mentioned in such book or pamphlet, in all courts without further  
 22 proof.

23 Sec. 4. (1) Ordinances shall be read by title on three  
 24 different days unless three-fourths of the county board members  
 25 vote to suspend this requirement. In case such requirement is  
 26 suspended, the ordinances shall be read by title or number and then  
 27 moved for final adoption. Three-fourths of the county board members  
 1 may require a reading of any such ordinance in full before adoption  
 2 under either procedure set out in this section. The votes of each  
 3 member shall be called aloud and recorded. To adopt any ordinance,  
 4 a concurrence of a majority of the whole number of the members  
 5 elected to the board shall be required.

6 (2) Ordinances shall contain no subject which is not  
 7 clearly expressed in the title, and no ordinance or section thereof  
 8 shall be revised or amended unless the new ordinance contains the  
 9 entire ordinance or section as revised or amended and the ordinance  
 10 or section so amended is repealed, except that:

11 (a) For an ordinance revising all the ordinances of the  
 12 county, the only title necessary shall be An ordinance of the  
 13 county of ....., revising all the ordinances of the county.  
 14 Under such title all the ordinances may be revised in sections and  
 15 chapters or otherwise, may be corrected, added to, and any part  
 16 suppressed, and may be repealed with or without a saving clause as  
 17 to the whole or any part without other title; and

18 (b) For an ordinance used solely to revise ordinances  
 19 or to adopt new ordinances in order to adopt statutory changes  
 20 made by the Legislature which are specific and mandatory and bring  
 21 the ordinances into conformance with state law, the title need  
 22 only state that the ordinance revises those ordinances affected by  
 23 or adopts ordinances generated by legislative changes. Under such  
 24 title, all such ordinances may be revised, repealed, or adopted in  
 25 sections and chapters or otherwise by a single ordinance without  
 26 other title.

27 Sec. 5. The style of ordinances shall be: "Be it ordained  
 1 by the county board of the county of ....., " and all  
 2 ordinances shall, within fifteen days after they are adopted, be  
 3 published in some newspaper published or of general circulation

4 within the county, or in pamphlet form, to be distributed or sold,  
5 as may be provided by ordinance. Every ordinance fixing a penalty  
6 or forfeiture for its violation shall, before the ordinance takes  
7 effect, be published for at least one week in the manner prescribed  
8 in this section.

9 Sec. 6. No ordinance of any county shall go into effect  
10 until fifteen days after the adoption of such ordinance.

11 Sec. 7. The powers conferred by sections 1 to 6 of this  
12 act shall not be exercised within the limits of any incorporated  
13 city or village nor within the area over which a city or village  
14 has been granted and is exercising such powers. At such time as  
15 a city or village exercises control over an unincorporated area  
16 by the adoption or amendment of an ordinance, the ordinance or  
17 amendment shall supersede any similar ordinance of the county.

(Signed) Bill Avery, Chairperson

### MESSAGES FROM THE GOVERNOR

March 12, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as the Director of Children and Family Services of the Department of Health and Human Services:

Todd Reckling, 2900 South 46th Street, Lincoln, NE 68506

The aforementioned appointee is respectfully submitted for your consideration. Copies of the appointment certificate and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

March 6, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the State Emergency Response Commission:

Steven Danon, 4804 South 160th Street, Omaha, NE 68135  
Richard Christensen, 1200 Lock View Drive, Hastings, NE 68901  
Donald Eisenhauer, 803 4th Street, Fairbury, NE 68352  
Larry Johnson, 1729 North 160th Street, Omaha, NE 68118

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 43, 44, 45, and 46 were adopted.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 43, 44, 45, and 46.

### **MOTIONS - Approve Appointments**

Senator Karpisek moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 695:

Nebraska Arts Council  
Judy Pearl-Lee

Voting in the affirmative, 38:

Adams	Dierks	Haar	Lautenbaugh	Schilz
Ashford	Dubas	Hadley	Louden	Stuthman
Avery	Fischer	Hansen	McCoy	Sullivan
Campbell	Flood	Harms	Mello	Utter
Carlson	Fulton	Howard	Nantkes	Wallman
Coash	Gay	Janssen	Pahls	Wightman
Cook	Giese	Karpisek	Pirsch	
Council	Gloor	Langemeier	Price	

Voting in the negative, 0.

Present and not voting, 9:

Cornett	Heidemann	McGill	Nordquist	Rogert
Friend	Lathrop	Nelson	Pankonin	

Excused and not voting, 2:

Christensen    White

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

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 695:

Stem Cell Research Advisory Committee

Bradley B. Keller  
Rebecca Morris  
Dennis R. Roop  
Gerald Spangrude

Voting in the affirmative, 43:

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

Voting in the negative, 0.

Present and not voting, 5:

Flood	Friend	Heidemann	Lathrop	McGill
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Excused and not voting, 1:

Christensen

The appointments were confirmed with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 696:

Foster Care Review Board  
 Mary Jo Pankoke  
 Mario Scalora  
 Dave Schroeder  
 Georgie Scurfield

Voting in the affirmative, 38:

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

Voting in the negative, 0.

Present and not voting, 11:

Ashford	Council	Karpisek	Nantkes
Christensen	Friend	Lathrop	Nordquist
Cornett	Heidemann	McGill	

The appointments were confirmed with 38 ayes, 0 nays, and 11 present and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 696:

Commission for the Deaf and Hard of Hearing  
 Clifford Carlson  
 Luana Duennerman  
 Steven Manning  
 Jan Moore

Voting in the affirmative, 44:

Adams	Dierks	Hadley	Louden	Price
Ashford	Dubas	Hansen	McCoy	Rogert
Avery	Fischer	Harms	Mello	Schilz
Campbell	Friend	Howard	Nantkes	Stuthman
Carlson	Fulton	Janssen	Nelson	Sullivan
Christensen	Gay	Karpisek	Nordquist	Utter
Coash	Giese	Langemeier	Pahls	Wallman
Cook	Gloor	Lathrop	Pankonin	White
Council	Haar	Lautenbaugh	Pirsch	

Voting in the negative, 0.

Present and not voting, 5:

Cornett	Flood	Heidemann	McGill	Wightman
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The appointments were confirmed with 44 ayes, 0 nays, and 5 present and not voting.

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 696:

Commission for the Blind and Visually Impaired  
Carol Jenkins

Voting in the affirmative, 41:

Adams	Dubas	Harms	Nantkes	Stuthman
Ashford	Fischer	Howard	Nelson	Sullivan
Campbell	Friend	Janssen	Nordquist	Utter
Carlson	Fulton	Karpisek	Pahls	Wallman
Christensen	Gay	Langemeier	Pankonin	White
Cook	Giese	Lautenbaugh	Pirsch	
Cornett	Gloor	Louden	Price	
Council	Haar	McCoy	Rogert	
Dierks	Hansen	Mello	Schilz	

Voting in the negative, 0.

Present and not voting, 8:

Avery	Flood	Heidemann	McGill
Coash	Hadley	Lathrop	Wightman

The appointment was confirmed with 41 ayes, 0 nays, and 8 present and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 63A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 1 nay, 18 present and not voting, and 3 excused and not voting.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 51.** Introduced by Dierks, 40.

WHEREAS, the Ewing Lady Tigers won the 2009 Class D-2 Girls' State Basketball Championship; and

WHEREAS, the Lady Tigers defeated the top-ranked Chambers Coyotes to win the championship game; and

WHEREAS, the Lady Tigers finished the season with a record of twenty-four wins and three losses; and

WHEREAS, this is the third year in a row that the Lady Tigers won the Class D-2 Girls' State Basketball Championship; and

WHEREAS, the Lady Tigers rallied to tie the score at the end of the fourth quarter, requiring the Class D-2 championship game to go into overtime for the first time in its twenty-six-year history; and

WHEREAS, the Lady Tigers and the Ewing fans also received the 2009 Class D-2 Sportsmanship Award.

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

1. That the Legislature congratulates the Ewing Lady Tigers for their achievement in winning the 2009 Class D-2 Girls' State Basketball Championship.

2. That the Legislature congratulates head coach Brock Eichelberger and assistant coach Ann Boelter for their excellent season and guidance of the team.

3. That a copy of this resolution be sent to head coach Brock Eichelberger.

Laid over.

**ANNOUNCEMENT**

Speaker Flood designates LBs 9, 56, 92, 97, 112, 155, 162, 218, 232, 237, 246, 263, 358, 402, 413, 414, 440, 464, 494, 503, 511, 542, 548, 579, and 626 as Speaker priority bills.

**COMMITTEE REPORTS**  
Nebraska Retirement Systems

**LEGISLATIVE BILL 205.** Placed on General File with amendment.  
AM689

- 1 1. Strike sections 3 to 5.
- 2 2. On page 3, line 24; and page 7, line 9, after "each"
- 3 insert "even-numbered".
- 4 3. On page 4, line 14, strike "Members" and insert "Upon
- 5 a three-fifths majority vote of the pension board, a member" and
- 6 strike "their" and insert "his or her".
- 7 4. On page 8, line 1, strike "Members" and insert "Upon
- 8 a three-fifths majority vote of the body, board, council, or
- 9 committee, a member" and strike "their" and insert "his or her".
- 10 5. Renumber the remaining section and correct the
- 11 repealer accordingly.

**LEGISLATIVE BILL 449.** Placed on General File with amendment.  
AM515

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 79-954, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 79-954 (1) Except as provided in subsection (2) of
- 6 this section, if ~~if~~ a disability beneficiary under the age of
- 7 sixty-five years is restored to active service as a school employee
- 8 or if the examining physician certifies that the person is no
- 9 longer disabled for service as a school employee, the school or
- 10 disability retirement allowance shall cease. If the beneficiary
- 11 again becomes a school employee, he or she shall become a member of
- 12 the retirement system. Any prior service certificate, on the basis
- 13 of which his or her creditable service was computed at the time
- 14 of his or her retirement for disability, shall be restored to full
- 15 force and effect upon his or her again becoming a member of such
- 16 retirement system.
- 17 (2) If a disability beneficiary under the age of
- 18 sixty-five years obtains employment as a school employee and the
- 19 examining physician certifies that the beneficiary has a permanent
- 20 disability, the beneficiary shall retain his or her disability
- 21 retirement allowance if the beneficiary works fewer than fifteen
- 22 hours per week.
- 23 Sec. 2. Original section 79-954, Reissue Revised Statutes
- 1 of Nebraska, is repealed.

(Signed) Dave Pankonin, Chairperson



Revenue

**LEGISLATIVE BILL 218.** Placed on General File with amendment.  
AM712

- 1 1. Strike original section 15.
- 2 2. On page 12, line 19, strike "2009" and insert "2011".

**LEGISLATIVE BILL 357.** Placed on General File with amendment.  
AM657

- 1 1. On page 2, line 23, strike "three" and insert "two and
- 2 two-tenths".

**LEGISLATIVE BILL 405.** Placed on General File with amendment.  
AM722

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 77-27,234, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 77-27,234 Sections 77-27,228 to 77-27,233 terminate for
- 6 taxable years beginning or deemed to begin on or after January 1,
- 7 ~~2010-2011~~, under the Internal Revenue Code of 1986, as amended.
- 8 Sec. 2. Original section 77-27,234, Revised Statutes
- 9 Cumulative Supplement, 2008, is repealed.

**LEGISLATIVE BILL 587.** Placed on General File with amendment.  
AM721

- 1 1. On page 5, line 9, before the semicolon insert "in
- 2 conjunction with medical treatment".

(Signed) Abbie Cornett, Chairperson

Education

**LEGISLATIVE BILL 235.** Placed on General File with amendment.  
AM681

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Solar and wind leases on and sale of carbon
- 4 offset credits involving school lands shall be governed by sections
- 5 1 to 3 of this act.
- 6 Sec. 2. The Board of Educational Lands and Funds may
- 7 issue leases for electricity generation utilizing solar or wind
- 8 energy for such durations and under such terms and conditions as
- 9 the board shall deem appropriate. In making such determinations,
- 10 the board shall consider comparable arrangements involving other
- 11 lands similarly situated and any other relevant factors bearing
- 12 upon such leases.
- 13 Sec. 3. The Board of Educational Lands and Funds may
- 14 enter into contracts for the sale of carbon offset credits under

15 such terms and conditions as the board shall deem appropriate for  
 16 durations not exceeding ten years. In entering into such contracts,  
 17 the board shall consider comparable arrangements involving other  
 18 lands similarly situated and any other relevant factors bearing  
 19 upon such contracts.

**LEGISLATIVE BILL 340.** Placed on General File with amendment.  
 AM654

1 1. Insert the following new section:  
 2 Sec. 3. Since an emergency exists, this act takes effect  
 3 when passed and approved according to law.  
 4 2. On page 5, strike lines 4 through 8 and insert the  
 5 following:  
 6 "(15) Facilitate a study that explores the following  
 7 issues related to the Nebraska community college system:  
 8 (a) The need for changes to the statutory role and  
 9 mission of Nebraska community colleges;  
 10 (b) Changes in the weighting of courses that may be  
 11 necessary for reimbursable educational units to properly reflect  
 12 the role and mission of Nebraska community colleges and the cost of  
 13 providing such courses;  
 14 (c) Powers, duties, and mission of the Nebraska Community  
 15 College Association or its successor and whether membership in such  
 16 an association should be required;  
 17 (d) Consequences for failing to satisfy current community  
 18 college association membership requirements contained in section  
 19 85-1502; and  
 20 (e) State coordination of community colleges in the  
 21 absence of a community college association or membership therein.  
 22 The commission shall include and facilitate discussion  
 23 among the state's community colleges in the completion of such  
 1 study. Each community college shall participate in good faith with  
 2 the conduct of such study. The commission shall report its findings  
 3 to the Legislature on or before December 15, 2009."

**LEGISLATIVE BILL 440.** Placed on General File with amendment.  
 AM660

1 1. On page 2, line 17, after "diversity" insert  
 2 "scholarship".

**LEGISLATIVE BILL 283.** Indefinitely postponed.

**LEGISLATIVE BILL 400.** Indefinitely postponed.

**LEGISLATIVE BILL 655.** Indefinitely postponed.

**LEGISLATIVE BILL 673.** Indefinitely postponed.

(Signed) Greg Adams, Chairperson

## Agriculture

**LEGISLATIVE BILL 263.** Placed on General File with amendment.  
AM354

- 1 1. On page 2, line 9, after "the" insert "registration,
- 2 labeling, sale,".
- 3 2. On page 3, line 10, before the period insert "or any
- 4 natural resources district to enforce the Nebraska Ground Water
- 5 Management and Protection Act".

**LEGISLATIVE BILL 588.** Placed on General File with amendment.  
AM705

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Sections 1 to 7 of this act shall be known and
- 4 may be cited as the Dog and Cat Purchase Protection Act.
- 5 Sec. 2. For purposes of the Dog and Cat Purchase
- 6 Protection Act:
- 7 (1) Casual breeder means any person, other than a
- 8 commercial breeder as defined in section 54-626, who offers for
- 9 sale, sells, trades, or receives compensation for one or more pet
- 10 animals from a litter produced by a female dog or cat owned by such
- 11 casual breeder;
- 12 (2) Clinical symptom means indication of an illness
- 13 or dysfunction that is apparent to a veterinarian based on the
- 14 veterinarian's observation, examination, or testing of an animal or
- 15 on a review of the animal's medical records;
- 16 (3) Health certificate means the official small animal
- 17 certificate of veterinary inspection of the Bureau of Animal
- 18 Industry of the Department of Agriculture;
- 19 (4) Pet animal means a dog, wholly or in part of the
- 20 species canis familiaris, or a cat, wholly or in part of the
- 21 species felis domesticus, that is under fifteen months of age;
- 22 (5) Purchaser means the final owner of a pet animal
- 23 purchased from a seller. Purchaser does not include a person who
- 1 purchases a pet animal for resale;
- 2 (6) Seller means a casual breeder or any commercial
- 3 establishment, including a commercial breeder, dealer, or pet shop
- 4 as such terms are defined in section 54-626, that engages in a
- 5 business of selling pet animals at retail for profit. A seller
- 6 does not include an animal control facility or animal shelter as
- 7 defined in section 54-626 or any animal adoption activity that an
- 8 animal control facility or animal shelter conducts offsite at any
- 9 pet store or other commercial establishment; and
- 10 (7) Serious health problem means a congenital or
- 11 hereditary defect, an illness that causes death or severely impairs
- 12 the pet animal's health within fifteen months after the pet
- 13 animal's date of birth, the contraction of Parvovirus within seven
- 14 days after delivery of the pet animal to the purchaser, or any

15 other contagious disease that causes severe illness or death within  
16 ten days after delivery of the pet animal to the purchaser.

17 Sec. 3. (1) A seller shall deliver to the purchaser at  
18 the time of sale of a pet animal a written disclosure statement  
19 containing the following information regarding the pet animal:

20 (a) The name, address, and license number of any  
21 commercial breeder or dealer as such terms are defined in  
22 section 54-626 or, if applicable, the United States Department  
23 of Agriculture license number of the breeder or any broker who has  
24 had possession of the animal prior to the seller's possession;

25 (b) The date of the pet animal's birth, if known, the  
26 state in which the pet animal was born, if known, and the date the  
27 seller received the pet animal;

1 (c) The sex and color of the pet animal, any other  
2 identifying marks apparent upon the pet animal, and the breed of  
3 the pet animal, if known, or a statement that the breed of the pet  
4 animal is unknown or the pet animal is of mixed breed;

5 (d) The pet animal's individual identifying tag, tattoo,  
6 microchip number, or collar number;

7 (e) The names and registration numbers of the sire and  
8 dam and the litter number, if applicable and if known;

9 (f) A record of any vaccination, worming treatment, or  
10 medication administered to the pet animal while in the possession  
11 of the seller and, if known, any such vaccination, treatment, or  
12 medication administered to the pet animal prior to the date the  
13 seller received the pet animal; and

14 (g) The date or dates of any examination of the pet  
15 animal by a licensed veterinarian while in the possession of the  
16 seller.

17 (2) The seller may include any of the following with the  
18 written disclosure statement required by subsection (1) of this  
19 section:

20 (a) A statement that a veterinarian examined the pet  
21 animal and, at the time of the examination, the pet animal had  
22 no apparent or clinical symptoms of a serious health problem that  
23 would adversely affect the health of the pet animal at the time of  
24 sale or that is likely to adversely affect the health of the pet  
25 animal in the future; and

26 (b) A record of any serious health problem that adversely  
27 affects the pet animal at the time of sale or that is likely to  
1 adversely affect the health of the pet animal in the future.

2 (3) The written disclosure made pursuant to this section  
3 shall be signed by the seller certifying the accuracy of the  
4 written disclosure statement and by the purchaser acknowledging  
5 receipt of the written disclosure statement. In addition to  
6 information required to be given to a purchaser under this section,  
7 at the time of sale the seller shall provide the purchaser with a  
8 written notice of the purchaser's rights and responsibilities under  
9 the Dog and Cat Purchase Protection Act. Such notice may be in the

10 form of a legible copy of the act.

11 (4) If the pet animal is sold to a purchaser who resides  
 12 outside of the state or intends that the pet animal will be  
 13 relocated or permanently domiciled outside of the state, the seller  
 14 shall provide the purchaser with a health certificate signed by  
 15 a licensed veterinarian who has examined the pet animal and is  
 16 authorized to certify such certificate.

17 (5) The seller shall maintain a copy of any written  
 18 disclosure statements made and any other records on the health,  
 19 status, or disposition of each pet animal for at least one year  
 20 after the date of sale to a purchaser.

21 Sec. 4. (1) In order to have recourse to the remedies  
 22 available to purchasers under this section, a purchaser shall have  
 23 the pet animal examined by a licensed veterinarian within seven  
 24 business days after delivery of the pet animal to the purchaser.  
 25 The pet animal shall be declared unfit for sale and the purchaser  
 26 may obtain one of the remedies listed in subsection (2) or (3)  
 27 of this section if (a) during such examination, the veterinarian  
 1 diagnoses the pet animal with a serious health problem that the  
 2 veterinarian believes existed at the time of delivery of the pet  
 3 animal to the purchaser or (b) within fifteen months after the date  
 4 of birth of the pet animal, a veterinarian diagnoses the pet animal  
 5 with a serious health problem or states in writing that the pet  
 6 animal has died from a serious health problem that the veterinarian  
 7 believes existed at the time of delivery of the pet animal to the  
 8 purchaser.

9 (2) If a pet animal is diagnosed with a serious health  
 10 problem under subsection (1) of this section, the purchaser shall  
 11 notify the seller within two business days after the diagnosis  
 12 and provide the seller with the name and telephone number of  
 13 the veterinarian or a copy of the veterinarian's report. After  
 14 such notification, the purchaser may obtain one of the following  
 15 remedies from the seller:

16 (a) A refund of the full purchase price of the pet animal  
 17 upon return of such pet animal to the seller;

18 (b) An exchange for a pet animal of the purchaser's  
 19 choice of equivalent value, if such pet animal is available, upon  
 20 return of the pet animal, if alive, to the seller; or

21 (c) Reimbursement for reasonable veterinary fees, not to  
 22 exceed the full purchase price of the pet animal.

23 (3) If a pet animal dies from a serious health problem  
 24 as determined under subsection (1) of this section, the purchaser  
 25 shall notify the seller within two business days after receipt  
 26 of the written statement of the veterinarian by the purchaser and  
 27 shall provide the seller with a copy of such written statement.

1 After receipt of the written statement by the seller, the purchaser  
 2 may obtain one of the following remedies from the seller:

3 (a) A refund of the full purchase price of the pet  
 4 animal; or

5 (b) A pet animal of the purchaser's choice of equivalent  
6 value, if such pet animal is available, and reimbursement for  
7 reasonable veterinary fees not to exceed one-half of the full  
8 purchase price of the pet animal.

9 (4) For purposes of this section, veterinary fees shall  
10 be deemed reasonable if the service is appropriate for the  
11 diagnosis and treatment of the serious health problem and the  
12 cost of the service is comparable to similar services provided  
13 by licensed veterinarians in close proximity to the treating  
14 veterinarian.

15 Sec. 5. No refund or reimbursement of fees or replacement  
16 of a pet animal under section 4 of this act shall be required if  
17 one or more of the following conditions exist:

18 (1) The serious health problem or death of the pet animal  
19 resulted from maltreatment, neglect, or injury occurring after  
20 delivery of the pet animal to the purchaser;

21 (2) Any written disclosure statements provided by a  
22 seller pursuant to subsection (2) of section 3 of this act  
23 disclosed the serious health problem for which the purchaser is  
24 seeking a remedy; or

25 (3) The purchaser failed to follow through with  
26 preventative care, including, but not limited to, vaccinations,  
27 deworming treatment, or medication, recommended by a licensed  
1 veterinarian examining the pet animal.

2 Sec. 6. (1) If a seller does not comply with a demand for  
3 remedy by a purchaser under section 4 of this act, the purchaser  
4 may file an action in a court of competent jurisdiction.

5 (2) If a seller contests a demand for remedy by a  
6 purchaser under section 4 of this act, the seller may require the  
7 purchaser to produce the pet animal for examination or autopsy by  
8 a licensed veterinarian designated by the seller. The seller shall  
9 pay for all costs associated with such examination or autopsy. The  
10 seller shall have a right of recovery against the purchaser if the  
11 seller is not obligated to provide the remedy sought,

12 (3) The prevailing party in a proceeding under this  
13 section shall be limited to a recovery of actual costs and no more  
14 than five hundred dollars in reasonable attorney's fees.

15 Sec. 7. Nothing in the Dog and Cat Purchase Protection  
16 Act shall limit any rights and remedies otherwise available under  
17 the laws of this state. Any agreement or contract entered into  
18 by a seller and a purchaser waiving any rights under the act is  
19 void. Nothing in the Dog and Cat Purchase Protection Act shall  
20 be construed to limit a seller to offering only those warranties,  
21 express or implied, required by the act.

22 Sec. 8. This act becomes operative on January 1, 2010.

(Signed) Tom Carlson, Chairperson

## Health and Human Services

**LEGISLATIVE BILL 542.** Placed on General File.

**LEGISLATIVE BILL 173.** Placed on General File with amendment.  
AM733

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

3 Section 1. (1) Prescription drugs or devices which have  
4 been dispensed pursuant to a valid prescription and delivered  
5 to a Department of Correctional Services facility, a criminal  
6 detention facility, a juvenile detention facility, or a jail for  
7 administration to a prisoner or detainee held at such facility or  
8 jail, but which are not administered to such prisoner or detainee,  
9 may be returned to the dispensing pharmacy under contract with  
10 the facility or jail for credit or for relabeling and redispensing  
11 and administration to another prisoner or detainee held at such  
12 facility or jail pursuant to a valid prescription as provided in  
13 this section.

14 (2)(a) The decision to accept return of a dispensed  
15 prescription drug or device for credit or for relabeling and  
16 redispensing rests solely with the pharmacist at the contracting  
17 pharmacy.

18 (b) A dispensed prescription drug or device shall be  
19 properly stored and in the control of the facility or jail at all  
20 times prior to the return of the drug or device for credit or for  
21 relabeling and redispensing. The drug or device shall be returned  
22 in the original and unopened labeled container dispensed by the  
23 pharmacist with the tamper-evident seal intact, and the container  
1 shall bear the expiration date or calculated expiration date and  
2 lot number of the drug or device.

3 (c) A prescription drug or device shall not be returned  
4 or relabeled and redispensed under this section if the drug  
5 or device is a controlled substance or if the relabeling and  
6 redispensing is otherwise prohibited by law.

7 (3) For purposes of this section:

8 (a) Administration has the definition found in section  
9 38-2807;

10 (b) Calculated expiration date has the definition found  
11 in subdivision (3)(a) of section 71-2421;

12 (c) Criminal detention facility has the definition found  
13 in section 83-4,125;

14 (d) Department of Correctional Services facility has the  
15 definition of facility found in section 83-170;

16 (e) Dispense or dispensing has the definition found in  
17 section 38-2817;

18 (f) Jail has the definition found in section 47-117;

19 (g) Juvenile detention facility has the definition found  
20 in section 83-4,125;

- 21 (h) Prescription has the definition found in section  
 22 38-2840; and  
 23 (i) Prescription drug or device has the definition found  
 24 in section 38-2841.  
 25 (4) The Jail Standards Board, in consultation with the  
 26 Board of Pharmacy, shall adopt and promulgate rules and regulations  
 27 to carry out contracts with respect to relabeling, redispensing,  
 1 and providing credit pursuant to this section, including, but not  
 2 limited to, rules and regulations relating to (a) education and  
 3 training of persons authorized to administer the prescription drug  
 4 or device to a prisoner or detainee, (b) the proper storage and  
 5 protection of the drug or device consistent with the directions  
 6 contained on the label or written drug information provided by the  
 7 pharmacist for the drug or device, (c) limits on quantity to be  
 8 dispensed, (d) transferability of drugs or devices for prisoners  
 9 or detainees between facilities, (e) container requirements, (f)  
 10 establishment of a drug formulary, and (g) fees for the dispensing  
 11 pharmacy to accept the returned drug or device.  
 12 (5) Any person or entity which exercises reasonable care  
 13 in accepting, distributing, or dispensing prescription drugs or  
 14 devices under this section or rules and regulations adopted and  
 15 promulgated under this section shall be immune from civil or  
 16 criminal liability or professional disciplinary action of any kind  
 17 for any injury, death, or loss to person or property relating to  
 18 such activities.

**LEGISLATIVE BILL 396.** Placed on General File with amendment.  
 AM682

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 68-901, Revised Statutes Cumulative  
 4 Supplement, 2008, is amended to read:  
 5 68-901 Sections 68-901 to 68-956 and sections 2 to 6 of  
 6 this act shall be known and may be cited as the Medical Assistance  
 7 Act.  
 8 Sec. 2. Sections 2 to 6 of this act shall be known and  
 9 may be cited as the Medical Home Pilot Program Act. The Medical  
 10 Home Pilot Program Act terminates on June 30, 2014. The purposes of  
 11 the act are to improve health care access and health outcomes for  
 12 patients and to contain costs of the medical assistance program.  
 13 Sec. 3. For purposes of the Medical Home Pilot Program  
 14 Act:  
 15 (1) Division means the Division of Medicaid and Long-Term  
 16 Care of the Department of Health and Human Services;  
 17 (2) Medical home means a provider of primary health care  
 18 services to patients that meets the requirements for participation  
 19 in the medical home pilot program established under section 5 of  
 20 this act;  
 21 (3) Patient means a recipient of medical assistance under



22 the Medical Assistance Act; and

23 (4) Primary care physician means a physician licensed  
1 under the Uniform Credentialing Act and practicing in the area  
2 of general medicine, family medicine, pediatrics, or internal  
3 medicine.

4 Sec. 4. (1) No later than January 1, 2012, the division  
5 shall design and implement a medical home pilot program, in  
6 consultation with the Medical Home Advisory Council, in one or more  
7 geographic regions of the state to provide access to medical homes  
8 for patients. The division shall apply for any available federal or  
9 other funds for the program. The division shall establish necessary  
10 and appropriate reimbursement policies and incentives under such  
11 program to accomplish the purposes of the Medical Home Pilot  
12 Program Act. The reimbursement policies:

13 (a) Shall require the provision of a medical home for  
14 clients;

15 (b) Shall be designed to increase the availability of  
16 primary health care services to clients;

17 (c) May provide an increased reimbursement rate to  
18 providers who provide primary health care services to clients  
19 outside of regular business hours or on weekends; and

20 (d) May provide a postevaluation incentive payment.

21 (2) No later than June 1, 2014, the division shall  
22 evaluate the medical home pilot program and report the results  
23 of such evaluation to the Governor and the Health and Human  
24 Services Committee of the Legislature. Such report shall include  
25 an evaluation of health outcomes and cost savings achieved,  
26 recommendations for improvement, recommendations regarding  
27 continuation and expansion of the program, and such other  
1 information as deemed necessary by the division or requested by  
2 the committee.

3 Sec. 5. A medical home shall:

4 (1) Provide comprehensive, coordinated health care for  
5 patients and consistent, ongoing contact with patients throughout  
6 their interactions with the health care system, including, but not  
7 limited to, electronic contacts and ongoing care coordination and  
8 health maintenance tracking for patients;

9 (2) Provide primary health care services for patients  
10 and appropriate referral to other health care professionals or  
11 behavioral health professionals as needed;

12 (3) Focus on the ongoing prevention of illness and  
13 disease;

14 (4) Encourage active participation by a patient and  
15 the patient's family, guardian, or authorized representative,  
16 when appropriate, in health care decisionmaking and care plan  
17 development;

18 (5) Encourage the appropriate use of specialty care  
19 services and emergency room services by patients; and

20 (6) Provide other necessary and appropriate health care

21 services and supports to accomplish the purposes of the Medical  
 22 Home Pilot Program Act.

23 Sec. 6. (1) The Medical Home Advisory Council is created.  
 24 The council shall consist of seven voting members appointed by the  
 25 Governor as follows:

26 (a) Two licensed primary care physicians actively  
 27 practicing in the area of general and family medicine;

1 (b) Two licensed primary care physicians actively  
 2 practicing in the area of pediatrics;

3 (c) Two licensed primary care physicians actively  
 4 practicing in the area of internal medicine; and

5 (d) One representative from a licensed hospital in  
 6 Nebraska.

7 (2) The chairperson of the Health and Human Services  
 8 Committee of the Legislature or another member of the committee  
 9 designated by the chairperson shall serve as an ex officio,  
 10 nonvoting member of the council.

11 (3) The council shall annually select one of its  
 12 appointed members to serve as chairperson of the council for a  
 13 one-year term. Appointed members of the council shall be reimbursed  
 14 for their actual and necessary expenses as provided in sections  
 15 81-1174 to 81-1177. The division shall provide administrative  
 16 support to the council.

17 (4) The Governor may remove appointed members of the  
 18 council for good cause upon written notice and an opportunity to  
 19 be heard. Any appointed member of the council who ceases to meet  
 20 the requirements for appointment to the council shall cease to be a  
 21 member of the council. A vacancy on the council shall be filled in  
 22 the same manner as provided for the original appointment.

23 (5) The Governor shall make initial appointments to the  
 24 council no later than October 1, 2009. The council shall conduct  
 25 its initial organizational meeting no later than October 31, 2009.

26 (6) The council shall (a) guide and assist the division  
 27 in the design and implementation of the medical home pilot program  
 1 and (b) promote the use of best practices to ensure access to  
 2 medical homes for patients and accomplish the purposes of the  
 3 Medical Home Pilot Program Act.

4 Sec. 7. Original section 68-901, Revised Statutes  
 5 Cumulative Supplement, 2008, is repealed.

**LEGISLATIVE BILL 407.** Indefinitely postponed.

**LEGISLATIVE BILL 408.** Indefinitely postponed.

**LEGISLATIVE BILL 586.** Indefinitely postponed.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Theresa Hatcher - Board of Emergency Medical Services

Troy Hiemer - Board of Emergency Medical Services

Aye: 7 Senators Campbell, Gay, Gloor, Howard, Pankonin, Stuthman, Wallman. Nay: 0. Absent: 0.

(Signed) Tim Gay, Chairperson

### **NOTICE OF COMMITTEE HEARINGS**

Judiciary

Room 1113

Wednesday, March 25, 2009 1:30 p.m.

LB660

LB4

LB589

LB423

LB226

Thursday, March 26, 2009 1:30 p.m.

LB595

LB659

LB510

LB518

(Signed) Brad Ashford, Chairperson

### **MOTION - Print in Journal**

Senator Rogert filed the following motion to LB160:

MO23

Indefinitely postpone.

### **AMENDMENT - Print in Journal**

Senator Langemeier filed the following amendment to LB483:

FA22

Strike the enacting clause.

**GENERAL FILE**

**LEGISLATIVE BILL 111.** Senator Janssen offered the following amendment:

AM726

- 1 1. Insert the following new section:
- 2 Sec. 3. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

The Janssen amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 300.** Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 54.** Title read. Considered.

Committee AM348, found on page 637, was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 165.** ER8019, found on page 533, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 168.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 207.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 177.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 377.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 110.** ER8025, found on page 609, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 110A.** Advanced to Enrollment and Review for Engrossment.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 98A.** Introduced by Carlson, 38.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 98, One Hundred First Legislature, First Session, 2009; and to declare an emergency.

**COMMITTEE REPORT**

Revenue

**LEGISLATIVE BILL 420.** Placed on General File with amendment. AM710

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 77-2704.12, Revised Statutes
- 4 Cumulative Supplement, 2008, is amended to read:
- 5 77-2704.12 (1) Sales and use taxes shall not be imposed
- 6 on the gross receipts from the sale, lease, or rental of
- 7 and the storage, use, or other consumption in this state of
- 8 purchases by (a) any nonprofit organization created exclusively
- 9 for religious purposes, (b) any nonprofit organization providing
- 10 services exclusively to the blind, (c) any nonprofit private
- 11 educational institution established under sections 79-1601 to
- 12 79-1607, or (d) any nonprofit private college or university
- 13 established under sections 85-1101 to 85-1111, ~~(e) any nonprofit~~
- 14 ~~(i) hospital, (ii) health clinic when two or more hospitals or~~
- 15 ~~the parent corporations of the hospitals own or control the health~~
- 16 ~~clinic for the purpose of reducing the cost of health services or~~
- 17 ~~when the health clinic receives federal funds through the United~~
- 18 ~~States Public Health Service for the purpose of serving populations~~
- 19 ~~that are medically underserved, (iii) skilled nursing facility,~~
- 20 ~~(iv) intermediate care facility, (v) assisted living facility, (vi)~~
- 21 ~~intermediate care facility for the mentally retarded, (vii) nursing~~
- 22 ~~facility, (viii) home health agency, (ix) hospice or hospice~~
- 23 ~~service, or (x) respite care service licensed under the Health Care~~
- 1 ~~Facility Licensure Act, (f)~~
- 2 (2) Sales and use taxes shall not be imposed on the
- 3 gross receipts from the sale, lease, or rental of and the
- 4 storage, use, or other consumption in this state of purchases

5 by (a) any nonprofit licensed child-caring agency, ~~(g)~~(b) any  
 6 nonprofit licensed child placement agency, or ~~(h)~~(c) any nonprofit  
 7 organization certified by the Department of Health and Human  
 8 Services to provide community-based services for persons with  
 9 developmental disabilities. The exemptions in this subsection are  
 10 limited to purchases made for use in the exempt health care  
 11 activities or services that are licensed or certified by the  
 12 Department of Health and Human Services.

13 (3) Sales and use taxes shall not be imposed on the gross  
 14 receipts from the sale, lease, or rental of and the storage, use,  
 15 or other consumption in this state of purchases by any nonprofit  
 16 licensed hospital. The exemption in this subsection is limited to  
 17 purchases made for use at the facility or the portion of a facility  
 18 that is licensed under the Health Care Facility Licensure Act,  
 19 for use in the exempt health care activities or services that are  
 20 licensed under this act, or for use at a nonprofit health clinic  
 21 exempt under subsection (4) of this section.

22 (4)(a) Sales and use taxes shall not be imposed on the  
 23 gross receipts from the sale, lease, or rental of and the storage,  
 24 use, or other consumption in this state of purchases by any  
 25 nonprofit health clinic if one or more nonprofit hospitals or the  
 26 parent corporations of the nonprofit hospitals own or control the  
 27 nonprofit health clinic for the purpose of reducing the cost of  
 1 health services or if the nonprofit health clinic receives federal  
 2 funds through the United States Public Health Service for the  
 3 purpose of serving populations that are medically underserved.

4 (b) For the purposes of this subsection, nonprofit health  
 5 clinic means:

6 (i) Rural health clinic as defined by 42 U.S.C. 1395x,  
 7 as such section existed on January 1, 2009, and organized not for  
 8 profit; or

9 (ii) Health clinic as defined in section 71-416 and  
 10 organized not for profit.

11 (c) The exemptions in this subsection are limited to  
 12 purchases made by a nonprofit health clinic for use at the  
 13 nonprofit health clinic.

14 (5) Sales and use taxes shall not be imposed on the gross  
 15 receipts from the sale, lease, or rental of and the storage, use,  
 16 or other consumption in this state of purchases by any nonprofit  
 17 licensed (a) nursing facility, (b) skilled nursing facility, (c)  
 18 assisted-living facility, (d) intermediate care facility, (e)  
 19 intermediate care facility for the mentally retarded, (f) home  
 20 health agency, (g) hospice or hospice service, or (h) respite care  
 21 service. The exemptions in this subsection are limited to purchases  
 22 made for use at the facility or the portion of a facility that is  
 23 licensed under the Health Care Facility Licensure Act or for use  
 24 in the exempt health care activities or services licensed under the  
 25 act.

26 (2)-(6) Any organization listed in subsection (1)

27 subsections (1) through (5) of this section shall apply for  
1 an exemption on forms provided by the Tax Commissioner. The  
2 application shall be approved and a numbered certificate of  
3 exemption received by the applicant organization in order to be  
4 exempt from the sales and use tax.

5 ~~(3)-(7)~~ The appointment of purchasing agents shall  
6 be recognized for the purpose of altering the status of the  
7 construction contractor as the ultimate consumer of building  
8 materials which are physically annexed to the structure and  
9 which subsequently belong to the owner of the organization or  
10 institution. The appointment of purchasing agents shall be in  
11 writing and occur prior to having any building materials annexed  
12 to real estate in the construction, improvement, or repair. The  
13 contractor who has been appointed as a purchasing agent may apply  
14 for a refund of or use as a credit against a future use tax  
15 liability the tax paid on inventory items annexed to real estate  
16 in the construction, improvement, or repair of a project for a  
17 licensed not-for-profit institution.

18 ~~(4)-(8)~~ Any organization listed in ~~subsection (4)~~  
19 subsections (1) through (5) of this section which enters into a  
20 contract of construction, improvement, or repair upon property  
21 annexed to real estate without first issuing a purchasing agent  
22 authorization to a contractor or repairperson prior to the building  
23 materials being annexed to real estate in the project may apply to  
24 the Tax Commissioner for a refund of any sales and use tax paid by  
25 the contractor or repairperson on the building materials physically  
26 annexed to real estate in the construction, improvement, or repair.

27 ~~(5)-(9)~~ Any person purchasing, storing, using, or  
1 otherwise consuming building materials in the performance of any  
2 construction, improvement, or repair by or for any institution  
3 enumerated in ~~subsection (4)~~ subsections (1) through (5) of this  
4 section which is licensed upon completion although not licensed at  
5 the time of construction or improvement, which building materials  
6 are annexed to real estate and which subsequently belong to the  
7 owner of the institution, shall pay any applicable sales or use  
8 tax thereon. Upon becoming licensed and receiving a numbered  
9 certificate of exemption, the institution organized not for profit  
10 shall be entitled to a refund of the amount of taxes so paid in  
11 the performance of such construction, improvement, or repair and  
12 shall submit whatever evidence is required by the Tax Commissioner  
13 sufficient to establish the total sales and use tax paid upon  
14 the building materials physically annexed to real estate in the  
15 construction, improvement, or repair.

16 Sec. 2. This act becomes operative on October 1, 2009.

17 Sec. 3. Original section 77-2704.12, Revised Statutes  
18 Cumulative Supplement, 2008, is repealed.

(Signed) Abbie Cornett, Chairperson

## ANNOUNCEMENT

Senator Ashford announced the Judiciary Committee will hold an executive session Wednesday, March 18, 2009, at 10:00 a.m., in Room 2022.

## AMENDMENTS - Print in Journal

Senator Pirsch filed the following amendment to LB327:  
AM740 is available in the Bill Room.

Senator Nantkes filed the following amendment to LB327:  
AM734

(Amendments to Standing Committee amendments, ER8029)

- 1 1. Insert the following new sections:
- 2 Sec. 18. Section 45-906, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 45-906 The application required by section 45-905 shall
- 5 be accompanied by:
- 6 (1) A nonrefundable application fee of five ~~hundred~~
- 7 thousand dollars; and
- 8 (2) A surety bond in the sum of fifty thousand dollars
- 9 to be executed by the licensee and a surety company authorized to
- 10 do business in Nebraska and approved by the director conditioned
- 11 for the faithful performance by the licensee of the duties and
- 12 obligations pertaining to the delayed deposit services business so
- 13 licensed and the prompt payment of any judgment recovered against
- 14 the licensee. The bond or a substitute bond shall remain in effect
- 15 during all periods of licensing or the licensee shall immediately
- 16 cease doing business and its license shall be surrendered to or
- 17 canceled by the department. A surety may cancel a bond only upon
- 18 thirty days' written notice to the director.
- 19 The director may at any time require the filing of a new
- 20 or supplemental bond in the form as provided in subdivision (2) of
- 21 this section if he or she determines that the bond filed under this
- 22 section is exhausted or is inadequate for any reason, including,
  - 1 but not limited to, the financial condition of the licensee or
  - 2 the applicant for a license, or violations of the Delayed Deposit
  - 3 Services Licensing Act, any rule, regulation, or order thereunder,
  - 4 or any state or federal law applicable to the licensee or applicant
  - 5 for a license. The new or supplemental bond shall not exceed one
  - 6 hundred thousand dollars.
- 7 Sec. 19. Section 45-910, Revised Statutes Cumulative
- 8 Supplement, 2008, is amended to read:
- 9 45-910 (1) A license issued pursuant to the Delayed
- 10 Deposit Services Licensing Act shall be conspicuously posted at the
- 11 licensee's place of business.
- 12 (2) All licenses shall remain in effect until the next
- 13 succeeding May 1, unless earlier canceled, suspended, or revoked
- 14 by the director pursuant to section 45-922 or surrendered by the



15 licensee pursuant to section 45-911.

16 (3) Licenses may be renewed annually by filing with the  
17 director (a) a renewal fee consisting of ~~one hundred fifty-five~~  
18 thousand dollars for the main office location and one hundred  
19 dollars for each branch office location and (b) an application for  
20 renewal containing such information as the director may require to  
21 indicate any material change in the information contained in the  
22 original application or succeeding renewal applications.

23 Sec. 21. Section 45-927, Revised Statutes Cumulative  
24 Supplement, 2008, is amended to read:

25 45-927 All fees, charges, costs, and fines collected by  
26 the director under the Delayed Deposit Services Licensing Act shall  
27 be remitted to the State Treasurer. ~~Fees, Except as provided in~~  
1 section 22 of this act, fees, charges, and costs shall be credited  
2 to the Financial Institution Assessment Cash Fund, and fines shall  
3 be credited to the permanent school fund.

4 Sec. 22. The Financial Literacy Education Fund is  
5 created. The fund shall consist of the first four thousand four  
6 hundred dollars of each fee paid under section 45-906 and the  
7 first four thousand eight hundred fifty dollars of each renewal  
8 fee under section 45-910. The fund shall be used to support  
9 various adult financial literacy education programs developed  
10 or implemented by the Department of Banking and Finance. The  
11 fund shall be administered by the department. The department  
12 shall adopt and promulgate rules and regulations to require that  
13 at least one-half of the financial literacy education programs  
14 developed or implemented pursuant to this section and offered to  
15 the public be presented by or available at community colleges  
16 or state institutions throughout the state. The department shall  
17 provide to the Governor and Legislature an annual report that  
18 includes an outline of each adult financial literacy education  
19 program developed or implemented, the number of individuals who  
20 were educated by each program, and an accounting for all funds  
21 distributed. Any money in the fund available for investment  
22 shall be invested by the state investment officer pursuant to  
23 the Nebraska Capital Expansion Act and the Nebraska State Funds  
24 Investment Act.

25 2. Renumber the remaining sections and correct the  
26 operative date section, internal references, and repealer so  
27 that the sections added by this amendment become operative three  
1 calendar months after adjournment of this legislative session.

### UNANIMOUS CONSENT - Add Cointroducer

Senator Giese asked unanimous consent to add his name as cointroducer to LB608. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 22 fourth-grade students and teacher from Faith Lutheran School, Lincoln; Sue Wilcoxson, Amy Burns, and Jackie Howard from Fremont; members of Nebraska Well Drillers Association from across the state; Peter and Colleen Brixius from Scottsbluff; Lisa Fricke from Elwood; 55 fourth-grade students, teachers, and sponsors from Catlin Arts Magnet, Omaha; and members of Delta Kappa Gamma Honorary Education Organization from across the state.

**ADJOURNMENT**

At 11:52 a.m., on a motion by Senator Harms, the Legislature adjourned until 9:00 a.m., Wednesday, March 18, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**FORTY-FIFTH DAY - MARCH 18, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FORTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, March 18, 2009

**PRAYER**

The prayer was offered by Senator Fulton.

**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 Senator White who was excused; and Senators Campbell, Cook, Dierks, Dubas, and Karpisek who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-fourth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 63A.** Placed on Select File.

**LEGISLATIVE BILL 111.** Placed on Select File with amendment.  
ER8033

- 1 1. On page 1, line 4, strike "and"; and in line 5 after
- 2 "section" insert "; and to declare an emergency".

**LEGISLATIVE BILL 300.** Placed on Select File with amendment.  
ER8034

- 1 1. On page 2, line 20, strike "(a)"; in lines 20 and 22
- 2 after each occurrence of "dollars" insert an underscored comma; and
- 3 in line 22 strike "(b)".
- 4 2. On page 4, line 13, strike "(a)"; in lines 14, 15, and
- 5 16 after "dollars" insert an underscored comma; in line 15 strike
- 6 "(b)"; and in line 17 after "more" insert an underscored comma.

**LEGISLATIVE BILL 54.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**MOTION - Approve Appointments**

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 718:

Nebraska Environmental Trust Board  
 Barbara Batie  
 Rodney Christen

Voting in the affirmative, 34:

Adams	Flood	Hansen	McCoy	Rogert
Avery	Fulton	Harms	Nantkes	Schilz
Carlson	Gay	Howard	Nordquist	Stuthman
Christensen	Giese	Janssen	Pahls	Sullivan
Coash	Gloor	Langemeier	Pankonin	Utter
Council	Haar	Lathrop	Pirsch	Wightman
Fischer	Hadley	Louden	Price	

Voting in the negative, 0.

Present and not voting, 9:

Ashford	Friend	Lautenbaugh	Mello	Wallman
Cornett	Heidemann	McGill	Nelson	

Excused and not voting, 6:

Campbell	Dierks	Karpisek
Cook	Dubas	White

The appointments were confirmed with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 184.** Senator Loudon withdrew his amendment, AM453, found on page 555.

Senator Langemeier withdrew his motion, MO18, found on page 577, to recommit to Natural Resources Committee.

Senator Loudon renewed his amendment, AM543, found on page 660.

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

The Louden amendment was adopted with 26 ayes, 5 nays, 17 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LR47 was adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR47.

### **SELECT FILE**

**LEGISLATIVE BILL 184.** Considered.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 327.** ER8029, found on page 681, was adopted.

Senator Pirsch renewed his amendment, AM740, found on page 760.

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

Senator Nantkes renewed her amendment, AM734, found on page 760.

Senator Pahls requested a ruling of the Chair on whether the Nantkes amendment, AM734, is germane to LB327 and whether the adoption of the amendment would require a three-fifths vote because AM734 is substantially the same as LB293, which was indefinitely postponed.

The Chair ruled AM734 is germane to LB327, but would require a three-fifths vote pursuant to Rule 6, Sec. (3)(h).

Senator Nantkes challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

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

Senator Nantkes requested a roll call vote on her motion to overrule the Chair.

Voting in the affirmative, 6:

Cook	Dubas	Nantkes
Council	Mello	Nordquist

Voting in the negative, 42:

Adams	Fischer	Hansen	Louden	Schilz
Ashford	Flood	Harms	McCoy	Stuthman
Avery	Friend	Heidemann	McGill	Sullivan
Campbell	Fulton	Howard	Nelson	Utter
Carlson	Gay	Janssen	Pahls	Wallman
Christensen	Giese	Karpisek	Pankonin	Wightman
Coash	Gloor	Langemeier	Pirsch	
Cornett	Haar	Lathrop	Price	
Dierks	Hadley	Lautenbaugh	Rogert	

Excused and not voting, 1:

White

The Nantkes motion to overrule the Chair failed with 6 ayes, 42 nays, and 1 excused and not voting.

The Chair was sustained.

The Chair declared the call raised.

The Nantkes amendment, AM734, found on page 760 and considered in this day's Journal, was renewed.

### **SENATOR LANGEMEIER PRESIDING**

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

Senator Nantkes requested a roll call vote on her amendment.

Voting in the affirmative, 13:

Avery	Dubas	Howard	Mello	Wallman
Cook	Giese	Karpisek	Nantkes	
Council	Haar	McGill	Nordquist	

Voting in the negative, 25:

Adams	Dierks	Hansen	Lautenbaugh	Price
Campbell	Fischer	Harms	McCoy	Schilz
Carlson	Fulton	Heidemann	Pahls	Stuthman
Christensen	Gloor	Janssen	Pankonin	Utter
Coash	Hadley	Langemeier	Pirsch	Wightman

Present and not voting, 9:

Ashford	Flood	Lathrop	Nelson	Sullivan
Cornett	Gay	Louden	Rogert	

Excused and not voting, 2:

Friend	White
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The Nantkes amendment lost with 13 ayes, 25 nays, 9 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.

**COMMITTEE REPORTS**

Health and Human Services

**LEGISLATIVE BILL 489.** Placed on General File with amendment. AM731

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Sections 1 to 5 of this act shall be known and
- 4 may be cited as the Area Health Education Centers Act.
- 5 Sec. 2. For purposes of the Area Health Education Centers
- 6 Act, area health education center means a private, nonprofit
- 7 organization established under federal law that has a cooperative
- 8 agreement with the University of Nebraska Medical Center and
- 9 performs the duties provided in section 3 of this act.
- 10 Sec. 3. An area health education center shall:
- 11 (1) Develop and implement strategies to recruit into
- 12 careers in health professions: Individuals from underserved urban
- 13 communities; individuals who grew up in, resided a substantial
- 14 portion of their life in, or attended high school in federally
- 15 designated rural or nonmetropolitan communities; and individuals
- 16 from underrepresented or rural populations;
- 17 (2) Develop and implement strategies to foster and
- 18 provide community-based training and education to individuals
- 19 seeking careers in health professions within underserved areas
- 20 and populations;
- 21 (3) Develop and implement strategies to retain health
- 22 care professionals providing health care services to underserved

23 areas and populations;

1 (4) Prepare individuals to provide health care services  
 2 more effectively to underserved areas and populations through field  
 3 placements or preceptorships in conjunction with community-based  
 4 organizations, accredited primary care residency training programs,  
 5 community health centers, Indian health centers, public health  
 6 departments, or other appropriate facilities and programs;

7 (5) Conduct and participate in interdisciplinary training  
 8 of health profession students, including, but not limited to,  
 9 students studying to become physicians, physician assistants, nurse  
 10 practitioners, nurse midwives, dentists, or other health care  
 11 professionals or students in behavioral health, public health, and  
 12 other health care profession educational programs;

13 (6) Develop, deliver, or facilitate continuing  
 14 education and information dissemination programs for health care  
 15 professionals, with an emphasis on individuals providing health  
 16 care services to underserved areas and populations;

17 (7) Collaborate in the development of well-managed health  
 18 care delivery systems in underserved areas and among underserved  
 19 populations; and

20 (8) Conduct an annual evaluation of its performance in  
 21 carrying out the duties provided in this section and provide  
 22 data to the Governor and the Legislature that includes, but is  
 23 not limited to: (a) The number of participants in any of the  
 24 programs developed, implemented, or facilitated by area health  
 25 education centers who enter into health-related professions and  
 26 which professions they enter; (b) the number of participants in  
 27 any of the programs developed, implemented, or facilitated by

1 area health education centers who remain in Nebraska and provide  
 2 health care services to underserved areas and populations; and  
 3 (c) the number and type of continuing education programs offered,  
 4 the number and type of participants in such programs by health  
 5 profession category, and the number of continuing education hours  
 6 awarded.

7 Sec. 4. (1) The University of Nebraska Medical Center  
 8 shall enter into cooperative agreements with area health education  
 9 centers. Prior to entering into such agreements, the University of  
 10 Nebraska Medical Center shall ensure that an area health education  
 11 center:

12 (a) Is a private, nonprofit organization whose structure,  
 13 governance, and operation are independent from the University of  
 14 Nebraska Medical Center;

15 (b) Designates a geographic area, a medically underserved  
 16 urban community, or a federally designated rural or nonmetropolitan  
 17 community to be served by the area health education center  
 18 that does not duplicate, in whole or in part, the community  
 19 or population served by any other area health education center;

20 (c) Fosters networking and collaboration among  
 21 communities and community-based health care providers;



22 (d) Serves urban communities and federally designated  
 23 rural or nonmetropolitan communities with a demonstrated need for  
 24 health care professionals;

25 (e) Addresses the health care workforce needs of the  
 26 communities served; and

27 (f) Conducts an annual evaluation of its performance in  
 1 carrying out the duties provided in section 3 of this act and  
 2 reports the results of such evaluation to the Governor and the  
 3 Legislature.

4 (2) To assist area health education centers in carrying  
 5 out the duties provided in section 3 of this act, the University of  
 6 Nebraska Medical Center shall:

7 (a) Serve as a resource to area health education centers;

8 (b) Encourage collaboration between pertinent programs  
 9 administered by the University of Nebraska Medical Center and area  
 10 health education centers;

11 (c) Take into consideration the capabilities of the  
 12 existing area health education centers prior to establishing  
 13 separate or parallel programs; and

14 (d) Assist area health education centers in conducting an  
 15 annual evaluation of its performance in carrying out the duties as  
 16 provided in section 3 of this act.

17 Sec. 5. It is the intent of the Legislature to initially  
 18 appropriate funding for area health education centers for five  
 19 years. No later than June 30, 2014, the Health and Human  
 20 Services Committee of the Legislature, in consultation with the  
 21 Appropriations Committee of the Legislature, shall provide for an  
 22 evaluation of the effectiveness of area health education centers  
 23 in carrying out the duties provided under section 3 of this act  
 24 and make recommendation regarding the continued funding of such  
 25 centers.

26 Sec. 6. The Area Health Education Centers Act terminates  
 27 on June 30, 2014.

(Signed) Tim Gay, Chairperson

Natural Resources

**LEGISLATIVE BILL 388.** Placed on General File.

**LEGISLATIVE BILL 502.** Placed on General File.

(Signed) Chris Langemeier, Chairperson

Agriculture

**LEGISLATIVE BILL 602.** Indefinitely postponed.

(Signed) Tom Carlson, Chairperson

**MESSAGE FROM THE GOVERNOR**

March 18, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 52, 89, 90, 142, 151e, 167, 204, 231, and 379e were received in my office on March 12, 2009.

These bills were signed and delivered to the Secretary of State on March 18, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 52.** Introduced by Lathrop, 12.

WHEREAS, the Ralston Rams won the 2009 Class B Boys' State Basketball Championship; and

WHEREAS, Ralston defeated Beatrice 61-49 in the championship game; and

WHEREAS, Ralston finished the season with a record of twenty-three wins and four losses; and

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

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

1. That the Legislature congratulates the Ralston Rams on winning the 2009 Class B Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Rams and their head coach, Bill Heard.

Laid over.

**LEGISLATIVE RESOLUTION 53.** Introduced by Avery, 28.

WHEREAS, strong communities support a high quality of life for people of all ages; and

WHEREAS, strong communities are built on a foundation of neighbors helping neighbors to meet the basic demands of daily life; and

WHEREAS, the Witherbee Village is a project that is being established in the heart of Lincoln by residents of the neighborhoods involved in the project to secure valuable practical services so members of all ages may thrive in their homes; and

WHEREAS, Witherbee Village will be the first project of its type in the nation to deliver services to people of all ages, not just older residents, and thereby will facilitate intergenerational contacts and support services within its neighborhoods to assist people with social, economic, and medical challenges that may require informal and formal services; and

WHEREAS, the efforts of the residents of Witherbee Village to strengthen the neighborhoods by supporting residents and local businesses will continue the process of building a livable community that can serve as a model of community development.

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

1. That the Legislature recognizes and congratulates the residents of Witherbee Village.

2. That a copy of this resolution be sent to the president of the board of directors of Witherbee Village, Diane Rolfsmeyer.

Laid over.

**LEGISLATIVE RESOLUTION 54.** Introduced by Utter, 33.

WHEREAS, the Hastings St. Cecilia Bluehawks won the 2009 Class C-1 Boys' State Basketball Championship; and

WHEREAS, the Bluehawks rallied in the second half for a 61-58 victory over Chadron in the championship game; and

WHEREAS, the victory gives the Bluehawks back-to-back state championships, making the Bluehawks the second team in the 25-year history of Class C-1 to repeat as champions; and

WHEREAS, the Bluehawks were led by senior guard Jake Hamburger, who scored a game-high 18 points in the championship game; and

WHEREAS, the Bluehawks finished an outstanding season with a record of twenty-four wins and one loss.

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

1. That the Legislature congratulates the Hastings St. Cecilia Bluehawks on winning the 2009 Class C-1 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Bluehawks and their head coach, Kevin Asher.

Laid over.

**LEGISLATIVE RESOLUTION 55.** Introduced by Wightman, 36.

WHEREAS, the Ravenna Blue Jays won the 2009 Class C-2 Boys' State Basketball Championship; and

WHEREAS, Ravenna defeated Freeman 57-51 in the championship game; and

WHEREAS, Ravenna finished the season with a record of twenty-three wins and five losses; and

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

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

1. That the Legislature congratulates the Ravenna Blue Jays on winning the 2009 Class C-2 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Blue Jays and their head coach, Paul Beranek.

Laid over.

**LEGISLATIVE RESOLUTION 56.** Introduced by Heidemann, 1.

WHEREAS, the Sterling Jets won the 2009 Class D-2 Boys' State Basketball Championship; and

WHEREAS, the Jets persevered and won the championship in a thrilling 49-48 overtime win over top-ranked Ewing; and

WHEREAS, this championship marks the sixth state title for Sterling, and their first since 1996; and

WHEREAS, throughout the year the Jets have demonstrated that hard work, dedication, and discipline produce remarkable results; and

WHEREAS, the Jets are positive role models for young athletes in the community and throughout the region; and

WHEREAS, such a team achievement is made possible not only by the players' performance and coaching guidance, but also through the support of teachers, administrators, parents, and the community.

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

1. That the Legislature recognizes and congratulates the Sterling Jets on winning the 2009 Class D-2 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Sterling Jets and their head coach, Jimmy Motz.

Laid over.

**PRESIDENT SHEEHY PRESIDING**

**GENERAL FILE**

**LEGISLATIVE BILL 361.** Title read. Considered.

Committee AM552, found on page 648, was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 202.** Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 202A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 328.** Title read. Considered.

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

**LEGISLATIVE BILL 620.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 164.** Title read. Considered.

Committee AM234, found on page 412, was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 57.** Introduced by Mello, 5.

WHEREAS, The Food Bank in Omaha, Nebraska, held its 2009 Celebrity Chef Gala on February 26, 2009, where it recognized honorees who have helped make The Food Bank's vision a reality; and

WHEREAS, The Food Bank honored Mission For All Nations as the 2009 recipient of the Agency of the Year award; and

WHEREAS, Mission For All Nations is a faith-based charitable organization founded to provide food, clothing, and shelter to those in need from all ethnic backgrounds; and

WHEREAS, the Legislature recognizes the important work of charitable organizations like Mission For All Nations.

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

1. That the Legislature congratulates Mission For All Nations for being honored by The Food Bank of Omaha as the 2009 Agency of the Year.

2. That a copy of this resolution be sent to Mission For All Nations and its founder, Josue Anaya.

Laid over.

**LEGISLATIVE RESOLUTION 58.** Introduced by Mello, 5; Cornett, 45.

WHEREAS, in a close, nail-biting game, the Omaha Bryan Bears beat Lincoln East 42-41 in the opening round of the 2009 Class A Boys' State Basketball Tournament; and

WHEREAS, this win was the first Boys' State Basketball Tournament win in school history; and

WHEREAS, head coach Tim Cannon has served as an example of good sportsmanship throughout his 24-year career with the Omaha Bryan Bears; and

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

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

1. That the Legislature congratulates the Omaha Bryan Bears on achieving the first Boys' State Basketball Tournament win in school history.

2. That head coach Tim Cannon be congratulated for his efforts in teaching, coaching, and providing guidance to the members of the Omaha Bryan Bears boys' basketball team.

3. That a copy of this resolution be sent to the Omaha Bryan Bears and their head coach, Tim Cannon.

Laid over.

## COMMITTEE REPORTS

### Natural Resources

**LEGISLATIVE BILL 134.** Placed on General File with amendment.  
AM636

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 2-3234, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:

5 2-3234 Each district shall have the power and authority  
 6 to exercise the power of eminent domain when necessary to carry  
 7 out its authorized purposes within the limits of the district  
 8 or outside its boundaries, except that a district shall obtain  
 9 the consent of the Legislature before using the power of eminent  
 10 domain for the development or management of recreational trails  
 11 or corridors unless associated with a flood control structure.  
 12 Exercise of eminent domain shall be governed by the provisions  
 13 of sections 76-704 to 76-724, except that whenever any district  
 14 seeks to acquire the right to interfere with the use of any  
 15 water being used for power purposes in accordance with sections  
 16 46-204, 70-668, 70-669, and 70-672 and is unable to agree with  
 17 the user of such water upon the compensation to be paid for such  
 18 interference, the procedure to condemn property shall be followed  
 19 in the manner set forth in sections 76-704 to 76-724 and no other  
 20 property shall be included in such condemnation. No district shall  
 21 contract for delivery of water to persons within the corporate  
 22 limits of any village, city, or metropolitan utilities district,  
 23 nor in competition therewith outside such corporate limits, except  
 1 by consent of and written agreement with the governing body of such  
 2 political subdivision. A village, city, or metropolitan utilities  
 3 district may negotiate and, if necessary, exercise the power of  
 4 eminent domain for the acquisition of water supply facilities of  
 5 the district which are within its boundaries.

6 Sec. 2. Original section 2-3234, Reissue Revised Statutes  
 7 of Nebraska, is repealed.

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

**LEGISLATIVE BILL 160.** Placed on General File with amendment.  
 AM735

1 1. Insert the following new section:

2 Sec. 5. The authority to issue bonds for qualified  
 3 projects granted in section 1 of this act terminates on December  
 4 31, 2019, except that (1) bonds already issued and outstanding  
 5 for qualified projects as of such date are permitted to remain  
 6 outstanding and the district shall retain all powers of taxation  
 7 provided for in section 1 of this act to provide for the payment  
 8 of principal and interest on such bonds and (2) refunding bonds  
 9 may continue to be issued and outstanding as of December 31,  
 10 2019, including extension of principal maturities if determined  
 11 appropriate.

12 2. On page 2, line 3, after "class" insert ", upon an  
 13 affirmative vote of two-thirds of the members of the board of  
 14 directors,"; in line 10 strike "two cents" and insert "one cent";  
 15 and in line 24 after the period insert "The proceeds of bonds  
 16 issued pursuant to section 1 of this act shall not be used to fund  
 17 combined sewer separation projects in a city of the metropolitan  
 18 class.".

19 3. On page 3, after line 8, insert the following new  
 20 subsection:  
 21 "(3) Proceeds from bonds issued pursuant to section 1  
 22 of this act or funds of a natural resources district encompassing  
 23 a city of the metropolitan class may be used to pay costs of a  
 1 reservoir or water quality basin project or projects greater than  
 2 twenty surface acres except when the county board of the affected  
 3 county votes on and passes a resolution stating that it does not  
 4 approve of the construction of such reservoir or water quality  
 5 basin project or projects within its exclusive zoning jurisdiction.  
 6 A vote on the resolution must take place within ninety days  
 7 after notice from the board of directors of the natural resources  
 8 district of its intent to issue bonds, seek voter approval of  
 9 bonds, or otherwise fund a reservoir or water quality basin project  
 10 or projects within such county's exclusive zoning jurisdiction  
 11 pursuant to section 1 of this act."

**LEGISLATIVE BILL 436.** Placed on General File with amendment.  
 AM708

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. The Legislature finds that it is in the public  
 4 interest to:  
 5 (1) Encourage customer-owned renewable energy resources;  
 6 (2) Stimulate the economic growth of this state;  
 7 (3) Encourage diversification of the energy resources  
 8 used in this state; and  
 9 (4) Maintain low-cost, reliable electric service.  
 10 Sec. 2. For purposes of sections 1 to 5 of this act:  
 11 (1) Customer-generator means an end-use electricity  
 12 customer that generates electricity on the customer's side of the  
 13 meter from a qualified facility;  
 14 (2) Interconnection agreement means an agreement between  
 15 a local distribution utility and a customer-generator that  
 16 establishes the financial, interconnection, safety, performance,  
 17 and reliability requirements relating to the installation and  
 18 operation of a qualified generation unit in accordance with the  
 19 standards prescribed in sections 1 to 5 of this act;  
 20 (3) Local distribution system means the equipment and  
 21 facilities used for the distribution of electric energy to the  
 22 end-use customer;  
 23 (4) Local distribution utility means the owner or  
 1 operator of the local distribution system;  
 2 (5) Net excess generation means the net amount of energy,  
 3 if any, by which the output of a qualified generation unit exceeds  
 4 a customer-generator's total electricity requirements during a  
 5 billing period;  
 6 (6) Net metering means a system of metering electricity  
 7 in which a local distribution utility;



8 (a) Credits a customer-generator at the applicable  
9 retail rate for each kilowatt-hour produced by a qualified  
10 generation unit during a billing period up to the total of the  
11 customer-generator's electricity requirements during that billing  
12 period. A customer-generator may be charged a minimum monthly fee  
13 that is the same as other noncustomer-generators in the same rate  
14 class but shall not be charged any additional standby, capacity,  
15 demand, interconnection, or other fee or charge; and

16 (b) Compensates the customer-generator for net excess  
17 generation during the billing period at a rate equal to the local  
18 distribution utility's avoided cost of electric supply over the  
19 billing period. The monetary credits shall be applied to the bills  
20 of the customer-generator for the preceding billing period and  
21 shall offset the cost of energy owed by the customer-generator. If  
22 the energy portion of the customer-generator's bill is less than  
23 zero in any month, monetary credits shall be carried over to future  
24 bills of the customer-generator until the balance is zero. At the  
25 end of each annualized period, any excess monetary credits shall be  
26 paid out to coincide with the final bill of that period; and

27 (7) Qualified facility means a facility for the  
1 production of electrical energy that:

2 (a) Uses as its energy source either methane, wind,  
3 solar, biomass, hydropower resources, or geothermal resources;

4 (b) Is controlled by the customer-generator and is  
5 located on premises owned, leased, or otherwise controlled by  
6 the customer-generator;

7 (c) Interconnects and operates in parallel with the local  
8 distribution system;

9 (d) Is intended to meet or offset the  
10 customer-generator's requirements for electricity;

11 (e) Is not intended to offset or provide credits  
12 for electricity consumption at another location owned, operated,  
13 leased, or otherwise controlled by the customer-generator or for  
14 any other customer;

15 (f) Has a rated capacity at or below twenty-five  
16 kilowatts;

17 (g) Meets all applicable safety, performance,  
18 interconnection, and reliability standards established by  
19 the National Electrical Code filed with the Secretary of State and  
20 adopted by the State Electrical Board under subdivision (5) of  
21 section 81-2104, the National Electrical Safety Code, the Institute  
22 of Electrical and Electronics Engineers, Underwriters Laboratories,  
23 Inc; and

24 (h) Is equipped to automatically isolate the qualified  
25 generation unit from the electrical system in the event of an  
26 electrical power outage or other conditions where the line is  
27 de-energized.

1 Sec. 3. (1) A local distribution utility shall  
2 interconnect the qualified facility of any customer-generator

3 that enters into an interconnection agreement with the local  
4 distribution utility, satisfies the requirements for a qualified  
5 facility and all other requirements of sections 1 to 5 of this act,  
6 and pays for costs incurred by the local distribution utility for  
7 equipment or services required for interconnection that would not  
8 be necessary if the qualified facility were not interconnected to  
9 the local distribution system, except as provided in subsection (2)  
10 of this section and as may be provided for in the utility's aid  
11 in construction policy.

12 (2) A local distribution utility shall provide at no  
13 additional cost to any customer-generator with a qualified facility  
14 a metering system that is capable of measuring the flow of  
15 electricity in both directions and may be accomplished through use  
16 of a single, bidirectional electric revenue meter that has only  
17 a single register for billing purposes, a smart metering system,  
18 or another meter configuration that can easily be read by the  
19 customer-generator.

20 (3) A local distribution utility may, at its own expense,  
21 install additional monitoring equipment to separately monitor the  
22 flow of electricity in each direction as may be necessary to  
23 accomplish the reporting requirements of sections 1 to 5 of this  
24 act.

25 (4) Subject to the requirements of sections 1 to  
26 5 of this act and the interconnection agreement, a local  
27 distribution utility shall provide net metering service to  
1 any customer-generator with a qualified facility. The local  
2 distribution utility shall allow a customer generator's retail  
3 electricity consumption to be offset by a qualified facility that  
4 is interconnected with the local distribution system. A qualified  
5 facility's net excess generation during a billing period, if  
6 any, shall be determined by the local distribution utility in  
7 accordance with section 2 of this act and shall be credited to  
8 the customer-generator at a rate equal to the local distribution  
9 utility's avoided cost of electricity supply during the billing  
10 period, and the monetary credits shall be carried forward  
11 from billing period to billing period and credited against the  
12 customer-generator's retail electric bills in subsequent billing  
13 periods. At the end of each annualized period, any excess monetary  
14 credits shall be paid out to coincide with the final bill of that  
15 period or within sixty days after the date the customer-generator  
16 terminates its retail service.

17 (5) A local distribution utility shall not be required  
18 to provide net metering service to additional customer-generators,  
19 regardless of the output of the proposed generation unit, after the  
20 date during a calendar year on which the total generating capacity  
21 of all customer-generators using net metering served by such local  
22 distribution utility is equal to or exceeds one percent of the  
23 capacity necessary to meet the local distribution utility's average  
24 aggregate customer monthly peak demand forecast for that calendar

25 year.

26 (6) No local distribution utility may require a  
27 customer-generator whose qualified facility meets the standards  
1 established under this section to:

2 (a) Comply with additional safety or performance  
3 standards or pay additional charges for equipment or services for  
4 interconnection that are additional to those necessary to meet the  
5 standards established under this section;

6 (b) Perform or pay for additional tests; or

7 (c) Purchase additional liability insurance if all safety  
8 and interconnection requirements are met.

9 (7) Nothing in this section prevents a local distribution  
10 utility from entering into other arrangements with customers  
11 desiring to install electric generating equipment or from providing  
12 net metering services to customer-generators having renewable  
13 generation units above twenty-five kilowatts.

14 Sec. 4. (1) A customer-generator shall request an  
15 inspection from the State Electrical Division pursuant to  
16 subsection (1) of section 81-2124 or subsection (1) of section  
17 81-2125 and shall provide documentation of the completed inspection  
18 to the local distribution utility prior to interconnection with the  
19 local distribution system.

20 (2) A customer-generator is responsible for notifying the  
21 local distribution utility of its intent to install a qualified  
22 facility at least sixty days prior to its installation and is  
23 responsible for all costs associated with the qualified facility.

24 (3) A local distribution utility shall not be required to  
25 interconnect with a qualified generation unit that fails to meet or  
26 maintain the local distribution utility's requirements for safety,  
27 reliability, and interconnection.

1 (4) A customer-generator owns the renewable energy  
2 credits of the electricity it generates.

3 Sec. 5. Beginning March 1, 2010, and on each March  
4 1 thereafter, each local distribution utility shall produce and  
5 publish on its web site, or if no web site is available, in  
6 its main office, and provide to the Nebraska Power Review Board  
7 an annual net metering report that shall include the following  
8 information:

9 (1) The total number of qualified facilities;

10 (2) The total estimated rated generating capacity of  
11 qualified facilities;

12 (3) The total estimated net kilowatt-hours received from  
13 customer-generators; and

14 (4) The total estimated amount of energy produced by the  
15 customer-generators.

16 Sec. 6. Section 70-1012, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 70-1012 Before any electric generation facilities or any  
19 transmission lines or related facilities carrying more than seven

20 hundred volts are constructed or acquired by any supplier, an  
 21 application, filed with the board and containing such information  
 22 as the board shall prescribe, shall be approved by the board,  
 23 except that such approval shall not be required (1) for the  
 24 construction or acquisition of a transmission line extension or  
 25 related facilities within a supplier's own service area or for the  
 26 construction or acquisition of a line not exceeding one-half mile  
 27 outside its own service area when all owners of electric lines  
 1 located within one-half mile of the extension consent thereto in  
 2 writing and such consents are filed with the board, (2) for any  
 3 generation facility when the board finds that: (a) Such facility is  
 4 being constructed or acquired to replace a generating plant owned  
 5 by an individual municipality or registered group of municipalities  
 6 with a capacity not greater than that of the plant being replaced,  
 7 (b) such facility will generate less than twenty-five thousand  
 8 kilowatts of electric energy at rated capacity, and (c) the  
 9 applicant will not use the plant or transmission capacity to supply  
 10 wholesale power to customers outside the applicant's existing  
 11 retail service area or chartered territory, ~~or~~(3) for acquisition  
 12 of transmission lines or related facilities, within the state,  
 13 carrying one hundred fifteen thousand volts or less, if the current  
 14 owner of the transmission lines or related facilities notifies the  
 15 board of the lines or facilities involved in the transaction and  
 16 the parties to the transaction, or (4) for the construction of a  
 17 qualified facility as defined in section 2 of this act.

18 Sec. 7. If any section in this act or any part of any  
 19 section is declared invalid or unconstitutional, the declaration  
 20 shall not affect the validity or constitutionality of the remaining  
 21 portions.

22 Sec. 8. Original section 70-1012, Reissue Revised  
 23 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 246.** Placed on General File with amendment.  
 AM749

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

3 Section 1. (1) The Legislature recognizes the importance  
 4 of biotechnology and the role that biotechnology plays in  
 5 the economic well-being of the State of Nebraska. The Natural  
 6 Resources Committee of the Legislature shall be responsible for  
 7 the development of a statewide strategic plan for biotechnology in  
 8 Nebraska. The plan shall include a baseline review and assessment  
 9 of the potential in the biotechnology economy in Nebraska and a  
 10 strategic plan for the state's efforts in creating wealth and jobs  
 11 in the biotechnology economy. The plan shall address strategies  
 12 for developing the biotechnology economy and shall include, but  
 13 not be limited to, research, testing, agricultural feedstock and  
 14 chemicals, drugs and other pharmaceuticals, medical materials,  
 15 medical laboratories, and advanced biofuels. The plan shall

16 estimate the wealth and the number of jobs that may be generated  
17 from expanding the biotechnology economy.

18 (2) The Natural Resources Committee of the Legislature,  
19 in consultation with the Executive Board of the Legislature, shall  
20 commission a nonprofit corporation to provide research, analysis,  
21 and recommendations to the committee for the development of the  
22 plan. The nonprofit corporation shall be incorporated pursuant  
23 to the Nebraska Nonprofit Corporation Act, shall be organized  
1 exclusively for nonprofit purposes within the meaning of section  
2 501(c)(6) of the Internal Revenue Code as defined in section  
3 49-801.01, shall be engaged in activities to facilitate and promote  
4 the growth of life sciences within Nebraska, shall be dedicated to  
5 the development and growth of the biotechnology economy, and shall  
6 agree to provide one hundred thousand dollars for the research  
7 required by this section. The nonprofit corporation shall retain  
8 such consultation services as required for assistance in providing  
9 research, analysis, and recommendations. The nonprofit corporation  
10 shall present its research, analysis, and recommendations to the  
11 committee by June 30, 2010.

12 (3) The Natural Resources Committee shall prepare  
13 and present to the Legislature a statewide strategic plan for  
14 biotechnology during the One Hundred Second Legislature, First  
15 Session, for consideration by the Legislature. The committee  
16 shall prepare annual updates to the plan for consideration by the  
17 Legislature.

18 (4) The Biotechnology Development Cash Fund is created.  
19 The Natural Resources Committee shall use money in the fund  
20 to commission the nonprofit corporation and provide access to  
21 resources necessary for developing the plan. It is the intent of  
22 the Legislature to appropriate one hundred thousand dollars to the  
23 fund for fiscal year 2009-10. Any money in the fund available  
24 for investment shall be invested by the state investment officer  
25 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
26 State Funds Investment Act.

27 (5) For purposes of this section:

1 (a) Biotechnology means the technological application  
2 that uses biological systems, living organisms, or derivatives of  
3 biological systems or living organisms to make or modify products  
4 or processes for specific use; and

5 (b) Biotechnology economy means economic activity derived  
6 from scientific and research activity focused on understanding  
7 mechanisms and processes at the genetic and molecular levels and  
8 the application of the mechanisms and processes to industrial  
9 processes.

10 Sec. 2. The following section is outright repealed:  
11 Section 66-1701, Reissue Revised Statutes of Nebraska.

(Signed) Chris Langemeier, Chairperson

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

Christensen, Richard - State Emergency Response Commission - Government, Military and Veterans Affairs

Danon, Steven - State Emergency Response Commission - Government, Military and Veterans Affairs

Eisenhauer, Donald - State Emergency Response Commission - Government, Military and Veterans Affairs

Johnson, Larry - State Emergency Response Commission - Government, Military and Veterans Affairs

Reckling, Todd - Director of Children and Family Services, Department of Health and Human Services - Health and Human Services

(Signed) John Wightman, Chairperson  
Executive Board

**UNANIMOUS CONSENT - Add Cointroducers**

Senator McCoy asked unanimous consent to add his name as cointroducer to LB36, LB327, LB547, LB646, and LB660. No objections. So ordered.

Senator Haar asked unanimous consent to add his name as cointroducer to LB396. No objections. So ordered.

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

**ANNOUNCEMENT**

Senator Wightman announced the Executive Board will meet Thursday, March 19, 2009, at 9:00 a.m. in Room 2102.

**VISITORS**

Visitors to the Chamber were Senator Utter's grandson, Vince Utter, from Sioux City, Iowa and Katherine Hamilton from Thedford; members of Merry Widows of St. Patrick's Catholic Church from Lincoln; 48 fifth-grade students and teachers from Milliken Park Elementary, Fremont; 22 twelfth-grade students, teacher, and sponsors from Bertrand; 40 fifth-grade students and teachers from Clarmar Elementary, Fremont; 16 twelfth-grade students and teacher from Lyons/Decatur School, Lyons; Betty Dahlgren from Bertrand, Kathy Deaver from Lincoln, and Jerrie Quincy, Shirley Smith, and Senator Carlson's wife, Margo Carlson, from Holdrege; members of

Nebraska Propane Gas Association from across the state; Evelyn and Gloria Katzberg from Juniata and Bev Williams from Lincoln; and Senator Christensen's sister, nieces, and nephew, Jan, Krystal, Kelsey, and Keith Koester from Frisco, Texas.

The Doctor of the Day was Dr. Gilbert Head from Omaha.

**ADJOURNMENT**

At 11:55 a.m., on a motion by Senator Gay, the Legislature adjourned until 9:00 a.m., Thursday, March 19, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature





**FORTY-SIXTH DAY - MARCH 19, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**FORTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 19, 2009

**PRAYER**

The prayer was offered by Senator Wallman.

**ROLL CALL**

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

The roll was called and all members were present except Senators Campbell and Flood who were excused; and Senators Cornett, Dierks, Loudon, Nantkes, and White who were excused until they arrive.

**SENATOR ROBERT PRESIDING**

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-fifth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 110.** Placed on Final Reading.  
**LEGISLATIVE BILL 110A.** Placed on Final Reading.  
**LEGISLATIVE BILL 165.** Placed on Final Reading.  
**LEGISLATIVE BILL 168.** Placed on Final Reading.  
**LEGISLATIVE BILL 177.** Placed on Final Reading.  
**LEGISLATIVE BILL 184.** Placed on Final Reading.  
**LEGISLATIVE BILL 207.** Placed on Final Reading.  
**LEGISLATIVE BILL 377.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 548.** Title read. Considered.

Committee AM714, found on page 725, was considered.

**PRESIDENT SHEEHY PRESIDING**

Senator Nelson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 3 nays, and 21 not voting.

The committee amendment was adopted with 32 ayes, 5 nays, 8 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 3 nays, 10 present and not voting, and 4 excused and not voting.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 59.** Introduced by Langemeier, 23.

WHEREAS, the Mead Raiders won the 2009 Class D-1 Boys' State Basketball Championship; and

WHEREAS, Mead defeated Humphrey St. Francis 55-52 in the championship game, which gave Mead its first state title in boys' basketball since 1935; and

WHEREAS, Mead finished the season with a record of nineteen wins and six losses; and

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

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

1. That the Legislature congratulates the Mead Raiders on winning the 2009 Class D-1 Boys' State Basketball Championship.

2. That a copy of this resolution be sent to the Raiders and their head coach, P. J. Quinn.

Laid over.

**LEGISLATIVE RESOLUTION 60.** Introduced by Langemeier, 23.

WHEREAS, The Bishop Neumann Cavaliers won the 2009 Class C-1 Girls' State Basketball Championship; and

WHEREAS, Bishop Neumann defeated Bennington 49-38 in the championship game, which gave Bishop Neumann its first girls' basketball state title; and

WHEREAS, Bishop Neumann finished the season with a record of twenty-five wins and one loss; and

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

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

1. That the Legislature congratulates the Bishop Neumann Cavaliers on winning the 2009 Class C-1 Girls' State Basketball Championship.

2. That a copy of this resolution be sent to the Cavaliers and their head coach, Rick Ahrens.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 292.** Title read. Considered.

Committee AM496, found on page 605, was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 603.** Title read. Considered.

Committee AM351, found on page 637, was adopted with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 8 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 603A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 1 nay, 9 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 547.** Title read. Considered.

Committee AM365, found on page 484, was considered.

Pending.

**NOTICE OF COMMITTEE HEARING**

Natural Resources

Room 1510

Thursday, March 26, 2009 1:30 p.m.

LB561 (AM769)

(Signed) Chris Langemeier, Chairperson

**COMMITTEE REPORTS**

Revenue

**LEGISLATIVE BILL 210.** Placed on General File.**LEGISLATIVE BILL 233.** Placed on General File.**LEGISLATIVE BILL 234.** Placed on General File.**LEGISLATIVE BILL 26.** Placed on General File with amendment.  
AM187

- 1 1. On page 2, line 14, after the underscored period
- 2 insert "Such special assessment perpetual liens, which include all
- 3 special assessments levied from the date of the tax sale through
- 4 the date the tax certificate owner files the foreclosure action,
- 5 shall not be extinguished.".

(Signed) Abbie Cornett, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Dubas asked unanimous consent to add her name as cointroducer to LB72, LB653, and LB675. No objections. So ordered.

Senator Janssen asked unanimous consent to add his name as cointroducer to LB413. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Michael Krings from Hastings; members of Buffalo County Youth from Buffalo County; Gary, Janet, Amanda, and Emma Brandt from Kearney; former Senator Carol Hudkins from Malcolm; 75 fourth-grade students and teachers from Trinity Christian School, Omaha; 39 fourth-grade students, teachers, and sponsors from Sutton; and 44 fourth-grade students and teachers from Avery Elementary, Bellevue.

The Doctor of the Day was Dr. Preston Renshaw from O'Neill.

**ADJOURNMENT**

At 11:59 a.m., on a motion by Senator White, the Legislature adjourned until 9:00 a.m., Friday, March 20, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FORTY-SEVENTH DAY - MARCH 20, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FORTY-SEVENTH DAY**

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

**PRAYER**

The prayer was offered by Pastor Laura Miller, Church of the Living God International, Omaha.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Campbell and Flood who were excused; and Senators Cornett, Dierks, Karpisek, and White who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-sixth day was approved.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 61.** Introduced by Cornett, 45; Adams, 24; Ashford, 20; Avery, 28; Campbell, 25; Carlson, 38; Christensen, 44; Coash, 27; Cook, 13; Council, 11; Dierks, 40; Dubas, 34; Fischer, 43; Flood, 19; Friend, 10; Fulton, 29; Gay, 14; Giese, 17; Gloor, 35; Haar, 21; Hadley, 37; Hansen, 42; Harms, 48; Heidemann, 1; Howard, 9; Janssen, 15; Karpisek, 32; Langemeier, 23; Lathrop, 12; Lautenbaugh, 18; Loudon, 49; McCoy, 39; McGill, 26; Mello, 5; Nantkes, 46; Nelson, 6; Nordquist, 7; Pahls, 31; Pankonin, 2; Pirsch, 4; Price, 3; Rogert, 16; Schilz, 47; Stuthman, 22; Sullivan, 41; Utter, 33; Wallman, 30; White, 8; Wightman, 36.

WHEREAS, Sally Gordon will celebrate her one hundredth birthday on March 26, 2009; and

WHEREAS, Sally was born in Chicago, Illinois, on March 26, 1909, to Russian immigrant parents; and

WHEREAS, during her more than eighty years in the workforce, Sally has served as an assistant to Governors Ralph Brooks, Frank Morrison, and Norbert Tiemann; worked as the administrative secretary for the University

of Nebraska's Centennial Education Program; given tours of the Governor's Residence; served as a court reporter; and worked in real estate and law offices; and

WHEREAS, Sally is currently in her twenty-fifth year as a sergeant-at-arms for the Nebraska Legislature and is dear to many because of her friendly smile, kindness, interest in people, wonderful sense of humor, and vigorous approach to life; and

WHEREAS, during the 1930s, Sally watched as Nebraska's impressive State Capitol building was constructed and completed. She now lives five blocks from the State Capitol and still walks to work when the weather is nice; and

WHEREAS, Sally was honored as the 2006 Outstanding Older Worker for Nebraska; and

WHEREAS, Sally says retirement has no appeal to her for good reason: "I'm a desperate housewife and I'm allergic to housework."; and

WHEREAS, when Sally was ninety-two, she toured Europe alone because it was something she had always wanted to do; and

WHEREAS, Sally was a loving wife to her late husband, Merle, and continues to be a wonderful mother, grandmother, and great-grandmother; and

WHEREAS, Sally is a good friend, role model, and an inspiration to many.

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

1. That the Legislature recognizes Sally Gordon's lasting contributions to her community, the State of Nebraska, and our nation.

2. That the Legislatures wishes Sally Gordon a very happy one hundredth birthday and extends to her its congratulations on reaching this milestone.

3. That a copy of this resolution be presented to Sally Gordon.

Laid over.

### **REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 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

Brown, Rebecca  
Innocence Project, The  
Jaspersen, Rosemary  
Nebraska Enterprise Fund  
Mehmken, Roy  
Second Chance Recovery  
Overcash, James A.



Electrical Contractors Association, National  
 General Contractors, Associated (NE Building Chapter)

**REPORTS**

The following reports were received by the Legislature:

- Administrative Services, Department of**  
 Employee Relations Report
- College System, Nebraska State**  
 Collective Bargaining Report
- Retirement Systems, Public Employees**  
 Annual Plan Review
- University of Nebraska**  
 Collective Bargaining Report

**ANNOUNCEMENT**

The Chair announced March 21 is Senator McGill's birthday.

**GENERAL FILE**

**LEGISLATIVE BILL 547.** Committee AM365, found on page 484 and considered on page 787, was renewed.

The committee amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 547A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 355.** Title read. Considered.

Committee AM445, found on page 580, was considered.

Senator Wightman offered the following amendment to the committee amendment:

AM805

(Amendments to Standing Committee amendments, AM445)

- 1 1. Insert the following new amendment:
- 2 4. On page 11, line 9, strike "cigarettes, and other
- 3 tobacco products".
- 4 2. Renumber the remaining amendment accordingly.

Pending.

### AMENDMENT - Print in Journal

Senator Coash filed the following amendment to LB63:  
AM775

(Amendments to E & R amendments, ER8031)

- 1 1. Insert the following sections:
- 2 Sec. 30. Section 43-2,119, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 43-2,119 (1) The number of judges of the separate
- 5 juvenile court in counties which have established a separate
- 6 juvenile court shall be:
  - 7 (a) Two judges in counties having seventy-five thousand
  - 8 inhabitants but less than two hundred thousand inhabitants;
  - 9 (b) Four judges in counties having at least two
  - 10 hundred thousand inhabitants but less than four hundred thousand
  - 11 inhabitants; and
  - 12 (c) ~~Five Six~~ judges in counties having four hundred
  - 13 thousand inhabitants or more.
  - 14 (2) The senior judge in point of service as a juvenile
  - 15 court judge shall be the presiding judge. The judges shall rotate
  - 16 the office of presiding judge every three years unless the judges
  - 17 agree to another system.
- 18 Sec. 40. Sections 30 and 42 of this act become operative
- 19 on July 1, 2009. The other sections of this act become operative on
- 20 their effective date.
- 21 Sec. 42. Original section 43-2,119, Reissue Revised
- 22 Statutes of Nebraska, is repealed.
- 1 2. Renumber the remaining sections accordingly.

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 73A.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 73, One Hundred First Legislature, First Session, 2009.

**LEGISLATIVE BILL 121A.** Introduced by Wightman, 36.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 121, One Hundred First Legislature, First Session, 2009; and to reduce an appropriation.

**COMMITTEE REPORT**  
Enrollment and Review

**LEGISLATIVE BILL 327.** Placed on Final Reading.

ST9012

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

1. In the Pirsch amendment, AM740, section 1 has been renumbered as section 4.

2. In the E & R amendments, ER8029:

a. On page 13, lines 2 and 3, "12 and 13" has been struck and "13 and 14" inserted; and

b. On page 21, the matter beginning with "6" in line 5 through "20" in line 6 has been struck and "7, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19, and 21" inserted; in line 14 the first "and" has been struck; and in line 15 "and section 8-157.01, Reissue Revised Statutes of Nebraska, as amended by section 1, Legislative Bill 75, One Hundred First Legislature, First Session, 2009," has been inserted after the second comma.

3. On page 1, line 4, "and" has been struck; in line 6 ", and section 8-157.01, Reissue Revised Statutes of Nebraska, as amended by section 1, Legislative Bill 75, One Hundred First Legislature, First Session, 2009" has been inserted after "2008"; and in line 9 "to change provisions relating to automatic teller machine usage and fees;" has been inserted after the semicolon.

(Signed) Jeremy Nordquist, Chairperson

**ANNOUNCEMENT**

Senator Adams announced the Education Committee will hold an executive session Monday, March 23, 2009, at 1:30 p.m., in Room 1107.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Fischer asked unanimous consent to add her name as cointroducer to LB92. No objections. So ordered.

Senator Council asked unanimous consent to add her name as cointroducer to LB458. No objections. So ordered.

Senators Dubas and Janssen asked unanimous consent to add their names as cointroducers to LB547. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Shelly and Sarah Watson from Bellevue; members of Leadership Columbus from Columbus; Pat O'Hanlon from Omaha; 5 students and sponsors from Prairie Home School, Chadron; 45 fourth-grade students from Saint Mary's and Saint Matthew's Elementary,

Bellevue; 100 fourth-grade students from Wheeler Elementary, Omaha; Doris, Max, and Sam Dederman from Norfolk and Laurie Stratman from Omaha; and 51 fourth-grade students from Pershing Elementary, Lexington.

The Doctor of the Day was Dr. Kathy Bliese from Grand Island.

### **ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Dubas, the Legislature adjourned until 10:00 a.m., Monday, March 23, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**FORTY-EIGHTH DAY - MARCH 23, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FORTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 23, 2009

**PRAYER**

The prayer was offered by Pastor Michael Mudlaff, Westkirk Presbyterian Church, Urbandale, Iowa.

**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 Senator Campbell who was excused; and Senators Cornett, Council, Heidemann, and Price who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-seventh day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 361.** Placed on Select File with amendment.  
ER8036

- 1 1. In the Standing Committee amendments, AM552:
- 2 a. On page 3, line 15, after the first comma insert
- 3 "board's,"; and in line 22 after the comma insert "of";
- 4 b. On page 4, line 27, after "the" insert "board's," and
- 5 after "entity's" insert an underscored comma;
- 6 c. On page 5, line 4, strike "half of their" and insert
- 7 "one-half of its"; and
- 8 d. On page 6, line 21, strike "county board,"; and in
- 9 line 22 after the second comma insert "county board,".
- 10 2. On page 1, strike beginning with "section" in line
- 11 1 through line 4 and insert "sections 79-1218, 84-1411, and
- 12 84-1413, Reissue Revised Statutes of Nebraska; to provide for
- 13 videoconferencing and telephone conferences by educational service
- 14 unit boards; to change provisions relating to telephone conferences

15 by a risk management pool; to authorize electronic voting devices  
 16 for certain public entities; to harmonize provisions; and to repeal  
 17 the original sections.".

**LEGISLATIVE BILL 202.** Placed on Select File.

**LEGISLATIVE BILL 202A.** Placed on Select File.

**LEGISLATIVE BILL 620.** Placed on Select File.

**LEGISLATIVE BILL 164.** Placed on Select File.

**LEGISLATIVE BILL 548.** Placed on Select File with amendment.  
 ER8037

1 1. On page 1, strike beginning with "schools" in line  
 2 1 through line 5 and insert "the Tax Equity and Educational  
 3 Opportunities Support Act; to amend sections 79-1022, 79-1023,  
 4 79-1026.01, 79-1027, and 79-1031.01, Reissue Revised Statutes of  
 5 Nebraska, as amended by sections 1, 2, 3, 4, and 5, respectively,  
 6 Legislative Bill 61, One Hundred First Legislature, First Session,  
 7 2009; to change certification dates as prescribed; to harmonize  
 8 provisions; to repeal the original sections; and to declare an  
 9 emergency.".

(Signed) Jeremy Nordquist, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 62.** Introduced by Gay, 14.

WHEREAS, David Kluch 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 achievement 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, David Kluch 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.

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

1. That the Legislature congratulates David Kluch on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to David Kluch.

Laid over.

**AMENDMENT - Print in Journal**

Senator Langemeier filed the following amendment to LB561:  
AM769

- 1 1. Strike original section 2 and insert the following new
- 2 sections:
- 3 Sec. 2. Section 70-1903, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 70-1903 For purposes of the Rural Community-Based Energy
- 6 Development Act:
- 7 (1) C-BED project or community-based energy development
- 8 project means a new wind energy project that:
- 9 (a) Has an ownership structure as follows:
- 10 (i) For a C-BED project that consists of more than
- 11 two turbines, has one or more qualified owners with no single
- 12 individual qualified owner owning directly or indirectly more than
- 13 fifteen percent of the project and with at least thirty-three
- 14 percent of the gross power purchase agreement payments flowing to
- 15 the qualified owner or owners or local community; or
- 16 (ii) For a C-BED project that consists of one or
- 17 two turbines, has one or more qualified owners with at least
- 18 thirty-three percent of the gross power purchase agreement payments
- 19 flowing to a qualified owner or owners or local community; and
- 20 (b) Has a resolution of support adopted:
- 21 (i) By the county board of each county in which the C-BED
- 22 project is to be located; or
- 23 (ii) By the tribal council for a C-BED project located
- 1 within the boundaries of an Indian reservation;
- 2 (2) Debt financing payments means principal, interest,
- 3 and other financing costs paid by the C-BED project company to
- 4 one or more third-party financial institutions for the financing or
- 5 refinancing of the construction of a C-BED project;
- 6 ~~(2)~~(3) Electric utility means an electric supplier that:
- 7 (a) Owns more than one hundred miles of
- 8 one-hundred-fifteen-kilovolt or larger transmission lines in the
- 9 State of Nebraska;
- 10 (b) Owns more than two hundred megawatts of electric
- 11 generating facilities; and
- 12 (c) Has the obligation to directly serve more than two
- 13 hundred megawatts of wholesale or retail electric load in the State
- 14 of Nebraska; ~~and~~
- 15 (4) Gross power purchase agreement payments means a total
- 16 amount of payments during the life of the agreement less debt
- 17 financing payments; and
- 18 ~~(3)~~(5) Qualified owner means:
- 19 (a) A Nebraska resident;

20 (b) A limited liability company that is organized under  
21 the Limited Liability Company Act and that is made up of members  
22 who are Nebraska residents;

23 (c) A Nebraska nonprofit corporation organized under the  
24 Nebraska Nonprofit Corporation Act;

25 (d) An electric supplier as defined in section  
26 70-1001.01, except that ownership in a single C-BED project is  
27 limited to no more than:

1 (i) Fifteen percent either directly or indirectly by a  
2 single electric supplier; and

3 (ii) A combined total of twenty-five percent ownership  
4 either directly or indirectly by multiple electric suppliers; or

5 (e) A tribal council.

6 Sec. 3. Section 70-1904, Revised Statutes Cumulative  
7 Supplement, 2008, is amended to read:

8 70-1904 (1) A C-BED project developer and an electric  
9 utility are authorized to negotiate in good faith mutually  
10 agreeable power purchase agreement terms.

11 (2) A qualified owner or any combination of qualified  
12 owners may develop a C-BED project with an equity partner that is  
13 not a qualified owner, if not more than sixty-seven percent of the  
14 gross power purchase agreement payments flow to the nonqualified  
15 owners.

16 (3) Except for an inherited interest, the transfer of  
17 a C-BED project to any person other than a qualified owner is  
18 prohibited during the initial ten years of the power purchase  
19 agreement.

20 (4) A C-BED project that is operating under a power  
21 purchase agreement is not eligible for any applicable net energy  
22 billing.

23 (5) A C-BED project shall be subject to approval by the  
24 Nebraska Power Review Board in accordance with Chapter 70, article  
25 10, or shall receive certification as a qualifying facility in  
26 accordance with the federal Public Utility Regulatory Policies Act  
27 of 1978, 16 U.S.C. 2601 et seq., with written notice of such  
1 certification provided to the Nebraska Power Review Board.

2 (6) A C-BED project developer shall notify the electric  
3 utility that has a power purchase agreement with a C-BED project if  
4 there is a change in project ownership which makes the project no  
5 longer eligible as a C-BED project.

6 Sec. 4. Section 77-2704.57, Revised Statutes Cumulative  
7 Supplement, 2008, is amended to read:

8 77-2704.57 (1) Sales and use tax shall not be imposed  
9 on the gross receipts from the sale, lease, or rental of personal  
10 property for use in a C-BED project or community-based energy  
11 development project. This exemption shall be conditioned upon  
12 filing requirements for the exemption as imposed by the Tax  
13 Commissioner. The requirements imposed by the Tax Commissioner  
14 shall be related to ensuring that the property purchased qualifies



15 for the exemption. The Tax Commissioner may require the filing  
16 of the documents showing compliance with section 70-1907, the  
17 organization of the project, the distribution of the payments,  
18 the power purchase agreements, the project pro forma, articles of  
19 incorporation, operating agreements, and any amendments or changes  
20 to these documents during the life of the power purchase agreement.

21 (2) The Tax Commissioner shall notify an electric utility  
22 that has a power purchase agreement with a C-BED project if  
23 there is a change in project ownership which makes the project no  
24 longer eligible as a C-BED project. Purchase of a C-BED project  
25 by an electric utility prior to the end of the power purchase  
26 agreement disqualifies the C-BED project for the exemption, but the  
27 Department of Revenue may not recover the amount of the sales and  
1 use tax that was not paid by the project prior to the purchase.

2 (3) For purposes of this section:

3 (a) C-BED project or community-based energy development  
4 project means a new wind energy project that:

5 (i) Has an ownership structure as follows:

6 (A) For a C-BED project that consists of more than  
7 two turbines, has one or more qualified owners with no single  
8 individual qualified owner owning directly or indirectly more than  
9 fifteen percent of the project and with at least thirty-three  
10 percent of the gross power purchase agreement payments flowing to  
11 the qualified owner or owners or local community; or

12 (B) For a C-BED project that consists of one or  
13 two turbines, has one or more qualified owners with at least  
14 thirty-three percent of the gross power purchase agreement payments  
15 flowing to a qualified owner or owners or local community; and

16 (ii) Has a resolution of support adopted:

17 (A) By the county board of each county in which the C-BED  
18 project is to be located; or

19 (B) By the tribal council for a C-BED project located  
20 within the boundaries of an Indian reservation;

21 (b) New wind energy project means any tangible  
22 personal property incorporated into the manufacture, installation,  
23 construction, repair, or replacement of a device, such as a wind  
24 charger, windmill, or wind turbine, which is used to convert wind  
25 energy to electrical energy or for the transmission of electricity  
26 to the purchaser; and

27 (c) Qualified owner means:

1 (i) A Nebraska resident;

2 (ii) A limited liability company that is organized under  
3 the Limited Liability Company Act and that is entirely made up of  
4 members who are Nebraska residents;

5 (iii) A Nebraska nonprofit corporation organized under  
6 the Nebraska Nonprofit Corporation Act;

7 (iv) An electric supplier as defined in section  
8 70-1001.01, except that ownership in a single C-BED project is  
9 limited to no more than:

10 (A) Fifteen percent either directly or indirectly by a  
11 single electric supplier; and

12 (B) A combined total of twenty-five percent ownership  
13 either directly or indirectly by multiple electric suppliers; or

14 (v) A tribal council.

15 (4) ~~Power~~ Gross power purchase agreement payments are the  
16 total amount of payments during the life of the agreement less  
17 debt financing payments. For purposes of this subsection, debt  
18 financing payments means principal, interest, and other financing  
19 costs paid by the qualified owners to one or more third-party  
20 financial institutions for the financing or refinancing of the  
21 construction of the C-BED project. For the ~~purposes~~ purpose of  
22 determining eligibility of the project, an estimate of the payments  
23 and their recipients shall be used.

24 (5) Payments to the local community include, but are not  
25 limited to, lease payments to property owners on whose property a  
26 turbine is located, wind energy easement payments, and real and  
27 personal property tax receipts from the C-BED project.

1 (6) The Department of Revenue may examine the actual  
2 payments and the distribution of the payments to determine if the  
3 projected distributions were met. If the payment distributions to  
4 qualified owners do not meet the requirements of this section, the  
5 department may recover the amount of the sales or use tax that was  
6 not paid by the project at any time up until the end of three years  
7 after the end of the power purchase agreement.

8 (7) At any time prior to the end of the power purchase  
9 agreements, the project may voluntarily surrender the exemption  
10 granted by the Tax Commissioner and pay the amount of sales and use  
11 tax that would have otherwise have been due.

12 (8) The amount of the tax due under either subsection  
13 (6) or (7) of this section shall be increased by interest at the  
14 rate specified in section 45-104.02, as such rate may from time to  
15 time be adjusted, from the date the tax would have been due if no  
16 exemption was granted until the date paid.

17 Sec. 5. Original section 70-670, Reissue Revised Statutes  
18 of Nebraska, and sections 70-1903, 70-1904, and 77-2704.57, Revised  
19 Statutes Cumulative Supplement, 2008, are repealed.

### BILL ON FIRST READING

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

**LEGISLATIVE BILL 328A.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 328, One Hundred First Legislature, First Session, 2009; and to declare an emergency.

**MESSAGES FROM THE GOVERNOR**

March 13, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being  
reappointed to the Board of Parole:

James Pearson, 5933 South 91st, Lincoln, NE 68526

The aforementioned appointee is respectfully submitted for your  
consideration. Copies of the appointment certificate and background  
information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

March 13, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being  
reappointed to the State Racing Commission:

Janell Beveridge, P.O. Box 66, 411 West Second, Paxton, NE 69155

The aforementioned appointee is respectfully submitted for your  
consideration. Copies of the appointment certificate and background  
information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

**GENERAL FILE**

**LEGISLATIVE BILL 121A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 548.** ER8037, found in this day's Journal, was adopted.

Advanced to Enrollment and Review for Engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 355.** Committee AM445, found on page 580 and considered on page 793, was renewed.

Senator Wightman renewed his amendment, AM805, found on page 793, to the committee amendment.

**PRESIDENT SHEEHY PRESIDING**

Pending.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 48 and 49 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 48 and 49.

**COMMITTEE REPORTS**

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 280.** Placed on General File.

**LEGISLATIVE BILL 674.** Placed on General File with amendment.  
AM671

- 1 1. Strike the original section and insert the following
- 2 new sections:
- 3 Section 1. This section applies in the event the Board
- 4 of Regents of the University of Nebraska establishes an internal
- 5 auditing system consisting of an audit committee, an auditor, and
- 6 such other personnel as shall be necessary.

7 (2) All final audit reports issued by the audit committee  
8 or auditor shall be maintained permanently as a public record in  
9 the office of the Corporation Secretary of the Board of Regents of  
10 the University of Nebraska, and a copy of such audit reports shall  
11 be provided to the Auditor of Public Accounts.

12 (3) The audit committee or auditor shall have access to  
13 all records of any University of Nebraska-related unit or entity,  
14 in whatever form or mode the records may be, unless the audit  
15 committee's or auditor's access to the records is specifically  
16 prohibited or limited by federal or state law. The information  
17 obtained as a result of the access is not a public record subject  
18 to disclosure pursuant to sections 84-712 to 84-712.09. When an  
19 audit or investigative finding emanates from nonpublic information  
20 which is nonpublic pursuant to federal or state law, such nonpublic  
21 information is not a public record subject to disclosure pursuant  
22 to sections 84-712 to 84-712.09 and shall not be made public. When  
23 an audit or investigative finding emanates from public records,  
1 such public records shall remain public.

2 (4) Working papers and other audit files maintained  
3 by the audit committee or auditor are not public records  
4 subject to disclosure pursuant to sections 84-712 to 84-712.09.  
5 Information contained in working papers and audit files prepared  
6 pursuant to a specific audit is not a public record subject to  
7 disclosure pursuant to sections 84-712 to 84-712.09, except to  
8 a county attorney or the Attorney General in connection with an  
9 investigation made or action taken in the course of his or her  
10 official duties, the Auditor of Public Accounts in the course  
11 of his or her official duties, federal agencies that have made  
12 grants to university departments or programs being audited under  
13 this section in the course of such agencies' official duties,  
14 or to the Legislative Performance Audit Committee in the course  
15 of the committee's official duties and pursuant to subdivision  
16 (16) of section 50-1205 or subdivision (5) of section 84-304. The  
17 audit committee or auditor may make the working papers available  
18 for purposes of an external quality control review as required  
19 by generally accepted government auditing standards. However, any  
20 reports made from such external quality control review are not a  
21 public record subject to disclosure pursuant to sections 84-712 to  
22 84-712.09 and are confidential.

23 (5) If any member of the audit committee or the auditor  
24 knowingly divulges or makes known in any manner not permitted  
25 by law any confidential record, document, or information, the  
26 disclosure of which is restricted by law, such person shall be  
27 subject to removal or impeachment and, in addition, is guilty of a  
1 Class III misdemeanor.

2 (6) For purposes of this section:

3 (a) Audit committee means the Audit Committee of the  
4 Board of Regents of the University of Nebraska;

5 (b) Auditor means the internal auditor of the University  
 6 of Nebraska and any other authorized university officer, employee,  
 7 or agent reporting to the auditor or the audit committee; and  
 8 (c) Working papers means those documents containing  
 9 evidence to support the auditor's findings, opinions, conclusions,  
 10 and judgments and includes the collection of evidence prepared or  
 11 obtained by the auditor during the audit.

12 Sec. 2. Section 81-2703, Reissue Revised Statutes of  
 13 Nebraska, is amended to read:

14 81-2703 For purposes of the State Government  
 15 Effectiveness Act:

16 (1) Agency shall mean any agency, department, board,  
 17 commission, or other governmental unit of the State of Nebraska  
 18 acting or purporting to act by reason of connection with the  
 19 State of Nebraska but shall not include (a) any court, (b) any  
 20 member or employee of the Legislature or the Legislative Council,  
 21 (c) the Governor or his or her personal staff, (d) any political  
 22 subdivision or entity thereof, (e) any instrumentality formed  
 23 pursuant to an interstate compact and answerable to more than one  
 24 state, or (f) any entity of the federal government;

25 (2) Employee shall mean any person employed by an agency,  
 26 regardless of rank;

27 (3) Official shall mean any elected state official or any  
 1 auditor as defined in subdivision (6)(b) of section 1 of this act;

2 (4) Personnel action shall include dismissing, demoting,  
 3 transferring, reassigning, suspending, reprimanding, admonishing,  
 4 reducing in rank, or reclassifying an employee, withholding work  
 5 from an employee of an agency, requiring an employee to submit to  
 6 a fitness-for-duty examination or take disability retirement, any  
 7 other involuntary action taken against an employee, or any threat  
 8 thereof made against an employee; and

9 (5) Wrongdoing shall include any action by an agency or  
 10 employee which (a) is a violation of any law, (b) results in gross  
 11 mismanagement or gross waste of funds, or (c) creates a substantial  
 12 and specific danger to public health or safety.

13 Sec. 3. Original section 81-2703, Reissue Revised  
 14 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 623.** Indefinitely postponed.

(Signed) Bill Avery, Chairperson

Judiciary

**LEGISLATIVE BILL 414.** Placed on General File with amendment.  
 AM812

1 1. On page 2, line 12, strike "XXX" and insert  
 2 "\$139,277.61"; and in line 14 strike "XXX" and insert  
 3 "\$142,759.55".

(Signed) Brad Ashford, Chairperson

## RESOLUTIONS

### **LEGISLATIVE RESOLUTION 63.** Introduced by Avery, 28.

WHEREAS, William Alexander Avery 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 achievement 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, Alex 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. Alex earned 22 merit badges and rejuvenated the courtyard landscaping at First-Plymouth Congregational Church in Lincoln, Nebraska, for his community service project; and

WHEREAS, Alex has received numerous special awards, including the Arrow of Light Award, the Historic Trails Award, and induction into the Order of the Arrow. He participated in National Youth Leadership Training and also held the troop position of assistant senior patrol leader; and

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

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

1. That the Legislature congratulates William Alexander Avery on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to William Alexander Avery.

Laid over.

### **LEGISLATIVE RESOLUTION 64.** Introduced by Avery, 28.

WHEREAS, David M. Cummings 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 achievement 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, David 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. David earned 22 merit badges and built a small group devotional area at Moses Merrill Camp and Conference Center in Linwood, Nebraska, for his community service project; and

WHEREAS, David has received numerous special awards, including the Arrow of Light Award and the Historic Trails Award. He participated in National Youth Leadership Training and also held the troop position of senior patrol leader; and

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

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

1. That the Legislature congratulates David M. Cummings on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to David M. Cummings.

Laid over.

**LEGISLATIVE RESOLUTION 65.** Introduced by Avery, 28.

WHEREAS, Wesley Anderson 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 achievement 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, Wes 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. Wes earned 28 merit badges and repainted the parking lot lines at Eastridge Presbyterian Church in Lincoln, Nebraska, for his community service project; and

WHEREAS, Wes has served his troop in a variety of leadership roles, including troop historian and librarian; and

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

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



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

Laid over.

**LEGISLATIVE RESOLUTION 66.** Introduced by Avery, 28.

WHEREAS, John A. Brandt 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 achievement 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, John 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. John earned 28 merit badges and renovated the outdoor classroom/courtyard at Meadow Lane Elementary School in Lincoln, Nebraska, for his community service project; and

WHEREAS, John has received numerous special awards, including the World Conservation Award and induction into the Order of the Arrow; and

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

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

1. That the Legislature congratulates John A. Brandt on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to John A. Brandt.

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 355.** Senator Stuthman offered the following motion:

MO25

Bracket until June 2, 2009.

Senator Price moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 7 nays, and 15 not voting.

Senator Stuthman moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

The Stuthman motion to bracket failed with 10 ayes, 30 nays, 7 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The Wightman amendment, AM805, found on page 793 and in this day's Journal, to the committee amendment, was renewed.

Senator Wightman asked unanimous consent to withdraw his amendment, AM805, found on page 793, and replace it with his substitute amendment, AM827, to the committee amendment. No objections. So ordered.  
AM827

(Amendments to Standing Committee amendments, AM445)

- 1 1. Insert the following new amendment:
- 2 4. On page 11, line 7, after "license" insert "which does
- 3 not sell food."; in line 8 strike "fifteen" and insert "ten"; in
- 4 line 9 strike ", cigarettes."; and in line 10 after "products"
- 5 insert ", except from the sale of cigarettes as defined in section
- 6 69-2702, and which has a walk-in humidor on the premises".
- 7 2. Renumber the remaining amendment accordingly.

Pending.

### **REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

Beveridge, Janell - State Racing Commission - General Affairs  
Pearson, James - Board of Parole - Judiciary

(Signed) John Wightman, Chairperson  
Executive Board

### **COMMITTEE REPORTS**

#### Revenue

**LEGISLATIVE BILL 59.** Indefinitely postponed.  
**LEGISLATIVE BILL 127.** Indefinitely postponed.  
**LEGISLATIVE BILL 161.** Indefinitely postponed.  
**LEGISLATIVE BILL 296.** Indefinitely postponed.  
**LEGISLATIVE BILL 336.** Indefinitely postponed.  
**LEGISLATIVE BILL 466.** Indefinitely postponed.  
**LEGISLATIVE BILL 485.** Indefinitely postponed.  
**LEGISLATIVE BILL 536.** Indefinitely postponed.  
**LEGISLATIVE BILL 539.** Indefinitely postponed.  
**LEGISLATIVE BILL 570.** Indefinitely postponed.

**LEGISLATIVE BILL 613.** Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

**AMENDMENTS - Print in Journal**

Senator Lautenbaugh filed the following amendment to LB355:  
AM816

(Amendments to Standing Committee amendments, AM445)

- 1 1. Insert the following new amendment:
- 2 4. On page 11, line 8, strike "fifteen" and insert
- 3 "ten"; and in line 9 strike ", cigarettes,"; and in line 10 after
- 4 "products" insert ", except from the sale of cigarettes, and which
- 5 does not sell food on the premises".
- 6 2. Renumber the remaining amendment accordingly.

Senator Avery filed the following amendment to LB355:  
AM794

(Amendments to Standing Committee amendments, AM445)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendment:
- 3 1. Strike sections 2 and 4.

Senator Avery filed the following amendment to LB355:  
AM795

(Amendments to Standing Committee amendments, AM445)

- 1 1. On page 1, lines 3 through 5, strike the new matter
- 2 and insert "Nothing in sections 1 to 5 of this act shall be
- 3 construed to permit smoking where it is prohibited or otherwise
- 4 restricted by other applicable law, ordinance, or resolution.".

Senator Karpisek filed the following amendment to LB403:  
AM680

- 1 1. Insert the following new section:
- 2 Sec. 16. If any section in this act or any part of any
- 3 section is declared invalid or unconstitutional, the declaration
- 4 shall not affect the validity or constitutionality of the remaining
- 5 portions.
- 6 2. In the Standing Committee amendments, AM413:
- 7 a. On page 1, after line 14 insert the following new
- 8 subsection:
- 9 "(3) On and after the operative date of this act, no
- 10 employee of a state agency or political subdivision of the State
- 11 of Nebraska shall be authorized to participate in any retirement
- 12 system, including, but not limited to, the systems provided for
- 13 in the County Employees Retirement Act, the Judges Retirement Act,
- 14 the Nebraska State Patrol Retirement Act, the School Employees
- 15 Retirement Act, and the State Employees Retirement Act, unless the
- 16 employee is (a) a United States citizen or (b) is a qualified alien

- 17 under the federal Immigration and Nationality Act, 8 U.S.C. 1101  
 18 et seq., as such act existed on January 1, 2009, and is lawfully  
 19 present in the United States."; in line 17 strike "retirement  
 20 benefit."; and in line 18 after "health" insert "payment or  
 21 financial assistance";
- 22 b. On page 3, line 4, strike "execute a document,  
 23 on a form" and insert "attest in a format"; in line 5 strike  
 1 "attesting"; in line 14 strike "and execution" and strike  
 2 "document" and insert "attestation"; in line 15 strike "document"  
 3 and insert "attestation"; in line 16 strike "document form" and  
 4 insert "format"; and in line 24 strike "document" and insert  
 5 "attestation";
- 6 c. On page 4, line 24; and page 5, line 1, after  
 7 "employees" insert "physically performing services within the State  
 8 of Nebraska"; and
- 9 d. On page 5, after line 8 insert:  
 10 "(4) This section does not apply to contracts awarded by  
 11 a public employer prior to the operative date of this act.".
- 12 3. In the E & R amendments, ER8023, on page 1, strike  
 13 lines 12 through 14 and insert:  
 14 "(b) Public contractor means any contractor or his or her  
 15 subcontractor who is awarded a contract by a public employer for  
 16 the physical performance of services within the State of Nebraska;  
 17 and".

### UNANIMOUS CONSENT - Add cointroducers

Senator Howard asked unanimous consent to add her name as cointroducer to LB38. No objections. So ordered.

Senator Cook asked unanimous consent to add her name as cointroducer to LB633. No objections. So ordered.

### VISITORS

Visitors to the Chamber were Micah Mudlaff from Urbandale, Iowa; 10 Cub Scouts and leaders from Pack 45, Lincoln; Tom and Mitchell Volk from Lincoln; and 60 students with Project Extra Mile from across the state.

The Doctor of the Day was Dr. Kelly Collins from Papillion.

### ADJOURNMENT

At 12:00 p.m., on a motion by Senator Nordquist, the Legislature adjourned until 9:00 a.m., Tuesday, March 24, 2009.

Patrick J. O'Donnell  
 Clerk of the Legislature

**FORTY-NINTH DAY - MARCH 24, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FORTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 24, 2009

**PRAYER**

The prayer was offered by Pastor Fay Hubbard, Ellis/Odell United Methodist Church, Odell.

**ROLL CALL**

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

The roll was called and all members were present except Senators Ashford, Coash, Cornett, and Flood who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-eighth day was approved.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 548.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 328.** Placed on Select File with amendment.  
ER8038

1 1. On page 1, line 12, after the first semicolon insert

2 "to transfer provisions;"

3 2. On page 7, lines 6 and 8; page 13, line 18; page 18,

4 line 15; and page 84, line 7, strike "that term is".

5 3. On page 8, line 2; page 13, line 10; page 17, line 22;

6 page 34, lines 5, 7, and 19; page 42, line 10; page 43, lines 7,

7 12, and 17; page 44, line 5; page 45, lines 13 and 24; page 58,

8 line 1; page 64, line 24; page 74, line 14; and page 85, lines 9

- 9 and 15, strike the comma.
- 10 4. On page 9, line 10, after "or" insert "its".
- 11 5. On page 10, line 21, strike the semicolon.
- 12 6. On page 11, line 20, strike "act", show as stricken,  
13 and insert "Residential Mortgage Licensing Act".
- 14 7. On page 13, line 9, strike "A mortgage" and insert  
15 "Mortgage".
- 16 8. On page 14, line 5, after "a" insert "residential".
- 17 9. On page 15, line 15; page 17, line 14; and page 57,  
18 line 24, strike the first comma.
- 19 10. On page 18, line 12; and page 19, line 12, strike ",  
20 provided that" and insert "if".
- 21 11. On page 19, line 11, strike "act" and insert  
22 "Residential Mortgage Licensing Act".
- 23 12. On page 21, line 22, strike "or" and show as  
1 stricken; and in line 23 after "Act" insert an underscored comma.
- 2 13. On page 30, line 4, strike "indicates", show as  
3 stricken, and insert "indicate".
- 4 14. On page 31, line 23, after "individuals" insert an  
5 underscored comma.
- 6 15. On page 33, line 24, strike "pled" and insert  
7 "pleaded".
- 8 16. On page 38, line 10, strike the first "or" and insert  
9 an underscored comma; and in line 11 after "applicant" insert an  
10 underscored comma.
- 11 17. On page 41, line 5, strike "or" and insert an  
12 underscored comma.
- 13 18. On page 42, line 8; and page 44, line 4, strike  
14 "provided that" and insert "if".
- 15 19. On page 43, line 17, after the first "or" insert  
16 "upon".
- 17 20. On page 44, line 7, strike "reactive" and insert  
18 "reactivate"; and in line 12 strike the second comma.
- 19 21. On page 49, line 18, strike "That any" and insert  
20 "Any" and after "jurisdiction" insert "has".
- 21 22. On page 50, line 3, strike "financial" and insert  
22 "depository"; and in line 4 after "loan" insert "company".
- 23 23. On page 57, line 1, strike the second comma.
- 24 24. On page 58, lines 8 and 11; page 59, line 7; and page  
25 86, line 15, before "including" insert an underscored comma.
- 26 25. On page 61, line 14, strike "may".
- 27 26. On page 62, line 10, strike the first "act" and  
1 insert "Residential Mortgage Licensing Act".
- 2 27. On page 71, line 4, strike "and" and show as  
3 stricken.
- 4 28. On page 76, lines 9 and 16; page 77, line 3; page  
5 109, lines 9 and 16; and page 110, line 3, strike the period and  
6 insert an underscored semicolon.
- 7 29. On page 77, line 8; and page 110, line 8, strike the

- 8 period and insert "; and".
- 9 30. On page 80, line 13, after "or" insert "its".
- 10 31. On page 81, line 19, strike "(i)" and insert
- 11 "(i)(i)"; in line 20 strike "(i)" and insert "(A)"; in line
- 12 21 strike "(ii)" and insert "(B)"; in line 22 after the period
- 13 insert paragraphing and "(ii)"; and in line 23 strike "(i)" and
- 14 insert "(i)(A)".
- 15 32. On page 88, line 4, strike "subdivision" and insert
- 16 "subsection".
- 17 33. On page 90, line 7, after the comma insert "of"; in
- 18 line 8 after "receipt" insert an underscored comma; and in line 9
- 19 after "order" insert an underscored comma.

**LEGISLATIVE BILL 292.** Placed on Select File with amendment.  
ER8041

- 1 1. On page 1, line 1, strike beginning with "adopt" in
- 2 line 1 through line 3 and insert "amend section 84-907.03, Reissue
- 3 Revised Statutes of Nebraska; to adopt the Nebraska Uniform Athlete
- 4 Agents Act; to provide penalties; to harmonize provisions; to
- 5 provide an operative date; to provide severability; and to repeal
- 6 the original section."
- 7 2. On page 4, line 23; and page 7, line 15, strike the
- 8 comma.
- 9 3. On page 5, line 6, after "void" insert an underscored
- 10 comma.
- 11 4. On page 7, line 3; and page 9, line 5, before
- 12 "educational" insert "an".
- 13 5. On page 15, line 15, after "or" insert "a".
- 14 6. On page 16, line 15, after "signatures" insert an
- 15 underscored comma.

**LEGISLATIVE BILL 603.** Placed on Select File with amendment.  
ER8040

- 1 1. On page 1, line 3, after the semicolon insert "to
- 2 create a fund;".
- 3 2. On page 2, line 5, strike the comma.
- 4 3. On page 3, line 13, after "thereafter" insert an
- 5 underscored comma; in line 15 strike "their" and insert "his or
- 6 her"; and in line 16 strike "of the" and strike "residents" and
- 7 insert "resident".

**LEGISLATIVE BILL 603A.** Placed on Select File.

**LEGISLATIVE BILL 547.** Placed on Select File with amendment.  
ER8039

- 1 1. In the Standing Committee amendments, AM365:
- 2 a. On page 8, line 1, strike "act", show as stricken, and
- 3 insert "program"; and in line 11 strike "effective date of this
- 4 act" and insert "operative date of this section";

- 5 b. On page 10, line 21, strike "(1)", show as stricken,  
 6 and insert "(1)(a)"; and in line 26 strike "(a)" and insert "(b)";  
 7 c. On page 11, line 18, strike "subsection", show as  
 8 stricken, and insert "subdivision"; and in line 19 strike "(b)" and  
 9 insert "(c)";  
 10 d. On page 12, line 13, strike "subsection" and insert  
 11 "subdivision"; and in line 24 after "except" insert "that";  
 12 e. On page 13, lines 16 and 17, strike "For each year,  
 13 beginning" and insert "Beginning"; and in line 19 after the comma  
 14 insert "for each year";  
 15 f. On page 15, line 20, after "graduate" insert "teacher  
 16 education";  
 17 g. On page 16, line 3, after "the" insert "graduate"; and  
 18 in line 24 strike "must" and insert "shall";  
 19 h. On page 17, line 15, strike "For each year, beginning"  
 20 and insert "Beginning"; in line 17 after the comma insert "for each  
 21 year"; and in line 20 after "except" insert "that".  
 22 2. On page 1, strike beginning with "sections" in line  
 23 1 through line 9 and insert "sections 9-812, 79-808, 79-8,132,  
 1 79-8,133, 79-8,134, 79-8,135, 79-8,136, 79-8,137, 79-8,138,  
 2 79-8,139, and 79-8,140, Reissue Revised Statutes of Nebraska;  
 3 to provide for the indication of areas of specialization on  
 4 certificates and permits; to change provisions relating to the  
 5 Attracting Excellence to Teaching Program Act; to rename the act  
 6 and a fund; to change provisions relating to loans and loan  
 7 forgiveness pursuant to the Attracting Excellence to Teaching  
 8 Program; to create the Enhancing Excellence in Teaching Program;  
 9 to define and redefine terms; to provide for administration of  
 10 the program; to provide for contracts; to provide for loans and  
 11 loan forgiveness for eligible students as prescribed; to harmonize  
 12 provisions; to provide operative dates; to repeal the original  
 13 sections; and to declare an emergency."

**LEGISLATIVE BILL 547A.** Placed on Select File.

**LEGISLATIVE BILL 121A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORT

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 139.** Placed on General File with amendment.  
 AM823

- 1 1. On page 2, lines 5, 6, 12, 14, and 24; page 3,  
 2 lines 1, 3, 5, 17, 21, and 22; and page 4, line 5, strike  
 3 "Hispanic-Americans" and insert "Latino-Americans".

(Signed) Bill Avery, Chairperson



**MESSAGE FROM THE GOVERNOR**

March 13, 2009

Mr. President, Speaker Flood  
 and Members of the Legislature  
 State Capitol Building  
 Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being  
 reappointed to the Commission of Industrial Relations:

Loren Lindahl, 942 Hackberry, Wahoo, NE 68066

The aforementioned appointee is respectfully submitted for your  
 consideration. Copies of the appointment certificate and background  
 information are included for your review.

Sincerely,  
 (Signed) Dave Heineman  
 Governor

Enclosures

**MOTION - Approve Appointments**

Senator Gay moved the adoption of the Health and Human Services  
 Committee report for the confirmation of the following appointment(s)  
 found on page 755:

Board of Emergency Medical Services  
 Theresa Hatcher  
 Troy Hiemer

Voting in the affirmative, 41:

Adams	Friend	Janssen	Nelson	Sullivan
Avery	Fulton	Karpisek	Nordquist	Utter
Campbell	Gay	Lathrop	Pahls	Wallman
Carlson	Giese	Lautenbaugh	Pankonin	White
Christensen	Gloor	Louden	Pirsch	Wightman
Cook	Haar	McCoy	Price	
Council	Hadley	McGill	Rogert	
Dierks	Hansen	Mello	Schilz	
Fischer	Howard	Nantkes	Stuthman	

Voting in the negative, 0.

Present and not voting, 4:

Dubas            Harms            Heidemann    Langemeier

Excused and not voting, 4:

Ashford        Coash            Cornett        Flood

The appointments were confirmed with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 355.** Senator Wightman renewed his amendment, AM827, found on page 810, to the committee amendment.

### SENATOR CARLSON PRESIDING

Pending.

### COMMITTEE REPORTS

Health and Human Services

**LEGISLATIVE BILL 679.** Placed on General File.

**LEGISLATIVE BILL 342.** Placed on General File with amendment. AM741

- 1     1. Strike original sections 2, 3, and 5 and insert the
- 2 following new section:
- 3     Sec. 2. (1) The Legislature finds that (a) the
- 4 interdisciplinary treatment of pediatric feeding disorders can
- 5 be a clinically effective and more cost-effective method for the
- 6 treatment of such disorders and (b) it is in the best interests
- 7 of the state and of the children with such disorders and their
- 8 families that the State of Nebraska provide payments under the
- 9 medical assistance program for such treatment.
- 10    (2) No later than January 1, 2010, the department shall
- 11 apply to the federal Centers for Medicare and Medicaid Services for
- 12 a state plan amendment or waiver to permit the payment of medical
- 13 assistance for the interdisciplinary treatment of pediatric feeding
- 14 disorders.
- 15    (3) It is the intent of the Legislature (a) that such
- 16 interdisciplinary treatment of pediatric feeding disorders be
- 17 provided after the use, pursuant to a physician's order, of a
- 18 nasogastric technique for the treatment of such disorders but prior
- 19 to the use of more invasive surgical techniques unless, in the
- 20 opinion of the child's attending physician, emergent circumstances
- 21 require the use of more invasive surgical techniques to preserve
- 22 the life of the child and (b) only when interdisciplinary treatment
- 23 can be provided in a clinically effective and more cost-effective

- 1 manner as compared to the use of more invasive surgical techniques.  
2 (4) For purposes of this section, interdisciplinary  
3 treatment means the collaboration of medicine, psychology,  
4 nutrition science, speech therapy, occupational therapy, social  
5 work, and other appropriate medical and behavioral disciplines  
6 in an integrated program of applied behavior analysis that is  
7 goal-oriented, data-driven, and scientifically based, in which  
8 sessions are conducted to test the effects of specific treatments  
9 on food acceptance, food refusal, and inappropriate mealtime  
10 behaviors.  
11 2. Renumber the remaining section accordingly.

(Signed) Tim Gay, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 355.** The Wightman amendment, AM827, found on page 810 and considered in this day's Journal, to the committee amendment, was renewed.

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 5 nays, and 17 not voting.

The Wightman amendment was adopted with 25 ayes, 9 nays, 11 present and not voting, and 4 excused and not voting.

Senator Lautenbaugh withdrew his amendment, AM816, found on page 811.

Senator Avery withdrew his amendment, AM794, found on page 811.

Senator Avery renewed his amendment, AM795, found on page 811, to the committee amendment.

Senator Coash moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 5 nays, and 18 not voting.

Senator Avery moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

The Avery amendment lost with 11 ayes, 25 nays, 10 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Committee AM445, found on page 580 and considered on pages 793 and 804, as amended, was renewed.

The committee amendment, as amended, was adopted with 27 ayes, 10 nays, 10 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 26 ayes, 14 nays, 7 present and not voting, and 2 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 260.** ER8026, found on page 662, was adopted.

Senator Lathrop asked unanimous consent to withdraw his amendment, FA21, found on page 646, and replace it with the Lathrop-Rogert substitute amendment, AM785. No objections. So ordered.

AM785

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Sections 1 to 9 of this act shall be known
- 4 and may be cited as the Nebraska Claims for Wrongful Conviction and
- 5 Imprisonment Act.
- 6 Sec. 2. The Legislature finds that innocent persons who
- 7 have been wrongly convicted of crimes and subsequently imprisoned
- 8 have been uniquely victimized, have distinct problems reentering
- 9 society, and have difficulty achieving legal redress due to a
- 10 variety of substantive and technical obstacles in the law. The
- 11 Legislature also finds that such persons should have an available
- 12 avenue of redress. In light of the particular and substantial
- 13 horror of being imprisoned for a crime one did not commit,
- 14 the Legislature intends by enactment of the Nebraska Claims for
- 15 Wrongful Conviction and Imprisonment Act that persons who can
- 16 demonstrate that they were wrongfully convicted shall have a claim
- 17 against the state as provided in the act.
- 18 Sec. 3. In order to recover under the Nebraska Claims for
- 19 Wrongful Conviction and Imprisonment Act, the claimant shall prove
- 20 each of the following by clear and convincing evidence:
- 21 (1) That he or she was convicted of one or more felony
- 22 crimes and subsequently sentenced to a term of imprisonment for
- 23 such felony crime or crimes and has served all or any part of the
- 1 sentence;
- 2 (2) With respect to the crime or crimes under subdivision
- 3 (1) of this section, that the Board of Pardons has pardoned the
- 4 claimant, that a court has vacated the conviction of the claimant,
- 5 or that the conviction was reversed and remanded for a new trial
- 6 and no subsequent conviction was obtained;
- 7 (3) That he or she was innocent of the crime or crimes
- 8 under subdivision (1) of this section; and
- 9 (4) That he or she did not commit or suborn perjury,
- 10 fabricate evidence, or otherwise make a false statement to cause
- 11 or bring about such conviction or the conviction of another, with
- 12 respect to the crime or crimes under subdivision (1) of this

13 section, except that a guilty plea, a confession, or an admission,  
14 coerced by law enforcement and later found to be false, does not  
15 constitute bringing about his or her own conviction of such crime  
16 or crimes.

17 Sec. 4. (1) A claimant under the Nebraska Claims for  
18 Wrongful Conviction and Imprisonment Act shall recover damages  
19 found to proximately result from the wrongful conviction and that  
20 have been proved based upon a preponderance of the evidence.

21 (2) The following costs shall not offset damages:

22 (a) Costs of imprisonment; and

23 (b) Value of any care or education provided to the

24 claimant while he or she was imprisoned.

25 (3) No damages shall be payable to the claimant for any  
26 period of time during which he or she was concurrently imprisoned  
27 for any unrelated criminal offense.

1 (4) In no case shall damages awarded under the act exceed  
2 five hundred thousand dollars per claimant per occurrence.

3 (5) A claimant's cause of action under the act shall not  
4 be assignable and shall not survive the claimant's death.

5 Sec. 5. If the court finds that any property of the  
6 claimant was subjected to a lien to recover costs of defense  
7 services rendered by the state to defend the claimant in connection  
8 with the criminal case that resulted in his or her wrongful  
9 conviction, the court shall extinguish the lien.

10 Sec. 6. (1) Any person may petition the district court  
11 in which the erroneous felony conviction occurred for an order to  
12 expunge all records pertaining to the erroneous felony conviction.  
13 The petition shall be accompanied by a certified copy of the  
14 judgment or settlement with the state under the Nebraska Claims  
15 for Wrongful Conviction and Imprisonment Act. The petitioner shall  
16 serve a copy of the petition on the county attorney of the county  
17 in which the erroneous felony conviction occurred.

18 (2) If the county attorney files no objection to the  
19 petition, the court may grant the petition. If the county attorney  
20 files an objection to the petition, the court shall conduct a  
21 hearing on the matter.

22 (3)(a) If a court determines that the petition is  
23 warranted and orders the expunction of all records pertaining  
24 to the petitioner's erroneous felony conviction, the court shall  
25 notify the Nebraska State Patrol and any other law enforcement  
26 agency to expunge all records pertaining to the petitioner's  
27 erroneous felony conviction.

1 (b) If a court determines that the petition is warranted  
2 and orders the expunction of all records pertaining to the  
3 petitioner's erroneous felony conviction, a law enforcement agency  
4 may gain access to such person's expunged records only upon a court  
5 order granted for good cause showing that access to the expunged  
6 records is required for the performance of official duties of the  
7 agency.

8 (4) The Nebraska State Patrol, any other law enforcement  
 9 agency involved, and the court shall provide written notice of the  
 10 expunction by certified mail to the petitioner.

11 (5) A person who obtains a court order to expunge all  
 12 records pertaining to such person's erroneous felony conviction may  
 13 lawfully answer and swear under oath that an arrest, prosecution,  
 14 or conviction pertaining to the erroneous conviction never  
 15 occurred.

16 (6) Any party may appeal a final order granting or  
 17 denying the expunction of records pertaining to the erroneous  
 18 felony conviction.

19 Sec. 7. Nothing contained in the Nebraska Claims for  
 20 Wrongful Conviction and Imprisonment Act shall preclude the state  
 21 from providing services to the claimant upon exoneration, and  
 22 the reasonable value of services provided shall be treated as an  
 23 advance against any award or judgment under the act.

24 Sec. 8. A claim brought pursuant to the Nebraska Claims  
 25 for Wrongful Conviction and Imprisonment Act shall be filed under  
 26 the State Tort Claims Act.

27 Sec. 9. Nothing in the Nebraska Claims for Wrongful  
 1 Conviction and Imprisonment Act shall limit the claimant from  
 2 making any other claim available against any other party or based  
 3 upon any other theory of recovery, except that a claimant who  
 4 recovers a claim under the act shall not have any other claim  
 5 against the state based upon any other theory of recovery or law.

6 Sec. 10. Section 81-8,210, Reissue Revised Statutes of  
 7 Nebraska, is amended to read:

8 81-8,210 For purposes of the State Tort Claims Act:

9 (1) State agency includes all departments, agencies,  
 10 boards, bureaus, and commissions of the State of Nebraska and  
 11 corporations the primary function of which is to act as, and  
 12 while acting as, instrumentalities or agencies of the State of  
 13 Nebraska but shall not include corporations that are essentially  
 14 private corporations or entities created pursuant to the Interlocal  
 15 Cooperation Act or the Joint Public Agency Act. State agency does  
 16 not include any contractor with the State of Nebraska;

17 (2) State Claims Board means the board created by section  
 18 81-8,220;

19 (3) Employee of the state means any one or more officers  
 20 or employees of the state or any state agency and shall include  
 21 duly appointed members of boards or commissions when they are  
 22 acting in their official capacity. State employee does not include  
 23 any employee of an entity created pursuant to the Interlocal  
 24 Cooperation Act or the Joint Public Agency Act or any contractor  
 25 with the State of Nebraska;

26 (4) Tort claim means any claim against the State of  
 27 Nebraska for money only on account of damage to or loss of property  
 1 or on account of personal injury or death caused by the negligent  
 2 or wrongful act or omission of any employee of the state, while

3 acting within the scope of his or her office or employment, under  
 4 circumstances in which the state, if a private person, would be  
 5 liable to the claimant for such damage, loss, injury, or death but  
 6 does not include any claim accruing before January 1, 1970, ~~and any~~  
 7 claim against an employee of the state for money only on account  
 8 of damage to or loss of property or on account of personal injury  
 9 or death caused by the negligent or wrongful act or omission of  
 10 the employee while acting within the scope of his or her employment  
 11 occurring on or after August 25, 1989, and any claim allowed under  
 12 the Nebraska Claims for Wrongful Conviction and Imprisonment Act;

13 (5) Award means any amount determined by the Risk Manager  
 14 or State Claims Board to be payable to a claimant under section  
 15 81-8,211 or the amount of any compromise or settlement under  
 16 section 81-8,218; and

17 (6) Risk Manager means the Risk Manager appointed under  
 18 section 81-8,239.01.

19 Sec. 11. Section 81-8,227, Reissue Revised Statutes of  
 20 Nebraska, is amended to read:

21 81-8,227 (1) Except as provided in subsection (2) of this  
 22 section, every ~~Every~~ tort claim permitted under the State Tort  
 23 Claims Act shall be forever barred unless within two years after  
 24 such claim accrued the claim is made in writing to the Risk Manager  
 25 in the manner provided by such act. The time to begin suit under  
 26 such act shall be extended for a period of six months from the date  
 27 of mailing of notice to the claimant by the Risk Manager or State  
 1 Claims Board as to the final disposition of the claim or from the  
 2 date of withdrawal of the claim under section 81-8,213 if the time  
 3 to begin suit would otherwise expire before the end of such period.

4 (2) The date of a qualifying pardon from the Board of  
 5 Pardons, a final order by a court vacating a conviction, or a  
 6 conviction that was reversed and remanded for a new trial and  
 7 no subsequent conviction was obtained, whichever is later, shall  
 8 be the date the claimant's claim shall accrue under the Nebraska  
 9 Claims for Wrongful Conviction and Imprisonment Act for purposes  
 10 of complying with the notice and filing requirements of the State  
 11 Tort Claims Act. The Nebraska Claims for Wrongful Conviction and  
 12 Imprisonment Act applies to a claimant who would have had a claim  
 13 if the act had been in effect before the effective date of this  
 14 act or who has a claim on or after such date. If a claimant had  
 15 a qualifying pardon from the Board of Pardons, a final order by a  
 16 court vacating a conviction, or a conviction that was reversed and  
 17 remanded for a new trial and no subsequent conviction was obtained,  
 18 before the effective date of this act, the claimant's claim shall  
 19 accrue under the Nebraska Claims for Wrongful Conviction and  
 20 Imprisonment Act on the effective date of this act for purposes of  
 21 complying with the notice and filing requirements of the State Tort  
 22 Claims Act.

23 ~~(2)-(3)~~ If a claim is made or filed under any other law  
 24 of this state and a determination is made by a state agency or

25 court that the State Tort Claims Act provides the exclusive remedy  
 26 for the claim, the time to make a claim and begin suit under such  
 27 act shall be extended for a period of six months from the date of  
 1 the court order making such determination or the date of mailing  
 2 of notice to the claimant of such determination by a state agency  
 3 if the time to make the claim and to begin suit under such act  
 4 would otherwise expire before the end of such period. The time to  
 5 begin a suit under such act may be further extended as provided in  
 6 subsection (1) of this section.

7 ~~(3)~~(4) If a claim is brought under the Nebraska  
 8 Hospital-Medical Liability Act, the filing of a request for review  
 9 under section 44-2840 shall extend the time to begin suit under  
 10 the State Tort Claims Act an additional ninety days following the  
 11 issuance of the opinion by the medical review panel if the time to  
 12 begin suit under the State Tort Claims Act would otherwise expire  
 13 before the end of such ninety-day period.

14 ~~(4)~~(5) This section and section 25-213 shall constitute  
 15 the only statutes of limitations applicable to the State Tort  
 16 Claims Act.

17 Sec. 12. Original sections 81-8,210 and 81-8,227, Reissue  
 18 Revised Statutes of Nebraska, are repealed.

19 2. On page 1, strike beginning with "civil" in line  
 20 1 through line 2 and insert "claims against the state; to  
 21 amend sections 81-8,210 and 81-8,227, Reissue Revised Statutes  
 22 of Nebraska; to adopt the Nebraska Claims for Wrongful Conviction  
 23 and Imprisonment Act; to change provisions relating to tort claims  
 24 under the State Tort Claims Act; and to repeal the original  
 25 sections."

**SENATOR LANGEMEIER PRESIDING**

**SENATOR CARLSON PRESIDING**

**SPEAKER FLOOD PRESIDING**

Pending.

### **RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR50 was adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR50.



**SELECT FILE**

**LEGISLATIVE BILL 260.** The Lathrop-Rogert amendment, AM785, found in this day's Journal, was renewed.

Pending.

**MOTION - Suspend Rules**

Senator Langemeier offered the following motion to LB561:  
Suspend Rule 3, Section 14, to permit cancellation of the public hearing by the Natural Resources Committee on AM769 to LB561.

The Langemeier motion to suspend the rules prevailed with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**NOTICE OF COMMITTEE HEARINGS**

Natural Resources

Room 1510

Thursday, March 26, 2009 1:30 p.m.

LB561 (AM769) (cancel)

Room 1525

Friday, April 3, 2009 1:00 p.m.

LB561 (AM769) (reschedule)

(Signed) Chris Langemeier, Chairperson

**COMMITTEE REPORTS**

Judiciary

**LEGISLATIVE BILL 122.** Placed on General File.

**LEGISLATIVE BILL 517.** Placed on General File with amendment.  
AM662

- 1 1. On page 2, line 24; and page 5, line 12, after
- 2 "juvenile" insert "or another minor child".

(Signed) Brad Ashford, Chairperson

**AMENDMENTS - Print in Journal**

Senator Stuthman filed the following amendment to LB355:

AM840

(Amendments to Standing Committee amendments, AM445)

- 1 1. Insert the following new amendment:
- 2 4. On page 11, line 6, strike "Cigar" and insert
- 3 "Smoking".
- 4 2. Renumber the remaining amendment.

Senator Stuthman filed the following amendment to LB355:

AM841

(Amendments to Standing Committee amendments, AM445)

- 1 1. Insert the following new amendment:
- 2 4. On page 11, line 8, strike "fifteen" and insert
- 3 "fifty-five".
- 4 2. Renumber the remaining amendment.

Senator Stuthman filed the following amendment to LB355:

AM842

(Amendments to Standing Committee amendments, AM445)

- 1 1. Insert the following new amendment:
- 2 4. On page 11, line 8, strike "fifteen" and insert
- 3 "fifty-one".
- 4 2. Renumber the remaining amendment.

Senator Langemeier filed the following amendment to LB483:

AM839 is available in the Bill Room.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

Lindahl, Loren - Commission of Industrial Relations - Business and Labor

(Signed) John Wightman, Chairperson  
Executive Board

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Fulton asked unanimous consent to add his name as cointroducer to LB457. No objections. So ordered.

Senator Campbell asked unanimous consent to add her name as cointroducer to LB555. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were members of Student Senator Program and sponsors from District 47; 65 fourth-grade students and teachers from Ashland-Greenwood School, Ashland; 90 nursing students from Creighton; members of ARC of Central Nebraska; members of Nebraska Council of Catholic Women from across the state; Barb Jensen from Broken Bow; Kim Estes, Mary Kaup, and Mary Krysl from Stuart and Brenda Wedige from Atkinson; 40 fourth-grade students and teachers from Sandoz Elementary, Lexington; and 29 students from Southwest Middle School, Bartley.

The Doctor of the Day was Dr. Kelly Collins from Papillion.

**ADJOURNMENT**

At 11:58 a.m., on a motion by Senator Council, the Legislature adjourned until 9:00 a.m., Wednesday, March 25, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTIETH DAY - MARCH 25, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FIFTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, March 25, 2009

**PRAYER**

The prayer was offered by Senator Dubas.

**ROLL CALL**

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

The roll was called and all members were present except Senators Friend and Howard who were excused; and Senators Ashford, Cornett, Dierks, and Pankonin who were excused until they arrive.

**PRESIDENT SHEEHY PRESIDING****CORRECTIONS FOR THE JOURNAL**

Page 825, line 15, strike "Friday, March 27, 2009" and insert "Thursday, March 26, 2009".

The Journal for the forty-ninth day was approved as corrected.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 355.** Placed on Select File with amendment.  
ER8042

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 28-1422, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 28-1422 Every person, partnership, limited liability
- 6 company, or corporation desiring a license under sections 28-1420
- 7 to 28-1429 shall file with the clerk or finance department of
- 8 the city, town, or village where his, her, their, or its place
- 9 of business is located, if within the limits of a city, town,
- 10 or village, or with the clerk of the county where such place of
- 11 business is located, if outside the limits of any city, town, or

12 village, a written application stating the name of the person,  
13 partnership, limited liability company, or corporation for whom  
14 such license is desired and the exact location of the place of  
15 business and shall deposit with such application the amount of the  
16 license fee provided in section 28-1423. If the applicant is an  
17 individual, the application shall include the applicant's social  
18 security number. If the applicant is the owner of a cigar bar as  
19 defined in section 53-103 which allows smoking, the application, if  
20 other than an initial application, shall include proof of the cigar  
21 bar's annual gross revenue. A copy of the proof of gross revenue  
22 shall also be sent to the Nebraska Liquor Control Commission.

23 Sec. 2. Section 53-101, Revised Statutes Cumulative  
1 Supplement, 2008, is amended to read:  
2 53-101 Sections 53-101 to 53-1,122 and section 4 of this  
3 act shall be known and may be cited as the Nebraska Liquor Control  
4 Act.

5 Sec. 3. Section 53-103, Revised Statutes Cumulative  
6 Supplement, 2008, is amended to read:

7 53-103 For purposes of the Nebraska Liquor Control Act,  
8 unless the context otherwise requires:

9 (1) Alcohol means the product of distillation of any  
10 fermented liquid, whether rectified or diluted, whatever the origin  
11 thereof, and includes synthetic ethyl alcohol and alcohol processed  
12 or sold in a gaseous form. Alcohol does not include denatured  
13 alcohol or wood alcohol;

14 (2) Spirits means any beverage which contains alcohol  
15 obtained by distillation, mixed with water or other substance  
16 in solution, and includes brandy, rum, whiskey, gin, or other  
17 spirituous liquors and such liquors when rectified, blended, or  
18 otherwise mixed with alcohol or other substances;

19 (3) Wine means any alcoholic beverage obtained by the  
20 fermentation of the natural contents of fruits or vegetables,  
21 containing sugar, including such beverages when fortified by the  
22 addition of alcohol or spirits;

23 (4) Beer means a beverage obtained by alcoholic  
24 fermentation of an infusion or concoction of barley or other grain,  
25 malt, and hops in water and includes, but is not limited to, beer,  
26 ale, stout, lager beer, porter, and near beer;

27 (5) Alcoholic liquor includes alcohol, spirits, wine,  
1 beer, and any liquid or solid, patented or not, containing alcohol,  
2 spirits, wine, or beer and capable of being consumed as a beverage  
3 by a human being. Alcoholic liquor also includes confections or  
4 candy with alcohol content of more than one-half of one percent  
5 alcohol. The act does not apply to (a) alcohol used in the  
6 manufacture of denatured alcohol produced in accordance with acts  
7 of Congress and regulations adopted and promulgated pursuant to  
8 such acts, (b) flavoring extracts, syrups, medicinal, mechanical,  
9 scientific, culinary, or toilet preparations, or food products  
10 unfit for beverage purposes, but the act applies to alcoholic

11 liquor used in the manufacture, preparation, or compounding of such  
12 products or confections or candy that contains more than one-half  
13 of one percent alcohol, or (c) wine intended for use and used by  
14 any church or religious organization for sacramental purposes;

15 (6) Near beer means beer containing less than one-half of  
16 one percent of alcohol by volume;

17 (7) Original package means any bottle, flask, jug, can,  
18 cask, barrel, keg, hogshead, or other receptacle or container  
19 used, corked or capped, sealed, and labeled by the manufacturer of  
20 alcoholic liquor to contain and to convey any alcoholic liquor;

21 (8) Manufacturer means every brewer, fermenter,  
22 distiller, rectifier, winemaker, blender, processor, bottler,  
23 or person who fills or refills an original package and others  
24 engaged in brewing, fermenting, distilling, rectifying, or bottling  
25 alcoholic liquor, including a wholly owned affiliate or duly  
26 authorized agent for a manufacturer;

27 (9) Nonbeverage user means every manufacturer of any  
1 of the products set forth and described in subsection (4) of  
2 section 53-160, when such product contains alcoholic liquor, and  
3 all laboratories, hospitals, and sanatoria using alcoholic liquor  
4 for nonbeverage purposes;

5 (10) Manufacture means to distill, rectify, ferment,  
6 brew, make, mix, concoct, process, blend, bottle, or fill an  
7 original package with any alcoholic liquor and includes blending  
8 but does not include the mixing or other preparation of drinks for  
9 serving by those persons authorized and permitted in the act to  
10 serve drinks for consumption on the premises where sold;

11 (11) Wholesaler means a person importing or causing to be  
12 imported into the state or purchasing or causing to be purchased  
13 within the state alcoholic liquor for sale or resale to retailers  
14 licensed under the act, whether the business of the wholesaler is  
15 conducted under the terms of a franchise or any other form of an  
16 agreement with a manufacturer or manufacturers, or who has caused  
17 alcoholic liquor to be imported into the state or purchased in  
18 the state from a manufacturer or manufacturers and was licensed  
19 to conduct such a business by the commission on May 1, 1970, or  
20 has been so licensed since that date. Wholesaler does not include  
21 any retailer licensed to sell alcoholic liquor for consumption off  
22 the premises who sells alcoholic liquor other than beer or wine  
23 to another retailer pursuant to section 53-175, except that any  
24 such retailer shall obtain the required federal wholesaler's basic  
25 permit and federal wholesale liquor dealer's special tax stamp.  
26 Wholesaler includes a distributor, distributorship, and jobber;

27 (12) Person means any natural person, trustee,  
1 corporation, partnership, or limited liability company;

2 (13) Retailer means a person who sells or offers for sale  
3 alcoholic liquor for use or consumption and not for resale in any  
4 form except as provided in section 53-175;

5 (14) Sell at retail and sale at retail means sale for use

6 or consumption and not for resale in any form except as provided in  
7 section 53-175;

8 (15) Commission means the Nebraska Liquor Control  
9 Commission;

10 (16) Sale means any transfer, exchange, or barter in any  
11 manner or by any means for a consideration and includes any sale  
12 made by any person, whether principal, proprietor, agent, servant,  
13 or employee;

14 (17) To sell means to solicit or receive an order for, to  
15 keep or expose for sale, or to keep with intent to sell;

16 (18) Restaurant means any public place (a) which is kept,  
17 used, maintained, advertised, and held out to the public as a place  
18 where meals are served and where meals are actually and regularly  
19 served, (b) which has no sleeping accommodations, and (c) which  
20 has adequate and sanitary kitchen and dining room equipment and  
21 capacity and a sufficient number and kind of employees to prepare,  
22 cook, and serve suitable food for its guests;

23 (19) Club means a corporation (a) which is organized  
24 under the laws of this state, not for pecuniary profit, solely  
25 for the promotion of some common object other than the sale or  
26 consumption of alcoholic liquor, (b) which is kept, used, and  
27 maintained by its members through the payment of annual dues, (c)  
1 which owns, hires, or leases a building or space in a building  
2 suitable and adequate for the reasonable and comfortable use and  
3 accommodation of its members and their guests, and (d) which  
4 has suitable and adequate kitchen and dining room space and  
5 equipment and a sufficient number of servants and employees for  
6 cooking, preparing, and serving food and meals for its members  
7 and their guests. The affairs and management of such club shall  
8 be conducted by a board of directors, executive committee, or  
9 similar body chosen by the members at their annual meeting, and  
10 no member, officer, agent, or employee of the club shall be paid  
11 or shall directly or indirectly receive, in the form of salary or  
12 other compensation, any profits from the distribution or sale of  
13 alcoholic liquor to the club or the members of the club or its  
14 guests introduced by members other than any salary fixed and voted  
15 at any annual meeting by the members or by the governing body of  
16 the club out of the general revenue of the club;

17 (20) Hotel means any building or other structure (a)  
18 which is kept, used, maintained, advertised, and held out to  
19 the public to be a place where food is actually served and  
20 consumed and sleeping accommodations are offered for adequate  
21 pay to travelers and guests, whether transient, permanent, or  
22 residential, (b) in which twenty-five or more rooms are used for  
23 the sleeping accommodations of such guests, and (c) which has one  
24 or more public dining rooms where meals are served to such guests,  
25 such sleeping accommodations and dining rooms being conducted in  
26 the same buildings in connection therewith and such building or  
27 buildings or structure or structures being provided with adequate



- 1 and sanitary kitchen and dining room equipment and capacity;
- 2 (21) Nonprofit corporation means any corporation  
3 organized under the laws of this state, not for profit, which has  
4 been exempted from the payment of federal income taxes;
- 5 (22) Minor means any person, male or female, under  
6 twenty-one years of age, regardless of marital status;
- 7 (23) Brand means alcoholic liquor identified as the  
8 product of a specific manufacturer;
- 9 (24) Franchise or agreement, with reference to the  
10 relationship between a manufacturer and wholesaler, includes one or  
11 more of the following: (a) A commercial relationship of a definite  
12 duration or continuing indefinite duration which is not required  
13 to be in writing; (b) a relationship by which the wholesaler is  
14 granted the right to offer and sell the manufacturer's brands by  
15 the manufacturer; (c) a relationship by which the franchise, as an  
16 independent business, constitutes a component of the manufacturer's  
17 distribution system; (d) a relationship by which the operation  
18 of the wholesaler's business is substantially associated with  
19 the manufacturer's brand, advertising, or other commercial symbol  
20 designating the manufacturer; and (e) a relationship by which the  
21 operation of the wholesaler's business is substantially reliant on  
22 the manufacturer for the continued supply of beer;
- 23 (25) Territory or sales territory means the wholesaler's  
24 area of sales responsibility for the brand or brands of the  
25 manufacturer;
- 26 (26) Suspend means to cause a temporary interruption of  
27 all rights and privileges of a license;
- 1 (27) Cancel means to discontinue all rights and  
2 privileges of a license;
- 3 (28) Revoke means to permanently void and recall all  
4 rights and privileges of a license;
- 5 (29) Generic label means a label which is not protected  
6 by a registered trademark, either in whole or in part, or to  
7 which no person has acquired a right pursuant to state or federal  
8 statutory or common law;
- 9 (30) Private label means a label which the purchasing  
10 wholesaler or retailer has protected, in whole or in part, by  
11 a trademark registration or which the purchasing wholesaler or  
12 retailer has otherwise protected pursuant to state or federal  
13 statutory or common law;
- 14 (31) Farm winery means any enterprise which produces and  
15 sells wines produced from grapes, other fruit, or other suitable  
16 agricultural products of which at least seventy-five percent of  
17 the finished product is grown in this state or which meets the  
18 requirements of section 53-123.13;
- 19 (32) Campus, as it pertains to the southern boundary of  
20 the main campus of the University of Nebraska-Lincoln, means the  
21 south right-of-way line of R Street and abandoned R Street from  
22 10th to 17th streets;

23 (33) Brewpub means any restaurant or hotel which produces  
24 on its premises a maximum of ten thousand barrels of beer per year;

25 (34) Manager means a person appointed by a corporation to  
26 oversee the daily operation of the business licensed in Nebraska. A  
27 manager shall meet all the requirements of the act as though he or  
1 she were the applicant, except for residency and citizenship;

2 (35) Shipping license means a license granted pursuant to  
3 section 53-123.15;

4 (36) Sampling means consumption on the premises of a  
5 retail licensee of not more than five samples of one fluid ounce or  
6 less of alcoholic liquor by the same person in a twenty-four-hour  
7 period;

8 (37) Microbrewery means any small brewery producing a  
9 maximum of ten thousand barrels of beer per year;

10 (38) Craft brewery means a brewpub or a microbrewery;

11 (39) Local governing body means (a) the city council or  
12 village board of trustees of a city or village within which the  
13 licensed premises are located or (b) if the licensed premises are  
14 not within the corporate limits of a city or village, the county  
15 board of the county within which the licensed premises are located;

16 (40) Consume means knowingly and intentionally drinking  
17 or otherwise ingesting alcoholic liquor; ~~and~~

18 (41) Microdistillery means a distillery located in  
19 Nebraska that is licensed to distill liquor on the premises of the  
20 distillery licensee and produces ten thousand or fewer gallons of  
21 liquor annually; ~~and~~;

22 (42) Cigar bar means a holder of a Class C liquor license  
23 which does not sell food, which, in addition to selling alcohol,  
24 annually receives ten percent or more of its gross revenue from  
25 the sale of cigars and other tobacco products and tobacco-related  
26 products, except from the sale of cigarettes as defined in section  
27 69-2702, and which has a walk-in humidor on the premises.

1 Sec. 4. No county resolution or city ordinance that  
2 prohibits smoking in indoor areas shall apply to cigar bars as  
3 defined in section 53-103.

4 Sec. 5. Section 71-5730, Revised Statutes Cumulative  
5 Supplement, 2008, is amended to read:

6 71-5730 The following indoor areas are exempt from  
7 section 71-5729:

8 (1) Guestrooms and suites that are rented to guests and  
9 are designated as smoking rooms, except that not more than twenty  
10 percent of rooms rented to guests in an establishment may be  
11 designated as smoking rooms. All smoking rooms on the same floor  
12 shall be contiguous, and smoke from such rooms shall not infiltrate  
13 into areas where smoking is prohibited under the Nebraska Clean  
14 Indoor Air Act;

15 (2) Indoor areas used in connection with a research  
16 study on the health effects of smoking conducted in a scientific  
17 or analytical laboratory under state or federal law or at a

18 college or university approved by the Coordinating Commission for  
 19 Postsecondary Education; ~~and~~

20 (3) Tobacco retail outlets; ~~and-~~

21 (4) Cigar bars as defined in section 53-103.

22 Sec. 6. This act becomes operative on June 1, 2009.

23 Sec. 7. Original section 28-1422, Reissue Revised  
 24 Statutes of Nebraska, and sections 53-101, 53-103, and 71-5730,  
 25 Revised Statutes Cumulative Supplement, 2008, are repealed.

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

1 2. On page 1, line 3, strike "and 53-103" and insert

2 ", 53-103, and 71-5730" and after the semicolon insert "to change

3 provisions relating to Class C liquor licenses;".

(Signed) Jeremy Nordquist, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 328A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 260.** Senator Lathrop renewed the Lathrop-Rogert amendment, AM785, found on page 820 and considered on page 825.

Senator Rogert offered the following amendment to the Lathrop-Rogert amendment:

AM834

(Amendments to AM785)

1 1. Strike section 6 and insert the following new section:

2 Sec. 9. Section 29-3506, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 29-3506 Criminal history record information shall mean  
 5 information collected by criminal justice agencies on individuals  
 6 consisting of identifiable descriptions and notations of issuance  
 7 of arrest warrants, arrests, detentions, indictments, charges by  
 8 information, and other formal criminal charges, and any disposition  
 9 arising from such arrests, charges, sentencing, correctional  
 10 supervision, and release. Criminal history record information shall  
 11 include any judgment against or settlement with the state as a  
 12 result of a wrongful conviction pursuant to the Nebraska Claims  
 13 for Wrongful Conviction and Imprisonment Act. Criminal history  
 14 record information shall not include intelligence or investigative  
 15 information.

16 2. Renumber the remaining sections, correct internal  
 17 references, and correct the repealer accordingly.

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

Senator Wallman offered the following amendment to the Lathrop-Rogert amendment:

FA23

Amend AM785

On page 7, line 11 strike beginning with the word "the" through line 22.

The Wallman amendment lost with 5 ayes, 25 nays, 16 present and not voting, and 3 excused and not voting.

The Lathrop-Rogert amendment, AM785, found on page 820 and considered on page 825 and in this day's Journal, as amended, was renewed.

The Lathrop-Rogert amendment, as amended, was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Senator Fulton withdrew his amendment, AM556, found on page 641 and considered on page 646.

Senator Gloor withdrew his amendment, AM567, found on page 642 and considered on page 647.

Senator Lautenbaugh withdrew his amendment, AM572, found on page 642 and considered on page 647.

Senator Carlson withdrew his amendment, AM577, found on page 647.

Senator Gay withdrew his amendment, AM586, found on page 700.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 483.** ER8027, found on page 671, was adopted.

Senator Langemeier withdrew his amendment, FA22, found on page 755.

Senator Langemeier renewed his amendment, AM839, found on page 826.

The Langemeier amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**COMMITTEE REPORTS**

## Transportation and Telecommunications

**LEGISLATIVE BILL 93.** Indefinitely postponed.**LEGISLATIVE BILL 649.** Indefinitely postponed.

(Signed) Deb Fischer, Chairperson

Education

**LEGISLATIVE BILL 549.** Placed on General File with amendment.

AM822 is available in the Bill Room.

(Signed) Greg Adams, Chairperson

**RESOLUTION****LEGISLATIVE RESOLUTION 67.** Introduced by Howard, 9.

WHEREAS, each year social workers across the country celebrate their profession during March; and

WHEREAS, National Professional Social Work Month is observed in the month of March and this year's theme, Social Work: Purpose and Possibility, focuses on the future of social work and the need to recruit more social workers into the profession; and

WHEREAS, the National Association of Social Workers (NASW) has set goals for National Professional Social Work Month, which include recruiting more social workers, expanding the public perception of the breadth and depth of social work, reaching out to national and local media to promote the importance of social work services and social work professionals to society, and promoting a theme that builds pride among social workers; and

WHEREAS, it is also the goal of the NASW to encourage five thousand social workers nationwide to volunteer their time during National Professional Social Work Month as a part of their tradition of giving back; and

WHEREAS, to promote National Professional Social Work Month, the NASW has created a web-based application, "50 Ways to Use Your Social Work Degree," that provides people with information about the social work profession; and

WHEREAS, during March, the NASW will team up with social work programs and schools in an effort to encourage more people to pursue social work degrees.

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

1. That the Legislature recognizes March 2009 as Professional Social Work Month in Nebraska.

2. That during March 2009 communities are encouraged to participate in activities designed to increase public awareness about the contributions of professionals in the field of social work.

Laid over.

### SELECT FILE

**LEGISLATIVE BILL 403.** ER8023, found on page 579, was adopted.

Senator Janssen withdrew his amendment, AM435, found on page 547 and considered on pages 556 and 561.

Senator White withdrew his amendment, AM491, found on page 564.

Senator Karpisek withdrew his amendment, AM534, found on page 643.

Senator Karpisek renewed his amendment, AM680, found on page 811.

Pending.

### ANNOUNCEMENT

Senator Adams announced the Education Committee will hold an executive session Thursday, March 26, 2009, at 12:00 p.m., in Room 1107.

### BILLS ON FIRST READING

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

**LEGISLATIVE BILL 16A.** Introduced by White, 8.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 16, One Hundred First Legislature, First Session, 2009.

**LEGISLATIVE BILL 292A.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 292, One Hundred First Legislature, First Session, 2009.

### COMMITTEE REPORT

Enrollment and Review

**LEGISLATIVE BILL 328A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**AMENDMENT - Print in Journal**

Senator Fischer filed the following amendment to LB202:  
AM778

- 1 1. Insert the following new section:
- 2 Sec. 12. Section 60-144, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 60-144 (1)(a) Except as provided in subdivisions (b),
- 5 (c), and (d) of this subsection, the county clerk or designated
- 6 county official shall be responsible for issuing and filing
- 7 certificates of title for vehicles, and each county shall issue
- 8 and file such certificates of title using the vehicle titling
- 9 and registration computer system prescribed by the department.
- 10 Application for a certificate of title shall be made upon a form
- 11 prescribed by the department. All applications shall be accompanied
- 12 by the appropriate fee or fees.
- 13 (b) The department shall issue and file certificates
- 14 of title for Nebraska-based fleet vehicles. Application for a
- 15 certificate of title shall be made upon a form prescribed by
- 16 the department. All applications shall be accompanied by the
- 17 appropriate fee or fees.
- 18 (c) The department shall issue and file certificates of
- 19 title for state-owned vehicles. Application for a certificate of
- 20 title shall be made upon a form prescribed by the department. All
- 21 applications shall be accompanied by the appropriate fee or fees.
- 22 (d) The department shall issue certificates of title
- 23 pursuant to section 60-142.06. Application for a certificate of
- 1 title shall be made upon a form prescribed by the department. All
- 2 applications shall be accompanied by the appropriate fee or fees.
- 3 (2) If the owner of an all-terrain vehicle or a minibike
- 4 resides in Nebraska, the application shall be filed with the county
- 5 clerk or designated county official of the county in which the
- 6 owner resides.
- 7 ~~(3)~~ (3)(a) Except as otherwise provided in subdivision
- 8 (b) of this subsection, if a vehicle, other than an all-terrain
- 9 vehicle or a minibike, has situs in Nebraska, the application shall
- 10 be filed with the county clerk or designated county official of the
- 11 county in which the vehicle has situs.
- 12 (b) If a motor vehicle dealer licensed under Chapter 60,
- 13 article 14, applies for a certificate of title for a vehicle, the
- 14 application may be filed with the county clerk or designated county
- 15 official of any county.
- 16 (4) If the owner of a vehicle is a nonresident, the
- 17 application shall be filed in the county in which the transaction
- 18 is consummated.
- 19 (5) The application shall be filed within thirty days
- 20 after the delivery of the vehicle.
- 21 (6) All applicants registering a vehicle pursuant to
- 22 section 60-3,198 shall file the application for a certificate

- 23 of title with the Division of Motor Carrier Services of the  
 24 department. The division shall deliver the certificate to the  
 25 applicant if there are no liens on the vehicle. If there are  
 26 any liens on the vehicle, the division shall deliver or mail the  
 27 certificate of title to the holder of the first lien on the day of  
 1 issuance. All certificates of title issued by the division shall be  
 2 issued in the manner prescribed for the county clerk or designated  
 3 county official in section 60-152.
- 4 2. On page 18, line 10, strike "16" and insert "17".  
 5 3. On page 33, line 10, after "60-140," insert "60-144,".  
 6 4. Renumber the remaining sections accordingly.

### COMMITTEE REPORT

Judiciary

**LEGISLATIVE BILL 430.** Placed on General File with amendment.  
 AM835 is available in the Bill Room.

(Signed) Brad Ashford, Chairperson

### VISITORS

Visitors to the Chamber were 23 fourth-grade students and teachers from Plattsmouth; 11 eighth-grade students, teachers, and sponsor from Blessed Sacrament School, Omaha; 80 fourth-grade students and teachers from Fire Ridge Elementary, Elkhorn; and Kathy Erdman from Bayard.

The Doctor of the Day was Dr. Jay Matzke from Gothenburg.

### ADJOURNMENT

At 12:03 p.m., on a motion by Senator Ashford, the Legislature adjourned until 9:00 a.m., Thursday, March 26, 2009.

Patrick J. O'Donnell  
 Clerk of the Legislature



**FIFTY-FIRST DAY - MARCH 26, 2009**  
**LEGISLATIVE JOURNAL**  
**ONE HUNDRED FIRST LEGISLATURE**  
**FIRST SESSION**  
**FIFTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 26, 2009

**PRAYER**

The prayer was offered by Pastor Larry Ramsey, Beatrice State Developmental Center All Faith's Chapel, Beatrice.

**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 Fischer and Howard who were excused; and Senators Cornett, Dierks, Friend, Louden, Schilz, and White who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fiftieth day was approved.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 414A.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 414, One Hundred First Legislature, First Session, 2009; to provide an operative date; and to declare an emergency.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 25, 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

Reynolds, Jeff  
Center for Rural Affairs

**REPORT**

The following report was received by the Legislature:

**Homeland Security, Office of**  
2008 State Preparedness Report

**BILL ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 548.** With Emergency Clause.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1022, 79-1023, 79-1026.01, 79-1027, and 79-1031.01, Reissue Revised Statutes of Nebraska, as amended by sections 1, 2, 3, 4, and 5, respectively, Legislative Bill 61, One Hundred First Legislature, First Session, 2009; to change certification dates as prescribed; 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, 35:

Adams	Cook	Hansen	McGill	Price
Ashford	Flood	Harms	Mello	Rogert
Avery	Fulton	Janssen	Nantkes	Stuthman
Campbell	Gay	Langemeier	Nelson	Sullivan
Carlson	Giese	Lathrop	Nordquist	Utter
Christensen	Haar	Lautenbaugh	Pankonin	Wallman
Coash	Hadley	McCoy	Pirsch	Wightman

Voting in the negative, 3:

Council          Dubas          Karpisek

Present and not voting, 3:

Gloor          Heidemann      Pahls

Excused and not voting, 8:

Cornett          Fischer          Howard          Schilz  
Dierks          Friend          Louden          White

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

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LB548.

### **SELECT FILE**

**LEGISLATIVE BILL 403.** Senator Karpisek renewed his amendment, AM680, found on page 811 and considered on page 838.

The Karpisek amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

### **PRESENTED TO THE GOVERNOR**

Presented to the Governor on March 26, 2009, at 9:18 a.m. was the following: LB548e.

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

### **MESSAGE FROM THE GOVERNOR**

March 26, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bill 548e was received, signed, and delivered to the Secretary of State earlier today.

Sincerely,  
(Signed) Dave Heineman  
Governor

### **COMMITTEE REPORTS**

#### Education

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Stan Carpenter - Nebraska Educational Telecommunications Commission  
Kim Dinsdale - Nebraska Educational Telecommunications Commission  
Clay Smith - Nebraska Educational Telecommunications Commission

Aye: 8 Senators Adams, Ashford, Avery, Cornett, Giese, Haar, Howard, Sullivan. Nay: 0. Absent: 0.

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

William Roskens - Board of Trustees of the Nebraska State Colleges  
Michelle Suarez - Board of Trustees of the Nebraska State Colleges

Aye: 8 Senators Adams, Ashford, Avery, Cornett, Giese, Haar, Howard, Sullivan. Nay: 0. Absent: 0.

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

John Winkleblack - Coordinating Commission for Postsecondary Education

Aye: 8 Senators Adams, Ashford, Avery, Cornett, Giese, Haar, Howard, Sullivan. Nay: 0. Absent: 0.

(Signed) Greg Adams, Chairperson

**RESOLUTIONS****LEGISLATIVE RESOLUTION 68.** Introduced by Christensen, 44.

WHEREAS, Traci Keyser, a senior at Cambridge High School, had an outstanding 2009 season in girls' high school basketball; and

WHEREAS, the Omaha World-Herald named Traci Keyser third-team All-Nebraska for 2009 and first-team All-State in Class C-2.

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

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

1. That the Legislature congratulates Traci Keyser on her outstanding achievements in girls' high school basketball.

2. That a copy of this resolution be sent to Traci Keyser.

Laid over.

**LEGISLATIVE RESOLUTION 69.** Introduced by Christensen, 44.

WHEREAS, Ivan Simic, a senior at Arapahoe High School, had an outstanding 2009 season in boys' high school basketball; and

WHEREAS, the Omaha World-Herald named Ivan Simic first-team All-State in Class D-1 for 2009; and

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

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

1. That the Legislature congratulates Ivan Simic on his outstanding achievements in boys' high school basketball.

2. That a copy of this resolution be sent to Ivan Simic.

Laid over.

**LEGISLATIVE RESOLUTION 70.** Introduced by Christensen, 44.

WHEREAS, Matt Gohl, a senior at Hayes Center High School, had an outstanding 2009 season in boys' high school basketball; and

WHEREAS, the Omaha World-Herald named Matt Gohl second-team All-State in Class D-2 for 2009; and

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

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

1. That the Legislature congratulates Matt Gohl on his outstanding achievements in boys' high school basketball.

2. That a copy of this resolution be sent to Matt Gohl.

Laid over.

**LEGISLATIVE RESOLUTION 71.** Introduced by Christensen, 44.

WHEREAS, Sara Wilson, a senior at Perkins County High School, had an outstanding 2009 season in girls' high school basketball; and

WHEREAS, the Omaha World-Herald named Sara Wilson second-team All-Nebraska for 2009. Sara was also named first-team All-State and honorary captain in Class C-2; and

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

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

1. That the Legislature congratulates Sara Wilson on her outstanding achievements in girls' high school basketball.

2. That a copy of this resolution be sent to Sara Wilson.

Laid over.

**LEGISLATIVE RESOLUTION 72.** Introduced by Janssen, 15; Lautenbaugh, 18; McCoy, 39; Rogert, 16.

WHEREAS, Ray C. Simmons of Fremont was a distinguished member of the Nebraska Legislature, serving from 1957 to 1961, representing Dodge and Washington counties; and

WHEREAS, Mr. Simmons chaired the Legislature's Judiciary Committee during the 1959 session; and

WHEREAS, Mr. Simmons was an active member of the Nebraska legal community, authoring the legal text entitled "Nebraska Automobile Negligence Law"; and

WHEREAS, Mr. Simmons was a 50-year member of the Nebraska State Bar Association; and

WHEREAS, Mr. Simmons served his country in the United States Navy during both World War II and the Korean War, later serving as commanding officer of Fremont's Naval Reserve Unit for many years; and

WHEREAS, Mr. Simmons was instrumental in forming the first John C. Fremont Days and was a member and past president of the Dodge County Historical Society and Fremont Opera House, Inc.

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

1. That the Legislature posthumously honors Ray C. Simmons for his service to his country, state, and community.

2. That a copy of this resolution be sent to the family of Mr. Simmons.

Laid over.

**LEGISLATIVE RESOLUTION 73.** Introduced by Janssen, 15.

WHEREAS, Richard "Dick" Wikert was inducted into the Fremont Business Hall of Fame on January 9, 2009; and

WHEREAS, Mr. Wikert is a fixture in the Fremont business community, currently serving as the majority owner and chairman of the board of the American National Bank in Fremont; and

WHEREAS, Mr. Wikert formerly owned Taylor and Martin, Inc., building it from a small regional auction company into the nation's largest transportation equipment auction company; and

WHEREAS, Mr. Wikert is also a fixture in the Fremont philanthropic community, assisting with efforts at the Love-Larson Opera House, Midland Lutheran College, the Mid-American Council of the Boy Scouts of America, and many other community institutions; and

WHEREAS, Mr. Wikert served his country as a jet fighter pilot in the United States Air Force.

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

1. That the Legislature honors Richard "Dick" Wikert for his talents and service to the city of Fremont and the State of Nebraska.

2. That the Legislature congratulates Mr. Wikert and his family for his induction into the Fremont Business Hall of Fame.

3. That a copy of this resolution be sent to Mr. Wikert and his family.

Laid over.

**LEGISLATIVE RESOLUTION 74.** Introduced by Janssen, 15.

WHEREAS, Bernard "Bernie" Paden was inducted into the Fremont Business Hall of Fame on January 9, 2009; and

WHEREAS, Mr. Paden founded Paden Construction and Paden Enterprises and handled many land and commercial developments throughout Fremont; and

WHEREAS, Mr. Paden's efforts helped preserve Fremont's historic Post Office which is now home to the Fremont Area Chamber of Commerce and many other civic groups; and

WHEREAS, Mr. Paden was also instrumental in starting the Fremont and Dodge County Convention and Visitor's Bureau and preserving the Holiday Lodge and convention center; and

WHEREAS, Mr. Paden was very involved in Fremont's philanthropic community, including working with the Masonic Youth Home and Fremont Shriners Club.

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

1. That the Legislature posthumously honors Bernard "Bernie" Paden for his talents and service to the city of Fremont and the State of Nebraska.

2. That the Legislature congratulates Mr. Paden's family for Mr. Paden's induction into the Fremont Business Hall of Fame.

3. That a copy of this resolution be sent to the family of Mr. Paden.

Laid over.

### COMMITTEE REPORTS

#### Enrollment and Review

**LEGISLATIVE BILL 260.** Placed on Final Reading.

ST9013

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

1. In the Lathrop-Rogert amendment, AM785:

a. Amendment 2 has been struck;

b. On page 1, line 3, "9" has been struck and "8" inserted; and

c. On page 8, line 17, "81-8,210" has been struck and "29-3506, 81-8,210," inserted.

2. In the E & R amendments, ER8026, on page 9, line 19, "81-8,210" has been struck and "29-3506, 81-8,210," inserted; and in line 21 "to redefine criminal history record information;" has been inserted after the semicolon.

**LEGISLATIVE BILL 483.** Placed on Final Reading.

ST9014

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

1. On page 1, line 2, "section" has been struck and "sections 2-32,115 and 46-720, Reissue Revised Statutes of Nebraska, and sections 46-706, 46-713, and" inserted; and in line 5 "to harmonize provisions;" has been inserted after the first semicolon and "section" has been struck and "sections" inserted.

(Signed) Jeremy Nordquist, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 458.** Title read. Considered.

### PRESIDENT SHEEHY PRESIDING

Pending.

### RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 51, 52, 53, 54, 55, 56, 57, 58, 59, and 60 were adopted.



**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 51, 52, 53, 54, 55, 56, 57, 58, 59, and 60.

**GENERAL FILE**

**LEGISLATIVE BILL 458.** Considered.

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

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

Voting in the affirmative, 45:

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

Voting in the negative, 0.

Excused and not voting, 4:

Fischer	Howard	Pankonin	Stuthman
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Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, and 4 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 206.** Title read. Considered.

Committee AM512, found on page 612, was adopted with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 4 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 477.** Title read. Considered.

Committee AM481, found on page 638, was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

**AMENDMENT - Print in Journal**

Senator Wightman filed the following amendment to LB121:  
AM862

(Amendments to E & R amendments, ER8032)

1 1. Strike section 10 and insert the following new  
2 section:  
3 Sec. 10. (1) Each employee of the Department of Revenue  
4 transferred to a county pursuant to section 77-1340 or section 8 of  
5 this act shall be paid for his or her accrued annual leave hours  
6 based on his or her straight-time rate of pay and, notwithstanding  
7 section 81-1324, for twenty-five percent of the value of his or  
8 her accrued sick leave hours based on his or her straight-time  
9 rate of pay. For purposes of this subsection, straight-time rate  
10 of pay means the rate of pay in effect on June 30 of the year  
11 of transfer. The state shall reimburse employees on the date of  
12 employment transfer.

13 (2) A transferred employee may credit years of service  
14 with both the county and state toward the accrual rate for sick  
15 leave and annual leave plans. The transferred employee shall not  
16 receive any additional accrual rate value for county benefits until  
17 the employee meets the qualifications for the increased accrual  
18 rates pursuant to the county's requirements.

19 (3) The transferred employee may participate in and be  
20 covered by the county's insurance program. The waiting period  
21 for medical insurance coverage of a transferred employee shall  
22 be waived, and any preexisting condition clause in the county's  
1 insurance program shall be waived if the transferred employee has  
2 health insurance under the Nebraska State Insurance Program or  
3 comparable health insurance coverage immediately prior to the date  
4 of employment transfer.

5 2. On page 11, line 27; and page 13, line 20, before  
6 the second "to" insert "and all furniture, computers, and other  
7 equipment and property used by the state to perform the county  
8 assessment function, other than motor vehicles."

9 3. On page 12, line 6; and page 13, line 13, after  
10 "employees" insert "by operation of law".

**RESOLUTION****LEGISLATIVE RESOLUTION 75.** Introduced by Council, 11; Cook, 13.

WHEREAS, for more than 130 years, Juneteenth National Freedom Day has been the oldest and only African-American holiday observance in the United States; and

WHEREAS, Juneteenth is also known as Emancipation Day, Emancipation Celebration, Freedom Day, and Jun-Jun; and

WHEREAS, Juneteenth commemorates the strong survival instinct of African-Americans who were first brought to this country, stacked in the bottom of slave ships in a month-long journey across the Atlantic Ocean, known as the Middle Passage; and

WHEREAS, approximately eleven and one-half million African-Americans survived the voyage to the New World - the number that died is likely greater; and

WHEREAS, events in the history of the United States which led to the Civil War of 1861 centered around sectional differences between the North and South that were based on the economic and social divergence caused by the existence of slavery; and

WHEREAS, President Abraham Lincoln was inaugurated as President of the United States in 1861, and believed and stated that the paramount object of the Civil War was to save the Union rather than save or destroy slavery; and

WHEREAS, President Abraham Lincoln also stated his wish was that all men everywhere could be free, thus adding to a growing anticipation by slaves that their ultimate liberty was at hand; and

WHEREAS, in 1862, the first clear signs that the end of slavery was imminent came when laws abolishing slavery in the territories of Nebraska, Oklahoma, Colorado, and New Mexico were passed; and

WHEREAS, in September of that same year, President Abraham Lincoln warned the eleven rebellious Confederate States that if they did not return to the Union by January 1, 1863, he would declare their slaves forever free via the celebrated Emancipation Proclamation; and

WHEREAS, enforcement of the Emancipation Proclamation only occurred in Confederate States once under Union Army control; and

WHEREAS, Congress subsequently passed the Thirteenth Amendment to the Constitution on January 31, 1865, abolishing slavery throughout the United States and its territories. However, news of this action reached the states at different times. It was not until June 19, 1865, that the message of freedom reached the slaves in Texas, Oklahoma, Louisiana, Arkansas, and California; and

WHEREAS, spontaneous celebration erupted throughout the country when African-Americans learned of their freedom. Juneteenth National Freedom Day illuminates the fact that slaves hated slavery and celebrated its abolishment with excitement and great joy. It is a reminder to all Americans of the status and importance of Americans of African descent as American citizens; and

WHEREAS, Juneteenth has been an unofficial holiday observed and celebrated by thousands of African-Americans and other cultures in various communities throughout the United States of America and around the world; and

WHEREAS, twenty-two states and the District of Columbia observe Juneteenth as an official state holiday: Those states are Alaska, Arkansas, California, Connecticut, Delaware, Florida, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Tennessee, Texas, Vermont, Washington, and Wyoming. Other states have passed resolutions: Colorado, Idaho, Oregon, and Virginia; and

WHEREAS, Governor Heineman, of the State of Nebraska, issued proclamations observing Juneteenth Day on June 19, 2007, and June 19, 2008.

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

1. That the Legislature recognizes June 19 as Juneteenth National Freedom Day and encourages celebration of this day to honor and reflect on the significant roles that African-Americans have played in the history of the United States.

2. That the Legislature acknowledges how African-Americans have enriched society through their steadfast commitment to promoting freedom, brotherhood, and equality.

3. That a copy of this resolution be sent to Brenda J. Council.

Laid over.

### **NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Monday, April 6, 2009 9:00 a.m.

James Pearson - Board of Parole

(Signed) Brad Ashford, Chairperson

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators McGill and Nantkes asked unanimous consent to add their names as cointroducers to LB555. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Senator Lautenbaugh's son, Nathan Lautenbaugh, from Omaha; 32 fourth-grade students from Weeping Water; Senator Pirsch's mother, former Senator Carol Pirsch, from Omaha; 24 fourth-grade students and teacher from Freeman School, Adams; and 46 fourth-grade students and teachers from Syracuse/Dunbar/Avoca.

The Doctor of the Day was Dr. Mark Woodruff from Omaha.

**ADJOURNMENT**

At 11:54 a.m., on a motion by Senator Rogert, the Legislature adjourned until 10:00 a.m., Tuesday, March 31, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTY-SECOND DAY - MARCH 31, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FIFTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 31, 2009

**PRAYER**

The prayer was offered by Pastor Don Owen, Word of Life Church, Columbus.

**ROLL CALL**

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

The roll was called and all members were present except Senators Ashford, Fulton, and Howard who were excused; and Senator Dierks who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-first day was approved.

**COMMITTEE REPORTS**

Health and Human Services

**LEGISLATIVE BILL 136.** Placed on General File with amendment.  
AM867

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 68-915, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 68-915 The following persons shall be eligible for
- 6 medical assistance:
- 7 (1) Dependent children as defined in section 43-504;
- 8 (2) Aged, blind, and disabled persons as defined in
- 9 sections 68-1002 to 68-1005;
- 10 (3) Children under nineteen years of age who are eligible
- 11 under section 1905(a)(i) of the federal Social Security Act;
- 12 (4) Persons who are presumptively eligible as allowed
- 13 under sections 1920 and 1920B of the federal Social Security Act;
- 14 (5) Children under nineteen years of age ~~and pregnant~~

15 ~~women~~ with a family income equal to or less than ~~one two~~ hundred  
 16 ~~eighty five~~ percent of the Office of Management and Budget income  
 17 poverty guideline, as allowed under Title XIX and Title XXI of  
 18 the federal Social Security Act, without regard to resources,  
 19 and pregnant women with a family income equal to or less than  
 20 one hundred eighty-five percent of the Office of Management  
 21 and Budget income poverty guideline, as allowed under Title  
 22 XIX and Title XXI of the federal Social Security Act, without  
 23 regard to resources. Children described in this subdivision and  
 1 subdivision (6) of this section shall remain eligible for six  
 2 consecutive months from the date of initial eligibility prior  
 3 to redetermination of eligibility. The department may review  
 4 eligibility monthly thereafter pursuant to rules and regulations  
 5 adopted and promulgated by the department. The department may  
 6 determine upon such review that a child is ineligible for medical  
 7 assistance if such child no longer meets eligibility standards  
 8 established by the department;

9 (6) For purposes of Title XIX of the federal Social  
 10 Security Act as provided in subdivision (5) of this section,  
 11 children with a family income as follows:

12 (a) Equal to or less than one hundred fifty percent of  
 13 the Office of Management and Budget income poverty guideline with  
 14 eligible children one year of age or younger;

15 (b) Equal to or less than one hundred thirty-three  
 16 percent of the Office of Management and Budget income poverty  
 17 guideline with eligible children over one year of age and under six  
 18 years of age; or

19 (c) Equal to or less than one hundred percent of the  
 20 Office of Management and Budget income poverty guideline with  
 21 eligible children six years of age or older and less than nineteen  
 22 years of age;

23 (7) Persons who are medically needy caretaker relatives  
 24 as allowed under 42 U.S.C. 1396d(a)(ii);

25 (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),  
 26 disabled persons as defined in section 68-1005 with a family income  
 27 of less than two hundred fifty percent of the Office of Management  
 1 and Budget income poverty guideline and who, but for earnings in  
 2 excess of the limit established under 42 U.S.C. 1396d(q)(2)(B),  
 3 would be considered to be receiving federal Supplemental Security  
 4 Income. The department shall apply for a waiver to disregard any  
 5 unearned income that is contingent upon a trial work period in  
 6 applying the Supplemental Security Income standard. Such disabled  
 7 persons shall be subject to payment of premiums as a percentage of  
 8 family income beginning at not less than two hundred percent of  
 9 the Office of Management and Budget income poverty guideline. Such  
 10 premiums shall be graduated based on family income and shall not be  
 11 less than two percent or more than ten percent of family income;  
 12 and

13 (9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),



14 persons who:

15 (a) Have been screened for breast and cervical cancer  
 16 under the Centers for Disease Control and Prevention breast and  
 17 cervical cancer early detection program established under Title XV  
 18 of the federal Public Health Service Act, 42 U.S.C. 300k et seq.,  
 19 in accordance with the requirements of section 1504 of such act, 42  
 20 U.S.C. 300n, and who need treatment for breast or cervical cancer,  
 21 including precancerous and cancerous conditions of the breast or  
 22 cervix;

23 (b) Are not otherwise covered under creditable coverage  
 24 as defined in section 2701(c) of the federal Public Health Service  
 25 Act, 42 U.S.C. 300gg(c);

26 (c) Have not attained sixty-five years of age; and

27 (d) Are not eligible for medical assistance under any  
 1 mandatory categorically needy eligibility group.

2 Eligibility shall be determined under this section  
 3 using an income budgetary methodology that determines children's  
 4 eligibility at no greater than ~~one-two hundred eighty-five~~ percent  
 5 of the Office of Management and Budget income poverty guideline and  
 6 adult eligibility using adult income standards no greater than the  
 7 applicable categorical eligibility standards established pursuant  
 8 to state or federal law. The department shall determine eligibility  
 9 under this section pursuant to such income budgetary methodology  
 10 and subdivision (1)(q) of section 68-1713.

11 Sec. 2. Original section 68-915, Revised Statutes  
 12 Cumulative Supplement, 2008, is repealed.

**LEGISLATIVE BILL 288.** Placed on General File with amendment.  
 AM846 is available in the Bill Room.

**LEGISLATIVE BILL 601.** Placed on General File with amendment.  
 AM855

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

3 Section 1. Section 68-911, Revised Statutes Cumulative  
 4 Supplement, 2008, is amended to read:

5 68-911 (1) Medical assistance shall include coverage for  
 6 health care and related services as required under Title XIX of the  
 7 federal Social Security Act, including, but not limited to:

8 (a) Inpatient and outpatient hospital services;

9 (b) Laboratory and X-ray services;

10 (c) Nursing facility services;

11 (d) Home health services;

12 (e) Nursing services;

13 (f) Clinic services;

14 (g) Physician services;

15 (h) Medical and surgical services of a dentist;

16 (i) Nurse practitioner services;

17 (j) Nurse midwife services;

18 (k) Pregnancy-related services;  
 19 (l) Medical supplies; and  
 20 (m) Early and periodic screening and diagnosis and  
 21 treatment services for children.

22 (2) ~~Medical~~ In addition to coverage otherwise required  
 23 under this section, medical assistance may include coverage for  
 1 health care and related services as permitted but not required  
 2 under Title XIX of the federal Social Security Act, including, but  
 3 not limited to:

4 (a) Prescribed drugs;  
 5 (b) Intermediate care facilities for the mentally  
 6 retarded;  
 7 (c) Home and community-based services for aged persons  
 8 and persons with disabilities;  
 9 (d) Dental services;  
 10 (e) Rehabilitation services;  
 11 (f) Personal care services;  
 12 (g) Durable medical equipment;  
 13 (h) Medical transportation services;  
 14 (i) Vision-related services;  
 15 (j) Speech therapy services;  
 16 (k) Physical therapy services;  
 17 (l) Chiropractic services;  
 18 (m) Occupational therapy services;  
 19 (n) Optometric services;  
 20 (o) Podiatric services;  
 21 (p) Hospice services;  
 22 (q) Mental health and substance abuse services;  
 23 (r) Hearing screening services for newborn and infant  
 24 children; and  
 25 (s) Administrative expenses related to administrative  
 26 activities, including outreach services, provided by school  
 27 districts and educational service units to students who are  
 1 eligible or potentially eligible for medical assistance.

2 (3) No later than July 1, 2009, the department shall  
 3 submit a state plan amendment or waiver to the federal Centers  
 4 for Medicare and Medicaid Services to provide coverage under the  
 5 medical assistance program for community-based secure residential  
 6 and subacute behavioral health services for all eligible  
 7 recipients, regardless of whether the recipient has been ordered to  
 8 receive such services by a mental health board under the Nebraska  
 9 Mental Health Commitment Act.

10 Sec. 2. Original section 68-911, Revised Statutes  
 11 Cumulative Supplement, 2008, is repealed.

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

(Signed) Tim Gay, Chairperson

## Natural Resources

**LEGISLATIVE BILL 471.** Placed on General File.

**LEGISLATIVE BILL 568.** Placed on General File with amendment.  
AM732

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

3 Section 1. For purposes of sections 1 to 4 of this act:

4 (1) Decommissioning security means a security instrument  
5 that is posted or given prior to construction by the wind developer  
6 to ensure sufficient funding is available for removal of a wind  
7 energy conversion system and reclamation at the end of the useful  
8 life of such a system; and

9 (2) Wind agreement means a right, whether or not stated  
10 in the form of a restriction, easement, covenant, or condition,  
11 in any deed, wind easement, wind option, or lease or lease option  
12 securing land for the study or production of wind generated energy  
13 or any other instrument executed by or on behalf of any owner of  
14 land or air space for the purpose of allowing another party to  
15 study the potential for, or to develop, a wind energy conversion  
16 system as defined in section 66-909.02 on the land or in the air  
17 space.

18 Sec. 2. A wind agreement shall run with the land  
19 benefited and burdened and shall terminate upon the conditions  
20 stated in the wind agreement, except that the initial term of a  
21 wind agreement shall not exceed fifty years. A wind agreement shall  
22 terminate if development of a wind energy conversion system as  
23 defined in section 66-909.02 has not commenced within ten years  
1 after the effective date of the wind agreement, except that this  
2 period may be extended by mutual agreement of the parties to the  
3 wind agreement.

4 Sec. 3. A wind agreement shall comply with section  
5 66-911.01.

6 Sec. 4. No interest in any resource located on a tract of  
7 land and associated with the production or potential production of  
8 wind generated energy on the tract of land may be severed from the  
9 surface estate, except that such interests may be granted for an  
10 initial period not to exceed fifty years.

11 Sec. 5. Section 66-911.01, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 66-911.01 An instrument creating a ~~lease-land right~~ or  
14 an option to ~~lease~~ secure a land right in real property or the  
15 vertical space above real property for a solar energy system or for  
16 a wind energy conversion system or for wind measurement equipment  
17 shall be created in writing and the instrument, or an abstract,  
18 shall be filed, duly recorded, and indexed in the office of the  
19 register of deeds of the county in which the real property subject  
20 to the ~~easement-instrument~~ is located. ~~An instrument creating a~~

21 ~~lease or an option to lease real property or the vertical space~~  
 22 ~~above real property for wind measuring equipment may be created in~~  
 23 ~~writing and may be filed, duly recorded, and indexed in the office~~  
 24 ~~of the register of deeds of the county in which the real property~~  
 25 ~~subject to the easement is located. Such lease or lease option~~  
 26 ~~document~~ The instrument shall include, but the contents are not  
 27 limited to:

- 1 (1) The names of the parties;
- 2 (2) A legal description of the real property involved;
- 3 (3) The nature of the interest created;
- 4 (4) The consideration paid for the transfer; ~~and~~
- 5 (5) A description of the improvements the developer  
 6 intends to make on the real property, including, but not limited  
 7 to: Roads; transmission lines; substations; wind turbines; and  
 8 meteorological towers;
- 9 (6) A description of any decommissioning security as  
 10 defined in section 1 of this act or local requirements related to  
 11 decommissioning; and
- 12 ~~(5)-(7)~~ (7) The terms or conditions, if any, under which the  
 13 interest may be revised or terminated.

14 Sec. 6. Original section 66-911.01, Reissue Revised  
 15 Statutes of Nebraska, is repealed.

(Signed) Chris Langemeier, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 76.** Introduced by Campbell, 25.

WHEREAS, Justin Kuzila 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 achievement 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, Justin 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. Justin earned 29 merit badges and planted trees along the bike path at the intersection of 120th Street and A Street in Lincoln, Nebraska, for his community service project; and

WHEREAS, Justin has received numerous special awards and training, including the Catholic Church's special religious award; and

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

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

1. That the Legislature congratulates Justin Kuzila on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Justin Kuzila.

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 292A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 555.** Title read. Considered.

Committee AM367, found on page 675, was considered.

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

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

The motion to cease debate prevailed with 25 ayes, 13 nays, 8 present and not voting, and 3 excused and not voting.

The committee amendment was adopted with 46 ayes, 0 nays, and 3 excused and not voting.

The Chair declared the call raised.

**SENATOR ROBERT PRESIDING**

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

Voting in the affirmative, 37:

Avery	Dubas	Karpisek	Nelson	Stuthman
Campbell	Gay	Langemeier	Nordquist	Sullivan
Christensen	Giese	Lautenbaugh	Pahls	Wallman
Coash	Gloor	Louden	Pankonin	White
Cook	Haar	McCoy	Pirsch	Wightman
Cornett	Hadley	McGill	Price	
Council	Hansen	Mello	Rogert	
Dierks	Harms	Nantkes	Schilz	

Voting in the negative, 1:

Utter

Present and not voting, 5:

Adams            Fischer            Friend            Janssen            Lathrop

Excused and not voting, 6:

Ashford          Flood            Heidemann  
Carlson          Fulton          Howard

Advanced to Enrollment and Review Initial with 37 ayes, 1 nay, 5 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 396.** Title read. Considered.

Pending.

### COMMITTEE REPORTS

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 475.** Placed on General File with amendment. AM830 is available in the Bill Room.

**LEGISLATIVE BILL 533.** Placed on General File with amendment. AM873

- 1     1. Insert the following new section:
- 2     Sec. 3. Since an emergency exists, this act takes effect
- 3     when passed and approved according to law.

(Signed) Bill Avery, Chairperson

### NOTICE OF COMMITTEE HEARING

Government, Military and Veterans Affairs

Room 1507

Tuesday, April 7, 2009    8:30 a.m.

Richard Christensen - State Emergency Response Commission  
Steven Danon - State Emergency Response Commission  
Donald Eisenhower - State Emergency Response Commission  
Larry Johnson - State Emergency Response Commission

(Signed) Bill Avery, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 77.** Introduced by Langemeier, 23.

WHEREAS, the David City High School speech team won the 2009 Class C-1 State Speech title, finishing twenty-eight points ahead of runner-up Raymond Central; and

WHEREAS, this marks David City's second state title in school history, having also won in 2006; and

WHEREAS, the David City High School speech team was propelled to victory by four first-place finishes, two by Michaela Hruska and one each by Abbi Bardsley and Weston Sieck; and

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

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

1. That the Legislature congratulates the David City High School speech team on winning the 2009 Class C-1 State Speech title.

2. That a copy of this resolution be sent to the speech team and their coach, Jarod Ockander.

Laid over.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 280A.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 280, One Hundred First Legislature, First Session, 2009.

**UNANIMOUS CONSENT - Add Cointroducer**

Senator McCoy asked unanimous consent to add his name as cointroducer to LB457. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 65 fourth-grade students, teachers, and sponsors from Gretna; Student Pharmacists from UNL College of Pharmacy and Creighton University School of Pharmacy; Diane Wilson and Marilyn Wise from Fremont; 102 fourth-grade students and teachers from Crete; and 32 fifth- and sixth-grade students, teachers, and sponsors from Loomis.

**RECESS**

At 11:57 a.m., on a motion by Senator Cook, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Ashford, Fulton, and Howard who were excused; and Senator Schilz who was excused until he arrives.

**COMMITTEE REPORTS**

## General Affairs

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Vicki Bromm - Nebraska Arts Council  
Julie Jacobson - Nebraska Arts Council  
Louise Kent - Nebraska Arts Council  
Robert Nefsky - Nebraska Arts Council  
Jeanne Ross - Nebraska Arts Council

Aye: 8 Senators Coash, Cook, Dierks, Dubas, Friend, Karpisek, Price, Rogert. Nay: 0. Absent: 0.

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Stanley Elsasser - State Electrical Board  
George Morrissey - State Electrical Board

Aye: 8 Senators Coash, Cook, Dierks, Dubas, Friend, Karpisek, Price, Rogert. Nay: 0. Absent: 0.

(Signed) Russ Karpisek, Chairperson

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 61, 62, 63, 64, 65, and 66 were adopted.



**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 61, 62, 63, 64, 65, and 66.

**GENERAL FILE**

**LEGISLATIVE BILL 396.** Committee AM682, found on page 752, was adopted with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

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

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 458.** Placed on Select File.

**LEGISLATIVE BILL 206.** Placed on Select File with amendment.  
ER8043

- 1 1. In the Standing Committee amendments, AM512:
- 2 a. On page 2, line 26, strike "in" and insert "of"; and
- 3 b. On page 6, line 2, after "children" insert "of
- 4 members".
- 5 2. On page 1, strike beginning with "to" in line 2
- 6 through the second semicolon in line 3.

(Signed) Jeremy Nordquist, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 449.** Title read. Considered.

Committee AM515, found on page 744, was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 340.** Title read. Considered.

Committee AM654, found on page 746, was adopted with 37 ayes, 0 nays, 5 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 4 present and not voting, and 7 excused and not voting.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 403.** Placed on Final Reading.

ST9015

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

1. In the Karpisek amendment, AM680:
  - a. Section 16 has been renumbered as section 17; and
  - b. On page 1, line 16, the first "is" has been struck and "is" has been inserted after "(a)".
2. In the E & R amendments, ER8023:
  - a. On page 1, line 11, "of Act" has been struck and "Act of" inserted; and
  - b. On page 2, line 2, "to provide severability;" has been inserted after the semicolon.
3. In the Standing Committee amendments, AM413, section 17 has been renumbered as section 18.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORT**

Judiciary

**LEGISLATIVE BILL 35.** Placed on General File with amendment. AM836 is available in the Bill Room.

(Signed) Brad Ashford, Chairperson

**AMENDMENTS - Print in Journal**Senator Friend filed the following amendment to LB532:

AM898

(Amendments to Standing Committee amendments, AM678)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendment:
- 3 "1. On page 1, strike line 3."

Senator Friend filed the following amendment to LB532:

AM899

(Amendments to Standing Committee amendments, AM678)

- 1 1. On page 1, line 13, strike "five hundred" and insert
- 2 "fifty".

Senator Gay filed the following amendment to LB464:

AM901

- 1 1. On page 2, line 15, strike "On" and insert "Except as
- 2 provided in sections 79-221 and 79-222, on".

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Langemeier asked unanimous consent to add his name as cointroducer to LB463. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were members of Community Colleges in International Development from Egypt.

The Doctor of the Day was Dr. Amy Jespersen from Omaha.

**ADJOURNMENT**

At 4:07 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Wednesday, April 1, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTY-THIRD DAY - APRIL 1, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FIFTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 1, 2009

**PRAYER**

The prayer was offered by Pastor J. O. Baumgartner, Bluffs Trinity Lutheran Church, Fremont.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Fulton and Howard who were excused; and Senators Cornett and Pankonin who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-second day was approved.

**MOTIONS - Approve Appointments**

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 844:

Nebraska Educational Telecommunications Commission

Stan Carpenter

Kim Dinsdale

Clay Smith

Voting in the affirmative, 37:

Adams	Flood	Heidemann	Mello	Stuthman
Ashford	Friend	Janssen	Nantkes	Sullivan
Campbell	Giese	Karpisek	Nelson	Utter
Carlson	Gloor	Lathrop	Pahls	Wallman
Christensen	Haar	Lautenbaugh	Pirsch	White
Coash	Hadley	Louden	Price	
Cook	Hansen	McCoy	Rogert	
Fischer	Harms	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 8:

Avery	Dierks	Gay	Nordquist
Council	Dubas	Langemeier	Wightman

Excused and not voting, 4:

Cornett	Fulton	Howard	Pankonin
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The appointments were confirmed with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 844:

Board of Trustees of the Nebraska State Colleges

William Roskens  
Michelle Suarez

Voting in the affirmative, 39:

Adams	Dubas	Hansen	McCoy	Rogert
Avery	Fischer	Harms	McGill	Schilz
Campbell	Flood	Heidemann	Mello	Stuthman
Carlson	Friend	Janssen	Nantkes	Sullivan
Coash	Gay	Karpisek	Nelson	Utter
Cook	Giese	Lathrop	Pahls	Wallman
Council	Haar	Lautenbaugh	Pirsch	Wightman
Dierks	Hadley	Louden	Price	

Voting in the negative, 0.

Present and not voting, 6:

Ashford	Gloor	Nordquist
Christensen	Langemeier	White

Excused and not voting, 4:

Cornett	Fulton	Howard	Pankonin
---------	--------	--------	----------

The appointments were confirmed with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 844:

Coordinating Commission for Postsecondary Education  
John Winkleblack

Voting in the affirmative, 41:

Adams	Fischer	Harms	Mello	Sullivan
Ashford	Flood	Heidemann	Nantkes	Utter
Avery	Friend	Janssen	Nelson	Wallman
Campbell	Gay	Karpisek	Pahls	White
Carlson	Giese	Langemeier	Pirsch	Wightman
Coash	Gloor	Lautenbaugh	Price	
Cook	Haar	Louden	Rogert	
Dierks	Hadley	McCoy	Schilz	
Dubas	Hansen	McGill	Stuthman	

Voting in the negative, 0.

Present and not voting, 4:

Christensen	Council	Lathrop	Nordquist
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Excused and not voting, 4:

Cornett	Fulton	Howard	Pankonin
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The appointment was confirmed with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

### ANNOUNCEMENT

The Chair announced today is Senator Lathrop's birthday.

### GENERAL FILE

**LEGISLATIVE BILL 532.** Title read. Considered.

Committee AM678, found on page 736, was considered.

Senator Friend renewed his amendment, AM898, found on page 866, to the committee amendment.

Senator Friend withdrew his amendment.

Senator Friend renewed his amendment, AM899, found on page 866, to the committee amendment.

Senator Friend offered the following motion:

MO27

Bracket until April 14, 2009.

Senator Friend withdrew his motion to bracket.

Senator Friend withdrew and refiled his amendment, AM899, found on page 866 and considered in this day's Journal, to the committee amendment.

The committee amendment was adopted with 30 ayes, 3 nays, 13 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 28 ayes, 8 nays, 10 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 511.** Title read. Considered.

Committee AM414, found on page 554, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 464.** Title read. Considered.

Senator Gay renewed his amendment, AM901, found on page 866.

Pending.

### **AMENDMENT - Print in Journal**

Senator Giese filed the following amendment to LB218:

AM802

- 1 1. Strike original sections 2 and 11.
- 2 2. On page 4, line 14, reinstate the stricken matter.
- 3 3. On page 9, line 12, strike ".0075" and insert ".0047".
- 4 4. On page 12, line 20, strike "47-120,"; and in line 21
- 5 strike "83-380, and 83-4,133" and insert "and 83-380".
- 6 5. On page 13, line 1, strike beginning with "47-119"
- 7 through the last comma and insert "77-27,137".
- 8 6. Renumber the remaining sections and correct internal
- 9 references accordingly.

### **MOTION - Print in Journal**

Senator Friend filed the following motion to LB532:

MO28

Indefinitely postpone.



**VISITORS**

Visitors to the Chamber were Senator Coash's wife and parents, Rhonda Coash from Lincoln and Paige and Don Coash from Basset; Senator Wightman's wife and granddaughters, Jan Wightman from Lexington and Emalie and Meg Wightman from Omaha; 30 fourth-grade students from Cedar Elementary, Beatrice; and 90 fourth-grade students from Benson West Elementary, Omaha.

**RECESS**

At 11:57 a.m., on a motion by Senator Mello, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Fulton and Howard who were excused; and Senators Dubas, Harms, Heidemann, Nantkes, and Nelson who were excused until they arrive.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 477.** Placed on Select File with amendment. ER8044 is available in the Bill Room.

**LEGISLATIVE BILL 292A.** Placed on Select File.

**LEGISLATIVE BILL 555.** Placed on Select File.

**LEGISLATIVE BILL 396.** Placed on Select File with amendment. ER8045

- 1 1. On page 1, line 3, after "Home" insert "Pilot
- 2 Program".

**LEGISLATIVE BILL 449.** Placed on Select File.

**LEGISLATIVE BILL 340.** Placed on Select File with amendment. ER8046

- 1 1. On page 1, line 4, strike "and" and after "section"
- 2 insert "; and to declare an emergency".

(Signed) Jeremy Nordquist, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 464.** The Gay amendment, AM901, found on page 866 and considered in this day's Journal, was renewed.

The Gay amendment was adopted with 35 ayes, 0 nays, 6 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 7 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 464A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 78.** Introduced by McCoy, 39.

WHEREAS, Cody Gelvin, of Troop 549 in Omaha, 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, Cody 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. Cody earned 36 merit badges and was also inducted into the Order of the Arrow. For his Eagle Scout community service project, Cody built a balance play area in the backyard of the Montessori Children's Village in Omaha; and

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

WHEREAS, Cody was awarded the rank of Eagle Scout on March 15, 2009, thereby joining 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 Cody Gelvin on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Cody Gelvin.

Laid over.

**LEGISLATIVE RESOLUTION 79.** Introduced by Karpisek, 32.

WHEREAS, the Fairbury Public Library is celebrating one hundred years of service to the Fairbury area; and

WHEREAS, the Fairbury Public Library, originally built with funds provided by Andrew Carnegie, opened its doors to the community on December 10, 1909, and has been in continuous use as a public library since that date; and

WHEREAS, the Fairbury Public Library is holding an open house on April 19, 2009, to celebrate its one hundredth birthday as part of the library's yearlong celebration.

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

1. That the Legislature congratulates the Fairbury Public Library on its one hundred years of service to the Fairbury area.

2. That a copy of this resolution be sent to the Fairbury Public Library.

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 463.** Title read. Considered.

Committee AM620, found on page 712, was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 551.** Title read. Considered.

Senator White offered the following amendment:

AM927

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 44-710.01, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 44-710.01 No policy of sickness and accident insurance
- 6 shall be delivered or issued for delivery to any person in this
- 7 state unless (1) the entire money and other considerations therefor
- 8 are expressed therein, (2) the time at which the insurance takes
- 9 effect and terminates is expressed therein, (3) it purports to
- 10 insure only one person, except that a policy may insure, originally
- 11 or by subsequent amendment, upon the application of an adult
- 12 member of a family who shall be deemed the policyholder, any
- 13 two or more eligible members of that family, including husband,

14 wife, dependent children, any children enrolled on a full-time  
15 basis in any college, university, or trade school, or any children  
16 under a specified age which shall not exceed ~~twenty-three~~ thirty  
17 years and any other person dependent upon the policyholder; any  
18 individual policy hereinafter delivered or issued for delivery  
19 in this state which provides that coverage of a dependent child  
20 shall terminate upon the attainment of the limiting age for  
21 dependent children specified in the policy shall also provide in  
22 substance that attainment of such limiting age shall not operate  
23 to terminate the coverage of such child during the continuance  
1 of such policy and while the child is and continues to be both  
2 (a) incapable of self-sustaining employment by reason of mental  
3 retardation or physical handicap and (b) chiefly dependent upon  
4 the policyholder for support and maintenance, if proof of such  
5 incapacity and dependency is furnished to the insurer by the  
6 policyholder within thirty-one days of the child's attainment of  
7 the limiting age and subsequently as may be required by the  
8 insurer but not more frequently than annually after the two-year  
9 period following the child's attainment of the limiting age; such  
10 insurer may charge an additional premium for and with respect  
11 to any such continuation of coverage beyond the limiting age of  
12 the policy with respect to such child, which premium shall be  
13 determined by the insurer on the basis of the class of risks  
14 applicable to such child, (4) it contains a title on the face of  
15 the policy correctly describing the policy, (5) the exceptions and  
16 reductions of indemnity are set forth in the policy and, except  
17 those which are set forth in sections 44-710.03 and 44-710.04,  
18 are printed, at the insurer's option, either included with the  
19 benefit provision to which they apply or under an appropriate  
20 caption such as EXCEPTIONS, or EXCEPTIONS AND REDUCTIONS; if an  
21 exception or reduction specifically applies only to a particular  
22 benefit of the policy, a statement of such exception or reduction  
23 shall be included with the benefit provision to which it applies,  
24 (6) each such form, including riders and endorsements, shall be  
25 identified by a form number in the lower left-hand corner of the  
26 first page thereof, (7) it contains no provision purporting to make  
27 any portion of the charter, rules, constitution, or bylaws of the  
1 insurer a part of the policy unless such portion is set forth in  
2 full in the policy, except in the case of the incorporation of, or  
3 reference to, a statement of rates or classification of risks, or  
4 short-rate table filed with the Director of Insurance, and (8) on  
5 or after January 1, 1999, any restrictive rider contains a notice  
6 of the existence of the Comprehensive Health Insurance Pool if the  
7 policy provides health insurance as defined in section 44-4209.

8 Sec. 2. Section 44-761, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 44-761 Each group policy of sickness and accident  
11 insurance shall contain in substance the following provisions:

12 (1) A provision that the policy, the application of the

13 policyholder if such application or copy thereof is attached to  
14 such policy, and the individual applications, if any, submitted  
15 in connection with such policy by the employees or members, shall  
16 constitute the entire contract between the parties, that all  
17 statements, in the absence of fraud, made by any applicant or  
18 applicants shall be deemed representations and not warranties, and  
19 that no such statement shall avoid the insurance or reduce benefits  
20 thereunder unless contained in a written application of which a  
21 copy is attached to the policy;

22 (2) A provision that the insurer will furnish to the  
23 policyholder, for delivery to each employee or member of the  
24 insured group, an individual certificate setting forth in summary  
25 form a statement of the essential features of the insurance  
26 coverage of such employee or member and to whom benefits thereunder  
27 are payable. If dependents are included in the coverage, only one  
1 certificate need be issued for each family unit;

2 (3) A provision that to the group originally insured may  
3 be added from time to time eligible new employees or members or  
4 dependents, as the case may be, in accordance with the terms of the  
5 policy; and

6 (4) A provision that the insurance coverage of the  
7 employee or member may include, originally or by subsequent  
8 amendment, upon the application of the employee or member, any  
9 two or more eligible members of his or her family, including  
10 husband, wife, dependent children, any children enrolled on a  
11 full-time basis in any college, university, or trade school,  
12 or any children under a specified age which shall not exceed  
13 ~~twenty three~~ thirty years, and any other person dependent upon  
14 the policyholder. Any policy which provides that coverage of an  
15 unmarried dependent child shall terminate upon the attainment of  
16 the limiting age for unmarried dependent children specified in the  
17 policy shall also provide that attainment of such limiting age  
18 shall not operate to terminate the coverage of such child during  
19 the continuance of the insurance coverage of the employee or member  
20 under such policy and while such child is and continues to be  
21 (a) incapable of self-sustaining employment by reason of mental or  
22 physical handicap and (b) chiefly dependent upon the policyholder  
23 for support and maintenance, if proof of such incapacity and  
24 dependency is furnished to the insurer by the policyholder within  
25 thirty-one days of such child's attainment of the limiting age  
26 and subsequently as may be required by the insurer but not more  
27 frequently than annually after the two-year period following such  
1 child's attainment of the limiting age. The insurer may charge an  
2 additional premium for and with respect to any such continuation of  
3 coverage beyond the limiting age of the policy, which premium shall  
4 be determined by the insurer on the basis of the class of risks  
5 applicable to such child. The provisions of this subdivision shall  
6 be contained in all new policies of group sickness and accident  
7 insurance delivered or issued for delivery to any person in this

8 state. No group policy of sickness and accident insurance shall  
9 contain any provisions which are in conflict with sections 44-3,144  
10 to 44-3,150.

11 Sec. 3. (1) For purposes of this section, health benefit  
12 plan means any expense-incurred individual or group sickness  
13 and accident insurance policy, health maintenance organization  
14 contract, or subscriber contract, except for any policy or contract  
15 that provides coverage only for excepted benefits as defined in  
16 the federal Health Insurance Portability and Accountability Act of  
17 1996, 29 U.S.C. 1191b, and regulations adopted pursuant to the act,  
18 as such act and regulations existed on January 1, 2009, or any  
19 policy or contract that provides coverage for a specified disease  
20 or other limited-benefit coverage.

21 (2) Notwithstanding section 44-3,131, any health benefit  
22 plan or self-funded employee benefit plan to the extent not  
23 preempted by federal law that provides coverage for children shall  
24 provide for continuing coverage for such children as follows:

25 (a) If coverage under the health benefit plan or  
26 self-funded employee benefit plan would otherwise terminate because  
27 a covered child ceases to be a dependent, ceases to be a full-time  
1 student, or attains an age which exceeds the specified age at which  
2 coverage ceases pursuant to the health benefit plan, the health  
3 benefit plan or self-funded employee benefit plan shall provide the  
4 option to the insured to continue coverage for such child for the  
5 earlier of the following:

6 (i) Through the end of the month in which the child (A)  
7 marries, (B) ceases to be a resident of the state, unless the  
8 child is under nineteen years of age or is enrolled on a full-time  
9 basis in any college, university, or trade school, (C) receives  
10 coverage under another health benefit plan or self-funded employee  
11 benefit plan except a plan that provides coverage only for excepted  
12 benefits as defined in the federal Health Insurance Portability  
13 and Accountability Act of 1996, 29 U.S.C. 1191b, and regulations  
14 adopted pursuant to the act, as such act and regulations existed on  
15 January 1, 2009, or (D) attains thirty years of age; or

16 (ii) Any applicable period set forth for such child under  
17 federal extension requirements established by the Consolidated  
18 Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, as  
19 such act existed on January 1, 2009; and

20 (b) The insurer or self-funded employee benefit plan may  
21 require:

22 (i) A written election from the insured; and

23 (ii) An additional premium for the child. Such premium  
24 shall not vary based upon the health status of the child and  
25 shall not exceed the amount the insurer or self-funded employee  
26 benefit plan would receive for an identical individual for a single  
27 adult insured. No employer shall be required to contribute to any  
1 additional premium under this subdivision.

2 Sec. 4. This act becomes operative on January 1, 2010.

- 3 Sec. 5. Original sections 44-710.01 and 44-761, Reissue  
 4 Revised Statutes of Nebraska, are repealed.

The White amendment was adopted with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 517.** Title read. Considered.

Committee AM662, found on page 825, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 489A.** Introduced by Sullivan, 41.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 489, One Hundred First Legislature, First Session, 2009.

### **AMENDMENT - Print in Journal**

Senator Wightman filed the following amendment to LB121:  
 AM928

(Amendments to E & R amendments, ER8032)

- 1 1. Strike section 10 and insert the following new  
 2 section:  
 3 Sec. 10. (1) Each employee of the Department of Revenue  
 4 transferred to a county pursuant to section 77-1340 or section 8 of  
 5 this act shall be paid for his or her accrued vacation leave hours  
 6 based on his or her straight-time rate of pay and, notwithstanding  
 7 section 81-1324, for twenty-five percent of the value of his or  
 8 her accrued sick leave hours based on his or her straight-time  
 9 rate of pay. For purposes of this subsection, straight-time rate  
 10 of pay means the rate of pay in effect on June 30 of the year  
 11 of transfer. The state shall reimburse employees on the date of  
 12 employment transfer.  
 13 (2) A transferred employee may credit years of service  
 14 with both the county and state toward the accrual rate for sick  
 15 leave and vacation leave plans. The transferred employee shall not  
 16 receive any additional accrual rate value for county benefits until  
 17 the employee meets the qualifications for the increased accrual

- 18 rates pursuant to the county's requirements.  
 19 (3) The transferred employee may participate in and be  
 20 covered by the county's insurance program. The waiting period  
 21 for medical insurance coverage of a transferred employee shall  
 22 be waived, and any preexisting condition clause in the county's  
 1 insurance program shall be waived if the transferred employee has  
 2 health insurance under the Nebraska State Insurance Program or  
 3 comparable health insurance coverage immediately prior to the date  
 4 of employment transfer.  
 5 2. On page 11, line 27; and page 13, line 20, before  
 6 the second "to" insert "and all furniture, computers, and other  
 7 equipment and property used by the state to perform the county  
 8 assessment function, other than motor vehicles.".  
 9 3. On page 12, line 6; and page 13, line 13, after  
 10 "employees" insert "by operation of law".

### NOTICE OF COMMITTEE HEARING

Health and Human Services

Room 1510

Thursday, April 9, 2009 1:00 p.m.

Todd Reckling - Director, Department of Health and Human Services

(Signed) Tim Gay, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 430.** Title read. Considered.

Committee AM835, found on page 840, was considered.

Senator Christensen offered the following amendment to the committee amendment:

AM929

(Amendments to Standing Committee amendments, AM835)

- 1 1. Strike section 5 and insert the following new section:  
 2 Sec. 5. Cities and villages shall not have the power  
 3 to regulate the ownership, possession, or transportation of a  
 4 concealed handgun, as such ownership, possession, or transportation  
 5 is authorized under the Concealed Handgun Permit Act, except as  
 6 expressly provided by state law. Any existing city or village  
 7 ordinance, permit, or regulation regulating the ownership,  
 8 possession, or transportation of a concealed handgun, as such  
 9 ownership, possession, or transportation is authorized under the  
 10 act, is declared to be null and void as against any permitholder  
 11 possessing a valid permit under the act.



The Christensen amendment was adopted with 27 ayes, 2 nays, 15 present and not voting, and 5 excused and not voting.

Pending.

### AMENDMENTS - Print in Journal

Senator McCoy filed the following amendment to LB430:  
AM936

(Amendments to Standing Committee amendments, AM835)

- 1 1. On page 21, after line 16 insert:
- 2 "(c) A place of worship may authorize its security
- 3 personnel to carry concealed handguns on its property so long
- 4 as each member of the security personnel, as authorized, is in
- 5 compliance with the Concealed Handgun Permit Act and possesses a
- 6 permit to carry a concealed handgun issued pursuant to the act and
- 7 written notice is given to the congregation and, if the property is
- 8 leased, the carrying of concealed handguns on the property does not
- 9 violate the terms of any real property lease agreement between the
- 10 place of worship and the lessor.".

Senator Price filed the following amendment to LB430:

FA24

Amend AM835

On page 20, in line 1, strike "for at least one" and in line 2 strike "hundred eighty days".

### VISITORS

Visitors to the Chamber were 44 fourth-grade students from Louisville; and 44 fourth-grade students from Longfellow School, Hastings.

The Doctor of the Day was Dr. Michael Schooff from Papillion.

### ADJOURNMENT

At 4:02 p.m., on a motion by Senator Stuthman, the Legislature adjourned until 9:00 a.m., Thursday, April 2, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTY-FOURTH DAY - APRIL 2, 2009**  
**LEGISLATIVE JOURNAL**  
**ONE HUNDRED FIRST LEGISLATURE**  
**FIRST SESSION**  
**FIFTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, April 2, 2009

**PRAYER**

The prayer was offered by Pastor Jordan Stubbendick, Bethlehem Lutheran Church, Davey.

**ROLL CALL**

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

The roll was called and all members were present except Senator Howard who was excused; and Senators Dubas and Friend who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-third day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 532.** Placed on Select File.

**LEGISLATIVE BILL 511.** Placed on Select File with amendment.  
ER8047

- 1 1. On page 1, line 2, strike "71-5803.06" and insert
- 2 "71-5803.09"; in line 3 strike "and"; and in line 4 after "section"
- 3 insert "; and to declare an emergency".

**LEGISLATIVE BILL 464.** Placed on Select File.

**LEGISLATIVE BILL 464A.** Placed on Select File.

**LEGISLATIVE BILL 463.** Placed on Select File with amendment.  
ER8048

- 1 1. On page 1, strike lines 2 through 6 and insert
- 2 "sections 38-1,140, 38-3301, 38-3302, 38-3314, and 38-3321, Reissue
- 3 Revised Statutes of Nebraska, and sections 71-8909 and 71-8910,

4 Revised Statutes Cumulative Supplement, 2008; to provide for  
 5 licensure of animal therapists; to change provisions relating  
 6 to the practice of veterinary medicine and surgery and the  
 7 performance of collaborative animal health care tasks; to provide  
 8 for a civil penalty and disciplinary grounds; to redefine terms  
 9 under the Veterinary Drug Distribution Licensing Act; to harmonize  
 10 provisions; and to repeal the original sections."

**LEGISLATIVE BILL 551.** Placed on Select File with amendment.  
 ER8049

- 1 1. On page 1, line 4, after the second semicolon insert
- 2 "and"; and strike beginning with the semicolon in line 5 through
- 3 "emergency" in line 6.

**LEGISLATIVE BILL 517.** Placed on Select File with amendment.  
 ER8050

- 1 1. On page 1, line 3, strike "an additional basis" and
- 2 insert "additional grounds".

(Signed) Jeremy Nordquist, Chairperson

### **MOTIONS - Approve Appointments**

Senator Karpisek moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 864:

Nebraska Arts Council  
 Vicki Bromm  
 Julie Jacobson  
 Louise Kent  
 Robert Nefsky  
 Jeanne Ross

Voting in the affirmative, 35:

Adams	Fischer	Hansen	Mello	Schilz
Campbell	Flood	Heidemann	Nantkes	Stuthman
Carlson	Fulton	Janssen	Nelson	Sullivan
Christensen	Gay	Karpisek	Pankonin	Utter
Coash	Giese	Lathrop	Pirsch	Wallman
Cook	Gloor	Louden	Price	White
Cornett	Hadley	McCoy	Rogert	Wightman

Voting in the negative, 0.

Present and not voting, 11:

Ashford	Dierks	Langemeier	Nordquist
Avery	Haar	Lautenbaugh	Pahls
Council	Harms	McGill	

Excused and not voting, 3:

Dubas	Friend	Howard
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The appointments were confirmed with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senator Karpisek moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 864:

State Electrical Board  
Stanley Elsasser  
George Morrissey

Voting in the affirmative, 37:

Adams	Council	Hadley	Mello	Stuthman
Ashford	Dierks	Hansen	Nantkes	Utter
Campbell	Fischer	Janssen	Nelson	Wallman
Carlson	Friend	Karpisek	Nordquist	White
Christensen	Fulton	Lathrop	Pirsch	Wightman
Coash	Gay	Louden	Price	
Cook	Giese	McCoy	Rogert	
Cornett	Gloor	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 10:

Avery	Haar	Heidemann	Lautenbaugh	Pankonin
Flood	Harms	Langemeier	Pahls	Sullivan

Excused and not voting, 2:

Dubas	Howard
-------	--------

The appointments were confirmed with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 430.** Committee AM835, found on page 840 and considered on page 880, was renewed.

Senator McCoy renewed his amendment, AM936, found on page 881, to the committee amendment.

Senator McCoy moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator McCoy requested a roll call vote on his amendment.

Voting in the affirmative, 29:

Adams	Dierks	Hadley	Louden	Pirsch
Ashford	Fischer	Hansen	McCoy	Price
Carlson	Flood	Heidemann	Mello	Schilz
Christensen	Friend	Janssen	Nelson	Utter
Coash	Fulton	Langemeier	Nordquist	White
Cornett	Gay	Lautenbaugh	Pahls	

Voting in the negative, 15:

Campbell	Dubas	Haar	Lathrop	Sullivan
Cook	Giese	Harms	McGill	Wallman
Council	Gloor	Karpisek	Rogert	Wightman

Present and not voting, 3:

Avery	Nantkes	Stuthman
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Excused and not voting, 2:

Howard	Pankonin
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The McCoy amendment was adopted with 29 ayes, 15 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Price renewed his amendment, FA24, found on page 881, to the committee amendment.

The Price amendment was adopted with 33 ayes, 3 nays, 11 present and not voting, and 2 excused and not voting.

Senator Price offered the following amendment to the committee amendment:

AM940

(Amendments to Standing Committee amendments, AM835)

- 1 1. On page 19, line 24, after "(b)" insert "or (c)".
- 2 2. On page 20, line 4, after the semicolon insert "and
- 3 (c) If an applicant is a resident of this state, but
- 4 resides elsewhere because he or she is the spouse or a dependent of
- 5 a member of the United States Armed Forces, such applicant shall be
- 6 considered a resident of this state for purposes of this section;".

### **SENATOR FRIEND PRESIDING**

Senator Price withdrew and refiled his amendment, AM940.

The committee amendment, as amended, was adopted with 39 ayes, 2 nays, 6 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 4 nays, 4 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 679.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 198.** Title read. Considered.

Committee AM679, found on page 732, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 322.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 549.** Title read. Considered.

Committee AM822, found on page 837, was considered.

Pending.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 80.** Introduced by Cornett, 45.

WHEREAS, the Student Veterans Organization of Bellevue University, a chapter of the Student Veterans of America, makes vital contributions to fellow veterans in support of their academic success and pursuit of education; and

WHEREAS, student veterans have an impact on the advocacy of veterans abroad and contribute greatly to the State of Nebraska; and

WHEREAS, the State of Nebraska depends on veterans as a vital community asset and as responsible citizens who contribute to promoting rights and benefits for veterans; and

WHEREAS, Bellevue University has long served the needs of veterans and continues to do so through the formation of its Student Veterans Organization; and

WHEREAS, the Student Veterans Organization of Bellevue University, formed to further the advocacy of student veterans throughout the state, is Nebraska's first chapter of the Student Veterans of America.

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

1. That the Legislature honors the Student Veterans Organization of Bellevue University for being Nebraska's first chapter of the Student Veterans of America and for its support of veterans throughout the State of Nebraska.

2. That a copy of this resolution be sent to the Student Veterans Organization of Bellevue University.

Laid over.

**COMMITTEE REPORT**

Revenue

**LEGISLATIVE BILL 386.** Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Wallman asked unanimous consent to add his name as cointroducer to LB481. No objections. So ordered.

Senators Mello and Nordquist asked unanimous consent to add their names as cointroducers to LB675. No objections. So ordered.



**ANNOUNCEMENT**

Senator Ashford announced the Judiciary Committee will hold an executive session Thursday, April 2, 2009, at 12:00 p.m., in Room 1113.

**VISITORS**

Visitors to the Chamber were Ryan Busboom from Cortland; Blake Rademaker and Clayton Parsons from Holdrege; 8 eighth-grade students and teacher from Hyannis; 41 fourth-grade students from St. Wenceslaus School, Wahoo; 37 fourth-grade students from Stolley Park Elementary, Grand Island; 2 members of FFA, teacher, and sponsor from Alliance; 12 fourth-grade students and teacher from Cornerstone Christian School, Bellevue; 51 fourth-grade students and teachers from Manchester Elementary, Omaha; members of the National Association of Social Workers from across the state; and 23 fourth-grade students and teacher from E. N. Swett Elementary, South Sioux City.

**RECESS**

At 12:00 p.m., on a motion by Senator Schilz, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Howard and Nantkes who were excused; and Senators Dierks and Harms who were excused until they arrive.

**GENERAL FILE**

**LEGISLATIVE BILL 549.** Committee AM822, found on page 837 and considered in this day's Journal, was adopted with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

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

**LEGISLATIVE BILL 136.** Title read. Considered.

Committee AM867, found on page 855, was considered.

Pending.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 136A.** Introduced by Avery, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 136, One Hundred First Legislature, First Session, 2009.

**COMMITTEE REPORT**

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 279.** Placed on General File with amendment. AM909

1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 14-407, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 14-407 ~~The city~~ A city of the metropolitan class shall  
6 exercise the powers conferred by sections 14-401 to 14-418 through  
7 such appropriate planning board or official as exists in such city.

8 When the city is considering the adoption or amendment of  
9 a zoning ordinance or the approval of the platting or replatting of  
10 any development of real estate, the city shall notify any military  
11 installation which is located within the corporate boundary limits  
12 or the extraterritorial zoning jurisdiction of the city if the  
13 city has received a written request for such notification from  
14 the military installation. The planning board shall deliver the  
15 notification to the military installation at least ten days prior  
16 to the meeting of the planning board at which the proposal is to be  
17 considered.

18 Sec. 2. Section 15-1103, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 15-1103 The planning director shall be responsible for  
21 preparing the comprehensive plan and amendments and extensions  
22 thereto; and for submitting such plans and modifications to the  
23 city planning commission for its consideration and action. The  
1 commission shall review such plans and modifications; and those  
2 which the city council may suggest; and, after holding at least  
3 one public hearing on each proposed action, shall provide its  
4 recommendations to the city council within a reasonable period  
5 of time. The city council shall review the recommendations of  
6 the planning commission and, after at least one public hearing  
7 on each proposed action, shall adopt or reject such plans as  
8 submitted, except that the city council may, by an affirmative vote  
9 of at least five members of the city council, adopt a plan or  
10 amendments to the proposed plan different from that recommended by  
11 the planning commission.

12 When the city is considering the adoption or amendment of  
 13 a zoning ordinance or the approval of the platting or replatting of  
 14 any development of real estate, the planning director shall notify  
 15 any military installation which is located within the corporate  
 16 boundary limits or the extraterritorial zoning jurisdiction of  
 17 the city if the city has received a written request for such  
 18 notification from the military installation. The planning director  
 19 shall deliver the notification to the military installation at  
 20 least ten days prior to the meeting of the planning commission at  
 21 which the proposal is to be considered.

22 Sec. 3. Section 19-923, Reissue Revised Statutes of  
 23 Nebraska, is amended to read:

24 19-923 (1) In order to provide for orderly school  
 25 planning and development, a municipality considering the adoption  
 26 or amendment of a zoning ordinance, or approval of the platting  
 27 or replatting of any development of real estate, shall notify  
 1 the board of education of each school district in which the real  
 2 estate, or some part thereof, to be affected by such a proposal  
 3 lies, of the next regular meeting of the planning commission at  
 4 which such proposal is to be considered and shall submit a copy of  
 5 the proposal to the board of education at least ten days prior to  
 6 such meeting.

7 (2) When a municipality is considering the adoption or  
 8 amendment of a zoning ordinance or the approval of the platting  
 9 or replatting of any development of real estate, the municipality  
 10 shall notify any military installation which is located within  
 11 the corporate boundary limits or the extraterritorial zoning  
 12 jurisdiction of the municipality if the municipality has received  
 13 a written request for such notification from the military  
 14 installation. The municipality shall deliver the notification to  
 15 the military installation at least ten days prior to the meeting of  
 16 the planning commission at which the proposal is to be considered.

17 (3) The provisions of this section shall not apply  
 18 to zoning, rezoning, or approval of plats by any city of the  
 19 metropolitan or primary class, which has adopted a comprehensive  
 20 subdivision ordinance pursuant to sections 14-115 and 14-116, or  
 21 Chapter 15, articles 9 and 11. Plats of subdivisions approved by  
 22 the agent of a municipality designated pursuant to section 19-916  
 23 shall not be subject to the notice ~~requirement~~ requirements in this  
 24 section.

25 Sec. 4. When a county planning commission appointed  
 26 pursuant to section 23-114.01 is considering the adoption or  
 27 amendment of a zoning ordinance or the approval of the platting or  
 1 replatting of any development of real estate, the commission shall  
 2 notify any military installation which is located within the county  
 3 if the county has received a written request for such notification  
 4 from the military installation. The county planning commission  
 5 shall deliver the notification to the military installation at  
 6 least ten days prior to the meeting of the county planning

- 7 commission at which the proposal is to be considered.  
 8 Sec. 5. Original sections 14-407, 15-1103, and 19-923,  
 9 Reissue Revised Statutes of Nebraska, are repealed.

(Signed) Bill Avery, Chairperson

### RESOLUTION

**LEGISLATIVE RESOLUTION 81.** Introduced by Dierks, 40; White, 8.

WHEREAS, Barbara Kay Burbach, a daughter, sister, friend, lawyer, columnist, and reporter, died unexpectedly on March 27, 2009, at the age of 46; and

WHEREAS, Barbara Kay Burbach grew up in Wynot, Nebraska, in Cedar County, a place that was always very near and dear to her heart; and

WHEREAS, Barbara Kay Burbach graduated from Wynot Public High School in 1980. She graduated with honors from Creighton University in 1984 and went on to earn a law degree from Yale University Law School in 1989; and

WHEREAS, Barbara Kay Burbach was a member of the Nebraska and New York State Bar Associations and worked in New York City as an attorney at the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP; and

WHEREAS, Barbara Kay Burbach survived a near-fatal taxi cab accident in 1990, which ended her career in New York City and left her with a traumatic brain injury and years of recurring health problems; and

WHEREAS, Barbara Kay Burbach returned to Nebraska and while recovering from the accident worked diligently to obtain a master's degree in journalism from the University of Nebraska - Lincoln; and

WHEREAS, Barbara Kay Burbach enjoyed reporting on current events in federal and state government, had a special fondness for the Nebraska Legislature, and wrote columns for the Nebraska Press Association and the Cedar County News; and

WHEREAS, Barbara Kay Burbach was an inspiration to family, neighbors, and friends who admired her positive attitude, love of life, amazing work ethic, and perseverance as she faced many challenges during her lifetime.

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

1. That the Legislature expresses and extends its sympathy and condolences to the family of Barbara Kay Burbach.

2. That a copy of this resolution be sent to the family of Barbara Kay Burbach.

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 136.** Committee AM867, found on page 855 and considered in this day's Journal, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 601.** Title read. Considered.

Committee AM855, found on page 857, was adopted with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 3 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 98.** Title read. Considered.

Committee AM641, found on page 721, was considered.

Pending.

**COMMITTEE REPORTS**

## Urban Affairs

**LEGISLATIVE BILL 495.** Placed on General File.

**LEGISLATIVE BILL 524.** Placed on General File.

**LEGISLATIVE BILL 562.** Placed on General File.

**LEGISLATIVE BILL 104.** Placed on General File with amendment. AM916 is available in the Bill Room.

**LEGISLATIVE BILL 360.** Placed on General File with amendment. AM913

- 1 1. On page 3, line 1, strike "except that such"
- 2 and insert "with regard to property located within the corporate
- 3 boundaries of that city. Such"; in line 4 strike "and" and insert
- 4 "or"; in line 10 after "county" insert "with regard to property
- 5 located within the corporate boundaries of the city"; in line 12
- 6 after "property" insert "located within the corporate boundaries of
- 7 the city"; and after line 14 insert the following new subsection:
- 8 "(4) Pursuant to the provisions of the Interlocal
- 9 Cooperation Act, a city of the metropolitan class that creates
- 10 a land reutilization authority may enter into an agreement with
- 11 any county to authorize the city's land reutilization authority to
- 12 exercise on behalf of such county the authority provided by the
- 13 act for its own land reutilization authority upon such terms and
- 14 conditions as the city and county may agree.".

15 2. On page 4, line 20, strike "creates" and insert  
 16 "determines to create"; and in lines 21 and 22 strike "there is  
 17 hereby created" and insert "the city by ordinance may create".

**LEGISLATIVE BILL 441.** Placed on General File with amendment.  
 AM392

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 14-813, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 14-813 Whenever the right of appeal is conferred by  
 6 this act, the procedure, unless otherwise provided shall be  
 7 substantially as follows: The claimant or appellant shall, within  
 8 twenty days ~~from~~after the date of the order complained of, execute  
 9 a bond to such city with sufficient surety to be approved by the  
 10 clerk, conditioned for the faithful prosecution of such appeal,  
 11 and the payment of all costs adjudged against the appellant. Such  
 12 bond shall be filed in the office of the city clerk. ~~It shall~~  
 13 ~~be the duty of the city clerk, on payment or tender to him of~~  
 14 ~~the costs of the transcript, at the rate of ten cents per hundred~~  
 15 ~~words, to prepare~~ Upon the request of the appellant and the payment  
 16 by the appellant to the city clerk or his or her designee of  
 17 the estimated cost of preparation of the transcript, the city  
 18 clerk shall cause a complete transcript of the proceedings of the  
 19 city relating to ~~their~~its decision ~~thereon~~to be prepared. The  
 20 cost of preparing the transcript shall be calculated in the same  
 21 manner as the calculation of the fee for a court reporter for  
 22 the preparation of a bill of exceptions as specified by rules  
 23 of practice prescribed by the Supreme Court. At such time as the  
 1 completed transcript is presented to the appellant, the appellant  
 2 shall pay the amount of the cost of preparation in excess of  
 3 the estimated amount already paid or shall receive a refund of  
 4 any amount in excess of the actual cost. An appellant determined  
 5 to be indigent shall not be required to pay a bond or any  
 6 costs associated with such transcript preparation. For purposes of  
 7 this section, indigent means the inability to financially pursue  
 8 the appeal without prejudicing the appellant's ability to provide  
 9 economic necessities for the appellant or the appellant's family.  
 10 Indigency shall be determined by the court having jurisdiction over  
 11 the appeal upon motion of the appellant. The court shall make a  
 12 reasonable inquiry to determine the appellant's financial condition  
 13 and shall consider such factors as the appellant's income, the  
 14 availability to the appellant of other resources, including real  
 15 and personal property, bank accounts, social security benefits,  
 16 and unemployment or other benefits, the appellant's normal living  
 17 expenses, the appellant's outstanding debts, the number and age of  
 18 the appellant's dependents, and other relevant circumstances. It  
 19 shall be the duty of the claimant or appellant to file a petition  
 20 in the district court as in the commencement of an action within

21 thirty days ~~from~~ after the date of the order or award appealed  
 22 from, and he or she shall also file such transcript before answer  
 23 day. The proceedings of the district court shall thereafter be  
 24 the same as on appeal from the county board. Any taxpayer may  
 25 appeal from the allowance of any claim against the city by giving  
 26 a bond and complying with ~~the foregoing provisions; PROVIDED, the~~  
 27 ~~foregoing provisions~~ this section.

1 This section shall not be so construed as to prevent the  
 2 city council from once reconsidering ~~their~~ its action on any claim  
 3 or award upon ten days' notice to the parties interested.

4 Sec. 2. Section 15-1202, Reissue Revised Statutes of  
 5 Nebraska, is amended to read:

6 15-1202 (1) The party appealing shall within thirty days  
 7 ~~from~~ after the date of the order or decision complained of ~~(1)~~ File  
 8 (a) file a notice of appeal with the city clerk specifying the  
 9 parties taking the appeal and the order or decision appealed from  
 10 and ~~shall~~ serve a copy of the notice upon the city attorney and  
 11 (b) deposit the fees and bond or undertaking required pursuant to  
 12 subsection (2) of this section or file an affidavit pursuant to  
 13 subsection (3) of this section. The notice of appeal shall serve as  
 14 a praecipe for a transcript.;

15 (2) Except as provided in subsection (3) of this section,  
 16 the appellant shall:

17 ~~(2)~~ (a) Deposit with the city clerk a docket fee in the  
 18 amount of the filing fee in district court for cases originally  
 19 commenced in district court;

20 ~~(3)~~ (b) Deposit with the city clerk a cash bond or  
 21 undertaking with at least one good and sufficient surety approved  
 22 by the city clerk, in the amount of two hundred dollars, on  
 23 condition that the appellant will satisfy any judgment and costs  
 24 that may be adjudged against him or her; and

25 ~~(4)~~ (c) Deposit with the city clerk the fees for  
 26 the preparation of a certified and complete transcript of the  
 27 proceedings of the city relating to the order or decision appealed.

1 (3)(a) An appellant may file with the city clerk an  
 2 affidavit alleging that the appellant is indigent. The filing of  
 3 such an affidavit shall relieve the appellant of the duty to  
 4 deposit any fee, bond, or undertaking required by subsection (2) of  
 5 this section as a condition for the preparation of the transcript  
 6 or the perfecting of the appeal by the appellant subject to the  
 7 determination of the court as provided in section 15-1204. In  
 8 conjunction with the filing of the petition for appeal as provided  
 9 for in section 15-1204, the appellant shall file a copy of the  
 10 affidavit alleging his or her indigency and the district court  
 11 shall rule upon the issue of indigency prior to the consideration  
 12 of any other matter relating to the appeal as provided in section  
 13 15-1204.

14 (b) An appellant determined to be indigent under this  
 15 subsection shall not be required to deposit any fee, bond,

16 or undertaking required by subsection (2) of this section.  
 17 For purposes of this section, indigent means the inability to  
 18 financially pursue the appeal without prejudicing the appellant's  
 19 ability to provide economic necessities for the appellant or the  
 20 appellant's family.

21 (c) An appellant determined not to be indigent shall,  
 22 within thirty days after the determination, deposit with the city  
 23 clerk the fees and bond or undertaking required by subsection (2)  
 24 of this section. The appeal shall not proceed further until the  
 25 city clerk notifies the court that the appropriate deposit has been  
 26 made.

27 Sec. 3. Section 15-1203, Reissue Revised Statutes of  
 1 Nebraska, is amended to read:

2 15-1203 ~~The~~ (1) Except as provided in subsection (2) of  
 3 this section, the city clerk, on payment to him or her of the costs  
 4 of the transcript, shall transmit within fifteen days to the clerk  
 5 of the district court the docket fee and a certified and complete  
 6 transcript of the proceedings of the city relating to the order or  
 7 decision appealed. After receipt of such fee and transcript, the  
 8 clerk of the district court shall docket the appeal.

9 (2) If the appellant files an affidavit alleging that he  
 10 or she is indigent pursuant to section 15-1202, the city clerk  
 11 shall transmit within fifteen days to the clerk of the district  
 12 court a certified and complete transcript of the proceedings of the  
 13 city relating to the order or decision appealed. After receipt of  
 14 the transcript, the clerk of the district court shall docket the  
 15 appeal.

16 Sec. 4. Section 15-1204, Reissue Revised Statutes of  
 17 Nebraska, is amended to read:

18 15-1204 (1) The party appealing shall file a petition  
 19 within thirty days ~~from~~ after the date the transcript is filed in  
 20 the district court. ~~Satisfaction~~

21 (2) Except as provided in subsection (3) of this section,  
 22 satisfaction of the requirements of subsections (1) and (2) of  
 23 section 15-1202 and subsection (1) of this section shall perfect  
 24 the appeal and give the district court jurisdiction of the matter  
 25 appealed.

26 (3) Indigency shall be determined by the district court  
 27 having jurisdiction of the appeal upon motion of the appellant  
 1 before the court considers any other matter relating to the  
 2 appeal. The court shall make a reasonable inquiry to determine the  
 3 appellant's financial condition and shall consider such factors as  
 4 the appellant's income, the availability to the appellant of other  
 5 resources, including real and personal property, bank accounts,  
 6 social security benefits, and unemployment or other benefits, the  
 7 appellant's normal living expenses, the appellant's outstanding  
 8 debts, the number and age of the appellant's dependents, and other  
 9 relevant circumstances. If the appellant is deemed to be indigent,  
 10 the satisfaction of the requirements of subsections (1) and (3) of



11 section 15-1202 and subsection (1) of this section shall perfect  
 12 the appeal and give the district court jurisdiction of the matter  
 13 appealed.

14 Sec. 5. Section 19-2424, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16 19-2424 ~~It shall be the duty of~~ (1) Upon the request of  
 17 the owner appealing a special assessment and the payment by him  
 18 or her of the estimated cost of preparation of the transcript to  
 19 the city or village clerk or such clerk's designee, the city or  
 20 village clerk, on tender or payment to him of the cost of preparing  
 21 the transcript at the rate of ten cents per one hundred words,  
 22 ~~to prepare~~ shall cause a complete transcript of the proceedings  
 23 before such city or village to be prepared. The cost of preparing  
 24 the transcript shall be calculated in the same manner as the  
 25 calculation of the fee for a court reporter for the preparation of  
 26 a bill of exceptions as specified by rules of practice prescribed  
 27 by the Supreme Court. At such time as the completed transcript is  
 1 provided to the appellant, the appellant shall pay the amount of  
 2 the cost of preparation which is in excess of the estimated cost  
 3 already paid or shall receive a refund of any amount in excess  
 4 of the actual cost. An appellant determined to be indigent shall  
 5 not be required to pay any costs associated with such transcript  
 6 preparation.

7 (2) For purposes of this section, indigent means the  
 8 inability to financially pursue the appeal without prejudicing  
 9 the appellant's ability to provide economic necessities for the  
 10 appellant or the appellant's family. Indigency shall be determined  
 11 by the court having jurisdiction over the appeal upon motion  
 12 of the appellant. The court shall make a reasonable inquiry to  
 13 determine the appellant's financial condition and shall consider  
 14 such factors as the appellant's income, the availability to the  
 15 appellant of other resources, including real and personal property,  
 16 bank accounts, social security benefits, and unemployment or other  
 17 benefits, the appellant's normal living expenses, the appellant's  
 18 outstanding debts, the number and age of the appellant's  
 19 dependents, and other relevant circumstances.

20 Sec. 6. Original sections 14-813, 15-1202, 15-1203,  
 21 15-1204, and 19-2424, Reissue Revised Statutes of Nebraska, are  
 22 repealed.

**LEGISLATIVE BILL 633.** Placed on General File with amendment.  
 AM907

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

3 Section 1. This act shall be known and may be cited as  
 4 the Neighborhood Development Act.

5 Sec. 2. The Legislature finds that there is a need to:

6 (1) Stimulate local community development efforts  
 7 statewide;

8 (2) Build an environment to engage in more effective  
 9 community development; and

10 (3) Assist community improvement groups which have  
 11 positive impacts upon the vitality, cohesiveness, and continued  
 12 viability of both urban and rural communities throughout the state.

13 Sec. 3. The purposes of the Neighborhood Development Act  
 14 are to:

15 (1) Strengthen neighborhoods and small communities by  
 16 enhancing their ability to develop community development plans;

17 (2) Coordinate the use of existing programs and funds  
 18 more efficiently and effectively in support of new programs and  
 19 initiatives; and

20 (3) Revitalize declining neighborhoods and small  
 21 communities, maintain the integrity of stable, viable neighborhoods  
 22 and small communities, and strengthen existing neighborhoods and  
 23 small communities.

1 Sec. 4. For purposes of the Neighborhood Development Act:

2 (1) College means the College of Public Affairs and  
 3 Community Service of the University of Nebraska at Omaha;

4 (2) Community improvement group means a neighborhood  
 5 association or small community;

6 (3) Fund means the Neighborhood Development Grant Fund;

7 (4) Neighborhood association means an organization that  
 8 is recognized or endorsed by an incorporated city or village or  
 9 county as representing all of the residents within a specific,  
 10 defined geographical area, with the organization representing those  
 11 residents on a wide range of issues through an open meeting process  
 12 with elected officers and regularly scheduled meetings; and

13 (5) Small community means an unincorporated village or  
 14 an incorporated city of the second class or village as defined in  
 15 sections 17-101 and 17-201.

16 Sec. 5. (1) The Neighborhood Development Grant Fund is  
 17 created. The fund shall be used by the college to carry out its  
 18 duties and responsibilities under the Neighborhood Development Act.  
 19 It is the intent of the Legislature that five hundred thousand  
 20 dollars be appropriated to the fund for FY2009-10.

21 (2) The State Treasurer shall credit to the fund any  
 22 money (a) appropriated to the fund by the Legislature, (b) donated  
 23 as gifts, bequests or grants or otherwise contributed to the fund  
 24 from public or private sources, and (c) received pursuant to this  
 25 section. Any money in the fund available for investment shall be  
 26 invested by the state investment officer pursuant to the Nebraska  
 27 Capital Expansion Act and the Nebraska State Funds Investment Act.

1 Sec. 6. (1) The college shall award development grants  
 2 to qualified community improvement groups through an application  
 3 process. The college shall develop and provide requesting community  
 4 improvement groups with an application form. The form shall be  
 5 simple and concise, using nontechnical language, and the questions  
 6 on the form shall be factual in nature.

- 7 (2) To be eligible for a grant, the applying community  
 8 improvement group shall:  
 9 (a) Demonstrate that the grant funds will be used for a  
 10 neighborhood or community project;  
 11 (b) Demonstrate with regard to the project:  
 12 (i) That it will provide a public benefit;  
 13 (ii) That it will provide a particular benefit to the  
 14 applicant's neighborhood or small community;  
 15 (iii) That it will be completed within one year after  
 16 receipt of the grant;  
 17 (iv) That neighborhood or small community residents were  
 18 involved in the identification and planning for the project and  
 19 will be involved in the project's execution; and  
 20 (v) That the project does not duplicate an existing  
 21 public program;  
 22 (c) Document verifiable goals for the project for which  
 23 grant funds are requested; and  
 24 (d) Document that the applicant will bring to the project  
 25 a match equivalent in money or in-kind services equal to the  
 26 following:  
 27 (i) For a grant of five thousand dollars or less, a match  
 1 equivalent to at least twenty-five percent of the amount of the  
 2 grant sought;  
 3 (ii) For a grant of seven thousand five hundred dollars  
 4 or less but more than five thousand dollars, a match equivalent to  
 5 at least twenty-six percent and no more than forty-nine percent of  
 6 the amount of the grant sought; and  
 7 (iii) For a grant of ten thousand dollars or less but  
 8 more than seven thousand five hundred dollars, a match equivalent  
 9 to fifty percent or more of the amount of the grant sought.  
 10 (3) A recipient of a grant shall not use the grant  
 11 funds for administrative support of the recipient, for the planning  
 12 of a project, or for the administrative costs relating to the  
 13 planning of a project. Not more than five percent of the grant  
 14 funds received shall be expended by the recipient of the grant  
 15 for expenses incurred in administering the grant. A recipient of  
 16 a grant may not receive more than one grant for the same project,  
 17 and a project may not receive more than one grant in any one year.  
 18 No grant to a single community improvement group shall exceed ten  
 19 thousand dollars.  
 20 Sec. 7. In assessing the applications received from  
 21 community improvement groups, the college shall weigh the relative  
 22 merits of the applications, giving consideration to the following  
 23 factors:  
 24 (1) The amount of the match;  
 25 (2) The level of involvement by persons living in the  
 26 community;  
 27 (3) The community needs reflected in the application;  
 1 (4) The likelihood of the successful completion of the

2 project;

3 (5) The innovative character of the proposed solution;

4 and

5 (6) The efficiency of the proposed allocation of state,

6 local, public, and private resources in solving the local community

7 need.

8 Sec. 8. Upon completion of a project for which a grant

9 has been received or within one year from the date of receipt of

10 a grant, whichever comes first, the recipient community improvement

11 group shall provide the college with an evaluation reporting the

12 results of the project.

13 Sec. 9. The college shall submit an annual report to

14 the Governor and the Legislature on or before November 1, 2010,

15 and on or before November 1 of each year thereafter listing the

16 recipients and amounts of grants made pursuant to the Neighborhood

17 Development Act in the previous year, the impact of the grants, and

18 an evaluation of each project's performance based on the documented

19 reports of the recipient community improvement groups.

**LEGISLATIVE BILL 647.** Placed on General File with amendment.

AM908

1 1. Strike the original sections and insert the following

2 new sections:

3 Section 1. (1) A city of the first or second class or

4 village shall provide written notice of a proposed annexation to

5 the owners of property within the area proposed for annexation in

6 the manner set out in this section.

7 (2) Initial notice of the proposed annexation shall be

8 sent to the owners of property within the area proposed for

9 annexation by regular United States mail, postage prepaid, to the

10 address of each owner of such property as it appears in the

11 records of the office of the register of deeds or as the address

12 is determined from another official source, postmarked at least

13 ten working days prior to the planning commission's public hearing

14 on the proposed change with a certified letter to the clerk of

15 any sanitary and improvement district if the annexation includes

16 property located within the boundaries of such district. Such

17 notice shall describe the area proposed for annexation, including

18 a map showing the boundaries of the area proposed for annexation,

19 and shall contain the date, time, and location of the planning

20 commission's hearing and how further information regarding the

21 annexation can be obtained, including the telephone number of

22 the pertinent city or village official and an electronic mail or

23 Internet address if available.

1 (3) A second notice of the proposed annexation shall be

2 sent to the same owners of property who were provided with notice

3 under subsection (2) of this section. Such notice shall be sent by

4 regular United States mail, postage prepaid, to the owner's address

5 as it appears in the records of the office of the register of

6 deeds or as the address is determined from another official source,  
7 postmarked at least ten working days prior to the public hearing of  
8 the city council or village board on the annexation. Such notice  
9 shall describe the area proposed for annexation, including a map  
10 showing the boundaries of the area proposed for annexation, and  
11 shall contain the date, time, and location of the hearing and  
12 how further information regarding the annexation can be obtained,  
13 including the telephone number of the pertinent city or village  
14 official and an electronic mail or Internet address if available.

15 (4) No additional or further notice beyond that required  
16 by subsections (2) and (3) of this section shall be necessary if  
17 the scheduled public hearing by the planning commission or city  
18 council or village board on the proposed annexation is adjourned,  
19 continued, or postponed until a later date.

20 (5) Except for a willful or deliberate failure to cause  
21 notice to be given, no annexation decision made by a city of the  
22 first or second class or village to accept or reject a proposed  
23 annexation, either in whole or in part, shall be void, invalidated,  
24 or affected in any way because of any irregularity, defect, error,  
25 or failure on the part of the city or village or its employees  
26 to cause notice to be given as required by this section if a  
27 reasonable attempt to comply with this section was made. No action  
1 to challenge the validity of the acceptance or rejection of a  
2 proposed annexation on the basis of this section shall be filed  
3 more than one year following the date after the formal acceptance  
4 or rejection of the annexation by the city council or village  
5 board.

6 (6) Except for a willful or deliberate failure to cause  
7 notice to be given, the city of the first or second class or  
8 village and its employees shall not be liable for any damage to  
9 any person resulting from failure to cause notice to be given  
10 as required by this section if a reasonable attempt was made to  
11 provide such notice. No action for damages resulting from the  
12 failure to cause notice to be provided as required by this section  
13 shall be filed more than one year following the date after the  
14 formal acceptance or rejection of the proposed annexation, either  
15 in whole or in part, by the city council or village board.

16 (7) For purposes of this section, owner means the owner  
17 of a piece of property as indicated on the records of the office  
18 of the register of deeds as provided to or made available to the  
19 city of the first or second class or village no earlier than the  
20 last business day before the twenty-fifth day preceding the public  
21 hearing by the planning commission on the annexation proposed for  
22 the subject property.

**LEGISLATIVE BILL 467.** Indefinitely postponed.

(Signed) Mike Friend, Chairperson

## Business and Labor

**LEGISLATIVE BILL 537.** Placed on General File with amendment. AM882

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 35-302, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 35-302 Firefighters employed in the fire departments of  
 6 cities having paid fire departments shall not be required to remain  
 7 on duty for periods of time which will aggregate in each month  
 8 more than an average of sixty hours per week. Each single-duty  
 9 shift shall consist of twenty-four consecutive hours and shall be  
 10 followed by an off-duty period as necessary to assure compliance  
 11 with the requirements of this section unless by voluntary agreement  
 12 between the city and the authorized collective bargaining agent  
 13 or, if there is no collective bargaining unit, the firefighter,  
 14 any firefighter may be permitted to work an additional period  
 15 of consecutive time and may return to work after less than a  
 16 twenty-four-hour off-duty period. Any firefighter may be assigned  
 17 to work less than a twenty-four-hour shift, but in such event  
 18 the firefighter shall not work in excess of forty hours per week  
 19 unless otherwise provided by voluntary agreement between the city  
 20 and the authorized collective bargaining agent or, if there is  
 21 no collective bargaining unit, the firefighter. No agreement under  
 22 this section shall allow a firefighter who is scheduled to work  
 23 less than a twenty-four-hour shift and who holds the rank of fire  
 1 chief or works as an immediate subordinate to a fire chief to  
 2 fill temporary vacancies created by the absence of a firefighter  
 3 who is assigned to work a twenty-four-hour shift and who holds a  
 4 rank lower than fire chief. No firefighter shall be required to  
 5 perform any work or service as such firefighter during any period  
 6 in which he or she is off duty except in cases of extraordinary  
 7 conflagration or emergencies or job-related court appearances.  
 8 Sec. 2. Original section 35-302, Reissue Revised Statutes  
 9 of Nebraska, is repealed.

**LEGISLATIVE BILL 622.** Placed on General File with amendment. AM875

- 1 1. Strike section 1 and insert the following section:  
 2 Section 1. Section 48-125, Revised Statutes Cumulative  
 3 Supplement, 2008, is amended to read:  
 4 48-125 (1) Except as hereinafter provided, all amounts  
 5 of compensation payable under the Nebraska Workers' Compensation  
 6 Act shall be payable periodically in accordance with the methods  
 7 of payment of wages of the employee at the time of the injury  
 8 or death. Fifty percent shall be added for waiting time for all  
 9 delinquent payments; (a) After ~~after~~ thirty days' notice has been  
 10 given of disability; (b) after thirty days from the entry of a

11 final order, award, or judgment of the compensation court which is  
12 being reviewed or is on appeal for those portions of such order,  
13 award, or judgment for which there is no reasonable controversy;  
14 or (c) after thirty days from the entry of a final order, award,  
15 or judgment of the compensation court, except that for any award  
16 or judgment against the state in excess of one hundred thousand  
17 dollars which must be reviewed by the Legislature as provided in  
18 section 48-1,102, fifty percent shall be added for waiting time  
19 for delinquent payments thirty days after the effective date of  
20 the legislative bill appropriating any funds necessary to pay the  
21 portion of the award or judgment in excess of one hundred thousand  
22 dollars. Such payments shall be sent directly to the person  
23 entitled to compensation or his or her designated representative  
1 except as otherwise provided in section 48-149.

2 (2) Whenever the employer refuses payment of compensation  
3 or medical payments subject to section 48-120, or when the employer  
4 neglects to pay compensation for thirty days after injury or  
5 neglects to pay medical payments subject to such section after  
6 thirty days' notice has been given of the obligation for medical  
7 payments, and proceedings are held before the Nebraska Workers'  
8 Compensation Court, a reasonable attorney's fee shall be allowed  
9 the employee by the compensation court in all cases when the  
10 employee receives an award. Attorney's fees allowed shall not  
11 be deducted from the amounts ordered to be paid for medical  
12 services nor shall attorney's fees be charged to the medical  
13 providers. If the employer files an application for review before  
14 the compensation court from an award of a judge of the compensation  
15 court and fails to obtain any reduction in the amount of such  
16 award, the compensation court shall allow the employee a reasonable  
17 attorney's fee to be taxed as costs against the employer for such  
18 review, and the Court of Appeals or Supreme Court shall in like  
19 manner allow the employee a reasonable sum as attorney's fees for  
20 the proceedings in the Court of Appeals or Supreme Court. If the  
21 employee files an application for a review before the compensation  
22 court from an order of a judge of the compensation court denying an  
23 award and obtains an award or if the employee files an application  
24 for a review before the compensation court from an award of a judge  
25 of the compensation court when the amount of compensation due is  
26 disputed and obtains an increase in the amount of such award, the  
27 compensation court may allow the employee a reasonable attorney's  
1 fee to be taxed as costs against the employer for such review, and  
2 the Court of Appeals or Supreme Court may in like manner allow the  
3 employee a reasonable sum as attorney's fees for the proceedings in  
4 the Court of Appeals or Supreme Court. A reasonable attorney's fee  
5 allowed pursuant to this section shall not affect or diminish the  
6 amount of the award.

7 (3) When an attorney's fee is allowed pursuant to this  
8 section, there shall further be assessed against the employer an  
9 amount of interest on the final award obtained, computed from the

10 date compensation was payable, as provided in section 48-119, until  
 11 the date payment is made by the employer, at a rate equal to the  
 12 rate of interest allowed per annum under section 45-104.01, as such  
 13 rate may from time to time be adjusted by the Legislature. Interest  
 14 shall apply only to those weekly compensation benefits awarded  
 15 which have accrued as of the date payment is made by the employer.  
 16 If the employer pays or tenders payment of compensation, the amount  
 17 of compensation due is disputed, and the award obtained is greater  
 18 than the amount paid or tendered by the employer, the assessment of  
 19 interest shall be determined solely upon the difference between the  
 20 amount awarded and the amount tendered or paid.

**LEGISLATIVE BILL 630.** Placed on General File with amendment.  
 AM874 is available in the Bill Room.

**LEGISLATIVE BILL 631.** Placed on General File with amendment.  
 AM415

1 1. Strike original section 3 and insert the following  
 2 sections:  
 3 Sec. 2. Section 48-622.01, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 48-622.01 (1) There is hereby created in the state  
 6 treasury a special fund to be known as the State Unemployment  
 7 Insurance Trust Fund. All state unemployment insurance tax  
 8 collected under sections 48-648 to 48-661, less refunds, shall be  
 9 paid into the fund. Such money shall be held in trust for the sole  
 10 and exclusive use of payment of unemployment insurance benefits.  
 11 Any money in the fund available for investment shall be invested  
 12 by the state investment officer pursuant to the Nebraska Capital  
 13 Expansion Act and the Nebraska State Funds Investment Act, except  
 14 that interest earned on money in the fund shall be credited to  
 15 the Nebraska Training and Support Trust Fund at the end of each  
 16 calendar quarter.  
 17 (2) The commissioner shall have authority to determine  
 18 when and in what amounts withdrawals from the State Unemployment  
 19 Insurance Trust Fund for payment of benefits are necessary. Amounts  
 20 withdrawn for payment of benefits shall be immediately forwarded  
 21 to the Secretary of the Treasury of the United States of America  
 22 to the credit of the state's account in the Unemployment Trust  
 23 Fund, provisions of law in this state relating to the deposit,  
 1 administration, release, or disbursement of money in the possession  
 2 or custody of this state to the contrary notwithstanding.  
 3 (3) If and when the state unemployment insurance tax  
 4 ceases to exist as determined by the Governor, ~~in consultation~~  
 5 ~~with the state advisory council,~~ all money then in the State  
 6 Unemployment Insurance Trust Fund less accrued interest shall be  
 7 immediately transferred to the credit of the state's account in  
 8 the Unemployment Trust Fund, provisions of law in this state  
 9 relating to the deposit, administration, release, or disbursement



10 of money in the possession or custody of this state to the  
 11 contrary notwithstanding. The determination to eliminate the state  
 12 unemployment insurance tax shall be based on the solvency of  
 13 the state's account in the Unemployment Trust Fund and the need  
 14 for training of Nebraska workers. Accrued interest in the State  
 15 Unemployment Insurance Trust Fund shall be credited to the Nebraska  
 16 Training and Support Trust Fund.

17 Sec. 4. Section 48-622.03, Reissue Revised Statutes of  
 18 Nebraska, is amended to read:

19 48-622.03 (1) There is hereby created as of January  
 20 1, 1996, the Nebraska Worker Training Board consisting of seven  
 21 members appointed and serving for terms determined by the Governor  
 22 as follows:

23 ~~(a) A member of the state advisory council created in~~  
 24 ~~section 48-610 who is a representative of employers in Nebraska;~~

25 (b) A ~~member of the council who is a representative of~~  
 26 employees in Nebraska;

27 (c) A ~~member of the council who is a representative of~~  
 1 the public;

2 (d) The Commissioner of Labor or a designee;

3 (e) The Director of Economic Development or a designee;

4 (f) The Commissioner of Education or a designee; and

5 (g) The chairperson of the governing board of the  
 6 Nebraska Community College Association or a designee.

7 (2) Beginning July 1, 1996, and annually thereafter,  
 8 the Governor shall appoint a chairperson for the board. The  
 9 chairperson shall be either the representative of the employers,  
 10 the representative of the employees, or the representative of the  
 11 public.

12 (3) Beginning July 1, 1996, and annually thereafter  
 13 the board shall prepare an annual program plan for the upcoming  
 14 fiscal year containing guidelines for the program financed by the  
 15 Nebraska Training and Support Trust Fund. The guidelines shall  
 16 include, but not be limited to, guidelines for certifying training  
 17 providers, criteria for evaluating requests for the use of money  
 18 under section 48-622.02, and guidelines for requiring employers  
 19 to provide matching funds. The guidelines shall give priority  
 20 to training that contributes to the expansion of the Nebraska  
 21 workforce and increasing the pool of highly skilled workers in  
 22 Nebraska.

23 (4) Beginning September 1, 1997, and annually thereafter,  
 24 the board shall provide a report to the Governor covering the  
 25 activities of the program financed by the Nebraska Training and  
 26 Support Trust Fund for the previous fiscal year. The report shall  
 27 contain an assessment of the effectiveness of the program and its  
 1 administration.

2 2. On page 15, strike beginning with "Contributions" in  
 3 line 9 through the second "to" in line 10, show as stricken, and  
 4 insert "Wages for employment have been paid by the employer in";

- 5 strike beginning with "been" in line 20 through "contributions"  
 6 in line 21, show as stricken, and insert "paid wages for  
 7 employment"; and in line 23 strike beginning with "been" through  
 8 "contributions", show as stricken, and insert "paid wages for  
 9 employment".  
 10 3. On page 38, line 6, after "sections" insert  
 11 "48-622.01,".  
 12 4. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 514.** Indefinitely postponed.

(Signed) Steve Lathrop, Chairperson

**AMENDMENT - Print in Journal**

Senator Flood filed the following amendment to LB158:  
 AM951

- 1 1. Strike the original sections and all amendments  
 2 thereto and insert the following new sections:  
 3 Section 1. Section 17-107, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 17-107 (1) A mayor of a city of the second class shall  
 6 be elected in the manner provided in the Election Act. The mayor  
 7 shall be a resident and registered voter of the city. If the  
 8 president of the council assumes the office of mayor for the  
 9 unexpired term, there shall be a vacancy on the council which  
 10 vacancy shall be filled as provided in section 32-568. The mayor,  
 11 with the consent of the council, may appoint such officers as  
 12 shall be required by ordinance or otherwise required by law. Such  
 13 officers may be removed from office by the mayor. The mayor,  
 14 by and with the consent of the council, shall appoint such a  
 15 number of regular police officers as may be necessary. All police  
 16 officers appointed by the mayor and council ~~shall be removable~~  
 17 may be removed, demoted, or suspended at any time by the mayor  
 18 as provided in subsection (2) of this section. A police officer,  
 19 including the chief of police, may appeal to the city council such  
 20 removal, demotion, or other disciplinary action or suspension with  
 21 or without pay, to the city council. After a hearing, the city  
 22 council may uphold, reverse, or modify the ~~removal or disciplinary~~  
 23 action.  
 1 (2) The city council shall by ordinance adopt rules and  
 2 regulations governing the removal, demotion, or suspension with  
 3 or without pay or discipline of any police officer, including  
 4 the chief of police. The ordinance shall include a procedure  
 5 for such removal, demotion, or suspension with or without pay  
 6 of any police officer, including the chief of police, upon the  
 7 written accusation of the police chief, mayor, or any citizen or  
 8 taxpayer. The city council shall establish by ordinance procedures  
 9 for acting upon such written accusation, including: (a) Provisions

10 for giving notice and a copy of the written accusation to the  
 11 police officer; (b) the police officer's right to have an attorney  
 12 or representative retained by the police officer present with  
 13 him or her at all hearings or proceedings regarding the written  
 14 accusation; (c) the right of the police officer or his or her  
 15 attorney or representative retained by the police officer to be  
 16 heard and present evidence; and (d) the right of the police officer  
 17 as well as the individual imposing the action or their respective  
 18 attorneys or representatives to record all hearings or proceedings  
 19 regarding the written accusation. The ordinance shall also include  
 20 a procedure for making application for an appeal, specifications  
 21 on the period of time within which such application shall be  
 22 made, and provisions on the manner in which the appeals hearing  
 23 shall be conducted. Both the police officer and the individual  
 24 imposing the ~~disciplinary~~ action or their respective attorneys or  
 25 representatives shall have the right at the hearing to be heard and  
 26 to present evidence to the city council for its consideration. Not  
 27 later than thirty days following the adjournment of the meeting at  
 1 which the hearing was held, the city council shall vote to uphold,  
 2 reverse, or modify the ~~removal or disciplinary~~ action. The failure  
 3 of the city council to act within thirty days or the failure  
 4 of a majority of the elected council members to vote to reverse  
 5 or modify the ~~removal or disciplinary~~ action shall be construed  
 6 as a vote to uphold the ~~removal or disciplinary~~ action. The  
 7 decision of the city council shall be based upon its determination  
 8 that, under the facts and evidence presented at the hearing,  
 9 the ~~challenged removal or disciplinary~~ action was necessary for  
 10 the proper management and the effective operation of the police  
 11 department in the performance of its duties under the statutes of  
 12 the State of Nebraska. Nothing in this section shall be construed  
 13 to prevent the preemptory suspension or immediate removal from duty  
 14 of an officer by the appropriate authority, pending the hearing  
 15 authorized by this section, in cases of gross misconduct, neglect  
 16 of duty, or disobedience of orders.

17 (3) This section does not apply to a police officer  
 18 during his or her probationary period.

19 Sec. 2. Section 17-208, Reissue Revised Statutes of  
 20 Nebraska, is amended to read:

21 17-208 ~~(1)-(1)(a)~~ The village board of trustees may  
 22 appoint a village clerk, treasurer, attorney, overseer of the  
 23 streets, and marshal or chief of police. Pursuant to subsection  
 24 (2) of this section, the ~~The~~ village marshal or chief of police,  
 25 or any other police officer, may request a review by appeal  
 26 to the village board of his or her removal, demotion, or any  
 27 other disciplinary action or suspension with or without pay, taken  
 1 against him or her. After a hearing, the village board may uphold,  
 2 reverse, or modify the ~~removal or disciplinary~~ action.

3 (2)-(b) The village board of trustees shall by ordinance  
 4 adopt rules and regulations governing the removal, demotion, or

5 ~~suspension with or without pay or discipline~~ of any police officer,  
6 including the village marshal ~~or chief of police~~. The ordinance  
7 shall include a procedure for such removal, demotion, or suspension  
8 with or without pay of any police officer, including the village  
9 marshal or chief of police, upon the written accusation of the  
10 village marshal or chief of police, chairperson, or any citizen  
11 or taxpayer. The village board of trustees shall establish by  
12 ordinance procedures for acting upon such written accusation,  
13 including: (a) Provisions for giving notice and a copy of the  
14 written accusation to the police officer; (b) the police officer's  
15 right to have an attorney or representative retained by the police  
16 officer present with him or her at all hearings or proceedings  
17 regarding the written accusation; (c) the right of the police  
18 officer or his or her attorney or representative retained by the  
19 police officer to be heard and present evidence; and (d) the  
20 right of the police officer as well as the individual imposing the  
21 action or their respective attorneys or representatives to record  
22 all hearings or proceedings regarding the written accusation. The  
23 ordinance shall also include a procedure for making application  
24 for an appeal, specifications on the period of time within which  
25 such application shall be made, and provisions on the manner in  
26 which the appeals hearing shall be conducted. Both the police  
27 officer and the individual imposing the ~~disciplinary action or~~  
1 ~~their respective attorneys or representatives~~ shall have the right  
2 at the hearing to be heard and to present evidence to the village  
3 board for its consideration. Not later than thirty days following  
4 the adjournment of the meeting at which the hearing was held,  
5 the village board shall vote to uphold, reverse, or modify the  
6 ~~removal or disciplinary~~ action. The failure of the village board  
7 to act within thirty days or the failure of a majority of the  
8 elected board members to vote to reverse or modify the ~~removal~~  
9 ~~or disciplinary~~ action shall be construed as a vote to uphold  
10 the ~~removal or disciplinary~~ action. The decision of the village  
11 board shall be based upon its determination that, under the facts  
12 and evidence presented at the hearing, the ~~challenged removal~~  
13 ~~or disciplinary~~ action was necessary for the proper management  
14 and the effective operation of the police department in the  
15 performance of its duties under the statutes of the State of  
16 Nebraska. Nothing in this section shall be construed to prevent the  
17 preemptory suspension or immediate removal from duty of an officer  
18 by the appropriate authority, pending the hearing authorized by  
19 this section, in cases of gross misconduct, neglect of duty, or  
20 disobedience of orders.

21 (c) This subsection does not apply to a police officer  
22 during his or her probationary period.

23 ~~(3)-(2)~~ The village board of trustees shall also appoint  
24 a board of health consisting of three members: The chairperson of  
25 the village board, who shall be chairperson, and two other members.  
26 One member shall be a physician or health care provider, if one

27 can be found who is willing to serve. Such physician or health  
 1 care provider, if appointed, shall be the board's medical advisor.  
 2 If the village board of trustees has appointed a marshal or chief  
 3 of police, the marshal or chief of police may be appointed to the  
 4 board and serve as secretary and quarantine officer. A majority of  
 5 the board of health shall constitute a quorum and shall enact rules  
 6 and regulations, which shall have the force and effect of law,  
 7 to safeguard the health of the people of such village and prevent  
 8 nuisances and unsanitary conditions. The board of health shall  
 9 enforce the same and provide fines and punishments for violations.  
 10 The appointees shall hold office for one year unless removed by the  
 11 chairperson of the village board with the advice and consent of the  
 12 trustees.

13 Sec. 3. Section 23-1734, Reissue Revised Statutes of  
 14 Nebraska, is amended to read:

15 23-1734 ~~(4)~~(1)(a) Any deputy sheriff may be removed,  
 16 suspended with or without pay, or reduced in either rank or  
 17 grade or both rank and grade by the sheriff, after appointment or  
 18 promotion is complete, by an order in writing, stating specifically  
 19 the reasons therefor. Such order shall be filed with the sheriff's  
 20 office merit commission and a copy thereof shall be furnished  
 21 to the person so removed, suspended, or reduced. Any person so  
 22 removed, suspended with or without pay, or reduced in either  
 23 rank or grade or both rank and grade may, within ten days after  
 24 presentation to him or her of the order of removal, suspension  
 25 with or without pay, or reduction, appeal to the commission from  
 26 such order. The commission shall, within two weeks ~~from~~after the  
 27 filing of such appeal, hold a hearing thereon, and thereupon fully  
 1 hear and determine the matter, and either affirm, modify, or revoke  
 2 such order. The appellant shall be entitled to appear personally,  
 3 produce evidence, and have counsel or other representation and  
 4 a public hearing. The finding and decision of the commission  
 5 shall be certified to the sheriff and shall forthwith be enforced  
 6 and followed, but under no condition shall the employee who has  
 7 appealed to the commission be permanently removed, suspended with  
 8 or without pay, or reduced in rank until such finding and decision  
 9 of the commission is so certified to the sheriff.

10 (b) This subsection does not apply to a deputy sheriff  
 11 during his or her probationary period.

12 (2) Any deputy sheriff may grieve a violation of an  
 13 employment contract, a personnel rule, a state or local law, or  
 14 a written departmental policy or procedure to the commission.  
 15 The commission shall hear the grievance at the next regularly  
 16 scheduled meeting, or the commission may, at its discretion, set  
 17 a special meeting to hear the grievance. If the deputy sheriff  
 18 is subject to a labor agreement, all applicable procedures in the  
 19 agreement shall be followed prior to the matter being heard by the  
 20 commission. In all other cases, the matter shall be grieved, in  
 21 writing, to the commission within fifteen calendar days after the

22 date the deputy sheriff became aware of the occurrence giving rise  
23 to the grievance. After hearing or reviewing the grievance, the  
24 commission shall issue a written order either affirming or denying  
25 the grievance. Such order shall be delivered to the parties to  
26 the grievance or their counsel or other representative within seven  
27 calendar days after the date of the hearing or the submission of  
1 the written grievance.

2 Sec. 4. After an applicant is hired by any municipality  
3 or county as a peace officer, no employer may require the peace  
4 officer to produce or disclose the peace officer's personal  
5 financial records, except pursuant to a valid search warrant  
6 or subpoena.

7 Sec. 5. No employing or investigating agency or any  
8 governmental unit of any municipality or county shall publicly  
9 release a photograph of a peace officer who is the subject of an  
10 investigation without the written permission of the peace officer,  
11 except that the agency or unit may display a photograph of a peace  
12 officer to a prospective witness as part of an investigation and  
13 the agency or unit may provide a photograph of a peace officer to  
14 the investigating individual to display to a prospective witness as  
15 part of the investigation.

16 Sec. 6. No disciplinary action by any municipality or  
17 county may be included in a peace officer's personnel record  
18 unless such disciplinary action has been reduced to writing and  
19 the peace officer has been given a copy, and no correspondence may  
20 be included in a peace officer's personnel record unless the peace  
21 officer has been given a copy of the correspondence. The peace  
22 officer shall sign a written acknowledgement of receipt for any  
23 copy of a disciplinary action.

24 Sec. 7. No peace officer of any municipality or county  
25 may be discharged, subject to disciplinary action, or threatened  
26 with discharge or disciplinary action as retaliation for or solely  
27 by reason of the peace officer's exercise of his or her rights  
1 provided in section 17-107, 17-208, or 23-1734 or sections 4 to 8  
2 of this act.

3 Sec. 8. (1) Except as otherwise provided in a collective  
4 bargaining agreement, Chapter 19, article 18, or Chapter 23,  
5 article 17, any city of the first class and all county sheriffs  
6 shall adopt rules and regulations governing the removal, demotion,  
7 or suspension with or without pay of any peace officer, including  
8 the chief of police. Such rules and regulations shall include: (a)  
9 Provisions for giving notice and a copy of the written accusation  
10 to the peace officer; (b) the peace officer's right to have an  
11 attorney or representative retained by the peace officer present  
12 with him or her at all hearings or proceedings regarding the  
13 written accusation; (c) the right of the peace officer or his  
14 or her attorney or representative retained by the peace officer  
15 to be heard and present evidence; (d) the right of the peace  
16 officer as well as the individual imposing the action or their

17 respective attorneys or representatives to record all hearings or  
18 proceedings regarding the written accusation; and (e) a procedure  
19 for making application for an appeal. Nothing in this section shall  
20 be construed to prevent the preemptory suspension or immediate  
21 removal from duty of an officer by the appropriate authority,  
22 pending the hearing authorized by this section, in cases of gross  
23 misconduct, neglect of duty, or disobedience of orders.  
24 (2) This section does not apply to a peace officer during  
25 his or her probationary period.  
26 Sec. 9. Original sections 17-107, 17-208, and 23-1734,  
27 Reissue Revised Statutes of Nebraska, are repealed.

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

Senator Campbell asked unanimous consent to add her name as cointroducer to LB342. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 42 fourth-grade students from Hayward School, Nebraska City; 40 fourth-grade students, teachers, and sponsor from Northwest Public School, Chapman; 33 fourth-grade students and teachers from Hershey; and 4 twelfth-grade students and teacher from Sutherland.

### **ADJOURNMENT**

At 4:03 p.m., on a motion by Senator Giese, the Legislature adjourned until 9:00 a.m., Friday, April 3, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature





**FIFTY-FIFTH DAY - APRIL 3, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FIFTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, April 3, 2009

**PRAYER**

The prayer was offered by Reverend Cedric Perkins, Pilgrim Baptist Church, 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 Council and Nantkes who were excused; and Senator Ashford who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-fourth day was approved.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of April 2, 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

Johnson, DeMaris/The Johnson Group  
Bromm, Curtis A.  
Miller, Jeffrey T.  
Veterans of Foreign Wars  
O'Hara, Lindsay and Associates, Inc.  
Motorola, Inc.

**REPORTS**

The following reports were received by the Legislature:

**Auditor of Public Accounts**

Attestation Report of the Nebraska Motor Vehicle Industry Licensing Board for the year ended June 30, 2008

**Health and Human Services**

Child Welfare Services 2008 Annual Report

**COMMITTEE REPORTS**

Judiciary

**LEGISLATIVE BILL 304.** Placed on General File.

**LEGISLATIVE BILL 598.** Placed on General File.

(Signed) Brad Ashford, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 136A.** Title read. Considered.

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

Voting in the affirmative, 39:

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

Voting in the negative, 4:

Friend	Janssen	Lautenbaugh	Schilz
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Present and not voting, 4:

Christensen	Fulton	Heidemann	Utter
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Excused and not voting, 2:

Council	Nantkes
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Advanced to Enrollment and Review Initial with 39 ayes, 4 nays, 4 present

and not voting, and 2 excused and not voting.

**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 LB105 with 46 ayes, 0 nays, 1 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 105.**

A BILL FOR AN ACT relating to game and parks; to amend sections 28-1335, 37-201, 37-314, 37-327, 37-407, 37-410, 37-411, 37-415, 37-417, 37-426, 37-431, 37-432, 37-433, 37-440, 37-447, 37-449, 37-450, 37-451, 37-455, 37-455.01, 37-456, 37-457, 37-477, 37-479, 37-481, 37-4,111, 37-501, 37-504, 37-507, 37-513, 37-514, 37-523, 37-613, 37-727, 37-1241.07, 37-1241.08, and 54-2313, Reissue Revised Statutes of Nebraska; to provide powers and duties for the Game and Parks Commission; to provide for and change penalty provisions related to hunting and fishing; to provide for and change maximum amounts of certain fees imposed under the Game Law; to provide for and change liquidated damages under the Game Law; to provide for and change provisions relating to special permits and licenses; to change provisions relating to animals held in captivity, abandonment or needless waste of game animals, and hunting wildlife with artificial light; to prohibit administration of drugs to wildlife; to provide exceptions; to provide requirements for renting and leasing motorboats; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council          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 105A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 105, One Hundred First Legislature, First Session, 2009.

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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

McGill

Excused and not voting, 2:

Council          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 LB110 with 40 ayes, 1 nay, 6 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 110.**

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-301, 60-3,104, 60-3,119, 60-3,122, 60-3,122.02, 60-3,123, 60-3,124, 60-3,125, 60-3,128, 60-3,129, and 60-3,130.04, Revised Statutes Cumulative Supplement, 2008; to change fees for motor vehicle registration; to change the distribution of proceeds of the fees; to provide for specialty license plates; to harmonize provisions; to provide an operative date; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Lathrop

Excused and not voting, 2:

Council            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 110A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 110, One Hundred First Legislature, First Session, 2009.

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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Wallman

Excused and not voting, 2:

Council      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 LB165 with 46 ayes, 0 nays, 1 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 165.** With Emergency Clause.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.03, 77-2704.52, and 77-2761, Reissue Revised Statutes of Nebraska, and sections 66-1521, 77-1783.01, 77-1784, 77-2701.16, 77-2701.24, 77-2703.04, 77-2704.09, 77-2711, 77-2712.05, 77-2715.07,

77-2780, and 77-5211, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to administrative costs, tax payments, tax returns, sales tax, and income tax; to provide operative dates; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council            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.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 168.**

A BILL FOR AN ACT relating to the state purchasing bureau; to provide for reverse auctions as prescribed; and to provide powers and duties for the bureau.

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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council          Nantkes

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

#### **LEGISLATIVE BILL 177.**

A BILL FOR AN ACT relating to the Credit Report Protection Act; to amend sections 8-2602, 8-2607, and 8-2609, Reissue Revised Statutes of Nebraska; to define a term; to change provisions relating to security freezes; 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, 45:

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

Voting in the negative, 0.

Present and not voting, 2:

McCoy          Nelson

Excused and not voting, 2:



Council            Nantkes

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

**LEGISLATIVE BILL 184.**

A BILL FOR AN ACT relating to water; to amend section 46-226, Reissue Revised Statutes of Nebraska; to authorize the Department of Natural Resources to administer riparian water rights; 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, 45:

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

Voting in the negative, 0.

Present and not voting, 2:

Dierks            Hansen

Excused and not voting, 2:

Council            Nantkes

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

**LEGISLATIVE BILL 207.**

A BILL FOR AN ACT relating to the Department of Administrative Services; to amend sections 72-2101, 72-2105, and 81-1108.17, Reissue Revised Statutes of Nebraska; to change provisions relating to the annual inspection of the Governor's residence; to provide for the leasing of state property to private entities as prescribed; to eliminate obsolete language relating to housing for the Nebraska Library Commission; to repeal the

original sections; and to outright repeal section 81-1108.40, Reissue Revised Statutes of Nebraska.

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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Hansen

Excused and not voting, 2:

Council          Nantkes

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

**LEGISLATIVE BILL 377.** With Emergency Clause.

A BILL FOR AN ACT relating to finance; to adopt the Nebraska Governmental Unit Credit Facility Act; to provide severability; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Price

Excused and not voting, 2:

Council            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 LB327 with 40 ayes, 1 nay, 6 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 327.** With Emergency Clause.

A BILL FOR AN ACT relating to banking and finance; to amend sections 8-101.01, 8-112, 8-163, 8-209, 8-210, 8-602, 8-1001, 8-1001.01, and 45-190, Reissue Revised Statutes of Nebraska, sections 8-1,140, 8-355, 21-17,115, 45-346.01, 45-348, and 45-922, Revised Statutes Cumulative Supplement, 2008, and section 8-157.01, Reissue Revised Statutes of Nebraska, as amended by section 1, Legislative Bill 75, One Hundred First Legislature, First Session, 2009; to require state-chartered banks to pledge collateral as security for certain excess deposits as prescribed; to change provisions relating to confidential Department of Banking and Finance records; to change provisions relating to automatic teller machine usage and fees; to change provisions relating to bank dividends; to revise powers of state-chartered banks, building and loan associations, and credit unions; to change provisions relating to pledges of securities under the Nebraska Trust Company Act; to eliminate certain department fees; to provide procedures for authorizing acquisitions of licensees under the Nebraska Sale of Checks

and Funds Transmission Act and to require certain notices and reports by licensees as prescribed; to redefine loan broker; to change provisions relating to licensee duties under the Nebraska Installment Sales Act; to change provisions relating to a disciplinary action under the Delayed Deposit Services Licensing Act; to harmonize provisions; to provide operative dates; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council          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.

The following bill was read and put upon final passage:

### **LEGISLATIVE BILL 260.**

A BILL FOR AN ACT relating to claims against the state; to amend sections 29-3506, 81-8,210, and 81-8,227, Reissue Revised Statutes of Nebraska; to adopt the Nebraska Claims for Wrongful Conviction and Imprisonment Act; to redefine criminal history record information; to change provisions relating to tort claims under the State Tort Claims 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, 36:

Ashford	Dierks	Haar	McCoy	Schilz
Avery	Dubas	Hadley	McGill	Sullivan
Campbell	Fischer	Hansen	Mello	White
Carlson	Flood	Harms	Nordquist	Wightman
Christensen	Friend	Heidemann	Pahls	
Coash	Fulton	Howard	Pirsch	
Cook	Giese	Lathrop	Price	
Cornett	Gloor	Lautenbaugh	Rogert	

Voting in the negative, 9:

Adams	Karpisek	Louden	Stuthman	Wallman
Janssen	Langemeier	Nelson	Utter	

Present and not voting, 2:

Gay	Pankonin
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Excused and not voting, 2:

Council	Nantkes
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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 LB483 with 43 ayes, 1 nay, 3 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 483.** With Emergency Clause.

A BILL FOR AN ACT relating to the Nebraska Ground Water Management and Protection Act; to amend sections 2-32,115 and 46-720, Reissue Revised Statutes of Nebraska, and sections 46-706, 46-713, and 46-714, Revised Statutes Cumulative Supplement, 2008; to provide powers and duties for the Department of Natural Resources and for natural resources districts relating to water well permits as prescribed; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Louden

Excused and not voting, 2:

Council          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.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 403.**

A BILL FOR AN ACT relating to government; to amend sections 77-27,187, 77-5701, 77-5801, and 77-5901, Revised Statutes Cumulative Supplement, 2008; to require verification of lawful presence for purposes of public benefits; to require verification of work eligibility status for purposes of public employment, employment under public contracts, and certain tax incentives; to provide duties for the Department of Labor; to harmonize provisions; to provide an operative date; to provide severability; 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
Avery	Flood	Heidemann	Mello	Stuthman
Campbell	Friend	Howard	Nelson	Sullivan
Carlson	Fulton	Janssen	Nordquist	Utter
Christensen	Gay	Karpisek	Pahls	Wallman
Coash	Giese	Langemeier	Pankonin	White
Cornett	Gloor	Lathrop	Pirsch	Wightman
Dierks	Hadley	Lautenbaugh	Price	

Voting in the negative, 0.

Present and not voting, 3:

Cook	Haar	Louden
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Excused and not voting, 2:

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

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 105, 105A, 110, 110A, 165, 168, 177, 184, 207, 377, 327, 260, 483, and 403.

### **GENERAL FILE**

**LEGISLATIVE BILL 98.** Committee AM641, found on page 721 and considered on page 893, was renewed.

### **SENATOR KARPISEK PRESIDING**

### **SENATOR ROBERT PRESIDING**

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

Senator Christensen moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The motion to cease debate prevailed with 28 ayes, 12 nays, 6 present and not voting, and 3 excused and not voting.

The committee amendment was adopted with 40 ayes, 2 nays, 5 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator White offered the following amendment:

FA25

To provide that the cost of the program be divided according to the relative ownership of river frontage and the proportionate amount be charged to the owner of that land.

## SENATOR STUTHMAN PRESIDING

Pending.

### PRESENTED TO THE GOVERNOR

Presented to the Governor on April 3, 2009, at 10:30 a.m. were the following: LBs 105, 105A, 110, 110A, 165e, 168, 177, 184, 207, 377e, 327e, 260, 483e, and 403.

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

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 430.** Placed on Select File with amendment. ER8052 is available in the Bill Room.

**LEGISLATIVE BILL 679.** Placed on Select File with amendment. ER8051

- 1 1. On page 1, line 4, after the semicolon insert "to
- 2 eliminate obsolete provisions;".

**LEGISLATIVE BILL 198.** Placed on Select File with amendment. ER8053

- 1 1. In the Standing Committee amendments, AM679:
- 2 a. On page 4, line 7; page 5, lines 8 and 26; page 6,
- 3 line 5; and page 8, line 13, strike the comma;
- 4 b. On page 9, line 27; and page 10, line 11, after "and"
- 5 insert "shall";
- 6 c. On page 10, line 17, after "and" insert "shall be
- 7 liable"; and in line 23 strike "personnel" and insert "peace
- 8 officer"; and
- 9 d. On page 12, line 8, strike the last comma.
- 10 2. On page 1, line 2, strike "to create funds;"; and
- 11 strike line 3 and insert "operative dates.".



**LEGISLATIVE BILL 322.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

Transportation and Telecommunications

**LEGISLATIVE BILL 211.** Indefinitely postponed.

**LEGISLATIVE BILL 368.** Indefinitely postponed.

(Signed) Deb Fischer, Chairperson

**AMENDMENTS - Print in Journal**

Senator White filed the following amendment to LB16:

AM955

(Amendments to Standing Committee amendments, AM692)

- 1 1. Insert the following new section:
- 2 Sec. 5. Section 84-602, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 84-602 It shall be the duty of the State Treasurer:
- 5 (1) To receive and keep all money of the state not
- 6 expressly required to be received and kept by some other person;
- 7 (2) To disburse the public money upon warrants drawn upon
- 8 the state treasury according to law; and not otherwise;
- 9 (3) To keep a just, true, and comprehensive account of
- 10 all money received and disbursed;
- 11 (4) To keep a just account with each fund, and each head
- 12 of appropriation made by law, and the warrants drawn against them;
- 13 (5) To render a full statement to the Department of
- 14 Administrative Services, of all money received by him or her from
- 15 whatever source, and if on account of revenue, for what year;
- 16 of all penalties and interest on delinquent taxes reported or
- 17 accounted for to him or her, and of all disbursements of public
- 18 funds; with a list, in numerical order, of all warrants redeemed,
- 19 the name of the payee, amount, interest and total amount allowed
- 20 thereon, and with the amount of the balance of the several funds
- 21 unexpended; which statement shall be made on the first day of
- 22 December, March, June, and September, and more often if required;
- 1 (6) To report to the Legislature as soon as practicable,
- 2 but within ten days after the commencement of each regular session,
- 3 a detailed statement of the condition of the treasury; and its
- 4 operations for the preceding fiscal year;
- 5 (7) To give information in writing to the Legislature,
- 6 whenever required, upon any subject connected with the treasury or
- 7 touching any duty of his or her office; ~~and~~
- 8 (8) To account for, and pay over, all money received by
- 9 him or her as such treasurer, to his or her successor in office,
- 10 and deliver all books, vouchers, and effects of office to him or

11 her; and such successor shall receipt therefor. In accounting for  
 12 and paying over such money the treasurer shall not be held liable  
 13 on account of any loss occasioned by any investment, when such  
 14 investment shall have been made pursuant to the direction of the  
 15 state investment officer; and-

16 (9) To compile and maintain the content and information  
 17 on the web site developed by the Executive Board of the Legislative  
 18 Council pursuant to section 50-401.01.

19 2. On page 2, strike beginning with "The" in line 19  
 20 through the period in line 23 and insert "The web site shall be  
 21 hosted on a server owned and operated by the State of Nebraska or  
 22 approved by the Chief Information Officer. The naming convention  
 23 for the web site shall identify the web site as a state government  
 24 web site. All content and information to be provided shall be  
 25 subject to the review and approval by the executive board and shall  
 26 document the sources of all tax receipts and the expenditure of  
 27 state funds by all agencies, boards, commissions, and departments  
 1 of the state. The content and information on the web site shall be  
 2 compiled and maintained by the State Treasurer."

3 3. On page 15, line 24, strike "section 50-1304" and  
 4 insert "sections 50-1304 and 84-602".

5 4. Renumber the remaining sections accordingly.

Senator Hadley filed the following amendment to LB420:  
 AM960

(Amendments to Standing Committee amendments, AM710)

- 1 1. Insert the following new section:
- 2 Sec. 4. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.
- 4 2. On page 5, line 16, strike "October" and insert
- 5 "July".

Senator Hansen filed the following amendment to LB430:  
 AM958

(Amendments to E & R amendments, ER8052)

- 1 1. On page 5, line 17, reinstate the stricken matter; and
- 2 in line 18 strike the new matter.

Senator Wallman filed the following amendment to LB98:  
 AM963

- 1 1. Insert the following new section:
- 2 Sec. 6. Section 31-224, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 31-224 It shall be the duty of landowners in this
- 5 state, or tenants of such landowners when in possession, owning
- 6 or occupying lands through which a watercourse, slough, drainage
- 7 ditch or drainage course lies, runs or has its course, to clean
- 8 such watercourse, slough, drainage ditch or drainage course at
- 9 least once a year, between March 1 and April 15, of all rubbish,

10 weeds or other substance blocking or otherwise obstructing the  
 11 flow of the water in such watercourse, slough, drainage ditch or  
 12 drainage course, whenever such obstruction is caused by any of the  
 13 acts of ~~said~~ such owner or tenant, or with his or her knowledge  
 14 or consent. The Director of Agriculture shall collect a fee from  
 15 each such landowner on a pro rata basis to match state funds  
 16 appropriated under subsection (4) of section 2-958.02. This section  
 17 ; PROVIDED, HOWEVER, this and sections 31-225 and 31-226 shall not  
 18 apply to drainage ditches under control of any drainage company or  
 19 corporation.

20 2. In the Standing Committee amendments, AM641: On page  
 21 4, line 7, strike "two", show as stricken, and insert "one"; and in  
 22 line 9 after the period insert "Landowners shall provide matching  
 23 funds pursuant to section 31-224."

1 3. Amend the repealer, renumber the remaining sections,  
 2 and correct internal references accordingly.

Senator Dierks filed the following amendment to LB241:  
 AM947

1 1. Insert the following new sections:

2 Sec. 11. Sections 11 to 17 of this act shall be known and  
 3 may be cited as the Dog and Cat Purchase Protection Act.

4 Sec. 12. For purposes of the Dog and Cat Purchase  
 5 Protection Act:

6 (1) Casual breeder means any person, other than a  
 7 commercial breeder as defined in section 54-626, who offers for  
 8 sale, sells, trades, or receives compensation for one or more pet  
 9 animals from a litter produced by a female dog or cat owned by such  
 10 casual breeder;

11 (2) Clinical symptom means indication of an illness  
 12 or dysfunction that is apparent to a veterinarian based on the  
 13 veterinarian's observation, examination, or testing of an animal or  
 14 on a review of the animal's medical records;

15 (3) Health certificate means the official small animal  
 16 certificate of veterinary inspection of the Bureau of Animal  
 17 Industry of the Department of Agriculture;

18 (4) Pet animal means a dog, wholly or in part of the  
 19 species canis familiaris, or a cat, wholly or in part of the  
 20 species felis domesticus, that is under fifteen months of age;

21 (5) Purchaser means the final owner of a pet animal  
 22 purchased from a seller. Purchaser does not include a person who  
 23 purchases a pet animal for resale;

1 (6) Seller means a casual breeder or any commercial  
 2 establishment, including a commercial breeder, dealer, or pet shop  
 3 as such terms are defined in section 54-626, that engages in a  
 4 business of selling pet animals at retail for profit. A seller  
 5 does not include an animal control facility or animal shelter as  
 6 defined in section 54-626 or any animal adoption activity that an  
 7 animal control facility or animal shelter conducts offsite at any

8 pet store or other commercial establishment; and  
9 (7) Serious health problem means a congenital or  
10 hereditary defect or contagious disease that causes severe illness  
11 or death of the pet animal.

12 Sec. 13. (1) A seller shall deliver to the purchaser at  
13 the time of sale of a pet animal a written disclosure statement  
14 containing the following information regarding the pet animal:

15 (a) The name, address, and license number of any  
16 commercial breeder or dealer as such terms are defined in  
17 section 54-626 or, if applicable, the United States Department  
18 of Agriculture license number of the breeder or any broker who has  
19 had possession of the animal prior to the seller's possession;

20 (b) The date of the pet animal's birth, if known, the  
21 state in which the pet animal was born, if known, and the date the  
22 seller received the pet animal;

23 (c) The sex and color of the pet animal, any other  
24 identifying marks apparent upon the pet animal, and the breed of  
25 the pet animal, if known, or a statement that the breed of the pet  
26 animal is unknown or the pet animal is of mixed breed;

27 (d) The pet animal's individual identifying tag, tattoo,  
1 microchip number, or collar number;

2 (e) The names and registration numbers of the sire and  
3 dam and the litter number, if applicable and if known;

4 (f) A record of any vaccination, worming treatment, or  
5 medication administered to the pet animal while in the possession  
6 of the seller and, if known, any such vaccination, treatment, or  
7 medication administered to the pet animal prior to the date the  
8 seller received the pet animal; and

9 (g) The date or dates of any examination of the pet  
10 animal by a licensed veterinarian while in the possession of the  
11 seller.

12 (2) The seller may include any of the following with the  
13 written disclosure statement required by subsection (1) of this  
14 section:

15 (a) A statement that a veterinarian examined the pet  
16 animal and, at the time of the examination, the pet animal had  
17 no apparent or clinical symptoms of a serious health problem that  
18 would adversely affect the health of the pet animal at the time of  
19 sale or that is likely to adversely affect the health of the pet  
20 animal in the future; and

21 (b) A record of any serious health problem that adversely  
22 affects the pet animal at the time of sale or that is likely to  
23 adversely affect the health of the pet animal in the future.

24 (3) The written disclosure made pursuant to this section  
25 shall be signed by the seller certifying the accuracy of the  
26 written disclosure statement and by the purchaser acknowledging  
27 receipt of the written disclosure statement. In addition to  
1 information required to be given to a purchaser under this section,  
2 at the time of sale the seller shall provide the purchaser with a

3 written notice of the purchaser's rights and responsibilities under  
4 the Dog and Cat Purchase Protection Act. Such notice may be in the  
5 form of a legible copy of the act.

6 (4) If the pet animal is sold to a purchaser who resides  
7 outside of the state or intends that the pet animal will be  
8 relocated or permanently domiciled outside of the state, the seller  
9 shall provide the purchaser with a health certificate signed by  
10 a licensed veterinarian who has examined the pet animal and is  
11 authorized to certify such certificate.

12 (5) The seller shall maintain a copy of any written  
13 disclosure statements made and any other records on the health,  
14 status, or disposition of each pet animal for at least one year  
15 after the date of sale to a purchaser.

16 Sec. 14. (1) In order to have recourse to the remedies  
17 available to purchasers under this section, a purchaser shall have  
18 the pet animal examined by a licensed veterinarian within seven  
19 business days after delivery of the pet animal to the purchaser.  
20 The pet animal shall be declared unfit for sale and the purchaser  
21 may obtain one of the remedies listed in subsection (2) or (3)  
22 of this section if (a) during such examination, the veterinarian  
23 diagnoses the pet animal with a serious health problem that the  
24 veterinarian believes existed at the time of delivery of the pet  
25 animal to the purchaser or (b) within fifteen months after the date  
26 of birth of the pet animal, a veterinarian diagnoses the pet animal  
27 with a serious health problem or states in writing that the pet  
1 animal has died from a serious health problem that the veterinarian  
2 believes existed at the time of delivery of the pet animal to the  
3 purchaser. For purposes of this section, serious health problem  
4 does not include parvovirus if the diagnosis of parvovirus is made  
5 after the seven-business-day requirement of this subsection.

6 (2) If a pet animal is diagnosed with a serious health  
7 problem under subsection (1) of this section, the purchaser shall  
8 notify the seller within two business days after the diagnosis  
9 and provide the seller with the name and telephone number of  
10 the veterinarian or a copy of the veterinarian's report. After  
11 such notification, the purchaser may obtain one of the following  
12 remedies from the seller:

13 (a) A refund of the full purchase price of the pet animal  
14 upon return of such pet animal to the seller;

15 (b) An exchange for a pet animal of the purchaser's  
16 choice of equivalent value, if such pet animal is available, upon  
17 return of the pet animal, if alive, to the seller; or

18 (c) Reimbursement for reasonable veterinary fees, not to  
19 exceed the full purchase price of the pet animal.

20 (3) If a pet animal dies from a serious health problem  
21 as determined under subsection (1) of this section, the purchaser  
22 shall notify the seller within two business days after receipt  
23 of the written statement of the veterinarian by the purchaser and  
24 shall provide the seller with a copy of such written statement.

25 After receipt of the written statement by the seller, the purchaser  
26 may obtain one of the following remedies from the seller:

27 (a) A refund of the full purchase price of the pet  
1 animal; or

2 (b) A pet animal of the purchaser's choice of equivalent  
3 value, if such pet animal is available, and reimbursement for  
4 reasonable veterinary fees not to exceed one-half of the full  
5 purchase price of the pet animal.

6 (4) For purposes of this section, veterinary fees shall  
7 be deemed reasonable if the service is appropriate for the  
8 diagnosis and treatment of the serious health problem and the  
9 cost of the service is comparable to similar services provided  
10 by licensed veterinarians in close proximity to the treating  
11 veterinarian.

12 Sec. 15. No refund or reimbursement of fees or  
13 replacement of a pet animal under section 14 of this act shall be  
14 required if one or more of the following conditions exist:

15 (1) The serious health problem or death of the pet animal  
16 resulted from maltreatment, neglect, or injury occurring after  
17 delivery of the pet animal to the purchaser;

18 (2) Any written disclosure statements provided by a  
19 seller pursuant to subsection (2) of section 13 of this act  
20 disclosed the serious health problem for which the purchaser is  
21 seeking a remedy; or

22 (3) The purchaser failed to follow through with  
23 preventative care, including, but not limited to, vaccinations,  
24 deworming treatment, or medication, recommended by a licensed  
25 veterinarian examining the pet animal.

26 Sec. 16. (1) If a seller does not comply with a demand  
27 for remedy by a purchaser under section 14 of this act, the  
1 purchaser may file an action in a court of competent jurisdiction.

2 (2) If a seller contests a demand for remedy by a  
3 purchaser under section 14 of this act, the seller may require the  
4 purchaser to produce the pet animal for examination or autopsy by  
5 a licensed veterinarian designated by the seller. The seller shall  
6 pay for all costs associated with such examination or autopsy. The  
7 seller shall have a right of recovery against the purchaser if the  
8 seller is not obligated to provide the remedy sought.

9 (3) The prevailing party in a proceeding under this  
10 section shall be limited to a recovery of actual costs and no more  
11 than five hundred dollars in reasonable attorney's fees.

12 Sec. 17. Nothing in the Dog and Cat Purchase Protection  
13 Act shall limit any rights and remedies otherwise available under  
14 the laws of this state. Any agreement or contract entered into  
15 by a seller and a purchaser waiving any rights under the act is  
16 void. Nothing in the Dog and Cat Purchase Protection Act shall  
17 be construed to limit a seller to offering only those warranties,  
18 express or implied, required by the act.

19 Sec. 18. Sections 11 to 17 of this act become operative

- 20 on January 1, 2010. The other sections of this act become operative  
21 on their effective date.  
22 2. On page 14, line 25; and page 15, lines 4 and 5,  
23 strike "effective date of this act" and insert "operative date of  
24 this section".  
25 3. Renumber the remaining section accordingly.

### **ANNOUNCEMENTS**

Senator Adams announced the Education Committee will hold an executive session Monday, April 6, 2009, at 12:00 p.m., in Room 1107.

Senator Carlson announced the Agriculture Committee will hold an executive session Monday, April 6, 2009, at 9:50 a.m., in Room 2022.

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

Senator Howard asked unanimous consent to add her name as cointroducer to LB396. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Senator Howard's daughter, Sara Howard, from Omaha; 47 fourth- and fifth-grade students from Adams Central, Hastings; 81 fourth-grade students, teachers, and sponsors from Fairview School, Bellevue; 68 fourth-grade students from Cottonwood Elementary, Omaha; members of Fillmore Central FFA from Geneva; 60 fourth-grade students from Falls City; Airi Yamada from Japan and Jay Ferris from Archer; and 12 tenth-, eleventh-, and twelfth-grade students, teacher, and sponsors from Park Avenue Christian, Norfolk.

The Doctor of the Day was Dr. Paul Wolfe from Lincoln.

### **ADJOURNMENT**

At 11:59 a.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Monday, April 6, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature





**FIFTY-SIXTH DAY - APRIL 6, 2009**  
**LEGISLATIVE JOURNAL**  
**ONE HUNDRED FIRST LEGISLATURE**  
**FIRST SESSION**  
**FIFTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, April 6, 2009

**PRAYER**

The prayer was offered by Senator Gloor.

**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 Ashford and Nelson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-fifth day was approved.

**MESSAGE FROM THE GOVERNOR**

April 6, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bill 483e was received in my office on April 3, 2009.

I signed this bill and delivered it to the Secretary of State on April 6, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**SELECT FILE**

**LEGISLATIVE BILL 158.** Senator Flood renewed his amendment, AM951, found on page 906.

The Flood amendment was adopted with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 121.** ER8032, found on page 732, was adopted.

Senator Wightman withdrew his amendment, AM862, found on page 850.

Senator Wightman renewed his amendment, AM928, found on page 879.

The Wightman amendment was adopted with 44 ayes, 0 nays, and 5 present and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 121A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 111.** ER8033, found on page 763, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 300.** ER8034, found on page 763, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 54.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 361.** ER8036, found on page 797, was adopted.

Senator Avery offered the following amendment:  
AM966

(Amendments to Standing Committee amendments, AM552)

- 1 1. On page 6, line 16, after the last comma insert "a
- 2 learning community."

The Avery amendment was adopted with 34 ayes, 0 nays, and 15 present and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 202.** Senator Fischer renewed her amendment, AM778, found on page 839.

The Fischer amendment was adopted with 39 ayes, 0 nays, and 10 present and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 202A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 328.** ER8038, found on page 813, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 328A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 620.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 164.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 292.** ER8041, found on page 815, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 292A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 547.** ER8039, found on page 815, was adopted.

Senator Adams offered the following amendment:  
AM865

(Amendments to Standing Committee amendments, AM365)

- 1 1. On page 18, strike beginning with "one" in line 8
- 2 through "three" in line 9 and insert "four".

The Adams amendment was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Senator Fulton offered the following amendment:  
AM946

(Amendments to Standing Committee amendments, AM365)

- 1 1. On page 13, line 23, strike "or" and insert an
- 2 underscored comma; and in line 25 after the comma insert "or
- 3 teaches in an accredited or approved private school in Nebraska in

4 which at least forty percent of the enrolled students qualified for  
 5 free lunches as determined by the most recent data available from  
 6 the department,".  
 7 2. On page 17, line 22, strike "or" and insert an  
 8 underscored comma; and in line 24 after the comma insert "or  
 9 teaches in an accredited or approved private school in Nebraska in  
 10 which at least forty percent of the enrolled students qualified for  
 11 free lunches as determined by the most recent data available from  
 12 the department,".

The Fulton amendment was adopted with 32 ayes, 2 nays, 12 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 547A.** Senator Adams offered the following amendment:

AM895

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. There is hereby appropriated (1) \$75,600  
 4 from the Education Innovation Fund for FY2009-10 and (2) \$75,600  
 5 from the Education Innovation Fund for FY2010-11 to the State  
 6 Department of Education, for Program 161, to aid in carrying  
 7 out the provisions of Legislative Bill 547, One Hundred First  
 8 Legislature, First Session, 2009.  
 9 Total expenditures for permanent and temporary salaries  
 10 and per diems from funds appropriated in this section shall not  
 11 exceed \$45,157 for FY2009-10 or \$46,287 for FY2010-11.  
 12 Sec. 2. Since an emergency exists, this act takes effect  
 13 when passed and approved according to law.

The Adams amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 355.** ER8042, found on page 829, was adopted.

Senator Stuthman withdrew his amendments, AM840, AM841, and AM842, found on page 826.

Senator Avery offered the following amendment:

AM965

(Amendments to E & R amendments, ER8042)

1 1. On page 9, line 23, after the first "which" insert  
 2 "does not permit the smoking of cigarettes, which".

**SENATOR LANGEMEIER PRESIDING**

**SENATOR ROBERT PRESIDING**

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 3 nays, and 20 not voting.

Senator Avery moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Avery requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Adams	Cornett	Giese	Harms	Pankonin
Avery	Dierks	Gloor	Howard	Pirsch
Campbell	Dubas	Haar	Louden	Stuthman
Coash	Friend	Hadley	Nantkes	Sullivan
Cook	Gay	Hansen	Nordquist	Utter

Voting in the negative, 19:

Ashford	Flood	Lathrop	Mello	Robert
Christensen	Heidemann	Lautenbaugh	Nelson	Wallman
Council	Karpisek	McCoy	Pahls	White
Fischer	Langemeier	McGill	Price	

Present and not voting, 4:

Carlson	Fulton	Janssen	Wightman
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Excused and not voting, 1:

Schilz

The Avery amendment was adopted with 25 ayes, 19 nays, 4 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

## COMMITTEE REPORTS

## Judiciary

**LEGISLATIVE BILL 145.** Placed on General File with amendment.  
AM790

- 1 1. Strike original section 2 and insert the following new  
2 section:
- 3 Sec. 2. Section 28-1204.04, Reissue Revised Statutes of  
4 Nebraska, is amended to read:
- 5 28-1204.04 (1) Any person who possesses a firearm in a  
6 school, on school grounds, in a school-owned vehicle, or at a  
7 school-sponsored activity or athletic event ~~shall be~~ is guilty of  
8 the offense of unlawful possession of a firearm ~~on at a school~~  
9 ~~grounds.~~ Unlawful possession of a firearm on at a school grounds  
10 is a Class II misdemeanor. This subsection shall not apply to (a)  
11 the issuance of firearms to or possession by members of the armed  
12 forces of the United States, active or reserve, National Guard of  
13 this state, or Reserve Officers Training Corps or peace officers  
14 or other duly authorized law enforcement officers when on duty  
15 or training, (b) firearms which may lawfully be possessed by the  
16 person receiving instruction, for instruction under the immediate  
17 supervision of an adult instructor, (c) firearms which may lawfully  
18 be possessed by a member of a college or university rifle team,  
19 within the scope of such person's duties as a member of the team,  
20 (d) firearms which may lawfully be possessed by a person employed  
21 by a college or university in this state as part of an agriculture  
22 or a natural resources program of such college or university,  
23 within the scope of such person's employment, or (e)-(e) firearms  
1 contained within a private vehicle operated by a nonstudent adult  
2 which are not loaded and (i) are encased or (ii) are in a locked  
3 firearm rack that is on a motor vehicle. For purposes of this  
4 subsection, encased ~~shall mean~~ means enclosed in a case that is  
5 expressly made for the purpose of containing a firearm and that  
6 is completely zipped, snapped, buckled, tied, or otherwise fastened  
7 with no part of the firearm exposed.
- 8 (2) Any firearm possessed in violation of subsection (1)  
9 of this section ~~in a school, on school grounds, in a school-owned~~  
10 ~~vehicle, or at a school-sponsored activity or athletic event~~ shall  
11 be confiscated without warrant by a peace officer or may be  
12 confiscated without warrant by school administrative or teaching  
13 personnel. Any firearm confiscated by school administrative or  
14 teaching personnel shall be delivered to a peace officer as soon as  
15 practicable.
- 16 (3) Any firearm confiscated by or given to a peace  
17 officer pursuant to subsection (2) of this section shall be  
18 declared a common nuisance and shall be held by the peace officer  
19 prior to his or her delivery of the firearm to the property  
20 division of the law enforcement agency which employs the peace  
21 officer. The property division of such law enforcement agency shall

22 hold such firearm for as long as the firearm is needed as evidence.  
 23 After the firearm is no longer needed as evidence it shall be  
 24 destroyed in such manner as the court may direct.

25 (4) Whenever a firearm is confiscated and held pursuant  
 26 to this section or section 28-1204.02, the peace officer who  
 27 received such firearm shall cause to be filed within ten days after  
 1 the confiscation a petition for destruction of such firearm. The  
 2 petition shall be filed in the district court of the county in  
 3 which the confiscation is made. The petition shall describe the  
 4 firearm held, state the name of the owner, if known, allege the  
 5 essential elements of the violation which caused the confiscation,  
 6 and conclude with a prayer for disposition and destruction in such  
 7 manner as the court may direct. At any time after the confiscation  
 8 of the firearm and prior to court disposition, the owner of the  
 9 firearm seized may petition the district court of the county in  
 10 which the confiscation was made for possession of the firearm. The  
 11 court shall release the firearm to such owner only if the claim  
 12 of ownership can reasonably be shown to be true and either (a)  
 13 the owner of the firearm can show that the firearm was taken from  
 14 his or her property or place of business unlawfully or without  
 15 the knowledge and consent of the owner and that such property or  
 16 place of business is different from that of the person from whom  
 17 the firearm was confiscated or (b) the owner of the firearm is  
 18 acquitted of the charge of unlawful possession of a revolver in  
 19 violation of section 28-1204, unlawful transfer of a firearm to  
 20 a juvenile, or unlawful possession of a firearm ~~on at a school~~  
 21 ~~grounds~~. No firearm having significant antique value or historical  
 22 significance as determined by the Nebraska State Historical Society  
 23 shall be destroyed. If a firearm has significant antique value  
 24 or historical significance, it shall be sold at auction and the  
 25 proceeds ~~deposited in the permanent school fund~~, shall be remitted  
 26 to the State Treasurer for distribution in accordance with Article  
 27 VII, section 5, of the Constitution of Nebraska.

**LEGISLATIVE BILL 237.** Placed on General File with amendment.  
 AM870 is available in the Bill Room.

**LEGISLATIVE BILL 238.** Placed on General File with amendment.  
 AM903

- 1 1. On page 4, line 25, strike "(a)" and after
- 2 "maliciously" insert "(a)".

**LEGISLATIVE BILL 494.** Placed on General File with amendment.  
 AM844

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 54-617, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 54-617 For purposes of sections 54-617 to 54-624 and

6 section 6 of this act

7 (1) Animal control authority means an entity authorized  
8 to enforce the animal control laws of a county, city, or village or  
9 this state and includes any local law enforcement agency or other  
10 agency designated by a county, city, or village to enforce the  
11 animal control laws of such county, city, or village;

12 (2) Animal control officer means any individual employed,  
13 appointed, or authorized by an animal control authority for the  
14 purpose of aiding in the enforcement of sections 54-617 to 54-624  
15 and section 6 of this act or any other law or ordinance relating  
16 to the licensure of animals, control of animals, or seizure  
17 and impoundment of animals and includes any state or local law  
18 enforcement officer or other employee whose duties in whole or in  
19 part include assignments that involve the seizure and impoundment  
20 of any animal;

21 (3)(a) Dangerous dog means a dog that, according to  
22 the records of an animal control authority: (i) Has killed a  
23 human being; (ii) has inflicted injury on a human being that  
1 requires medical treatment; (iii) has killed a domestic animal  
2 without provocation; or (iv) has been previously determined to be  
3 a potentially dangerous dog by an animal control authority, the  
4 owner has received notice from an animal control authority or an  
5 animal control officer of such determination, and the dog inflicts  
6 an injury on a human being that does not require medical treatment,  
7 injures a domestic animal, or threatens the safety of humans or  
8 domestic animals.

9 (b)(i) A dog shall not be defined as a dangerous dog  
10 under subdivision (3)(a)(ii) of this section, and the owner shall  
11 not be guilty under section 6 of this act, if the individual was  
12 tormenting, abusing, or assaulting the dog at the time of the  
13 injury or has, in the past, been observed or reported to have  
14 tormented, abused, or assaulted the dog.

15 (ii) A dog shall not be defined as a dangerous dog under  
16 subdivision (3)(a)(iv) of this section, and the owner shall not  
17 be guilty under section 6 of this act, if the injury, damage,  
18 or threat was sustained by an individual who, at the time, was  
19 committing a willful trespass as defined in section 20-203, 28-520,  
20 or 28-521, was committing any other tort upon the property of the  
21 owner of the dog, was tormenting, abusing, or assaulting the dog,  
22 or has, in the past, been observed or reported to have tormented,  
23 abused, or assaulted the dog, or was committing or attempting to  
24 commit a crime.;

25 (iii) A dog shall not be defined as a dangerous dog under  
26 subdivision (3)(a) of this section if the dog is a police animal as  
27 defined in section 28-1008;

1 (4) Domestic animal means a cat, a dog, or livestock.  
2 Livestock includes buffalo, deer, antelope, fowl, and any other  
3 animal in any zoo, wildlife park, refuge, wildlife area, or nature  
4 center intended to be on exhibit;



5 (5) Medical treatment means treatment administered by a  
6 physician or other licensed health care professional;

7 (6) Owner means any person, firm, corporation,  
8 organization, political subdivision, or department possessing,  
9 harboring, keeping, or having control or custody of a dog; and

10 (7) Potentially dangerous dog means (a) any dog that  
11 when unprovoked (i) inflicts an injury on a human being that does  
12 not require medical treatment, (ii) injures a domestic animal, or  
13 (iii) chases or approaches a person upon streets, sidewalks, or  
14 any public grounds in a menacing fashion or apparent attitude of  
15 attack or (b) any specific dog with a known propensity, tendency,  
16 or disposition to attack when unprovoked, to cause injury, or to  
17 threaten the safety of humans or domestic animals.

18 Sec. 2. Section 54-620, Revised Statutes Cumulative  
19 Supplement, 2008, is amended to read:

20 54-620 Any dangerous dog may be immediately confiscated  
21 by an animal control officer if the owner is in violation  
22 of sections 54-617 to 54-624 and section 6 of this act. The  
23 owner shall be responsible for the reasonable costs incurred by  
24 the animal control authority for the care of a dangerous dog  
25 confiscated by an animal control officer or for the destruction of  
26 any dangerous dog if the action by the animal control authority is  
27 pursuant to law and if the owner violated sections 54-617 to 54-624  
1 and section 6 of this act.

2 Sec. 3. Section 54-622, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 54-622 ~~Any person~~ Except as provided in section 6 of this  
5 act, any owner who violates sections 54-617 to 54-621 shall be  
6 guilty of a Class IV misdemeanor.

7 Sec. 4. Section 54-623, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9 54-623 (1) Any ~~person-owner~~ convicted of a violation of  
10 sections 54-617 to 54-624 and section 6 of this act shall not own  
11 a dangerous dog within ten years after such conviction. Any ~~person~~  
12 owner violating this subsection shall be guilty of a Class IIIA  
13 misdemeanor, and the dog shall be treated as provided in subsection  
14 (2) of this section.

15 (2) ~~If~~ Except as provided in section 6 of this act, if  
16 a dangerous dog of an owner with a prior conviction under sections  
17 54-617 to 54-624 and section 6 of this act attacks or bites a  
18 human being or domestic animal, the owner shall be guilty of a  
19 Class IIIA misdemeanor. In addition, the dangerous dog shall be  
20 immediately confiscated by an animal control authority, placed in  
21 quarantine for the proper length of time, and thereafter destroyed  
22 in an expeditious and humane manner.

23 Sec. 5. Section 54-623.01, Revised Statutes Cumulative  
24 Supplement, 2008, is amended to read:

25 54-623.01 Each county shall designate an animal control  
26 authority that shall be responsible for enforcing sections 54-617

27 to 54-624 and section 6 of this act and the laws of such county  
1 regarding dangerous dogs.

2 Sec. 6. (1) Any owner whose dangerous dog inflicts on a  
3 human being a serious bodily injury as defined in section 28-109 is  
4 guilty of a Class IV felony.

5 (2) It is a defense to a violation of subsection (1)  
6 of this section that the dangerous dog was, at the time of the  
7 infliction of the serious bodily injury, in the custody of or under  
8 the direct control of a person other than the owner or the owner's  
9 immediate family.

10 Sec. 7. Section 54-624, Revised Statutes Cumulative  
11 Supplement, 2008, is amended to read:

12 54-624 Nothing in sections 54-617 to 54-623.01 and  
13 section 6 of this act shall be construed to restrict or prohibit  
14 any governing board of any county, city, or village from  
15 establishing and enforcing laws or ordinances at least as stringent  
16 as the provisions of sections 54-617 to 54-623.01 and section 6  
17 of this act.

18 Sec. 8. Original section 54-622, Reissue Revised Statutes  
19 of Nebraska, and sections 54-617, 54-620, 54-623, 54-623.01, and  
20 54-624, Revised Statutes Cumulative Supplement, 2008, are repealed.

(Signed) Brad Ashford, Chairperson

Transportation and Telecommunications

**LEGISLATIVE BILL 497.** Placed on General File with amendment.  
AM627 is available in the Bill Room.

(Signed) Deb Fischer, Chairperson

Judiciary

**LEGISLATIVE BILL 374.** Placed on General File with amendment.  
AM925

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

3 Section 1. Section 25-1708, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

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

12 Sec. 2. The parties to a civil action may, as part of  
13 a settlement of the action, agree to the payment of costs of the  
14 action.

15 Sec. 3. Original section 25-1708, Reissue Revised  
16 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 375.** Placed on General File with amendment.  
AM924

1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 25-1801, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 25-1801 Any person, partnership, limited liability  
6 company, association, or corporation in this state having a  
7 claim which amounts to ~~two~~ four thousand dollars or less against  
8 any person, partnership, limited liability company, association,  
9 or corporation doing business in this state for (1) services  
10 rendered, (2) labor done, (3) material furnished, (4) overcharges  
11 made and collected, (5) lost or damaged personal property, (6)  
12 damage resulting from delay in transmission or transportation, (7)  
13 livestock killed or injured in transit, or (8) charges covering  
14 articles and service affecting the life and well-being of the  
15 debtor which are adjudged by the court to be necessities of life  
16 may present the same to such person, partnership, limited liability  
17 company, association, or corporation, or to any agent thereof,  
18 for payment in any county where suit may be instituted for the  
19 collection of the same. If, at the expiration of ninety days after  
20 the presentation of such claim, the same has not been paid or  
21 satisfied, he, she, or it may institute suit thereon in the proper  
22 court. If payment is made to the plaintiff by or on behalf of  
23 the defendant after the filing of the suit but before judgment is  
1 taken, except as otherwise agreed in writing by the plaintiff, the  
2 plaintiff shall be entitled to receive the costs of suit whether  
3 by voluntary payment or judgment. If he, she, or it establishes  
4 the claim and secures judgment thereon, he, she, or it shall be  
5 entitled to recover the full amount of such judgment and all costs  
6 of suit thereon, and, in addition thereto, interest on the amount  
7 of the claim at the rate of six percent per annum from the date  
8 of presentation thereof, and, if he, she, or it has an attorney  
9 employed in the case, an amount for attorney's fees as provided  
10 in this section. If the cause is taken to an appellate court  
11 and plaintiff shall recover judgment thereon, the appellate court  
12 shall tax as costs in the action, to be paid to the plaintiff,  
13 an additional amount for attorney's fees in such appellate court  
14 as provided in this section, except that if the party in interest  
15 fails to recover a judgment in excess of the amount that may  
16 have been tendered by any person, partnership, limited liability  
17 company, association, or corporation liable under this section,  
18 then such party in interest shall not recover the attorney's fees  
19 provided by this section. Attorney's fees shall be assessed by the  
20 court in a reasonable amount but shall in no event be less than  
21 ten dollars when the judgment is fifty dollars or less and when

- 22 the judgment is over fifty dollars up to ~~two~~ four thousand dollars  
 23 the attorney's fee shall be ten dollars plus ten percent of the  
 24 judgment in excess of fifty dollars.  
 25 Sec. 2. Original section 25-1801, Reissue Revised  
 26 Statutes of Nebraska, is repealed.

(Signed) Brad Ashford, Chairperson

Revenue

**LEGISLATIVE BILL 385.** Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

### **COMMITTEE REPORT**

Judiciary

The Judiciary Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

James Pearson - Board of Parole

Aye: 8 Senators Ashford, Christensen, Coash, Council, Lathrop, Lautenbaugh, McGill, Rogert. Nay: 0. Absent: 0.

(Signed) Brad Ashford, Chairperson

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

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

### **VISITORS**

Visitors to the Chamber were Patrick Walsh from Omaha; members of Mayor's Youth Council and sponsors from Hastings and Juniata; 18 fourth-grade students and teacher from Arapahoe; Alpha Kappa Alpha Sorority alumni from Omaha and Lincoln; and 38 fourth-grade students, teachers, and sponsor from Meadows Elementary, Omaha.

### **RECESS**

At 12:03 p.m., on a motion by Senator McGill, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

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

**ROLL CALL**

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

**SELECT FILE**

**LEGISLATIVE BILL 355.** Senator Lautenbaugh offered the following amendment:

AM891 is available in the Bill Room.

Senator Lautenbaugh withdrew his amendment.

Senator Utter offered the following amendment:

AM968

(Amendments to E & R amendments, ER8042)

- 1 1. On page 9, line 23, after the first "which" insert
- 2 "does not permit a person under the age of majority established in
- 3 section 43-2101 to be on the premises, which".

Senator Coash moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 6 nays, and 18 not voting.

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

Senator Utter requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Adams	Dierks	Hadley	Karpisek	Nantkes
Avery	Giese	Hansen	Lathrop	Pankonin
Campbell	Gloor	Harms	McGill	Stuthman
Cook	Haar	Howard	Mello	Utter

Voting in the negative, 22:

Christensen	Friend	Lautenbaugh	Pirsch	Wallman
Council	Fulton	McCoy	Price	White
Dubas	Heidemann	Nelson	Rogert	
Fischer	Janssen	Nordquist	Schilz	
Flood	Langemeier	Pahls	Sullivan	

Present and not voting, 5:

Carlson	Cornett	Gay	Louden	Wightman
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Excused and not voting, 2:

Ashford          Coash

The Utter amendment lost with 20 ayes, 22 nays, 5 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Avery offered the following amendment:

AM798

(Amendments to Standing Committee amendments, AM445)

- 1 1. On page 1, lines 3 through 5, strike the new matter
- 2 and insert "Nothing in sections 1 to 5 of this act shall prohibit
- 3 or otherwise restrict any county resolution or city ordinance
- 4 adopted by an initiative or referendum prior to the operative date
- 5 of this act from prohibiting or restricting smoking.".

Senator Avery withdrew his amendment.

Senator Gay offered the following amendment:

AM976

(Amendments to E & R amendments, ER8042)

- 1 1. On page 9, line 23, after "food" insert "or cigarettes
- 2 as defined in section 69-2702"; and strike beginning with "except"
- 3 in line 26 through the comma in line 27.

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 6 nays, and 18 not voting.

Senator Gay moved for a call of the house. The motion prevailed with 37 ayes, 1 nay, and 11 not voting.

Senator Gay requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Adams	Cornett	Gloor	Pankonin
Avery	Dierks	Haar	Stuthman
Campbell	Gay	Harms	Sullivan
Cook	Giese	Howard	Utter

Voting in the negative, 24:

Carlson	Fischer	Karpisek	Nantkes	Schilz
Christensen	Flood	Langemeier	Nelson	Wallman
Coash	Fulton	Lathrop	Pirsch	White
Council	Heidemann	Lautenbaugh	Price	Wightman
Dubas	Janssen	McCoy	Regert	

Present and not voting, 8:

Friend	Hansen	McGill	Nordquist
Hadley	Louden	Mello	Pahls

Excused and not voting, 1:

Ashford

The Gay amendment lost with 16 ayes, 24 nays, 8 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Stuthman offered the following amendment:

AM979

(Amendments to E & R amendments, ER8042)

- 1 1. On page 9, line 24, strike "ten" and insert
- 2 "fifty-one".

Senator Stuthman withdrew his amendment.

Senator Stuthman offered the following amendment:

AM978

(Amendments to E & R amendments, ER8042)

- 1 1. On page 9, line 24, strike "ten" and insert
- 2 "fifty-five".

Senator Stuthman withdrew his amendment.

Senator Stuthman offered the following amendment:

AM977

(Amendments to E & R amendments, ER8042)

- 1 1. On page 9, line 22, strike "Cigar" and insert
- 2 "Smoking".

The Stuthman amendment lost with 5 ayes, 26 nays, 14 present and not voting, and 4 excused and not voting.

Senator Lautenbaugh offered the following amendment:

AM981 is available in the Bill Room.

The Lautenbaugh amendment was adopted with 32 ayes, 0 nays, 14 present

and not voting, and 3 excused and not voting.

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

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

**LEGISLATIVE BILL 511.** ER8047, found on page 883, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 464.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 464A.** Advanced to Enrollment and Review for Engrossment.

#### **GENERAL FILE**

**LEGISLATIVE BILL 98.** Senator White renewed his amendment, FA25, found on page 928.

Senator White withdrew his amendment.

Senator Wallman renewed his amendment, AM963, found on page 930.

Senator Wallman withdrew his amendment.

Advanced to Enrollment and Review Initial with 35 ayes, 3 nays, 7 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 98A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 1 nay, 10 present and not voting, and 4 excused and not voting.

#### **MOTION - Print in Journal**

Senator Gay filed the following motion to LB195:  
MO29

Recommit to the Health and Human Services Committee pursuant to Rule 7, Section 3.



**AMENDMENT - Print in Journal**

Senator Dubas filed the following amendment to LB246:  
AM964

(Amendments to Standing Committee amendments, AM749)

- 1 1. On page 2, strike line 6 and insert "agree to remit
- 2 one hundred thousand dollars to the State Treasurer for credit to
- 3 the Biotechnology Development Cash Fund for the research"; in line
- 4 21 after the period insert "The fund may receive gifts, bequests,
- 5 grants, or other contributions or donations from public or private
- 6 entities. The State Treasurer shall transfer one hundred thousand
- 7 dollars from the General Fund to the Biotechnology Development Cash
- 8 Fund within five days after the effective date of the act."; and in
- 9 line 22 strike "one" and insert "two".

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 601A.** Introduced by Nordquist, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 601, One Hundred First Legislature, First Session, 2009; to reduce appropriations; and to declare an emergency.

**LEGISLATIVE BILL 35A.** Introduced by Ashford, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 35, One Hundred First Legislature, First Session, 2009; to provide an operative date; and to declare an emergency.

**COMMITTEE REPORT**

Revenue

**LEGISLATIVE BILL 294.** Placed on General File.

(Signed) Abbie Cornett, Chairperson

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 549.** Placed on Select File with amendment.  
ER8056

- 1 1. In the Standing Committee amendments, AM822:
- 2 a. On page 8, line 17, reinstate the stricken "shall";
- 3 b. On page 10, lines 4, 7, and 11, strike "(3)", show as
- 4 stricken, and insert "(4)";

- 5 c. On page 11, line 27; and page 12, line 5, after  
6 "option" insert "school";
- 7 d. On page 12, line 22, after "option" insert "school"  
8 and strike "subdivision" and insert "subsection";
- 9 e. On page 15, line 2, strike the comma and show as  
10 stricken;
- 11 f. On page 16, line 16, after "academic" insert  
12 "material";
- 13 g. On page 37, line 4, after "permit" insert an  
14 underscored comma; and in line 5 after "holder" insert an  
15 underscored comma;
- 16 h. On page 41, line 4, strike "Schools" and insert  
17 "School districts"; and in line 8 after "traveled" insert an  
18 underscored comma;
- 19 i. On page 71, line 4, strike "in form of a resolution"  
20 and show as stricken; and
- 21 j. On page 86, line 3, after the stricken "each" insert  
22 "such".
- 23 2. On page 1, strike lines 2 through 14 and insert  
1 "60-658, 79-234, 79-239, 79-240, 79-2,104, 79-2,105, 79-304,  
2 79-305, 79-306, 79-310, 79-313, 79-317, 79-318, 79-319, 79-528,  
3 79-569, 79-598, 79-606, 79-608, 79-611, 79-1003, 79-1007.06,  
4 79-1007.08, 79-1007.16, 79-1007.20, 79-1007.21, 79-1014,  
5 79-1065.01, 79-1084, 79-1086, 79-10,110, 79-1102.01, 79-1110,  
6 79-1127, 79-1148, 79-1149, 79-1150, 79-1161, 79-1204, 79-1212,  
7 79-1241.01, 79-1241.03, 79-1601, 79-1606, and 85-607, Reissue  
8 Revised Statutes of Nebraska, and sections 79-233, 79-237, 79-238,  
9 and 79-1007.22, Reissue Revised Statutes of Nebraska, as amended  
10 by sections 1, 2, 3, and 4, respectively, Legislative Bill 62,  
11 One Hundred First Legislature, First Session, 2009; to change  
12 provisions relating to exempt schools and students, records of  
13 missing persons, the enrollment option program, student files,  
14 qualifications of the Commissioner of Education and members of the  
15 State Board of Education, powers and duties of the commissioner  
16 and the state board, school buses, transportation reimbursement,  
17 reports, school board meetings, contracts for instruction, the  
18 Tax Equity and Educational Opportunities Support Act, state aid  
19 adjustments, school tax levies, early childhood education programs,  
20 the Special Education Act, educational service units, and certain  
21 college admissions as prescribed; to harmonize provisions; to  
22 eliminate the Nebraska Equal Opportunity for Displaced Homemakers  
23 Act and provisions relating to the Diagnostic Resource Center  
24 at Cozad, the Seamless Delivery System Pilot Project, and core  
25 services funding for educational service units for prior fiscal  
26 years; to repeal the original sections; and to outright repeal  
27 sections 48-1301, 48-1302, 48-1303, 48-1304, 48-1305, 48-1306,  
1 48-1309, 79-1168, 79-1169, 79-1170, 79-1171, 79-1172, 79-1173,  
2 79-1174, 79-1175, 79-1176, 79-1177, 79-1178, 79-11,136, 79-11,137,  
3 79-11,138, 79-11,139, 79-11,140, 79-11,141, and 79-1241, Reissue

- 4 Revised Statutes of Nebraska."  
5 3. On page 2, strike lines 1 through 11.

**LEGISLATIVE BILL 136.** Placed on Select File with amendment.  
ER8054

- 1 1. On page 1, strike beginning with "sections" in line  
2 1 through "68-1724" in line 2 and insert "section 68-915"; and in  
3 line 5 strike "sections" and insert "section".

**LEGISLATIVE BILL 136A.** Placed on Select File.

**LEGISLATIVE BILL 601.** Placed on Select File with amendment.  
ER8055

- 1 1. On page 1, line 2, strike "68-901" and insert  
2 "68-911".

(Signed) Jeremy Nordquist, Chairperson

**UNANIMOUS CONSENT - Add Cointroducer**

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

**VISITORS**

Visitors to the Chamber were members of FCCLA and sponsor from Fremont; 58 fourth-grade students and teachers from Morton Elementary, Hastings; and members of FCCLA Leadership Conference from Kearney.

**ADJOURNMENT**

At 4:18 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Tuesday, April 7, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTY-SEVENTH DAY - APRIL 7, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FIFTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 7, 2009

**PRAYER**

The prayer was offered by Pastor Bob Lawrence, South Auburn Church of Christ, Auburn.

**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 Senator White who was excused; and Senator Dierks who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-sixth day was approved.

**RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR67 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR67.

**MOTION - Recommit LB195 to Committee**

Senator Gay renewed his motion, MO29, found on page 952, to recommit LB195 to the Health and Human Services Committee pursuant to Rule 7, Section 3.

The Gay motion to recommit to committee prevailed with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 458.** Senator Lathrop offered the following motion:  
MO30  
Bracket.

Senator Lathrop withdrew his motion to bracket.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 206.** ER8043, found on page 865, was adopted.

Senator Lautenbaugh offered the following amendment:  
AM997

- 1 1. Insert the following new sections:
- 2 Sec. 7. Section 18-1723, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 18-1723 Whenever any firefighter who has served a total
- 5 of five years as a member of a paid fire department of any city
- 6 in this state or any police officer of any city or village,
- 7 including any city having a home rule charter, shall suffer death
- 8 or disability as a result of hypertension or heart or respiratory
- 9 defect or disease, there shall be a rebuttable presumption that
- 10 such death or disability resulted from accident or other cause
- 11 while in the line of duty for all purposes of Chapter 15, article
- 12 10, sections 16-1001 to 16-1042, and any firefighter's or police
- 13 officer's pension plan established pursuant to any home rule
- 14 charter, the Legislature specifically finding the subject of this
- 15 section to be a matter of general statewide concern. The rebuttable
- 16 presumption shall apply to death or disability as a result of
- 17 hypertension or heart or respiratory defect or disease after the
- 18 firefighter or police officer separates from his or her applicable
- 19 employment if the death or disability occurs within three months
- 20 after such separation. Such rebuttable presumption shall apply
- 21 in any action or proceeding arising out of death or disability
- 22 incurred prior to December 25, 1969, and which has not been
- 23 processed to final administrative or judicial conclusion prior to
- 1 such date.
- 2 Sec. 8. Section 35-1001, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 35-1001 (1) For a firefighter or firefighter-paramedic
- 5 who is a member of a paid fire department of a municipality or a
- 6 rural or suburban fire protection district in this state, including
- 7 a municipality having a home rule charter or a municipal authority
- 8 created pursuant to a home rule charter that has its own paid
- 9 fire department, and who suffers death or disability as a result
- 10 of cancer, including, but not limited to, cancer affecting the
- 11 skin or the central nervous, lymphatic, digestive, hematological,
- 12 urinary, skeletal, oral, or prostate systems, evidence which

13 demonstrates that ~~(1)-(a)~~ such firefighter or firefighter-paramedic  
14 successfully passed a physical examination upon entry into such  
15 service or subsequent to such entry, which examination failed  
16 to reveal any evidence of cancer, ~~(2)-(b)~~ such firefighter  
17 or firefighter-paramedic was exposed to a known carcinogen, as  
18 defined on July 19, 1996, by the International Agency for Research  
19 on Cancer, while in the service of the fire department, and  
20 ~~(3)-(c)~~ such carcinogen is reported by the agency to be a  
21 suspected or known cause of the type of cancer the firefighter  
22 or firefighter-paramedic has, shall be prima facie evidence that  
23 such death or disability resulted from injuries, accident, or other  
24 cause while in the line of duty for the purposes of sections  
25 16-1020 to 16-1042, a firefighter's pension plan established  
26 pursuant to a home rule charter, and a firefighter's pension or  
27 disability plan established by a rural or suburban fire protection  
1 district.

2 (2) For a firefighter or firefighter-paramedic who  
3 is a member of a paid fire department of a municipality or  
4 a rural or suburban fire protection district in this state,  
5 including a municipality having a home rule charter or a  
6 municipal authority created pursuant to a home rule charter  
7 that has its own paid fire department, and who suffers death  
8 or disability as a result of a blood-borne infectious disease,  
9 tuberculosis, meningococcal meningitis, or methicillin-resistant  
10 Staphylococcus aureus, evidence which demonstrates that (a)  
11 such firefighter or firefighter-paramedic successfully passed a  
12 physical examination upon entry into such service or subsequent  
13 to such entry, which examination failed to reveal any evidence of  
14 such blood-borne infectious disease, tuberculosis, meningococcal  
15 meningitis, or methicillin-resistant Staphylococcus aureus, and  
16 (b) such firefighter or firefighter-paramedic has engaged in the  
17 service of the fire department within ten years before the onset  
18 of the disease, shall be prima facie evidence that such death  
19 or disability resulted from injuries, accident, or other cause  
20 while in the line of duty for the purposes of sections 16-1020 to  
21 16-1042, a firefighter's pension plan established pursuant to a  
22 home rule charter, and a firefighter's pension or disability plan  
23 established by a rural or suburban fire protection district.

24 (3) The prima facie evidence presumed under this  
25 section shall extend to death or disability as a result  
26 of cancer as described in this section, a blood-borne  
27 infectious disease, tuberculosis, meningococcal meningitis, or  
1 methicillin-resistant Staphylococcus aureus after the firefighter  
2 or firefighter-paramedic separates from his or her service to the  
3 fire department if the death or disability occurs within three  
4 months after such separation.

5 (4) For purposes of this section, blood-borne  
6 infectious disease means human immunodeficiency virus, acquired  
7 immunodeficiency syndrome, and all strains of hepatitis.

- 8 Sec. 9. Original sections 18-1723 and 35-1001, Reissue  
 9 Revised Statutes of Nebraska, are repealed.  
 10 2. Renumber the remaining section accordingly.

### SENATOR LATHROP PRESIDING

### SPEAKER FLOOD PRESIDING

Senator Nelson requested a ruling of the Chair on whether the Lautenbaugh amendment is germane to the bill.

The Chair ruled the Lautenbaugh amendment is germane to the bill.

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

Senator Lautenbaugh requested a roll call vote on his amendment.

Voting in the affirmative, 21:

Ashford	Friend	Lathrop	Nordquist	Wallman
Coash	Giese	Lautenbaugh	Pirsch	
Cook	Haar	McGill	Rogert	
Council	Howard	Mello	Schilz	
Dubas	Karpisek	Nantkes	Sullivan	

Voting in the negative, 26:

Adams	Dierks	Hadley	Louden	Utter
Avery	Fischer	Hansen	McCoy	Wightman
Campbell	Flood	Harms	Nelson	
Carlson	Fulton	Heidemann	Pahls	
Christensen	Gay	Janssen	Pankonin	
Cornett	Gloor	Langemeier	Stuthman	

Excused and not voting, 2:

Price	White
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The Lautenbaugh amendment lost with 21 ayes, 26 nays, and 2 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.



**LEGISLATIVE BILL 477.** ER8044, found on page 873, was adopted.

Senator Carlson offered the following amendment:

AM991

(Amendments to Standing Committee amendments, ER8044)

- 1 1. Insert the following new section:
- 2 Sec. 9. The determination of certified water uses or
- 3 certified irrigated acres by a natural resources district shall not
- 4 affect the allocations of ground water established under section
- 5 46-740.
- 6 2. On page 10, line 17, strike "and 8" and insert ", 8,
- 7 and 9".
- 8 3. On page 16, lines 3 and 22; page 20, lines 1, 3, and
- 9 23; page 24, line 25; page 25, lines 6 and 21; and page 26, lines
- 10 9 and 11, strike "land" and insert "acres".
- 11 4. On page 16, strike lines 21 and 22 and insert:
- 12 "(c) Require the reporting of water uses and irrigated
- 13 acres by landowners and others with control over the water uses and
- 14 irrigated acres for the purpose of certification by the district;".
- 15 5. On page 25, line 3, strike "licensed" and insert
- 16 "registered"; in line 4 strike "department pursuant to subdivision
- 17 (1)(b) of section 46-290" and insert "district"; and in line 11
- 18 strike "land is" and insert "acres are".
- 19 6. On page 26, line 14, strike "land was" and insert
- 20 "acres were" and after the underscored comma insert "the nature
- 21 of the transfer, and"; strike beginning with the underscored comma
- 22 in line 15 through "transfer" in line 19; and in line 23 strike
- 1 "other".
- 2 7. Renumber the remaining section accordingly.

The Carlson amendment was adopted with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 555.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 396.** ER8045, found on page 873, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 449.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 340.** ER8046, found on page 873, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 463.** ER8048, found on page 883, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 517.** ER8050, found on page 884, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 430.** ER8052, found on page 928, was adopted.

Senator Hansen renewed his amendment, AM958, found on page 930.

### SENATOR LATHROP PRESIDING

The Hansen amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Senator Avery offered the following amendment:  
AM993

(Amendments to E & R amendments, ER8052)

- 1 1. Insert the following new sections:
- 2 Sec. 6. Section 28-1201, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 28-1201 For purposes of sections 28-1201 to 28-1212,
- 5 unless the context otherwise requires:
- 6 (1) Firearm ~~shall mean means~~ any weapon which is designed
- 7 to or may readily be converted to expel any projectile by the
- 8 action of an explosive or frame or receiver of any such weapon;
- 9 (2) Fugitive from justice ~~shall mean means~~ any person who
- 10 has fled or is fleeing from any peace officer to avoid prosecution
- 11 or incarceration for a felony;
- 12 (3) Juvenile ~~shall mean means~~ any person under the age of
- 13 eighteen years;
- 14 (4) Knife ~~shall mean means~~ any dagger, dirk, knife, or
- 15 stiletto with a blade over three and one-half inches in length
- 16 or any other dangerous instrument capable of inflicting cutting,
- 17 stabbing, or tearing wounds;
- 18 (5) Knuckles and brass or iron knuckles ~~shall mean means~~
- 19 any instrument that consists of finger rings or guards made of
- 20 a hard substance and that is designed, made, or adapted for the
- 21 purpose of inflicting serious bodily injury or death by striking a
- 22 person with a fist enclosed in the knuckles;
- 1 (6) Machine gun ~~shall mean means~~ any firearm, whatever
- 2 its size and usual designation, that shoots automatically more than
- 3 one shot, without manual reloading, by a single function of the
- 4 trigger;
- 5 (7) School means a public, private, denominational, or

6 parochial elementary, vocational, or secondary school, a private  
 7 postsecondary career school as defined in section 85-1603, a  
 8 community college, a public or private college, a junior college,  
 9 or a university;

10 ~~(7)~~~~(8)~~ Short rifle ~~shall mean means~~ a rifle having a  
 11 barrel less than sixteen inches long or an overall length of less  
 12 than twenty-six inches; and

13 ~~(8)~~~~(9)~~ Short shotgun ~~shall mean means~~ a shotgun having  
 14 a barrel or barrels less than eighteen inches long or an overall  
 15 length of less than twenty-six inches.

16 Sec. 7. Section 28-1204.03, Reissue Revised Statutes of  
 17 Nebraska, is amended to read:

18 28-1204.03 The Legislature finds that:

19 (1) Increased violence ~~in~~at schools has become a  
 20 national, state, and local problem;

21 (2) Increased violence and the threat of violence has a  
 22 grave and detrimental impact on the educational process in Nebraska  
 23 schools;

24 (3) Increased violence has caused fear and concern among  
 25 not only the schools and students but the public at large;

26 (4) Firearms have contributed greatly to the increase of  
 27 fear and concern among our citizens;

1 (5) Schools have a duty to protect their students and  
 2 provide an environment which promotes and provides an education in  
 3 a nonthreatening manner;

4 (6) An additional danger of firearms ~~in~~at schools is the  
 5 risk of accidental discharge and harm to students and staff;

6 (7) Firearms are an immediate and inherently dangerous  
 7 threat to the safety and well-being of an educational setting; and

8 (8) The ability to confiscate and remove firearms quickly  
 9 from school grounds is a legitimate and necessary tool to protect  
 10 students and the educational process.

11 Sec. 8. Section 28-1204.04, Reissue Revised Statutes of  
 12 Nebraska, is amended to read:

13 28-1204.04 (1) Any person who possesses a firearm in a  
 14 school, on school grounds, in a school-owned vehicle, or at a  
 15 school-sponsored activity or athletic event ~~shall be is~~ guilty of  
 16 the offense of unlawful possession of a firearm ~~on~~at a school,  
 17 ~~grounds~~. Unlawful possession of a firearm ~~on~~at a school ~~grounds~~  
 18 is a Class II misdemeanor. This subsection shall not apply to (a)  
 19 the issuance of firearms to or possession by members of the armed  
 20 forces of the United States, active or reserve, National Guard of  
 21 this state, or Reserve Officers Training Corps or peace officers  
 22 or other duly authorized law enforcement officers when on duty  
 23 or training, (b) firearms which may lawfully be possessed by the  
 24 person receiving instruction, for instruction under the immediate  
 25 supervision of an adult instructor, (c) firearms which may lawfully  
 26 be possessed by a member of a college or university rifle team,  
 27 within the scope of such person's duties as a member of the team,

1 (d) firearms which may lawfully be possessed by a person employed  
2 by a college or university in this state as part of an agriculture  
3 or a natural resources program of such college or university,  
4 within the scope of such person's employment, or ~~(e)~~ (e) firearms  
5 contained within a private vehicle operated by a nonstudent adult  
6 which are not loaded and (i) are encased or (ii) are in a locked  
7 firearm rack that is on a motor vehicle. For purposes of this  
8 subsection, encased ~~shall mean~~ means enclosed in a case that is  
9 expressly made for the purpose of containing a firearm and that  
10 is completely zipped, snapped, buckled, tied, or otherwise fastened  
11 with no part of the firearm exposed.

12 (2) Any firearm possessed in violation of subsection (1)  
13 of this section ~~in a school, on school grounds, in a school-owned~~  
14 ~~vehicle, or at a school-sponsored activity or athletic event~~ shall  
15 be confiscated without warrant by a peace officer or may be  
16 confiscated without warrant by school administrative or teaching  
17 personnel. Any firearm confiscated by school administrative or  
18 teaching personnel shall be delivered to a peace officer as soon as  
19 practicable.

20 (3) Any firearm confiscated by or given to a peace  
21 officer pursuant to subsection (2) of this section shall be  
22 declared a common nuisance and shall be held by the peace officer  
23 prior to his or her delivery of the firearm to the property  
24 division of the law enforcement agency which employs the peace  
25 officer. The property division of such law enforcement agency shall  
26 hold such firearm for as long as the firearm is needed as evidence.  
27 After the firearm is no longer needed as evidence it shall be  
1 destroyed in such manner as the court may direct.

2 (4) Whenever a firearm is confiscated and held pursuant  
3 to this section or section 28-1204.02, the peace officer who  
4 received such firearm shall cause to be filed within ten days after  
5 the confiscation a petition for destruction of such firearm. The  
6 petition shall be filed in the district court of the county in  
7 which the confiscation is made. The petition shall describe the  
8 firearm held, state the name of the owner, if known, allege the  
9 essential elements of the violation which caused the confiscation,  
10 and conclude with a prayer for disposition and destruction in such  
11 manner as the court may direct. At any time after the confiscation  
12 of the firearm and prior to court disposition, the owner of the  
13 firearm seized may petition the district court of the county in  
14 which the confiscation was made for possession of the firearm. The  
15 court shall release the firearm to such owner only if the claim  
16 of ownership can reasonably be shown to be true and either (a)  
17 the owner of the firearm can show that the firearm was taken from  
18 his or her property or place of business unlawfully or without  
19 the knowledge and consent of the owner and that such property or  
20 place of business is different from that of the person from whom  
21 the firearm was confiscated or (b) the owner of the firearm is  
22 acquitted of the charge of unlawful possession of a revolver in

- 23 violation of section 28-1204, unlawful transfer of a firearm to  
 24 a juvenile, or unlawful possession of a firearm ~~on~~at a school,  
 25 ~~grounds.~~No firearm having significant antique value or historical  
 26 significance as determined by the Nebraska State Historical Society  
 27 shall be destroyed. If a firearm has significant antique value  
 1 or historical significance, it shall be sold at auction and the  
 2 proceeds ~~deposited in the permanent school fund.~~ shall be remitted  
 3 to the State Treasurer for distribution in accordance with Article  
 4 VII, section 5, of the Constitution of Nebraska.  
 5 2. On page 17, line 11, strike "10" and insert "13".  
 6 3. On page 21, strike beginning with "school" in line  
 7 1 through the first semicolon in line 2, show as stricken, and  
 8 insert "elementary, vocational, or secondary school, a private  
 9 postsecondary career school as defined in section 85-1603, a  
 10 community college, a public or private college, junior college, or  
 11 university:".  
 12 4. On page 23, line 11, strike "and" and after the last  
 13 comma insert "28-1201, 28-1204.03, 28-1204.04,".  
 14 5. Renumber the remaining sections accordingly.

The Avery amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Senator Price withdrew his amendment, AM940, found on page 887.

Pending.

## COMMITTEE REPORT

### Judiciary

**LEGISLATIVE BILL 347.** Placed on General File with amendment.  
 AM985

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 54-601, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 54-601 (1) Dogs are hereby declared to be personal  
 6 property for all intents and purposes, and, except as provided in  
 7 subsection (2) of this section, the owner or owners of any dog  
 8 or dogs shall be liable for any and all damages that may accrue  
 9 ~~(1)(a)~~ to any person, other than a trespasser, by reason of  
 10 having been bitten by any such dog or dogs and ~~(2)(b)~~ to any  
 11 person, firm, or corporation by reason of such dog or dogs killing,  
 12 wounding, injuring, worrying, or chasing any person or persons or  
 13 any sheep or other domestic animals belonging to such person, firm,  
 14 or corporation. Such damage may be recovered in any court having  
 15 jurisdiction of the amount claimed.  
 16 (2)(a) A governmental agency or its employees using a dog  
 17 in military or police work shall not be liable under subsection (1)

18 of this section to a party to, participant in, or person reasonably  
 19 suspected to be a party to or participant in the act that prompted  
 20 the use of the dog in the military or police work if the officers  
 21 of the governmental agency were complying with a written policy on  
 22 the necessary and appropriate use of a dog for military or police  
 23 work adopted by the governmental agency and if the damage occurred  
 1 while the dog was responding to a harassing or provoking act or  
 2 the damage was the result of a reasonable use of force while the  
 3 dog or dogs were assisting an employee of the agency in any of the  
 4 following:  
 5 (i) The apprehension or holding of a suspect if the  
 6 employee has a reasonable suspicion of the suspect's involvement in  
 7 criminal activity;  
 8 (ii) The investigation of a crime or possible crime;  
 9 (iii) The execution of a warrant; or  
 10 (iv) The defense of a peace officer or another person  
 11 other than the suspect.  
 12 (b) For purposes of this subsection, harassing or  
 13 provoking act means knowingly and intentionally attempting to  
 14 interfere with, interfering with, teasing or harassing such dog in  
 15 order to distract, or agitating or harming such dog.  
 16 Sec. 2. Original section 54-601, Reissue Revised Statutes  
 17 of Nebraska, is repealed.

(Signed) Brad Ashford, Chairperson

### **AMENDMENT - Print in Journal**

Senator Ashford filed the following amendment to LB35:  
 AM987

(Amendments to Standing Committee amendments, AM836)

- 1 1. On page 21, line 23, strike "seven" and insert
- 2 "eight".

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

Senator Howard asked unanimous consent to add her name as cointroducer to LB458. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 21 fourth-grade students and teacher from Hayward Elementary, Nebraska City; Senator McCoy's cousin, Matthew Bornstein, from Minneapolis, Minnesota; 84 fourth-grade students and teachers from St. Wenceslaus Elementary, Omaha; participants in the 25th Annual GFWC Nebraska Federation of Women's Club Sophomore Pilgrimage from across the state; alumni of Delta Sigma Theta Sorority from Lincoln and Omaha; and 18 fourth-grade students and teacher from Lyons-Decatur Northeast, Lyons.

**RECESS**

At 11:50 a.m., on a motion by Senator Dierks, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

**ROLL CALL**

The roll was called and all members were present except Senator White who was excused; and Senators Nelson, Schilz, and Wightman who were excused until they arrive.

**COMMITTEE REPORT**

Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Richard Christensen - State Emergency Response Commission  
Steven Danon - State Emergency Response Commission  
Donald Eisenhower - State Emergency Response Commission  
Larry Johnson - State Emergency Response Commission

Aye: 8 Senators Avery, Giese, Janssen, Karpisek, Pahls, Pirsch, Price, Sullivan. Nay: 0. Absent: 0.

(Signed) Bill Avery, Chairperson

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 68, 69, 70, 71, 72, 73, 74, 75, 76, and 77 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 68, 69, 70, 71, 72, 73, 74, 75, 76, and 77.

**GENERAL FILE**

**LEGISLATIVE BILL 420.** Title read. Considered.

Committee AM710, found on page 757, was considered.

Senator Hadley renewed his amendment, AM960, found on page 930, to the committee amendment.

Senator Karpisek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 8 nays, and 16 not voting.

The Hadley amendment was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

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

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

The Chair ruled there had not been a full and fair debate on the committee amendment.

The committee amendment, as amended, was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 159A.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 159, One Hundred First Legislature, First Session, 2009.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 82.** Introduced by Gloor, 35.

**PURPOSE:** The purpose of this interim study is to study the Grand Island Veterans' Home in Grand Island, Nebraska. The issues addressed by this interim study shall include, but not be limited to:

- (1) An examination of the physical strengths and deficiencies of the buildings and the campus of the Grand Island Veterans' Home;
- (2) A review of the expected life of the buildings and campus of the Grand Island Veterans' Home;



(3) An evaluation of the extent to which the age of the facilities affects the quality of care provided to the residents of the Grand Island Veterans' Home;

(4) An examination of physical improvements needed at the Grand Island Veterans' Home to accommodate advances in medical and administrative technology; and

(5) An evaluation of the present and future need for long-term care beds for veterans in Nebraska.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to 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.

### AMENDMENT - Print in Journal

Senator Coash filed the following amendment to LB63:  
AM995

(Amendments to E & R amendments, ER8031)

- 1 1. Insert the following sections:
- 2 Sec. 30. Section 43-2,119, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 43-2,119 (1) The number of judges of the separate
- 5 juvenile court in counties which have established a separate
- 6 juvenile court shall be:
- 7 (a) Two judges in counties having seventy-five thousand
- 8 inhabitants but less than two hundred thousand inhabitants;
- 9 (b) Four judges in counties having at least two
- 10 hundred thousand inhabitants but less than four hundred thousand
- 11 inhabitants; and
- 12 (c) ~~Five Six~~ judges in counties having four hundred
- 13 thousand inhabitants or more.
- 14 (2) The senior judge in point of service as a juvenile
- 15 court judge shall be the presiding judge. The judges shall rotate
- 16 the office of presiding judge every three years unless the judges
- 17 agree to another system.
- 18 Sec. 40. Sections 30 and 42 of this act become operative
- 19 on July 1, ~~2009~~-2011. The other sections of this act become
- 20 operative on their effective date.
- 21 Sec. 42. Original section 43-2,119, Reissue Revised
- 22 Statutes of Nebraska, is repealed.
- 1 2. Renumber the remaining sections accordingly.

**GENERAL FILE**

**LEGISLATIVE BILL 159.** Title read. Considered.

Pending.

**VISITORS**

Visitors to the Chamber were 63 eighth-grade students and teachers from Mary Our Queen School, Omaha; members of FCCLA and teacher from Doniphan; 18 twelfth-grade students and teacher from Arnold; 35 fourth-grade students and teacher from Bryan Elementary, Lexington; 36 fourth-grade students and teachers from Stanton; and 4 tenth-grade students, teacher, and sponsor from Morrill.

The Doctor of the Day was Dr. Mike Myers from Lincoln.

**ADJOURNMENT**

At 3:59 p.m., on a motion by Senator Lathrop, the Legislature adjourned until 9:00 a.m., Wednesday, April 8, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**FIFTY-EIGHTH DAY - APRIL 8, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****FIFTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 8, 2009

**PRAYER**

The prayer was offered by Reverend Theodora Boolin, First Baptist Church, Beatrice.

**ROLL CALL**

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

The roll was called and all members were present except Senators Cornett, Dubas, Friend, Haar, Loudon, Nantkes, Schilz, and Wightman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-seventh day was approved.

**MOTION - Approve Appointment**

Senator Ashford moved the adoption of the Judiciary Committee report for the confirmation of the following appointment(s) found on page 948:

Board of Parole  
James Pearson

Voting in the affirmative, 38:

Adams	Council	Hadley	Lautenbaugh	Rogert
Ashford	Dierks	Hansen	McCoy	Stuthman
Avery	Fischer	Harms	McGill	Sullivan
Campbell	Flood	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Langemeier	Pirsch	
Cook	Gloor	Lathrop	Price	

Voting in the negative, 0.

Present and not voting, 3:

Heidemann      Mello                  Pankonin

Excused and not voting, 8:

Cornett              Friend                  Louden                  Schilz  
Dubas                  Haar                  Nantkes                  Wightman

The appointment was confirmed with 38 ayes, 0 nays, 3 present and not voting, and 8 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 601A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 159.** Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 159A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 489.** Title read. Considered.

Committee AM731, found on page 767, was considered.

### SENATOR STUTHMAN PRESIDING

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion failed with 21 ayes, 9 nays, and 19 not voting.

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 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

**COMMITTEE REPORTS**

## Judiciary

**LEGISLATIVE BILL 39.** Placed on General File with amendment. AM980

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

3 Section 1. (1) The following evidence is not admissible  
4 in any civil or criminal proceeding involving alleged sexual  
5 misconduct except as provided in subsections (2) and (3) of this  
6 section:

7 (a) Evidence offered to prove that any victim engaged in  
8 other sexual behavior; and

9 (b) Evidence offered to prove any victim's sexual  
10 predisposition.

11 (2)(a) In a criminal case, the following evidence is  
12 admissible, if otherwise admissible under these rules:

13 (i) Evidence of specific instances of sexual behavior by  
14 the victim offered to prove that a person other than the defendant  
15 was the source of semen, injury, or other physical evidence;

16 (ii) Evidence of specific instances of sexual behavior by  
17 the victim with respect to the defendant of the sexual misconduct  
18 offered by the defendant to prove consent or by the prosecution;  
19 and

20 (iii) Evidence, the exclusion of which would violate the  
21 constitutional rights of the defendant.

22 (b) In a civil case, evidence offered to prove the sexual  
23 behavior or sexual predisposition of any victim is admissible if it  
1 is otherwise admissible under these rules and its probative value  
2 substantially outweighs the danger of harm to any victim and of  
3 unfair prejudice to any party. Evidence of a victim's reputation is  
4 admissible only if it has been placed in controversy by the victim.

5 (3)(a) A party intending to offer evidence under  
6 subsection (2) of this section shall:

7 (i) File a written motion at least fifteen days before  
8 trial specifically describing the evidence and stating the purpose  
9 for which it is offered unless the court, for good cause, requires  
10 a different time for filing or permits filing during trial; and

11 (ii) Serve the motion on all parties and notify  
12 the victim or, when appropriate, the victim's guardian or  
13 representative.

14 (b) Before admitting evidence under this rule the court  
15 shall conduct a hearing in camera outside the presence of any jury  
16 and afford the victim and parties a right to attend and be heard.

17 Sec. 2. For purposes of sections 3 and 4 of this act,  
18 offense of sexual assault means sexual assault under section 28-319  
19 or 28-320, sexual assault of a child under section 28-319.01  
20 or 28-320.01, sexual assault by use of computer under section  
21 28-320.02, sexual abuse of an inmate or parolee under sections

22 28-322.01 to 28-322.03, and sexual abuse of protected persons under  
23 section 28-322.04.

24 Sec. 3. (1) In a criminal case in which the defendant  
25 is accused of an offense of sexual assault, evidence of the  
26 defendant's commission of another offense or offenses of sexual  
27 assault is admissible if there is clear and convincing evidence  
1 otherwise admissible under these rules that the defendant committed  
2 the other offense or offenses. If admissible, such evidence may be  
3 considered for its bearing on any matter to which it is relevant.

4 (2) In a case in which the prosecution intends to offer  
5 evidence under this rule, the prosecuting attorney shall disclose  
6 the evidence to the defendant, including statements of witnesses or  
7 a summary of the substance of any testimony that is expected to be  
8 offered, at least fifteen days before the scheduled date of trial  
9 or at such later time as the court may allow for good cause.

10 (3) Before admitting evidence of the defendant's  
11 commission of another offense or offenses of sexual assault under  
12 this rule, the court shall conduct a hearing outside the presence  
13 of any jury and afford the victim and parties a right to attend and  
14 be heard. At the hearing, the rules of evidence shall apply and the  
15 court shall apply a section 27-403 balancing and admit the evidence  
16 unless the risk of prejudice substantially outweighs the probative  
17 value of the evidence. In assessing the balancing, the court may  
18 consider any relevant factor such as (a) the probability that the  
19 other offense occurred, (b) the proximity in time and intervening  
20 circumstances of the other offenses, and (c) the similarity of the  
21 other acts to the crime charged.

22 (4) This rule shall not be construed to limit the  
23 admission or consideration of evidence under any other rule.

24 Sec. 4. (1) In a civil case in which a claim for damages  
25 or other relief is predicated on a party's alleged commission of  
26 conduct constituting an offense of sexual assault, evidence of that  
27 party's commission of another offense or offenses of sexual assault  
1 is admissible if there is clear and convincing evidence otherwise  
2 admissible under these rules that the party committed the other  
3 offense or offenses. If admissible, such evidence may be considered  
4 for its bearing on any matter to which it is relevant.

5 (2) A party who intends to offer evidence under this  
6 section shall disclose the evidence to the party against whom it  
7 will be offered, including statements of witnesses or a summary of  
8 the substance of any testimony that is expected to be offered, at  
9 least fifteen days before the scheduled date of trial or at such  
10 later time as the court may allow for good cause.

11 (3) Before admitting evidence of a party's commission of  
12 another offense or offenses of sexual assault under this rule,  
13 the court shall conduct a hearing outside the presence of any  
14 jury and afford the victim and parties a right to attend and be  
15 heard. At the hearing, the rules of evidence shall apply and the  
16 court shall apply a section 27-403 balancing and admit the evidence

17 unless the risk of prejudice substantially outweighs the probative  
18 value of the evidence. In assessing the balancing, the court may  
19 consider any relevant factor such as (a) the probability that the  
20 other offense occurred, (b) the proximity in time and intervening  
21 circumstances of the other offenses, and (c) the similarity of the  
22 other acts to the crime charged.

23 (4) This section shall not be construed to limit the  
24 admission or consideration of evidence under any other section of  
25 the Nebraska Evidence Rules.

26 Sec. 5. Section 27-404, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1 27-404 (1) Evidence of a person's character or a trait of  
2 his or her character is not admissible for the purpose of proving  
3 that he or she acted in conformity therewith on a particular  
4 occasion, except:

5 (a) Evidence of a pertinent trait of his or her character  
6 offered by an accused, or by the prosecution to rebut the same;

7 (b) Evidence of a pertinent trait of character of the  
8 victim of the crime offered by an accused or by the prosecution to  
9 rebut the same, or evidence of a character trait of peacefulness  
10 of the victim offered by the prosecution in a homicide case to  
11 rebut evidence that the victim was the first aggressor. In the  
12 case of sexual assault, reputation or opinion evidence of the past  
13 sexual behavior of the victim of the sexual assault will not be  
14 admissible; or

15 (c) Evidence of the character of a witness as provided in  
16 sections 27-607 to 27-609.

17 (2) Evidence of other crimes, wrongs, or acts is not  
18 admissible to prove the character of a person in order to show  
19 that he or she acted in conformity therewith. It may, however,  
20 be admissible for other purposes, such as proof of motive,  
21 opportunity, intent, preparation, plan, knowledge, identity, or  
22 absence of mistake or accident.

23 (3) When such evidence is admissible pursuant to this  
24 section, in criminal cases evidence of other crimes, wrongs, or  
25 acts of the accused may be offered in evidence by the prosecution  
26 if the prosecution proves to the court by clear and convincing  
27 evidence that the accused committed the crime, wrong, or act. Such  
1 proof shall first be made outside the presence of any jury.

2 (4) Regarding the admissibility in a civil or criminal  
3 action of evidence of a person's commission of another offense or  
4 offenses of sexual assault under sections 28-319 to 28-322.04, see  
5 sections 2 to 4 of this act.

6 Sec. 6. Section 27-1103, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 27-1103 These rules and sections 1 to 4 of this act may  
9 be known and cited as the Nebraska Evidence Rules.

10 Sec. 7. Section 28-318, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 28-318 As used in sections 28-317 to ~~28-321~~, 28-323,  
13 unless the context otherwise requires:

14 (1) Actor means a person accused of sexual assault;

15 (2) Intimate parts means the genital area, groin, inner  
16 thighs, buttocks, or breasts;

17 (3) Past sexual behavior means sexual behavior other than  
18 the sexual behavior upon which the sexual assault is alleged;

19 (4) Serious personal injury means great bodily injury or  
20 disfigurement, extreme mental anguish or mental trauma, pregnancy,  
21 disease, or loss or impairment of a sexual or reproductive organ;

22 (5) Sexual contact means the intentional touching of the  
23 victim's sexual or intimate parts or the intentional touching of  
24 the victim's clothing covering the immediate area of the victim's  
25 sexual or intimate parts. Sexual contact shall also mean the  
26 touching by the actor of the actor's sexual or intimate parts or  
27 the clothing covering the immediate area of the actor's sexual or  
1 intimate parts when such touching is intentionally caused by the  
2 actor. Sexual contact shall include only such conduct which can be  
3 reasonably construed as being for the purpose of sexual arousal or  
4 gratification of either party. Sexual contact shall also include  
5 the touching of a child with the actor's sexual or intimate parts  
6 on any part of the child's body for purposes of sexual assault of a  
7 child under sections 28-319.01 and 28-320.01;

8 (6) Sexual penetration means sexual intercourse in its  
9 ordinary meaning, cunnilingus, fellatio, anal intercourse, or any  
10 intrusion, however slight, of any part of the actor's or victim's  
11 body or any object manipulated by the actor into the genital  
12 or anal openings of the victim's body which can be reasonably  
13 construed as being for nonmedical or nonhealth purposes. Sexual  
14 penetration shall not require emission of semen;

15 (7) Victim means the person alleging to have been  
16 sexually assaulted;

17 (8) Without consent means:

18 (a)(i) The victim was compelled to submit due to the  
19 use of force or threat of force or coercion, or (ii) the victim  
20 expressed a lack of consent through words, or (iii) the victim  
21 expressed a lack of consent through conduct, or (iv) the consent,  
22 if any was actually given, was the result of the actor's deception  
23 as to the identity of the actor or the nature or purpose of the act  
24 on the part of the actor;

25 (b) The victim need only resist, either verbally or  
26 physically, so as to make the victim's refusal to consent genuine  
27 and real and so as to reasonably make known to the actor the  
1 victim's refusal to consent; and

2 (c) A victim need not resist verbally or physically where  
3 it would be useless or futile to do so; and

4 (9) Force or threat of force means (a) the use of  
5 physical force which overcomes the victim's resistance or (b) the  
6 threat of physical force, express or implied, against the victim or



7 a third person that places the victim in fear of death or in fear  
8 of serious personal injury to the victim or a third person where  
9 the victim reasonably believes that the actor has the present or  
10 future ability to execute the threat.

11 Sec. 8. Section 28-1010, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 28-1010 A person commits indecency with an animal when  
14 such person subjects an animal to sexual penetration as defined in  
15 ~~subdivision (6) of~~ section 28-318. Indecency with an animal is a  
16 Class III misdemeanor.

17 Sec. 9. Section 83-4,143, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 83-4,143 (1) It is the intent of the Legislature that  
20 the court target the felony offender (a) who is eligible and  
21 by virtue of his or her criminogenic needs is suitable to be  
22 sentenced to intensive supervision probation with placement at the  
23 incarceration work camp, (b) for whom the court finds that other  
24 conditions of a sentence of intensive supervision probation, in  
25 and of themselves, are not suitable, and (c) who, without the  
26 existence of an incarceration work camp, would, in all likelihood,  
27 be sentenced to prison.

1 (2) When the court is of the opinion that imprisonment is  
2 appropriate, but that a brief and intensive period of regimented,  
3 structured, and disciplined programming within a secure facility  
4 may better serve the interests of society, the court may place an  
5 offender in an incarceration work camp for a period not to exceed  
6 one hundred eighty days as a condition of a sentence of intensive  
7 supervision probation. The court may consider such placement if the  
8 offender (a) is a male or female offender convicted of a felony  
9 offense in a district court, (b) is medically and mentally fit  
10 to participate, with allowances given for reasonable accommodation  
11 as determined by medical and mental health professionals, and (c)  
12 has not previously been incarcerated for a violent felony crime.  
13 Offenders convicted of a crime under sections 28-319 to ~~28-324~~  
14 28-323 or of any capital crime are not eligible to be placed in an  
15 incarceration work camp.

16 (3) It is also the intent of the Legislature that the  
17 Board of Parole may recommend placement of felony offenders at  
18 the incarceration work camp. The offenders recommended by the  
19 board shall be offenders currently housed at other Department  
20 of Correctional Services adult correctional facilities and shall  
21 complete the incarceration work camp programming prior to release  
22 on parole.

23 (4) When the Board of Parole is of the opinion that  
24 a felony offender currently incarcerated in a Department of  
25 Correctional Services adult correctional facility may benefit  
26 from a brief and intensive period of regimented, structured, and  
27 disciplined programming immediately prior to release on parole, the  
1 board may direct placement of such an offender in an incarceration

2 work camp for a period not to exceed one hundred eighty days as  
 3 a condition of release on parole. The board may consider such  
 4 placement if the felony offender (a) is medically and mentally fit  
 5 to participate, with allowances given for reasonable accommodation  
 6 as determined by medical and mental health professionals, and (b)  
 7 has not previously been incarcerated for a violent felony crime.  
 8 Offenders convicted of a crime under sections 28-319 to ~~28-321~~  
 9 ~~28-323~~ or of any capital crime are not eligible to be placed in an  
 10 incarceration work camp.

11 Sec. 10. The Revisor of Statutes shall assign sections 1  
 12 to 4 of this act to Chapter 27, the Nebraska Evidence Rules.

13 Sec. 11. This act becomes operative on January 1, 2010.

14 Sec. 12. Original sections 27-404, 27-1103, 28-318,  
 15 28-1010, and 83-4,143, Reissue Revised Statutes of Nebraska, are  
 16 repealed.

17 Sec. 13. The following section is outright repealed:  
 18 Section 28-321, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 97.** Placed on General File with amendment.  
 AM893 is available in the Bill Room.

**LEGISLATIVE BILL 285.** Placed on General File with amendment.  
 AM774

1 1. Strike section 4 and insert the following new section:

2 Sec. 4. Section 29-4003, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 29-4003 ~~(1) Except as provided in subsection (2) of this~~  
 5 ~~section, the (1)(a) The Sex Offender Registration Act shall apply~~  
 6 ~~applies~~ to any person who on or after January 1, 1997:

7 ~~(i) Has ever pleaded (a) Pleads guilty to, pleaded nolo~~  
 8 ~~contendere to, or been or is found guilty of any of the following~~

9 ~~(i)-(A) Kidnapping of a minor pursuant to section 28-313,~~  
 10 ~~except when the person is the parent of the minor and was not~~  
 11 ~~convicted of any other offense in this section;~~

12 ~~(ii)-(B) False imprisonment of a minor pursuant to~~  
 13 ~~section 28-314 or 28-315;~~

14 ~~(iii)-(C) Sexual assault pursuant to section 28-319 or~~  
 15 ~~28-320;~~

16 ~~(iv)-(D) Sexual assault of a child in the second or third~~  
 17 ~~degree pursuant to section 28-320.01;~~

18 ~~(v)-(E) Sexual assault of a child in the first degree~~  
 19 ~~pursuant to section 28-319.01;~~

20 ~~(vi)-(F) Sexual assault abuse of a vulnerable adult~~  
 21 ~~pursuant to subdivision (1)(c) of section 28-386;~~

22 ~~(vii)-(G) Incest of a minor pursuant to section 28-703;~~

23 ~~(viii)-(H) Pandering of a minor pursuant to section~~  
 1 ~~28-802;~~

2 ~~(ix)-(I) Visual depiction of sexually explicit conduct of~~  
 3 ~~a child pursuant to section 28-1463.03 or 28-1463.05;~~

- 4 ~~(x)~~(J) Knowingly possessing any visual depiction of  
 5 sexually explicit conduct which has a child as one of its  
 6 participants or portrayed observers pursuant to section 28-813.01;
- 7 ~~(xi)~~(K) Criminal child enticement pursuant to section  
 8 28-311;
- 9 ~~(xii)~~(L) Child enticement by means of a computer  
 10 pursuant to section 28-320.02;
- 11 ~~(xiii)~~(M) Debauching a minor pursuant to section 28-805;  
 12 or
- 13 ~~(xiv)~~(N) Attempt, solicitation, aiding or abetting,  
 14 being an accessory, or conspiracy to commit an offense listed  
 15 in subdivisions ~~(1)(a)(i)-(1)(a)(i)(A)~~ through ~~(1)(a)(xiii)~~  
 16 (1)(a)(i)(M) of this section;
- 17 (ii) Has ever ~~(b) Enters the state and has pleaded~~  
 18 guilty to, ~~pleaded nolo contendere to,~~ or ~~has been found guilty~~  
 19 of any offense that is substantially equivalent to a registrable  
 20 offense under subdivision ~~(1)(a)-(1)(a)(i)~~ of this section by  
 21 any ~~village, town, city,~~ state, territory, commonwealth, or other  
 22 jurisdiction of the United States, by the United States Government,  
 23 or by court-martial or other military tribunal, ~~or by a foreign~~  
 24 jurisdiction, notwithstanding a procedure comparable in effect to  
 25 that described under section 29-2264 or any other procedure to  
 26 nullify a conviction other than by pardon; or
- 27 (e) Is incarcerated in a jail, a penal or correctional  
 1 facility, or any other public or private institution or is under  
 2 probation or parole as a result of pleading guilty to or being  
 3 found guilty of a registrable offense under subdivision (1)(a) or  
 4 (b) of this section prior to January 1, 1997; or
- 5 ~~(d)~~(iii) Enters the state and is required to register  
 6 as a sex offender under the laws of another village, town, city,  
 7 state, territory, commonwealth, or other jurisdiction of the United  
 8 States.
- 9 (b) In addition to the registrable offenses under  
 10 subdivision (1)(a)(i) of this section, the Sex Offender  
 11 Registration Act applies to any person who on or after the  
 12 effective date of this act:
- 13 (i) Has ever pleaded guilty to, pleaded nolo contendere  
 14 to, been found guilty of, or been civilly committed for any of the  
 15 following:
- 16 (A) Murder in the first degree pursuant to section 28-303  
 17 in which there is a sexual element;
- 18 (B) Murder in the second degree pursuant to section  
 19 28-304 in which there is a sexual element;
- 20 (C) Manslaughter pursuant to section 28-305 in which  
 21 there is a sexual element;
- 22 (D) Assault in the first degree pursuant to section  
 23 28-308 in which there is a sexual element;
- 24 (E) Assault in the second degree pursuant to section  
 25 28-309 in which there is a sexual element;

- 26 (F) Assault in the third degree pursuant to section  
 27 28-310 in which there is a sexual element;
- 1 (G) Stalking pursuant to section 28-311.03 in which there  
 2 is a sexual element;
- 3 (H) Unlawful intrusion pursuant to section 28-311.08 on a  
 4 minor;
- 5 (I) Kidnapping pursuant to section 28-313 in which there  
 6 is a sexual element;
- 7 (J) False imprisonment pursuant to section 28-314 or  
 8 28-315 in which there is a sexual element;
- 9 (K) Sexual abuse of an inmate or parolee in the first  
 10 degree pursuant to section 28-322.02;
- 11 (L) Sexual abuse of an inmate or parolee in the second  
 12 degree pursuant to section 28-322.03;
- 13 (M) Sexual abuse of a protected individual pursuant to  
 14 section 28-322.04;
- 15 (N) Incest pursuant to section 28-703;
- 16 (O) Child abuse pursuant to subdivision (1)(d) or (e) of  
 17 section 28-707;
- 18 (P) Enticement by electronic communication device  
 19 pursuant to section 28-833; or
- 20 (Q) Attempt, solicitation, aiding or abetting, being  
 21 an accessory, or conspiracy to commit an offense listed in  
 22 subdivisions (1)(b)(i)(A) through (1)(b)(i)(P) of this section;
- 23 (i) Has ever pleaded guilty to, pleaded nolo contendere  
 24 to, been found guilty of, or been civilly committed for any  
 25 offense that is substantially equivalent to a registrable offense  
 26 under subdivision (1)(b)(i) of this section by any village,  
 27 town, city, state, territory, commonwealth, or other jurisdiction  
 1 of the United States, by the United States Government, or  
 2 by court-martial or other military tribunal, or by a foreign  
 3 jurisdiction, notwithstanding a procedure comparable in effect to  
 4 that described under section 29-2264 or any other procedure to  
 5 nullify a conviction other than by pardon; or
- 6 (iii) Enters the state and is required to register as  
 7 a sex offender under the laws of another village, town, city,  
 8 state, territory, commonwealth, or other jurisdiction of the United  
 9 States.
- 10 (2) In the case of a person convicted of a violation  
 11 of section 28-313, 28-314, 28-315, or 28-805, the convicted person  
 12 shall be subject to the Sex Offender Registration Act, unless the  
 13 sentencing court determines at the time of sentencing, in light  
 14 of all the facts, that the convicted person is not subject to the  
 15 act. The sentencing court shall make such determination part of the  
 16 sentencing order.
- 17 (3)-(2) A person appealing a conviction of a registrable  
 18 offense under this section shall be required to comply with the act  
 19 during the appeals process.

20 2. On page 11, strike beginning with "in" in line 22  
21 through "living." in line 24.

(Signed) Brad Ashford, Chairperson

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 83.** Introduced by Natural Resources Committee: Langemeier, 23, Chairperson; Carlson, 38; Cook, 13; Dubas, 34; Fischer, 43; Haar, 21; McCoy, 39; Schilz, 47; Giese, 17; Gloor, 35; Hansen, 42; Pirsch, 4.

**PURPOSE:** To study issues relating to expanded development of wind energy in Nebraska, while preserving the ability of the state's unique public power system to continue serving the state with low-cost, reliable electricity. The study may use as a guide the National Renewable Energy Laboratory's report that focuses on the impact on renewable energy in Nebraska. This study shall, as a starting point of reference, based on U.S. Department of Energy findings, assume that a total of 7,800 megawatts of wind power would be consumed in or exported from Nebraska by 2030.

A task force comprised of individuals from the electric utility and wind energy industries will be convened by the committee to provide technical expertise and advice relevant to the study. An advisory group of all interested parties shall also be convened by the committee to review, advise, and make recommendations to the committee. The committee shall conduct a study that includes, but is not limited to, the following topics:

1. The roles the state's public power utilities and private developers play in the generation of wind energy for consumption both in Nebraska and for export.

2. The role of the Nebraska Power Review Board in approving renewable generation and transmission projects.

3. The current status of the eminent domain power of utilities and the policy changes, if any, that would be necessary for public and private wind energy development.

4. The process for planning, constructing, operating, and financing generation and transmission facilities in the state and region and changes that may be required.

5. The land use, including leases and contracts on public and private lands, and environmental impacts of developing wind energy, including transmission needs.

6. The financial benefits and risks that will affect Nebraskans due to the expansion of wind energy for consumption and export and how the benefits could be maximized while at the same time minimizing the risks to ratepayers and taxpayers.

7. The content and status of the legislative bills related to renewable energy and public power that were introduced in the One Hundred First Legislature, First Session.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall, on or before December 1, 2009, make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 84.** Introduced by Coash, 27; Campbell, 25; Haar, 21; McGill, 26; Nantkes, 46; Wallman, 30.

WHEREAS, David Lorenzen, a Lincoln firefighter, has served with the Lincoln Fire and Rescue Department for 18 years and is a leader in the training of new recruits; and

WHEREAS, Bryce Fankhauser and Jeffrey Sorensen, Lincoln police officers, are leaders in protecting the residents of Lincoln from drug-related crimes, have 66 combined felony arrests in 2008, and have 576 combined misdemeanor arrests in 2008; and

WHEREAS, the Knights of Columbus have selected David Lorenzen as Lincoln Fire and Rescue Department Firefighter of the Year; and

WHEREAS, the Knights of Columbus have selected Bryce Fankhauser and Jeffrey Sorensen as Lincoln Police Department Police Officers of the Year.

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

1. That the Legislature extends its congratulations to David Lorenzen, Bryce Fankhauser, and Jeffrey Sorensen.

2. That copies of this resolution be sent to David Lorenzen, Bryce Fankhauser, and Jeffrey Sorensen.

Laid over.

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 54.** Placed on Final Reading.

**LEGISLATIVE BILL 111.** Placed on Final Reading.

**LEGISLATIVE BILL 121.** Placed on Final Reading.

**LEGISLATIVE BILL 121A.** Placed on Final Reading.

**LEGISLATIVE BILL 158.** Placed on Final Reading.

ST9017

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

1. In the Flood amendment, AM951:

a. On page 2, line 7; and page 4, line 10, "the" has been inserted after the first comma;

b. On page 3, line 25, the comma has been struck and shown as stricken;

c. On page 4, line 13, "(a)" has been struck and "(i)" inserted; in line 14 "(b)" has been struck and "(ii)" inserted; in line 17 "(c)" has been struck and "(iii)" inserted; and in line 19 "(d)" has been struck and "(iv)" inserted;

d. On page 6, line 20, an underscored comma has been inserted after "commission"; and

e. On page 8, line 5, the comma has been struck.

2. On page 1, the matter beginning with "adopt" in line 1 through line 2 has been struck and "amend sections 17-107, 17-208, and 23-1734, Reissue Revised Statutes of Nebraska; to change provisions relating to removal and discipline of police officers, village marshals, and deputy sheriffs; to provide restrictions regarding employment, investigation, removal, and discipline of peace officers; to require rules and regulations; and to repeal the original sections." inserted.

**LEGISLATIVE BILL 202.** Placed on Final Reading.

ST9016

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

1. On page 1, line 4, "60-144," has been inserted after "60-140,".

**LEGISLATIVE BILL 202A.** Placed on Final Reading.

**LEGISLATIVE BILL 300.** Placed on Final Reading.

**LEGISLATIVE BILL 361.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

### UNANIMOUS CONSENT - Add Cointroducer

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

### VISITORS

Visitors to the Chamber were 63 fourth-grade students and teachers from St. Patrick's, Elkhorn; Steve and Julia Ourecky and Kaitlyn Beukenhorst from Omaha; and Weston Sieck from David City.

### RECESS

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

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Ashford, Cornett, Friend, Gloor, Karpisek, and Loudon who were excused until they arrive.

**COMMITTEE REPORT**

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 626.** Placed on General File with amendment.  
AM972

- 1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 49-1401, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:  
5 49-1401 Sections 49-1401 to 49-14,141 and section 3 of  
6 this act shall be known and may be cited as the Nebraska Political  
7 Accountability and Disclosure Act.  
8 Sec. 2. Section 49-1405, Reissue Revised Statutes of  
9 Nebraska, is amended to read:  
10 49-1405 (1) Ballot question shall mean any question which  
11 is submitted or which is intended to be submitted to a popular vote  
12 at an election, including, but not limited to, a question submitted  
13 or intended to be submitted by way of initiative, referendum,  
14 recall, or judicial retention, or bond issue or as a result of  
15 legislative action or action of a government body, whether or not  
16 it qualifies for the ballot.  
17 (2) Ballot question shall also mean any question which  
18 has been submitted to a popular vote at an election as a result  
19 of legislative action or adoption of a resolution by a political  
20 subdivision to place an issue or issues on the ballot.  
21 Sec. 3. (1) Any use of public resources by a public  
22 official or public employee which is incidental or de minimis shall  
23 not constitute a violation of section 49-14,101.01 or 49-14,101.02.  
1 (2) For purposes of sections 49-14,101.01 and  
2 49-14,101.02, a resource of government, including a vehicle, shall  
3 not be considered a public resource and personal use shall not be  
4 prohibited if (a) the use of the resource for personal purposes  
5 is part of the public official's or public employee's compensation  
6 provided in an employment contract or a written policy approved  
7 by a government body and (b) the personal use of the resource  
8 as compensation is reported in accordance with the Internal  
9 Revenue Code of 1986, as amended, and taxes, if any, are paid.  
10 If authorized by the contract or policy, the resource may be used  
11 whether or not the public official or public employee is engaged in



12 the duties of his or her public office or public employment.

13 (3) Use of a government vehicle by a public official or  
14 public employee to travel to a designated location or the home  
15 of the public official or public employee is permissible when the  
16 primary purpose of the travel serves a government purpose and the  
17 use is pursuant to a written policy approved by a government body.

18 (4) Pursuant to a collective-bargaining agreement, a  
19 public facility may be used by a bargaining unit to meet regarding  
20 activities of the union or bargaining unit. This section shall  
21 not authorize the use of public resources for the purpose of  
22 campaigning for or against the nomination or election of a  
23 candidate or the qualification, passage, or defeat of a ballot  
24 question.

25 (5) Nothing in the Nebraska Political Accountability and  
26 Disclosure Act prohibits a public official or public employee from  
27 using his or her personal cellular telephone, electronic handheld  
1 device, or computer to access a wireless network to which access is  
2 provided to the public by a government body.

3 Sec. 4. Section 49-14,101.01, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5 49-14,101.01 (1) A public official or public employee  
6 shall not use or authorize the use of his or her public office  
7 or any confidential information received through the holding of  
8 a public office to obtain financial gain, other than compensation  
9 provided by law, for himself or herself, a member of his or  
10 her immediate family, or a business with which the individual is  
11 associated.

12 (2) A public official or public employee shall not use or  
13 authorize the use of personnel, resources, property, or funds under  
14 his or her official care and control other than in accordance with  
15 prescribed constitutional, statutory, and regulatory procedures or  
16 use such items, other than compensation provided by law, for  
17 personal financial gain.

18 (3) Unless otherwise restricted by an employment  
19 contract, a collective-bargaining agreement, or a written agreement  
20 or policy approved by a government body, a public official or  
21 public employee may use a telecommunication system, a cellular  
22 telephone, an electronic handheld device, or a computer under the  
23 control of a government body for email, text messaging, a local  
24 call, or a long-distance call to a child at home, a teacher,  
25 a doctor, a day care center, a baby-sitter, a family member,  
26 or any other person to inform any such person of an unexpected  
27 schedule change or for other essential personal business. Any such  
1 communication shall be kept to a minimum and shall not interfere  
2 with the conduct of public business. A public official or public  
3 employee shall be responsible for payment or reimbursement of  
4 charges, if any, that directly result from any such communication.  
5 An agency or government body may establish procedures for  
6 reimbursement of charges pursuant to this subsection.

7 ~~(3)~~(4) A public official shall not accept a gift  
 8 of travel or lodging or a gift of reimbursement for travel or  
 9 lodging if the gift is made so that a member of the public  
 10 official's immediate family can accompany the public official in  
 11 the performance of his or her official duties.

12 (4)(5) A member of the immediate family of a public  
 13 official shall not accept a gift of travel or lodging or a gift of  
 14 reimbursement for travel or lodging if the gift is made so that a  
 15 member of the public official's immediate family can accompany the  
 16 public official in the performance of his or her official duties.

17 ~~(5)~~(6) This section does not prohibit the Executive  
 18 Board of the Legislative Council from adopting policies that allow  
 19 a member of the Legislature to install and use with private funds a  
 20 telephone line, telephone, and telefax machine in his or her public  
 21 office for private purposes.

22 ~~(6)~~(7) Except as provided in section 23-3113, any person  
 23 violating this section shall be guilty of a Class III misdemeanor,  
 24 except that no vote by any member of the Legislature shall subject  
 25 such member to any criminal sanction under this section.

26 Sec. 5. Section 49-14,101.02, Revised Statutes Cumulative  
 27 Supplement, 2008, is amended to read:

1 49-14,101.02 (1) For purposes of this section, public  
 2 resources means personnel, property, resources, or funds under the  
 3 official care and control of a public official or public employee.

4 (2) Except as otherwise provided in this section, a  
 5 public official or public employee shall not use or authorize  
 6 the use of public resources for the purpose of campaigning for  
 7 or against the nomination or election of a candidate or the  
 8 qualification, passage, or defeat of a ballot question.

9 (3) This section does not prohibit a public official or  
 10 public employee from making government facilities available to a  
 11 person for campaign purposes if the identity of the candidate or  
 12 the support for or opposition to the ballot question is not a  
 13 factor in making the government facility available or a factor in  
 14 determining the cost or conditions of use.

15 (4) This section does not prohibit a governing body from  
 16 discussing and voting upon a resolution supporting or opposing a  
 17 ballot question or a public corporation organized under Chapter 70  
 18 from otherwise supporting or opposing a ballot question concerning  
 19 the sale or purchase of its assets.

20 (5) This section does not prohibit a public official or a  
 21 public employee under the direct supervision of a public official  
 22 from responding to specific inquiries by the press or the public as  
 23 to his or her opinion regarding a ballot question or from providing  
 24 information in response to a request for information.

25 (6) This section does not prohibit a member of the  
 26 Legislature from making use of public resources in expressing his  
 27 or her opinion regarding a candidate or a ballot question or from  
 1 communicating that opinion. A member is not authorized by this

2 section to utilize mass mailings or other mass communications at  
3 public expense for the purpose of campaigning for or against the  
4 nomination or election of a candidate. A member is not authorized  
5 by this section to utilize mass mailings at public expense for the  
6 purpose of qualifying, supporting, or opposing a ballot question.

7 (7) This subsection applies to public officials other  
8 than members of the Legislature provided for in subsection (6)  
9 of this section. This section does not prohibit, in the normal  
10 course of his or her duties, a public official or a public employee  
11 under the direct supervision of a public official from using  
12 public resources to research and prepare materials to assist the  
13 government body for which the individual is a public official or  
14 public employee in determining the effect of the ballot question on  
15 the government body. This section does not prohibit an individual  
16 holding elective office from using public resources to express  
17 or communicate his or her opinion regarding a ballot question  
18 affecting the government body for which the individual holds the  
19 elective office. This section does not authorize mass mailings,  
20 mass duplication, or other mass communications at public expense  
21 for the purpose of qualifying, supporting, or opposing a ballot  
22 question. Mass communications shall not include placing public  
23 records demonstrating the consequences of the passage or defeat  
24 of a ballot question affecting the government body for which the  
25 individual is a public official or public employee on existing web  
26 sites of such government body.

27 ~~(7)-(8)~~ Nothing in this section prohibits a public  
1 official from campaigning for or against the qualification,  
2 passage, or defeat of a ballot question or the nomination or  
3 election of a candidate when no public resources are used.

4 ~~(8)-(9)~~ Nothing in this section prohibits a public  
5 employee from campaigning for or against the qualification,  
6 passage, or defeat of a ballot question or the nomination or  
7 election of a candidate when no public resources are used. Except  
8 as otherwise provided in this section, a public employee shall  
9 not engage in campaign activity for or against the qualification,  
10 passage, or defeat of a ballot question or the nomination or  
11 election of a candidate while on government work time or when  
12 otherwise engaged in his or her official duties.

13 ~~(9)-(10)~~ This section does not prohibit an employee of  
14 the Legislature from using public resources consistent with this  
15 section for the purpose of researching or campaigning for or  
16 against the qualification, passage, or defeat of a ballot question  
17 if the employee is under the direction and supervision of a member  
18 of the Legislature.

19 (11) Nothing in this section prohibits a public official  
20 or public employee from identifying himself or herself by his or  
21 her official title.

22 Sec. 6. Section 81-1120.27, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 81-1120.27 (1) The facilities of the state's  
 25 telecommunications systems are provided for the conduct of  
 26 state business. In addition, the state's telecommunications  
 27 systems, cellular telephones, electronic handheld devices, or  
 1 computers may be used by state employees and officials for emails,  
 2 text messaging, local calls, and long-distance calls to children  
 3 at home, teachers, doctors, day care centers, and baby-sitters,  
 4 to family members, or others to inform them of unexpected  
 5 schedule changes, and for other essential personal business.  
 6 ~~The use of the state's telecommunications systems. Any such use~~  
 7 for essential personal business shall be kept to a minimum and  
 8 shall not interfere with the conduct of state business. ~~Essential~~  
 9 ~~personal long distance calls shall be either collect, charged to~~  
 10 ~~a third party, nonstate number, or charged to a personal credit~~  
 11 ~~card. A state employee or official shall be responsible for payment~~  
 12 ~~or reimbursement of charges, if any, that directly result from any~~  
 13 such communication. The Department of Administrative Services may  
 14 establish procedures for reimbursement of charges pursuant to this  
 15 section.

16 (2) A member of the Legislature, while engaged in  
 17 legislative business, may make personal long-distance calls on  
 18 the state telecommunications system or by using his or her state  
 19 credit card. At the end of every month upon the member's receipt  
 20 of his or her long-distance call record, the personal long-distance  
 21 calls shall be designated by the member and the member billed  
 22 for such calls. Reimbursement to the state for such personal  
 23 long-distance calls by the member shall be made within thirty days  
 24 from the date of designation.

25 (3) A member of the Legislature, at his or her own sole  
 26 discretion, may designate any long-distance call as sensitive or  
 27 confidential in nature. If a long-distance call is designated as  
 1 sensitive or confidential in nature, any long-distance call record  
 2 used in an audit shall contain only the date the long-distance call  
 3 was made and the cost of the call. In no case shall the person  
 4 conducting the audit have access to a long-distance call number  
 5 designated as sensitive or confidential in nature by the member  
 6 without the written consent of the member. No calls made to or by  
 7 a member of the Legislature which are sensitive or confidential in  
 8 nature shall be required to be disclosed except that such calls  
 9 shall be so designated by the member, and only the amount of the  
 10 call and such designation shall be made available to a person  
 11 conducting an audit.

12 For purposes of this subsection, sensitive or  
 13 confidential in nature shall mean that either the member of the  
 14 Legislature or the caller would reasonably expect that the nature  
 15 or the content of the call would not be disclosed to another person  
 16 without the consent of the member and the caller.

17 Sec. 7. Original sections 49-1405 and 81-1120.27, Reissue  
 18 Revised Statutes of Nebraska, and sections 49-1401, 49-14, 101.01,

19 and 49-14,101.02, Revised Statutes Cumulative Supplement, 2008, are  
20 repealed.

(Signed) Bill Avery, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 489A.** Title read. Considered.

Senator Sullivan offered the following amendment:

AM1001

- 1 1. On page 2, line 1, strike "\$400,000" and insert
- 2 "\$198,000"; and in line 2 strike "\$500,000" and insert "\$297,000".

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

Advanced to Enrollment and Review Initial with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 246.** Title read. Considered.

Committee AM749, found on page 780, was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 440.** Title read. Considered.

Committee AM660, found on page 746, was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 286.** Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 436.** Title read. Considered.

Committee AM708, found on page 776, was considered.

Pending.

**ANNOUNCEMENT**

Senator Carlson announced the Agriculture Committee will hold an executive session Thursday, April 9, 2009, immediately upon adjournment, in Room 2102.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 218A.** Introduced by Cornett, 45; Heidemann, 1.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 218, One Hundred First Legislature, First Session, 2009; to eliminate certain appropriations; and to declare an emergency.

**AMENDMENTS - Print in Journal**

Senator Council filed the following amendment to LB497:  
AM1015 is available in the Bill Room.

Senator Pankonin filed the following amendment to LB35:  
AM934

(Amendments to Standing Committee amendments, AM836)

- 1 1. Insert the following new section:
- 2 Sec. 6. Section 24-703, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 24-703 (1) Each original member shall contribute monthly
- 5 four percent of his or her monthly compensation to the fund
- 6 until the maximum benefit as limited in subsection (1) of section
- 7 24-710 has been earned. It shall be the duty of the Director
- 8 of Administrative Services in accordance with subsection (10) of
- 9 this section to make a deduction of four percent on the monthly
- 10 payroll of each original member who is a judge of the Supreme
- 11 Court, a judge of the Court of Appeals, a judge of the district
- 12 court, a judge of a separate juvenile court, a judge of the county
- 13 court, a clerk magistrate of the county court who was an associate
- 14 county judge and a member of the fund at the time of his or her
- 15 appointment as a clerk magistrate, or a judge of the Nebraska
- 16 Workers' Compensation Court showing the amount to be deducted and
- 17 its credit to the fund. The Director of Administrative Services
- 18 and the State Treasurer shall credit the four percent as shown
- 19 on the payroll and the amounts received from the various counties
- 20 to the fund and remit the same to the director in charge of the
- 21 judges retirement system who shall keep an accurate record of the
- 22 contributions of each judge.
- 1 (2)(a) Beginning on July 1, 2004, each future member
- 2 who has not elected to make contributions and receive benefits as

3 provided in section 24-703.03 shall contribute monthly six percent  
4 of his or her monthly compensation to the fund until the maximum  
5 benefit as limited in subsection (2) of section 24-710 has been  
6 earned. After the maximum benefit as limited in subsection (2) of  
7 section 24-710 has been earned, such future member shall make no  
8 further contributions to the fund, except that any time the maximum  
9 benefit is changed, a future member who has previously earned the  
10 maximum benefit as it existed prior to the change shall contribute  
11 monthly six percent of his or her monthly compensation to the fund  
12 until the maximum benefit as changed and as limited in subsection  
13 (2) of section 24-710 has been earned.

14 (b) Beginning on July 1, 2004, a judge who first serves  
15 as a judge on or after such date or a future member who elects  
16 to make contributions and receive benefits as provided in section  
17 24-703.03 shall contribute monthly eight percent of his or her  
18 monthly compensation to the fund until the maximum benefit as  
19 limited by subsection (2) of section 24-710 has been earned. After  
20 the maximum benefit as limited in subsection (2) of section 24-710  
21 has been earned, such judge or future member shall contribute  
22 monthly four percent of his or her monthly compensation to the fund  
23 for the remainder of his or her active service.

24 (c) It shall be the duty of the Director of  
25 Administrative Services to make a deduction on the monthly payroll  
26 of each such future member who is a judge of the Supreme Court,  
27 a judge of the Court of Appeals, a judge of the district court,  
1 a judge of a separate juvenile court, a judge of the county  
2 court, a clerk magistrate of the county court who was an associate  
3 county judge and a member of the fund at the time of his or her  
4 appointment as a clerk magistrate, or a judge of the Nebraska  
5 Workers' Compensation Court showing the amount to be deducted and  
6 its credit to the fund. This shall be done each month. The Director  
7 of Administrative Services and the State Treasurer shall credit the  
8 amount as shown on the payroll and the amounts received from the  
9 various counties to the fund and remit the same to the director in  
10 charge of the judges retirement system who shall keep an accurate  
11 record of the contributions of each judge.

12 (3) A Nebraska Retirement Fund for Judges fee of five  
13 dollars shall be taxed as costs in each (a) civil cause of action,  
14 criminal cause of action, traffic misdemeanor or infraction, and  
15 city or village ordinance violation filed in the district courts,  
16 the county courts, and the separate juvenile courts, (b) filing in  
17 the district court of an order, award, or judgment of the Nebraska  
18 Workers' Compensation Court or any judge thereof pursuant to  
19 section 48-188, (c) appeal or other proceeding filed in the Court  
20 of Appeals, and (d) original action, appeal, or other proceeding  
21 filed in the Supreme Court. Beginning on July 1, 2009, and until  
22 July 1, 2014, such fee shall be six dollars. In county courts a sum  
23 shall be charged which is equal to ten percent of each fee provided  
24 by sections 33-125, 33-126.02, 33-126.03, and 33-126.06, rounded to

25 the nearest even dollar. No judges retirement fee shall be charged  
26 for filing a report pursuant to sections 33-126.02 and 33-126.06.  
27 When collected by the clerk of the district or county court, such  
1 fees shall be paid and information submitted to the director in  
2 charge of the judges retirement system on forms prescribed by the  
3 board by the clerk within ten days after the close of each calendar  
4 quarter. The board may charge a late administrative processing fee  
5 not to exceed twenty-five dollars if the information is not timely  
6 received or the money is delinquent. In addition, the board may  
7 charge a late fee of thirty-eight thousandths of one percent of the  
8 amount required to be submitted pursuant to this section for each  
9 day such amount has not been received. Such director shall promptly  
10 thereafter remit the same to the State Treasurer for credit to  
11 the fund. No Nebraska Retirement Fund for Judges fee which is  
12 uncollectible for any reason shall be waived by a county judge as  
13 provided in section 29-2709.

14 (4) All expenditures from the fund shall be authorized by  
15 voucher in the manner prescribed in section 24-713. The fund shall  
16 be used for the payment of all annuities and other benefits and for  
17 the expenses of administration.

18 (5) The fund shall consist of the total fund as of  
19 December 25, 1969, the contributions of members as provided in this  
20 section, all supplementary court fees as provided in subsection (3)  
21 of this section, and any required contributions of the state.

22 (6) Not later than January 1 of each year, the State  
23 Treasurer shall transfer to the fund the amount certified by the  
24 board as being necessary to pay the cost of any benefits accrued  
25 during the fiscal year ending the previous June 30 in excess  
26 of member contributions for that fiscal year and court fees as  
27 provided in subsection (3) of this section and fees pursuant to  
1 sections 25-2804, 33-103, 33-103.01, 33-106, 33-106.02, 33-123,  
2 33-125, 33-126.02, 33-126.03, and 33-126.06 and directed to be  
3 remitted to the fund, if any, for that fiscal year plus any  
4 required contributions of the state as provided in subsection (9)  
5 of this section.

6 (7) Benefits under the retirement system to members or to  
7 their beneficiaries shall be paid from the fund.

8 (8) Any member who is making contributions to the fund on  
9 December 25, 1969, may, on or before June 30, 1970, elect to become  
10 a future member by delivering written notice of such election to  
11 the board.

12 (9) Not later than January 1 of each year, the State  
13 Treasurer shall transfer to the fund an amount, determined on  
14 the basis of an actuarial valuation as of the previous June 30  
15 and certified by the board, to fully fund the unfunded accrued  
16 liabilities of the retirement system as of June 30, 1988, by level  
17 payments up to January 1, 2000. Such valuation shall be on the  
18 basis of actuarial assumptions recommended by the actuary, approved  
19 by the board, and kept on file with the board. For the fiscal



20 year beginning July 1, 2002, and each fiscal year thereafter,  
21 the actuary for the board shall perform an actuarial valuation  
22 of the system using the entry age actuarial cost method. Under  
23 this method, the actuarially required funding rate is equal to the  
24 normal cost rate, plus the contribution rate necessary to amortize  
25 the unfunded actuarial accrued liability on a level payment basis.  
26 The normal cost under this method shall be determined for each  
27 individual member on a level percentage of salary basis. The normal  
1 cost amount is then summed for all members. The initial unfunded  
2 actual accrued liability as of July 1, 2002, if any, shall be  
3 amortized over a twenty-five-year period. Prior to July 1, 2006,  
4 changes in the funded actuarial accrued liability due to changes  
5 in benefits, actuarial assumptions, the asset valuation method, or  
6 actuarial gains or losses shall be measured and amortized over a  
7 twenty-five-year period beginning on the valuation date of such  
8 change. Beginning July 1, 2006, any existing unfunded liabilities  
9 shall be reinitialized and amortized over a thirty-year period,  
10 and during each subsequent actuarial valuation, changes in the  
11 funded actuarial accrued liability due to changes in benefits,  
12 actuarial assumptions, the asset valuation method, or actuarial  
13 gains or losses shall be measured and amortized over a thirty-year  
14 period beginning on the valuation date of such change. If the  
15 unfunded actuarial accrued liability under the entry age actuarial  
16 cost method is zero or less than zero on an actuarial valuation  
17 date, then all prior unfunded actuarial accrued liabilities shall  
18 be considered fully funded and the unfunded actuarial accrued  
19 liability shall be reinitialized and amortized over a thirty-year  
20 period as of the actuarial valuation date. If the actuarially  
21 required contribution rate exceeds the rate of all contributions  
22 required pursuant to the Judges Retirement Act, there shall be a  
23 supplemental appropriation sufficient to pay for the differences  
24 between the actuarially required contribution rate and the rate of  
25 all contributions required pursuant to the Judges Retirement Act.

26 (10) The state or county shall pick up the member  
27 contributions required by this section for all compensation paid  
1 on or after January 1, 1985, and the contributions so picked up  
2 shall be treated as employer contributions in determining federal  
3 tax treatment under the Internal Revenue Code as defined in section  
4 49-801.01, except that the state or county shall continue to  
5 withhold federal income taxes based upon these contributions until  
6 the Internal Revenue Service or the federal courts rule that,  
7 pursuant to section 414(h) of the code, these contributions shall  
8 not be included as gross income of the member until such time as  
9 they are distributed or made available. The state or county shall  
10 pay these member contributions from the same source of funds which  
11 is used in paying earnings to the member. The state or county  
12 shall pick up these contributions by a compensation deduction  
13 through a reduction in the compensation of the member. Member  
14 contributions picked up shall be treated for all purposes of the

15 Judges Retirement Act in the same manner and to the extent as  
 16 member contributions made prior to the date picked up.

17 2. On page 32, line 15, strike "4 and 29" and insert "4,  
 18 6, and 30"; in line 16 strike "28, 30, and 33" and insert "29,  
 19 31, and 34"; in line 17 strike "13, 14, and 31" and insert "14,  
 20 15, and 32"; in line 21 strike "section" and insert "sections" and  
 21 after "24-301.02" insert "and 24-703"; and in line 22 strike "is"  
 22 and insert "are".

23 3. Renumber the remaining sections and correct internal  
 24 references accordingly.

### COMMITTEE REPORT

Banking, Commerce and Insurance

**LEGISLATIVE BILL 571.** Placed on General File with amendment.  
 AM983 is available in the Bill Room.

(Signed) Rich Pahls, Chairperson

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 98.** Placed on Select File with amendment.  
 ER8057

1 1. In the Standing Committee amendments, AM641, on page  
 2 7, line 23, strike "fund.", show as stricken, and insert "Buffer  
 3 Strip Incentive Fund.".

4 2. On page 1, line 2, strike "and 2-968" and insert  
 5 "2-968, and 2-5106" and after "Nebraska" insert ", and section  
 6 2-958.01, Revised Statutes Cumulative Supplement, 2008"; and in  
 7 line 5 after the first semicolon insert "to provide duties for the  
 8 Director of Agriculture; to provide for a transfer of funds;".

**LEGISLATIVE BILL 98A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

### VISITORS

Visitors to the Chamber were Andrew Bose from Orleans and Shelby Yost from Sutton; Mr. and Mrs. Alfred Kleen and daughter, Kathryn, from Germany and Mr. and Mrs. Bob Lenners from Grand Island; 45 fourth-grade students and teachers from Blumfield Elementary, Ralston; Senator Haar's brother, sister-in-law, and nephew, David, Kathryn, and Tim Haar, from Omaha; members of Leadership Fremont from Fremont; 25 eleventh- and twelfth-grade students and teacher from Leigh; members of the Columbus Area Chamber of Commerce from Columbus; and Congressman Lee Terry.

The Doctor of the Day was Dr. Kip Anderson from Columbus.

**ADJOURNMENT**

At 3:59 p.m., on a motion by Senator Lautenbaugh, the Legislature adjourned until 9:00 a.m., Thursday, April 9, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTY-NINTH DAY - APRIL 9, 2009**  
**LEGISLATIVE JOURNAL**  
**ONE HUNDRED FIRST LEGISLATURE**  
**FIRST SESSION**  
**FIFTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, April 9, 2009

**PRAYER**

The prayer was offered by Senator Coash.

**ROLL CALL**

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

The roll was called and all members were present except Senators Cornett and Council who were excused; and Senators Adams, Friend, and Pankonin who were excused until they arrive.

**SENATOR CARLSON PRESIDING**

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-eighth day was approved.

**MESSAGE FROM THE GOVERNOR**

April 8, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 105, 105A, 110, 110A, 165e, 168, 177, 184, 207, 260, 327e, 377e, and 403 were received in my office on April 3, 2009.

These bills were signed and delivered to the Secretary of State on April 8, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**REPORT**

The following report was received by the Legislature:

**Investment Council**

2008 Board of Educational Lands and Funds Annual Report

**MOTION - Approve Appointments**

Senator Avery moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 967:

State Emergency Response Commission

Richard Christensen

Steven Danon

Donald Eisenhower

Larry Johnson

Voting in the affirmative, 34:

Avery	Fischer	Harms	Mello	Schilz
Campbell	Fulton	Howard	Nantkes	Stuthman
Carlson	Gay	Janssen	Nordquist	Sullivan
Coash	Giese	Karpisek	Pahls	Utter
Cook	Haar	Langemeier	Pirsch	Wallman
Dierks	Hadley	Lautenbaugh	Price	Wightman
Dubas	Hansen	Louden	Rogert	

Voting in the negative, 0.

Present and not voting, 9:

Ashford	Gloor	Lathrop	McGill	White
Christensen	Heidemann	McCoy	Nelson	

Excused and not voting, 6:

Adams	Council	Friend
Cornett	Flood	Pankonin

The appointments were confirmed with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 436.** Committee AM708, found on page 776 and considered on page 989, was renewed.

The committee amendment was adopted with 45 ayes, 0 nays, 2 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, 2 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 188.** Title read. Considered.

Committee AM611, found on page 688, was adopted with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 56.** Title read. Considered.

Committee AM310, found on page 459, was considered.

**PRESIDENT SHEEHY PRESIDING**

Pending.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 78 and 79 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 78 and 79.

**GENERAL FILE**

**LEGISLATIVE BILL 56.** Committee AM310, found on page 459 and considered in this day's Journal, was renewed.

The committee amendment was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 3 nays, 8 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 497.** Title read. Considered.

Committee AM627, found on page 946, was considered.

Senator White renewed the Council amendment, AM1015, found on page 990, to the committee amendment.

Senator Campbell moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 7 nays, and 15 not voting.

The Council amendment was adopted with 32 ayes, 6 nays, 7 present and not voting, and 4 excused and not voting.

The committee amendment, as amended, was adopted with 37 ayes, 1 nay, 7 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 2 nays, 12 present and not voting, and 5 excused and not voting.

### **MOTION - Print in Journal**

Senator Pahls filed the following motion to LB385:

MO32

Place on General File pursuant to Rule 3, Sec. 18.

### **COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 420.** Placed on Select File with amendment.  
ER8058

- 1 1. In the Standing Committee amendments, AM710:
- 2 a. On page 2, line 20, strike "this" and insert "the";
- 3 and
- 4 b. On page 3, line 4, strike "the".
- 5 2. On page 1, strike lines 3 through 6 and insert "to
- 6 change provisions relating to sales and use tax exemptions for
- 7 certain nonprofit entities; to provide an operative date; to repeal
- 8 the original section; and to declare an emergency."

**LEGISLATIVE BILL 601A.** Placed on Select File.

**LEGISLATIVE BILL 159.** Placed on Select File.

**LEGISLATIVE BILL 159A.** Placed on Select File.

**LEGISLATIVE BILL 489.** Placed on Select File with amendment.  
ER8060

- 1 1. In the Standing Committee amendments, AM731, on page
- 2 4, line 14, after "Assist" insert "each" and strike "centers" and
- 3 insert "center".
- 4 2. On page 1, line 2, after "Act" insert "; and to
- 5 provide a termination date".



**LEGISLATIVE BILL 489A.** Placed on Select File.

**LEGISLATIVE BILL 246.** Placed on Select File with amendment.  
ER8061

- 1 1. On page 1, strike beginning with "amend" in line 1
- 2 through line 5 and insert "provide for development of a statewide
- 3 strategic plan for biotechnology; to create a fund; to define
- 4 terms; to eliminate the Biopower Steering Committee and the
- 5 Biopower Development Cash Fund; and to outright repeal section
- 6 66-1701, Reissue Revised Statutes of Nebraska."

(Signed) Jeremy Nordquist, Chairperson

**AMENDMENT - Print in Journal**

Senator Dierks filed the following amendment to LB241:  
AM1028

- 1 1. Insert the following new sections:
- 2 Sec. 11. Sections 11 to 17 of this act shall be known and
- 3 may be cited as the Dog and Cat Purchase Protection Act.
- 4 Sec. 12. For purposes of the Dog and Cat Purchase
- 5 Protection Act:
- 6 (1) Casual breeder means any person, other than a
- 7 commercial breeder as defined in section 54-626, who offers for
- 8 sale, sells, trades, or receives compensation for one or more pet
- 9 animals from a litter produced by a female dog or cat owned by such
- 10 casual breeder;
- 11 (2) Clinical symptom means indication of an illness
- 12 or dysfunction that is apparent to a veterinarian based on the
- 13 veterinarian's observation, examination, or testing of an animal or
- 14 on a review of the animal's medical records;
- 15 (3) Health certificate means the official small animal
- 16 certificate of veterinary inspection of the Bureau of Animal
- 17 Industry of the Department of Agriculture;
- 18 (4) Pet animal means a dog, wholly or in part of the
- 19 species canis familiaris, or a cat, wholly or in part of the
- 20 species felis domesticus, that is under fifteen months of age;
- 21 (5) Purchaser means the final owner of a pet animal
- 22 purchased from a seller. Purchaser does not include a person who
- 23 purchases a pet animal for resale;
- 1 (6) Seller means a casual breeder or any commercial
- 2 establishment, including a commercial breeder, dealer, or pet shop
- 3 as such terms are defined in section 54-626, that engages in a
- 4 business of selling pet animals to a purchaser. A seller does not
- 5 include an animal control facility or animal shelter as defined
- 6 in section 54-626 or any animal adoption activity that an animal
- 7 control facility or animal shelter conducts offsite at any pet
- 8 store or other commercial establishment; and

9 (7)(a) Serious health problem means a congenital or  
10 hereditary defect or contagious disease that causes severe illness  
11 or death of the pet animal.

12 (b) Serious health problem does not include (i)  
13 parvovirus if the diagnosis of parvovirus is made after the  
14 seven-business-day requirement in subsection (1) of section 14 of  
15 this act or (ii) any other contagious disease that causes severe  
16 illness or death after ten calendar days after delivery of the pet  
17 to the purchaser.

18 Sec. 13. (1) A seller shall deliver to the purchaser at  
19 the time of sale of a pet animal a written disclosure statement  
20 containing the following information regarding the pet animal:

21 (a) The name, address, and license number of any  
22 commercial breeder or dealer as such terms are defined in  
23 section 54-626 or, if applicable, the United States Department  
24 of Agriculture license number of the breeder or any broker who has  
25 had possession of the animal prior to the seller's possession;

26 (b) The date of the pet animal's birth, if known, the  
27 state in which the pet animal was born, if known, and the date the  
1 seller received the pet animal;

2 (c) The sex and color of the pet animal, any other  
3 identifying marks apparent upon the pet animal, and the breed of  
4 the pet animal, if known, or a statement that the breed of the pet  
5 animal is unknown or the pet animal is of mixed breed;

6 (d) The pet animal's individual identifying tag, tattoo,  
7 microchip number, or collar number;

8 (e) The names and registration numbers of the sire and  
9 dam and the litter number, if applicable and if known;

10 (f) A record of any vaccination, worming treatment, or  
11 medication administered to the pet animal while in the possession  
12 of the seller and, if known, any such vaccination, treatment, or  
13 medication administered to the pet animal prior to the date the  
14 seller received the pet animal; and

15 (g) The date or dates of any examination of the pet  
16 animal by a licensed veterinarian while in the possession of the  
17 seller.

18 (2) The seller may include any of the following with the  
19 written disclosure statement required by subsection (1) of this  
20 section:

21 (a) A statement that a veterinarian examined the pet  
22 animal and, at the time of the examination, the pet animal had  
23 no apparent or clinical symptoms of a serious health problem that  
24 would adversely affect the health of the pet animal at the time of  
25 sale or that is likely to adversely affect the health of the pet  
26 animal in the future; and

27 (b) A record of any serious health problem that adversely  
1 affects the pet animal at the time of sale or that is likely to  
2 adversely affect the health of the pet animal in the future.

3 (3) The written disclosure made pursuant to this section

4 shall be signed by the seller certifying the accuracy of the  
5 written disclosure statement and by the purchaser acknowledging  
6 receipt of the written disclosure statement. In addition to  
7 information required to be given to a purchaser under this section,  
8 at the time of sale the seller shall provide the purchaser with  
9 written notice of the existence of the purchaser's rights and  
10 responsibilities under the Dog and Cat Purchase Protection Act or a  
11 legible copy of the act.

12 (4) If the pet animal is sold to a purchaser who resides  
13 outside of the state or intends that the pet animal will be  
14 relocated or permanently domiciled outside of the state, the seller  
15 shall provide the purchaser with a health certificate signed by  
16 a licensed veterinarian who has examined the pet animal and is  
17 authorized to certify such certificate.

18 (5) The seller shall maintain a copy of any written  
19 disclosure statements made and any other records on the health,  
20 status, or disposition of each pet animal for at least one year  
21 after the date of sale to a purchaser.

22 Sec. 14. (1) In order to have recourse to the remedies  
23 available to purchasers under this section, a purchaser shall have  
24 the pet animal examined by a licensed veterinarian within seven  
25 business days after delivery of the pet animal to the purchaser.  
26 The pet animal shall be declared unfit for sale and the purchaser  
27 may obtain one of the remedies listed in subsection (2) or (3)  
1 of this section if (a) during such examination, the veterinarian  
2 diagnoses the pet animal with a serious health problem that the  
3 veterinarian believes existed at the time of delivery of the pet  
4 animal to the purchaser or (b) within fifteen months after the date  
5 of birth of the pet animal, a veterinarian diagnoses the pet animal  
6 with a serious health problem or states in writing that the pet  
7 animal has died from a serious health problem that the veterinarian  
8 believes existed at the time of delivery of the pet animal to the  
9 purchaser.

10 (2) If a pet animal is diagnosed with a serious health  
11 problem under subsection (1) of this section, the purchaser shall  
12 notify the seller within two business days after the diagnosis  
13 and provide the seller with the name and telephone number of  
14 the veterinarian or a copy of the veterinarian's report. After  
15 such notification, the purchaser may obtain one of the following  
16 remedies from the seller:

17 (a) A refund of the full purchase price of the pet animal  
18 upon return of such pet animal to the seller;

19 (b) An exchange for a pet animal of the purchaser's  
20 choice of equivalent value, if such pet animal is available, upon  
21 return of the pet animal, if alive, to the seller; or

22 (c) Reimbursement for reasonable veterinary fees, not to  
23 exceed the full purchase price of the pet animal.

24 (3) If a pet animal dies from a serious health problem  
25 as determined under subsection (1) of this section, the purchaser

26 shall notify the seller within two business days after receipt  
 27 of the written statement of the veterinarian by the purchaser and  
 1 shall provide the seller with a copy of such written statement.

2 After receipt of the written statement by the seller, the purchaser  
 3 may obtain one of the following remedies from the seller:

4 (a) A refund of the full purchase price of the pet  
 5 animal; or

6 (b) A pet animal of the purchaser's choice of equivalent  
 7 value, if such pet animal is available, and reimbursement for  
 8 reasonable veterinary fees not to exceed one-half of the full  
 9 purchase price of the pet animal.

10 (4) For purposes of this section, veterinary fees shall  
 11 be deemed reasonable if the service is appropriate for the  
 12 diagnosis and treatment of the serious health problem and the  
 13 cost of the service is comparable to similar services provided  
 14 by licensed veterinarians in close proximity to the treating  
 15 veterinarian.

16 Sec. 15. No refund or reimbursement of fees or  
 17 replacement of a pet animal under section 14 of this act shall be  
 18 required if one or more of the following conditions exist:

19 (1) The serious health problem or death of the pet animal  
 20 resulted from maltreatment, neglect, or injury occurring after  
 21 delivery of the pet animal to the purchaser;

22 (2) Any written disclosure statements provided by a  
 23 seller pursuant to subsection (2) of section 13 of this act  
 24 disclosed the serious health problem for which the purchaser is  
 25 seeking a remedy; or

26 (3) The purchaser failed to follow through with  
 27 preventative care, including, but not limited to, vaccinations,  
 1 deworming treatment, or medication, recommended by a licensed  
 2 veterinarian examining the pet animal.

3 Sec. 16. (1) If a seller does not comply with a demand  
 4 for remedy by a purchaser under section 14 of this act, the  
 5 purchaser may file an action in a court of competent jurisdiction.

6 (2) If a seller contests a demand for remedy by a  
 7 purchaser under section 14 of this act, the seller may require the  
 8 purchaser to produce the pet animal for examination or autopsy by  
 9 a licensed veterinarian designated by the seller. The seller shall  
 10 pay for all costs associated with such examination or autopsy. The  
 11 seller shall have a right of recovery against the purchaser if the  
 12 seller is not obligated to provide the remedy sought.

13 (3) The prevailing party in a proceeding under this  
 14 section shall be limited to a recovery of actual costs and no more  
 15 than five hundred dollars in reasonable attorney's fees.

16 Sec. 17. Nothing in the Dog and Cat Purchase Protection  
 17 Act shall limit any rights and remedies otherwise available under  
 18 the laws of this state. Any agreement or contract entered into  
 19 by a seller and a purchaser waiving any rights under the act is  
 20 void. Nothing in the Dog and Cat Purchase Protection Act shall

21 be construed to limit a seller to offering only those warranties,  
22 express or implied, required by the act.

23 Sec. 18. Sections 11 to 17 of this act become operative  
24 on January 1, 2010. The other sections of this act become operative  
25 on their effective date.

26 2. On page 14, line 25; and page 15, lines 4 and 5,  
27 strike "effective date of this act" and insert "operative date of  
1 this section".

2 3. Renumber the remaining section accordingly.

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

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB436. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Senator Carlson's son, Nathan Carlson, from Holdrege; Senator Fischer's brother, sister-in-law, and nephews, Cory, Patricia, Joshua, and Ben Strobel, from Knoxville, Tennessee; 60 fourth-grade students and teachers from Wasmer Elementary, Grand Island; Michelle Sherman from Omaha; 80 fourth-grade students and teachers from Dodge Elementary, Grand Island; Marna Pruett from Rocklin, California and Josephine Cranston from Irvine, California; and 22 fourth-grade students from Seymour Elementary, Ralston.

The Doctor of the Day was Dr. Mardelle DeLight from Lincoln.

### **ADJOURNMENT**

At 12:05 p.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Tuesday, April 14, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**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

**SIXTY-FIRST DAY - APRIL 15, 2009**  
**LEGISLATIVE JOURNAL**  
**ONE HUNDRED FIRST LEGISLATURE**  
**FIRST SESSION**  
**SIXTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
 Wednesday, April 15, 2009

**PRAYER**

The prayer was offered by Reverend Timothy Schmidt, Evangelical Free Church, Firth.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Cook and Cornett who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixtieth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 436.** Placed on Select File with amendment.  
 ER8062

- 1 1. In the Standing Committee amendments, AM708:
- 2 a. On page 1, line 22, after "end-use" insert
- 3 "electricity";
- 4 b. On page 3, line 3, after "solar" insert "resources";
- 5 c. On page 5, line 13, strike beginning with "At" through
- 6 "any" and insert "Any"; and in lines 14 and 15 strike "of that
- 7 period" and insert "at the end of each annualized period";
- 8 d. On page 6, lines 1, 5, and 9, strike "this section"
- 9 and insert "sections 1 to 5 of this act"; and
- 10 e. On page 7, line 2, strike "it" and insert "its
- 11 qualified facility".
- 12 2. On page 1, line 1, strike "public power districts" and
- 13 insert "electricity"; and in line 4 strike "electric suppliers" and
- 14 insert "local distribution utilities".

**LEGISLATIVE BILL 188.** Placed on Select File with amendment.  
ER8063

- 1 1. On page 1, line 2, after the fourth comma insert
- 2 "81-2017,"; in line 10 after the semicolon insert "to change
- 3 contribution provisions relating to the Nebraska State Patrol
- 4 Retirement Act;" and in line 13 strike "and" and insert "to provide
- 5 an operative date;".
- 6 2. On page 2, line 1, after "sections" insert "; and to
- 7 declare an emergency".
- 8 3. On page 8, line 17; page 15, line 14; page 16, line
- 9 23; page 30, line 3; and page 37, line 1, strike the second comma.
- 10 4. On page 14, line 23; page 36, line 9; and page 38,
- 11 line 13, strike the comma.
- 12 5. On page 23, line 9; and page 39, line 25, strike "and
- 13 section 11 of this act".
- 14 6. On page 40, line 7, strike "11" and insert "12".
- 15 7. On page 41, line 24, after the second comma insert
- 16 "81-2017,".

**LEGISLATIVE BILL 56.** Placed on Select File.

**LEGISLATIVE BILL 497.** Placed on Select File with amendment.  
ER8064

- 1 1. In the Council amendment, AM1015:
- 2 a. On page 1, line 1, after "sections" insert "and all
- 3 amendments thereto"; and
- 4 b. On page 18, line 5, strike the first "of" and insert
- 5 "for".
- 6 2. On page 1, line 3, after "sections" insert
- 7 "60-498.02," and after the last comma insert "60-6,197.02,"; in
- 8 line 4 after "60-6,197.03," insert "60-6,197.06,"; and in line
- 9 6 after the semicolon insert "to provide for the payment of
- 10 installation, removal, or maintenance costs of such devices for
- 11 certain persons as prescribed; to change provisions relating to
- 12 operating a motor vehicle under a revoked license;".

(Signed) Jeremy Nordquist, Chairperson

### **AMENDMENT - Print in Journal**

Senator Flood filed the following amendment to LB158:  
AM1006

(Amendments to Final Reading copy)

- 1 1. On page 9, lines 14 and 23; and page 10, lines 6
- 2 and 12, after the period insert "This section does not apply to
- 3 any municipality or county accredited through the Commission on
- 4 Accreditation for Law Enforcement Agencies.".
- 5 2. On page 9, line 11, strike "employer" and insert
- 6 "municipality or county"; strike beginning with "employing" in line

7 15 through "any" in line 16; and in lines 19 and 21 strike "agency  
 8 or unit" and insert "municipality or county".  
 9 3. On page 10, line 11, strike "8" and insert "7"; and  
 10 strike beginning with "demotion" in line 16 through "pay" in line  
 11 17 and insert "suspension with or without pay, or demotion".

### GENERAL FILE

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

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

**LEGISLATIVE BILL 463A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 160.** Title read. Considered.

Committee AM735, found on page 775, was considered.

Senator Price renewed his amendment, AM1043, found on page 1020, to the committee amendment.

Senator Price withdrew his amendment.

Senator Rogert offered the following amendment to the committee amendment:

AM1005

(Amendments to Standing Committee amendments, AM735)

1 1. On page 1, line 20, strike "subsection" and insert  
 2 "subsections".  
 3 2. On page 2, after the period insert the following new  
 4 paragraph:  
 5 "(4) Proceeds of bonds issued pursuant to section 1 of  
 6 this act shall not be used to fund any project in any city or  
 7 county (a) located within a watershed in which is located a city  
 8 of the metropolitan class and (b) which is party to an agreement  
 9 under the Interlocal Cooperation Act, unless such city or county  
 10 has adopted a storm water management plan approved by the board of  
 11 directors of the natural resources district encompassing a city of  
 12 the metropolitan class.".

The Rogert amendment was adopted with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

The committee amendment, as amended, was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Pending.

## RESOLUTION

**LEGISLATIVE RESOLUTION 86.** Introduced by Howard, 9.

WHEREAS, an estimated 160,000 children in the United States miss school each day as a result of being bullied; and

WHEREAS, bullying is an unfortunate reality in Nebraska schools; and

WHEREAS, on any given day, in schools and playgrounds across Nebraska, children are being victimized by their peers. They are subjected to everything from teasing, social rejection, and physical fights to text messaging and cyber-tormenting; and

WHEREAS, bullying causes deep psychological pain, and children who are bullied often experience low self-esteem, depression, more frequent school absences, poor academic achievement, and increased school dropout rates; and

WHEREAS, children who engage in bullying behavior often go on to engage in more destructive, antisocial behaviors as teens and adults; and

WHEREAS, it takes a community to prevent bullying of children; and

WHEREAS, National Bullying Prevention Awareness Week encourages communities nationwide to work together to increase awareness of the prevalence and impact of bullying on all children.

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

1. That the week of October 4th through the 10th, 2009, be designated as Nebraska School Bullying Awareness Week, with the intention that the issue of bullying and its prevention be discussed in Nebraska during that time.

2. That a copy of this resolution be sent to the State Department of Education.

Laid over.

## COMMITTEE REPORT

Executive Board

**LEGISLATIVE BILL 653.** Placed on General File with amendment.  
AM1071

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

3 Section 1. The Legislature finds and declares that:

4 (1) State government has significant challenges to face.

5 An ever-changing global economy, an aging population, out-migration  
6 of educated young people, and constantly expanding needs for

7 services, among other issues, require that the Legislature

8 consider the long-term trends and factors affecting the welfare of



9 Nebraskans and the long-term implications of the decisions made by  
10 the members of the Legislature;

11 (2) It is necessary for the Legislature to identify  
12 emerging trends, assets, and challenges of the state;

13 (3) It is vital for Nebraska to have continuity in  
14 policy;

15 (4) It is necessary to establish a process of long-term  
16 state planning within the Legislature; and

17 (5) It is the duty of the Legislature to assess the  
18 long-range needs of Nebraska and to adopt legislation which meets  
19 those needs.

20 Sec. 2. The Legislature's Planning Committee is hereby  
21 established as a special legislative committee to exercise the  
22 authority and perform the duties provided for in this section. The  
23 committee shall be comprised of the Speaker of the Legislature, the  
1 chairperson of the Executive Board of the Legislative Council, the  
2 chairperson of the Appropriations Committee of the Legislature, and  
3 six other members of the Legislature to be chosen by the Executive  
4 Board of the Legislative Council. The executive board shall  
5 ensure that the Legislature's Planning Committee includes adequate  
6 geographic representation. The chairperson and vice-chairperson of  
7 the committee shall be elected by majority vote of the committee.  
8 The committee shall be subject to all rules prescribed by the  
9 Legislature. The committee shall be appointed at the beginning of  
10 each regular legislative session and shall meet as needed. The  
11 committee shall have staff support from the various legislative  
12 divisions and staff.

13 Sec. 3. The Legislature's Planning Committee shall:

14 (1) Collect and analyze data about Nebraska, including,  
15 but not limited to, demographics, workforce, education, wages,  
16 wealth, tax structure, revenue, natural resources, assets,  
17 challenges, trends, and growth and efficiency of government;

18 (2) Identify long-term issues significant to the state;

19 (3) Set goals and benchmarks;

20 (4) Issue a yearly report of its findings; and

21 (5) Propose legislation.

22 Sec. 4. In order to fulfill its duties, the Legislature's  
23 Planning Committee may:

24 (1) Hold public hearings;

25 (2) Obtain data and information from state agencies and  
26 private entities that contract with the state;

27 (3) Contract for assistance, including consultants, with  
1 the approval of the Executive Board of the Legislative Council; and

2 (4) Exercise any other authority or powers as granted  
3 from time to time by the executive board.

(Signed) John Wightman, Chairperson

**AMENDMENT - Print in Journal**

Senator Pankonin filed the following amendment to LB188:  
AM1063

- 1 1. Strike original sections 2 and 10 and insert the  
2 following new sections:
- 3 Sec. 2. Section 23-2308.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:
- 5 23-2308.01 (1) It is the intent of the Legislature that,  
6 in order to improve the competitiveness of the retirement plan  
7 for county employees, a cash balance benefit shall be added to  
8 the County Employees Retirement Act on and after January 1, 2003.  
9 Each member who is employed and participating in the retirement  
10 system prior to January 1, 2003, may either elect to continue  
11 participation in the defined contribution benefit as provided in  
12 the act prior to January 1, 2003, or elect to participate in the  
13 cash balance benefit as set forth in this section. The member  
14 shall make the election prior to January 1, 2003, or on or after  
15 November 1, 2007, but before January 1, 2008. If no election  
16 is made prior to January 1, 2003, or on or after November 1,  
17 2007, but before January 1, 2008, the member shall be treated as  
18 though he or she elected to continue participating in the defined  
19 contribution benefit as provided in the act prior to January 1,  
20 2003. Members who elect to participate in the cash balance benefit  
21 on or after November 1, 2007, but before January 1, 2008, shall  
22 commence participation in the cash balance benefit on January 1,  
23 2008. Any member who made the election prior to January 1, 2003,  
1 does not have to reelect the cash balance benefit on or after  
2 November 1, 2007, but before January 1, 2008. A member employed  
3 and participating in the retirement system prior to January 1,  
4 2003, who terminates employment on or after January 1, 2003, and  
5 returns to employment prior to having a five-year break in service  
6 shall participate in the cash balance benefit as set forth in this  
7 section.
- 8 (2) For a member employed and participating in the  
9 retirement system beginning on and after January 1, 2003, or a  
10 member employed and participating in the retirement system on  
11 January 1, 2003, who, prior to January 1, 2003, or on or after  
12 November 1, 2007, but before January 1, 2008, elects to convert his  
13 or her employee and employer accounts to the cash balance benefit:
- 14 (a) The employee cash balance account shall, at any time,  
15 be equal to the following:
- 16 (i) The initial employee account balance, if any,  
17 transferred from the defined contribution plan account described in  
18 section 23-2309; plus
- 19 (ii) Employee contribution credits deposited in  
20 accordance with section 23-2307; plus
- 21 (iii) Interest credits credited in accordance with  
22 subdivision (19) of section 23-2301; plus

23 (iv) Dividend amounts credited in accordance with  
24 subdivision (4)(c) of section 23-2317; and

25 (b) The employer cash balance account shall, at any time,  
26 be equal to the following:

27 (i) The initial employer account balance, if any,  
1 transferred from the defined contribution plan account described in  
2 section 23-2310; plus

3 (ii) Employer contribution credits deposited in  
4 accordance with section 23-2308; plus

5 (iii) Interest credits credited in accordance with  
6 subdivision (19) of section 23-2301; plus

7 (iv) Dividend amounts credited in accordance with  
8 subdivision (4)(c) of section 23-2317.

9 (3) In order to carry out the provisions of this section,  
10 the board may enter into administrative services agreements for  
11 accounting or record-keeping services. No agreement shall be  
12 entered into unless the board determines that it will result  
13 in administrative economy and will be in the best interests of the  
14 counties and their participating employees. The board may develop  
15 a schedule for the allocation of the administrative services  
16 agreements costs for accounting or record-keeping services and may  
17 assess the costs so that each member pays a reasonable fee as  
18 determined by the board. The money forfeited pursuant to section  
19 23-2319.01 shall not be used to pay the administrative costs  
20 incurred pursuant to this subsection.

21 Sec. 11. Section 84-1309.02, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 84-1309.02 (1) It is the intent of the Legislature that,  
24 in order to improve the competitiveness of the retirement plan for  
25 state employees, a cash balance benefit shall be added to the State  
26 Employees Retirement Act on and after January 1, 2003. Each member  
27 who is employed and participating in the retirement system prior  
1 to January 1, 2003, may either elect to continue participation  
2 in the defined contribution benefit as provided in the act prior  
3 to January 1, 2003, or elect to participate in the cash balance  
4 benefit as set forth in this section. The member shall make the  
5 election prior to January 1, 2003, or on or after November 1, 2007,  
6 but before January 1, 2008. If no election is made prior to January  
7 1, 2003, or on or after November 1, 2007, but before January 1,  
8 2008, the member shall be treated as though he or she elected  
9 to continue participating in the defined contribution benefit as  
10 provided in the act prior to January 1, 2003. Members who elect  
11 to participate in the cash balance benefit on or after November  
12 1, 2007, but before January 1, 2008, shall commence participation  
13 in the cash balance benefit on January 1, 2008. Any member who  
14 made the election prior to January 1, 2003, does not have to  
15 reelect the cash balance benefit on or after November 1, 2007,  
16 but before January 1, 2008. A member employed and participating  
17 in the retirement system prior to January 1, 2003, who terminates

18 employment on or after January 1, 2003, and returns to employment  
19 prior to having a five-year break in service shall participate in  
20 the cash balance benefit as set forth in this section.

21 (2) For a member employed and participating in the  
22 retirement system beginning on and after January 1, 2003, or a  
23 member employed and participating in the retirement system on  
24 January 1, 2003, who, prior to January 1, 2003, or on or after  
25 November 1, 2007, but before January 1, 2008, elects to convert his  
26 or her employee and employer accounts to the cash balance benefit:

27 (a) The employee cash balance account shall, at any time,  
1 be equal to the following:

2 (i) The initial employee account balance, if any,  
3 transferred from the defined contribution plan account described in  
4 section 84-1310; plus

5 (ii) Employee contribution credits deposited in  
6 accordance with section 84-1308; plus

7 (iii) Interest credits credited in accordance with  
8 subdivision (18) of section 84-1301; plus

9 (iv) Dividend amounts credited in accordance with  
10 subdivision (4)(c) of section 84-1319; and

11 (b) The employer cash balance account shall, at any time,  
12 be equal to the following:

13 (i) The initial employer account balance, if any,  
14 transferred from the defined contribution plan account described in  
15 section 84-1311; plus

16 (ii) Employer contribution credits deposited in  
17 accordance with section 84-1309; plus

18 (iii) Interest credits credited in accordance with  
19 subdivision (18) of section 84-1301; plus

20 (iv) Dividend amounts credited in accordance with  
21 subdivision (4)(c) of section 84-1319.

22 (3) In order to carry out the provisions of this section,  
23 the board may enter into administrative services agreements for  
24 accounting or record-keeping services. No agreement shall be  
25 entered into unless the board determines that it will result  
26 in administrative economy and will be in the best interests of  
27 the state and its participating employees. The board may develop  
1 a schedule for the allocation of the administrative services  
2 agreements costs for accounting or record-keeping services and may  
3 assess the costs so that each member pays a reasonable fee as  
4 determined by the board. The money forfeited pursuant to section  
5 84-1321.01 shall not be used to pay the administrative costs  
6 incurred pursuant to this subsection.

**VISITORS**

Visitors to the Chamber were 13 fourth- and fifth-grade students from Faith Christian School, Kearney; 60 fourth-grade students from Parkview Heights Elementary, La Vista; Arlene Mintzmyer and ReNee Peterson from Holdrege; 40 fourth-grade students from North Bend; 44 fourth-grade students from Fort Calhoun; Senator Utter's daughter-in-law, Ann Utter, from South Sioux City; 35 fourth-grade students from Washington Elementary, Norfolk; Shawn Lilledahl from Lincoln; Senator Dierks wife and cousins, Gloria Dierks, from Ewing, and Jim and Barbara Meinhart, from Wamego, Kansas; and Guy K. Rosier from Lincoln.

**RECESS**

At 11:58 a.m., on a motion by Senator Wallman, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

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

**ROLL CALL**

The roll was called and all members were present.

**AMENDMENT - Print in Journal**

Senator White filed the following amendment to LB16:  
AM1061

(Amendments to Standing Committee amendments, AM692)

- 1 1. Strike section 4 and insert the following new section:
- 2 Sec. 4. Section 84-602, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 84-602 It shall be the duty of the State Treasurer:
- 5 (1) To receive and keep all money of the state not
- 6 expressly required to be received and kept by some other person;
- 7 (2) To disburse the public money upon warrants drawn upon
- 8 the state treasury according to law; and not otherwise;
- 9 (3) To keep a just, true, and comprehensive account of
- 10 all money received and disbursed;
- 11 (4) To keep a just account with each fund, and each head
- 12 of appropriation made by law, and the warrants drawn against them;
- 13 (5) To render a full statement to the Department of
- 14 Administrative Services, of all money received by him or her from
- 15 whatever source, and if on account of revenue, for what year;
- 16 of all penalties and interest on delinquent taxes reported or
- 17 accounted for to him or her, and of all disbursements of public
- 18 funds; with a list, in numerical order, of all warrants redeemed,
- 19 the name of the payee, amount, interest and total amount allowed

20 thereon, and with the amount of the balance of the several funds  
 21 unexpended; which statement shall be made on the first day of  
 22 December, March, June, and September, and more often if required;

1 (6) To report to the Legislature as soon as practicable,  
 2 but within ten days after the commencement of each regular session,  
 3 a detailed statement of the condition of the treasury; and its  
 4 operations for the preceding fiscal year;

5 (7) To give information in writing to the Legislature,  
 6 whenever required, upon any subject connected with the treasury or  
 7 touching any duty of his or her office; ~~and~~

8 (8) To account for, and pay over, all money received by  
 9 him or her as such treasurer, to his or her successor in office,  
 10 and deliver all books, vouchers, and effects of office to him or  
 11 her; and such successor shall receipt therefor. In accounting for  
 12 and paying over such money the treasurer shall not be held liable  
 13 on account of any loss occasioned by any investment, when such  
 14 investment shall have been made pursuant to the direction of the  
 15 state investment officer; ~~and~~;

16 (9) To compile and maintain the content and information  
 17 on the web site developed by the Executive Board of the Legislative  
 18 Council pursuant to section 50-401.01 if the State Treasurer is  
 19 designated by the executive board to carry out such duties and he  
 20 or she agrees to discharge such duties.

21 2. On page 2, strike beginning with "The" in line 19  
 22 through the period in line 23 and insert "The web site shall be  
 23 hosted on a server owned and operated by the State of Nebraska or  
 24 approved by the Chief Information Officer. The naming convention  
 25 for the web site shall identify the web site as a state government  
 26 web site. All content and information to be provided shall be  
 27 subject to the review and approval by the executive board and shall  
 1 document the sources of all tax receipts and the expenditure of  
 2 state funds by all agencies, boards, commissions, and departments  
 3 of the state. The duty to compile and maintain the content and  
 4 information on the web site developed pursuant to this section  
 5 shall, at the discretion of the executive board, be assigned to the  
 6 Clerk of the Legislature or to the State Treasurer if the State  
 7 Treasurer agrees to perform all the duties of this subdivision.  
 8 If the provision allowing assignment of such duties to the State  
 9 Treasurer is deemed to be unconstitutional, then the provision  
 10 allowing assignment of such duties to the Clerk of the Legislature  
 11 shall be deemed severable and survive and such duties shall be  
 12 assigned to and performed by the Clerk of the Legislature."

13 3. On page 3, line 27, strike "excluding those which  
 14 result" and insert "that may be disclosed pursuant to".

15 4. On page 4, strike beginning with line 1 through  
 16 "under" in line 3.

17 5. On page 15, line 24, strike "section 50-1304" and  
 18 insert "sections 50-1304 and 84-602"; and in line 25 strike  
 19 "sections 50-401.01 and 77-27,119" and insert "section 50-401.01".

**GENERAL FILE**

**LEGISLATIVE BILL 160.** Senator Rogert withdrew his motion, MO23, found on page 755, to indefinitely postpone.

Senator Hadley offered the following amendment:

AM1082

- 1 1. Strike section 1 and all amendments thereto and insert
- 2 the following new section:
- 3 Section 1. In addition to other powers authorized by law,
- 4 the board of directors of a natural resources district encompassing
- 5 a city of the metropolitan class, with approval by a majority of
- 6 registered voters of the district at an election in accordance
- 7 with the Election Act called by the board of directors and held
- 8 in conjunction with a statewide primary or general election,
- 9 may issue negotiable bonds and refunding bonds of the district,
- 10 entitled flood protection and water quality enhancement bonds, with
- 11 terms determined appropriate upon the taxable value of all taxable
- 12 property in the district. Such special bond levy shall not exceed
- 13 two cents on each one hundred dollars of taxable valuation annually
- 14 on all of the taxable property within the district, and such levy
- 15 is includable in the computation of other limitations upon the
- 16 district's tax levy.

**PRESIDENT SHEEHY PRESIDING**

Senator Hadley withdrew his amendment.

Senator Hadley offered the following amendment:

AM1084

- 1 1. Strike section 1 and all amendments thereto and insert
- 2 the following new section:
- 3 Section 1. In addition to other powers authorized by law,
- 4 the board of directors of a natural resources district encompassing
- 5 a city of the metropolitan class, with approval by a majority of
- 6 registered voters of the district at an election in accordance
- 7 with the Election Act called by the board of directors and held
- 8 in conjunction with a statewide primary or general election,
- 9 may issue negotiable bonds and refunding bonds of the district,
- 10 entitled flood protection and water quality enhancement bonds, with
- 11 terms determined appropriate upon the taxable value of all taxable
- 12 property in the district. Such special bond levy shall not exceed
- 13 two cents on each one hundred dollars of taxable valuation annually
- 14 on all of the taxable property within the district, and such levy
- 15 is includable in the computation of other limitations upon the
- 16 district's tax levy.
- 17 2. In the Standing Committee amendments, AM735:
- 18 a. On page 1, strike lines 21 through 23; and

- 19 b. On page 2, strike lines 1 through 11.  
 20 3. In the Rogert amendment, AM1005, on page 1, strike  
 21 beginning with "line" in line 1 through line 4 and insert "after  
 22 line 20, insert:"; and in line 5 strike "(4)" and insert "(3)".

Pending.

### AMENDMENTS - Print in Journal

Senator Adams filed the following amendment to LB545:  
 AM1078

(Amendments to Standing Committee amendments, AM1056)

- 1 1. Strike section 9 and insert the following new section:  
 2 Sec. 9. Section 79-1007.18, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 79-1007.18 (1) For school fiscal year 2008-09 and each  
 5 school fiscal year thereafter, the department shall calculate an  
 6 averaging adjustment for districts if the basic funding per formula  
 7 student is less than the statewide average basic funding per  
 8 formula student and the general fund levy for the school fiscal  
 9 year immediately preceding the school fiscal year for which aid  
 10 is being calculated was at least ninety-six cents per one hundred  
 11 dollars of taxable valuation for aid calculated for school fiscal  
 12 year 2008-09 and at least one dollar per one hundred dollars of  
 13 taxable valuation for aid calculated for school fiscal year 2009-10  
 14 and each school fiscal year thereafter. For school districts that  
 15 are members of a learning community, the general fund levy for  
 16 purposes of this section includes both the common general fund levy  
 17 and the school district general fund levy authorized pursuant to  
 18 subdivisions (2)(b) and (2)(c) of section 77-3442. The averaging  
 19 adjustment ~~for aid calculated for school fiscal year 2008-09 shall~~  
 20 ~~equal seventy-five percent of the product of the district's formula~~  
 21 ~~students multiplied by the percentage specified in subsection (3),~~  
 22 ~~(4), or (5) of this section for such district of the difference~~  
 1 between the statewide average basic funding per formula student  
 2 minus such district's basic funding per formula student. ~~The~~  
 3 ~~averaging adjustment for aid calculated for school fiscal year~~  
 4 ~~2009-10 and each school fiscal year thereafter shall equal the~~  
 5 ~~district's formula students multiplied by the percentage specified~~  
 6 ~~in this section for such district of the difference between the~~  
 7 ~~statewide average basic funding per formula student minus such~~  
 8 ~~district's basic funding per formula student.~~  
 9 (2) The percentage to be used in the calculation of an  
 10 averaging adjustment shall be based on the general fund levy for  
 11 the school fiscal year immediately preceding the school fiscal year  
 12 for which aid is being calculated.  
 13 (3) The percentages to be used in the calculation of  
 14 averaging adjustments for school fiscal year 2008-09 shall be as  
 15 follows:



16 (a) If such levy was at least ninety-six cents per one  
17 hundred dollars of taxable valuation but less than ninety-seven  
18 cents per one hundred dollars of taxable valuation, the percentage  
19 shall be ten percent;

20 (b) If such levy was at least ninety-seven cents per one  
21 hundred dollars of taxable valuation but less than ninety-eight  
22 cents per one hundred dollars of taxable valuation, the percentage  
23 shall be twenty percent;

24 (c) If such levy was at least ninety-eight cents per  
25 one hundred dollars of taxable valuation but less than ninety-nine  
26 cents per one hundred dollars of taxable valuation, the percentage  
27 shall be thirty percent;

1 (d) If such levy was at least ninety-nine cents per one  
2 hundred dollars of taxable valuation but less than one dollar per  
3 one hundred dollars of taxable valuation, the percentage shall be  
4 forty percent;

5 (e) If such levy was at least one dollar per one hundred  
6 dollars of taxable valuation but less than one dollar and one cent  
7 per one hundred dollars of taxable valuation, the percentage shall  
8 be fifty percent;

9 (f) If such levy was at least one dollar and one cent per  
10 one hundred dollars of taxable valuation but less than one dollar  
11 and two cents per one hundred dollars of taxable valuation, the  
12 percentage shall be sixty percent;

13 (g) If such levy was at least one dollar and two  
14 cents per one hundred dollars of taxable valuation but less than  
15 one dollar and three cents per one hundred dollars of taxable  
16 valuation, the percentage shall be seventy percent;

17 (h) If such levy was at least one dollar and three cents  
18 per one hundred dollars of taxable valuation but less than one  
19 dollar and four cents per one hundred dollars of taxable valuation,  
20 the percentage shall be eighty percent; and

21 (i) If such levy was at least one dollar and four cents  
22 per one hundred dollars of taxable valuation, the percentage shall  
23 be ninety percent.

24 (4) The percentages to be used in the calculation of  
25 averaging adjustments for school fiscal year 2009-10 ~~and each~~  
26 ~~school fiscal year thereafter~~ shall be as follows:

27 (a) If such levy was at least one dollar per one hundred  
1 dollars of taxable valuation but less than one dollar and one cent  
2 per one hundred dollars of taxable valuation, the percentage shall  
3 be fifty percent;

4 (b) If such levy was at least one dollar and one cent per  
5 one hundred dollars of taxable valuation but less than one dollar  
6 and two cents per one hundred dollars of taxable valuation, the  
7 percentage shall be sixty percent;

8 (c) If such levy was at least one dollar and two  
9 cents per one hundred dollars of taxable valuation but less than  
10 one dollar and three cents per one hundred dollars of taxable

11 valuation, the percentage shall be seventy percent;

12 (d) If such levy was at least one dollar and three cents  
 13 per one hundred dollars of taxable valuation but less than one  
 14 dollar and four cents per one hundred dollars of taxable valuation,  
 15 the percentage shall be eighty percent; and

16 (e) If such levy was at least one dollar and four cents  
 17 per one hundred dollars of taxable valuation, the percentage shall  
 18 be ninety percent.

19 (5) The percentage to be used in the calculation of  
 20 averaging adjustments for school fiscal year 2010-11 and each  
 21 school fiscal year thereafter shall be fifty percent.

Senator Adams filed the following amendment to LB545:  
 AM1057

(Amendments to Standing Committee amendments, AM1056)

1 1. Insert the following new sections:

2 Sec. 14. Section 79-1022, Reissue Revised Statutes of  
 3 Nebraska, as amended by section 1, Legislative Bill 548, One  
 4 Hundred First Legislature, First Session, 2009, is amended to read:

5 79-1022 (1) On or before June 1, 2009, on or before March  
 6 1, 2010, and on or before February 1 of each year thereafter,  
 7 the department shall determine the amounts to be distributed to  
 8 each local system and each district pursuant to the Tax Equity  
 9 and Educational Opportunities Support Act and shall certify the  
 10 amounts to the Director of Administrative Services, the Auditor of  
 11 Public Accounts, each learning community, and each district. The  
 12 amount to be distributed to each district that is not a member  
 13 of a learning community from the amount certified for a local  
 14 system shall be proportional based on: (a) For school fiscal years  
 15 prior to school fiscal year 2008-09, the weighted formula students  
 16 attributed to each district in the local system; and (b) for school  
 17 fiscal year 2008-09 and each school fiscal year thereafter, the  
 18 formula students attributed to each district in the local system.  
 19 For the first five complete school fiscal years for a learning  
 20 community, the amount to be distributed to each district that is  
 21 a member of such learning community shall be determined pursuant  
 22 to section 79-1015. For each school fiscal year thereafter, the  
 1 amount to be distributed to each district that is a member of a  
 2 learning community from the amount certified for the local system  
 3 shall be proportional based on the formula needs calculated for  
 4 each district in the local system. On or before June 1, 2009, on  
 5 or before March 1, 2010, and on or before February 1 of each year  
 6 thereafter, the department shall report the necessary funding level  
 7 to the Governor, the Appropriations Committee of the Legislature,  
 8 and the Education Committee of the Legislature. Certified state  
 9 aid amounts, including adjustments pursuant to section 79-1065.02,  
 10 shall be shown as budgeted non-property-tax receipts and deducted  
 11 prior to calculating the property tax request in the district's  
 12 general fund budget statement as provided to the Auditor of Public

13 Accounts pursuant to section 79-1024.

14 (2) Except as provided in subsection (8) of section  
15 79-1016 and sections 79-1033 and 79-1065.02, the amounts certified  
16 pursuant to subsection (1) of this section shall be distributed in  
17 ten as nearly as possible equal payments on the last business day  
18 of each month beginning in September of each ensuing school fiscal  
19 year and ending in June of the following year, except that when a  
20 school district is to receive a monthly payment of less than one  
21 thousand dollars, such payment shall be one lump-sum payment on  
22 the last business day of December during the ensuing school fiscal  
23 year.

24 Sec. 16. Section 79-1026.01, Reissue Revised Statutes  
25 of Nebraska, as amended by section 3, Legislative Bill 548, One  
26 Hundred First Legislature, First Session, 2009, is amended to read:

27 79-1026.01 For school fiscal year 2008-09 and each school  
1 fiscal year thereafter, on or before June 1, 2009, on or before  
2 March 1, 2010, and on or before February 1 of each year thereafter,  
3 the department shall determine and certify to each Class II, III,  
4 IV, or V district an applicable allowable growth rate carried out  
5 at least four decimal places as follows:

6 (1) The department shall establish a target budget level  
7 range of general fund operating expenditure levels for each school  
8 fiscal year for each school district which shall begin at twenty  
9 percent less than the school district's formula need and end at the  
10 school district's formula need. The beginning point of the range  
11 shall be assigned a number equal to the maximum allowable growth  
12 rate established in section 79-1025, and the end point of the range  
13 shall be assigned a number equal to the basic allowable growth rate  
14 as prescribed in such section such that the lower end of the range  
15 shall be assigned the maximum allowable growth rate and the higher  
16 end of the range shall be assigned the basic allowable growth rate;  
17 and

18 (2) For each school fiscal year, each school district's  
19 general fund operating expenditures shall be compared to its target  
20 budget level along the range described in subdivision (1) of  
21 this section to arrive at an applicable allowable growth rate  
22 as follows: If each school district's general fund operating  
23 expenditures fall below the lower end of the range, such applicable  
24 allowable growth rate shall be the maximum growth rate identified  
25 in section 79-1025. If each school district's general fund  
26 operating expenditures are greater than the higher end of the  
27 range, the school district's allowable growth rate shall be the  
1 basic allowable growth rate identified in such section. If each  
2 school district's general fund operating expenditures fall between  
3 the lower end and the higher end of the range, the department shall  
4 use a linear interpolation calculation between the end points of  
5 the range to arrive at the applicable allowable growth rate for the  
6 school district.

7 Sec. 17. Section 79-1027, Reissue Revised Statutes of

8 Nebraska, as amended by section 4, Legislative Bill 548, One  
 9 Hundred First Legislature, First Session, 2009, is amended to read:  
 10 79-1027 No district shall adopt a budget, which includes  
 11 total requirements of depreciation funds, necessary employee  
 12 benefit fund cash reserves, and necessary general fund cash  
 13 reserves, exceeding the applicable allowable reserve percentages  
 14 of total general fund budget of expenditures as specified in the  
 15 schedule set forth in this section.

Average daily membership of district	Allowable reserve percentage
0 - 471	45
471.01 - 3,044	35
3,044.01 - 10,000	25
10,000.01 and over	20

23 On or before June 1, 2009, on or before March 1, 2010,  
 24 and on or before February 1 each year thereafter, the department  
 25 shall determine and certify each district's applicable allowable  
 26 reserve percentage.

27 Each district with combined necessary general fund cash  
 1 reserves, total requirements of depreciation funds, and necessary  
 2 employee benefit fund cash reserves less than the applicable  
 3 allowable reserve percentage specified in this section may,  
 4 notwithstanding the district's applicable allowable growth rate,  
 5 increase its necessary general fund cash reserves such that the  
 6 total necessary general fund cash reserves, total requirements  
 7 of depreciation funds, and necessary employee benefit fund  
 8 cash reserves do not exceed such applicable allowable reserve  
 9 percentage.

10 Sec. 21. Section 79-1031.01, Reissue Revised Statutes  
 11 of Nebraska, as amended by section 5, Legislative Bill 548, One  
 12 Hundred First Legislature, First Session, 2009, is amended to read:

13 79-1031.01 The Appropriations Committee of the  
 14 Legislature shall annually include the amount necessary to fund the  
 15 state aid that will be certified to school districts on or before  
 16 June 1, 2009, on or before March 1, 2010, and on or before February  
 17 1 for each school year thereafter in its recommendations to the  
 18 Legislature to carry out the requirements of the Tax Equity and  
 19 Educational Opportunities Support Act.

20 2. On page 45, line 1, after the last comma insert "on  
 21 or before March 1, 2010".

22 3. Amend the repealer, renumber the remaining sections,  
 23 and correct internal references accordingly.

**COMMITTEE REPORTS**

## Education

**LEGISLATIVE BILL 545.** Placed on General File with amendment. AM1056 is available in the Bill Room.

(Signed) Greg Adams, Chairperson

## Judiciary

**LEGISLATIVE BILL 373.** Placed on General File with amendment. AM1022

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 18-1723, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 18-1723 Whenever any firefighter who has served a total  
 6 of five years as a member of a paid fire department of any city  
 7 in this state or any police officer of any city or village,  
 8 including any city having a home rule charter, shall suffer death  
 9 or disability as a result of hypertension or heart or respiratory  
 10 defect or disease, there shall be a rebuttable presumption that  
 11 such death or disability resulted from accident or other cause  
 12 while in the line of duty for all purposes of Chapter 15, article  
 13 10, sections 16-1001 to 16-1042, and any firefighter's or police  
 14 officer's pension plan established pursuant to any home rule  
 15 charter, the Legislature specifically finding the subject of this  
 16 section to be a matter of general statewide concern. The rebuttable  
 17 presumption shall apply to death or disability as a result of  
 18 hypertension or heart or respiratory defect or disease after the  
 19 firefighter or police officer separates from his or her applicable  
 20 employment if the death or disability occurs within three months  
 21 after such separation. Such rebuttable presumption shall apply  
 22 in any action or proceeding arising out of death or disability  
 23 incurred prior to December 25, 1969, and which has not been  
 1 processed to final administrative or judicial conclusion prior to  
 2 such date.

3 Sec. 2. Section 35-1001, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 35-1001 (1) For a firefighter or firefighter-paramedic  
 6 who is a member of a paid fire department of a municipality or a  
 7 rural or suburban fire protection district in this state, including  
 8 a municipality having a home rule charter or a municipal authority  
 9 created pursuant to a home rule charter that has its own paid  
 10 fire department, and who suffers death or disability as a result  
 11 of cancer, including, but not limited to, cancer affecting the  
 12 skin or the central nervous, lymphatic, digestive, hematological,  
 13 urinary, skeletal, oral, or prostate systems, evidence which  
 14 demonstrates that ~~(1)~~(a) such firefighter or firefighter-paramedic

15 successfully passed a physical examination upon entry into such  
16 service or subsequent to such entry, which examination failed  
17 to reveal any evidence of cancer, ~~(2)-(b)~~ such firefighter  
18 or firefighter-paramedic was exposed to a known carcinogen, as  
19 defined on July 19, 1996, by the International Agency for Research  
20 on Cancer, while in the service of the fire department, and  
21 ~~(3)-(c)~~ such carcinogen is reported by the agency to be a  
22 suspected or known cause of the type of cancer the firefighter  
23 or firefighter-paramedic has, shall be prima facie evidence that  
24 such death or disability resulted from injuries, accident, or other  
25 cause while in the line of duty for the purposes of sections  
26 16-1020 to 16-1042, a firefighter's pension plan established  
27 pursuant to a home rule charter, and a firefighter's pension or  
1 disability plan established by a rural or suburban fire protection  
2 district.

3 (2) For a firefighter or firefighter-paramedic who  
4 is a member of a paid fire department of a municipality or  
5 a rural or suburban fire protection district in this state,  
6 including a municipality having a home rule charter or a  
7 municipal authority created pursuant to a home rule charter  
8 that has its own paid fire department, and who suffers death  
9 or disability as a result of a blood-borne infectious disease,  
10 tuberculosis, meningococcal meningitis, or methicillin-resistant  
11 Staphylococcus aureus, evidence which demonstrates that (a)  
12 such firefighter or firefighter-paramedic successfully passed a  
13 physical examination upon entry into such service or subsequent  
14 to such entry, which examination failed to reveal any evidence of  
15 such blood-borne infectious disease, tuberculosis, meningococcal  
16 meningitis, or methicillin-resistant Staphylococcus aureus, and  
17 (b) such firefighter or firefighter-paramedic has engaged in the  
18 service of the fire department within ten years before the onset  
19 of the disease, shall be prima facie evidence that such death  
20 or disability resulted from injuries, accident, or other cause  
21 while in the line of duty for the purposes of sections 16-1020 to  
22 16-1042, a firefighter's pension plan established pursuant to a  
23 home rule charter, and a firefighter's pension or disability plan  
24 established by a rural or suburban fire protection district.

25 (3) The prima facie evidence presumed under this  
26 section shall extend to death or disability as a result  
27 of cancer as described in this section, a blood-borne  
1 infectious disease, tuberculosis, meningococcal meningitis, or  
2 methicillin-resistant Staphylococcus aureus after the firefighter  
3 or firefighter-paramedic separates from his or her service to the  
4 fire department if the death or disability occurs within three  
5 months after such separation.

6 (4) For purposes of this section, blood-borne  
7 infectious disease means human immunodeficiency virus, acquired  
8 immunodeficiency syndrome, and all strains of hepatitis.

9 Sec. 3. Original sections 18-1723 and 35-1001, Reissue  
10 Revised Statutes of Nebraska, are repealed.

**LEGISLATIVE BILL 671.** Placed on General File with amendment.  
AM1009

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

3 Section 1. Section 23-1212, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 23-1212 For purposes of sections 23-1212 to 23-1222 and  
6 sections 3 to 5 of this act, unless the context otherwise requires:

7 (1) County attorney shall mean the county attorney of  
8 a county in this state whether such position is elective or  
9 appointive and regardless of whether such position is full time or  
10 part time;

11 (2) Deputy county attorney shall mean an attorney  
12 employed by a county in this state for the purpose of assisting  
13 the county attorney in carrying out his or her responsibilities  
14 regardless of whether such position is full time or part time;

15 (3) Council shall mean the Nebraska County Attorney  
16 Standards Advisory Council;

17 (4) Attorney General shall mean the Nebraska Attorney  
18 General;

19 (5) Commission shall mean the Nebraska Commission on Law  
20 Enforcement and Criminal Justice; and

21 (6) Continuing legal education, including instruction  
22 providing a working knowledge of electronic speed measurement  
23 principles and instruction on the investigation and prosecution  
1 of crimes against children, shall mean that type of legal  
2 education, including instruction providing a working knowledge  
3 of electronic speed measurement principles and instruction on the  
4 investigation and prosecution of crimes against children, which has  
5 application to and seeks to maintain and improve the skills of  
6 the county attorney and deputy county attorney in carrying out the  
7 responsibilities of his or her office or position.

8 Sec. 2. Section 23-1213, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 23-1213 There is hereby created the Nebraska County  
11 Attorney Standards Advisory Council which shall consist of ~~seven~~  
12 eleven members, ~~four-six~~ of whom shall be either a county attorney  
13 or deputy county attorney, one member being a professor of law  
14 or professor of forensic science, ~~and two~~ members being county  
15 commissioners or supervisors, one member being a county sheriff  
16 or a chief of police, and one member being a certified forensic  
17 pathologist. The members of such council shall be appointed by  
18 the Governor. Of the county attorneys or deputy county attorneys  
19 appointed to such council, one shall be from Douglas County, one  
20 shall be from Lancaster County, and the remaining ~~two-four~~ shall be  
21 appointed from the remainder of the state. Members of the council

22 shall serve a term of four years, except that of the members first  
 23 appointed one member shall serve a term of one year, two members  
 24 shall serve a term of two years, two members shall serve a term of  
 25 three years, and two members shall each serve a term of four years.  
 26 A member may be reappointed at the expiration of his or her term.  
 27 Any vacancy occurring other than by expiration of a term shall be  
 1 filled for the remainder of the unexpired term in the same manner  
 2 as the original appointment. The council shall select one of its  
 3 members as chairperson. The Governor shall make the appointments  
 4 under this section within ninety days of July 19, 1980.

5 Members of the council shall have such membership  
 6 terminated if they cease to hold the office of county attorney,  
 7 deputy county attorney, ~~or~~ county commissioner or supervisor, or  
 8 county sheriff or chief of police. A member of the council may be  
 9 removed from the council for good cause upon written notice and  
 10 upon an opportunity to be heard before the Governor. After the  
 11 hearing, the Governor shall file in the office of the Secretary  
 12 of State a complete statement of the charges and the findings and  
 13 disposition together with a complete record of the proceedings.

14 Sec. 3. The council shall, with respect to ensuring  
 15 quality and uniform death investigation processes throughout the  
 16 state:

17 (1) Create and distribute uniform checklists of best  
 18 practices to promote uniform and quality death investigations for  
 19 county coroners. Such checklists may include guidance to the county  
 20 coroner in determining the need for autopsies involving:

- 21 (a) Deaths of individuals nineteen years of age or older;
- 22 (b) Deaths of individuals under nineteen years of age;
- 23 (c) Sudden, unexplained infant deaths;
- 24 (d) Deaths while in custody;
- 25 (e) Deaths caused by motor vehicle collisions;
- 26 (f) Deaths by burning; and
- 27 (g) Suspicious deaths; and

1 (2) Create standardized procedures for death  
 2 investigations, including death scene procedures. The council shall  
 3 also make recommendations as to best practices for county coroners  
 4 with respect to:

- 5 (a) The utilization of investigative tools and equipment;
- 6 (b) Entering the death scene;
- 7 (c) Documenting and evaluating the death scene;
- 8 (d) Documenting and evaluating the body;
- 9 (e) Establishing and recording decedent profile

10 information; and

- 11 (f) Completing the death scene investigation.

12 Persons investigating infant and young child deaths may  
 13 also refer to the recommendations adopted by the Attorney General  
 14 with respect to such investigations.

15 Sec. 4. The council shall also:

- 16 (1) Help establish a voluntary network of regional



17 officials including, but not limited to, law enforcement, county  
18 coroners, and medical personnel to provide death investigation  
19 support services for any location in Nebraska;

20 (2) Help determine the membership of such networks; and

21 (3) Develop, design, and provide standardized forms in  
22 both hard copy and electronic copy for use in death investigations.

23 Sec. 5. Every person who is elected or appointed as  
24 a coroner or deputy coroner in or for the State of Nebraska  
25 shall satisfactorily complete initial death investigation training  
26 within one year after the date of election or appointment, and  
27 thereafter annually complete continuing education as determined by  
1 the council.

2 Sec. 6. Section 23-1218, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 23-1218 The Nebraska Commission on Law Enforcement and  
5 Criminal Justice, after consultation with the council, shall:

6 (1) Establish curricula for the implementation of a  
7 mandatory continuing legal education program, including instruction  
8 providing a working knowledge of electronic speed measurement  
9 principles and instruction on the investigation and prosecution of  
10 crimes against children, for county attorneys and deputy county  
11 attorneys;

12 (2) Administer all programs of continuing legal  
13 education, including instruction providing a working knowledge  
14 of electronic speed measurement principles and instruction on  
15 the investigation and prosecution of crimes against children,  
16 for county attorneys and deputy county attorneys required under  
17 sections 23-1212 to 23-1222 and sections 3 to 5 of this act;

18 (3) Evaluate the effectiveness of programs of continuing  
19 legal education, including instruction providing a working  
20 knowledge of electronic speed measurement principles and  
21 instruction on the investigation and prosecution of crimes against  
22 children, required under sections 23-1212 to 23-1222 and sections  
23 3 to 5 of this act;

24 (4) Certify the number of hours of continuing legal  
25 education, including instruction providing a working knowledge of  
26 electronic speed measurement principles and instruction on the  
27 investigation and prosecution of crimes against children, completed  
1 by a county attorney and deputy county attorney as required under  
2 sections 23-1212 to 23-1222 and sections 3 to 5 of this act and  
3 maintain all records relating thereto;

4 (5) Report to the Attorney General the names of all  
5 county attorneys and deputy county attorneys who have failed  
6 to complete the number of hours of continuing legal education,  
7 including instruction providing a working knowledge of electronic  
8 speed measurement principles and instruction on the investigation  
9 and prosecution of crimes against children, as required under  
10 section 23-1217;

11 (6) Establish tuition and fees for all programs of

12 continuing legal education, including instruction providing a  
 13 working knowledge of electronic speed measurement principles and  
 14 instruction on the investigation and prosecution of crimes against  
 15 children, as required under sections 23-1212 to 23-1222 and  
 16 sections 3 to 5 of this act;

17 (7) Adopt and promulgate necessary rules and regulations  
 18 for the effective delivery of all programs of continuing legal  
 19 education, including instruction providing a working knowledge of  
 20 electronic speed measurement principles and instruction on the  
 21 investigation and prosecution of crimes against children, for  
 22 county attorneys and deputy county attorneys as required under  
 23 sections 23-1212 to 23-1222 and sections 3 to 5 of this act;

24 (8) Do all things necessary to carry out the purpose of  
 25 training county attorneys and deputy county attorneys as required  
 26 by sections 23-1212 to 23-1222 and sections 3 to 5 of this act; and

27 (9) Receive and distribute appropriated funds to the  
 1 Nebraska County Attorneys Association to develop, administer, and  
 2 conduct continuing legal education seminars, prepare and publish  
 3 trial manuals and other publications, and take any other measure  
 4 that will enhance the investigation and prosecution of crime in  
 5 this state.

6 Sec. 7. Original sections 23-1212, 23-1213, and 23-1218,  
 7 Reissue Revised Statutes of Nebraska, are repealed.

(Signed) Brad Ashford, Chairperson

Education

**LEGISLATIVE BILL 392.** Placed on General File with amendment.  
 AM1079

1 1. Strike original section 3 and insert the following new  
 2 sections:

3 Section 1. Section 13-503, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 13-503 For purposes of the Nebraska Budget Act, unless  
 6 the context otherwise requires:

7 (1) Governing body shall mean the governing body of  
 8 any county agricultural society, elected county fair board, joint  
 9 airport authority formed under the Joint Airport Authorities  
 10 Act, city or county airport authority, bridge commission created  
 11 pursuant to section 39-868, cemetery district, city, village,  
 12 municipal county, community college, community redevelopment  
 13 authority, county, drainage or levee district, educational  
 14 service unit, rural or suburban fire protection district,  
 15 historical society, hospital district, irrigation district,  
 16 learning community, natural resources district, nonprofit county  
 17 historical association or society for which a tax is levied under  
 18 subsection (1) of section 23-355.01, public building commission,  
 19 railroad transportation safety district, reclamation district,

20 road improvement district, rural water district, school district,  
21 sanitary and improvement district, township, offstreet parking  
22 district, transit authority, metropolitan utilities district,  
23 Educational Service Unit Coordinating Council, and political  
1 subdivision with the authority to have a property tax request, with  
2 the authority to levy a toll, or that receives state aid;

3 (2) Levying board shall mean any governing body which has  
4 the power or duty to levy a tax;

5 (3) Fiscal year shall mean the twelve-month period used  
6 by each governing body in determining and carrying on its financial  
7 and taxing affairs;

8 (4) Tax shall mean any general or special tax levied  
9 against persons, property, or business for public purposes as  
10 provided by law but shall not include any special assessment;

11 (5) Auditor shall mean the Auditor of Public Accounts;

12 (6) Cash reserve shall mean funds required for the period  
13 before revenue would become available for expenditure but shall not  
14 include funds held in any special reserve fund;

15 (7) Public funds shall mean all money, including nontax  
16 money, used in the operation and functions of governing bodies.  
17 For purposes of a county, city, or village which has a lottery  
18 established under the Nebraska County and City Lottery Act, only  
19 those net proceeds which are actually received by the county, city,  
20 or village from a licensed lottery operator shall be considered  
21 public funds, and public funds shall not include amounts awarded as  
22 prizes;

23 (8) Adopted budget statement shall mean a proposed budget  
24 statement which has been adopted or amended and adopted as provided  
25 in section 13-506. Such term shall include additions, if any, to an  
26 adopted budget statement made by a revised budget which has been  
27 adopted as provided in section 13-511;

1 (9) Special reserve fund shall mean any special fund  
2 set aside by the governing body for a particular purpose and not  
3 available for expenditure for any other purpose. Funds created  
4 for (a) the retirement of bonded indebtedness, (b) the funding  
5 of employee pension plans, (c) the purposes of the Political  
6 Subdivisions Self-Funding Benefits Act, (d) the purposes of the  
7 Local Option Municipal Economic Development Act, (e) voter-approved  
8 sinking funds, or (f) statutorily authorized sinking funds, ~~or (g)~~  
9 ~~the distribution of property tax receipts by a learning community~~  
10 ~~to member school districts~~ shall be considered special reserve  
11 funds;

12 (10) Biennial period shall mean the two fiscal years  
13 comprising a biennium commencing in odd-numbered years used by  
14 a city in determining and carrying on its financial and taxing  
15 affairs; and

16 (11) Biennial budget shall mean a budget by a city of  
17 the primary or metropolitan class that adopts a charter provision  
18 providing for a biennial period to determine and carry on the

19 city's financial and taxing affairs.

20 Sec. 4. Section 79-1007.21, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 79-1007.21 ~~(1)-(1)(a)~~ For school fiscal year 2009-10  
23 and each school fiscal year thereafter, school districts may  
24 apply to the department for a two-year new school adjustment  
25 to accommodate recent and expected student growth, on a form  
26 prescribed by the department, on or before October 10 of the school  
27 fiscal year immediately preceding the school fiscal year for which  
1 the first-year new school adjustment would be included in the  
2 calculation of state aid.

3 Such form shall require evidence (i) of recent and  
4 expected student growth, ~~evidence (ii)~~ that a new building or the  
5 expansion or remodeling of an existing building is being completed  
6 to provide additional student capacity to accommodate such growth  
7 and not to replace an existing building, ~~evidence (iii)~~ that  
8 the school fiscal year for which the district would receive the  
9 first-year adjustment will be the first full school fiscal year for  
10 which students will utilize such additional capacity, and ~~evidence~~  
11 (iv) of the estimated additional student capacity to be provided by  
12 the project.

13 (b) For school fiscal year 2011-12 and each school fiscal  
14 year thereafter, school districts may apply to the department for  
15 a two-year new school adjustment for a new focus school or a new  
16 focus program, on a form prescribed by the department, on or before  
17 October 10 of the school fiscal year immediately preceding the  
18 school fiscal year for which the first-year new school adjustment  
19 would be included in the calculation of state aid. Such form shall  
20 require evidence (i) supporting an estimate of the expected average  
21 yearly enrollment in the focus school or focus program for the  
22 first two years of the new focus school or focus program and (ii)  
23 that the school fiscal year for which the district would receive  
24 the first-year adjustment will be the first full school fiscal year  
25 for which students will attend such focus school or focus program.

26 (c) On or before the immediately following December  
27 1, the department shall approve the expected average yearly  
1 enrollment for new focus schools and focus programs or the  
2 estimated additional capacity for use in the adjustment, approve a  
3 modified expected average yearly enrollment for new focus schools  
4 and focus programs or the estimated additional capacity for use in  
5 the adjustment, or deny the application based on the requirements  
6 of this section, the evidence submitted on the application, and  
7 any other information provided by the department. Each approval  
8 shall include an approved expected average yearly enrollment for  
9 new focus schools and focus programs or the estimated additional  
10 student capacity for the new building, expansion, or remodeling.

11 (d) The state board shall establish procedures for appeal  
12 of decisions of the department to the state board for final  
13 determination.

14 (2) The first-year new school adjustment for each  
15 approved district shall equal the school district's basic funding  
16 per formula student multiplied by twenty percent of the approved  
17 expected average yearly enrollment for new school adjustments for  
18 focus schools and focus programs or estimated additional student  
19 capacity for all other new school adjustments. The second-year  
20 new school adjustment for each approved district shall equal the  
21 school district's basic funding per formula student multiplied by  
22 ten percent of the approved expected average yearly enrollment  
23 for new school adjustments for focus schools and focus programs  
24 or estimated additional student capacity for all other new school  
25 adjustments.

26 Sec. 5. Section 79-1041, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1 79-1041 Each county treasurer of a county with territory  
2 in a learning community shall distribute any funds collected by  
3 such county treasurer from the common general fund levy and the  
4 common building fund levy of such learning community to each member  
5 school district pursuant to sections 79-1073 and 79-1073.01 at  
6 least once each month.

7 Each county treasurer shall, upon request of a majority  
8 of the members of the school board or board of education in  
9 any school district, at least once each month distribute to the  
10 district any funds collected by such county treasurer for school  
11 purposes.

12 Sec. 6. Section 79-1073, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 79-1073 On or before September 1 for each year, each  
15 learning community coordinating council shall determine the  
16 expected amounts to be distributed by the county treasurers to  
17 each member school district from general fund property tax receipts  
18 pursuant to subdivision (2)(b) of section 77-3442 and shall certify  
19 such amounts to each member school district, the county treasurer  
20 for each county containing territory in the learning community,  
21 and the State Department of Education. For the first three school  
22 fiscal years for which the learning community levies a common  
23 general fund property tax for school districts, such property  
24 tax receipts shall be divided among member school districts  
25 proportionally based on the greater of (1) the difference of the  
26 school district's formula need calculated pursuant to the Tax  
27 Equity and Educational Opportunities Support Act minus the sum  
1 of the state aid certified pursuant to section 79-1022 and the  
2 other actual receipts included in local system formula resources  
3 pursuant to section 79-1018.01 for the school fiscal year for  
4 which the distribution is being made or (2) the difference of  
5 the sum of the state aid certified for the school fiscal year  
6 immediately preceding the first school fiscal year for which the  
7 learning community levies a common general fund property tax  
8 for school districts plus the product of the school district's

9 general fund levy for such school fiscal year multiplied by the  
 10 assessed valuation for such school fiscal year minus the state aid  
 11 certified pursuant to section 79-1022 for the school fiscal year  
 12 for which the distribution is being made. Thereafter, such property  
 13 tax receipts shall be divided among member school districts  
 14 proportionally based on the difference of the school district's  
 15 formula need calculated pursuant to section 79-1007.11 minus the  
 16 sum of the state aid certified pursuant to section 79-1022 and the  
 17 other actual receipts included in local system formula resources  
 18 pursuant to section 79-1018.01 for the school fiscal year for which  
 19 the distribution is being made.

20 Each time ~~a learning community coordinating council~~ the  
 21 county treasurer distributes property tax receipts from the common  
 22 general fund levy to member school districts, the amount to be  
 23 distributed to each district shall be proportional based on the  
 24 total amounts to be distributed to each member school district for  
 25 the school fiscal year.

26 Sec. 7. Section 79-1073.01, Reissue Revised Statutes of  
 27 Nebraska, is amended to read:

1 79-1073.01 Amounts levied by learning communities for  
 2 special building funds for member school districts pursuant to  
 3 subdivision (2)(g) of section 77-3442 shall be distributed by the  
 4 county treasurer collecting such levy proceeds to all member school  
 5 districts proportionally based on the formula students used in the  
 6 most recent certification of state aid pursuant to section 79-1022.

7 Any amounts distributed pursuant to this section shall be  
 8 used by the member school districts for special building funds.

9 Sec. 8. Section 79-2104, Reissue Revised Statutes of  
 10 Nebraska, is amended to read:

11 79-2104 A learning community coordinating council shall  
 12 have the authority to:

13 (1) Levy ~~and distribute~~ a common levy for the general  
 14 funds of member school districts pursuant to sections 77-3442 and  
 15 79-1073;

16 (2) Levy ~~and distribute~~ a common levy for the special  
 17 building funds of member school districts pursuant to sections  
 18 77-3442 and 79-1073.01;

19 (3) Levy for capital projects approved by the learning  
 20 community coordinating council pursuant to sections 77-3442 and  
 21 79-2111;

22 (4) Collect, analyze, and report data and information,  
 23 including, but not limited to, information provided by a school  
 24 district pursuant to subsection (5) of section 79-201;

25 (5) Approve focus schools and focus programs to be  
 26 operated by member school districts;

27 (6) Adopt, approve, and implement a diversity plan which  
 1 shall include open enrollment and may include focus schools, focus  
 2 programs, magnet schools, and pathways pursuant to section 79-2110;

3 (7) Administer the open enrollment provisions in section

4 79-2110 for the learning community as part of a diversity plan  
 5 developed by the council to provide educational opportunities which  
 6 will result in increased diversity in schools across the learning  
 7 community;

8 (8) Annually conduct school fairs to provide students and  
 9 parents the opportunity to explore the educational opportunities  
 10 available at each school in the learning community and develop  
 11 other methods for encouraging access to such information and  
 12 promotional materials;

13 (9) Develop and approve reorganization plans for  
 14 submission pursuant to the Learning Community Reorganization Act;

15 (10) Establish and administer elementary learning centers  
 16 through achievement subcouncils pursuant to sections 79-2112 to  
 17 79-2114;

18 (11) Administer the learning community funds distributed  
 19 to the learning community pursuant to section 79-2111;

20 (12) Approve or disapprove poverty plans and limited  
 21 English proficiency plans for member school districts through  
 22 achievement subcouncils established under section 79-2117;

23 (13) Establish a procedure for receiving community input  
 24 and complaints regarding the learning community; and

25 (14) Establish a procedure to assist parents, citizens,  
 26 and member school districts in accessing an approved center  
 27 pursuant to the Dispute Resolution Act to resolve disputes  
 1 involving member school districts or the learning community. Such  
 2 procedure may include payment by the learning community for some  
 3 mediation services.

4 2. On page 12, line 20, after "sections" insert "13-503,"  
 5 and after the last comma insert "79-1041, 79-1073, 79-1073.01,  
 6 79-2104,".

7 3. Renumber the remaining sections accordingly.

(Signed) Greg Adams, Chairperson

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 27A.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 27, One Hundred First Legislature, First Session, 2009; and the declare an emergency.

### **GENERAL FILE**

**LEGISLATIVE BILL 160.** The Hadley amendment, AM1084, found in this day's Journal, was renewed.

Senator Hadley offered the following amendment to his amendment:

FA28

Amend AM1084

Line 6, strike "registered voters of" and insert "those voting in".

Pending.

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 162.** Placed on Select File with amendment. ER8065 is available in the Bill Room.

**LEGISLATIVE BILL 495.** Placed on Select File with amendment. ER8066

- 1 1. Renumber original section 3 as section 2.
- 2 2. On page 5, line 1, after "limits" insert an
- 3 underscored comma; in line 10 strike "and"; and in line 12 after
- 4 "and" insert "shall".
- 5 3. On page 6, line 5, strike the first comma and show as
- 6 stricken; and in line 14 after "parks" insert an underscored comma.

**LEGISLATIVE BILL 622.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 87.** Introduced by Karpisek, 32.

WHEREAS, Wade William Kerl, of Troop 175 in Geneva, 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, Wade 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. For his Eagle Scout community service project, Wade constructed a 5' x 12' sign for the Cumberland Park in Geneva; and

WHEREAS, only a small percentage of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and



WHEREAS, on April 26, 2009, Wade will receive the rank of Eagle Scout and, 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 Wade William Kerl on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Wade William Kerl.

Laid over.

### **VISITORS**

Upon adjournment the Speaker introduced a group from the Nebraska Association of Former State Legislators.

The Doctor of the Day was Dr. Jay Matzke from Gothenburg.

### **ADJOURNMENT**

At 4:00 p.m., on a motion by Senator Utter, the Legislature adjourned until 9:00 a.m., Thursday, April 16, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-SECOND DAY - APRIL 16, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**SIXTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, April 16, 2009

**PRAYER**

The prayer was offered by Pastor Bill Ritter, First United Methodist Church, Columbus.

**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 Senator Loudon who was excused; and Senators Adams and Wallman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-first day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 35.** Placed on Select File with amendment. ER8067 is available in the Bill Room.

**LEGISLATIVE BILL 35A.** Placed on Select File.

**LEGISLATIVE BILL 463A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**AMENDMENT - Print in Journal**

Senator McGill filed the following amendment to LB84:  
AM269

- 1 1. On page 2, strike beginning with the first "the" in
- 2 line 20 through the comma in line 21 and show as stricken.

**ATTORNEY GENERAL'S OPINION**Opinion 09007

DATE: April 15, 2009

SUBJECT: Use of income from leases for electricity generation utilizing solar or wind energy and from the sale of carbon offset credits on unsold school lands under the management of the Board of Educational Lands and Funds to increase compensation paid to teachers

REQUESTED BY: Senator Ken Haar  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General  
Charles E. Lowe, Assistant Attorney General

## Introduction

In a letter to this office you have asked for an Attorney General's opinion as to whether or not a proposed amendment to LB 235 would, if adopted, violate Neb. Const. art. VII, § 9.

The context of your request is as follows: LB 235, as introduced and as amended by the Education Committee (AM 681), would authorize the Board of Educational Lands and Funds to "issue leases for electricity generation utilizing solar or wind energy" on unsold school lands under its management; and it would also authorize the board to "enter into contracts for the sale of carbon offset credits" (which are also known as "carbon sequestration rights") in connection with the school lands. The proposed amendment to the bill (AM 700) would place the rental income from the leases and proceeds from the sale of the carbon offset credits into a newly-created Teacher Compensation Assistance Fund to be used "to increase the compensation paid to teachers in the State of Nebraska." Your question is whether or not the use of these funds for the purpose of increasing teacher compensation would violate Neb. Const. art. VII, § 9, which places limits on the use of income from unsold school lands.

## Neb. Const. art. VII, § 9 and Historical Background

The specific provisions of Neb. Const. art. VII, § 9 that are at issue state:

"(1) The following funds shall be exclusively used for the support and maintenance of the common schools in each school district in the state . . . as the Legislature shall provide: . . . (b) The income from the unsold school lands, except that costs of administration shall be deducted from the income before it is so applied."

Thus, the Nebraska Constitution makes clear that net income derived from unsold school lands is to be used only to support and maintain the common (or public) schools in each school district.

This constitutional limitation on the use of income from the unsold school lands is reflective of the history of Nebraska's organization as a state and admission into the Union. That history has been discussed in *State ex rel. Ebke v. Board of Educational Lands and Funds of Nebraska*, 159 Neb. 79, 84-85, 65 N.W.2d 392, 396-97 (1954).

Nebraska came into the Union as a state by virtue of an Enabling Act of Congress approved April 19, 1864, 13 U.S.St. at Large, § 7, p. 49, which provided: 'And be it further enacted, That sections numbered sixteen and thirty-six in every township, and when such sections have been sold or otherwise disposed of by any act of congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be, shall be, and are hereby, granted to said state for the support of common schools.'

A Constitution having been regularly approved within the territory in 1866, Nebraska was admitted into the Union on March 1, 1867. By its admission it assumed the privileges and duties of statehood, including those imposed by the congressional Enabling Act which included the acceptance of the lands and funds for the common schools of the state.

\* \* \*

The provision of the Enabling Act making the grant, and of the Constitution of 1866 setting apart and pledging the principal and income from such grant, and the subsequent act admitting the state into the Union under such Constitution constituted a contract between the state and the national government relating to such grants. See *State ex rel. Johnson v. Central Nebraska Public Power & Irr. Dist.*, 143 Neb. 153, 8 N.W.2d 841.

In *Propst v. Board of Educational Lands & Funds*, 156 Neb. 226, 55 N.W.2d 653, 657, this court said: 'The school lands were received and are held in trust by the State of Nebraska for educational purposes. The state as trustee of the lands and of the income therefrom is required to administer the trust estate under the rules of law applicable to trustees acting in a fiduciary capacity.' The court also held: 'The title to the state school lands was vested in the state upon an express trust for the support of common schools without right or power of the state to use, dispose of, or alienate the lands or any part thereof except as allowed by the Enabling Act and the Constitution.'

In short, as stated by the court in *Ebke*, by accepting these land grants from the United States made "for the support of the common schools" Nebraska obligated itself to use the income from these lands for that purpose only.

Nebraska's Constitution reinforces this obligation. See, Neb. Const. art. VII, §§ 6 through 9.

### Discussion

Ultimately, the question to be answered is whether or not increasing teacher pay through use of some narrowly specified income from the unsold school lands would be deemed to be providing support and maintenance to the public schools. If increasing teacher pay with these funds is seen as an action which "supports" and "maintains" the public schools, then using these funds in that way would not necessarily run afoul of the limitation in art. VII, § 9. The answer to this question turns on the meaning of the words "support" and "maintain" as used in the Constitution.

"The terms of a Constitution should be construed according to their plain and ordinary acceptation, unless it is evident they were used in a legal or technical sense." *State ex rel. Tyrrell, Co. Atty. v. Lincoln Traction Co.*, 90 Neb. 535, 134 N.W. 278, 281 (1912). Accordingly, the words "support" and "maintenance" are to be given their plain and ordinary meaning.

Merriam-Webster Online Dictionary (<http://www.merriam-webster.com/dictionary>) offers several definitions for the word "support," three of which are useful in the context of art. VII, § 9. The first of these is "to promote the interests or cause of." The second is "to pay the costs of" as in "support a family." The last such possibly applicable definition of "support" is "to keep (something) going." "Maintenance" is defined in that same dictionary as "the act of maintaining." The applicable definitions of the word "maintain" are "to keep in an existing state (as of repair, efficiency, or validity)" and "to support or provide for" as in "has a family to maintain."

Given these definitions of "support" and "maintain," it appears to us that using the net income from wind and solar energy leases and the sale of carbon offset credits on the unsold school lands to increase the pay of public school teachers would not violate the provisions of art. VII, § 9. In reaching this conclusion we assume that the goal of such increased pay would be to improve the ability of the public schools to attract and retain talented and experienced teachers who might otherwise, for financial reasons, decide not to pursue or remain in a public teaching career. To that extent such use of the income contemplated in AM 700 would seem to "promote the interests or cause of" the public schools; and, in this manner, increased teacher pay would "support" the public schools and help "maintain" them as centers of capable and competent teaching. Moreover, since teacher compensation is, obviously, a large portion of any public school district's budget, using the specified income from the unsold school lands to provide increased teacher pay would also provide "support" and "maintenance" to the public schools in the financial and economic senses of those words.

Our conclusion that using the specified income from the unsold school lands to increase public school teacher compensation would not be

unconstitutional is supported by the fact that art. VII, § 9 states that income arising from the perpetual school funds and from the unsold school lands is to be used for the support and maintenance of the common schools "as the Legislature shall provide." This quoted language indicates that the Legislature has at least some discretion to determine in what manner that income is to be used to effectuate the overall purpose of supporting and maintaining the public schools in Nebraska. Therefore, a legislative decision to direct some of that income to increased public school teacher compensation would be permissible so long as there is a reasonable basis to conclude that, in fact, such increased compensation will support and maintain – i.e., benefit – the public schools in each school district.

While not directly applicable here, it is, nonetheless, noteworthy that Neb. Const. art. VII, § 1 uses language similar to that found in art. VII, § 9 in stating: "The Legislature shall provide for the free instruction in the common schools of this state of all persons between the ages of five and twenty-one years." (Emphasis supplied.) In discussing this language of art. VII, § 1 the Nebraska Supreme Court has said: "'What methods and what means should be adopted in order to furnish free instruction to the children of the state has been left by the constitution to the legislature.'" *Nebraska Coalition for Educational Equity and Adequacy (Coalition) v. Heineman*, 273 Neb. 531, 542, 731 N.W.2d 164, 173 (2007) (quoting *Affolder v. State*, 51 Neb. 91, 93, 70 N.W.544, 545 (1897)). In our view it is likely that the court would take a similar approach to art. VII, § 9 in leaving to the Legislature the determination of the methods and means for using the income from the perpetual school fund and from the unsold school lands to support and maintain the public schools.<sup>1</sup>

It is important to understand that, in this opinion, we are addressing only the somewhat abstract question of whether or not using income from wind and solar energy leases and from the sale of carbon offset credits on unsold school lands to increase public school teacher compensation would necessarily violate art. VII, § 9. Assuming that increasing teacher pay can reasonably be expected to result in an actual benefit to the public schools and the students in those schools, we have concluded that such use of these funds would not, in and of itself, result in a violation of that constitutional provision.

#### Additional Points

In light of the statement in your letter to this office that the fund proposed to be created under AM 700 would be "a holding fund, and no distribution method has yet been decided" and some concerns we have about the language contained in the proposed amendment itself, we offer the following additional comments.

First, if the Legislature wishes to use the income from the leases and sales described in LB 235 exclusively to increase the compensation of teachers, there should be some evidence in the legislative record from which it can be

reasonably concluded that using the income for this particular purpose will, more likely than not, help to support and maintain the public schools. Having such a legislative record would assist in upholding the Legislature's decision as to such use of the income.

Second, any distribution method that is adopted should ensure that the income is used to support and maintain the "common schools in each school district in the state," as required by art. VII, § 9. To ensure this and avoid other possible constitutional problems, it would be best, in our view, to distribute the funds to the public school districts themselves for use to increase teacher compensation, rather than making payments directly to teachers from the fund.

Third, we note that proposed amendment AM 700, as presented to us, says that "[t]he [Teacher Compensation Assistance] fund shall be used to increase the compensation paid to teachers in the State of Nebraska." There is nothing in the proposed amendment limiting its scope to teachers in the public schools. Under art. VII, § 9, however, that income from the perpetual school funds and the unsold school lands may be used only to support and maintain "the common schools in each school district in the state." To the extent there are teachers in Nebraska who are employed by entities other than the public schools, no such income can be used to increase their compensation; and the newly-created fund cannot be used for that purpose. We suggest that AM 700 be amended to reflect that it is only the compensation of public school teachers which may be increased using these funds.

Finally, the proposed amendment states that "all rental income from leases" and "all proceeds from the sale of [carbon offset credits]" are to be credited to the Teacher Compensation Assistance Fund. (Emphasis supplied.) Art. VII, § 9(1)(b) makes it clear, however, that income from the unsold school lands is to have "the costs of administration" deducted before it is applied to the "support and maintenance of the common schools." Clarifying the proposed amendment to reflect this constitutional requirement that administrative costs be deducted would assist in avoiding confusion and possible conflict between what the Constitution requires and the language used by the Legislature.

### Conclusion

It is our opinion that using the net income derived from wind and solar energy leases and the sale of carbon offset credits on unsold school lands to increase compensation paid to public school teachers in Nebraska would not, in and of itself, violate the provisions of Neb. Const. art. VII, § 9 limiting the use of income from the unsold school lands to the "support and maintenance of the common schools in each school district in the state." It is important, however, that any such use of this income be carefully structured so as to assure that it actually does provide "support and maintenance" to each school district and that it is directed only at the compensation of



teachers in the public schools.

<sup>1</sup> In *Propst v. Board of Educational Lands and Funds*, 156 Neb. 226, 233, 55 N.W.2d 653, 657 (1952), the supreme court stated that "[t]he school lands were received and are held in trust by the State of Nebraska for educational purposes." This use of the term "educational purposes" as synonymous with the constitutional language "support of the common schools" in describing the reason the school lands were granted to the state by the federal government also suggests that the term "support and maintenance of the common schools" in art. VII, § 9 would not be given an overly-narrow interpretation by the court were the issue to arise.

Sincerely,  
JON BRUNING  
Attorney General  
(Signed) Charles E. Lowe  
Assistant Attorney General

cc: Patrick J. O'Donnell  
Clerk of the Legislature  
17-055-20

## RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LR 80 and 81 were adopted.

## SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 80 and 81.

## GENERAL FILE

**LEGISLATIVE BILL 432.** Title read. Considered.

Committee AM177, found on page 372, was adopted with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 137.** Title read. Considered.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 152.** Title read. Considered.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 302.** Title read. Considered.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 299.** Title read. Considered.

Committee AM70, found on page 396, was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 343.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 84.** Title read. Considered.

Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 394.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 131.** Title read. Considered.

**SENATOR LANGEMEIER PRESIDING**

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 133.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 113.** Title read. Considered.

Committee AM301, found on page 450, was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 163.** Title read. Considered.

Committee AM298, found on page 459, was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 434.** Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

**COMMITTEE REPORT**  
Health and Human Services

**LEGISLATIVE BILL 195.** Returned to General File with amendment. AM952 is available in the Bill Room.

(Signed) Tim Gay, Chairperson

**AMENDMENTS - Print in Journal**

Senator Haar filed the following amendment to LB436:  
AM1065

(Amendments to Standing Committee amendments, AM708)

- 1 1. On page 1, line 18; page 2, lines 3 and 10; page 3,
- 2 line 25; and page 6, line 25, strike "generation unit" and insert
- 3 "facility".
- 4 2. On page 3, line 22, after the first comma insert "and
- 5 the".
- 6 3. On page 4, line 27; and page 5, line 18, strike
- 7 "service".
- 8 4. On page 6, line 12, strike "services"; and in line 13
- 9 after "units" insert "with a rated capacity".

Senator Coash filed the following amendment to LB498:  
AM1085

- 1 1. Insert the following new section:
- 2 Sec. 2. Section 49-1499.02, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 49-1499.02 (1) An official or employee of the executive
- 5 branch of state government or a member of the board of trustees of
- 6 Wyuka Cemetery who would be required to take any action or make
- 7 any decision in the discharge of his or her official duties that

8 may cause financial benefit or detriment to him or her, a member  
 9 of his or her immediate family, or a business with which he or she  
 10 is associated, which is distinguishable from the effects of such  
 11 action on the public generally or a broad segment of the public,  
 12 shall take the following actions as soon as he or she is aware  
 13 of such potential conflict or should reasonably be aware of such  
 14 potential conflict, whichever is sooner:

15 (a) Prepare a written statement describing the matter  
 16 requiring action or decision and the nature of the potential  
 17 conflict; and

18 (b) Deliver a copy of the statement to the commission  
 19 and to his or her immediate superior, if any, who shall assign  
 20 the matter to another. If the immediate superior does not assign  
 21 the matter to another or if there is no immediate superior, the  
 22 official, ~~or employee,~~ or member of the board of trustees of Wyuka  
 23 Cemetery shall take such action as the commission shall advise  
 1 or prescribe to remove himself or herself from influence over the  
 2 action or decision on the matter.

3 (2) This section does not prevent such a person from (a)  
 4 making or participating in the making of a governmental decision to  
 5 the extent that the individual's participation is legally required  
 6 for the action or decision to be made, (b) making or participating  
 7 in the making of a decision to the extent that the individual's  
 8 participation is legally required for the action or decision to  
 9 be made, or ~~(b)-(c)~~ (c) making or participating in the making of  
 10 a governmental decision if the potential conflict of interest is  
 11 based upon a business association and the business association  
 12 exists only as the result of his or her position on a commodity  
 13 board. A person acting pursuant to subdivision (a) or (b) of this  
 14 subsection shall report the occurrence to the commission.

15 (3) For purposes of this section, commodity board means  
 16 only the following:

17 (a) Corn Development, Utilization, and Marketing Board;

18 (b) Nebraska Dairy Industry Development Board;

19 (c) Grain Sorghum Development, Utilization, and Marketing  
 20 Board;

21 (d) Nebraska Wheat Development, Utilization, and  
 22 Marketing Board;

23 (e) Dry Bean Commission;

24 (f) Nebraska Potato Development Committee; and

25 (g) Nebraska Poultry and Egg Development, Utilization,  
 26 and Marketing Committee.

27 2. On page 3, line 10, after the period insert "At  
 1 least two of the five trustees shall have prior experience in  
 2 funeral directing, managing a funeral establishment, or managing a  
 3 cemetery.".

4 3. On page 5, line 21, strike "is" and insert "and"  
 5 section 49-1499.02, Revised Statutes Cumulative Supplement, 2008,

6 are".

7 4. Renumber the remaining sections accordingly.

### **GENERAL FILE**

**LEGISLATIVE BILL 348.** Title read. Considered.

Committee AM191, found on page 464, was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 540.** Title read. Considered.

Committee AM115, found on page 475, was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 528.** Title read. Considered.

Committee AM247, found on page 526, was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 450.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 274.** Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 339.** Title read. Considered.

Committee AM197, found on page 544, was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 412.** Title read. Considered.

Committee AM134, found on page 547, was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 27.** Title read. Considered.

Committee AM321, found on page 550, was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

**SPEAKER FLOOD PRESIDING**

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 175.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 129.** Title read. Considered.

Committee AM485, found on page 566, was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 208.** Title read. Considered.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 94.** Title read. Considered.

Committee AM555, found on page 628, was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 389.** Title read. Considered.

Committee AM355, found on page 632, was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 209.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 422.** Title read. Considered.

Committee AM327, found on page 652, was adopted with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 488.** Title read. Considered.

Committee AM504, found on page 652, was adopted with 43 ayes, 0 nays, 3 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 501.** Title read. Considered.

Committee AM551, found on page 652, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 60.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 278.** Title read. Considered.

Pending.

#### **AMENDMENT - Print in Journal**

Senator White filed the following amendment to LB551:  
AM1039

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 44-710.01, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:

5 44-710.01 No policy of sickness and accident insurance  
6 shall be delivered or issued for delivery to any person in this  
7 state unless (1) the entire money and other considerations therefor  
8 are expressed therein, (2) the time at which the insurance takes  
9 effect and terminates is expressed therein, (3) it purports to  
10 insure only one person, except that a policy may insure, originally  
11 or by subsequent amendment, upon the application of an adult  
12 member of a family who shall be deemed the policyholder, any  
13 two or more eligible members of that family, including husband,  
14 wife, dependent children, any children enrolled on a full-time  
15 basis in any college, university, or trade school, or any children  
16 under a specified age which shall not exceed ~~twenty three~~ thirty  
17 years and any other person dependent upon the policyholder; any  
18 individual policy hereinafter delivered or issued for delivery  
19 in this state which provides that coverage of a dependent child  
20 shall terminate upon the attainment of the limiting age for  
21 dependent children specified in the policy shall also provide in  
22 substance that attainment of such limiting age shall not operate  
23 to terminate the coverage of such child during the continuance  
1 of such policy and while the child is and continues to be both  
2 (a) incapable of self-sustaining employment by reason of mental  
3 retardation or physical handicap and (b) chiefly dependent upon  
4 the policyholder for support and maintenance, if proof of such  
5 incapacity and dependency is furnished to the insurer by the  
6 policyholder within thirty-one days of the child's attainment of  
7 the limiting age and subsequently as may be required by the  
8 insurer but not more frequently than annually after the two-year  
9 period following the child's attainment of the limiting age; such  
10 insurer may charge an additional premium for and with respect  
11 to any such continuation of coverage beyond the limiting age of  
12 the policy with respect to such child, which premium shall be  
13 determined by the insurer on the basis of the class of risks  
14 applicable to such child, (4) it contains a title on the face of  
15 the policy correctly describing the policy, (5) the exceptions and  
16 reductions of indemnity are set forth in the policy and, except  
17 those which are set forth in sections 44-710.03 and 44-710.04,  
18 are printed, at the insurer's option, either included with the  
19 benefit provision to which they apply or under an appropriate  
20 caption such as EXCEPTIONS, or EXCEPTIONS AND REDUCTIONS; if an  
21 exception or reduction specifically applies only to a particular  
22 benefit of the policy, a statement of such exception or reduction  
23 shall be included with the benefit provision to which it applies,  
24 (6) each such form, including riders and endorsements, shall be  
25 identified by a form number in the lower left-hand corner of the  
26 first page thereof, (7) it contains no provision purporting to make  
27 any portion of the charter, rules, constitution, or bylaws of the  
1 insurer a part of the policy unless such portion is set forth in  
2 full in the policy, except in the case of the incorporation of, or  
3 reference to, a statement of rates or classification of risks, or



4 short-rate table filed with the Director of Insurance, and (8) on  
5 or after January 1, 1999, any restrictive rider contains a notice  
6 of the existence of the Comprehensive Health Insurance Pool if the  
7 policy provides health insurance as defined in section 44-4209.

8 Sec. 2. Section 44-761, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 44-761 Each group policy of sickness and accident  
11 insurance shall contain in substance the following provisions:

12 (1) A provision that the policy, the application of the  
13 policyholder if such application or copy thereof is attached to  
14 such policy, and the individual applications, if any, submitted  
15 in connection with such policy by the employees or members, shall  
16 constitute the entire contract between the parties, that all  
17 statements, in the absence of fraud, made by any applicant or  
18 applicants shall be deemed representations and not warranties, and  
19 that no such statement shall avoid the insurance or reduce benefits  
20 thereunder unless contained in a written application of which a  
21 copy is attached to the policy;

22 (2) A provision that the insurer will furnish to the  
23 policyholder, for delivery to each employee or member of the  
24 insured group, an individual certificate setting forth in summary  
25 form a statement of the essential features of the insurance  
26 coverage of such employee or member and to whom benefits thereunder  
27 are payable. If dependents are included in the coverage, only one  
1 certificate need be issued for each family unit;

2 (3) A provision that to the group originally insured may  
3 be added from time to time eligible new employees or members or  
4 dependents, as the case may be, in accordance with the terms of the  
5 policy; and

6 (4) A provision that the insurance coverage of the  
7 employee or member may include, originally or by subsequent  
8 amendment, upon the application of the employee or member, any  
9 two or more eligible members of his or her family, including  
10 husband, wife, dependent children, any children enrolled on a  
11 full-time basis in any college, university, or trade school,  
12 or any children under a specified age which shall not exceed  
13 ~~twenty-three~~ thirty years, and any other person dependent upon  
14 the policyholder. Any policy which provides that coverage of an  
15 unmarried dependent child shall terminate upon the attainment of  
16 the limiting age for unmarried dependent children specified in the  
17 policy shall also provide that attainment of such limiting age  
18 shall not operate to terminate the coverage of such child during  
19 the continuance of the insurance coverage of the employee or member  
20 under such policy and while such child is and continues to be  
21 (a) incapable of self-sustaining employment by reason of mental or  
22 physical handicap and (b) chiefly dependent upon the policyholder  
23 for support and maintenance, if proof of such incapacity and  
24 dependency is furnished to the insurer by the policyholder within  
25 thirty-one days of such child's attainment of the limiting age

26 and subsequently as may be required by the insurer but not more  
 27 frequently than annually after the two-year period following such  
 1 child's attainment of the limiting age. The insurer may charge an  
 2 additional premium for and with respect to any such continuation of  
 3 coverage beyond the limiting age of the policy, which premium shall  
 4 be determined by the insurer on the basis of the class of risks  
 5 applicable to such child. The provisions of this subdivision shall  
 6 be contained in all new policies of group sickness and accident  
 7 insurance delivered or issued for delivery to any person in this  
 8 state. No group policy of sickness and accident insurance shall  
 9 contain any provisions which are in conflict with sections 44-3,144  
 10 to 44-3,150.

11 Sec. 3. (1) For purposes of this section, health benefit  
 12 plan means any expense-incurred individual or group sickness  
 13 and accident insurance policy, health maintenance organization  
 14 contract, subscriber contract, or self-funded employee benefit  
 15 plan to the extent not preempted by federal law, except for  
 16 any policy or contract that provides coverage only for excepted  
 17 benefits as defined in the federal Health Insurance Portability  
 18 and Accountability Act of 1996, 29 U.S.C. 1191b, and regulations  
 19 adopted pursuant to the act, as such act and regulations existed on  
 20 January 1, 2009, or any policy or contract that provides coverage  
 21 for a specified disease or other limited-benefit coverage.

22 (2) Notwithstanding section 44-3,131, any health benefit  
 23 plan that provides coverage for children shall provide for  
 24 continuing coverage for such children as follows:

25 (a) If coverage under the health benefit plan would  
 26 otherwise terminate because a covered child ceases to be a  
 27 dependent, ceases to be a full-time student, or attains an age  
 1 which exceeds the specified age at which coverage ceases pursuant  
 2 to the plan, the health benefit plan shall provide the option  
 3 to the insured to continue coverage for such child through the  
 4 end of the month in which the child (i) marries, (ii) ceases to  
 5 be a resident of the state, unless the child is under nineteen  
 6 years of age or is enrolled on a full-time basis in any college,  
 7 university, or trade school, (iii) receives coverage under another  
 8 health benefit plan or a self-funded employee benefit plan that  
 9 is not included in the definition of a health benefit plan under  
 10 subsection (1) of this section but provides similar coverage, or  
 11 (iv) attains thirty years of age; and

12 (b) The health benefit plan may require:

13 (i) A written election from the insured; and

14 (ii) An additional premium for the child. Such premium  
 15 shall not vary based upon the health status of the child and shall  
 16 not exceed the amount the health benefit plan would receive for an  
 17 identical individual for a single adult insured. No employer shall  
 18 be required to contribute to any additional premium under this  
 19 subdivision.

20 Sec. 4. This act becomes operative on January 1, 2010.

- 21 Sec. 5. Original sections 44-710.01 and 44-761, Reissue  
 22 Revised Statutes of Nebraska, are repealed.

## COMMITTEE REPORTS

### Judiciary

**LEGISLATIVE BILL 306.** Placed on General File.

**LEGISLATIVE BILL 675.** Placed on General File with amendment.  
 AM994

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 28-326, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 28-326 For purposes of sections 28-325 to 28-345, unless  
 6 the context otherwise requires:  
 7 (1) Abortion means the use or prescription of any  
 8 instrument, medicine, drug, or other substance or device  
 9 intentionally to terminate the pregnancy of a woman known to be  
 10 pregnant with an intention other than to increase the probability  
 11 of a live birth, to preserve the life or health of the child after  
 12 live birth, or to remove a dead unborn child, and which causes the  
 13 premature termination of the pregnancy;  
 14 (2) Hospital means those institutions licensed by the  
 15 Department of Health and Human Services pursuant to the Health Care  
 16 Facility Licensure Act;  
 17 (3) Physician means any person licensed to practice  
 18 medicine in this state as provided in ~~sections 71-102 to 71-110;~~  
 19 the Uniform Credentialing Act;  
 20 (4) Pregnant means that condition of a woman who has  
 21 unborn human life within her as the result of conception;  
 22 (5) Conception means the fecundation of the ovum by the  
 23 spermatozoa;  
 1 (6) Viability means that stage of human development when  
 2 the unborn child is potentially able to live more than merely  
 3 momentarily outside the womb of the mother by natural or artificial  
 4 means;  
 5 (7) Emergency situation means that condition which, on  
 6 the basis of the physician's good faith clinical judgment, so  
 7 complicates the medical condition of a pregnant woman as to  
 8 necessitate the immediate abortion of her pregnancy to avert her  
 9 death or for which a delay will create serious risk of substantial  
 10 impairment of a major bodily function;  
 11 (8) Probable gestational age of the unborn child means  
 12 what will with reasonable probability, in the judgment of the  
 13 physician, be the gestational age of the unborn child at the time  
 14 the abortion is planned to be performed; ~~and~~  
 15 (9) Partial-birth abortion means an abortion procedure  
 16 in which the person performing the abortion partially delivers

17 vaginally a living unborn child before killing the unborn child and  
 18 completing the delivery. For purposes of this subdivision, the term  
 19 partially delivers vaginally a living unborn child before killing  
 20 the unborn child means deliberately and intentionally delivering  
 21 into the vagina a living unborn child, or a substantial portion  
 22 thereof, for the purpose of performing a procedure that the person  
 23 performing such procedure knows will kill the unborn child and does  
 24 kill the unborn child;:-

25 (10) Woman means any female human being whether or not  
 26 she has reached the age of majority; and

27 (11) Ultrasound means the use of ultrasonic waves for  
 1 diagnostic or therapeutic purposes, specifically to monitor an  
 2 unborn child.

3 Sec. 2. Section 28-327, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 28-327 No abortion shall be performed except with the  
 6 voluntary and informed consent of the woman upon whom the abortion  
 7 is to be performed. Except in the case of an emergency situation,  
 8 consent to an abortion is voluntary and informed only if:

9 (1) The woman is told the following by the physician who  
 10 is to perform the abortion, by the referring physician, or by a  
 11 ~~licensed~~ physician assistant or registered nurse licensed under the  
 12 Uniform Credentialing Act who is an agent of either physician, at  
 13 least twenty-four hours before the abortion:

14 (a) The particular medical risks associated with  
 15 the particular abortion procedure to be employed including,  
 16 when medically accurate, the risks of infection, hemorrhage,  
 17 ~~and perforated uterus,~~ danger to subsequent pregnancies, and  
 18 infertility;

19 (b) The probable gestational age of the unborn child at  
 20 the time the abortion is to be performed; ~~and~~

21 (c) The medical risks associated with carrying her child  
 22 to term; ~~and~~:-

23 (d) That she cannot be forced or required by anyone to  
 24 have an abortion and is free to withhold or withdraw her consent  
 25 for an abortion without affecting her right to future care or  
 26 treatment and without the loss of any state or federal benefits to  
 27 which she might otherwise be entitled.

1 The person providing the information specified in this  
 2 subdivision to the person upon whom the abortion is to be  
 3 performed shall be deemed qualified to so advise and provide  
 4 such information only if, at a minimum, he or she has had  
 5 training in each of the following subjects: Sexual and reproductive  
 6 health; abortion technology; contraceptive technology; short-term  
 7 counseling skills; community resources and referral; and informed  
 8 consent. The physician or the physician's agent may provide this  
 9 information by telephone without conducting a physical examination  
 10 or tests of the patient, in which case the information required  
 11 to be supplied may be based on facts supplied by the patient and

12 whatever other relevant information is reasonably available to the  
13 physician or the physician's agent;

14 (2) The woman is informed by telephone or in person, by  
15 the physician who is to perform the abortion, by the referring  
16 physician, or by an agent of either physician, at least twenty-four  
17 hours before the abortion:

18 (a) The name of the physician who will perform the  
19 abortion;

20 (b) That medical assistance benefits may be available for  
21 prenatal care, childbirth, and neonatal care;

22 (c) That the father is liable to assist in the support of  
23 her child, even in instances in which the father has offered to pay  
24 for the abortion; ~~and~~

25 (d) That she has the right to review the printed  
26 materials described in section 28-327.01. The physician or his  
27 or her agent shall orally inform the woman that the materials  
1 have been provided by the Department of Health and Human Services  
2 and that they describe the unborn child and list agencies which  
3 offer alternatives to abortion. If the woman chooses to review the  
4 materials, they shall either be given to her at least twenty-four  
5 hours before the abortion or mailed to her at least seventy-two  
6 hours before the abortion by certified mail, restricted delivery  
7 to addressee, which means the postal employee can only deliver  
8 the mail to the addressee. The physician and his or her agent  
9 may disassociate themselves from the materials and may comment or  
10 refrain from commenting on them as they choose; ~~and~~

11 (e) That she has the right to request a comprehensive  
12 list, compiled by the Department of Health and Human Services,  
13 of health care providers, facilities, and clinics that offer to  
14 perform ultrasounds, including and specifying those that offer to  
15 perform ultrasounds free of charge. The list shall be arranged  
16 geographically and shall include the name, address, hours of  
17 operation, and telephone number of each entity. If requested by  
18 the woman, the physician who is to perform the abortion, the  
19 referring physician, or his or her agent shall provide such a list  
20 as compiled by the department;

21 (3) If an ultrasound is used prior to the performance  
22 of an abortion, the physician who is to perform the abortion,  
23 the referring physician, or a physician assistant or registered  
24 nurse licensed under the Uniform Credentialing Act who is an agent  
25 of either physician, or any qualified agent of either physician,  
26 shall:

27 (a) Perform an ultrasound of the woman's unborn child  
1 of a quality consistent with standard medical practice in the  
2 community at least one hour prior to the performance of the  
3 abortion;

4 (b) Simultaneously display the ultrasound images so that  
5 the woman may choose to view the ultrasound images or not view the  
6 ultrasound images. The woman shall be informed that the ultrasound

7 images will be displayed so that she is able to view them. Nothing  
 8 in this subsection shall be construed to require the woman to view  
 9 the displayed ultrasound images; and

10 (c) If the woman requests information about the displayed  
 11 ultrasound image, her questions shall be answered. If she requests  
 12 a detailed, simultaneous, medical description of the ultrasound  
 13 image, one shall be provided that includes the dimensions of the  
 14 unborn child, the presence of cardiac activity, if present and  
 15 viewable, and the presence of external members and internal organs,  
 16 if present and viewable;

17 ~~(3)-(4)~~ The woman certifies in writing, prior to the  
 18 abortion, that

19 ~~(a) The~~ the information described in subdivisions (1) and  
 20 (2)(a), (b), and (c) of this section has been furnished her;

21 ~~(b) That~~ and that she has been informed of her right to  
 22 review the information referred to in subdivision (2)(d) of this  
 23 section; and

24 (c) That the requirements of subdivision (3) of this  
 25 section have been performed, if an ultrasound is performed prior to  
 26 the performance of the abortion; and

27 ~~(4)-(5)~~ Prior to the performance of the abortion,  
 1 the physician who is to perform the abortion or his or her  
 2 agent receives a copy of the written certification prescribed by  
 3 subdivision ~~(3)-(4)~~ of this section. The physician or his or her  
 4 agent shall retain a copy of the signed certification form in the  
 5 woman's medical record.

6 Sec. 3. Section 28-327.01, Reissue Revised Statutes of  
 7 Nebraska, is amended to read:

8 28-327.01 (1) The Department of Health and Human Services  
 9 shall cause to be published, ~~within sixty days after September 9,~~  
 10 ~~1993,~~ the following easily comprehensible printed materials:

11 (a) Geographically indexed materials designed to inform  
 12 the woman of public and private agencies and services available to  
 13 assist a woman through pregnancy, upon childbirth, and while the  
 14 child is dependent, including adoption agencies and agencies and  
 15 services for prevention of unintended pregnancies, which materials  
 16 shall include a comprehensive list of the agencies available,  
 17 a description of the services they offer, and a description of  
 18 the manner, including telephone numbers and addresses in which  
 19 such agencies may be contacted or printed materials including a  
 20 toll-free, twenty-four-hour-a-day telephone number which may be  
 21 called to orally obtain such a list and description of agencies in  
 22 the locality of the caller and of the services they offer; ~~and~~

23 (b) Materials designed to inform the woman of the  
 24 probable anatomical and physiological characteristics of the unborn  
 25 child at two-week gestational increments from the time when a woman  
 26 can be known to be pregnant to full term, including pictures or  
 27 drawings representing the development of unborn children at the  
 1 two-week gestational increments, and any relevant information on

2 the possibility of the unborn child's survival. Any such pictures  
 3 or drawings shall contain the dimensions of the unborn child and  
 4 shall be realistic and appropriate for the stage of pregnancy  
 5 depicted. The materials shall be objective, nonjudgmental, and  
 6 designed to convey only accurate scientific information about  
 7 the unborn child at the various gestational ages. The materials  
 8 shall also contain objective information describing the methods of  
 9 abortion procedures commonly employed, the medical risks commonly  
 10 associated with each such procedure, the possible detrimental  
 11 psychological effects of abortion, the medical risks commonly  
 12 associated with abortion, and the medical risks commonly associated  
 13 with carrying a child to term; and-

14 (c) A comprehensive list of health care providers,  
 15 facilities, and clinics that offer to perform ultrasounds,  
 16 including and specifying those that offer to perform ultrasounds  
 17 free of charge. The list shall be arranged geographically and shall  
 18 include the name, address, hours of operation, and telephone number  
 19 of each entity.

20 (2) The materials shall be printed in a typeface large  
 21 enough to be clearly legible.

22 (3) The materials required under this section shall be  
 23 available from the department upon the request by any person,  
 24 facility, or hospital for an amount equal to the cost incurred by  
 25 the department to publish the materials.

26 Sec. 4. Section 28-327.03, Reissue Revised Statutes of  
 27 Nebraska, is amended to read:

1 28-327.03 No civil liability for failure to comply with  
 2 subdivision (2)(d) of section 28-327 or that portion of subdivision  
 3 ~~(3)~~(4) of such section requiring a written certification that the  
 4 woman has been informed of her right to review the information  
 5 referred to in subdivision (2)(d) of such section may be imposed  
 6 unless the Department of Health and Human Services has published  
 7 and made available the printed materials at the time the physician  
 8 or his or her agent is required to inform the woman of her right  
 9 to review them.

10 Sec. 5. Section 28-327.04, Reissue Revised Statutes of  
 11 Nebraska, is amended to read:

12 28-327.04 Any person upon whom an abortion has been  
 13 performed or attempted in violation of section 28-327 or the parent  
 14 or guardian of a minor upon whom an abortion has been performed  
 15 or attempted in violation of such section shall have a right to  
 16 maintain a civil cause of action against the person who performed  
 17 the abortion or attempted to perform the abortion. A violation  
 18 of such section shall be prima facie evidence of professional  
 19 negligence. The written certification prescribed by subdivision ~~(3)~~  
 20 (4) of section 28-327 signed by the person upon whom an abortion  
 21 has been performed or attempted shall constitute and create a  
 22 rebuttable presumption of full compliance with all provisions of  
 23 section 28-327 in favor of the physician who performed or attempted

24 to perform the abortion, the referring physician, or the agent  
25 of either physician. The written certification shall be admissible  
26 as evidence in the cause of action for professional negligence or  
27 in any criminal action. If judgment is rendered in favor of the  
1 plaintiff in any such action, the court shall also render judgment  
2 for a reasonable attorney's fee in favor of the plaintiff against  
3 the defendant.

4 Sec. 6. If any section in this act or any part of any  
5 section is declared invalid or unconstitutional, the declaration  
6 shall not affect the validity or constitutionality of the remaining  
7 portions.

8 Sec. 7. Original sections 28-326, 28-327, 28-327.01,  
9 28-327.03, and 28-327.04, Reissue Revised Statutes of Nebraska, are  
10 repealed.

(Signed) Brad Ashford, Chairperson

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

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB113. No objections. So ordered.

#### **VISITORS**

Visitors to the Chamber were representatives of Midwest U.S.-Japan Association from Tokyo, Japan; 40 fourth-grade students from St. Gerald School, Ralston; 34 fourth-grade students from Fillmore Central, Geneva; 43 fourth-grade students from Prairie Lane Elementary, Omaha; members of the Dixon County Board of Supervisors; and members of the Blair Chamber of Commerce from Blair.

#### **RECESS**

At 12:03 p.m., on a motion by Senator Nordquist, 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 Louden who was excused; and Senators Council, Haar, Pankonin, and Wallman who were excused until they arrive.



**GENERAL FILE**

**LEGISLATIVE BILL 278.** Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 2 nays, 6 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 447.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 531.** Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 445.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 498.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 604.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 446.** Title read. Considered.

Committee AM528, found on page 692, was adopted with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 372.** Title read. Considered.

Committee AM648, found on page 693, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 500.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 627.** Title read. Considered.

Committee AM230, found on page 732, was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 587.** Title read. Considered.

Committee AM721, found on page 745, was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 122.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 1 nay, 13 present and not voting, and 3 excused and not voting.

### **AMENDMENT - Print in Journal**

Senator Christensen filed the following amendment to LB63:  
AM1088

(Amendments to E & R amendments, ER8031)

1 1. Insert the following new section:  
2 Sec. 40. Section 83-183, Reissue Revised Statutes of  
3 Nebraska, is amended to read:  
4 83-183 (1) To establish good habits of work and  
5 responsibility, to foster vocational training, and to reduce  
6 the cost of operating the facilities, persons committed to  
7 the department shall be employed, eight hours per day, so far  
8 as possible in constructive and diversified activities in the  
9 production of goods, services, and foodstuffs to maintain the  
10 facilities, for state use, and for other purposes authorized by  
11 law. To accomplish these purposes, the director may establish and  
12 maintain industries and farms in appropriate facilities and may  
13 enter into arrangements with any other board or agency of the  
14 state, any natural resources district, or any other political  
15 subdivision, except ~~for that any arrangements entered into with~~  
16 school districts, educational service units, community colleges,  
17 state colleges, or universities shall include supervision provided  
18 by the department, for the employment of persons committed to the

19 department for state or governmental purposes. Nothing in this  
20 subsection shall be construed to effect a reduction in the number  
21 of work release positions.

22 (2) The director shall make rules and regulations  
1 governing the hours, conditions of labor, and the rates of  
2 compensation of persons committed to the department. In determining  
3 the rates of compensation, such regulations may take into  
4 consideration the quantity and quality of the work performed by  
5 such person, whether or not such work was performed during regular  
6 working hours, the skill required for its performance, and the  
7 economic value of similar work outside of correctional facilities.

8 (3) Except as provided in section 83-183.01, wage  
9 payments to a person committed to the department shall be set aside  
10 by the chief executive officer of the facility in a separate fund.  
11 The fund shall enable such person committed to the department to  
12 contribute to the support of his or her dependents, if any, to make  
13 necessary purchases from the commissary, and to set aside sums to  
14 be paid to him or her at the time of his or her release from the  
15 facility.

16 (4) The director may authorize the chief executive  
17 officer to invest the earnings of a person committed to the  
18 department. Any accrued interest thereon shall be credited to such  
19 person's fund.

20 (5) The director may authorize the chief executive  
21 officer to reimburse the state from the wage fund of a person  
22 committed to the department for:

23 (a) The actual value of property belonging to the state  
24 or any other person intentionally or recklessly destroyed by such  
25 person committed to the department during his or her commitment;

26 (b) The actual value of the damage or loss incurred as a  
27 result of unauthorized use of property belonging to the state or  
1 any other person by such person committed to the department;

2 (c) The actual cost to the state for injuries or other  
3 damages caused by intentional acts of such person committed to the  
4 department; and

5 (d) The reasonable costs incurred in returning such  
6 person committed to the department to the facility to which he or  
7 she is committed in the event of his or her escape.

8 (6) No person committed to the department shall be  
9 required to engage in excessive labor, and no such person shall be  
10 required to perform any work for which he or she is declared unfit  
11 by a physician designated by the director. No person who performs  
12 labor or work pursuant to this section shall be required to wear  
13 manacles, shackles, or other restraints.

14 (7) The director may authorize that a portion of the  
15 earnings of a person committed to the department be retained by  
16 that person for personal use.

17 2. On page 43, line 24, strike "and" and after the last

18 comma insert "and 83-183,".

19 3. Renumber the remaining sections accordingly.

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 497A.** Introduced by Fulton, 29.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 497, One Hundred First Legislature, First Session, 2009; and to declare an emergency.

### **COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 432.** Placed on Select File with amendment.  
ER8070

1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 Section 1. Section 69-1317, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 69-1317 (a)(1) Except as otherwise provided in this  
6 subdivision, all funds received under the Uniform Disposition of  
7 Unclaimed Property Act, including the proceeds from the sale of  
8 abandoned property under section 69-1316, shall be deposited by  
9 the State Treasurer in a separate trust fund from which he or  
10 she shall make prompt payment of claims allowed pursuant to the  
11 act and payment of any auditing expenses associated with the  
12 receipt of abandoned property. All funds received under section  
13 69-1307.05 shall be deposited by the State Treasurer in a separate  
14 life insurance corporation demutualization trust fund, which is  
15 hereby created, from which he or she shall make prompt payment of  
16 claims regarding such funds allowed pursuant to the act. Transfers  
17 from the separate life insurance corporation demutualization trust  
18 fund to the General Fund may be made at the direction of the  
19 Legislature. Before making the deposit he or she shall record  
20 the name and last-known address of each person appearing from the  
21 holders' reports to be entitled to the abandoned property, the  
22 name and last-known address of each insured person or annuitant,  
23 and with respect to each policy or contract listed in the report  
1 of a life insurance corporation, its number, the name of the  
2 corporation, and the amount due. The record shall be available for  
3 public inspection during business hours.  
4 The record shall not be subject to public inspection or  
5 available for copying, reproduction, or scrutiny by commercial or  
6 professional locators of property presumed abandoned who charge  
7 any service or finders' fee until twenty-four months after the  
8 names from the holders' reports have been published or officially

9 disclosed. Records concerning the social security number, date of  
10 birth, amount due, and last-known address of an owner shall be  
11 treated as confidential and subject to the same confidentiality as  
12 tax return information held by the Department of Revenue, except  
13 that the Auditor of Public Accounts shall have unrestricted access  
14 to such records.

15 A professional finders' fee shall be limited to ten  
16 percent of the total amount of the ~~property presumed~~  
17 or not yet abandoned property which is recovered or identified on  
18 behalf of an owner. To claim any such fee, the nature and location  
19 of the property, a notification of when such property was or will  
20 be reported to the State Treasurer, and a notification that the  
21 property can be claimed by the owner from the State Treasurer free  
22 of charge must be disclosed to the claimant in writing by the  
23 finder.

24 (2) The unclaimed property records of the State  
25 Treasurer, the unclaimed property reports of holders, and the  
26 information derived by an unclaimed property examination or audit  
27 of the records of a person or otherwise obtained by or communicated  
1 to the State Treasurer may be withheld from the public. Any record  
2 or information that may be withheld under the laws of this state  
3 or of the United States when in the possession of such a person  
4 may be withheld when revealed or delivered to the State Treasurer.  
5 Any record or information that is withheld under any law of  
6 another state when in the possession of that other state may be  
7 withheld when revealed or delivered by the other state to the State  
8 Treasurer.

9 Information withheld from the general public concerning  
10 any aspect of unclaimed property shall only be disclosed to an  
11 apparent owner of the property; or to the escheat, unclaimed, or  
12 abandoned property administrators or officials of another state if  
13 that other state accords substantially reciprocal privileges to the  
14 State Treasurer.

15 (b)(1) On or after October 6, 1992, the State Treasurer  
16 shall periodically transfer any balance in excess of an amount not  
17 to exceed five hundred thousand dollars from the separate trust  
18 fund to the General Fund no less frequently than on or before  
19 November 1 and May 1 of each year, except that the total amount of  
20 all such transfers shall not exceed five million dollars.

21 (2)(i) On the next succeeding November 1 after five  
22 million dollars has been transferred to the General Fund in the  
23 manner described in subdivision (b)(1) of this section or (ii) on  
24 November 1, 1996, whichever occurs first, and on or before November  
25 1 of each year thereafter, the State Treasurer shall transfer any  
26 balance in excess of an amount not to exceed five hundred thousand  
27 dollars from the separate trust fund to the permanent school fund.

1 (3) On July 15, 2003, the State Treasurer shall transfer  
2 two hundred thousand dollars from the separate trust fund to the  
3 General Fund and one hundred thousand dollars from the separate

4 trust fund to the Treasury Management Cash Fund. On September 15,  
5 2004, the State Treasurer shall transfer five hundred thousand  
6 dollars from the separate trust fund to the General Fund.

7 (c) Before making any deposit to the credit of the  
8 permanent school fund or the General Fund, the State Treasurer may  
9 deduct (1) any costs in connection with sale of abandoned property,  
10 (2) any costs of mailing and publication in connection with any  
11 abandoned property, and (3) reasonable service charges and place  
12 such funds in the Unclaimed Property Cash Fund which is hereby  
13 created. Transfers from the fund to the General Fund may be made  
14 at the direction of the Legislature. Any money in the Unclaimed  
15 Property Cash Fund available for investment shall be invested  
16 by the state investment officer pursuant to the Nebraska Capital  
17 Expansion Act and the Nebraska State Funds Investment Act.

18 Sec. 2. Original section 69-1317, Reissue Revised  
19 Statutes of Nebraska, is repealed.

20 2. On page 1, strike beginning with "state" in line 1  
21 through line 5 and insert "the Uniform Disposition of Unclaimed  
22 Property Act; to amend section 69-1317, Reissue Revised Statutes of  
23 Nebraska; to change provisions relating to confidential information  
24 and professional finders' fees; and to repeal the original  
25 section."

**LEGISLATIVE BILL 137.** Placed on Select File with amendment.  
ER8068

1 1. On page 9, line 7, strike "Tenth" and insert "10th".

**LEGISLATIVE BILL 152.** Placed on Select File.

**LEGISLATIVE BILL 302.** Placed on Select File.

**LEGISLATIVE BILL 299.** Placed on Select File.

**LEGISLATIVE BILL 343.** Placed on Select File with amendment.  
ER8069

1 1. On page 2, line 7, strike "the State of" and show as  
2 stricken.

**LEGISLATIVE BILL 84.** Placed on Select File.

**LEGISLATIVE BILL 394.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 533.** Title read. Considered.

Committee AM873, found on page 862, was adopted with 36 ayes, 0 nays,  
11 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 6 present

and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 524.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 562.** Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

## COMMUNICATIONS

March 26, 2009

Mr. Patrick O'Donnell  
Clerk of the Legislature  
State Capitol Building  
Room 2018  
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Pursuant to the Provisions of Section 85-404 and Section 85-408, R.R.S. of Nebraska, 1943, Legislative approval is required for the following University of Nebraska-Lincoln project:

**University of Nebraska-Lincoln - 19th & Vine Parking Structure.**

The University of Nebraska-Lincoln proposes to construct a multi-level parking garage with approximately 1,100 spaces north and west of the intersection of 19th and Vine Streets on the UNL City Campus. The project is estimated to cost \$16,800,000.

**Request.** The University requests the Legislature approve the 19th & Vine Parking Structure totaling \$16,800,000 contingent upon the recommendation of the Nebraska Coordinating Commission for Postsecondary Education at their April 16, 2009, meeting. The project will be financed from bonds issued under the Master Trust Indenture and parking surplus funds which will be repaid by auxiliaries and service funds (net parking revenues).

The Board of Regents authorized this expenditure for the 19th & Vine Parking Structure at its January 23, 2009, Board of Regents meeting. The Nebraska Coordinating Commission for Postsecondary Education Budget, Construction, and Financial Aid Committee will make its recommendation at their April 16, 2009, meeting. Attached for your reference is the agenda item as approved by the Board of Regents.

Thank you for your consideration of this project.

Respectfully submitted,  
(Signed) Donal J. Burns  
Corporation Secretary

April 16, 2009

Senator John Wightman  
Chairperson, Executive Board  
Room 2010  
State Capitol  
Lincoln, NE 68509

Dear Senator Wightman,

Enclosed is correspondence from Donal J. Burns, Corporation Secretary for the Office of the President of the University of Nebraska and correspondence from the Coordinating Commission for Postsecondary Education. The correspondence relates to expenditure of bond funds for the following:

*University of Nebraska at Lincoln: 19th and Vine Parking Structure.*

I am forwarding this correspondence to you for Executive Board action.

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

PJO:ck

Enclosure

### **REFERENCE COMMITTEE REPORT**

The Executive Board referred the University of Nebraska's request to issue revenue bonds to the Appropriations Committee for further consideration.

(Signed) John Wightman, Chairperson  
Executive Board



**COMMITTEE REPORT**  
Judiciary

**LEGISLATIVE BILL 36.** Placed on General File with amendment.  
AM828

- 1 1. On page 10, strike lines 14 through 24.
- 2 2. On page 12, strike beginning with "identities" in line
- 3 1 through the first "to" in line 7 and insert "identity of such
- 4 members, shall be confidential and exempt from"; in line 8 strike
- 5 the comma; and strike lines 12 through 19.
- 6 3. On page 14, line 2, after the period insert "At
- 7 least two persons designated by the director shall be professional
- 8 members of the Nebraska news media.".

(Signed) Brad Ashford, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 360.** Title read. Considered.

Committee AM913, found on page 893, was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 14 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 441.** Title read. Considered.

Committee AM392, found on page 894, was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

**SPEAKER FLOOD PRESIDING**

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 537.** Title read. Considered.

Committee AM882, found on page 902, was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 631.** Title read. Considered.

Committee AM415, found on page 904, was adopted with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 598.** Title read. Considered.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 238.** Title read. Considered.

Committee AM903, found on page 943, was adopted with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

### **AMENDMENT - Print in Journal**

Senator Flood filed the following amendment to LB285:  
AM1076 is available in the Bill Room.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 88.** Introduced by Giese, 17.

**PURPOSE:** The purpose of this interim study is to examine the issuance of LPD-learner's permits in Nebraska. The issues addressed by this interim study shall include, but not be limited to:

(1) A review of the number of LPD-learner's permits issued in Nebraska to individuals over eighteen years of age, with emphasis on the number of permits issued in each county;

(2) A review of the number of LPD-learner's permit renewals in Nebraska by individuals over eighteen years of age, with emphasis on the number of renewals in each county;

(3) An evaluation of the requirements set out in section 60-4,123 for issuance of a LPD-learner's permit; and

(4) A review of the number of LPD-learner's permit holders cited for driving without an operator's license, with emphasis on the number of violations by LPD-learner's permit holders over eighteen years of age.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to 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.

## ATTORNEY GENERAL'S OPINION

### Opinion 09008

DATE: April 16, 2009

SUBJECT: LB 355; Constitutionality Of Exemption To The Nebraska Clean Indoor Air Act For Cigar Bars Under Special Legislation And Vagueness Analysis.

REQUESTED BY: Sen. Mike Gloor  
Nebraska State Legislature

Sen. Bill Avery  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General  
Dale A. Comer, Assistant Attorney General

You have both requested our opinion as to the constitutionality of LB 355, a bill to create an exemption to the Nebraska Clean Indoor Air Act for "cigar bars." Since your questions regarding LB 355 are essentially the same, we will respond to your inquiries in the same opinion.

The Nebraska Clean Indoor Air Act (the "Clean Air Act") is currently codified at Neb. Rev. Stat. §§ 71-5716 through 71-5734 (Supp. 2008). Its purpose is "to protect the public health and welfare by prohibiting smoking in public places and places of employment," and it should "liberally construed to further its purpose." Neb. Rev. Stat. § 71-5717. The Clean Air Act generally makes it unlawful for any person to smoke in a place of employment or a public place in Nebraska. It also contains exemptions for certain guestrooms and suites, for indoor areas used in connection with research studies on the health effects of smoking, and for tobacco retail outlets. Neb. Rev. Stat. § 71-5730.

LB 355, in its Final Reading form, would create an additional exemption to application of the Clean Air Act with respect to "cigar bars." The bill would amend the Nebraska Liquor Control Act so as to define "cigar bars" as establishments operated by a holder of a Class C Liquor License which: 1. do not sell food, 2. in addition to selling alcohol, annually receive ten percent or more of their gross revenue from the sale of cigars and other tobacco-related products, except the sale of cigarettes, 3. have a walk-in humidor on the premises, and 4. do not permit the smoking of cigarettes.

Senator Gloor asked for our opinion as to the general "constitutionality" of LB 355, but then went on to reference art. III, § 18 of the Nebraska Constitution and unconstitutional vagueness as his specific areas of concern.

Sen. Avery joined in Sen. Gloor's request, and again listed art. III, § 18 of the Nebraska Constitution as a potential constitutional infirmity with respect to LB 355.

### ANALYSIS

With respect to opinion requests from state legislators, we have frequently stated in the past that a general question on the constitutionality of proposed legislation will necessarily result in a general response from this office. Op. Att'y Gen. No. 04015 (April 7, 2004); Op. Att'y Gen. No. 98040 (September 11, 1998); Op. Att'y Gen. No. 94023 (March 23, 1994). In light of that principle, we prefer to focus our response to your opinion requests in the present instance upon the specific constitutional concerns referenced in your letters rather than engaging in a general discussion of the constitutionality of LB 355. As a result, we will discuss whether, in our view, LB 355 constitutes impermissible special legislation under art. III, § 18 of the Nebraska Constitution, and whether it is unconstitutionally vague.

#### Special Legislation under Art. III, § 18 of the Nebraska Constitution

Article III, § 18 of the Nebraska Constitution contains the prohibition on special legislation. That section provides, as is pertinent:

The Legislature shall not pass local or special laws in any of the following cases, that is to say:

\* \* \*

Granting to any corporation, association, or individual any special or exclusive privileges, immunity or franchise whatever. . . . In all other cases where a general law can be made applicable, no special law shall be enacted.

The focus of art. III, § 18 "is the prevention of legislation which arbitrarily benefits or grants 'special favors' to a specific class." *Gourley v. Nebraska Methodist Health System, Inc.*, 265 Neb. 918, 938, 663 N.W.2d 43, 65 (2003). A legislative act "is general, and not special, if it operates alike on all persons of a class or on persons who are brought within the relations and circumstances provided for and if the classification so adopted by the Legislature has a basis in reason and is not purely arbitrary." *Haman v. Marsh*, 237 Neb. 699, 709, 467 N.W.2d 836, 844-45 (1991). A legislative act constitutes special legislation if (1) it creates an arbitrary and unreasonable method of classification, or (2) it creates a permanently closed class. *Gourley v. Nebraska Methodist Health System, Inc.*, 265 Neb. 918, 663 N.W.2d 43 (2003); *Bergan Mercy Health System v. Haven*, 260 Neb. 846, 620 N.W.2d 339 (2000); *Haman v. Marsh*, 237 Neb. 699, 709, 467 N.W.2d 836, 844-45 (1991).

1. Arbitrary or unreasonable method of classification.

The first part of the two-part test for special legislation requires consideration of whether the statute at issue creates an arbitrary or unreasonable method of classification. In regard to that question, the Nebraska Supreme Court has stated:

A legislative classification, in order to be valid, must be based upon some reason of public policy, some substantial difference of situation or circumstances, that would naturally suggest the justice or expediency of diverse legislation with respect to objects to be classified. Classifications for the purpose of legislation must be real and not illusive; they cannot be based on distinctions without a substantial difference.... Classification is proper if the special class has some reasonable distinction from other subjects of a like general character, which distinction bears some reasonable relation to the legitimate objectives and purposes of the legislation. The question is always whether the things or persons classified by the act form by themselves a proper and legitimate class with reference to the purpose of the act.

*Gourley v. Nebraska Methodist Health System, Inc.*, 265 Neb. 918, 938, 663 N.W.2d 43, 65 (2003)(citations omitted). In making a special legislation analysis, "all reasonable intendments must be indulged to support the constitutionality of legislative acts, including classifications adopted by the Legislature." *Id.* at 943, 663 N.W.2d at 68. Moreover, "[i]f the Legislature had any evidence to justify its reasons for passing [an] act, then it is not special legislation if the class is based upon some reason of public policy, some substantial difference of situation or circumstances, that would naturally suggest the justice or expediency of diverse legislation concerning the objects to be classified." *Id.* And, courts give deference to legislative factfinding, presume statutes to be constitutional, and do not second-guess the Legislature's reasoning behind passing an Act. *Id.* Ultimately, "the analysis under a special legislation inquiry focuses on the Legislature's purpose in creating the class and asks if there is a substantial difference of circumstances to suggest the expediency of diverse legislation." *Id.* at 939, 663 N.W.2d at 67.

Consequently, in the present case, we must first focus on the Legislature's purpose in creating the class of cigar bars set out in LB 355 and exempting that class of businesses from the provisions of the Clean Air Act. To do so, we will review the legislative history of that bill to date.<sup>1</sup>

Testimony during the committee hearings on LB 355 indicated that existent cigar bars in Nebraska have an economic impact on their communities, and that they employ individuals, purchase supplies from multiple vendors, and pay taxes. Committee Records on LB 355, Rough Draft, 101st Neb. Leg. 1st Sess. 41-46 (February 9, 2009). Testimony during those same hearings also indicated that the exemption in LB 355 is needed to keep cigar bars in business. For example, one witness testified that:

Cigarros, its employees, and vendors have suffered the immediate,

drastic economic impact of not having a cigar bar exemption included in nonsmoking laws. Total revenues are substantially down, to the tune of \$168,000 over a six-month period. Please, if you would, refer to the total revenue graph, in the presentation material provided to you, on the last page. The negative economic impact of the removal of the smoking exemption [in Omaha] to Cigarros is clearly represented. . . . Obvious is the consistent drop in revenues which began concurrent with the removal of the [smoking] exemption in May 2008. . . . Accordingly, our contribution to jurisdictional tax revenues has also been substantially reduced. As all of you can understand, a small business cannot sustain these types of continual losses and expect to remain in business. If the cigar bar exemption is not passed, Cigarros and businesses like it will fail in short order.

Committee Records on LB 355, Rough Draft, 101st Neb. Leg. 1st Sess. 45 (February 9, 2009). Senator Lautenbaugh, the Principal Introducer of LB 355, was aware of that need for an exemption, and stated during Floor Debate on the bill that "[w]e're [currently] putting these places [cigar bars] out of business." Floor Debate on LB 355, Rough Draft, 101st Neb. Leg. 1st Sess. 12 (April 6, 2009)(Statement of Sen. Lautenbaugh). He also stated during Committee hearings on the bill that "we're just trying [with LB 355] to save these other businesses [cigar bars] too." Committee Records on LB 355, Rough Draft, 101st Neb. Leg. 1st Sess. 72 (February 9, 2009)(Statement of Senator Lautenbaugh). From such comments, other Senators concluded that Sen. Lautenbaugh was trying, through LB 355, "to keep a few businesses still in business." Floor Debate on LB 355, Rough Draft, 101st Neb. Leg. 1st Sess. 43 (March 23, 2009)(Statement of Sen. Karpisek). That purpose coincides with the Introducer's Statement of Intent for LB 355 which provides:

The purpose of LB 355 is to provide protection for businesses currently operating in the state as "cigar bars." The bill would allow such establishments to operate outside the restrictions of the Nebraska Clean Indoor Air Act, provided they meet the requirements set forth in this bill, and recertify that they are meeting the requirements yearly when renewing their Class C liquor licenses.

Introducer's Statement of Intent for LB 355, 101st Neb. Leg., 1st Sess. (February 9, 2009). Therefore, it appears to us, from its legislative history, that LB 355 seeks to protect the businesses known as cigar bars, to prevent them from going out of business, and to preserve their economic benefits for the Nebraska communities where they are located. Whether LB 355 constitutes special legislation should be measured in light of that legislative purpose.<sup>2</sup>

Having determined the purpose of the exemption contained in LB 355, we must next ask under the cases cited above if there is a substantial difference of circumstances which suggests the expediency of diverse legislation in relation to that purpose. In the context of this specific case, we must ask if

there is a substantial difference of circumstances between cigar bars and other entities subject to the Clean Air Act which would suggest the expediency of an exemption from that Act for cigar bars so as to keep cigar bars in business. In particular, it appears to us that, in this case, we must compare cigar bars with other bars, restaurants and recreational businesses which have a Class C Liquor License and which might gain some economic advantage from allowing smoking indoors.

The legislative history of LB 355 seems to provide evidence of differences between cigar bars and other bars, restaurants and the like which do support separate treatment for cigar bars. First of all, as noted above, there is testimony that compliance with the Clean Air Act will put cigar bars out of business. In contrast, other bars and restaurants don't seem to be similarly affected. For example, Senator Avery related the following anecdote during Floor Debate:

I have a constituent who owns several bars both here and in Lincoln and he called me to express his concern that this bill [LB 355] would require him to split his bars in two, and somehow create a cigar bar in one part and a noncigar bar in the other. This would be a great expense. He did not like the statewide smoking ban and I heard a lot about that at the time. He was one of the most vociferous opponents of the statewide smoking ban but he adapted to it. His business has flourished since then.

Floor Debate on LB 355, Rough Draft, 101st Neb. Leg. 1st Sess. 8 (April 6, 2009)(Statement of Sen. Avery)(emphasis added). Senator Avery also indicated that "studies have shown either no effect, or no effect and or slight improvements in restaurant business and bar business with smoking bans. Floor Debate on LB 355, Rough Draft, 101st Neb. Leg. 1st Sess. 23 (March 24, 2009)(Statement of Sen. Avery).

In addition, cigar bars are in the business of selling smoking itself rather than simply allowing smoking as an incident to the sale of alcohol, food or other recreational activities. As noted by Senator Lautenbaugh:

I would submit to you that cigar bars are different than any other entity that was affected by the smoking ban in that they exist for smoking. I don't believe that restaurants can make that claim. These entities [cigar bars] are for the purpose of smoking; much like smoke shops, but somehow they were not part of the exemption.

Committee Records on LB 355, Rough Draft, 101st Neb. Leg. 1st Sess. 35 (February 9, 2009)(Statement of Senator Lautenbaugh). And, those comments by Sen. Lautenbaugh raise another demarcation between cigar bars and other entities affected by the statewide smoking ban. That is, individuals who purchase cigars in cigar bars likely may find it advantageous to smoke a certain cigar to determine if they want to purchase others like it. That is not the case with smoking in other bars and restaurants.

Indeed, the need to try a product before purchasing it formed part of the basis for the current exemption in the Clean Air Act for tobacco retail outlets. Floor Debate on LB 395, 100th Neb. Leg. 1st Sess. 4-5 (February 13, 2007)(Statement of Sen. Johnson).

In sum, it appears to us that the purpose of LB 355 is to protect cigar bars and to keep them from going out of business, thereby preventing an adverse economic impact upon the communities where they are located. It also appears to us that cigar bars are substantially different from other bars, restaurants and similar entities because they will be forced out of business without an exemption to the smoking ban, because they are primarily in the business of selling smoking itself and not food, alcohol, etc., and finally, because individuals purchasing their products need to sample those products on occasion prior to purchase. Those various differences suggest that it is expedient to create diverse legislation to exempt cigar bars from the statewide smoking ban in order to carry out the purpose of LB 355.<sup>3</sup>

We are aware of *Hug v. City of Omaha*, 275 Neb. 820, 749 N.W.2d 884 (2008). In that case, the Nebraska Supreme Court held that certain exemptions to a city ordinance passed by the City of Omaha which prohibited smoking in most public places or places of employment within the city constituted special legislation in contravention of art. III. § 18 of the Nebraska Constitution. However, we believe that the *Hug* case is distinguishable from the present circumstances.

In *Hug*, the court considered the constitutionality of the smoking ban exemptions at issue under the same test as set out above, i.e., the court looked at the purpose of the exemptions and determined if there was a substantial difference of circumstances between the exempted and nonexempted facilities which would suggest the expediency of diverse legislation. However, because of evidentiary issues, the only record which the court had before it to determine the purpose of the exemptions at issue was the record stating the purpose of the non-smoking ordinance itself. In other words, the court had nothing before it which set out the purpose of the exemptions. On that record, the court found that there were no substantial differences of circumstances to suggest the expediency of diverse legislation exempting certain business entities from the smoking ban when the purpose of the ban was to protect the public health and welfare and guarantee the right to breathe smoke-free air. In doing so, the court specifically stated "[w]e do not hold that similar exemptions could not be constitutionally justified – just that, given the record in this instance, the exemptions in this particular case are not." *Hug* at 827, 749 N.W.2d at 891.

As is discussed at length above, there is ample evidence in the legislative history in the present case which establishes the legislative purpose underlying the exemptions set out in LB 355, and that purpose is different that the purposes underlying the Clean Air Act. Therefore, *Hug* does not require a determination that the exemptions in LB 355 constitute improper special legislation.



We also recognize that the concurrence in Hug, authored by Justice Connolly, sets out a somewhat more stringent standard for application of the special legislation prohibition in the context of legislation which bestows economic favors. Hug at 830, 831, 749 N.W.2d at 893. Nevertheless, it seems to us that LB 355 satisfies that more demanding three-part test: 1. there is a valid public purpose supporting the exemptions in LB 355 – to prevent cigar bars from going out of business, 2. as discussed above, there appear to be real and substantial differences between cigar bars and other bars, restaurants and entities subject to the Clean Air Act, and 3. the classifications created by LB 355 seem to form a proper and legitimate class relative to the act's purpose.

## 2. Permanently Closed Class.

A determination as to whether a particular statute constitutes special legislation also requires consideration of whether that statute creates a permanently closed class. In considering whether a class established by legislation is closed, the courts are not limited to the face of the legislation, but may consider the act's application. *Haman v. Marsh*, 237 Neb. 699, 467 N.W.2d 836 (1991). In such a consideration, courts must consider the actual probability that others will come under the act's operation. *Id.* If the prospect that others may come under the act's operation is merely theoretical, and not probable, the act is special legislation. *Id.* The conditions of entry into the class must not only be possible, but reasonably probable of attainment. *Id.*

There is nothing on the face of LB 355 which would prevent the establishment of new cigar bars or which closes the class of cigar bars created by that bill. We understand that courts may look behind the face of the legislation as noted above. However, we believe the prospect that other cigar bars may be established in Nebraska is not merely theoretical, but reasonably probable of attainment. In fact, the bill's Introducer took that prospect into account, as is illustrated by the following exchange from the Floor Debate:

SENATOR GAY: . . . So what would prevent them from putting in walk-in humidor on (sic) and all of a sudden we got more bars popping up. Your 10 is now 100. I mean, I don't know, it's a big state. There's . . . what's to prevent someone from doing that?

SENATOR LAUTENBAUGH: Well, honestly, the short answer is there's nothing that's an absolute prevention, that's the point. This is not supposed to be a closed class because then you get into constitutionality issues.

Floor Debate on LB 355, Rough Draft, 101st Neb. Leg. 1st Sess. 3-4 (March 24, 2009). The exemption from the Clean Air Act contained in LB 355 was designed to be narrow, and the number of the cigar bars in Nebraska is likely limited by the requirements for establishing such a business.

However, we do not believe that LB 355 creates a permanently closed class.

For all the reasons discussed at length above, it does not appear to us that LB 355 creates an arbitrary and unreasonable method of classification or a permanently closed class. As a result, we cannot say that LB 355 constitutes special legislation in violation of art. III, § 18 of the Nebraska Constitution.

### Unconstitutional Vagueness

Apart from issues involving special legislation, Senator Gloor also requested our "opinion regarding whether the definition of 'cigar bar' created within the bill is so vague as to be unconstitutional."

We have discussed the vagueness doctrine in previous opinions, and we will quote from one such opinion at length. In our Op. Atty Gen. No. 07012 (May 29, 2007), we stated:

The void for vagueness doctrine, which involves issues of substantive due process, is based on the due process requirements contained in the Fifth and Fourteenth Amendments to the United States Constitution. *U.S. v. Articles of Drug*, 825 F.2d 1238 (8th Cir. 1987). Similar requirements are contained in art I, § 3 of the Nebraska Constitution. In order to pass constitutional muster with respect to vagueness, a statute must be sufficiently specific so that persons of ordinary intelligence do not have to guess at its meaning, and the statute must contain ascertainable standards by which it may be applied. *Id.* The void for vagueness doctrine applies to both criminal and civil statutes. *Id.* However, greater vagueness is tolerated in civil statutes than in criminal statutes. *Id.* In the context of civil statutes, the United States Supreme Court has indicated that a statute will not be deemed to be impermissibly vague unless it is so "vague and indefinite as to really be no rule or standard at all." *Boutilier v. Immigration Service*, 387 U.S. 118, 123 (1967). The Nebraska Supreme Court has also indicated that a civil statute which is otherwise valid will not be held void for vagueness unless it is so deficient in its terms as to render it impossible to enforce. *Neeman v. Nebraska Natural Resources Comm'n*, 191 Neb. 672, 217 N.W.2d 166 (1974). In *State ex rel. Douglas v. Herrington*, 206 Neb. 516, 294 N.W.2d 330 (1980), the court said that the established test for vagueness in a statute is whether it either forbids or requires the doing of an act in terms so vague that persons of common intelligence must necessarily guess at its meaning and differ as to its application.

Op. Att'y Gen. No. 07012 at 3 (May 29, 2007).

The Final Reading version of LB 355 sets out the following definition of "cigar bar:"

Cigar bar means an establishment operated by a holder of a Class C liquor license which:

- (a) Does not sell food;
- (b) In addition to selling alcohol, annually receives ten percent or more of its gross revenue from the sale of cigars and other tobacco products and tobacco-related products, except from the sale of cigarettes as defined in section 69-2702. A cigar bar shall not discount alcohol if sold in combination with cigars or other tobacco products and tobacco-related products;
- (c) Has a walk-in humidor on the premises; and
- (d) Does not permit the smoking of cigarettes.

Upon review, it appears to us that the definition of "cigar bar" contained in LB 355 is far from being so vague and indefinite as to really be no rule or standard at all. Nor does it forbid or require the doing of an act in terms so vague that persons of common intelligence must necessarily guess at its meaning and differ as to its application. Instead, we believe that it is sufficiently specific so that persons of ordinary intelligence do not have to guess at its meaning, and that it contains ascertainable standards by which it may be applied. On that basis, we must conclude that that definition of "cigar bar" contained in LB 355 is not unconstitutionally vague.

#### CONCLUSION

Your opinion requests regarding LB 355 focused on your concerns pertaining to special legislation under art. III, § 18 of the Nebraska Constitution and unconstitutional vagueness. Based upon the lengthy discussion above, we do not believe that LB 355 contravenes either of those constitutional principles.

<sup>1</sup> Outside of the plain language of a statute, a legislative body's purpose in enacting legislation can be determined by examining the legislative history of the enactment. The Nebraska Supreme Court has previously considered such legislative history when determining whether particular enactments are unconstitutional as special legislation. *Hug v. City of Omaha*, 275 Neb. 820, 749 N.W.2d 884 (2008); *Le v. Lautrup*, 271 Neb. 931, 716 N.W.2d 713 (2006).

<sup>2</sup> We understand that the purpose of the Clean Air Act is to protect the public health and welfare by prohibiting smoking in public places and places of employment. However, LB 355 is a separate bill which creates an exemption to the Act, and we believe its propriety as special legislation should be determined by its purpose, and not the more general purpose of the Clean Air Act.

<sup>3</sup> It is interesting to note that the narrowness of the exemption created by LB 355 may actually comport with the original and broader purpose of the

Clean Air Act. As Senator Wightman stated during Floor Debate on the bill:

. . . if we limited it [the exemption in LB 355] that much [to five or six cigar bars] then it appears to me that anybody who's going to work in this cigar bar probably has an option to work somewhere else. There are hundreds of other bars, if not thousands of other bars across the state of Nebraska. And if they want to work in any bar that does not qualify as a cigar bar they're free to work there. So I think that it does narrow the exception such that we have still have kept intact the original purpose of the bill, which is to create smoke-free workplaces.

Floor Debate on LB 355, Rough Draft, 101st Neb. Leg. 1st Sess. 26-27 (March 23, 2009)(Statement of Sen. Wightman).

Sincerely,  
 JON BRUNING  
 Attorney General  
 (Signed) Dale A. Comer  
 Assistant Attorney General

cc. Patrick J. O'Donnell  
 Clerk of the Legislature  
 05-108-20

### GENERAL FILE

**LEGISLATIVE BILL 294.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 347.** Title read. Considered.

Committee AM985, found on page 965, was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 571.** Title read. Considered.

Committee AM983, found on page 994, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 237A.** Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 237, One Hundred First Legislature, First Session, 2009.

**AMENDMENT - Print in Journal**

Senator Ashford filed the following amendment to LB598:  
AM954

- 1 1. Insert the following new section:
- 2 Sec. 15. Section 81-1839, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 81-1839 Notwithstanding the provisions of sections
- 5 81-1836 to 81-1838, the committee shall make payments from the ~~fund~~
- 6 Victim's Compensation Fund to any person accused of crime upon the
- 7 order of a court of competent jurisdiction after a showing by such
- 8 person that such money shall be used for the exclusive purpose
- 9 of retaining legal representation at any stage of the proceedings
- 10 against such person, including the appeals process.
- 11 2. On page 2, strike beginning with "under" in line 13
- 12 through "139" in line 14 and insert "to the extent allowed under
- 13 applicable sections"; in line 17 strike the second "of" and insert
- 14 "after"; and in line 19 strike "of" and insert "after".
- 15 3. On page 8, line 14, strike "Subsection" and insert
- 16 "Subdivision".
- 17 4. On page 11, line 23, after "81-1835," insert
- 18 "81-1839,".
- 19 5. Renumber the remaining sections accordingly.

**VISITORS**

Visitors to the Chamber were Bob and Mary Escamilla from Scottsbluff; 42 fourth-grade students from Cedar Hollow School, Grand Island; Hank and Diane Thieman from Petersburg; Josh Midgett from Lincoln; and 19 fourth-grade students from Southwest Public School, Indianola.

The Doctor of the Day was Dr. Preston Renshaw from O'Neill.

**ADJOURNMENT**

At 4:27 p.m., on a motion by Senator Lathrop, the Legislature adjourned until 9:00 a.m., Friday, April 17, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**SIXTY-THIRD DAY - APRIL 17, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**SIXTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, April 17, 2009

**PRAYER**

The prayer was offered by Pastor John Nelson, Christ Lutheran Church, Columbus.

**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 Ashford, Haar, Hansen, Karpisek, and Loudon who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-second day was approved.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 476A.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 476, One Hundred First Legislature, First Session, 2009; to reduce an appropriation; and to declare an emergency.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of April 16, 2009, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

Jensen, Ronald L./Jensen Associates, Inc.

National Rifle Association Institute for Legislative Action  
Mines, Mick

International Business Machines Corporation (IBM)  
Welsch, Mark E.  
GASP-Group to Alleviate Smoking Pollution

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

### REPORTS

The following reports were received by the Legislature:

#### **Health and Human Services**

Division of Developmental Disabilities, Beatrice State Developmental  
Center Baseline Quarterly Report

#### **Roads, Nebraska Department of**

Board of Public Roads Classifications and Standards Minutes for  
February 2009

Thirty-Ninth Annual Report of the Board of Examiners for County  
Highway and City Street Superintendents for the period January 1, 2008  
to December 31, 2008

### GENERAL FILE

**LEGISLATIVE BILL 27A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 7 present  
and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 497A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 12 present  
and not voting, and 3 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 463A.** Advanced to Enrollment and Review for  
Engrossment.

### BILLS ON FINAL READING

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 111.** With Emergency Clause.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to  
amend section 60-682.01, Revised Statutes Cumulative Supplement, 2008;



to change provisions relating to fines for speeding in a construction zone; 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, 47:

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

Voting in the negative, 0.

Present and not voting, 1:

Haar

Excused and not voting, 1:

Louden

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 LB121 with 44 ayes, 1 nay, 3 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 121.**

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 13-520, 23-3202, and 32-519, Reissue Revised Statutes of Nebraska, and sections 13-519, 77-1339, 77-1340, 77-1342, and 77-3442, Revised Statutes Cumulative Supplement, 2008; to change budget limitations; to require reimbursement by counties to the state for property tax assessment services; to provide for reassumption of the assessment function by counties on or

before July 1, 2013; to change tax levy limitations; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 77-1340.01, 77-1340.02, and 77-1340.03, Reissue Revised Statutes of Nebraska, and section 77-1340, Revised Statutes Cumulative Supplement, 2008, as amended by section 6 of this legislative bill.

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, 42:

Adams	Council	Haar	McGill	Rogert
Ashford	Dierks	Hadley	Mello	Stuthman
Avery	Dubas	Hansen	Nantkes	Utter
Campbell	Fischer	Harms	Nelson	Wallman
Carlson	Flood	Heidemann	Nordquist	White
Christensen	Friend	Karpisek	Pahls	Wightman
Coash	Fulton	Lathrop	Pankonin	
Cook	Gay	Lautenbaugh	Pirsch	
Cornett	Gloor	McCoy	Price	

Voting in the negative, 6:

Giese	Janssen	Schilz
Howard	Langemeier	Sullivan

Excused and not voting, 1:

Louden

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 121A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 121, One Hundred First Legislature, First Session, 2009; and to reduce an appropriation.

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, 47:

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

Voting in the negative, 0.

Present and not voting, 1:

Howard

Excused and not voting, 1:

Louden

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 LB164 with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 164.**

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 2-5413 and 81-12,125, Reissue Revised Statutes of Nebraska, and sections 77-27,187.02, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726, 77-5727, 77-5804, 77-5806, 77-5905, and 77-5906, Revised Statutes Cumulative Supplement, 2008; to change economic development tax incentive provisions; to provide operative dates; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Louden

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 LB202 with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 202.**

A BILL FOR AN ACT relating to certificates of title; to amend sections 37-1201, 37-1211, 37-1277, 37-1279, 37-1282, 37-1283, 37-1287, and 37-1290, Reissue Revised Statutes of Nebraska, and sections 60-101, 60-140, 60-147, 60-152, 60-164, 60-165, 60-166, and 60-168.01, Revised Statutes Cumulative Supplement, 2008; to provide for electronic records of certificates of title and electronic notation of liens; to change provisions relating to certificates of title; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Louden

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

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 202A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 202, One Hundred First Legislature, First Session, 2009.

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, 47:

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

Voting in the negative, 0.

Present and not voting, 1:

Pankonin

Excused and not voting, 1:

Louden

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

**LEGISLATIVE BILL 206.** With Emergency Clause.

A BILL FOR AN ACT relating to postsecondary education; to adopt the In the Line of Duty Dependent Education Act; 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, 47:

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

Voting in the negative, 0.

Present and not voting, 2:

Cornett            Price

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 LB292 with 41 ayes, 1 nay, and 7 present and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 292.**

A BILL FOR AN ACT relating to sports agents; to amend section

84-907.03, Reissue Revised Statutes of Nebraska; to adopt the Nebraska Uniform Athlete Agents Act; to provide penalties; to harmonize provisions; to provide an operative date; to provide severability; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 292A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 292, One Hundred First Legislature, First Session, 2009.

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, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Wallman

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

### **LEGISLATIVE BILL 300.**

A BILL FOR AN ACT relating to public power and irrigation districts; to amend section 70-637, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to bidding requirements; 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, 47:

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

Voting in the negative, 0.

Present and not voting, 2:

Council          Wallman



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 LB328 with 44 ayes, 0 nays, and 5 present and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 328.** With Emergency Clause.

A BILL FOR AN ACT relating to finance; to amend sections 8-113, 8-702, 45-712, 45-713, 45-718, 45-719, 45-720, 45-721, 45-1008, 45-1018, 45-1019, and 45-1025, Reissue Revised Statutes of Nebraska, and sections 45-701, 45-702, 45-703, 45-704, 45-705, 45-706, 45-707, 45-708, 45-709, 45-710, 45-711, 45-714, 45-715, 45-716, 45-717, 45-717.01, 45-717.02, 45-722, 45-723, 45-1001, 45-1002, 45-1007, 45-1013, 45-1024, 45-1033, and 76-2711, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to mortgage origination and installment loans; to implement certain federal requirements; to rename an act; to transfer provisions; to provide for civil penalties; to provide for licensee duties; to eliminate obsolete provisions; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 bills were read and put upon final passage:

**LEGISLATIVE BILL 328A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 328, One Hundred First Legislature, First Session, 2009; 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, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Langemeier

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 340.** With Emergency Clause.

A BILL FOR AN ACT relating to the Coordinating Commission for Postsecondary Education; to amend section 85-1412, Reissue Revised Statutes of Nebraska; to provide a duty for the commission; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 LB355 with 36 ayes, 0 nays, and 13 present and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 355. With Emergency Clause.**

A BILL FOR AN ACT relating to cigar bars; to amend 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; to harmonize provisions; to provide an operative date; 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, 28:

Ashford	Flood	Langemeier	Nelson	Schilz
Carlson	Friend	Lathrop	Nordquist	Wallman
Coash	Fulton	Lautenbaugh	Pahls	White
Cornett	Heidemann	McCoy	Pirsch	Wightman
Council	Janssen	McGill	Price	
Fischer	Karpisek	Mello	Rogert	

Voting in the negative, 21:

Adams	Dierks	Haar	Louden	Utter
Avery	Dubas	Hadley	Nantkes	
Campbell	Gay	Hansen	Pankonin	
Christensen	Giese	Harms	Stuthman	
Cook	Gloor	Howard	Sullivan	

Not voting, 0.

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 27:

Ashford	Flood	Lathrop	Nordquist	Wallman
Carlson	Friend	Lautenbaugh	Pahls	White
Coash	Fulton	McCoy	Pirsch	Wightman
Cornett	Heidemann	McGill	Price	
Council	Karpisek	Mello	Rogert	
Fischer	Langemeier	Nelson	Schilz	

Voting in the negative, 22:

Adams	Dierks	Haar	Janssen	Sullivan
Avery	Dubas	Hadley	Louden	Utter
Campbell	Gay	Hansen	Nantkes	
Christensen	Giese	Harms	Pankonin	
Cook	Gloor	Howard	Stuthman	

Not voting, 0.

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 361.**

A BILL FOR AN ACT relating to public meetings; to amend sections 79-1218, 84-1411, and 84-1413, Reissue Revised Statutes of Nebraska; to provide for videoconferencing and telephone conferences by educational service unit boards; to change provisions relating to telephone conferences by a risk management pool; to authorize electronic voting devices for certain public entities; 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, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Cornett

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

### **LEGISLATIVE BILL 396.**

A BILL FOR AN ACT relating to health care; to amend section 68-901, Revised Statutes Cumulative Supplement, 2008; to adopt the Medical Home Pilot Program Act; to harmonize provisions; 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, 48:

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

Voting in the negative, 1:

Wallman

Not voting, 0.

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

**LEGISLATIVE BILL 449.**

A BILL FOR AN ACT relating to the School Employees Retirement Act; to amend section 79-954, Reissue Revised Statutes of Nebraska; to change provisions relating to the cessation of disability retirement allowance as prescribed; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

**LEGISLATIVE BILL 458.**

A BILL FOR AN ACT relating to public assistance; to amend section 68-1721, Revised Statutes Cumulative Supplement, 2008; to provide for vocational training as prescribed; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 111, 121, 121A, 164, 202, 202A, 206, 292, 292A, 300, 328, 328A, 340, 361, and 396.

### **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 LB477 with 39 ayes, 0 nays, and 10 present and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 477.**

A BILL FOR AN ACT relating to water; to amend sections 46-290, 46-291, 46-701, 46-706, 46-707, and 46-739, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to water transfer permits; to require reports of title as prescribed; to provide for filing instruments of transfer of the right to use ground water; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 511.** With Emergency Clause.

A BILL FOR AN ACT relating to health care facilities; to amend section 71-5803.09, Reissue Revised Statutes of Nebraska; to redefine a term for purposes of certificate of need; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 517.**

A BILL FOR AN ACT relating to the Nebraska Juvenile Code; to amend sections 43-283.01 and 43-292, Reissue Revised Statutes of Nebraska; to provide additional grounds for not reunifying the family and for termination of parental rights; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 LB547 with 40 ayes, 1 nay, and 8 present and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 547.** With Emergency Clause.

A BILL FOR AN ACT relating to teachers; to amend sections 9-812, 79-808, 79-8,132, 79-8,133, 79-8,134, 79-8,135, 79-8,136, 79-8,137, 79-8,138, 79-8,139, and 79-8,140, Reissue Revised Statutes of Nebraska; to provide for the indication of areas of specialization on certificates and permits; to change provisions relating to the Attracting Excellence to Teaching Program Act; to rename the act and a fund; to change provisions relating to loans and loan forgiveness pursuant to the Attracting Excellence to Teaching Program; to create the Enhancing Excellence in Teaching

Program; to define and redefine terms; to provide for administration of the program; to provide for contracts; to provide for loans and loan forgiveness for eligible students as prescribed; to harmonize provisions; to provide operative dates; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 bills were read and put upon final passage:

**LEGISLATIVE BILL 547A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 547, One Hundred First Legislature, First Session, 2009; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 620.**

A BILL FOR AN ACT relating to the Legislature; to amend section 50-421, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the office of Legislative Audit and Research; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 449, 458, 477, 511, 517 547, 547A, and 620.

**SENATOR ROBERT PRESIDING****MOTION - Return LB158 to Select File**

Senator Flood moved to return LB158 to Select File for his specific amendment, AM1006, found on page 1022.

The Flood motion to return prevailed with 44 ayes, 0 nays, and 5 present and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 158.** The Flood specific amendment, AM1006, found on page 1022, was adopted with 44 ayes, 0 nays, and 5 present and not voting.

Advanced to Enrollment and Review for Reengrossment.

**MOTION - Return LB54 to Select File**

Senator Langemeier moved to return LB54 to Select File for the following specific amendment:  
AM1099

(Amendments to Final Ready copy)

- 1 1. Insert the following new section:
- 2 Section 1. Section 46-713, Revised Statutes Cumulative
- 3 Supplement, 2008, as amended by section 3, Legislative Bill 483,
- 4 One Hundred First Legislature, First Session, 2009, is amended to
- 5 read:
- 6 46-713 (1)(a) By January 1 of each year beginning in
- 7 2006 and except as otherwise provided in this section and section
- 8 46-720, the Department of Natural Resources shall complete an
- 9 evaluation of the expected long-term availability of hydrologically
- 10 connected water supplies for both existing and new surface water
- 11 uses and existing and new ground water uses in each of the
- 12 state's river basins and shall issue a report that describes the
- 13 results of the evaluation. For purposes of the evaluation and the
- 14 report, a river basin may be divided into two or more subbasins or
- 15 reaches. A river basin, subbasin, or reach for which an integrated
- 16 management plan has been or is being developed pursuant to sections
- 17 46-715 to 46-717 or pursuant to section 46-719 shall not be
- 18 evaluated unless it is being reevaluated as provided in subsection
- 19 (2) of this section. For each river basin, subbasin, or reach

20 evaluated, the report shall describe (i) the nature and extent  
21 of use of both surface water and ground water in each river  
22 basin, subbasin, or reach, (ii) the geographic area within which  
1 the department preliminarily considers surface water and ground  
2 water to be hydrologically connected and the criteria used for  
3 that determination, and (iii) the extent to which the then-current  
4 uses affect available near-term and long-term water supplies.  
5 River basins, subbasins, and reaches designated as overappropriated  
6 in accordance with subsection (4) of this section shall not be  
7 evaluated by the department. The department is not required to  
8 perform an annual evaluation for a river basin, subbasin, or reach  
9 during the four years following a status change in such river  
10 basin, subbasin, or reach under subsection (12) of section 46-714.

11 (b) Based on the information reviewed in the evaluation  
12 process, the department shall arrive at a preliminary conclusion  
13 for each river basin, subbasin, and reach evaluated as to  
14 whether such river basin, subbasin, or reach presently is fully  
15 appropriated without the initiation of additional uses. The  
16 department shall also determine if and how such preliminary  
17 conclusion would change if no additional legal constraints were  
18 imposed on future development of hydrologically connected surface  
19 water and ground water and reasonable projections are made about  
20 the extent and location of future development in such river basin,  
21 subbasin, or reach.

22 (c) In addition to the conclusion about whether a river  
23 basin, subbasin, or reach is fully appropriated, the department  
24 shall include in the report, for informational purposes only,  
25 a summary of relevant data provided by any interested party  
26 concerning the social, economic, and environmental impacts of  
27 additional hydrologically connected surface water and ground water  
1 uses on resources that are dependent on streamflow or ground water  
2 levels but are not protected by appropriations or regulations.

3 (d) In preparing the report, the department shall rely  
4 on the best scientific data, information, and methodologies readily  
5 available to ensure that the conclusions and results contained  
6 in the report are reliable. In its report, the department shall  
7 provide sufficient documentation to allow these data, information,  
8 methodologies, and conclusions to be independently replicated  
9 and assessed. Upon request by the department, state agencies,  
10 natural resources districts, irrigation districts, reclamation  
11 districts, public power and irrigation districts, mutual irrigation  
12 companies, canal companies, municipalities, and other water users  
13 and stakeholders shall provide relevant data and information in  
14 their possession. The Department of Natural Resources shall specify  
15 by rule and regulation the types of scientific data and other  
16 information that will be considered for making the preliminary  
17 determinations required by this section.

18 (2)(a) The department shall complete a reevaluation  
19 of a river basin, subbasin, or reach for which an integrated

20 management plan has been or is being prepared if the department has  
21 reason to believe that a reevaluation might lead to a different  
22 determination about whether such river basin, subbasin, or reach  
23 is fully appropriated or overappropriated. A decision to reevaluate  
24 may be reached by the department on its own or in response  
25 to a petition filed with the department by any interested  
26 person. To be considered sufficient to justify a reevaluation,  
27 a petition shall be accompanied by supporting information showing  
1 that (i) new scientific data or other information relevant to the  
2 determination of whether the river basin, subbasin, or reach is  
3 fully appropriated or overappropriated has become available since  
4 the last evaluation of such river basin, subbasin, or reach, (ii)  
5 the department relied on incorrect or incomplete information when  
6 the river basin, subbasin, or reach was last evaluated, or (iii)  
7 the department erred in its interpretation or application of the  
8 information available when the river basin, subbasin, or reach was  
9 last evaluated. If a petition determined by the department to be  
10 sufficient is filed before July 1 of any year, the reevaluation of  
11 the river basin, subbasin, or reach involved shall be included in  
12 the next annual report prepared in accordance with subsection (1)  
13 of this section. If any such petition is filed on or after July 1  
14 of any year, the department may defer the reevaluation of the river  
15 basin, subbasin, or reach involved until the second annual report  
16 after such filing.

17 (b) If the reevaluation results in a different  
18 determination by the department, then (i) the department shall  
19 notify, by certified mail, the affected natural resources districts  
20 and any irrigation district, public power and irrigation district,  
21 mutual irrigation company, canal company, or municipality that  
22 relies on water from the affected river basin, subbasin, or  
23 reach of the preliminary change in the determination and (ii)  
24 the department shall hold one or more public hearings not more  
25 than ninety days after the publication of the notice required  
26 in subdivision (b)(i) of this subsection. Notice of the hearings  
27 shall be provided in the same manner as the notice required in  
1 subsection (1) of section 46-714. Any interested person may appear  
2 at the hearing and present written or oral testimony and evidence  
3 concerning the appropriation status of the river basin, subbasin,  
4 or reach.

5 (c) Within thirty days after the final hearing under  
6 subdivision (b) of this subsection, the department shall notify the  
7 appropriate natural resources districts of the department's final  
8 determination with respect to the appropriation status of the river  
9 basin, subbasin, or reach.

10 (3) A river basin, subbasin, or reach shall be deemed  
11 fully appropriated if the department determines based upon its  
12 evaluation conducted pursuant to subsection (1) of this section  
13 and information presented at the hearing pursuant to subsection  
14 (4) of section 46-714 that then-current uses of hydrologically

15 connected surface water and ground water in the river basin,  
 16 subbasin, or reach cause or will in the reasonably foreseeable  
 17 future cause (a) the surface water supply to be insufficient to  
 18 sustain over the long term the beneficial or useful purposes for  
 19 which existing natural-flow or storage appropriations were granted  
 20 and the beneficial or useful purposes for which, at the time of  
 21 approval, any existing instream appropriation was granted, (b) the  
 22 streamflow to be insufficient to sustain over the long term the  
 23 beneficial uses from wells constructed in aquifers dependent on  
 24 recharge from the river or stream involved, or (c) reduction in  
 25 the flow of a river or stream sufficient to cause noncompliance by  
 26 Nebraska with an interstate compact or decree, other formal state  
 27 contract or agreement, or applicable state or federal laws.

1 (4)(a) A river basin, subbasin, or reach shall be deemed  
 2 overappropriated if, on July 16, 2004, the river basin, subbasin,  
 3 or reach is subject to an interstate cooperative agreement among  
 4 three or more states and if, prior to such date, the department  
 5 has declared a moratorium on the issuance of new surface water  
 6 appropriations in such river basin, subbasin, or reach and has  
 7 requested each natural resources district with jurisdiction in the  
 8 affected area in such river basin, subbasin, or reach either (i)  
 9 to close or to continue in effect a previously adopted closure of  
 10 all or part of such river basin, subbasin, or reach to the issuance  
 11 of additional water well permits in accordance with subdivision  
 12 (1)(k) of section 46-656.25 as such section existed prior to July  
 13 16, 2004, or (ii) to temporarily suspend or to continue in effect  
 14 a temporary suspension, previously adopted pursuant to section  
 15 46-656.28 as such section existed prior to July 16, 2004, on the  
 16 drilling of new water wells in all or part of such river basin,  
 17 subbasin, or reach.

18 (b) Within sixty days after July 16, 2004, the department  
 19 shall designate which river basins, subbasins, or reaches are  
 20 overappropriated. The designation shall include a description of  
 21 the geographic area within which the department has determined that  
 22 surface water and ground water are hydrologically connected and the  
 23 criteria used to make such determination.

24 2. Amend the title and repealer and renumber the  
 25 remaining sections accordingly.

The Langemeier motion to return prevailed with 42 ayes, 0 nays, and 7 present and not voting.

### SELECT FILE

**LEGISLATIVE BILL 54.** The Langemeier specific amendment, AM1099, found in this day's Journal, was adopted with 41 ayes, 0 nays, and 8 present and not voting.

Advanced to Enrollment and Review for Reengrossment.

**AMENDMENT - Print in Journal**

Senator Flood filed the following amendment to LB97:  
AM1094

(Amendments to Standing Committee amendments, AM893)

- 1 1. Insert the following sections:
- 2 Sec. 2. (1) The following evidence is not admissible
- 3 in any civil or criminal proceeding involving alleged sexual
- 4 misconduct except as provided in subsections (2) and (3) of this
- 5 section:
- 6 (a) Evidence offered to prove that any victim engaged in
- 7 other sexual behavior; and
- 8 (b) Evidence offered to prove any victim's sexual
- 9 predisposition.
- 10 (2)(a) In a criminal case, the following evidence is
- 11 admissible, if otherwise admissible under the Nebraska Evidence
- 12 Rules:
- 13 (i) Evidence of specific instances of sexual behavior by
- 14 the victim offered to prove that a person other than the accused
- 15 was the source of semen, injury, or other physical evidence;
- 16 (ii) Evidence of specific instances of sexual behavior of
- 17 the victim with respect to the accused offered by the accused to
- 18 prove consent of the victim if it is first established to the court
- 19 that such behavior is similar to the behavior involved in the case
- 20 and tends to establish a pattern of behavior of the victim relevant
- 21 to the issue of consent; and
- 22 (iii) Evidence, the exclusion of which would violate the
- 1 constitutional rights of the accused.
- 2 (b) In a civil case, evidence offered to prove the sexual
- 3 behavior or sexual predisposition of any victim is admissible if it
- 4 is otherwise admissible under the Nebraska Evidence Rules and its
- 5 probative value substantially outweighs the danger of harm to any
- 6 victim and of unfair prejudice to any party. Evidence of a victim's
- 7 reputation is admissible only if it has been placed in controversy
- 8 by the victim.
- 9 (3)(a) A party intending to offer evidence under
- 10 subsection (2) of this section shall:
- 11 (i) File a written motion at least fifteen days before
- 12 trial specifically describing the evidence and stating the purpose
- 13 for which it is offered unless the court, for good cause, requires
- 14 a different time for filing or permits filing during trial; and
- 15 (ii) Serve the motion on all parties and notify
- 16 the victim or, when appropriate, the victim's guardian or
- 17 representative.
- 18 (b) Before admitting evidence under this section, the
- 19 court shall conduct a hearing in camera outside the presence of any
- 20 jury and afford the victim and parties a right to attend and be
- 21 heard.



22 Sec. 3. For purposes of sections 4 and 5 of this act,  
23 offense of sexual assault means sexual assault under section 28-319  
24 or 28-320, sexual assault of a child under section 28-319.01  
25 or 28-320.01, sexual assault by use of computer under section  
26 28-320.02, sexual abuse of an inmate or parolee under sections  
27 28-322.01 to 28-322.03, and sexual abuse of protected persons under  
1 section 28-322.04.

2 Sec. 4. (1) In a criminal case in which the accused  
3 is accused of an offense of sexual assault, evidence of the  
4 accused's commission of another offense or offenses of sexual  
5 assault is admissible if there is clear and convincing evidence  
6 otherwise admissible under the Nebraska Evidence Rules that the  
7 accused committed the other offense or offenses. If admissible,  
8 such evidence may be considered for its bearing on any matter to  
9 which it is relevant.

10 (2) In a case in which the prosecution intends to  
11 offer evidence under this section, the prosecuting attorney shall  
12 disclose the evidence to the accused, including statements of  
13 witnesses or a summary of the substance of any testimony that is  
14 expected to be offered, at least fifteen days before the scheduled  
15 date of trial or at such later time as the court may allow for good  
16 cause.

17 (3) Before admitting evidence of the accused's commission  
18 of another offense or offenses of sexual assault under this  
19 section, the court shall conduct a hearing outside the presence of  
20 any jury and afford the victim and parties a right to attend and be  
21 heard. At the hearing, the rules of evidence shall apply and the  
22 court shall apply a section 27-403 balancing and admit the evidence  
23 unless the risk of prejudice substantially outweighs the probative  
24 value of the evidence. In assessing the balancing, the court may  
25 consider any relevant factor such as (a) the probability that the  
26 other offense occurred, (b) the proximity in time and intervening  
27 circumstances of the other offenses, and (c) the similarity of the  
1 other acts to the crime charged.

2 (4) This section shall not be construed to limit the  
3 admission or consideration of evidence under any other section of  
4 the Nebraska Evidence Rules.

5 Sec. 5. (1) In a civil case in which a claim for damages  
6 or other relief is predicated on a party's alleged commission of  
7 conduct constituting an offense of sexual assault, evidence of  
8 that party's commission of another offense or offenses of sexual  
9 assault is admissible if there is clear and convincing evidence  
10 otherwise admissible under the Nebraska Evidence Rules that the  
11 party committed the other offense or offenses. If admissible, such  
12 evidence may be considered for its bearing on any matter to which  
13 it is relevant.

14 (2) A party who intends to offer evidence under this  
15 section shall disclose the evidence to the party against whom it  
16 will be offered, including statements of witnesses or a summary of

17 the substance of any testimony that is expected to be offered, at  
 18 least fifteen days before the scheduled date of trial or at such  
 19 later time as the court may allow for good cause.

20 (3) Before admitting evidence of a party's commission of  
 21 another offense or offenses of sexual assault under this section,  
 22 the court shall conduct a hearing outside the presence of any  
 23 jury and afford the victim and parties a right to attend and be  
 24 heard. At the hearing, the rules of evidence shall apply and the  
 25 court shall apply a section 27-403 balancing and admit the evidence  
 26 unless the risk of prejudice substantially outweighs the probative  
 27 value of the evidence. In assessing the balancing, the court may  
 1 consider any relevant factor such as (a) the probability that the  
 2 other offense occurred, (b) the proximity in time and intervening  
 3 circumstances of the other offenses, and (c) the similarity of the  
 4 other acts to the crime charged.

5 (4) This section shall not be construed to limit the  
 6 admission or consideration of evidence under any other section of  
 7 the Nebraska Evidence Rules.

8 Sec. 6. Section 27-404, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:

10 27-404 (1) Evidence of a person's character or a trait of  
 11 his or her character is not admissible for the purpose of proving  
 12 that he or she acted in conformity therewith on a particular  
 13 occasion, except:

14 (a) Evidence of a pertinent trait of his or her character  
 15 offered by an accused, or by the prosecution to rebut the same;

16 (b) Evidence of a pertinent trait of character of the  
 17 victim of the crime offered by an accused or by the prosecution to  
 18 rebut the same, or evidence of a character trait of peacefulness of  
 19 the victim offered by the prosecution in a homicide case to rebut  
 20 evidence that the victim was the first aggressor. ~~In the case of a~~  
 21 ~~sexual assault case, reputation, or opinion, or other evidence of~~  
 22 ~~the past sexual behavior of the victim of the sexual assault will~~  
 23 ~~not be admissible; is governed by section 2 of this act; or~~

24 (c) Evidence of the character of a witness as provided in  
 25 sections 27-607 to 27-609.

26 (2) Evidence of other crimes, wrongs, or acts is not  
 27 admissible to prove the character of a person in order to show  
 1 that he or she acted in conformity therewith. It may, however,  
 2 be admissible for other purposes, such as proof of motive,  
 3 opportunity, intent, preparation, plan, knowledge, identity, or  
 4 absence of mistake or accident.

5 (3) When such evidence is admissible pursuant to this  
 6 section, in criminal cases evidence of other crimes, wrongs, or  
 7 acts of the accused may be offered in evidence by the prosecution  
 8 if the prosecution proves to the court by clear and convincing  
 9 evidence that the accused committed the crime, wrong, or act. Such  
 10 proof shall first be made outside the presence of any jury.

11 (4) Regarding the admissibility in a civil or criminal

12 action of evidence of a person's commission of another offense or  
13 offenses of sexual assault under sections 28-319 to 28-322.04, see  
14 sections 3 to 5 of this act.

15 Sec. 7. Section 27-1103, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 27-1103 These rules and sections 2 to 5 of this act may  
18 be known and cited as the Nebraska Evidence Rules.

19 Sec. 10. Section 28-318, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 28-318 As used in sections 28-317 to ~~28-321~~, 28-323,  
22 unless the context otherwise requires:

23 (1) Actor means a person accused of sexual assault;

24 (2) Intimate parts means the genital area, groin, inner  
25 thighs, buttocks, or breasts;

26 (3) Past sexual behavior means sexual behavior other than  
27 the sexual behavior upon which the sexual assault is alleged;

1 (4) Serious personal injury means great bodily injury or  
2 disfigurement, extreme mental anguish or mental trauma, pregnancy,  
3 disease, or loss or impairment of a sexual or reproductive organ;

4 (5) Sexual contact means the intentional touching of the  
5 victim's sexual or intimate parts or the intentional touching of  
6 the victim's clothing covering the immediate area of the victim's  
7 sexual or intimate parts. Sexual contact shall also mean the  
8 touching by the victim of the actor's sexual or intimate parts or  
9 the clothing covering the immediate area of the actor's sexual or  
10 intimate parts when such touching is intentionally caused by the  
11 actor. Sexual contact shall include only such conduct which can be  
12 reasonably construed as being for the purpose of sexual arousal or  
13 gratification of either party. Sexual contact shall also include  
14 the touching of a child with the actor's sexual or intimate parts  
15 on any part of the child's body for purposes of sexual assault of a  
16 child under sections 28-319.01 and 28-320.01;

17 (6) Sexual penetration means sexual intercourse in its  
18 ordinary meaning, cunnilingus, fellatio, anal intercourse, or any  
19 intrusion, however slight, of any part of the actor's or victim's  
20 body or any object manipulated by the actor into the genital  
21 or anal openings of the victim's body which can be reasonably  
22 construed as being for nonmedical or nonhealth purposes. Sexual  
23 penetration shall not require emission of semen;

24 (7) Victim means the person alleging to have been  
25 sexually assaulted;

26 (8) Without consent means:

27 (a)(i) The victim was compelled to submit due to the  
1 use of force or threat of force or coercion, or (ii) the victim  
2 expressed a lack of consent through words, or (iii) the victim  
3 expressed a lack of consent through conduct, or (iv) the consent,  
4 if any was actually given, was the result of the actor's deception  
5 as to the identity of the actor or the nature or purpose of the act  
6 on the part of the actor;

7 (b) The victim need only resist, either verbally or  
8 physically, so as to make the victim's refusal to consent genuine  
9 and real and so as to reasonably make known to the actor the  
10 victim's refusal to consent; and

11 (c) A victim need not resist verbally or physically where  
12 it would be useless or futile to do so; and

13 (9) Force or threat of force means (a) the use of  
14 physical force which overcomes the victim's resistance or (b) the  
15 threat of physical force, express or implied, against the victim or  
16 a third person that places the victim in fear of death or in fear  
17 of serious personal injury to the victim or a third person where  
18 the victim reasonably believes that the actor has the present or  
19 future ability to execute the threat.

20 Sec. 28. Section 83-4,143, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 83-4,143 (1) It is the intent of the Legislature that  
23 the court target the felony offender (a) who is eligible and  
24 by virtue of his or her criminogenic needs is suitable to be  
25 sentenced to intensive supervision probation with placement at the  
26 incarceration work camp, (b) for whom the court finds that other  
27 conditions of a sentence of intensive supervision probation, in  
1 and of themselves, are not suitable, and (c) who, without the  
2 existence of an incarceration work camp, would, in all likelihood,  
3 be sentenced to prison.

4 (2) When the court is of the opinion that imprisonment is  
5 appropriate, but that a brief and intensive period of regimented,  
6 structured, and disciplined programming within a secure facility  
7 may better serve the interests of society, the court may place an  
8 offender in an incarceration work camp for a period not to exceed  
9 one hundred eighty days as a condition of a sentence of intensive  
10 supervision probation. The court may consider such placement if the  
11 offender (a) is a male or female offender convicted of a felony  
12 offense in a district court, (b) is medically and mentally fit  
13 to participate, with allowances given for reasonable accommodation  
14 as determined by medical and mental health professionals, and (c)  
15 has not previously been incarcerated for a violent felony crime.  
16 Offenders convicted of a crime under sections 28-319 to ~~28-324~~  
17 28-323 or of any capital crime are not eligible to be placed in an  
18 incarceration work camp.

19 (3) It is also the intent of the Legislature that the  
20 Board of Parole may recommend placement of felony offenders at  
21 the incarceration work camp. The offenders recommended by the  
22 board shall be offenders currently housed at other Department  
23 of Correctional Services adult correctional facilities and shall  
24 complete the incarceration work camp programming prior to release  
25 on parole.

26 (4) When the Board of Parole is of the opinion that  
27 a felony offender currently incarcerated in a Department of  
1 Correctional Services adult correctional facility may benefit

2 from a brief and intensive period of regimented, structured, and  
3 disciplined programming immediately prior to release on parole, the  
4 board may direct placement of such an offender in an incarceration  
5 work camp for a period not to exceed one hundred eighty days as  
6 a condition of release on parole. The board may consider such  
7 placement if the felony offender (a) is medically and mentally fit  
8 to participate, with allowances given for reasonable accommodation  
9 as determined by medical and mental health professionals, and (b)  
10 has not previously been incarcerated for a violent felony crime.  
11 Offenders convicted of a crime under sections 28-319 to ~~28-324~~  
12 28-323 or of any capital crime are not eligible to be placed in an  
13 incarceration work camp.

14 Sec. 29. The Revisor of Statutes shall assign sections 2  
15 to 5 of this act to Chapter 27, article 4, of the Nebraska Evidence  
16 Rules.

17 Sec. 31. Sections 2, 3, 4, 5, 6, 7, 10, 28, 29, and 32 of  
18 this act become operative on January 1, 2010. The other sections of  
19 this act become operative on their effective date.

20 Sec. 32. Original sections 27-404, 27-1103, 28-318, and  
21 83-4,143, Reissue Revised Statutes of Nebraska, are repealed.

22 2. Renumber the remaining sections and correct internal  
23 references accordingly.

## **COMMITTEE REPORT**

### **Enrollment and Review**

#### **Correctly Enrolled**

The following bill was correctly enrolled: LB355.

(Signed) Jeremy Nordquist, Chairperson

#### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LB355.

#### **MOTION - Place LB385 on General File**

Senator Pahls renewed his motion, MO32, found on page 1000, to place LB385 on General File pursuant to Rule 3, Sec. 18.

#### **SENATOR LANGEMEIER PRESIDING**

#### **SENATOR ROBERT PRESIDING**

Senator Pahls moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Pahls motion to place on General File failed with 15 ayes, 29 nays, 3 present and not voting, and 2 excused and not voting.

### COMMITTEE REPORTS

#### Enrollment and Review

**LEGISLATIVE BILL 131.** Placed on Select File with amendment.  
ER8075

- 1 1. On page 5, line 10; and page 20, line 10, strike the
- 2 second comma.
- 3 2. On page 7, line 11, strike "lots" and insert "lot".
- 4 3. On page 8, line 22, after "corner" insert "of the".
- 5 4. On page 12, line 8; and page 27, line 8, strike "25"
- 6 and insert "26".
- 7 5. On page 13, line 10; and page 28, line 10, strike the
- 8 semicolon.
- 9 6. On page 16, line 15; and page 31, line 15, strike "18"
- 10 and insert "13".
- 11 7. On page 17, line 22, after "feet" insert an
- 12 underscored semicolon.
- 13 8. On page 21, line 22, strike the first comma and insert
- 14 an underscored semicolon.
- 15 9. On page 24, line 7, strike the comma and insert an
- 16 underscored semicolon.
- 17 10. On page 26, line 3, after "Nebraska" insert an
- 18 underscored comma; and in line 25 strike "section" and insert
- 19 "sections".

**LEGISLATIVE BILL 133.** Placed on Select File.

**LEGISLATIVE BILL 113.** Placed on Select File with amendment.  
ER8071

- 1 1. On page 1, line 4, strike "provide a penalty" and
- 2 insert "prohibit tampering with or falsifying evidence"; in line
- 3 6 strike "and"; and in line 7 after "sections" insert "; and to
- 4 declare an emergency".
- 5 2. On page 8, line 3, strike the comma; and in line 8
- 6 strike "act" and insert "Securities Act of Nebraska".

**LEGISLATIVE BILL 163.** Placed on Select File.

**LEGISLATIVE BILL 434.** Placed on Select File.

**LEGISLATIVE BILL 348.** Placed on Select File with amendment.  
ER8072

- 1 1. On page 1, strike beginning with "sections" in line
- 2 1 through line 5 and insert "section 76-214, Revised Statutes
- 3 Cumulative Supplement, 2008; to authorize access to statements at
- 4 the office of the register of deeds; and to repeal the original
- 5 section."

**LEGISLATIVE BILL 540.** Placed on Select File.

**LEGISLATIVE BILL 528.** Placed on Select File with amendment. ER8073 is available in the Bill Room.

**LEGISLATIVE BILL 450.** Placed on Select File.

**LEGISLATIVE BILL 274.** Placed on Select File.

**LEGISLATIVE BILL 339.** Placed on Select File.

**LEGISLATIVE BILL 412.** Placed on Select File.

**LEGISLATIVE BILL 27.** Placed on Select File with amendment. ER8074

1 1. On page 1, strike beginning with "Autism" in line  
 2 1 through line 8 and insert "Medical Assistance Act; to amend  
 3 sections 85-1,138, 85-1,139, 85-1,140, 85-1,141, and 85-1,142,  
 4 Reissue Revised Statutes of Nebraska, and sections 68-901 and  
 5 71-7611, Revised Statutes Cumulative Supplement, 2008; to change  
 6 and transfer provisions relating to the Autism Treatment Program  
 7 Act, the Autism Treatment Program Cash Fund, and the administration  
 8 of the Autism Treatment Program; to provide powers and duties  
 9 for the Department of Health and Human Services; to harmonize  
 10 provisions; to repeal the original sections; and to declare an  
 11 emergency.".

**LEGISLATIVE BILL 175.** Placed on Select File.

**LEGISLATIVE BILL 129.** Placed on Select File.

**LEGISLATIVE BILL 208.** Placed on Select File.

**LEGISLATIVE BILL 94.** Placed on Select File with amendment. ER8076

1 1. On page 1, line 2, strike "77-3512" and insert  
 2 "77-3501, 77-3512,".  
 3 2. On page 3, line 7, strike "(1)" and insert "(a)"; and  
 4 in line 15 "(3)" has been inserted before "The".

(Signed) Jeremy Nordquist, Chairperson

### **PRESENTED TO THE GOVERNOR**

Presented to the Governor on April 17, 2009, at 10:58 a.m. were the following: LBs 111e, 121, 121A, 164, 202, 202A, 206e, 292, 292A, 300, 328e, 328Ae, 340e, 355, 361, 396, 449, 458, 477, 511e, 517, 547e, 547Ae, and 620.

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

**AMENDMENTS - Print in Journal**

Senator Dubas filed the following amendment to LB129:  
AM1102

- 1 1. On page 2, strike beginning with "and" in line 13
- 2 through "paid" in line 15.

Senator Ashford filed the following amendment to LB35A:  
AM1087

- 1 1. Insert the following sections:
- 2 Sec. 3. There is hereby appropriated (1) \$800,000 from
- 3 the Supreme Court Automation Cash Fund for FY2009-10 and (2)
- 4 \$800,000 from the Supreme Court Automation Cash Fund for FY2010-11
- 5 to the Supreme Court, for Program 570, to aid in carrying out the
- 6 provisions of Legislative Bill 35, One Hundred First Legislature,
- 7 First Session, 2009.
- 8 No expenditures for permanent and temporary salaries and
- 9 per diems for state employees shall be made from funds appropriated
- 10 in this section.
- 11 Sec. 4. There is hereby appropriated (1) \$290,000 from
- 12 the Civil Legal Services Fund for FY2009-10 and (2) \$290,000 from
- 13 the Civil Legal Services Fund for FY2010-11 to the Commission on
- 14 Public Advocacy, for Program 429 - Civil Legal Services, to aid
- 15 in carrying out the provisions of Legislative Bill 35, One Hundred
- 16 First Legislature, First Session, 2009.
- 17 No expenditures for permanent and temporary salaries and
- 18 per diems for state employees shall be made from funds appropriated
- 19 in this section.
- 20 There is included in the appropriation to this program
- 21 for FY2009-10 \$290,000 cash funds for state aid, which shall only
- 22 be used for such purpose. There is included in the appropriation to
- 23 this program for FY2010-11 \$290,000 cash funds for state aid, which
- 1 shall only be used for such purpose.
- 2 Sec. 5. The cash fund appropriation for FY2009-10 to the
- 3 Supreme Court, for Program 52, is hereby reduced by \$290,000. The
- 4 cash fund appropriation for FY2010-11 to the Supreme Court, for
- 5 Program 52, is hereby reduced by \$290,000.
- 6 2. Renumber the remaining sections accordingly.

**GENERAL FILE**

**LEGISLATIVE BILL 237.** Title read. Considered.

Committee AM870, found on page 943, was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.



**LEGISLATIVE BILL 237A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 92.** Title read. Considered.

Committee AM305, found on page 449, was considered.

Senator Howard renewed her amendment, AM328, found on page 469, to the committee amendment.

The Howard amendment was adopted with 36 ayes, 1 nay, 9 present and not voting, and 3 excused and not voting.

The committee amendment, as amended, was adopted with 37 ayes, 1 nay, 8 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 1 nay, 3 present and not voting, and 3 excused and not voting.

### **VISITORS**

Visitors to the Chamber were 95 eighth-grade students and teachers from Lexington; 45 fourth-grade students and teachers from Sacred Heart School, Norfolk; 38 fourth-grade students and teachers from Golden Hills Elementary, Bellevue; 10 seventh-grade students, teacher, and sponsor from Norfolk; and Sean Schmeits from Brooksville, Maine.

### **ADJOURNMENT**

At 1:15 p.m., on a motion by Senator Langemeier, the Legislature adjourned until 10:00 a.m., Monday, April 20, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-FOURTH DAY - APRIL 20, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SIXTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, April 20, 2009

**PRAYER**

The prayer was offered by Senator Wallman.

**ROLL CALL**

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

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

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-third day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 389.** Placed on Select File with amendment.  
ER8077

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 2-4901, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 2-4901 (1) The Climate Assessment Response Committee is
- 6 hereby created. The office of the Governor shall be the lead
- 7 agency and shall oversee the committee and its activities. The
- 8 committee shall be composed of representatives appointed by the
- 9 Governor with the approval of a majority of the Legislature from
- 10 livestock producers, crop producers, ~~and~~ the Nebraska Emergency
- 11 Management Agency, and the Conservation and Survey Division and
- 12 Cooperative Extension Service of the University of Nebraska,
- 13 ~~Department of Agriculture, Department of Health and Human Services,~~
- 14 ~~Department of Natural Resources, and Governor's Policy Research~~
- 15 ~~Office.~~ The Director of Agriculture or his or her designee, the
- 16 chief executive officer of the Department of Health and Human

17 Services or his or her designee, and the Director of Natural  
 18 Resources or his or her designee shall be ex officio members  
 19 of the committee. Representatives from the federal Consolidated  
 20 Farm Service Agency and Federal Crop Insurance Corporation may  
 21 also serve on the committee at the invitation of the Governor.  
 22 ~~The Governor may appoint the chairperson of the Committee on~~  
 23 ~~Agriculture of the Legislature and the chairperson of the Committee~~  
 1 ~~on Natural Resources of the Legislature and shall be nonvoting,~~  
 2 ~~ex officio members of the committee. The Governor may appoint a~~  
 3 ~~member of the Governor's Policy Research Office and any other state~~  
 4 ~~agency representatives or invite any other federal agencies to name~~  
 5 ~~representatives as he or she deems necessary. The Governor shall~~  
 6 ~~appoint one of the Climate Assessment Response Committee members~~  
 7 ~~to serve as the chairperson of the committee. Committee members~~  
 8 ~~shall be reimbursed for actual and necessary expenses as provided~~  
 9 ~~in sections 81-1174 to 81-1177.~~

10 (2) The committee shall meet at least twice each year and  
 11 shall meet more frequently (a) at the call of the chairperson, (b)  
 12 upon request of a majority of the committee members, and (c) during  
 13 periods of drought or other severe climate situations.

14 (3) The chairperson may establish subcommittees and may  
 15 invite representatives of agencies other than those with members on  
 16 the committee to serve on such subcommittees.

17 (4) Any funds for the activities of the committee and for  
 18 other climate-related expenditures may be appropriated directly to  
 19 the office of the Governor for contracting with other agencies or  
 20 persons for tasks approved by the committee.

21 Sec. 2. Original section 2-4901, Reissue Revised Statutes  
 22 of Nebraska, is repealed.

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

25 2. On page 1, line 3, strike "appointment" and insert  
 26 "membership".

**LEGISLATIVE BILL 209.** Placed on Select File.

**LEGISLATIVE BILL 422.** Placed on Select File.

**LEGISLATIVE BILL 488.** Placed on Select File.

**LEGISLATIVE BILL 501.** Placed on Select File with amendment.  
 ER8081

- 1 1. On page 1, line 1, after "sections" insert "32-607,";
- 2 and in line 6 after the semicolon insert "to change candidate
- 3 filing form requirements;".

**LEGISLATIVE BILL 60.** Placed on Select File.

**LEGISLATIVE BILL 278.** Placed on Select File.

**LEGISLATIVE BILL 447.** Placed on Select File with amendment.  
 ER8082

- 1 1. On page 2, line 6, strike "(1)", show as stricken, and  
 2 insert "(a)"; in line 9 strike "(2)", show as stricken, and insert  
 3 "(b)"; in line 11 strike "(3)", show as stricken, and insert "(c)";  
 4 in line 4 strike "(4)", show as stricken, and insert "(d)"; in  
 5 line 17 strike "(5)", show as stricken, and insert "(e)"; in line  
 6 18 strike "(6)", show as stricken, and insert "(f)"; in line 19  
 7 strike "(7)", show as stricken, and insert "(g)"; in line 22 strike  
 8 "(8)", show as stricken, and insert "(h)"; and strike beginning  
 9 with "subsection" in line 24 through "section" in line 25 and  
 10 insert "subdivision (a) of this subsection".  
 11 2. On page 3, line 5, strike "multiply" and insert  
 12 "multiplying".

**LEGISLATIVE BILL 531.** Placed on Select File.

**LEGISLATIVE BILL 445.** Placed on Select File.

**LEGISLATIVE BILL 498.** Placed on Select File with amendment.  
 ER8080

- 1 1. On page 2, line 11, after the first comma insert "and  
 2 to".  
 3 2. On page 3, line 4, strike "term" and insert "terms".

**LEGISLATIVE BILL 604.** Placed on Select File with amendment.  
 ER8085

- 1 1. On page 5, line 11, strike "who or which" and insert  
 2 "which or who".

**LEGISLATIVE BILL 446.** Placed on Select File with amendment.  
 ER8079

- 1 1. On page 1, line 4, after the last semicolon insert "to  
 2 eliminate obsolete language;".

**LEGISLATIVE BILL 372.** Placed on Select File.

**LEGISLATIVE BILL 500.** Placed on Select File.

**LEGISLATIVE BILL 627.** Placed on Select File with amendment.  
 ER8078

- 1 1. On page 1, line 3, strike "authorize" and insert  
 2 "require".

**LEGISLATIVE BILL 587.** Placed on Select File.

**LEGISLATIVE BILL 122.** Placed on Select File with amendment.  
 ER8084

- 1 1. On page 1, line 3, strike "for" and insert "in the  
 2 central register of".  
 3 2. On page 3, line 6, strike the underscored comma.

(Signed) Jeremy Nordquist, Chairperson

**RESOLUTIONS****LEGISLATIVE RESOLUTION 89.** Introduced by McCoy, 39.

WHEREAS, Cameron Opfer, of Troop 145, 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, Cameron 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. For his Eagle Scout community service project, Cameron built two park benches using a metal press to build the frames and cedar boards to complete the benches. The project also involved planting six trees, with the help of fellow scouts, and these were all placed along the walking path on the north and south sides of the Two Rivers ball complex in Arlington; and

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

WHEREAS, Cameron, through his hard work and perseverance, has joined 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 Cameron Opfer on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Cameron Opfer.

Laid over.

**LEGISLATIVE RESOLUTION 90.** Introduced by McCoy, 39.

WHEREAS, Thomas D. Rhodes, of Troop 282, in Omaha, 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, Thomas 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. For his Eagle Scout community service project, Thomas relaid crushed limestone on the redesigned hiking trails in Schramm Park to create a permanent path that will prevent erosion; and

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

WHEREAS, Thomas, through his hard work and perseverance, has joined 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 Thomas D. Rhodes on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Thomas D. Rhodes.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 545.** Title read. Considered.

Committee AM1056, found on page 1037, was considered.

Senator Friend requested a division of the question on the committee amendment.

Pending.

### EASE

The Legislature was at ease from 10:32 a.m. until 10:49 a.m.

### GENERAL FILE

**LEGISLATIVE BILL 545.** The Friend request for a division of the question on the committee amendment, found in this day's Journal, was renewed.

The Chair sustained the division of the question.

The first committee amendment is as follows:  
AM1118 is available in the Bill Room.

The second committee amendment is as follows:

AM1119

- 1 1. Insert the following new section:
- 2 Sec. 9. Section 79-1007.18, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 79-1007.18 (1) For school fiscal ~~year 2008-09 and each~~
- 5 ~~school fiscal year thereafter, years 2008-09 through 2011-12~~, the
- 6 department shall calculate an averaging adjustment for districts if
- 7 the basic funding per formula student is less than the statewide
- 8 average basic funding per formula student and the general fund
- 9 levy for the school fiscal year immediately preceding the school
- 10 fiscal year for which aid is being calculated was at least
- 11 ninety-six cents per one hundred dollars of taxable valuation
- 12 for aid calculated for school fiscal year 2008-09 and at least
- 13 one dollar per one hundred dollars of taxable valuation for
- 14 aid calculated for school fiscal ~~year 2009-10 and each school~~
- 15 ~~fiscal year thereafter, years 2009-10, 2010-11, and 2011-12~~. For
- 16 school districts that are members of a learning community, the
- 17 general fund levy for purposes of this section includes both the
- 18 common general fund levy and the school district general fund
- 19 levy authorized pursuant to subdivisions (2)(b) and (2)(c) of
- 20 section 77-3442. The averaging adjustment for aid calculated for
- 21 school fiscal ~~year 2008-09 years 2008-09 and 2009-10~~ shall equal
- 22 ~~seventy-five percent of the product of the district's formula~~
- 1 students multiplied by the percentage specified in this section for
- 2 such district of the difference between the statewide average basic
- 3 funding per formula student minus such district's basic funding per
- 4 formula student. The averaging adjustment for aid calculated for
- 5 school fiscal ~~year 2009-10 and each school fiscal year thereafter~~
- 6 ~~years 2009-10 and 2010-11~~ shall equal fifty percent of the product
- 7 of the district's formula students multiplied by the percentage
- 8 specified in this section for such district of the difference
- 9 between the statewide average basic funding per formula student
- 10 minus such district's basic funding per formula student.
- 11 (2) ~~The~~ For school fiscal years 2008-09 through 2011-12,
- 12 the percentage to be used in the calculation of an averaging
- 13 adjustment shall be based on the general fund levy for the school
- 14 fiscal year immediately preceding the school fiscal year for which
- 15 aid is being calculated.
- 16 (3) The percentages to be used in the calculation of
- 17 averaging adjustments for school fiscal year 2008-09 shall be as
- 18 follows:
  - 19 (a) If such levy was at least ninety-six cents per one
  - 20 hundred dollars of taxable valuation but less than ninety-seven
  - 21 cents per one hundred dollars of taxable valuation, the percentage
  - 22 shall be ten percent;
  - 23 (b) If such levy was at least ninety-seven cents per one
  - 24 hundred dollars of taxable valuation but less than ninety-eight
  - 25 cents per one hundred dollars of taxable valuation, the percentage



26 shall be twenty percent;

27 (c) If such levy was at least ninety-eight cents per  
1 one hundred dollars of taxable valuation but less than ninety-nine  
2 cents per one hundred dollars of taxable valuation, the percentage  
3 shall be thirty percent;

4 (d) If such levy was at least ninety-nine cents per one  
5 hundred dollars of taxable valuation but less than one dollar per  
6 one hundred dollars of taxable valuation, the percentage shall be  
7 forty percent;

8 (e) If such levy was at least one dollar per one hundred  
9 dollars of taxable valuation but less than one dollar and one cent  
10 per one hundred dollars of taxable valuation, the percentage shall  
11 be fifty percent;

12 (f) If such levy was at least one dollar and one cent per  
13 one hundred dollars of taxable valuation but less than one dollar  
14 and two cents per one hundred dollars of taxable valuation, the  
15 percentage shall be sixty percent;

16 (g) If such levy was at least one dollar and two  
17 cents per one hundred dollars of taxable valuation but less than  
18 one dollar and three cents per one hundred dollars of taxable  
19 valuation, the percentage shall be seventy percent;

20 (h) If such levy was at least one dollar and three cents  
21 per one hundred dollars of taxable valuation but less than one  
22 dollar and four cents per one hundred dollars of taxable valuation,  
23 the percentage shall be eighty percent; and

24 (i) If such levy was at least one dollar and four cents  
25 per one hundred dollars of taxable valuation, the percentage shall  
26 be ninety percent.

27 (4) The percentages to be used in the calculation of  
1 averaging adjustments for school fiscal year 2009-10 ~~and each~~  
2 ~~school fiscal year thereafter~~ shall be as follows:

3 (a) If such levy was at least one dollar per one hundred  
4 dollars of taxable valuation but less than one dollar and one cent  
5 per one hundred dollars of taxable valuation, the percentage shall  
6 be fifty percent;

7 (b) If such levy was at least one dollar and one cent per  
8 one hundred dollars of taxable valuation but less than one dollar  
9 and two cents per one hundred dollars of taxable valuation, the  
10 percentage shall be sixty percent;

11 (c) If such levy was at least one dollar and two  
12 cents per one hundred dollars of taxable valuation but less than  
13 one dollar and three cents per one hundred dollars of taxable  
14 valuation, the percentage shall be seventy percent;

15 (d) If such levy was at least one dollar and three cents  
16 per one hundred dollars of taxable valuation but less than one  
17 dollar and four cents per one hundred dollars of taxable valuation,  
18 the percentage shall be eighty percent; and

19 (e) If such levy was at least one dollar and four cents  
20 per one hundred dollars of taxable valuation, the percentage shall

21 be ninety percent.

22 (5) The percentage to be used in the calculation of  
 23 averaging adjustments for school fiscal years 2010-11 and 2011-12  
 24 shall be fifty percent.

25 (6) For school fiscal year 2012-13 and each school  
 26 fiscal year thereafter, the department shall calculate an averaging  
 27 adjustment for districts if the basic funding per formula student  
 1 is less than ninety percent of the statewide average basic funding  
 2 per formula student and the general fund levy for the school fiscal  
 3 year immediately preceding the school fiscal year for which aid is  
 4 being calculated was at least one dollar per one hundred dollars  
 5 of taxable valuation. The averaging adjustment for such school  
 6 fiscal years shall equal the product of the district's formula  
 7 students multiplied by the difference between ninety percent of  
 8 the statewide average basic funding per formula student minus such  
 9 district's basic funding per formula student.

10 2. Renumber the remaining sections, correct internal  
 11 references, and amend the repealer accordingly.

The first committee amendment, AM1118, found in this day's Journal, was renewed.

Senator Adams renewed his amendment, AM1057, found on page 1034, to the first committee amendment.

Pending.

### **VISITORS**

Visitors to the Chamber were 42 second-grade students and teachers from Wilber-Clatonia School, Wilber.

### **RECESS**

At 12:01 p.m., on a motion by Senator Wightman, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

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

### **ROLL CALL**

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

**AMENDMENTS - Print in Journal**

Senator Campbell filed the following amendment to LB288:  
AM1093

(Amendments to Standing Committee amendments, AM846)

- 1 1. On page 13, line 25, strike "specific comment" and
- 2 insert "written recommendation".

Senator Dierks filed the following amendment to LB463:  
AM1100

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 Sec. 14. Section 71-8922, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 71-8922 A veterinary drug distributor may distribute
- 5 veterinary legend drugs to:
- 6 (1) A licensed veterinarian or to another veterinary drug
- 7 distributor subject to the requirements of section 71-8921; and
- 8 (2) A layperson responsible for the control of an animal
- 9 if:
- 10 (a) A licensed veterinarian has issued, prior
- 11 to such distribution, a veterinary drug order for the
- 12 veterinary legend drug in the course of an existing, valid
- 13 veterinarian-client-patient relationship and the veterinary drug
- 14 order is in compliance with all federal laws and regulations;
- 15 (b) At the time the veterinary legend drug leaves the
- 16 licensed location of the veterinary drug distributor, those in
- 17 the employ of the veterinary drug distributor possess a copy of
- 18 the veterinary drug order for the veterinary legend drug issued
- 19 according to subdivision (a) of this subdivision and deliver a copy
- 20 to the layperson responsible for the control of the animal at the
- 21 time of the distribution;
- 22 (c) The original veterinary drug order issued according
- 1 to subdivision (a) of this subdivision is retained on the premises
- 2 of the veterinary drug distributor or an authorized central
- 3 location for three years after the date of the last transaction
- 4 affecting the veterinary drug order; ~~and includes the following~~
- 5 ~~information:~~
- 6 (i) ~~Client name;~~
- 7 (ii) ~~Veterinarian name;~~
- 8 (iii) ~~Veterinary legend drug sold or delivered;~~
- 9 (iv) ~~Quantity of the veterinary legend drug;~~
- 10 (v) ~~Date of issue of veterinary drug order; and~~
- 11 (vi) ~~Expiration date of veterinary drug order;~~
- 12 (d) All veterinary legend drugs distributed on the
- 13 veterinary drug order ~~of a licensed veterinarian issued according~~
- 14 to subdivision (a) of this subdivision are sold in the original,
- 15 unbroken manufacturer's containers; and
- 16 (e) The veterinary legend drugs, once distributed, are

17 not returned to the veterinary drug distributor for resale or  
18 redistribution.

19 Nothing contained in Nebraska statutes governing the  
20 practice of pharmacy shall be construed to prohibit a veterinary  
21 drug distributor from selling or otherwise distributing a  
22 veterinary legend drug pursuant to a veterinary drug order  
23 by a veterinarian licensed in this state and, when a valid  
24 veterinarian-client-patient relationship exists, to the layperson  
25 responsible for the control of the animal.

26 (3) If all federal labeling requirements are met,  
27 labeling provisions of Nebraska laws governing the practice of  
1 pharmacy shall not apply to veterinary legend drugs distributed  
2 pursuant to the Veterinary Drug Distribution Licensing Act.

3 2. On page 1, line 4, strike "and 71-8910" and insert "  
4 71-8910, and 71-8922"; and in line 11 after the first semicolon  
5 insert "to change provisions relating to the distribution of  
6 veterinary legend drugs;"

7 3. On page 9, line 22, strike "and 71-8910" and insert "  
8 71-8910, and 71-8922".

9 4. Renumber original section 14 as section 15.

### GENERAL FILE

**LEGISLATIVE BILL 545.** The Adams amendment, AM1057, found on page 1034 and considered in this day's Journal, to the first committee amendment, was renewed.

The Adams amendment was adopted with 35 ayes, 0 nays, and 14 present and not voting.

The first committee AM1118, found in this day's Journal, as amended, was renewed.

The first committee amendment, as amended, was adopted with 39 ayes, 0 nays, and 10 present and not voting.

Pending.

### COMMITTEE REPORTS

#### Enrollment and Review

**LEGISLATIVE BILL 158.** Placed on Final Reading Second.

**LEGISLATIVE BILL 463A.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**  
Enrollment and Review

**LEGISLATIVE BILL 533.** Placed on Select File with amendment.  
ER8087

- 1 1. On page 1, line 4, strike "and" and after "section"
- 2 insert "; and to declare an emergency".
- 3 2. On page 3, line 20, after the first comma insert
- 4 "state".

**LEGISLATIVE BILL 524.** Placed on Select File.

**LEGISLATIVE BILL 562.** Placed on Select File with amendment.  
ER8086

- 1 1. On page 1, line 3, after the last "the" insert
- 2 "outside member of the".

**LEGISLATIVE BILL 360.** Placed on Select File.

**LEGISLATIVE BILL 441.** Placed on Select File with amendment.  
ER8090

- 1 1. In the Standing Committee amendments, AM392, on page
- 2 1, line 6, after "provided" insert an underscored comma.
- 3 2. On page 1, line 1, after "14-813" insert ", 15-1202,
- 4 15-1203, 15-1204,".

**LEGISLATIVE BILL 537.** Placed on Select File.

**LEGISLATIVE BILL 631.** Placed on Select File with amendment.  
ER8088

- 1 1. On page 1, line 2, after "sections" insert
- 2 "48-622.01,"; in line 7 before the first comma insert "and filing,
- 3 combined tax rate"; and in line 9 strike "and a board".

**LEGISLATIVE BILL 598.** Placed on Select File with amendment.  
ER8093

- 1 1. On page 1, line 1, strike "crime victims" and insert
- 2 "victims of tragedy".

**LEGISLATIVE BILL 238.** Placed on Select File.

**LEGISLATIVE BILL 294.** Placed on Select File.

**LEGISLATIVE BILL 347.** Placed on Select File.

**LEGISLATIVE BILL 571.** Placed on Select File with amendment.  
ER8083

- 1 1. In the Standing Committee amendments, AM983:
- 2 a. On page 2, line 3, strike the last comma; in line 11
- 3 strike the comma; and in line 12 strike "this section" and insert

- 4 "the act";  
 5 b. On page 4, line 13, after the period insert an  
 6 underscored comma;  
 7 c. On page 6, line 5 strike the first "of" and insert  
 8 "after"; in line 16 strike the first comma and insert "and" and  
 9 strike the second comma;  
 10 d. On page 7, line 17, strike "of" and insert "after";  
 11 e. On page 8, line 1, strike the comma; and  
 12 f. On page 15, lines 14 and 19, strike "act", show as  
 13 stricken, and insert "Nebraska Installment Loan Act".  
 14 2. On page 1, strike beginning with "adopt" in line 1  
 15 through line 2 and insert "amend sections 45-335, 45-336, 45-1002,  
 16 45-1024, and 60-1411.02, Revised Statutes Cumulative Supplement,  
 17 2008; to adopt the Guaranteed Asset Protection Waiver Act;  
 18 to change provisions relating to installment sales, installment  
 19 loans, and regulation of the motor vehicle industry; to harmonize  
 20 provisions; and to repeal the original sections.".

**LEGISLATIVE BILL 27A.** Placed on Select File with amendment.  
 ER8089

- 1 1. On page 1, line 4, strike "the" and insert "to".

**LEGISLATIVE BILL 497A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 545.** The second committee amendment, AM1119, found in this day's Journal, was renewed.

Senator Adams renewed his amendment, AM1078, found on page 1032, to the second committee amendment.

Pending.

### AMENDMENT - Print in Journal

Senator Christensen filed the following amendment to LB430:  
 AM1105

- 1 1. In the Standing Committee amendments, AM835, on page  
 2 22, strike beginning with "A" in line 1 through the period in line  
 3 4, show as stricken, and insert  
 4 "(3) A permitholder carrying a concealed handgun in a  
 5 vehicle or on his or her person while riding in or on a vehicle  
 6 into or onto any parking area, which is open to the public, used by  
 7 any location listed in subdivision (1)(a) of this section, does not  
 8 violate this section if the handgun is not removed from the vehicle  
 9 and is locked inside the vehicle while the vehicle is in or on such

10 parking area. This subsection does not apply to any parking area  
 11 used by such location when the carrying of a concealed handgun into  
 12 or onto such parking area is prohibited by federal law.  
 13 (4); and in line 7 strike "(3)", show as stricken, and  
 14 insert "(5)".

15 2. In the Avery amendment, AM993, on page 4, line 4,  
 16 strike "or" and show as stricken; and in line 7 after "vehicle"  
 17 insert ", or (f) a handgun carried as a concealed handgun by a  
 18 person who is a valid holder of a permit issued under the Concealed  
 19 Handgun Permit Act in a vehicle or on his or her person while  
 20 riding in or on a vehicle into or onto any parking area, which is  
 21 open to the public, used by a school if the handgun is not removed  
 22 from the vehicle and is locked inside the vehicle glove box or  
 23 trunk while the vehicle is in or on such parking area, except as  
 1 prohibited by federal law".

## RESOLUTION

**LEGISLATIVE RESOLUTION 91.** Introduced by Karpisek, 32.

WHEREAS, Jason Mammen 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, Jason 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, Jason, through his hard work and perseverance, has joined 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 Jason Mammen on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Jason Mammen.

Laid over.

**VISITORS**

Visitors to the Chamber were 17 fourth-grade students and teacher from Humphrey; and a delegation from Republic of China-Taiwan.

The Doctor of the Day was Dr. Conor Gough from Omaha.

**ADJOURNMENT**

At 4:01 p.m., on a motion by Senator McCoy, the Legislature adjourned until 9:00 a.m., Tuesday, April 21, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-FIFTH DAY - APRIL 21, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**SIXTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 21, 2009

**PRAYER**

The prayer was offered by Father Ross Burkhalter, St. Thomas More Parish, Omaha.

**ROLL CALL**

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

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

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-fourth day was approved.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 54.** Placed on Final Reading Second.  
ST9021

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

1. On page 1, line 3; and page 26, line 9, ", and section 46-713, Revised Statutes Cumulative Supplement, 2008, as amended by section 3, Legislative Bill 483, One Hundred First Legislature, First Session, 2009" has been inserted after "2008".

2. On page 1, line 4, "evaluations of hydrologically connected water supplies and" has been inserted after the second "to".

(Signed) Jeremy Nordquist, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 92.** Introduced by Pirsch, 4.

WHEREAS, speeding in residential neighborhoods represents the single greatest complaint to police departments in the United States; and

WHEREAS, the death rate per million miles driven on residential streets is almost three times the death rate on other streets and highways; and

WHEREAS, motor vehicle crashes are the leading cause of death for children ages two through fourteen years.

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

1. That the Legislature recognizes the seriousness of speeding in residential neighborhoods with respect to causing injury and death to children.

2. That the Legislature declares May 1, 2009, as "Keep Kids Alive - Drive 25 Day."

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 545.** Senator Adams renewed his amendment, AM1078, found on page 1032 and considered on page 1142, to the second committee amendment.

Pending.

**COMMITTEE REPORT**

Judiciary

**LEGISLATIVE BILL 76.** Placed on General File with amendment. AM649

- 1 1. On page 2, line 23; and page 3, line 22, after
- 2 "conduct" insert "within a sixty-day period in one county".

(Signed) Brad Ashford, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 545.** The Adams amendment, AM1078, found on page 1032 and considered on page 1142 and in this day's Journal, to the second committee amendment, was renewed.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion failed with 16 ayes, 17 nays, and 16 not voting.

The Adams amendment was adopted with 33 ayes, 8 nays, 7 present and not voting, and 1 excused and not voting.

Pending.

## RESOLUTIONS

### LEGISLATIVE RESOLUTION 93. Introduced by Dubas, 34.

WHEREAS, Merle Elwin Hansen, a nationally known advocate for family farm agriculture, conservation and environmental issues, civil rights, and world peace and a longtime resident of Madison County, Nebraska, died March 27, 2009, at the age of eighty-nine; and

WHEREAS, Hansen served during World War II on transport carriers including the U.S.S. Fuller in the Pacific and North African theaters, was awarded six battle stars, attained the rank of chief yeoman, and was honorably discharged in 1945; and

WHEREAS, in the late 1940s, Hansen worked as a field organizer for the National Farmers Union in South Dakota and Iowa. While organizing a farmer and labor picnic in northeast Iowa, he met his future wife, Lucinda Kramer. They were married on February 18, 1950, and moved back to a farm eleven miles northwest of Newman Grove where they raised their seven children; and

WHEREAS, Hansen served as a Madison County Soil and Water Conservation District Supervisor, earned county and regional soil conservation awards, and made many presentations to elementary schools on the importance of soil and water conservation. He was also the first in his area to use minimum tillage; and

WHEREAS, ever the innovator, Hansen formed Hansen Charolais in 1960, a nationally recognized purebred cattle business that sold breeding stock to commercial cattlemen and purebred breeders across the country for twenty-four years. In addition, Hansen built and owned a fertilizer business with his family, raised and sold a wide range of certified seeds, including grasses, legumes, and oats, and also ran a corn, soybean, oat, and alfalfa-farming operation; and

WHEREAS, Hansen's tireless fight for economic justice for family farmers led him to be active in many farm organizations, always building political and organizational coalitions while educating farmers about the importance of understanding farm policy history and the need to work together; and

WHEREAS, Hansen championed many overlapping causes and was active in the Nebraska Farmers Union, the National Farmers Organization, the U.S. Farm Association, the North American Farm Alliance, the National Family Farm Coalition, and Farm Aid; and

WHEREAS, in 1997, the American Corn Growers Association presented Hansen with their Carl L. King award for distinguished service. The award read: "For representing what is really the best in agriculture and never forgetting the importance of maintaining a strong voice for the needs of farmers"; and

WHEREAS, Hansen was active in the Democratic Party at the county, state, and national levels and became Jesse Jackson's agricultural advisor, heavily influencing his farm and rural policies for his 1984 and 1988 presidential campaigns; and

WHEREAS, Hansen was one of the founding members of Rural Nebraskans for Peace in May of 1967, which later was integrated into Nebraskans for Peace; and

WHEREAS, Hansen was featured in articles in many national publications, including USA Today, The New York Times, and Ms. Magazine, as well as many documentary films on rural issues; and

WHEREAS, across the country and around the world, Hansen made hundreds of speeches and was a mentor to countless younger leaders and activists; and

WHEREAS, to his many friends and family, Hansen was known for his keen sense of humor, good stories, historical and political insight, personal warmth, disarming smile, unyielding sense of justice and fairness, progressive politics, and his skills as a marksman.

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

1. That the Legislature extends its condolences to the family of Merle Hansen.

2. That a copy of this resolution be sent to the family of Merle Hansen.

Laid over.

#### **LEGISLATIVE RESOLUTION 94.** Introduced by Price, 3.

WHEREAS, Xavier Metzger, of Troop 464, 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, Xavier 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. For his Eagle Scout community service project, Xavier helped restore and repair a playground at St. Matthew School in Bellevue; and

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

WHEREAS, Xavier, through his hard work and perseverance, has joined 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 Xavier Metzger on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Xavier Metzger.

Laid over.

### AMENDMENTS - Print in Journal

Senator Christensen filed the following amendment to LB430:  
AM1132

1 1. In the E & R amendments, ER8052, on page 22, strike  
2 beginning with "A" in line 13 through the period in line 16, show  
3 as stricken, and insert

4 "(3) A permitholder carrying a concealed handgun in a  
5 vehicle or on his or her person while riding in or on a vehicle  
6 into or onto any parking area, which is open to the public, used  
7 by any location listed in subdivision (1)(a) of this section, does  
8 not violate this section if, upon exiting the vehicle, the handgun  
9 is locked inside the glove box, trunk, or other compartment of the  
10 vehicle, a storage box securely attached to the vehicle, or, if  
11 the vehicle is a motorcycle, a saddle bag or compartment securely  
12 attached to the motorcycle. This subsection does not apply to any  
13 parking area used by such location when the carrying of a concealed  
14 handgun into or onto such parking area is prohibited by federal  
15 law.

16 (4)"; and in line 19 strike "(3)", show as stricken, and  
17 insert "(5)".

18 2. In the Avery amendment, AM993, on page 4, line 4,  
19 strike "or" and show as stricken; and in line 7 after "vehicle"  
20 insert ", or (f) a handgun carried as a concealed handgun by a  
21 person who is a valid holder of a permit issued under the Concealed  
22 Handgun Permit Act in a vehicle or on his or her person while  
23 riding in or on a vehicle into or onto any parking area, which  
1 is open to the public, used by a school if, upon exiting the  
2 vehicle, the handgun is locked inside the glove box, trunk, or  
3 other compartment of the vehicle, a storage box securely attached  
4 to the vehicle, or, if the vehicle is a motorcycle, a saddle bag or  
5 compartment securely attached to the motorcycle while the vehicle  
6 is in or on such parking area, except as prohibited by federal  
7 law".

Senator Harms filed the following amendment to LB679:  
AM1120

1 1. On page 3, strike lines 12 through 14 and insert  
2 "Prior to appointment or reappointment, each potential member shall  
3 disclose to the Governor any and all funding (a) the potential

4 member, (b) any member of the immediate family of the potential  
 5 member, as defined in section 49-1425, (c) the potential member's  
 6 employer, or (d) the employer of any member of the immediate family  
 7 of the potential member receives from the Department of Health and  
 8 Human Services."

### VISITORS

Visitors to the Chamber were 18 seventh- and eighth-grade students from Harrison; and 50 fourth-grade students and teachers from Westridge Elementary, Elkhorn.

### RECESS

At 12:00 p.m., on a motion by Senator Christensen, the Legislature recessed until 1:30 p.m.

### AFTER RECESS

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

### ROLL CALL

The roll was called and all members were present except Senator Cornett who was excused; and Senators Dierks, Langemeier, and Nantkes who were excused until they arrive.

### COMMITTEE REPORT

Revenue

**LEGISLATIVE BILL 264.** Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 545.** Senator Council offered the following amendment to the second committee amendment:

AM1137

(Amendments to AM1119)

- 1 1. Strike the Adams amendment, AM1078.
- 2 2. Strike section 9 and all amendments thereto and insert
- 3 the following new section:
- 4 Sec. 9. Section 79-1007.16, Reissue Revised Statutes of
- 5 Nebraska, is amended to read:
- 6 79-1007.16 ~~(1) For school fiscal year 2008-09 and each~~
- 7 ~~school fiscal year thereafter, except as provided in subsection (2)~~
- 8 of this section, the department shall calculate basic funding for
- 9 each district as follows:

10 ~~(1)-(a)~~ A comparison group shall be established for each  
11 district consisting of the districts for which basic funding is  
12 being calculated, the five larger districts that are closest in  
13 size to the district for which basic funding is being calculated as  
14 measured by formula students, and the five smaller districts that  
15 are closest in size to the district for which basic funding is  
16 being calculated as measured by formula students. If there are not  
17 five districts that are larger than the district for which basic  
18 funding is being calculated or if there are not five districts  
19 that are smaller than the district for which basic funding is  
20 being calculated, the comparison group shall consist of only as  
21 many districts as fit the criteria. If more than one district  
22 has exactly the same number of formula students as the largest or  
1 smallest district in the comparison group, all of the districts  
2 with exactly the same number of formula students as the largest or  
3 smallest districts in the comparison group shall be included in the  
4 comparison group. If one or more districts have exactly the same  
5 number of formula students as the district for which basic funding  
6 is being calculated, all such districts shall be included in the  
7 comparison group in addition to the five larger districts and the  
8 five smaller districts. The comparison group shall remain the same  
9 for the final calculation of aid pursuant to section 79-1065;

10 ~~(2)-(b)~~ For districts with nine hundred or more  
11 formula students, basic funding shall equal the adjusted formula  
12 students multiplied by the average of the adjusted general fund  
13 operating expenditures per formula student for each district in  
14 the comparison group, excluding both the district with the highest  
15 adjusted general fund operating expenditures per adjusted formula  
16 student and the district with the lowest adjusted general fund  
17 operating expenditures per formula student of the districts in the  
18 comparison group; and

19 ~~(3)-(c)~~ For districts with fewer than nine hundred  
20 formula students, basic funding shall equal the product of the  
21 average of the adjusted general fund operating expenditures for  
22 each district in the comparison group, excluding both the district  
23 with the highest adjusted general fund operating expenditures  
24 and the district with the lowest adjusted general fund operating  
25 expenditures of the districts in the comparison group.

26 (2) For school fiscal years 2010-11 and 2011-12, the  
27 department shall calculate basic funding for each district as  
1 follows:

2 (a) A comparison group shall be established for each  
3 district consisting of the districts for which basic funding is  
4 being calculated, the five larger districts that are closest in  
5 size to the district for which basic funding is being calculated as  
6 measured by formula students, and the five smaller districts that  
7 are closest in size to the district for which basic funding is  
8 being calculated as measured by formula students. If there are not  
9 five districts that are larger than the district for which basic

10 funding is being calculated or if there are not five districts  
 11 that are smaller than the district for which basic funding is  
 12 being calculated, the comparison group shall consist of only as  
 13 many districts as fit the criteria. If more than one district  
 14 has exactly the same number of formula students as the largest or  
 15 smallest district in the comparison group, all of the districts  
 16 with exactly the same number of formula students as the largest or  
 17 smallest districts in the comparison group shall be included in the  
 18 comparison group. If one or more districts have exactly the same  
 19 number of formula students as the district for which basic funding  
 20 is being calculated, all such districts shall be included in the  
 21 comparison group in addition to the five larger districts and the  
 22 five smaller districts. The comparison group shall remain the same  
 23 for the final calculation of aid pursuant to section 79-1065;

24 (b) For districts with nine hundred or more formula  
 25 students, basic funding shall equal the adjusted formula students  
 26 multiplied by the average of the adjusted general fund operating  
 27 expenditures per formula student for each district in the  
 1 comparison group, excluding both the district with the highest  
 2 adjusted general fund operating expenditures per adjusted formula  
 3 student and the district with the lowest adjusted general fund  
 4 operating expenditures per formula student of the districts in the  
 5 comparison group, multiplied by 0.985; and

6 (c) For districts with fewer than nine hundred formula  
 7 students, basic funding shall equal the product of the average  
 8 of the adjusted general fund operating expenditures for each  
 9 district in the comparison group, excluding both the district  
 10 with the highest adjusted general fund operating expenditures  
 11 and the district with the lowest adjusted general fund operating  
 12 expenditures of the districts in the comparison group, multiplied  
 13 by 0.985.

14 2. Amend the repealer accordingly.

Senator Council withdrew her amendment.

Senator Council offered the following amendment to the second committee amendment:

AM1141

(Amendments to AM1119)

- 1 1. Strike amendments 1 and 2 and all amendments thereto.
- 2 2. Insert the following new sections:
- 3 Sec. 9. Section 79-1007.16, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 79-1007.16 ~~(1) For school fiscal year 2008-09 and each~~
- 6 ~~school fiscal year thereafter, except as provided in subsection (2)~~
- 7 ~~of this section, the department shall calculate basic funding for~~
- 8 ~~each district as follows:~~
- 9 ~~(1)(a) A comparison group shall be established for each~~
- 10 ~~district consisting of the districts for which basic funding is~~



11 being calculated, the five larger districts that are closest in  
 12 size to the district for which basic funding is being calculated as  
 13 measured by formula students, and the five smaller districts that  
 14 are closest in size to the district for which basic funding is  
 15 being calculated as measured by formula students. If there are not  
 16 five districts that are larger than the district for which basic  
 17 funding is being calculated or if there are not five districts  
 18 that are smaller than the district for which basic funding is  
 19 being calculated, the comparison group shall consist of only as  
 20 many districts as fit the criteria. If more than one district  
 21 has exactly the same number of formula students as the largest or  
 22 smallest district in the comparison group, all of the districts  
 1 with exactly the same number of formula students as the largest or  
 2 smallest districts in the comparison group shall be included in the  
 3 comparison group. If one or more districts have exactly the same  
 4 number of formula students as the district for which basic funding  
 5 is being calculated, all such districts shall be included in the  
 6 comparison group in addition to the five larger districts and the  
 7 five smaller districts. The comparison group shall remain the same  
 8 for the final calculation of aid pursuant to section 79-1065;

9 ~~(2)-(b)~~ For districts with nine hundred or more  
 10 formula students, basic funding shall equal the adjusted formula  
 11 students multiplied by the average of the adjusted general fund  
 12 operating expenditures per formula student for each district in  
 13 the comparison group, excluding both the district with the highest  
 14 adjusted general fund operating expenditures per adjusted formula  
 15 student and the district with the lowest adjusted general fund  
 16 operating expenditures per formula student of the districts in the  
 17 comparison group; and

18 ~~(3)-(c)~~ For districts with fewer than nine hundred  
 19 formula students, basic funding shall equal the product of the  
 20 average of the adjusted general fund operating expenditures for  
 21 each district in the comparison group, excluding both the district  
 22 with the highest adjusted general fund operating expenditures  
 23 and the district with the lowest adjusted general fund operating  
 24 expenditures of the districts in the comparison group.

25 (2) For school fiscal years 2009-10 and 2010-11, the  
 26 department shall calculate basic funding for each district as  
 27 follows:

1 (a) A comparison group shall be established for each  
 2 district consisting of the districts for which basic funding is  
 3 being calculated, the five larger districts that are closest in  
 4 size to the district for which basic funding is being calculated as  
 5 measured by formula students, and the five smaller districts that  
 6 are closest in size to the district for which basic funding is  
 7 being calculated as measured by formula students. If there are not  
 8 five districts that are larger than the district for which basic  
 9 funding is being calculated or if there are not five districts  
 10 that are smaller than the district for which basic funding is

11 being calculated, the comparison group shall consist of only as  
 12 many districts as fit the criteria. If more than one district  
 13 has exactly the same number of formula students as the largest or  
 14 smallest district in the comparison group, all of the districts  
 15 with exactly the same number of formula students as the largest or  
 16 smallest districts in the comparison group shall be included in the  
 17 comparison group. If one or more districts have exactly the same  
 18 number of formula students as the district for which basic funding  
 19 is being calculated, all such districts shall be included in the  
 20 comparison group in addition to the five larger districts and the  
 21 five smaller districts. The comparison group shall remain the same  
 22 for the final calculation of aid pursuant to section 79-1065;

23 (b) For districts with nine hundred or more formula  
 24 students, basic funding shall equal the adjusted formula students  
 25 multiplied by the average of the adjusted general fund operating  
 26 expenditures per formula student for each district in the  
 27 comparison group, excluding both the district with the highest  
 1 adjusted general fund operating expenditures per adjusted formula  
 2 student and the district with the lowest adjusted general fund  
 3 operating expenditures per formula student of the districts in the  
 4 comparison group, multiplied by 0.99; and

5 (c) For districts with fewer than nine hundred formula  
 6 students, basic funding shall equal the product of the average  
 7 of the adjusted general fund operating expenditures for each  
 8 district in the comparison group, excluding both the district  
 9 with the highest adjusted general fund operating expenditures  
 10 and the district with the lowest adjusted general fund operating  
 11 expenditures of the districts in the comparison group, multiplied  
 12 by 0.99.

13 Sec. 10. Section 79-1007.24, Reissue Revised Statutes of  
 14 Nebraska, is amended to read:

15 79-1007.24 (1) For school fiscal year 2008-09, aid  
 16 stabilization shall be calculated for each local system and  
 17 disbursed in an amount equal to the difference of the state  
 18 aid paid to such local system for school fiscal year 2007-08  
 19 pursuant to section 79-1022 minus two and one-half percent of the  
 20 need calculated for the school fiscal year for which aid is being  
 21 calculated and minus the sum of the calculated equalization aid,  
 22 allocated income tax funds, and net option funding for such school  
 23 fiscal year, except that aid stabilization shall not be less than  
 24 zero.

25 (2) For school fiscal year 2009-10, aid stabilization  
 26 shall be calculated for each local system and disbursed in an  
 27 amount equal to the difference of the state aid paid to such local  
 1 system for school fiscal year 2007-08 pursuant to section 79-1022  
 2 minus ~~five three~~ and one-half percent of the need calculated for  
 3 the school fiscal year for which aid is being calculated and minus  
 4 the sum of the calculated equalization aid, allocated income tax  
 5 funds, and net option funding for such school fiscal year, except

- 6 that aid stabilization shall not be less than zero.  
 7 (3) For school fiscal year 2010-11, aid stabilization  
 8 shall be calculated for each local system and disbursed in an  
 9 amount equal to the difference of the state aid paid to such  
 10 local system for school fiscal year 2007-08 pursuant to section  
 11 79-1022 minus five percent of the need calculated for the school  
 12 fiscal year for which aid is being calculated and minus the sum  
 13 of the calculated equalization aid, allocated income tax funds, and  
 14 net option funding for such school fiscal year, except that aid  
 15 stabilization shall not be less than zero.  
 16 3. Amend the repealer, renumber the remaining sections,  
 17 and correct internal references accordingly.

### SENATOR ROBERT PRESIDING

Pending.

### AMENDMENTS - Print in Journal

Senator Avery filed the following amendment to LB402:  
 AM1138

- 1 1. On page 3, line 24, strike "2010.", show as stricken,
- 2 and insert "2012.".

Senator Coash filed the following amendment to LB494:  
 AM984

(Amendments to Standing Committee amendments, AM844)

- 1 1. On page 3, line 6, after "professional" insert "that
- 2 results in sutures or surgery or treatment for one or more broken
- 3 bones".

### ANNOUNCEMENT

Senator Carlson announced the Agriculture Committee will hold an executive session Wednesday, April 22, 2009, at 8:00 a.m., in Room 2102.

### UNANIMOUS CONSENT - Add Cointroducer

Senator Lautenbaugh asked unanimous consent to add his name as cointroducer to LB36. No objections. So ordered.

### VISITORS

Visitors to the Chamber were Marvin and Dixie Lorentz from McCook and Kathy Lorentz from Omaha; and 16 seventh- and eighth-grade students and sponsors from Golden Plains Christian School, Madrid.

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

**ADJOURNMENT**

At 4:55 p.m., on a motion by Senator Friend, the Legislature adjourned until 9:00 a.m., Wednesday, April 22, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**SIXTY-SIXTH DAY - APRIL 22, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**SIXTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 22, 2009

**PRAYER**

The prayer was offered by Senator Nelson.

**ROLL CALL**

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

The roll was called and all members were present except Senator Cornett who was excused; and Senators Adams and Nantkes who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-fifth day was approved.

**COMMITTEE REPORT**

Health and Human Services

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Todd Reckling - Director of Children and Family Services, Department of Health and Human Services

Aye: 7 Senators Campbell, Gay, Gloor, Howard, Pankonin, Stuthman, Wallman. Nay: 0. Absent: 0.

(Signed) Tim Gay, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 97.** Title read. Considered.

Committee AM893, found on page 978, was considered.

Senator Flood renewed his amendment, AM1094, found on page 1120, to the committee amendment.

### **PRESIDENT SHEEHY PRESIDING**

Pending.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 84, 85, 86, and 87 were adopted.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 84, 85, 86, and 87.

### **GENERAL FILE**

**LEGISLATIVE BILL 97.** The Flood amendment, AM1094, found on page 1120 and considered in this day's Journal, to the committee amendment, was renewed.

The Flood amendment was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Committee AM893, found on page 978 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

### **COMMITTEE REPORTS**

#### Enrollment and Review

**LEGISLATIVE BILL 237.** Placed on Select File with amendment.  
ER8091

- 1 1. In the Standing Committee amendments, AM870:
- 2 a. On page 8, line 11, strike "Marianas" and insert
- 3 "Mariana";
- 4 b. On page 10, line 1, strike "1"; and
- 5 c. On page 28, line 10, strike "be" and insert "by"; and
- 6 in line 16 strike "act" and insert "compact".
- 7 2. On page 1, strike beginning with "juveniles" in
- 8 line 1 through line 7 and insert "children; to amend section
- 9 43-1005, Reissue Revised Statutes of Nebraska; to adopt the
- 10 Interstate Compact for Juveniles and the Interstate Compact for

11 the Placement of Children; to provide for a compact administrator  
 12 and an advisory council; to provide for certain expenses related to  
 13 the Interstate Compact for Juveniles; to eliminate the Interstate  
 14 Compact on Juveniles and the Interstate Compact on the Placement  
 15 of Children and related provisions; to repeal the original section;  
 16 and to outright repeal sections 43-1001, 43-1002, 43-1003, 43-1004,  
 17 43-1006, 43-1007, 43-1008, 43-1009, 43-1010, 43-1101, and 43-1102,  
 18 Reissue Revised Statutes of Nebraska."

19 3. On page 4, line 6; page 11, line 8; and page 26, line  
 20 5, strike "therefore" and insert "therefor".

21 4. On page 6, line 22, strike "Island" and insert  
 22 "Islands"; and in line 23 strike "Marianas" and insert "Mariana".

23 5. On page 17, line 16, strike "wilful" and insert  
 1 "willful".

2 6. On page 19, line 25, strike "act" and insert  
 3 "compact".

4 7. On page 23, line 23, strike "Marianas" and insert  
 5 "Mariana".

6 8. On page 24, line 4, after "2004" insert an underscored  
 7 comma.

**LEGISLATIVE BILL 237A.** Placed on Select File.

**LEGISLATIVE BILL 92.** Placed on Select File with amendment.  
 ER8092

1 1. On page 1, strike line 2 and insert "section  
 2 60-601, Revised Statutes Cumulative Supplement, 2008;"; and in  
 3 line 4 after "vehicles" insert "and road assistance vehicles on a  
 4 controlled-access highway".

(Signed) Jeremy Nordquist, Chairperson

### **BILL ON FIRST READING**

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

**LEGISLATIVE BILL 405A.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 405, One Hundred First Legislature, First Session, 2009.

### **AMENDMENT - Print in Journal**

Senator Fischer filed the following amendment to LB497:  
 AM1155

(Amendments to AM1015)

1 1. On page 20, line 14, after "The" insert "revocation  
 2 order shall require that the person not drive for a period of

3 forty-five days, after which the"; in line 15 strike "during the  
 4 period of revocation"; and strike beginning with "and" in line 17  
 5 through "60-6,211.05" in line 18, show the old matter as stricken,  
 6 and insert "for the remainder of the revocation period and have  
 7 an ignition interlock device installed on any motor vehicle he  
 8 or she operates during the remainder of the revocation period.  
 9 Such revocation shall be administered upon sentencing, upon final  
 10 judgment of any appeal or review, or upon the date that any  
 11 probation is revoked".

12 2. On page 20, lines 22 through 24; page 22, lines  
 13 4 through 6; page 24, lines 14 through 16; page 25, lines 24  
 14 through 26; page 28, lines 4 through 6; and page 30, lines 9  
 15 through 11, strike "and submit to alcohol abuse counseling if  
 16 such certified substance abuse professional determines that such  
 17 counseling is appropriate." and insert ". Upon presentation of  
 18 suitable evidence to the court that the person has undergone an  
 19 acceptable alcohol assessment because of the arrest leading to  
 20 the sentence, the court may waive the mandatory assessment. An  
 21 acceptable alcohol assessment shall include recommendations by a  
 22 certified substance abuse professional as to whether the person  
 1 shall undergo counseling. Based on the recommendations of an  
 2 acceptable alcohol assessment, the court shall order the person  
 3 to submit to alcohol abuse counseling, if the court deems alcohol  
 4 abuse counseling to be appropriate.".

5 3. On page 21, line 13, strike the underscored period and  
 6 reinstate the stricken matter.

## MESSAGE FROM THE GOVERNOR

April 22, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 111e, 121, 121A, 164, 202, 202A, 206e, 292,  
 292A, 300, 328e, 328Ae, 340e, 355, 361, 396, 449, 458, 477, 511e, 517,  
 547e, 547Ae, and 620 were received in my office on April 17, 2009.

These bills were signed and delivered to the Secretary of State on April  
 22, 2009.

Sincerely,  
 (Signed) Dave Heineman  
 Governor



**GENERAL FILE**

**LEGISLATIVE BILL 402.** Title read. Considered.

Senator Avery renewed his amendment, AM1138, found on page 1155.

The Avery amendment was adopted with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 195.** Title read. Considered.

Committee AM952, found on page 1059, was adopted with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 653.** Title read. Considered.

Committee AM1071, found on page 1024, was considered.

Senator Harms offered the following amendment to the committee amendment:

AM1149

(Amendments to Standing Committee amendments, AM1071)

1 1. Insert the following new section:

2 Sec. 5. Since an emergency exists, this act takes effect  
3 when passed and approved according to law.

4 2. On page 2, line 9, strike "The" and insert "The  
5 initial members of the committee shall be appointed as soon as  
6 possible after the effective date of this act, and thereafter  
7 the"; and in line 25 after "agencies" insert ", the University of  
8 Nebraska.".

Senator Sullivan moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 32 ayes, 1 nay, and 16 not voting.

The Harms amendment was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Senator Dierks moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

The committee amendment, as amended, was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 45 ayes, 0 nays, 2 present and not voting, and 2 excused and not voting.

### **AMENDMENT - Print in Journal**

Senator Dierks filed the following amendment to LB568:  
AM1156

(Amendments to Standing Committee amendments, AM732)

- 1 1. On page 1, line 23, strike "ten" and insert "five".

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

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB653. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Kortnye Hurst from Lincoln; 9 fourth-grade students and teachers from St. Stanislaus School, Omaha; 51 fourth-grade students and teachers from Hayward School, Nebraska City; 32 fourth-grade students from Woodland Park School, Norfolk; 65 twelfth-grade students from Centura High School, Cairo; and 126 fourth-grade students from Gomez Heritage School, Omaha.

### **RECESS**

At 11:55 a.m., on a motion by Senator Loudon, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

### **ROLL CALL**

The roll was called and all members were present except Senator Cornett who was excused; and Senators Howard and Karpisek who were excused until they arrive.

### **AMENDMENT - Print in Journal**

Senator Loudon filed the following amendment to LB545:  
AM1172

(Amendments to LB 1118)

- 1 1. On page 42, line 25, after "(e)" insert "Expenditures
- 2 for districts which do not receive equalization aid under the Tax

- 3 Equity and Educational Opportunities Support Act and which wish to  
 4 fund an elementary only educational site;  
 5 (f)".  
 6 2. On page 43, line 2, strike "(f)" and insert "(g)"; in  
 7 line 15 strike "(g)" and insert "(h)"; in line 17 strike "(h)" and  
 8 insert "(i)"; and in line 24 strike "(i)" and insert "(j)".

### **GENERAL FILE**

**LEGISLATIVE BILL 545.** Senator Council renewed her amendment, AM1141, found on page 1152, to the second committee amendment.

Senator Harms moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 15 nays, and 8 not voting.

Senator White requested a roll call vote, in reverse order, on the Council amendment.

The Council amendment lost with 16 ayes, 30 nays, 2 present and not voting, and 1 excused and not voting.

Senator Ashford offered the following amendment to the second committee amendment:  
 AM1170

(Amendments to AM1119)

- 1 1. In the Adams amendment, AM1078:
- 2 a. On page 3, line 25, strike "year 2009-10" and show as
- 3 stricken; and in line 26, after the stricken matter insert "years
- 4 2009-10 and 2010-11"; and
- 5 b. On page 4, line 20, strike "2010-11" and insert
- 6 "2011-12".

Senator Friend offered the following motion:

MO34

Bracket until April 29, 2009.

Senator Friend withdrew his motion to bracket.

**SENATOR FRIEND PRESIDING**

**PRESIDENT SHEEHY PRESIDING**

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

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

Senator Louden requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 30:

Adams	Dierks	Hadley	Langemeier	Schilz
Avery	Dubas	Hansen	Lautenbaugh	Stuthman
Campbell	Fischer	Harms	Louden	Sullivan
Carlson	Flood	Heidemann	McCoy	Utter
Christensen	Fulton	Janssen	Pankonin	Wallman
Coash	Gay	Karpisek	Price	Wightman

Voting in the negative, 16:

Ashford	Gloor	McGill	Nordquist
Cook	Haar	Mello	Pahls
Council	Howard	Nantkes	Pirsch
Giese	Lathrop	Nelson	White

Present and not voting, 2:

Friend	Rogert
--------	--------

Excused and not voting, 1:

Cornett

The motion to cease debate prevailed with 30 ayes, 16 nays, 2 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

The Ashford amendment, AM1170, lost with 16 ayes, 29 nays, 3 present and not voting, and 1 excused and not voting.

The second committee amendment, AM1119, found on page 1136 and considered on page 1142, as amended, was renewed.

Senator White offered the following motion:

MO36

Bracket until June 4, 2009.

### **SPEAKER FLOOD PRESIDING**

Senator Adams offered the following motion:

MO37

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Adams moved for a call of the house. The motion prevailed with 41 ayes, 0 nays, and 8 not voting.

Senator Adams requested a roll call vote on the motion to invoke cloture.

Voting in the affirmative, 30:

Adams	Dierks	Hadley	Langemeier	Rogert
Avery	Dubas	Hansen	Lautenbaugh	Schilz
Campbell	Fischer	Harms	Louden	Stuthman
Carlson	Flood	Heidemann	McCoy	Sullivan
Christensen	Fulton	Janssen	Pankonin	Utter
Coash	Gay	Karpisek	Price	Wightman

Voting in the negative, 17:

Ashford	Giese	Lathrop	Nelson	White
Cook	Gloor	McGill	Nordquist	
Council	Haar	Mello	Pahls	
Friend	Howard	Nantkes	Pirsch	

Present and not voting, 1:

Wallman

Excused and not voting, 1:

Cornett

The Adams motion to invoke cloture failed with 30 ayes, 17 nays, 1 present and not voting, and 1 excused and not voting.

### AMENDMENTS - Print in Journal

Senator Sullivan filed the following amendment to LB531:  
AM1175

- 1 1. On page 2, line 21, strike "five hundred"; show the
- 2 old matter as stricken, and insert "three hundred fifty".

Senator Council filed the following amendment to LB545:  
AM1165

- 1 1. Insert the following new section:
- 2 Sec. 10. Section 79-1007.19, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 79-1007.19 For school fiscal year 2008-09 and each school
- 5 fiscal year thereafter, the department shall calculate a teacher
- 6 education adjustment for each district as follows:
- 7 (1) Teacher education points shall be calculated for each
- 8 district by the department based upon data from the fall personnel
- 9 report required pursuant to section 79-804 for the school fiscal
- 10 year immediately preceding the school fiscal year in which aid is

11 to be paid. Each full-time equivalent teacher shall (a) be under  
 12 contract with a school district as required pursuant to section  
 13 79-818 and (b) only be counted one time in the awarding of any  
 14 points pursuant to this section. Each district shall receive one  
 15 point for each full-time equivalent teacher who has earned and been  
 16 awarded a master's degree or an education specialist's degree and  
 17 two points for each full-time equivalent teacher who has earned and  
 18 been awarded a doctoral degree;

19 (2) A teacher education index shall be calculated for  
 20 each district by dividing the ratio of teacher education points  
 21 for the district divided by the number of full-time equivalent  
 22 teachers in the district by the ratio of teacher education points  
 23 for all districts in the state except the teacher education points  
 1 generated by the district for which the teacher education index  
 2 is being calculated, divided by the number of full-time equivalent  
 3 teachers in all districts in the state except the teachers in the  
 4 district for which the teacher education index is being calculated;  
 5 and

6 (3) The teacher education adjustment for each district  
 7 shall equal ten percent for school fiscal years 2008-09 and  
 8 2009-10 and thirteen and seventy-five one-hundredths percent for  
 9 each school fiscal year thereafter of the district's basic funding  
 10 multiplied by the difference of the product of the district's  
 11 teacher education index minus one, except that if the result is  
 12 less than zero, the teacher education adjustment shall equal zero.

13 2. Renumber the remaining sections, correct internal  
 14 references, and amend the repealer accordingly.

Senator Council filed the following amendment to LB545:  
 AMI166

1 1. Insert the following new section:  
 2 Sec. 11. Section 79-1007.20, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 79-1007.20 (1) For school fiscal year 2009-10 and each  
 5 school fiscal year thereafter, school districts may apply to the  
 6 department for a student growth adjustment, on a form prescribed  
 7 by the department, on or before October 10 of the school fiscal  
 8 year immediately preceding the school fiscal year for which aid  
 9 is being calculated. Such form shall require an estimate of the  
 10 average daily membership for the school fiscal year for which aid  
 11 is being calculated, the estimated student growth calculated by  
 12 subtracting the fall membership of the current school fiscal year  
 13 from the estimated average daily membership for the school fiscal  
 14 year for which aid is being calculated, and evidence supporting  
 15 the estimates. On or before the immediately following December  
 16 1, the department shall approve the estimated student growth,  
 17 approve a modified student growth, or deny the application based  
 18 on the requirements of this section, the evidence submitted on the  
 19 application, and any other information provided by the department.

20 The state board shall establish procedures for appeal of decisions  
21 of the department to the state board for final determination.

22 (2) The student growth adjustment for each approved  
23 district shall equal the sum of the product of the school  
1 district's basic funding per formula student multiplied by the  
2 difference of the approved student growth minus the greater of  
3 twenty-five students or one-tenth of one percent of the fall  
4 membership for the school fiscal year immediately preceding the  
5 school fiscal year for which aid is being calculated plus the  
6 product of fifty percent of the school district's basic funding per  
7 formula student multiplied by the greater of twenty-five students  
8 or one-tenth of one percent of the fall membership for the school  
9 fiscal year immediately preceding the school fiscal year for which  
aid is being calculated.

11 (3) For school fiscal year 2011-12 and each school  
12 fiscal year thereafter, the department shall calculate a student  
13 growth adjustment correction for each district that received a  
14 student growth adjustment for aid distributed in the most recently  
15 available complete data year. Such student growth correction shall  
16 equal the product of the difference of the average daily membership  
17 for such school fiscal year minus the sum of the formula students  
18 and the approved student growth used to calculate the student  
19 growth adjustment for such school fiscal year multiplied by the  
20 school district's basic funding per formula student used in the  
21 final calculation of aid pursuant to section 79-1065 for such  
22 school fiscal year, except that the absolute value of a negative  
23 correction shall not exceed the original adjustment.

24 2. Renumber the remaining sections, correct internal  
25 references, and amend the repealer accordingly.

Senator Council filed the following amendment to LB545:  
AM1167

1 1. Insert the following new section:  
2 Sec. 12. Section 79-1007.21, Reissue Revised Statutes of  
3 Nebraska, is amended to read:  
4 79-1007.21 (1) For school fiscal year 2009-10 and each  
5 school fiscal year thereafter, school districts may apply to  
6 the department for a two-year new school adjustment, on a form  
7 prescribed by the department, on or before October 10 of the  
8 school fiscal year immediately preceding the school fiscal year  
9 for which the first-year new school adjustment would be included  
10 in the calculation of state aid. Such form shall require evidence  
11 of recent and expected student growth in the attendance area in  
12 which the new building or expansion or remodeling of an existing  
13 building is to occur, evidence that a new building or the expansion  
14 or remodeling of an existing building is being completed to  
15 provide additional student capacity to accommodate such growth and  
16 not to replace an existing building, evidence that the school  
17 fiscal year for which the district would receive the first-year

18 adjustment will be the first full school fiscal year for which  
 19 students will utilize such additional capacity, and evidence of  
 20 the estimated additional student capacity to be provided by the  
 21 project. On or before the immediately following December 1, the  
 22 department shall approve the estimated additional capacity for  
 23 use in the adjustment, approve a modified estimated additional  
 1 capacity for use in the adjustment, or deny the application based  
 2 on the requirements of this section, the evidence submitted on the  
 3 application, and any other information provided by the department.  
 4 Each approval shall include an approved estimated additional  
 5 student capacity for the new building. The state board shall  
 6 establish procedures for appeal of decisions of the department to  
 7 the state board for final determination.

8 (2) The first-year new school adjustment for each  
 9 approved district shall equal the school district's basic funding  
 10 per formula student multiplied by twenty percent of the approved  
 11 estimated additional student capacity. The second-year new school  
 12 adjustment for each approved district shall equal the school  
 13 district's basic funding per formula student multiplied by ten  
 14 percent of the approved estimated additional student capacity.

15 2. Renumber the remaining sections, correct internal  
 16 references, and amend the repealer accordingly.

Senator Ashford filed the following amendment to LB545:  
 AM1178

(Amendments to AM1078)

1 1. On page 4, after line 18, insert the following new  
 2 subsection:

3 "(5) The percentage to be used in the calculation of  
 4 averaging adjustments for school fiscal year 2010-11 shall be  
 5 seventy-five percent."; in line 19 strike "(5)" and insert "(6)";  
 6 and in line 21 strike "2010-11" and insert "2011-12".

Senator Stuthman filed the following amendment to LB198:  
 AM1179

(Amendments to Standing Committee amendments, AM679)

1 1. On page 1, strike beginning with "means" in line 11  
 2 through line 18 and insert "has the same meaning as in section  
 3 77-2601.".

4 2. On page 3, line 10, strike "(5)" and insert "(7)".

5 3. On page 5, after line 5 insert:

6 "(3) A manufacturer of a cigarette that the State Fire  
 7 Marshal determines cannot be tested in accordance with the test  
 8 method prescribed in subdivision (1)(a) of this section shall  
 9 propose a test method and performance standard for the cigarette to  
 10 the State Fire Marshal. If the State Fire Marshal determines that  
 11 another state has enacted reduced cigarette ignition propensity  
 12 standards that include a test method and performance standard that  
 13 are the same as those contained in the Reduced Cigarette Ignition



- 14 Propensity Act and the State Fire Marshal finds that the officials  
 15 responsible for implementing those requirements have approved the  
 16 proposed alternative test method and performance standard for a  
 17 particular cigarette proposed by a manufacturer as meeting the  
 18 fire safety standards of that state's law or regulation under a  
 19 legal provision comparable to this section, then the State Fire  
 20 Marshal shall authorize that manufacturer to employ the alternative  
 21 test method and performance standard to certify that cigarette for  
 22 sale in this state, unless the State Fire Marshal demonstrates a  
 1 reasonable basis why the alternative test should not be accepted  
 2 under the act. All other applicable requirements of this section  
 3 shall apply to the manufacturer."; in line 6, strike "(3)" and  
 4 insert "(4)"; after line 14 insert:  
 5 "(5) The State Fire Marshal may adopt a subsequent  
 6 American Society of Testing and Materials Standard Test Method  
 7 for Measuring the Ignition Strength of Cigarettes upon a finding  
 8 that such subsequent method does not result in a change in  
 9 the percentage of full-length burns exhibited by any tested  
 10 cigarette when compared to the percentage of full-length burns  
 11 the same cigarette would exhibit when tested in accordance with the  
 12 American Society of Testing and Materials Standard E2187-04 and the  
 13 performance standard in subdivision (1)(c) of this section."; in  
 14 line 15 strike "(4)" and insert "(6)"; and in line 21 strike "(5)"  
 15 and insert "(7)".  
 16 4. On page 6, line 3, strike "(6)" and insert "(8)".  
 17 5. On page 10, line 20, after "Marshal" insert "or Tax  
 18 Commissioner".  
 19 6. On page 11, lines 3, 16 and 17, and 18 and 19, strike  
 20 "State Fire Marshal or".  
 21 7. On page 12, lines 2 and 3 and 9, strike "and the State  
 22 Fire Marshal".  
 23 8. On page 13, line 13, strike "July" and insert  
 24 "January".

## VISITORS

Visitors to the Chamber were Faye Osborn from Lincoln; Nikki Kling from Guadalajara, Mexico; 34 fourth-grade students from Grant Elementary, Norfolk; and 19 seventh- and eighth-grade students from St. John Lutheran, Battle Creek.

The Doctor of the Day was Dr. Pat Hotovy from York.

**ADJOURNMENT**

At 4:49 p.m., on a motion by Senator Schilz, the Legislature adjourned until 9:00 a.m., Thursday, April 23, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**SIXTY-SEVENTH DAY - APRIL 23, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**SIXTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, April 23, 2009

**PRAYER**

The prayer was offered by Father Paul Rutten, Lincoln.

**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 Cook and Nordquist who were excused; and Senators Ashford, Pankonin, and Pirsch who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-sixth day was approved.

**COMMITTEE REPORT**

Agriculture

**LEGISLATIVE BILL 224.** Placed on General File with amendment.  
AM949

- 1 1. Strike sections 1 and 5 and insert the following
- 2 sections:
- 3 Section 1. Section 2-101, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 2-101 (1) The Nebraska State Fair Board, formerly known
- 6 as the State Board of Agriculture, shall hold an annual meeting for
- 7 the purpose of deliberating and consulting as to the wants,
- 8 prospects, and conditions of the agricultural, horticultural,
- 9 industrial, mechanical, and other interests throughout the state,
- 10 as well as those interests in the encouragement and perpetuation of
- 11 the arts, skilled crafts, and sciences.
- 12 (2) The Nebraska State Fair Board may provide in its
- 13 constitution and bylaws for the qualification and participation
- 14 of delegates at the annual meeting from such associations
- 15 incorporated under the laws of the state for purposes of promoting

16 and furthering the interests of participants in agricultural,  
 17 horticultural, industrial, mechanical, or other pursuits or for the  
 18 encouragement and perpetuation of the arts, skilled crafts, and  
 19 sciences, and from such associations as provide for the training,  
 20 encouragement, and competition of the youth of Nebraska in such  
 21 endeavors. The annual meeting shall be held in every odd-numbered  
 22 year at the capital of the state and in every even-numbered year at  
 23 such location as the board determines. The chairperson of the board  
 1 shall also have the power to call meetings of the board whenever he  
 2 or she may deem it expedient. All meetings of the board shall be  
 3 conducted in accordance with the Open Meetings Act.

4 (3) The Nebraska State Fair shall be under the direction  
 5 and supervision of the Nebraska State Fair Board. The board may, at  
 6 its discretion, hold or dispense with the holding of the fair, in  
 7 any year.

8 (4)(a) It is the intent of the Legislature that no later  
 9 than 2010 the Nebraska State Fair be permanently located within  
 10 the city of Grand Island upon the site and tract of land owned  
 11 by the Hall County Livestock Improvement Association and known as  
 12 ~~Fonner Park~~ no later than 2010, and, as available and necessary,  
 13 upon other parcels of land adjacent to Fonner Park. The Nebraska  
 14 State Fair Board shall cooperate and coordinate with the Hall  
 15 County Livestock Improvement Association, the city of Grand Island,  
 16 and other appropriate entities to provide for and carry out any  
 17 plan of improvements to ~~Fonner Park, such location, including~~  
 18 the construction of buildings, and other capital facilities,  
 19 the relocation of existing improvements, and other enhancements,  
 20 necessary to develop the site as a location suitable for conducting  
 21 the Nebraska State Fair. Such cooperation and coordination may  
 22 include financial participation in the costs of site development,  
 23 new construction, and other capital improvements upon ~~Fonner Park~~  
 24 such location and includes the execution of any agreement for site  
 25 governance, revenue sharing, and facility utilization between and  
 26 among the Nebraska State Fair Board, the Hall County Livestock  
 27 Improvement Association, and other appropriate entities.

1 (b) The Nebraska State Fair Board, the Department of  
 2 Administrative Services, and the Board of Regents of the University  
 3 of Nebraska shall cooperate with each other and with other  
 4 appropriate entities to provide for and carry out the plan to  
 5 relocate the Nebraska State Fair and transfer the Nebraska State  
 6 Fairgrounds in Lancaster County to the Board of Regents, including  
 7 activities by the Board of Regents to obtain due diligence surveys,  
 8 reports, and site assessments at the Nebraska State Fairgrounds in  
 9 Lancaster County and by the Nebraska State Fair Board in connection  
 10 with providing marketable title to the same in a form acceptable to  
 11 the Board of Regents.

12 Sec. 5. Section 2-113, Revised Statutes Cumulative  
 13 Supplement, 2008, is amended to read:

14 2-113 (1) Upon completion of the conditions specified

15 in subsection (2) of this section, the Director of Administrative  
16 Services shall, on or before December 31, 2009, transfer by  
17 warranty deed the site and tract of land in Lancaster County known  
18 as the Nebraska State Fairgrounds, to the Board of Regents of the  
19 University of Nebraska. Such transfer shall occur notwithstanding  
20 sections 72-811 to 72-818 or any other provision of law.

21 (2) The transfer described in subsection (1) of this  
22 section shall be contingent upon:

23 (a) Funds for the purpose of carrying out subsection  
24 (4) of section 2-101 having been provided by or on behalf of the  
25 University of Nebraska in a total amount of no less than twenty-one  
26 million five hundred thousand dollars in cash or legally binding  
27 commitments. Such funds may be provided over time, but they shall  
1 in cumulative increments equal at least seven million five hundred  
2 thousand dollars by October 1, 2008, fourteen million five hundred  
3 thousand dollars by February 1, 2009, and twenty-one million five  
4 hundred thousand dollars by July 1, 2009;

5 (b) The University of Nebraska providing a master plan  
6 and business plan to carry out the master plan for the Innovation  
7 Campus to the Department of Administrative Services and to the  
8 Clerk of the Legislature on or before December 1, 2009, and  
9 a commitment to provide on or before December 1 of each year  
10 thereafter an annual update of the master plan and business plan to  
11 the Clerk of the Legislature; and

12 (c) Funds for the purpose of carrying out subsection  
13 (4) of section 2-101 having been provided by or on behalf of the  
14 city of Grand Island in a total amount of no less than eight  
15 million five hundred thousand dollars in cash or legally binding  
16 commitments. Such funds may be provided over time, but they shall  
17 in cumulative increments equal at least three million dollars by  
18 October 1, 2008, six million dollars by February 1, 2009, and eight  
19 million five hundred thousand dollars by July 1, 2009.

20 (3) The University of Nebraska and the city of  
21 Grand Island shall provide certification to the Department of  
22 Administrative Services on October 1, 2008, February 1, 2009, and  
23 July 1, 2009, of all funds provided to carry out subsection (4) of  
24 section 2-101. All amounts as certified in subdivisions (2)(a) and  
25 (c) of this section shall be held and expended as determined by  
26 agreement between the Hall County Livestock Improvement Association  
27 and the Nebraska State Fair Board.

1 (4)(a) The Nebraska State Fair shall be relocated to  
2 the city of Grand Island pursuant to subsection (4) of section  
3 2-101 contingent upon completion of the conditions specified in  
4 ~~subsection (2) subdivisions (2)(a) and (c) of this section.~~

5 (b) The Nebraska State Fair Board shall be responsible  
6 for any remaining costs associated with site improvements for  
7 relocating the Nebraska State Fair, not to exceed seven million  
8 dollars.

9 (c) On or before December 31, 2009, the Nebraska

10 State Fair Board shall provide written release or other written  
 11 instrument acceptable to the State Building Administrator in  
 12 consultation with the President of the University of Nebraska  
 13 in connection with the transfer of the Nebraska State Fairgrounds  
 14 to the Board of Regents.

15 Sec. 11. Since an emergency exists, this act takes effect  
 16 when passed and approved according to law.

17 2. On page 7, line 18, strike "(2) An", show the old  
 18 matter as stricken, and insert "(2)(a) Except as provided in  
 19 subdivision (2)(b) of this section, an"; in line 23 after the  
 20 period insert "This subdivision includes each race meeting held  
 21 after January 1, 2010, within the licensed racetrack enclosure  
 22 located in Lancaster County where the Nebraska State Fair was held  
 23 prior to 2010; and

24 (b) For race meetings conducted at the location where  
 25 the Nebraska State Fair is held, an amount equal to two and  
 26 one-half percent of the first taxable seventy million dollars at  
 27 each race meeting shall be retained by the licensee for the purpose  
 1 of maintenance of the premises within the licensed racetrack  
 2 enclosure and maintenance of other buildings, streets, utilities,  
 3 and existing improvements at the location where the Nebraska State  
 4 Fair is held. Such amount shall be a credit against the tax levied  
 5 in subsection (1) of this section."

6 3. On page 8, line 12, strike "section 2-103" and insert  
 7 "sections 2-101 and 2-113".

(Signed) Tom Carlson, Chairperson

## REPORTS

The following reports were received by the Legislature:

### **Investment Council**

Annual Report Calendar Year 2008

### **Mexican American Commission**

2007 & 2008 Biennium Report

### **Retirement Systems, Public Employees**

Retirement Plan Review - January 1, 2008 to December 31, 2008

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of April 22, 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

Brashear, Kermit A.  
Learning Community of Douglas and Sarpy County  
Johnson-Weinberger, Dan  
National Popular Vote  
Johnson-Weinberger, Dan  
National Popular Vote (Withdrawn 04/22/2009)  
Pieper, James S.  
Learning Community of Douglas and Sarpy County

**SELECT FILE**

**LEGISLATIVE BILL 98.** ER8057, found on page 994, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 98A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 420.** ER8058, found on page 1000, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 489.** ER8060, found on page 1000, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 489A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 679.** ER8051, found on page 928, was adopted.

Senator Harms withdrew his amendment, AM1120, found on page 1149.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 198.** ER8053, found on page 928, was adopted.

Senator Stuthman renewed his amendment, AM1179, found on page 1168.

The Stuthman amendment was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 322.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 549.** ER8056, found on page 953, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 246.** ER8061, found on page 1001, was adopted.

Senator Dubas withdrew her amendment, AM964, found on page 953.

Senator Dubas offered the following amendment:

AM1195

(Amendments to Standing Committee amendments, AM749)

- 1 1. On page 2, strike line 6 and insert "agree to remit
- 2 one hundred thousand dollars to the State Treasurer for credit to
- 3 the Biotechnology Development Cash Fund for the research"; in line
- 4 21 after the period insert "The fund may receive gifts, bequests,
- 5 grants, or other contributions or donations from public or private
- 6 entities. Within five days after the State Treasurer receives
- 7 one hundred thousand dollars from the nonprofit corporation for
- 8 credit to the fund, the State Treasurer shall transfer one
- 9 hundred thousand dollars from the General Fund to the Biotechnology
- 10 Development Cash Fund."; and in line 22 strike "one" and insert
- 11 "two".

The Dubas amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 440.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 159.** Senator Wightman offered the following amendment:

AM1193

- 1 1. On page 5, line 18, after "(6)" insert "(a)".
- 2 2. On page 6, strike beginning with "The" in line 8
- 3 through line 13 and insert the following new subdivisions:
- 4 "(b) The credit allowed by this subsection shall not
- 5 exceed the lesser of the taxpayer's income tax liability or:
- 6 (i) For taxable years beginning on or after January 1,



- 7 2010, and before January 1, 2011, under the Internal Revenue Code  
 8 of 1986, as amended, three hundred dollars per married filing  
 9 jointly return or one hundred fifty dollars for any other return;  
 10 (ii) For taxable years beginning on or after January 1,  
 11 2011, and before January 1, 2012, under the code, four hundred  
 12 dollars per married filing jointly return or two hundred dollars  
 13 for any other return; and  
 14 (iii) For taxable years beginning on or after January 1,  
 15 2012, and before January 1, 2015, under the code, five hundred  
 16 dollars per married filing jointly return or two hundred fifty  
 17 dollars for any other return.  
 18 (c) Any unused tax credit shall not be allowed to be  
 19 carried forward to apply to the taxpayer's succeeding year's  
 20 liability.  
 21 (d) This subsection terminates on January 1, 2015."

The Wightman amendment was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 159A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 430.** Senator Christensen withdrew his amendment, AM1105, found on page 1142.

Senator Christensen renewed his amendment, AM1132, found on page 1149.

Senator Christensen offered the following amendment to his amendment: AM1192

(Amendments to AM1132)

- 1 1. On page 1, line 21, strike "person who is a".
- 2 2. On page 2, line 1, strike the first comma and insert
- 3 "and".

### **SENATOR CARLSON PRESIDING**

Senator Price moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 3 nays, and 20 not voting.

The Christensen amendment, AM1192, was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Senator Christensen offered the following amendment to his amendment:

FA31

Amend AM1132

On page 1, line 8 after the word "if" strike "upon" and insert "prior to"

On page 1, line 11 strike "saddle bag or" and insert "hardened"

On page 2, line 1 strike the word "upon" and insert "prior to"

The Christensen amendment was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

The Christensen amendment, AM1132, as amended, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 551.** ER8049, found on page 884, was adopted.

Senator White renewed his amendment, AM1039, found on page 1063.

**SENATOR LANGEMEIER PRESIDING**

**SENATOR CARLSON PRESIDING**

The White amendment was adopted with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

## **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 95.** Introduced by Pahls, 31.

**PURPOSE:** The purpose of this resolution is to conduct a study of the needs, resources, and responsibilities of the Department of Revenue and its divisions. The committee conducting this study shall review the constitutional provisions and the statutes establishing the department and its responsibilities. The committee shall review and evaluate the revenue policy objectives that the Legislature is attempting to achieve and the role the department plays in achieving those goals. The committee shall prepare legislation for introduction in the 2010 legislative session containing any changes the committee deems necessary to improve and enhance the department's effectiveness.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 96.** Introduced by Pahls, 31.

**PURPOSE:** The purpose of this resolution is to have the Executive Board of the Legislative Council conduct a study on the responsiveness of state agencies when they are requested to provide accurate and timely information to the Legislature, its committees, and its members. The board shall review the need for information and the limitations that state agencies may have in responding. The board shall make every effort to avoid political undertones and shall keep the focus on how to facilitate the flow of needed information and expertise from state agencies to the Legislature, its committees, and its members.

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

1. That the Executive Board of the Legislative Council shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the board 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.

**LEGISLATIVE RESOLUTION 97.** Introduced by Pahls, 31.

**PURPOSE:** The purpose of this resolution is to conduct a study of the major sources of state and local tax revenue, including sales and use taxes, income taxes, and property taxes. The committee conducting this study shall review the major tax sources, identifying what is taxed and what is not taxed and who pays and who does not pay, by sector and by demographics under each source of revenue and in total. The committee shall prepare a report to be disseminated to the members of the Legislature indicating, by sector and by demographics, the tax burdens each group bears under each major source of revenue and under the major sources in total. The committee shall draft legislation for introduction in the 2010 legislative session to restructure the balance of the tax burdens on sectors and citizens by adjusting tax rates, expanding or narrowing tax bases, and eliminating or creating exemptions to fairly spread the tax burdens while still raising the revenue needed to meet state and local revenue needs.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

### AMENDMENTS - Print in Journal

Senator Mello filed the following amendment to LB633:  
AM1072

(Amendments to Standing Committee amendments, AM907)

- 1 1. Insert the following new section:
- 2 Sec. 10. The Neighborhood Development Act terminates on
- 3 June 30, 2013.
- 4 2. On page 2, line 19, strike "five hundred" and insert
- 5 "one hundred twenty-five"; and in line 20 after "FY2009-10" insert
- 6 "and each of the following fiscal years through FY2012-13".
- 7 3. On page 4, line 27, after "needs" insert "that are".
- 8 4. On page 5, line 7, strike "need" and insert "needs".

Senator Ashford filed the following amendment to LB63:  
AM1124

(Amendments to E & R amendments, ER8031)

- 1 1. Insert the following new sections:
- 2 Sec. 31. Section 47-632, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 47-632 (1) The Community Corrections Uniform Data
- 5 Analysis Cash Fund is created. The Except as provided in
- 6 subsection (2) of this section, the fund shall be established for
- 7 administrative purposes only within the Nebraska Commission on Law
- 8 Enforcement and Criminal Justice, and shall be administered by
- 9 the executive director of the Community Corrections Council, and
- 10 ~~The fund shall consist of money collected pursuant to section~~
- 11 ~~47-633. The fund shall only be used to support operations costs~~
- 12 and analysis relating to the implementation and coordination of
- 13 the uniform analysis of crime data pursuant to the Community
- 14 Corrections Act, including associated information technology
- 15 projects, as specifically approved by the executive director of
- 16 the Community Corrections Council. The fund shall consist of money
- 17 collected pursuant to section 47-633.
- 18 (2) On the effective date of this act, the State
- 19 Treasurer shall transfer three hundred fifty thousand dollars
- 20 from the Community Corrections Uniform Data Analysis Cash Fund to
- 21 the Violence Prevention Cash Fund.
- 22 (3) Any money in the ~~fund~~ Community Corrections Uniform
- 1 Data Analysis Cash Fund available for investment shall be invested
- 2 by the state investment officer pursuant to the Nebraska Capital
- 3 Expansion Act and the Nebraska State Funds Investment Act.
- 4 Sec. 32. Section 60-497.01, Revised Statutes Cumulative

5 Supplement, 2008, is amended to read:

6 60-497.01 (1) An abstract of the court record of every  
7 case in which a person is convicted of violating any provision of  
8 the Motor Vehicle Operator's License Act, the Motor Vehicle Safety  
9 Responsibility Act, ~~or~~ the Nebraska Rules of the Road, or section  
10 5 of this act, as from time to time amended by the Legislature,  
11 or any traffic regulations in city or village ordinances shall be  
12 transmitted within thirty days of sentencing or other disposition  
13 by the court to the director. Any abstract received by the director  
14 more than thirty days after the date of sentencing or other  
15 disposition shall be reported by the director to the State Court  
16 Administrator.

17 (2) Any person violating section 28-306, 60-696, 60-697,  
18 60-6,196, 60-6,197, 60-6,213, or 60-6,214 who is placed on  
19 probation shall be assessed the same points under section 60-4,182  
20 as if such person were not placed on probation unless a court has  
21 ordered that such person must obtain an ignition interlock permit  
22 in order to operate a motor vehicle with an ignition interlock  
23 device pursuant to section 60-6,211.05 and sufficient evidence is  
24 presented to the department that such a device is installed. For  
25 any other violation, the director shall not assess such person  
26 with any points under section 60-4,182 for such violation when  
27 the person is placed on probation until the director is advised  
1 by the court that such person previously placed on probation has  
2 violated the terms of his or her probation and such probation has  
3 been revoked. Upon receiving notice of revocation of probation,  
4 the director shall assess to such person the points which such  
5 person would have been assessed had the person not been placed on  
6 probation. When a person fails to successfully complete probation,  
7 the court shall notify the director immediately.

8 2. On page 3, line 26, after the period insert "A copy  
9 of an abstract of the court's conviction, including an adjudication  
10 of a juvenile, shall be transmitted to the director pursuant to  
11 sections 60-497.01 to 60-497.04.".

12 3. On page 43, line 24, after the third comma insert  
13 "60-497.01,"; and in line 25, after "sections" insert "47-632,".

14 4. Renumber the remaining sections accordingly.

Senator Ashford filed the following amendment to LB63A:  
AM1108

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

3 Section 1. There is hereby appropriated (1) \$100,000  
4 from the General Fund for FY2009-10 and (2) \$100,000 from the  
5 General Fund for FY2010-11 to the Nebraska Commission on Law  
6 Enforcement and Criminal Justice, for Program 204 - Office of  
7 Violence Prevention, to aid in carrying out the provisions of  
8 Legislative Bill 63, One Hundred First Legislature, First Session,  
9 2009.

- 10 Total expenditures for permanent and temporary salaries  
 11 and per diems from funds appropriated in this section shall not  
 12 exceed \$100,000 for FY2009-10 or \$100,000 for FY2010-11.  
 13 Sec. 2. There is hereby appropriated \$350,000 from the  
 14 Violence Prevention Cash Fund for FY2009-10 to the Attorney  
 15 General, for Program 507, to aid in carrying out the provisions of  
 16 Legislative Bill 63, One Hundred First Legislature, First Session,  
 17 2009.  
 18 No expenditures for permanent and temporary salaries and  
 19 per diems for state employees shall be made from funds appropriated  
 20 in this section.  
 21 The Attorney General shall distribute the funds  
 22 appropriated in this section to organizations or governmental  
 23 entities that are involved in violence reduction.  
 1 Sec. 3. Since an emergency exists, this act takes effect  
 2 when passed and approved according to law.

### COMMITTEE REPORT

#### Agriculture

**LEGISLATIVE BILL 71.** Placed on General File with amendment.  
 AM541

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 Section 1. Section 28-1008, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 28-1008 For purposes of sections 28-1008 to 28-1017 and  
 6 28-1019 and section 7 of this act  
 7 (1) Abandon means to leave any animal in one's care,  
 8 whether as owner or custodian, for any length of time without  
 9 making effective provision for its food, water, or other care as is  
 10 reasonably necessary for the animal's health;  
 11 (2) Animal means any vertebrate member of the animal  
 12 kingdom. The term does not include an uncaptured wild creature;  
 13 (3) Bovine means a cow, an ox, or a bison;  
 14 (4) Cruelly mistreat means to knowingly and intentionally  
 15 kill, maim, disfigure, torture, beat, mutilate, burn, scald, or  
 16 otherwise inflict harm upon any animal;  
 17 (5) Cruelly neglect means to fail to provide any animal  
 18 in one's care, whether as owner or custodian, with food, water, or  
 19 other care as is reasonably necessary for the animal's health;  
 20 (6) Equine means a horse, pony, donkey, mule, hinny, or  
 21 llama;  
 22 (7) Humane killing means the destruction of an animal by  
 23 a method which causes the animal a minimum of pain and suffering;  
 1 (8) Law enforcement officer means any member of the  
 2 Nebraska State Patrol, any county or deputy sheriff, any member  
 3 of the police force of any city or village, or any other public  
 4 official authorized by a city or village to enforce state or

5 local animal control laws, rules, regulations, or ordinances.  
6 Law enforcement officer also includes any inspector under the  
7 Commercial Dog and Cat Operator Inspection Act to the extent that  
8 such inspector may exercise the authority of a law enforcement  
9 officer under section 28-1012 while in the course of performing  
10 inspection activities under the Commercial Dog and Cat Operator  
11 Inspection Act;

12 (9) Mutilation means intentionally causing permanent  
13 injury, disfigurement, degradation of function, incapacitation, or  
14 imperfection to an animal. Mutilation does not include conduct  
15 performed by a veterinarian licensed to practice veterinary  
16 medicine and surgery in this state or conduct that conforms to  
17 accepted veterinary practices;

18 (10) Police animal means a horse or dog owned or  
19 controlled by the State of Nebraska for the purpose of assisting a  
20 Nebraska state trooper in the performance of his or her official  
21 enforcement duties;

22 (11) Repeated beating means intentional successive  
23 strikes to an animal by a person resulting in serious bodily injury  
24 or death to the animal;

25 (12) Serious injury or illness includes any injury or  
26 illness to any animal which creates a substantial risk of death  
or which causes broken bones, prolonged impairment of health, or  
prolonged loss or impairment of the function of any bodily organ;  
and

3 (13) Torture means intentionally subjecting an animal  
4 to extreme pain, suffering, or agony. Torture does not include  
5 conduct performed by a veterinarian licensed to practice veterinary  
6 medicine and surgery in this state or conduct that conforms to  
7 accepted veterinary practices.

8 Sec. 2. Section 28-1013, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 28-1013 Sections 28-1008 to 28-1017 and 28-1019 shall not  
11 apply to:

12 (1) Care or treatment of an animal or other conduct by a  
13 veterinarian or veterinary technician licensed under the Nebraska  
14 Veterinary Practice Act until December 1, 2008, and the Veterinary  
15 Medicine and Surgery Practice Act on and after December 1, 2008;  
16 that occurs within the scope of his or her employment, that occurs  
17 while acting in his or her professional capacity, or that conforms  
18 to commonly accepted veterinary practices;

19 (2) Commonly accepted care or treatment of a police  
20 animal by a law enforcement officer in the normal course of his or  
21 her duties;

22 (3) Research activity carried on by any research facility  
23 currently meeting the standards of the federal Animal Welfare Act,  
24 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;

25 (4) Commonly accepted practices of hunting, fishing, or  
26 trapping;

- 27 (5) Commonly accepted practices occurring in conjunction  
 1 with sanctioned rodeos, animal racing, or pulling contests;  
 2 (6) Humane killing of an animal by the owner or by his or  
 3 her agent or a veterinarian upon the owner's request;  
 4 (7) Commonly accepted practices of animal husbandry with  
 5 respect to farm animals and commercial livestock operations,  
 6 including their transport from one location to another and  
 7 nonnegligent actions taken by personnel or agents of the Nebraska  
 8 Department of Agriculture or the United States Department of  
 9 Agriculture in the performance of duties prescribed by law;  
 10 (8) Use of reasonable force against an animal, other than  
 11 a police animal, which is working, including killing, capture, or  
 12 restraint, if the animal is outside the owned or rented property  
 13 of its owner or custodian and is injuring or posing an immediate  
 14 threat to any person or other animal;  
 15 (9) Killing of house or garden pests;  
 16 (10) Commonly followed practices occurring in conjunction  
 17 with the slaughter of animals for food or byproducts; and  
 18 (11) Commonly accepted animal training practices.

19 Sec. 3. Section 28-1014, Reissue Revised Statutes of  
 20 Nebraska, is amended to read:

21 28-1014 Any city, village, or county may adopt and  
 22 promulgate rules, regulations, and ordinances which are not  
 23 inconsistent with the provisions of sections 28-1008 to 28-1017 and  
 24 28-1019 and section 7 of this act for the protection of the public,  
 25 public health, and animals within its jurisdiction.

26 Sec. 4. Section 28-1015, Reissue Revised Statutes of  
 27 Nebraska, is amended to read:

1 28-1015 When an animal is owned by a minor child, the  
 2 parent of such minor child with whom the child resides or legal  
 3 guardian with whom the child resides shall be subject to the  
 4 penalties provided under sections 28-1008 to 28-1017 and 28-1019  
 5 and section 7 of this act if the animal is abandoned or cruelly  
 6 neglected.

7 Sec. 5. Section 28-1016, Reissue Revised Statutes of  
 8 Nebraska, is amended to read:

9 28-1016 Nothing in sections 28-1008 to 28-1017 and  
 10 28-1019 and section 7 of this act shall be construed as amending  
 11 or changing the authority of the Game and Parks Commission as  
 12 established in the Game Law or to prohibit any conduct authorized  
 13 or permitted by such law.

14 Sec. 6. Section 28-1017, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16 28-1017 (1) For purposes of this section:

17 (a) Reasonably suspects means a basis for reporting  
 18 knowledge or a set of facts that would lead a person of ordinary  
 19 care and prudence to believe and conscientiously entertain a strong  
 20 suspicion that criminal activity is at hand or that a crime has  
 21 been committed; and



22 (b) Employee means any employee of ~~an agency relating~~  
23 ~~to a governmental~~ agency dealing with child or adult protective  
24 services, animal control, or animal abuse.

25 (2) Any employee, while acting in his or her professional  
26 capacity or within the scope of his or her employment, who  
27 observes or is involved in an incident which leads the employee  
1 to reasonably suspect that an animal has been abandoned, cruelly  
2 neglected, or cruelly mistreated shall report such to the entity or  
3 entities that investigate such reports in that jurisdiction.

4 (3) The report of an employee shall be made within two  
5 working days of acquiring the information concerning the animal by  
6 facsimile transmission of a written report presented in the form  
7 described in subsection (6) of this section or by telephone. When  
8 an immediate response is necessary to protect the health and safety  
9 of the animal or others, the report of an employee shall be made by  
10 telephone as soon as possible.

11 (4) Nothing in this section shall be construed to impose  
12 a duty to investigate observed or reasonably suspected animal  
13 abandonment, cruel neglect, or cruel mistreatment. Any person  
14 making a report under this section is immune from liability except  
15 for false statements of fact made with malicious intent.

16 (5) ~~Reports~~ A report made by an employee pursuant to this  
17 section shall include:

18 (a) The reporter's name and title, business address, and  
19 telephone number;

20 (b) The name, if known, of the animal owner or custodian,  
21 whether a business or individual;

22 (c) A description of the animal or animals involved,  
23 person or persons involved, and location of the animal or animals  
24 and the premises; and

25 (d) The date, time, and a description of the observation  
26 or incident which led the reporter to reasonably suspect animal  
27 abandonment, cruel neglect, or cruel mistreatment and any other  
1 information the reporter believes may be relevant.

2 (6) ~~Reports~~ A report made by an employee pursuant to this  
3 section may be made on preprinted forms prepared by the entity  
4 or entities that investigate reports of animal abandonment, cruel  
5 neglect, or cruel mistreatment in that jurisdiction. The form shall  
6 include space for the information required under subsection (5) of  
7 this section.

8 (7) When two or more employees jointly have observed or  
9 reasonably suspected animal abandonment, cruel neglect, or cruel  
10 mistreatment and there is agreement between or among them, a report  
11 may be made by one person by mutual agreement. Any such reporter  
12 who has knowledge that the person designated to report has failed  
13 to do so shall thereafter make the report.

14 (8) Any employee failing to report under this section  
15 shall be guilty of an infraction.

16 Sec. 7. (1) Any animal health care professional, while

17 acting in his or her professional capacity or within the scope of  
 18 his or her employment, who observes or is involved in an incident  
 19 which leads the animal health care professional to reasonably  
 20 suspect that an animal has been abandoned, cruelly neglected, or  
 21 cruelly mistreated, may report such treatment to an entity that  
 22 investigates such reports in the appropriate jurisdiction.

23 (2) Nothing in this section shall be construed to impose  
 24 a duty to investigate observed or reasonably suspected abandonment,  
 25 cruel neglect, or cruel mistreatment of an animal. Any person  
 26 making a report under this section is immune from liability except  
 27 for false statements of fact made with malicious intent.

1 (3) For purposes of this section, an animal health care  
 2 professional means a licensed veterinarian as defined in section  
 3 38-3310 or a licensed veterinary technician as defined in section  
 4 38-3311.

5 Sec. 8. Original sections 28-1008, 28-1013, 28-1014,  
 6 28-1015, 28-1016, and 28-1017, Reissue Revised Statutes of  
 7 Nebraska, are repealed.

(Signed) Tom Carlson, Chairperson

### SELECT FILE

**LEGISLATIVE BILL 56.** Senator Dierks offered the following amendment:

FA32

On page 7, line 22 strike "five" and insert "three".

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

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 162.** ER8065, found on page 1048, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 436.** ER8062, found on page 1021, was adopted.

Senator Haar renewed his amendment, AM1065, found on page 1059.

The Haar amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Senator Giese offered the following amendment:

AM1032

(Amendments to Standing Committee amendments, AM708)

1 1. Insert the following new section:

2 Sec. 7. Section 81-2104, Reissue Revised Statutes of

3 Nebraska, is amended to read:

4 81-2104 The board shall have power to:

5 (1) Elect its own officers;

6 (2) Engage and fix the compensation of such officers,  
7 inspectors, and employees as may be required in the performance of  
8 its duties;

9 (3) Pay such other expenses as may be necessary in the  
10 performance of its duties;

11 (4) Provide upon request such additional voluntary  
12 inspections and reviews as it deems appropriate;

13 (5) Adopt, promulgate, and revise rules and regulations  
14 necessary to enable it to carry into effect the State Electrical  
15 Act. In adopting and promulgating such rules and regulations, the  
16 board shall be governed by the minimum standards set forth in the  
17 National Electrical Code issued and adopted by the National Fire  
18 Protection Association in ~~2005, 2008~~, Publication Number ~~70-2005~~,  
19 ~~and amendments to the code adopted as of January 1, 2003, 70-2008~~,  
20 which code ~~and amendments~~ shall be filed in the offices of the  
21 Secretary of State and the board and shall be a public record. The  
22 board shall adopt and promulgate rules and regulations establishing  
1 wiring standards that protect public safety and health and property  
2 and that apply to all electrical wiring which is installed subject  
3 to the State Electrical Act;

4 (6) Revoke, suspend, or refuse to renew any license or  
5 registration granted pursuant to the State Electrical Act when the  
6 licensee or registrant (a) violates any provision of the National  
7 Electrical Code as adopted pursuant to subdivision (5) of this  
8 section, the act, or any rule or regulation adopted and promulgated  
9 pursuant to the act, (b) fails or refuses to pay any examination,  
10 registration, or license renewal fee required by law, (c) is an  
11 electrical contractor or master electrician and fails or refuses to  
12 provide and keep in force a public liability insurance policy as  
13 required by the board, or (d) violates any political subdivision's  
14 approved inspection ordinances;

15 (7) Order disconnection of power to any electrical  
16 installation that is proximately dangerous to health and property;

17 (8) Order removal of electrical wiring and apparatus from  
18 premises when such wiring and apparatus is proximately dangerous to  
19 health and property;

20 (9) Investigate, for the purpose of identifying dangerous  
21 electrical wiring or violations of the National Electrical Code as  
22 adopted pursuant to subdivision (5) of this section, any death by  
23 electrocution that occurs within the State of Nebraska;

24 (10) Refuse to renew any license granted pursuant to the  
25 act when the licensee fails to submit evidence of completing the  
26 continuing education requirements under section 81-2117.01;

27 (11) Provide for the amount and collection of fees for  
1 inspection and other services;

2 (12) Adopt a seal, and the executive secretary shall have

- 3 the care and custody thereof; and  
 4 (13) Enforce the provisions of the National Electrical  
 5 Code as adopted pursuant to subdivision (5) of this section.  
 6 2. On page 8, line 22, strike "section 70-1012" and  
 7 insert "sections 70-1012 and 81-2104"; and in line 23 strike "is"  
 8 and insert "are".

### **SPEAKER FLOOD PRESIDING**

Senator Karpisek requested a ruling of the Chair on whether the Giese amendment is germane to the bill.

The Chair ruled the Giese amendment is germane to the bill.

Senator Coash offered the following amendment to the Giese amendment:  
 AM1199

(Amendments to AM1032)

- 1 1. On page 1, line 20, strike "which", show as stricken,  
 2 and insert "except section 210.12(B). The".

### **SENATOR LANGEMEIER PRESIDING**

### **SENATOR MCGILL PRESIDING**

Senator Coash withdrew his amendment.

Senator Giese withdrew his amendment, AM1032.

Advanced to Enrollment and Review for Engrossment.

## **COMMITTEE REPORTS**

Business and Labor

**LEGISLATIVE BILL 267.** Placed on General File.

**LEGISLATIVE BILL 552.** Placed on General File.

**LEGISLATIVE BILL 629.** Placed on General File.

**LEGISLATIVE BILL 628.** Placed on General File with amendment.

AM1116

- 1 1. On page 3, after line 13 insert the following new  
 2 paragraph:  
 3 "\$2,500.00 for Tort Claim Number 2007-01616, against the  
 4 Department of Roads, pay to Joshua Vandenberg and Vince Powers,  
 5 411 South 13th Street, Suite 300, Lincoln, Nebraska 68508, out of  
 6 the Roads Operations Cash Fund."; and after line 24 insert the  
 7 following new paragraph:  
 8 "\$600,000.00 for Tort Claim Number 2009-03528, against  
 9 the Department of Health and Human Services, pay to David Manes,  
 10 Personal Representative of the Estate of Olivia Manes and Jefferson

11 Downing, 530 South 13th Street, Suite 100, Lincoln, Nebraska 68508,  
 12 out of the General Fund.".

13 2. On page 4, after line 4 insert "GENERAL FUND

14 600,000.00"; in line 5 strike "3,717,933.66" and insert

15 "3,720,433.66"; and in line 7 strike "4,000,697.71" and insert

16 "4,603,197.71".

17 3. On page 5, line 5, strike "\$213.28" and insert

18 "\$202.53"; and in line 17 strike "\$185.82" and insert "\$176.82".

(Signed) Steve Lathrop, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 98.** Introduced by Pankonin, 2.

WHEREAS, Bradly Cunningham, son of Pat and Deb Cunningham and a senior at Louisville High School, 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, Bradly 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. Bradly earned twenty-four merit badges, and for his Eagle Scout community service project he planned, organized, and directed the reconstruction of the steps and handicap accessible ramp at the Village Hall in South Bend. The project involved tearing out the old concrete steps, then framing and pouring new concrete for a parking slab, steps, and a wheelchair accessible ramp; and

WHEREAS, Bradly also served his troop in a variety of leadership roles, including senior patrol leader, patrol leader, assistant patrol leader, den chief, librarian, quarter master, and scribe; and

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

WHEREAS, Bradly, through his hard work and perseverance, has joined 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 Bradly Cunningham on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Bradly Cunningham.

Laid over.

### BILL ON FIRST READING

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

**LEGISLATIVE BILL 198A.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 198, One Hundred First Legislature, First Session, 2009.

### AMENDMENTS - Print in Journal

Senator Janssen filed the following amendment to LB497:  
AM1174

(Amendments to AM1015)

- 1 1. On page 4, strike lines 18 through 22 and show as
- 2 stricken; in line 23 strike "(5)", show as stricken, and insert
- 3 "(4)"; and in line 26 strike "(6)(a)", show as stricken, and insert
- 4 "(5)(a)".

Senator Fulton filed the following amendment to LB497:  
AM1062

(Amendments to AM1015)

- 1 1. On page 18, line 18, strike "or impounded" and show
- 2 as stricken; and strike beginning with "If" in line 19 through the
- 3 period in line 23 and show as stricken.
- 4 2. On page 19, line 5, strike "or impoundment" and show
- 5 as stricken.
- 6 3. On page 36, strike lines 4 through 11 and insert:
- 7 "(11) Notwithstanding any other provision of law, an
- 8 order for the installation of an ignition interlock device and
- 9 ignition interlock permit made pursuant to subdivision (1)(b) of
- 10 this section as part of a conviction, as well as the administration
- 11 of such order by the Office of Probation Administration for
- 12 the installation, maintenance, and removal of such device, as
- 13 applicable, shall not be construed to create an order of probation
- 14 when an order of probation has not been issued.".

### VISITORS

Visitors to the Chamber were 88 fourth-grade students from Aldrich Elementary, Omaha; 60 fourth-grade students from G. Standley Hall School, La Vista; Bill Scribner from David City; 11 fourth-grade students and sponsors from St. John's Lutheran, Seward; 12 fourth-grade students from St. Joseph's Catholic School, York; Fred Lockwood from Scottsbluff; and Melissa Hohenstein from Jackson.

The Doctor of the Day was Dr. Kyle Haeefele from Lincoln.

**ADJOURNMENT**

At 1:30 p.m., on a motion by Speaker Flood, the Legislature adjourned until 10:00 a.m., Monday, April 27, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature





**SIXTY-EIGHTH DAY - APRIL 27, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SIXTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, April 27, 2009

**PRAYER**

The prayer was offered by Pastor Karla Cooper, Quinn Chapel, Lincoln.

**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 Ashford, Cornett, Giese, and Haar who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-seventh day was approved.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 99.** Introduced by Pankonin, 2.

WHEREAS, the Louisville High School's power drive team won the 2009 Big Red Invitational at the University of Nebraska-Lincoln's Tractor Testing Lab; and

WHEREAS, the power drive team's four high school juniors and ten high school seniors spent six months building a one-person electric vehicle that was powered by a one horsepower electric motor and two automotive batteries; and

WHEREAS, the power drive team learned about electrical principles such as voltage, resistance, and amperage and applied the knowledge of each and the use of Ohm's Law to calculate battery voltage and amp draw during the race; and

WHEREAS, the members of the power drive team have brought great pride to their school, their school district, their communities, and their friends and families as they demonstrated discipline, efficiency, and tenacity by building a car that traveled 30.5 miles with an average speed of 31.5 miles per hour for one hour using the original batteries.

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

1. That the Legislature congratulates the Louisville High School's power drive team and their teacher Jesse Zweep in winning the 2009 Big Red Invitational.

2. That a copy of this resolution be sent to the Louisville High School's power drive team members and to Jesse Zweep.

Laid over.

### **MOTION - Approve Appointment**

Senator Gay moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1157:

Department of Health and Human Services

Todd Reckling, Director of Children and Family Services

Voting in the affirmative, 36:

Campbell	Friend	Karpisek	Nordquist	Sullivan
Carlson	Gay	Langemeier	Pahls	Wallman
Christensen	Gloor	Lathrop	Pankonin	White
Coash	Hadley	Louden	Pirsch	Wightman
Cook	Hansen	McCoy	Price	
Council	Heidemann	Mello	Rogert	
Dierks	Howard	Nantkes	Schilz	
Fischer	Janssen	Nelson	Stuthman	

Voting in the negative, 0.

Present and not voting, 9:

Adams	Dubas	Fulton	Lautenbaugh	Utter
Avery	Flood	Harms	McGill	

Excused and not voting, 4:

Ashford	Cornett	Giese	Haar
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The appointment was confirmed with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 198A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 160.** Senator Hadley withdrew his amendment, FA28, found on page 1048.

**PRESIDENT SHEEHY PRESIDING**

Senator Hadley renewed his amendment, AM1084, found on page 1031 and considered on page 1047.

Senator Hadley offered the following amendment to his amendment: AM1125

(Amendments to AM1084)

- 1 1. On page 1, strike beginning with "with" in line
- 2 5 through "district" in line 6 and insert "with approval of a
- 3 majority of the registered voters of the district voting on such a
- 4 proposition".

Pending.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LR8 89, 90, and 91 were adopted.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LR8 89, 90, and 91.

**GENERAL FILE**

**LEGISLATIVE BILL 160.** The Hadley amendment, AM1125, found in this day's Journal, to his amendment, was renewed.

Senator Schilz moved the previous question. The question is, "Shall the debate now close?" The motion failed with 24 ayes, 4 nays, and 21 not voting.

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

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

The motion to cease debate prevailed with 34 ayes, 2 nays, 11 present and not voting, and 2 excused and not voting.

The Hadley amendment, AM1125, was adopted with 25 ayes, 13 nays, 10 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

The Hadley amendment, AM1084, found on page 1031 and considered on page 1047 and in this day's Journal, as amended, was renewed.

Senator Lautenbaugh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 4 nays, and 18 not voting.

Senator Hadley moved for a call of the house. The motion prevailed with 43 ayes, 0 nays, and 6 not voting.

Senator Hadley requested a roll call vote on his amendment, as amended.

Voting in the affirmative, 18:

Cook	Hansen	Lathrop	Price	Wallman
Dierks	Harms	Nantkes	Schilz	White
Fischer	Heidemann	Pahls	Sullivan	
Hadley	Howard	Pirsch	Utter	

Voting in the negative, 18:

Adams	Carlson	Gay	Karpisek	Rogert
Ashford	Christensen	Giese	Louden	Wightman
Avery	Coash	Gloor	Nelson	
Campbell	Cornett	Haar	Pankonin	

Present and not voting, 12:

Council	Fulton	Lautenbaugh	Mello
Flood	Janssen	McCoy	Nordquist
Friend	Langemeier	McGill	Stuthman

Excused and not voting, 1:

Dubas

The Hadley amendment, as amended, lost with 18 ayes, 18 nays, 12 present and not voting, and 1 excused and not voting.

Failed to advance to Enrollment and Review Initial with 24 ayes, 12 nays, 12 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

### AMENDMENTS - Print in Journal

Senator Gay filed the following amendment to LB603:  
AM1171 is available in the Bill Room.

Senator Gay filed the following amendment to LB603A:  
AM1206

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. There is hereby appropriated (1) \$1,386,548
- 4 from the General Fund and \$296,548 from federal funds for FY2009-10
- 5 and (2) \$2,251,029 from the General Fund and \$374,002 from
- 6 federal funds for FY2010-11 to the Department of Health and Human
- 7 Services, for Program 33, to aid in carrying out the provisions of
- 8 Legislative Bill 603, One Hundred First Legislature, First Session,
- 9 2009.
- 10 Total expenditures for permanent and temporary salaries
- 11 and per diems from funds appropriated in this section shall not
- 12 exceed \$416,659 for FY2009-10 or \$556,012 for FY2010-11.
- 13 Sec. 2. There is hereby appropriated (1) \$1,111,984
- 14 from the General Fund for FY2009-10 and (2) \$2,056,047 from the
- 15 General Fund for FY2010-11 to the Department of Health and Human
- 16 Services, for Program 38, to aid in carrying out the provisions of
- 17 Legislative Bill 603, One Hundred First Legislature, First Session,
- 18 2009.
- 19 No expenditures for permanent and temporary salaries and
- 20 per diems for state employees shall be made from funds appropriated
- 21 in this section.
- 22 Sec. 3. The General Fund appropriation for FY2009-10 to
- 23 the Department of Health and Human Services, for Program 38, is
- 1 hereby reduced by \$977,697. The General Fund appropriation for
- 2 FY2010-11 to the Department of Health and Human Services, for
- 3 Program 38, is hereby reduced by \$1,871,577. The reductions in
- 4 this program assume the implementation of secure residential as
- 5 a Medicaid covered service on December 1, 2009. If implementation
- 6 occurs on a date other than December 1, 2009, the Legislature
- 7 shall adjust the General Fund appropriation based upon the actual
- 8 implementation date.
- 9 Sec. 4. There is hereby appropriated (1) \$2,188,116 from
- 10 the General Fund and \$5,736,969 from federal funds for FY2009-10
- 11 and (2) \$3,005,553 from the General Fund and \$7,880,187 from
- 12 federal funds for FY2010-11 to the Department of Health and Human
- 13 Services, for Program 344, to aid in carrying out the provisions of
- 14 Legislative Bill 603, One Hundred First Legislature, First Session,
- 15 2009.
- 16 No expenditures for permanent and temporary salaries and

17 per diems for state employees shall be made from funds appropriated  
 18 in this section.

19 Sec. 5. There is hereby appropriated (1) \$1,221,840  
 20 from the General Fund for FY2009-10 and (2) \$2,051,010 from the  
 21 General Fund for FY2010-11 to the Department of Health and Human  
 22 Services, for Program 347, to aid in carrying out the provisions of  
 23 Legislative Bill 603, One Hundred First Legislature, First Session,  
 24 2009.

25 No expenditures for permanent and temporary salaries and  
 26 per diems for state employees shall be made from funds appropriated  
 27 in this section.

1 Sec. 6. There is hereby appropriated (1) \$143,544 from  
 2 the General Fund and \$1,262,773 from federal funds for FY2009-10  
 3 and (2) \$314,117 from the General Fund and \$2,421,811 from federal  
 4 funds for FY2010-11 to the Department of Health and Human Services,  
 5 for Program 348, to aid in carrying out the provisions of  
 6 Legislative Bill 603, One Hundred First Legislature, First Session,  
 7 2009.

8 No expenditures for permanent and temporary salaries and  
 9 per diems for state employees shall be made from funds appropriated  
 10 in this section.

11 Sec. 7. There is hereby appropriated (1) \$1,385,160 from  
 12 the General Fund for FY2009-10 and (2) \$1,563,993 from the General  
 13 Fund for FY2010-11 to the Board of Regents of the University of  
 14 Nebraska, for Program 781, to aid in carrying out the provisions of  
 15 Legislative Bill 603, One Hundred First Legislature, First Session,  
 16 2009.

### **SPEAKER'S MAJOR PROPOSAL**

April 27, 2009

Patrick O'Donnell  
 Clerk of the Legislature  
 State Capitol  
 Lincoln, NE 68509

Dear Mr. O'Donnell:

Please be advised that pursuant to Rule 1, Section 17, the Executive Board met and approved Speaker Flood's request that LB545 be designated as a 2009 Speaker's Major Proposal.

Sincerely,  
 (Signed) Senator John Wightman  
 Chairman, Executive Board

C: Speaker Flood

### VISITORS

Visitors to the Chamber were 19 fourth-grade students and teacher from Scribner; 10 twelfth-grade students and sponsors from Cedar Rapids; 27 fourth-grade students and teachers from Plainview; 8 eleventh- and twelfth-grade students and teacher from Papillion/La Vista High School, Papillion; 120 fourth-grade students from Cavett Elementary, Lincoln; and 51 fourth-grade students and teachers from Emerson Elementary, Columbus.

### RECESS

At 11:51 a.m., on a motion by Senator Mello, the Legislature recessed until 1:30 p.m.

### AFTER RECESS

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

### ROLL CALL

The roll was called and all members were present except Senator Cornett who was excused; and Senators Heidemann and Nantkes who were excused until they arrive.

### RESOLUTION

**LEGISLATIVE RESOLUTION 100.** Introduced by Howard, 9.

WHEREAS, the first all-grades public school in Nebraska was opened in 1859 in Omaha by superintendent of education, Howard Kennedy; and

WHEREAS, a separate Omaha High School was completed in 1871 on the grounds of the former Nebraska Territorial Capitol; and

WHEREAS, Omaha High School changed its name to Central High School in 1915; and

WHEREAS, the Central High School Register is the oldest continuously-published school newspaper west of the Mississippi River; and

WHEREAS, the National Honor Society, which honors student scholastic achievement, was created by Central High School Principal J. G. Masters, and Central High School was granted the second chapter in the nation in 1921; and

WHEREAS, Central High School was one of the first high schools in the nation to offer advanced placement courses in 1956; and

WHEREAS, Central High School's distinguished alumni over the past 150 years include founders of Fortune 500 companies, United States Senators and Congressmen, an Academy Award winner, distinguished military leaders, philanthropists, educators, medical researchers, scientists, award-winning authors, and three Nobel Prize winners; and

WHEREAS, Central High School continues its 150-year tradition of providing excellence in education to a diverse student body of 2,500 which includes international students from all over the world.

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

1. That the Legislature recognizes and congratulates the faculty, students, parents, and alumni of Central High School on its 150th anniversary in 2009.

2. That a copy of this resolution be sent to Central High School.

Laid over.

### **AMENDMENT - Print in Journal**

Senator Friend filed the following amendment to LB495:  
AM1211 is available in the Bill Room.

### **GENERAL FILE**

**LEGISLATIVE BILL 671.** Title read. Considered.

Committee AM1009, found on page 1039, was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 476.** Title read. Considered.

Committee AM961, found on page 1009, was considered.

### **SENATOR ROBERT PRESIDING**

The committee amendment was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 476A.** Title read. Considered.

Senator Stuthman offered the following amendment:  
AM1219

- 1 1. On page 2, line 1, strike "\$100,000" and insert
- 2 "\$450,000".

The Stuthman amendment was adopted with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.



Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 285.** Title read. Considered.

Committee AM774, found on page 978, was considered.

Senator Flood withdrew his amendment, AM1076, found on page 1082.

The committee amendment was adopted with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

Senator Pirsch offered the following amendment:  
AM1147

- 1 1. Strike section 4 and insert the following new section:
- 2 Sec. 4. Section 29-4003, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 29-4003 ~~(1) Except as provided in subsection (2) of this~~
- 5 ~~section, the (1)(a) Except as provided in subdivision (1)(a)(iii)~~
- 6 ~~of this section, the Sex Offender Registration Act shall apply~~
- 7 ~~applies to any person who on or after January 1, 1997:~~
- 8 ~~(i) Has ever pleaded (a) Pleads guilty to, pleaded nolo~~
- 9 ~~contendere to, or been or is found guilty of any of the following~~
- 10 ~~(i)-(A) Kidnapping of a minor pursuant to section 28-313,~~
- 11 ~~except when the person is the parent of the minor and was not~~
- 12 ~~convicted of any other offense in this section;~~
- 13 ~~(ii)-(B) False imprisonment of a minor pursuant to~~
- 14 ~~section 28-314 or 28-315;~~
- 15 ~~(iii)-(C) Sexual assault pursuant to section 28-319 or~~
- 16 ~~28-320;~~
- 17 ~~(iv)-(D) Sexual assault of a child in the second or third~~
- 18 ~~degree pursuant to section 28-320.01;~~
- 19 ~~(v)-(E) Sexual assault of a child in the first degree~~
- 20 ~~pursuant to section 28-319.01;~~
- 21 ~~(vi)-(F) Sexual assault-abuse of a vulnerable adult~~
- 22 ~~pursuant to subdivision (1)(c) of section 28-386;~~
- 23 ~~(vii)-(G) Incest of a minor pursuant to section 28-703;~~
- 1 ~~(viii)-(H) Pandering of a minor pursuant to section~~
- 2 ~~28-802;~~
- 3 ~~(ix)-(I) Visual depiction of sexually explicit conduct of~~
- 4 ~~a child pursuant to section 28-1463.03 or 28-1463.05;~~
- 5 ~~(x)-(J) Knowingly possessing any visual depiction of~~
- 6 ~~sexually explicit conduct which has a child as one of its~~
- 7 ~~participants or portrayed observers pursuant to section 28-813.01;~~
- 8 ~~(xi)-(K) Criminal child enticement pursuant to section~~
- 9 ~~28-311;~~
- 10 ~~(xii)-(L) Child enticement by means of a computer~~
- 11 ~~pursuant to section 28-320.02;~~

12 ~~(xiii)~~ (M) Debauching a minor pursuant to section 28-805;  
13 or

14 ~~(xiv)~~ (N) Attempt, solicitation, aiding or abetting,  
15 being an accessory, or conspiracy to commit an offense listed  
16 in subdivisions ~~(1)(a)(i)~~ (1)(a)(i)(A) through ~~(1)(a)(xiii)~~  
17 (1)(a)(i)(M) of this section;

18 ~~(i)~~ Has ever ~~(b)~~ Enters the state and has pleaded  
19 guilty to, pleaded nolo contendere to, or has been found guilty  
20 of any offense that is substantially equivalent to a registrable  
21 offense under subdivision ~~(1)(a)~~ (1)(a)(i) of this section by  
22 any village, town, city, state, territory, commonwealth, or other  
23 jurisdiction of the United States, by the United States Government,  
24 or by court-martial or other military tribunal, or by a foreign  
25 jurisdiction, notwithstanding a procedure comparable in effect to  
26 that described under section 29-2264 or any other procedure to  
27 nullify a conviction other than by pardon;

1 ~~(e)~~ (iii) Is incarcerated in a jail, a penal or  
2 correctional facility, or any other public or private institution  
3 or is under probation or parole as a result of pleading guilty to  
4 or being found guilty of a registrable offense under subdivision  
5 ~~(1)(a)~~ or ~~(b)~~ (1)(a)(i) or (ii) of this section prior to January 1,  
6 1997; or

7 ~~(d)~~ (iv) Enters the state and is required to register  
8 as a sex offender under the laws of another village, town, city,  
9 state, territory, commonwealth, or other jurisdiction of the United  
10 States.

11 (b) In addition to the registrable offenses under  
12 subdivision (1)(a)(i) of this section, the Sex Offender  
13 Registration Act applies to any person who on or after the  
14 effective date of this act:

15 (i) Has ever pleaded guilty to, pleaded nolo contendere  
16 to, been found guilty of, or been civilly committed for any of the  
17 following:

18 (A) Murder in the first degree pursuant to section 28-303  
19 in which there is a sexual element;

20 (B) Murder in the second degree pursuant to section  
21 28-304 in which there is a sexual element;

22 (C) Manslaughter pursuant to section 28-305 in which  
23 there is a sexual element;

24 (D) Assault in the first degree pursuant to section  
25 28-308 in which there is a sexual element;

26 (E) Assault in the second degree pursuant to section  
27 28-309 in which there is a sexual element;

1 (F) Assault in the third degree pursuant to section  
2 28-310 in which there is a sexual element;

3 (G) Stalking pursuant to section 28-311.03 in which there  
4 is a sexual element;

5 (H) Unlawful intrusion pursuant to section 28-311.08 in  
6 which there is a sexual element;

- 7 (I) Kidnapping pursuant to section 28-313 in which there  
 8 is a sexual element;  
 9 (J) False imprisonment pursuant to section 28-314 or  
 10 28-315 in which there is a sexual element;  
 11 (K) Sexual abuse of an inmate or parolee in the first  
 12 degree pursuant to section 28-322.02;  
 13 (L) Sexual abuse of an inmate or parolee in the second  
 14 degree pursuant to section 28-322.03;  
 15 (M) Sexual abuse of a protected individual pursuant to  
 16 section 28-322.04;  
 17 (N) Incest pursuant to section 28-703;  
 18 (O) Child abuse pursuant to subdivision (1)(d) or (e) of  
 19 section 28-707;  
 20 (P) Enticement by electronic communication device  
 21 pursuant to section 28-833; or  
 22 (Q) Attempt, solicitation, aiding or abetting, being  
 23 an accessory, or conspiracy to commit an offense listed in  
 24 subdivisions (1)(b)(i)(A) through (1)(b)(i)(P) of this section;  
 25 (i) Has ever pleaded guilty to, pleaded nolo contendere  
 26 to, been found guilty of, or been civilly committed for any  
 27 offense that is substantially equivalent to a registrable offense  
 1 under subdivision (1)(b)(i) of this section by any village,  
 2 town, city, state, territory, commonwealth, or other jurisdiction  
 3 of the United States, by the United States Government, or  
 4 by court-martial or other military tribunal, or by a foreign  
 5 jurisdiction, notwithstanding a procedure comparable in effect to  
 6 that described under section 29-2264 or any other procedure to  
 7 nullify a conviction other than by pardon; or  
 8 (ii) Enters the state and is required to register as  
 9 a sex offender under the laws of another village, town, city,  
 10 state, territory, commonwealth, or other jurisdiction of the United  
 11 States.  
 12 ~~(2) In the case of a person convicted of a violation~~  
 13 ~~of section 28-313, 28-314, 28-315, or 28-805, the convicted person~~  
 14 ~~shall be subject to the Sex Offender Registration Act, unless the~~  
 15 ~~sentencing court determines at the time of sentencing, in light~~  
 16 ~~of all the facts, that the convicted person is not subject to the~~  
 17 ~~act. The sentencing court shall make such determination part of the~~  
 18 ~~sentencing order.~~  
 19 ~~(3)-(2) A person appealing a conviction of a registrable~~  
 20 ~~offense under this section shall be required to comply with the act~~  
 21 ~~during the appeals process.~~  
 22 2. On page 11, strike beginning with "in" in line 22  
 23 through "living," in line 24.

The Pirsch amendment was adopted with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 4 present

and not voting, and 1 excused and not voting.

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 98.** Placed on Final Reading.  
**LEGISLATIVE BILL 98A.** Placed on Final Reading.  
**LEGISLATIVE BILL 198.** Placed on Final Reading.  
**LEGISLATIVE BILL 322.** Placed on Final Reading.  
**LEGISLATIVE BILL 420.** Placed on Final Reading.  
**LEGISLATIVE BILL 489.** Placed on Final Reading.  
**LEGISLATIVE BILL 489A.** Placed on Final Reading.  
**LEGISLATIVE BILL 679.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

### AMENDMENT - Print in Journal

Senator Campbell filed the following amendment to LB342:  
 AM1225

(Amendments to Standing Committee amendments, AM741)

- 1 1. Strike amendments 1 and 2 and insert the following new
- 2 amendments:
- 3 1. Strike the original sections and all amendments
- 4 thereto and insert the following new sections:
- 5 Section 1. Section 68-901, Revised Statutes Cumulative
- 6 Supplement, 2008, is amended to read:
- 7 68-901 Sections 68-901 to 68-956 and section 2 of this
- 8 act shall be known and may be cited as the Medical Assistance Act.
- 9 Sec. 2. (1) On or before July 1, 2010, the Department
- 10 of Health and Human Services shall submit an application to
- 11 the Centers for Medicare and Medicaid Services of the United
- 12 States Department of Health and Human Services, amending the
- 13 state medicaid plan to provide for medicaid payments for the
- 14 comprehensive treatment of pediatric feeding disorders through
- 15 interdisciplinary treatment.
- 16 (2) For purposes of this section, interdisciplinary
- 17 treatment means the collaboration of medicine, psychology,
- 18 nutrition science, speech therapy, occupational therapy, social
- 19 work, and other appropriate medical and behavioral disciplines in
- 20 an integrated program.
- 21 Sec. 3. Section 2 of this act terminates on January 1,
- 22 2015, unless extended by action of the Legislature.
- 1 Sec. 4. Original section 68-901, Revised Statutes
- 2 Cumulative Supplement, 2008, is repealed.

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Dubas asked unanimous consent to add her name as cointroducer to LB476. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Theresa McFarland from Lexington; Nancy Poppe and Kathy Peterson from Hastings and Susan Bovee from Clay Center; and Stacie Hardy, Tracy Heilman, and Kari Bappe from South Sioux City and Stuart Clark from Wakefield.

**ADJOURNMENT**

At 3:51 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Tuesday, April 28, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-NINTH DAY - APRIL 28, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**SIXTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 28, 2009

**PRAYER**

The prayer was offered by Senator Hadley.

**ROLL CALL**

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

The roll was called and all members were present except Senator Friend who was excused; and Senators Carlson, Cook, and White who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-eighth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 97.** Placed on Select File with amendment.  
ER8094 is available in the Bill Room.

**LEGISLATIVE BILL 402.** Placed on Select File.

**LEGISLATIVE BILL 195.** Placed on Select File with amendment.  
ER8096

- 1 1. In the Standing Committee amendments, AM952, on page
- 2 45, line 24, after "or" insert "the".
- 3 2. On page 1, strike beginning with "the" in line
- 4 1 through line 14 and insert "public health and welfare; to
- 5 amend sections 28-401, 28-407, 28-414, 37-413, 38-101, 38-121,
- 6 38-167, 38-507, 38-511, 38-512, 38-524, 38-1215, 38-1217, 38-1218,
- 7 38-1219, 38-1221, 38-1224, 38-1232, 38-1501, 38-1502, 38-1503,
- 8 38-1504, 38-1505, 38-1506, 38-1507, 38-1508, 38-1509, 38-1510,
- 9 38-1511, 38-1512, 38-1513, 38-1514, 38-1515, 38-1516, 38-1517,
- 10 38-1518, 38-2008, 38-2014, 38-2015, 38-2017, 38-2018, 38-2037,
- 11 38-2047, 38-2049, 38-2050, 38-2055, 38-2801, 38-2802, 38-2871,

12 69-2603, 71-201, 71-208.02, 71-208.06, 71-216, 71-219, 71-219.01,  
 13 71-219.02, 71-223.01, 71-224, 71-239, 71-242, 71-245, 71-2413,  
 14 71-2414, 71-2416, 71-2417, 71-5829.04, 71-5865, 71-8205, 71-8207,  
 15 71-8208, 71-8210, 71-8216, 71-8218, 71-8222, 71-8230, 71-8232,  
 16 71-8234, 71-8235, 71-8237, 71-8240, 71-8242, 71-8243, 71-8244,  
 17 71-8245, 71-8246, 71-8247, 71-8248, and 86-275, Reissue Revised  
 18 Statutes of Nebraska, and sections 48-120, 71-604, 71-605, 71-2411,  
 19 71-2412, 71-2445, 71-2447, 71-2449, 71-2450, 71-5403, 71-5829.03,  
 20 71-5830.01, and 71-8239, Revised Statutes Cumulative Supplement,  
 21 2008; to adopt, change, and eliminate provisions relating to  
 22 controlled substances, hearing aid fitting and dispensing,  
 23 emergency medical services licensure classifications, physician  
 1 assistants, transfer of prescriptions, barbering, the Emergency Box  
 2 Drug Act, automated medication systems, drug product selection,  
 3 certificates of need, and statewide trauma systems; to define  
 4 and redefine terms; to rename an act and a board; to harmonize  
 5 provisions; to repeal the original sections; and to outright  
 6 repeal sections 38-2009, 38-2051, 71-2415, 71-5829.01, 71-5829.02,  
 7 and 71-8223, Reissue Revised Statutes of Nebraska, and section  
 8 71-1,106.01, Revised Statutes Cumulative Supplement, 2008."  
 9 3. On page 2, strike line 1.

**LEGISLATIVE BILL 653.** Placed on Select File with amendment.  
 ER8095

- 1 1. On page 1, line 2, after "Committee" insert "; to
- 2 state findings; to provide powers and duties; and to declare an
- 3 emergency".

**LEGISLATIVE BILL 198A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 9.** Title read. Considered.

Committee AM709, found on page 720, was adopted with 36 ayes, 0 nays, 7 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 494.** Title read. Considered.

Committee AM844, found on page 943, was considered.

Senator Coash renewed his amendment, AM984, found on page 1155, to the committee amendment.



The Coash amendment was adopted with 38 ayes, 1 nay, 4 present and not voting, and 6 excused and not voting.

Senator Cornett offered the following amendment to the committee amendment:

AM1203

(Amendments to Standing Committee amendments, AM844)

- 1 1. Insert the following new sections:
- 2 Section 1. Section 28-1008, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 28-1008 For purposes of sections 28-1008 to 28-1017 and
- 5 28-1019 and section 7 of this act
- 6 (1) Abandon means to leave any animal in one's care,
- 7 whether as owner or custodian, for any length of time without
- 8 making effective provision for its food, water, or other care as is
- 9 reasonably necessary for the animal's health;
- 10 (2) Animal means any vertebrate member of the animal
- 11 kingdom. The term does not include an uncaptured wild creature;
- 12 (3) Bovine means a cow, an ox, or a bison;
- 13 (4) Cruelly mistreat means to knowingly and intentionally
- 14 kill, maim, disfigure, torture, beat, mutilate, burn, scald, or
- 15 otherwise inflict harm upon any animal;
- 16 (5) Cruelly neglect means to fail to provide any animal
- 17 in one's care, whether as owner or custodian, with food, water, or
- 18 other care as is reasonably necessary for the animal's health;
- 19 (6) Equine means a horse, pony, donkey, mule, hinny, or
- 20 llama;
- 21 (7) Humane killing means the destruction of an animal by
- 22 a method which causes the animal a minimum of pain and suffering;
- 1 (8) Law enforcement officer means any member of the
- 2 Nebraska State Patrol, any county or deputy sheriff, any member
- 3 of the police force of any city or village, or any other public
- 4 official authorized by a city or village to enforce state or
- 5 local animal control laws, rules, regulations, or ordinances.
- 6 Law enforcement officer also includes any inspector under the
- 7 Commercial Dog and Cat Operator Inspection Act to the extent that
- 8 such inspector may exercise the authority of a law enforcement
- 9 officer under section 28-1012 while in the course of performing
- 10 inspection activities under the Commercial Dog and Cat Operator
- 11 Inspection Act;
- 12 (9) Mutilation means intentionally causing permanent
- 13 injury, disfigurement, degradation of function, incapacitation, or
- 14 imperfection to an animal. Mutilation does not include conduct
- 15 performed by a veterinarian licensed to practice veterinary
- 16 medicine and surgery in this state or conduct that conforms to
- 17 accepted veterinary practices;
- 18 (10) Police animal means a horse or dog owned or
- 19 controlled by the State of Nebraska for the purpose of assisting a
- 20 Nebraska state trooper in the performance of his or her official

21 enforcement duties;

22 (11) Repeated beating means intentional successive  
23 strikes to an animal by a person resulting in serious bodily injury  
24 or death to the animal;

25 (12) Serious injury or illness includes any injury or  
26 illness to any animal which creates a substantial risk of death  
27 or which causes broken bones, prolonged impairment of health, or  
1 prolonged loss or impairment of the function of any bodily organ;  
2 and

3 (13) Torture means intentionally subjecting an animal  
4 to extreme pain, suffering, or agony. Torture does not include  
5 conduct performed by a veterinarian licensed to practice veterinary  
6 medicine and surgery in this state or conduct that conforms to  
7 accepted veterinary practices.

8 Sec. 2. Section 28-1013, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 28-1013 Sections 28-1008 to 28-1017 and 28-1019 shall not  
11 apply to:

12 (1) Care or treatment of an animal or other conduct by a  
13 veterinarian or veterinary technician licensed under the ~~Nebraska~~  
14 ~~Veterinary Practice Act until December 1, 2008, and the Veterinary~~  
15 ~~Medicine and Surgery Practice Act on and after December 1, 2008;~~  
16 that occurs within the scope of his or her employment, that occurs  
17 while acting in his or her professional capacity, or that conforms  
18 to commonly accepted veterinary practices;

19 (2) Commonly accepted care or treatment of a police  
20 animal by a law enforcement officer in the normal course of his or  
21 her duties;

22 (3) Research activity carried on by any research facility  
23 currently meeting the standards of the federal Animal Welfare Act,  
24 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;

25 (4) Commonly accepted practices of hunting, fishing, or  
26 trapping;

27 (5) Commonly accepted practices occurring in conjunction  
1 with sanctioned rodeos, animal racing, or pulling contests;

2 (6) Humane killing of an animal by the owner or by his or  
3 her agent or a veterinarian upon the owner's request;

4 (7) Commonly accepted practices of animal husbandry with  
5 respect to farm animals and commercial livestock operations,  
6 including their transport from one location to another and  
7 nonnegligent actions taken by personnel or agents of the Nebraska  
8 Department of Agriculture or the United States Department of  
9 Agriculture in the performance of duties prescribed by law;

10 (8) Use of reasonable force against an animal, other than  
11 a police animal, which is working, including killing, capture, or  
12 restraint, if the animal is outside the owned or rented property  
13 of its owner or custodian and is injuring or posing an immediate  
14 threat to any person or other animal;

15 (9) Killing of house or garden pests;

16 (10) Commonly followed practices occurring in conjunction  
17 with the slaughter of animals for food or byproducts; and

18 (11) Commonly accepted animal training practices.

19 Sec. 3. Section 28-1014, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 28-1014 Any city, village, or county may adopt and  
22 promulgate rules, regulations, and ordinances which are not  
23 inconsistent with the provisions of sections 28-1008 to 28-1017 and  
24 28-1019 and section 7 of this act for the protection of the public,  
25 public health, and animals within its jurisdiction.

26 Sec. 4. Section 28-1015, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1 28-1015 When an animal is owned by a minor child, the  
2 parent of such minor child with whom the child resides or legal  
3 guardian with whom the child resides shall be subject to the  
4 penalties provided under sections 28-1008 to 28-1017 and 28-1019  
5 and section 7 of this act if the animal is abandoned or cruelly  
6 neglected.

7 Sec. 5. Section 28-1016, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 28-1016 Nothing in sections 28-1008 to 28-1017 and  
10 28-1019 and section 7 of this act shall be construed as amending  
11 or changing the authority of the Game and Parks Commission as  
12 established in the Game Law or to prohibit any conduct authorized  
13 or permitted by such law.

14 Sec. 6. Section 28-1017, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 28-1017 (1) For purposes of this section:

17 (a) Reasonably suspects means a basis for reporting  
18 knowledge or a set of facts that would lead a person of ordinary  
19 care and prudence to believe and conscientiously entertain a strong  
20 suspicion that criminal activity is at hand or that a crime has  
21 been committed; and

22 (b) Employee means any employee of ~~an agency relating~~  
23 ~~to a governmental~~ agency dealing with child or adult protective  
24 services, animal control, or animal abuse.

25 (2) Any employee, while acting in his or her professional  
26 capacity or within the scope of his or her employment, who  
27 observes or is involved in an incident which leads the employee  
1 to reasonably suspect that an animal has been abandoned, cruelly  
2 neglected, or cruelly mistreated shall report such to the entity or  
3 entities that investigate such reports in that jurisdiction.

4 (3) The report of an employee shall be made within two  
5 working days of acquiring the information concerning the animal by  
6 facsimile transmission of a written report presented in the form  
7 described in subsection (6) of this section or by telephone. When  
8 an immediate response is necessary to protect the health and safety  
9 of the animal or others, the report of an employee shall be made by  
10 telephone as soon as possible.

11 (4) Nothing in this section shall be construed to impose  
12 a duty to investigate observed or reasonably suspected animal  
13 abandonment, cruel neglect, or cruel mistreatment. Any person  
14 making a report under this section is immune from liability except  
15 for false statements of fact made with malicious intent.

16 (5) ~~Reports~~ A report made by an employee pursuant to this  
17 section shall include:

18 (a) The reporter's name and title, business address, and  
19 telephone number;

20 (b) The name, if known, of the animal owner or custodian,  
21 whether a business or individual;

22 (c) A description of the animal or animals involved,  
23 person or persons involved, and location of the animal or animals  
24 and the premises; and

25 (d) The date, time, and a description of the observation  
26 or incident which led the reporter to reasonably suspect animal  
27 abandonment, cruel neglect, or cruel mistreatment and any other  
1 information the reporter believes may be relevant.

2 (6) ~~Reports~~ A report made by an employee pursuant to this  
3 section may be made on preprinted forms prepared by the entity  
4 or entities that investigate reports of animal abandonment, cruel  
5 neglect, or cruel mistreatment in that jurisdiction. The form shall  
6 include space for the information required under subsection (5) of  
7 this section.

8 (7) When two or more employees jointly have observed or  
9 reasonably suspected animal abandonment, cruel neglect, or cruel  
10 mistreatment and there is agreement between or among them, a report  
11 may be made by one person by mutual agreement. Any such reporter  
12 who has knowledge that the person designated to report has failed  
13 to do so shall thereafter make the report.

14 (8) Any employee failing to report under this section  
15 shall be guilty of an infraction.

16 Sec. 7. (1) Any animal health care professional, while  
17 acting in his or her professional capacity or within the scope of  
18 his or her employment, who observes or is involved in an incident  
19 which leads the animal health care professional to reasonably  
20 suspect that an animal has been abandoned, cruelly neglected, or  
21 cruelly mistreated, shall report such treatment to an entity that  
22 investigates such reports in the appropriate jurisdiction.

23 (2) Nothing in this section shall be construed to impose  
24 a duty to investigate observed or reasonably suspected abandonment,  
25 cruel neglect, or cruel mistreatment of an animal. Any person  
26 making a report under this section is immune from liability except  
27 for false statements of fact made with malicious intent.

1 (3) For purposes of this section, an animal health care  
2 professional means a licensed veterinarian as defined in section  
3 38-3310 or a licensed veterinary technician as defined in section  
4 38-3311.

- 5 2. Correct internal references and the repealer and  
6 renumber the remaining sections accordingly.

Pending.

### COMMITTEE REPORTS

Enrollment and Review

- LEGISLATIVE BILL 159.** Placed on Final Reading.  
**LEGISLATIVE BILL 159A.** Placed on Final Reading.  
**LEGISLATIVE BILL 246.** Placed on Final Reading.  
**LEGISLATIVE BILL 440.** Placed on Final Reading.  
**LEGISLATIVE BILL 549.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 671.** Placed on Select File with amendment.  
ER8097

- 1 1. In the Standing Committee amendments, AM1009, on page  
2 4, line 26, strike the comma.  
3 2. On page 1, strike beginning with "a" in line 6 through  
4 "fee" in line 7 and insert "checklists, standardized procedures,  
5 best practices, a voluntary network of regional officials, and  
6 standardized forms; to require training for coroners and deputy  
7 coroners; to provide duties for the Nebraska Commission on Law  
8 Enforcement and Criminal Justice".

**LEGISLATIVE BILL 476.** Placed on Select File with amendment.  
ER8098

- 1 1. On page 1, line 2, after "Act" insert "; to repeal  
2 the Career Education Partnership Act; to provide an operative date;  
3 to outright repeal sections 79-763, 79-764, 79-765, 79-766, 79-767,  
4 and 79-768, Reissue Revised Statutes of Nebraska; and to declare an  
5 emergency".  
6 2. On page 2, line 1, strike "5" and insert "4".  
7 3. On page 3, line 17, strike "community" and insert  
8 "communities".

**LEGISLATIVE BILL 476A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 101.** Introduced by Haar, 21.

**PURPOSE:** The purpose of this interim study is to examine issues related to the impact of additional well development on water use by domestic wells in areas of the state where ground water supplies are limited. This study should address (1) the potential impact of additional domestic and other types of well development on the water supplies of existing domestic wells, (2) the potential impact of a proliferation of new domestic wells on the water supplies of existing wells, and (3) how to ensure that new development will have access to a water supply adequate for its proposed uses.

Current statutes provide no authority, except for the preference language in section 46-204, for either the State of Nebraska or the natural resources districts to manage well development to protect domestic wells. There is also no authority for either the state or the natural resources districts to manage domestic wells. This study should explore potential legislation to protect existing domestic well users, to protect existing wells from a proliferation of new domestic wells, and to ensure that there will be an adequate water supply for new permitted uses in areas where ground water supplies are limited.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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 494.** The Cornett amendment, AM1203, found in this day's Journal, to the committee amendment, was renewed.

**SENATOR LANGEMEIER PRESIDING**

**SENATOR ROBERT PRESIDING**

Senator Cornett withdrew her amendment.

Committee AM844, found on page 943 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 633.** Title read. Considered.

Committee AM907, found on page 897, was considered.

Senator Mello renewed his amendment, AM1072, found on page 1180, to the committee amendment.

## **SENATOR KARPISEK PRESIDING**

Pending.

### **AMENDMENTS - Print in Journal**

Senator Gloor filed the following amendment to LB195:  
AM1221

(Amendments to Standing Committee amendments, AM952)

- 1 1. On page 55, strike lines 7 through 12 and insert the
- 2 following new subsection:
- 3 "(4) A physician assistant may pronounce death and may
- 4 complete and sign death certificates and any other forms if such
- 5 acts are within the scope of practice of the physician assistant,
- 6 are delegated by his or her supervising physician, and are not
- 7 otherwise prohibited by law.".

Senator Fischer filed the following amendment to LB497:  
AM1182

(Amendments to AM1015)

- 1 1. On page 20, line 14, after "The" insert "revocation
- 2 order shall require that the person not drive for a period of
- 3 forty-five days, after which the"; in line 15 strike "during the
- 4 period of revocation"; and strike beginning with "and" in line 17
- 5 through "appropriate" in line 24, show the old matter as stricken,
- 6 and insert "for the remainder of the revocation period and have
- 7 an ignition interlock device installed on any motor vehicle he
- 8 or she operates during the remainder of the revocation period.
- 9 Such revocation shall be administered upon sentencing, upon final
- 10 judgment of any appeal or review, or upon the date that any
- 11 probation is revoked".
- 12 2. On page 21, line 13, strike the underscored period and
- 13 reinstate the stricken matter; and in line 27 strike "If".
- 14 3. On page 22, strike lines 1 through 6.
- 15 4. On page 24, strike beginning with "If" in line 10
- 16 through the period in line 16.
- 17 5. On page 25, strike beginning with "If" in line 20
- 18 through the period in line 26.

19 6. On page 27, line 27, strike "If the court orders that  
20 the person apply".

21 7. On page 28, strike beginning with line 1 through the  
22 period in line 6.

1 8. On page 30, strike beginning with "If" in line 5  
2 through the period in line 11.

Senator Cook filed the following amendment to LB195:  
AM930

1 1. Insert the following new sections:

2 Section 1. Section 38-2315, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 38-2315 (1) A nurse practitioner may provide health  
5 care services within specialty areas. A nurse practitioner shall  
6 function by establishing collaborative, consultative, and referral  
7 networks as appropriate with other health care professionals.  
8 Patients who require care beyond the scope of practice of a  
9 nurse practitioner shall be referred to an appropriate health care  
10 provider.

11 (2) Nurse practitioner practice means health promotion,  
12 health supervision, illness prevention and diagnosis, treatment,  
13 and management of common health problems and chronic conditions,  
14 including:

15 (a) Assessing patients, ordering diagnostic tests and  
16 therapeutic treatments, synthesizing and analyzing data, and  
17 applying advanced nursing principles;

18 (b) Dispensing, incident to practice only, sample  
19 medications which are provided by the manufacturer and are  
20 provided at no charge to the patient and drugs for the treatment  
21 and prevention of tuberculosis which are provided through the  
22 department and are dispensed at no charge to the patient; and

23 (c) Prescribing therapeutic measures and medications  
1 relating to health conditions within the scope of practice. Any  
2 limitation on the prescribing authority of the nurse practitioner  
3 for controlled substances listed in Schedule II of section 28-405  
4 shall be recorded in the integrated practice agreement established  
5 pursuant to section 38-2310.

6 (3) A nurse practitioner who has proof of a current  
7 certification from an approved certification program in a  
8 psychiatric or mental health specialty may manage the care of  
9 patients committed under the Nebraska Mental Health Commitment  
10 Act. Patients who require care beyond the scope of practice of a  
11 nurse practitioner who has proof of a current certification from an  
12 approved certification program in a psychiatric or mental health  
13 specialty shall be referred to an appropriate health care provider.

14 Sec. 2. Section 38-2850, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 38-2850 As authorized by the Uniform Credentialing Act,  
17 the practice of pharmacy may be engaged in by a pharmacist, a



18 pharmacist intern, or a practitioner with a pharmacy license. The  
19 practice of pharmacy shall not be construed to include:

20 (1) Persons who sell, offer, or expose for sale  
21 completely denatured alcohol or concentrated lye, insecticides, and  
22 fungicides in original packages;

23 (2) Practitioners, other than veterinarians, certified  
24 nurse midwives, certified registered nurse anesthetists, and nurse  
25 practitioners, who dispense drugs or devices as an incident to  
26 the practice of their profession, except that if such practitioner  
27 regularly engages in dispensing such drugs or devices to his or  
1 her patients for which such patients are charged, such practitioner  
2 shall obtain a pharmacy license;

3 (3) Persons who sell, offer, or expose for sale  
4 nonprescription drugs or proprietary medicines, the sale of which  
5 is not in itself a violation of the Nebraska Liquor Control Act;

6 (4) Medical representatives, detail persons, or persons  
7 known by some name of like import, but only to the extent of  
8 permitting the relating of pharmaceutical information to health  
9 care professionals;

10 (5) Licensed veterinarians practicing within the scope of  
11 their profession;

12 (6) Certified nurse midwives, certified registered  
13 nurse anesthetists, and nurse practitioners who dispense sample  
14 medications which are provided by the manufacturer and are  
15 dispensed at no charge to the patient;

16 (7) Nurse practitioners who dispense drugs for the  
17 treatment and prevention of tuberculosis which are provided through  
18 the department and are dispensed at no charge to the patient with  
19 proper labeling and patient counseling;

20 ~~(7)-(8)~~ Hospitals engaged in the compounding and  
21 dispensing of drugs and devices pursuant to chart orders for  
22 persons registered as patients and within the confines of the  
23 hospital, except that if a hospital engages in such compounding and  
24 dispensing for persons not registered as patients and within the  
25 confines of the hospital, such hospital shall obtain a pharmacy  
26 license or delegated dispensing permit;

27 ~~(8)-(9)~~ Optometrists who prescribe or dispense eyeglasses  
1 or contact lenses to their own patients;

2 ~~(9)-(10)~~ Registered nurses employed by a hospital who  
3 administer pursuant to a chart order, or procure for such  
4 purpose, single doses of drugs or devices from original drug  
5 or device containers or properly labeled prepackaged drug or  
6 device containers to persons registered as patients and within the  
7 confines of the hospital;

8 ~~(10)-(11)~~ Persons employed by a facility where dispensed  
9 drugs and devices are delivered from a pharmacy for pickup by  
10 a patient or caregiver and no dispensing or storage of drugs or  
11 devices occurs; and

12 ~~(11)-(12)~~ Persons who sell or purchase medical products,

13 compounds, vaccines, or serums used in the prevention or cure of  
 14 animal diseases and maintenance of animal health if such medical  
 15 products, compounds, vaccines, or serums are not sold or purchased  
 16 under a direct, specific, written medical order of a licensed  
 17 veterinarian.

18 Sec. 3. Section 71-3601, Revised Statutes Cumulative  
 19 Supplement, 2008, is amended to read:

20 71-3601 For purposes of the Tuberculosis Detection and  
 21 Prevention Act:

22 (1) Communicable tuberculosis means tuberculosis  
 23 manifested by a laboratory report of sputum or other body fluid  
 24 or excretion found to contain tubercle bacilli or by chest X-ray  
 25 findings interpreted as active tuberculosis by competent medical  
 26 authority;

27 (2) Department means the Department of Health and Human  
 1 Services;

2 (3) Directed health measure means any measure, whether  
 3 prophylactic or remedial, intended and directed to prevent, treat,  
 4 or limit the spread of tuberculosis;

5 ~~(3)-(4)~~ Facility means a structure in which suitable  
 6 isolation for tuberculosis can be given and which is approved  
 7 by the department for the detention of recalcitrant ~~tuberculosis~~  
 8 tuberculous persons;

9 ~~(4)-(5)~~ Local health officer means (a) the health  
 10 director of a local public health department as defined in section  
 11 71-1626 or (b) the medical advisor to the board of health of a  
 12 county, city, or village;

13 ~~(5)-(6)~~ Recalcitrant tuberculous person means a person  
 14 affected with tuberculosis in an active stage who by his or her  
 15 conduct or mode of living endangers the health and well-being of  
 16 other persons, by exposing them to tuberculosis, and who refuses to  
 17 accept adequate treatment; and

18 ~~(6)-(7)~~ State health officer means the chief medical  
 19 officer as described in section 81-3115.

20 Sec. 4. Section 71-3602, Revised Statutes Cumulative  
 21 Supplement, 2008, is amended to read:

22 71-3602 ~~(1) When a person with communicable tuberculosis~~  
 23 ~~violates the rules, regulations, or orders adopted and promulgated~~  
 24 ~~by the department and is thereby conducting himself or herself~~  
 25 ~~in such a way as to expose others to danger of infection, after~~  
 26 ~~having been ordered by the state health officer or a local health~~  
 27 ~~officer to comply, there are reasonable grounds to believe that~~  
 1 a person has communicable tuberculosis and the person refuses to  
 2 submit to the examination necessary to determine the existence of  
 3 communicable tuberculosis, the state health officer or local health  
 4 officer may order such person to submit to such examination. If  
 5 such person refuses to comply with such order, the state health  
 6 officer or a local health officer shall institute proceedings  
 7 for commitment, returnable to the county court of the county in

8 which the person resides or, if the person is a nonresident or  
 9 has no permanent residence, in the county in which the person  
 10 is found. Strictness of pleading is not required, and a general  
 11 allegation that the public health requires commitment of the person  
 12 is sufficient.

13 (2) When a person with communicable tuberculosis conducts  
 14 himself or herself in such a way as to expose another person  
 15 to the danger of infection, the state health officer or local  
 16 health officer may order such person to submit to directed health  
 17 measures necessary for the treatment of the person and to prevent  
 18 the transmission of the disease. If such person refuses to comply  
 19 with such order, the state health officer or a local health  
 20 officer shall institute proceedings for commitment, returnable to  
 21 the county court of the county in which the person resides or, if  
 22 the person is a nonresident or has no permanent residence, in the  
 23 county in which the person is found. Strictness of pleading is not  
 24 required, and a general allegation that the public health requires  
 25 commitment of the person is sufficient.

26 Sec. 5. Section 71-3604, Reissue Revised Statutes of  
 27 Nebraska, is amended to read:

1 71-3604 Upon the hearing set in the order, the person  
 2 named in the order shall have a right to be represented by counsel,  
 3 to confront and cross-examine witnesses against him or her, and to  
 4 have compulsory process for the securing of witnesses and evidence  
 5 in his or her own behalf.

6 Upon a consideration of the petition and evidence, ~~if~~  
 7 (1) If the court finds that there are reasonable grounds  
 8 to believe that the person named in the petition has communicable  
 9 tuberculosis and has refused to submit to an examination to  
 10 determine the existence of communicable tuberculosis, the court  
 11 shall order such person to submit to such examination. If after  
 12 such examination is completed it is determined that the person has  
 13 communicable tuberculosis, the court shall order directed health  
 14 measures necessary for the treatment of the person and to prevent  
 15 the transmission of the disease; or

16 (2) If the court finds that the person named in the  
 17 petition has communicable tuberculosis and conducts himself or  
 18 herself in such a way as to be a danger to the public health, an  
 19 order shall be issued committing the person named to a facility  
 20 and directing the sheriff to take him or her into custody and  
 21 deliver him or her to the facility or to submit to directed health  
 22 measures necessary for the treatment of the person and to prevent  
 23 the transmission of the disease.

24 If the court does not so find, the petition shall be  
 25 dismissed. The cost of transporting such person to the facility  
 26 shall be paid from county general funds.

27 Sec. 6. Section 71-3614, Revised Statutes Cumulative  
 1 Supplement, 2008, is amended to read:

2 71-3614 (1) When any person who has communicable or

3 ~~contagious~~-tuberculosis and who has relatives, friends, or a  
 4 private or public agency or organization willing to undertake the  
 5 obligation to support him or her or to aid in supporting him or her  
 6 in any other state or country, the department may furnish him or  
 7 her with the cost of transportation to such other state or country  
 8 if it finds that the interest of the State of Nebraska and the  
 9 welfare of such person will be promoted thereby. The expense of  
 10 such transportation shall be paid by the department out of funds  
 11 appropriated to it for the purpose of carrying out the Tuberculosis  
 12 Detection and Prevention Act.

13 (2) No funds appropriated to the department for the  
 14 purpose of carrying out the act shall be used for meeting the  
 15 cost of the care, maintenance, or treatment of any person who has  
 16 communicable or ~~contagious~~-tuberculosis in a health care facility  
 17 on either an inpatient or an outpatient basis, or otherwise, for  
 18 directed health measures, or for transportation to another state  
 19 or country, to the extent that such cost is covered by an insurer  
 20 or other third-party payor or any other entity under obligation to  
 21 such person by contract, policy, certificate, or any other means  
 22 whatsoever. The department in no case shall expend any such funds  
 23 to the extent that any such person is able to bear the cost of  
 24 such care, maintenance, treatment, or transportation. To protect  
 25 the health and safety of the public, the department may pay, in  
 26 part or in whole, the cost of drugs and medical care used to  
 27 treat any person for or to prevent the spread of communicable  
 1 tuberculosis and for evaluation and diagnosis of persons who  
 2 have been identified as contacts of a person with communicable  
 3 tuberculosis. The department shall determine the ability of a  
 4 person to pay by consideration of the following factors: (a) The  
 5 person's age, (b) the number of his or her dependents and their  
 6 ages and physical condition, (c) the person's length of care,  
 7 maintenance, or treatment, (d) his or her liabilities, ~~and~~ (e) the  
 8 extent that such cost is covered by an insurer or other third-party  
 9 payor, and (f) his or her assets. Pursuant to the Administrative  
 10 Procedure Act, the department shall adopt and promulgate rules  
 11 and regulations for making the determinations required by this  
 12 subsection.

13 Rules, regulations, and orders in effect under this  
 14 section prior to July 16, 2004, shall continue to be effective  
 15 until revised, amended, repealed, or nullified pursuant to law.

16 2. Amend the repealer and renumber the remaining section  
 17 accordingly.

Senator Stuthman filed the following amendment to LB97:  
 AM1234

(Amendments to E & R amendments, ER8094)

1 1. Insert the following new section:

2 Sec. 30. (1) No individual who has been convicted of a  
 3 felony or of any crime involving moral turpitude, or who has been

4 charged with or indicted for a felony or crime involving moral  
5 turpitude and there has been no final resolution of the prosecution  
6 of the crime, shall provide transportation services under contract  
7 with the Department of Health and Human Services, whether as an  
8 employee or as a volunteer, for vulnerable adults as defined in  
9 section 28-371 or for persons under nineteen years of age.

10 (2) In order to assure compliance with subsection (1)  
11 of this section, any individual who will be providing such  
12 transportation services to such vulnerable adults or persons under  
13 nineteen years of age and any individual who is providing such  
14 services on the effective date of this act shall be subject  
15 to a national criminal history record information check by the  
16 Department of Health and Human Services through the Nebraska State  
17 Patrol.

18 (3) In addition to the national criminal history record  
19 information check required in subsection (2) of this section,  
20 all individuals employed to provide transportation services under  
21 contract with the Department of Health and Human Services to  
22 vulnerable adults or persons under nineteen years of age shall  
1 submit to a national criminal history record information check  
2 every two years during the period of such employment.

3 (4) Individuals shall submit two full sets of  
4 fingerprints to the Nebraska State Patrol to be submitted to  
5 the Federal Bureau of Investigation for the national criminal  
6 history record information check required under this section. The  
7 individual shall pay the actual cost of fingerprinting and the  
8 national criminal history record information check.

9 (5)(a) Individuals shall authorize release of the results  
10 and contents of a national criminal history record information  
11 check under this section to the employer and the Department of  
12 Health and Human Services as provided in this section.

13 (b) The Nebraska State Patrol shall not release the  
14 contents of a national criminal history record information check  
15 under this section to the employer or the individual but shall only  
16 indicate in writing to the employer and the individual whether the  
17 individual has a criminal record.

18 (c) The Nebraska State Patrol shall release the results  
19 and the contents of a national criminal history record information  
20 check under this section in writing to the department in accordance  
21 with applicable federal law.

22 (6) The Department of Health and Human Services may  
23 develop and implement policies that provide for administrative  
24 exceptions to the prohibition in subsection (1) of this section,  
25 including, but not limited to, situations in which relatives of  
26 the vulnerable adult or person under nineteen years of age provide  
27 transportation services for such vulnerable adult or person under  
1 nineteen years of age or situations in which the circumstances  
2 of the crime or the elapsed time since the commission of the  
3 crime do not warrant the prohibition. Any decision made by the

- 4 department regarding an administrative exception under this section  
 5 is discretionary and is not appealable.  
 6 (7) An individual who does not comply with this section  
 7 is guilty of a Class V misdemeanor.  
 8 2. Renumber remaining sections and correct internal  
 9 references accordingly.

### UNANIMOUS CONSENT - Add Cointroducer

Senator Flood asked unanimous consent to add his name as cointroducer to LB97. No objections. So ordered.

### VISITORS

Visitors to the Chamber were 55 fourth-grade students and teachers from Hillrise Elementary, Elkhorn; 19 fourth-grade students and teacher from Fullerton; 51 fourth-grade students and teachers from Shoemaker Elementary, Grand Island; 9 twelfth-grade students and teacher from Diller-Odell High School, Odell; 9 seventh- and eighth-grade students and teachers from Schuyler; Mary Morgan, Emma Lefler, Mary Gilroy, Rose Jarsz, and Betty Schuele from Cedar Rapids; and 20 students, teachers, and sponsors from Central Community College, Hastings.

### RECESS

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

### AFTER RECESS

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

### ROLL CALL

The roll was called and all members were present except Senators Friend, Pahls, and Stuthman who were excused; and Senator Ashford who was excused until he arrives.

### GENERAL FILE

**LEGISLATIVE BILL 633.** Senator Mello renewed his amendment, AM1072, found on page 1180 and considered in this day's Journal, to the committee amendment.

### PRESIDENT SHEEHY PRESIDING

The Mello amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Committee AM907, found on page 897 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 2 nays, 15 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 342.** Title read. Considered.

Committee AM741, found on page 818, was considered.

Senator Campbell renewed her amendment, AM1225, found on page 1204, to the committee amendment.

Pending.

### COMMITTEE REPORTS

#### Enrollment and Review

**LEGISLATIVE BILL 56.** Placed on Final Reading.

**LEGISLATIVE BILL 162.** Placed on Final Reading.  
ST9023

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

1. On page 1, line 6, ", registration by nonresident contractors," has been inserted after "Act".

**LEGISLATIVE BILL 430.** Placed on Final Reading.  
ST9022

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

1. In the Christensen amendment, FA31, on page 1 "; and page 2, line 4," has been inserted after "line 11".

2. In the Avery amendment, AM993, on page 6, line 10, "or" has been inserted after the first comma; and in line 13 "and" has been inserted after the second comma.

3. In the E & R amendments, ER8052, amendment 2 has been struck.

4. On page 1, line 1, "15-255, 16-227, 17-556, 28-1201, 28-1204.03, and 28-1204.04, Reissue Revised Statutes of Nebraska, and sections 14-102," has been inserted after "sections"; and in line 5 "firearms" has been struck and "concealed handguns; to change provisions relating to possession of a firearm at school as defined" inserted.

**LEGISLATIVE BILL 436.** Placed on Final Reading.

**LEGISLATIVE BILL 551.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

## COMMITTEE REPORT

Natural Resources

**LEGISLATIVE BILL 561.** Placed on General File with amendment.  
AM1210

1 1. Insert the following new section:

2 Sec. 2. Section 70-1014.01, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 70-1014.01 ~~As~~ (1) Except as provided in subsection  
5 (2) of this section, an application by a municipality, a  
6 registered group of municipalities, a public power district, a  
7 public power and irrigation district, an electric cooperative, an  
8 electric membership association, or any other governmental entity  
9 for a facility that will generate not more than ten thousand  
10 kilowatts of electric energy at rated capacity and will generate  
11 electricity using solar, wind, biomass, landfill gas, methane gas,  
12 or hydropower generation technology or an emerging generation  
13 technology, including, but not limited to, fuel cells and  
14 micro-turbines, shall be deemed a special generation application.  
15 Such application shall be approved by the board if the board finds  
16 that ~~(4)-(a)~~ the application qualifies as a special generation  
17 application, ~~(2)-(b)~~ the application will provide public benefits  
18 sufficient to warrant approval of the application, although it may  
19 not constitute the most economically feasible generation option,  
20 and ~~(3)-(c)~~ the application under consideration represents a  
21 separate and distinct project from any previous special generation  
22 application the applicant may have filed.

23 (2)(a) An application by a municipality, a registered  
1 group of municipalities, a public power district, a public power  
2 and irrigation district, an electric cooperative, an electric  
3 membership association, or any other governmental entity for a  
4 facility that will generate more than ten thousand kilowatts of  
5 electric energy at rated capacity and will generate electricity  
6 using renewable energy sources such as solar, wind, biomass,  
7 landfill gas, methane gas, or new hydropower generation technology  
8 or an emerging technology, including, but not limited to, fuel  
9 cells and micro-turbines, may be filed with the board if (i)  
10 the total production from all such renewable projects, excluding  
11 sales from such projects to other electric-generating entities,  
12 does not exceed ten percent of total energy sales as shown in  
13 the producer's Annual Electric Power Industry Report to the United  
14 States Department of Energy and (ii) the applicant's governing body  
15 conducts at least one advertised public hearing which affords the  
16 ratepayers of the applicant a chance to review and comment on the  
17 subject of the application.

18 (b) The application shall be approved by the board  
19 if the board finds that (i) the applicant is using renewable



20 energy sources described in this subsection, (ii) that the total  
 21 production from all renewable projects of the applicant does  
 22 not exceed ten percent of the producer's total energy sales as  
 23 described in subdivision (2)(a) of this section, and (iii) the  
 24 applicant's governing body has conducted at least one advertised  
 25 public hearing which affords its ratepayers a chance to review and  
 26 comment on the subject of the application.

27 (3) A community-based energy development project  
 1 organized pursuant to the Rural Community-Based Energy Development  
 2 Act which intends to develop renewable energy sources for sale to  
 3 one or more Nebraska electric utilities described in this section  
 4 may also make an application to the board pursuant to subsection  
 5 (2) of this section if (a) the purchasing electric utilities  
 6 conduct a public hearing described in such subsection and (b)  
 7 the power and energy from the renewable energy sources is sold  
 8 exclusively to such electric utilities for a term of at least  
 9 twenty years.

10 2. Correct the repealer and renumber the remaining  
 11 sections accordingly.

(Signed) Chris Langemeier, Chairperson

### AMENDMENTS - Print in Journal

Senator Pankonin filed the following amendment to LB188:  
 AM1153

(Amendments to Standing Committee amendments, AM611)

1 1. On page 1, line 4, reinstate the stricken matter and  
 2 after the reinstated matter insert "and until July 1"; in line 6  
 3 strike the new matter and reinstate the stricken matter; in line 7  
 4 after the period insert "Commencing July 1, 2009, and until July  
 5 1, 2010, each officer while in the service of the Nebraska State  
 6 Patrol shall pay or have paid on his or her behalf a sum equal to  
 7 fifteen percent of his or her monthly compensation. Commencing July  
 8 1, 2010, each officer while in the service of the Nebraska State  
 9 Patrol shall pay or have paid on his or her behalf a sum equal to  
 10 sixteen percent of his or her monthly compensation."; in line 15  
 11 after the third comma insert "and until July 1, 2010."; and in line  
 12 19 after the period insert "Commencing July 1, 2010, there shall  
 13 be assessed against the appropriation of the Nebraska State Patrol  
 14 a sum equal to the amount of sixteen percent of each officer's  
 15 monthly compensation which shall be credited to the State Patrol  
 16 Retirement Fund.".

Senator Coash filed the following amendment to LB498:  
 AM1131

1 1. Insert the following new section:  
 2 Sec. 2. Any trustee of Wyuka Cemetery who would be  
 3 required to take any action or make any decision in the discharge

4 of his or her official duties that may cause financial benefit  
 5 or detriment to him or her, a member of his or her immediate  
 6 family, or a business with which he or she is associated, which  
 7 is distinguishable from the effects of such action on the public  
 8 generally or a broad segment of the public, shall take the  
 9 following actions as soon as he or she is aware of such potential  
 10 conflict or should reasonably be aware of such potential conflict,  
 11 whichever is sooner:

12 (1) Prepare a written statement describing the matter  
 13 requiring action or decision and the nature of the potential  
 14 conflict;

15 (2) Deliver a copy of the statement to the person in  
 16 charge of keeping records for the board of trustees of Wyuka  
 17 Cemetery who shall enter the statement onto the public records of  
 18 the board of trustees; and

19 (3) Abstain from participating or voting on the matter in  
 20 which the trustee has a conflict of interest.

21 2. Renumber the remaining sections accordingly.

Senator Pankonin filed the following amendment to LB414:  
 AM1236

1 1. Insert the following new sections:

2 Sec. 2. Section 24-703, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 24-703 (1) Each original member shall contribute monthly  
 5 four percent of his or her monthly compensation to the fund  
 6 until the maximum benefit as limited in subsection (1) of section  
 7 24-710 has been earned. It shall be the duty of the Director  
 8 of Administrative Services in accordance with subsection (10) of  
 9 this section to make a deduction of four percent on the monthly  
 10 payroll of each original member who is a judge of the Supreme  
 11 Court, a judge of the Court of Appeals, a judge of the district  
 12 court, a judge of a separate juvenile court, a judge of the county  
 13 court, a clerk magistrate of the county court who was an associate  
 14 county judge and a member of the fund at the time of his or her  
 15 appointment as a clerk magistrate, or a judge of the Nebraska  
 16 Workers' Compensation Court showing the amount to be deducted and  
 17 its credit to the fund. The Director of Administrative Services  
 18 and the State Treasurer shall credit the four percent as shown  
 19 on the payroll and the amounts received from the various counties  
 20 to the fund and remit the same to the director in charge of the  
 21 judges retirement system who shall keep an accurate record of the  
 22 contributions of each judge.

23 ~~(2)(a) Beginning~~ In addition to the contribution required  
 1 under subdivision (c) of this subsection, beginning on July 1,  
 2 2004, each future member who has not elected to make contributions  
 3 and receive benefits as provided in section 24-703.03 shall  
 4 contribute monthly six percent of his or her monthly compensation  
 5 to the fund until the maximum benefit as limited in subsection

6 (2) of section 24-710 has been earned. After the maximum benefit  
7 as limited in subsection (2) of section 24-710 has been earned,  
8 such future member shall make no further contributions to the fund,  
9 except that (i) any time the maximum benefit is changed, a future  
10 member who has previously earned the maximum benefit as it existed  
11 prior to the change shall contribute monthly six percent of his  
12 or her monthly compensation to the fund until the maximum benefit  
13 as changed and as limited in subsection (2) of section 24-710 has  
14 been earned and (ii) such future member shall continue to make the  
15 contribution required under subdivision (c) of this subsection.

16 (b) ~~Beginning~~ In addition to the contribution required  
17 under subdivision (c) of this subsection, beginning on July 1,  
18 2004, a judge who first serves as a judge on or after such date  
19 or a future member who elects to make contributions and receive  
20 benefits as provided in section 24-703.03 shall contribute monthly  
21 eight percent of his or her monthly compensation to the fund until  
22 the maximum benefit as limited by subsection (2) of section 24-710  
23 has been earned. ~~After~~ In addition to the contribution required  
24 under subdivision (c) of this subsection, after the maximum benefit  
25 as limited in subsection (2) of section 24-710 has been earned,  
26 such judge or future member shall contribute monthly four percent  
27 of his or her monthly compensation to the fund for the remainder of  
1 his or her active service.

2 (c) Beginning on July 1, 2009, until July 1, 2014, a  
3 member or judge described in subdivisions (a) and (b) of this  
4 subsection shall contribute monthly an additional one percent of  
5 his or her monthly compensation to the fund.

6 ~~(e)-(d)~~ It shall be the duty of the Director of  
7 Administrative Services to make a deduction on the monthly payroll  
8 of each such future member who is a judge of the Supreme Court,  
9 a judge of the Court of Appeals, a judge of the district court,  
10 a judge of a separate juvenile court, a judge of the county  
11 court, a clerk magistrate of the county court who was an associate  
12 county judge and a member of the fund at the time of his or her  
13 appointment as a clerk magistrate, or a judge of the Nebraska  
14 Workers' Compensation Court showing the amount to be deducted and  
15 its credit to the fund. This shall be done each month. The Director  
16 of Administrative Services and the State Treasurer shall credit the  
17 amount as shown on the payroll and the amounts received from the  
18 various counties to the fund and remit the same to the director in  
19 charge of the judges retirement system who shall keep an accurate  
20 record of the contributions of each judge.

21 (3) ~~A-Except~~ as otherwise provided in this subsection,  
22 a Nebraska Retirement Fund for Judges fee of five dollars shall  
23 be taxed as costs in each (a) civil cause of action, criminal  
24 cause of action, traffic misdemeanor or infraction, and city or  
25 village ordinance violation filed in the district courts, the  
26 county courts, and the separate juvenile courts, (b) filing in the  
27 district court of an order, award, or judgment of the Nebraska

1 Workers' Compensation Court or any judge thereof pursuant to  
2 section 48-188, (c) appeal or other proceeding filed in the Court  
3 of Appeals, and (d) original action, appeal, or other proceeding  
4 filed in the Supreme Court. Beginning on July 1, 2009, and until  
5 July 1, 2014, such fee shall be six dollars. In county courts a sum  
6 shall be charged which is equal to ten percent of each fee provided  
7 by sections 33-125, 33-126.02, 33-126.03, and 33-126.06, rounded to  
8 the nearest even dollar. No judges retirement fee shall be charged  
9 for filing a report pursuant to sections 33-126.02 and 33-126.06.  
10 When collected by the clerk of the district or county court, such  
11 fees shall be paid and information submitted to the director in  
12 charge of the judges retirement system on forms prescribed by the  
13 board by the clerk within ten days after the close of each calendar  
14 quarter. The board may charge a late administrative processing fee  
15 not to exceed twenty-five dollars if the information is not timely  
16 received or the money is delinquent. In addition, the board may  
17 charge a late fee of thirty-eight thousandths of one percent of the  
18 amount required to be submitted pursuant to this section for each  
19 day such amount has not been received. Such director shall promptly  
20 thereafter remit the same to the State Treasurer for credit to  
21 the fund. No Nebraska Retirement Fund for Judges fee which is  
22 uncollectible for any reason shall be waived by a county judge as  
23 provided in section 29-2709.

24 (4) All expenditures from the fund shall be authorized by  
25 voucher in the manner prescribed in section 24-713. The fund shall  
26 be used for the payment of all annuities and other benefits and for  
27 the expenses of administration.

1 (5) The fund shall consist of the total fund as of  
2 December 25, 1969, the contributions of members as provided in this  
3 section, all supplementary court fees as provided in subsection (3)  
4 of this section, and any required contributions of the state.

5 (6) Not later than January 1 of each year, the State  
6 Treasurer shall transfer to the fund the amount certified by the  
7 board as being necessary to pay the cost of any benefits accrued  
8 during the fiscal year ending the previous June 30 in excess  
9 of member contributions for that fiscal year and court fees as  
10 provided in subsection (3) of this section and fees pursuant to  
11 sections 25-2804, 33-103, 33-103.01, 33-106, 33-106.02, 33-123,  
12 33-125, 33-126.02, 33-126.03, and 33-126.06 and directed to be  
13 remitted to the fund, if any, for that fiscal year plus any  
14 required contributions of the state as provided in subsection (9)  
15 of this section.

16 (7) Benefits under the retirement system to members or to  
17 their beneficiaries shall be paid from the fund.

18 (8) Any member who is making contributions to the fund on  
19 December 25, 1969, may, on or before June 30, 1970, elect to become  
20 a future member by delivering written notice of such election to  
21 the board.

22 (9) Not later than January 1 of each year, the State

23 Treasurer shall transfer to the fund an amount, determined on  
24 the basis of an actuarial valuation as of the previous June 30  
25 and certified by the board, to fully fund the unfunded accrued  
26 liabilities of the retirement system as of June 30, 1988, by level  
27 payments up to January 1, 2000. Such valuation shall be on the  
1 basis of actuarial assumptions recommended by the actuary, approved  
2 by the board, and kept on file with the board. For the fiscal  
3 year beginning July 1, 2002, and each fiscal year thereafter,  
4 the actuary for the board shall perform an actuarial valuation  
5 of the system using the entry age actuarial cost method. Under  
6 this method, the actuarially required funding rate is equal to the  
7 normal cost rate, plus the contribution rate necessary to amortize  
8 the unfunded actuarial accrued liability on a level payment basis.  
9 The normal cost under this method shall be determined for each  
10 individual member on a level percentage of salary basis. The normal  
11 cost amount is then summed for all members. The initial unfunded  
12 actual accrued liability as of July 1, 2002, if any, shall be  
13 amortized over a twenty-five-year period. Prior to July 1, 2006,  
14 changes in the funded actuarial accrued liability due to changes  
15 in benefits, actuarial assumptions, the asset valuation method, or  
16 actuarial gains or losses shall be measured and amortized over a  
17 twenty-five-year period beginning on the valuation date of such  
18 change. Beginning July 1, 2006, any existing unfunded liabilities  
19 shall be reinitialized and amortized over a thirty-year period,  
20 and during each subsequent actuarial valuation, changes in the  
21 funded actuarial accrued liability due to changes in benefits,  
22 actuarial assumptions, the asset valuation method, or actuarial  
23 gains or losses shall be measured and amortized over a thirty-year  
24 period beginning on the valuation date of such change. If the  
25 unfunded actuarial accrued liability under the entry age actuarial  
26 cost method is zero or less than zero on an actuarial valuation  
27 date, then all prior unfunded actuarial accrued liabilities shall  
1 be considered fully funded and the unfunded actuarial accrued  
2 liability shall be reinitialized and amortized over a thirty-year  
3 period as of the actuarial valuation date. If the actuarially  
4 required contribution rate exceeds the rate of all contributions  
5 required pursuant to the Judges Retirement Act, there shall be a  
6 supplemental appropriation sufficient to pay for the differences  
7 between the actuarially required contribution rate and the rate of  
8 all contributions required pursuant to the Judges Retirement Act.  
9 (10) The state or county shall pick up the member  
10 contributions required by this section for all compensation paid  
11 on or after January 1, 1985, and the contributions so picked up  
12 shall be treated as employer contributions in determining federal  
13 tax treatment under the Internal Revenue Code as defined in section  
14 49-801.01, except that the state or county shall continue to  
15 withhold federal income taxes based upon these contributions until  
16 the Internal Revenue Service or the federal courts rule that,  
17 pursuant to section 414(h) of the code, these contributions shall

18 not be included as gross income of the member until such time as  
 19 they are distributed or made available. The state or county shall  
 20 pay these member contributions from the same source of funds which  
 21 is used in paying earnings to the member. The state or county  
 22 shall pick up these contributions by a compensation deduction  
 23 through a reduction in the compensation of the member. Member  
 24 contributions picked up shall be treated for all purposes of the  
 25 Judges Retirement Act in the same manner and to the extent as  
 26 member contributions made prior to the date picked up.

27 Sec. 3. Sections 2 and 6 of this act become operative on  
 1 July 1, 2009. The other sections of this act become operative on  
 2 their effective date.

3 Sec. 4. This act shall be considered a complete act  
 4 and its provisions inseverable. If any provision of this act is  
 5 declared unconstitutional, the entire act shall be invalid.

6 Sec. 6. Original section 24-703, Reissue Revised Statutes  
 7 of Nebraska, is repealed.

8 2. Renumber the remaining sections accordingly.

Senator Adams filed the following amendment to LB9:  
 AM1217

1 1. Insert the following new sections:

2 Section 1. Sales and use taxes shall not be imposed on  
 3 the gross receipts from the sale, lease, or rental of and the  
 4 storage, use, or other consumption in this state of mineral oil to  
 5 be applied to grain as a dust suppressant.

6 Sec. 2. Section 77-2701, Revised Statutes Cumulative  
 7 Supplement, 2008, is amended to read:

8 77-2701 Sections 77-2701 to 77-27,135.01 and section 1 of  
 9 this act and 77-27,228 to 77-27,236 shall be known and may be cited  
 10 as the Nebraska Revenue Act of 1967.

11 Sec. 3. Section 77-2701.04, Revised Statutes Cumulative  
 12 Supplement, 2008, is amended to read:

13 77-2701.04 For purposes of sections 77-2701.04 to 77-2713  
 14 and section 1 of this act, unless the context otherwise requires,  
 15 the definitions found in sections 77-2701.05 to 77-2701.53 shall be  
 16 used.

17 Sec. 6. Original sections 77-2701 and 77-2701.04, Revised  
 18 Statutes Cumulative Supplement, 2008, are repealed.

19 2. On page 3, line 7, strike "This act becomes" and  
 20 insert "Sections 4, 5, 7, and 8 of this act become"; and after the  
 21 period insert "The other sections of this act become operative on  
 22 October 1, 2009."

23 3. Renumber the remaining sections accordingly.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 633A.** Introduced by Mello, 5.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 633, One Hundred First Legislature, First Session, 2009.

**GENERAL FILE**

**LEGISLATIVE BILL 160.** Considered.

Senator Gay moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

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

Voting in the affirmative, 31:

Adams	Cornett	Giese	Mello	Wallman
Ashford	Council	Gloor	Nelson	White
Avery	Dubas	Haar	Nordquist	Wightman
Campbell	Fischer	Harms	Pankonin	
Carlson	Flood	Louden	Price	
Christensen	Fulton	McCoy	Schilz	
Coash	Gay	McGill	Sullivan	

Voting in the negative, 11:

Dierks	Howard	Langemeier	Nantkes
Hadley	Janssen	Lathrop	Utter
Hansen	Karpisek	Lautenbaugh	

Present and not voting, 3:

Cook	Pirsch	Rogert
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Absent and not voting, 1:

Heidemann

Excused and not voting, 3:

Friend	Pahls	Stuthman
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Advanced to Enrollment and Review Initial with 31 ayes, 11 nays, 3 present and not voting, 1 absent and not voting, and 3 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 630.** Title read. Considered.

Committee AM874, found on page 904, was considered.

Senator Schilz renewed his amendment, FA27, found on page 1020, to the committee amendment.

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 34 ayes, 0 nays, and 15 not voting.

Senator Nantkes requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 16:

Ashford	Haar	McGill	Rogert
Dierks	Howard	Mello	Sullivan
Giese	Karpisek	Nantkes	Wallman
Gloor	Lathrop	Nordquist	White

Voting in the negative, 27:

Adams	Cook	Fulton	Langemeier	Schilz
Avery	Cornett	Gay	Lautenbaugh	Utter
Campbell	Council	Hadley	McCoy	Wightman
Carlson	Dubas	Hansen	Nelson	
Christensen	Fischer	Harms	Pirsch	
Coash	Flood	Janssen	Price	

Present and not voting, 1:

Louden

Excused and not voting, 5:

Friend	Heidemann	Pahls	Pankonin	Stuthman
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The motion to cease debate failed with 16 ayes, 27 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.



**COMMITTEE REPORT**  
Nebraska Retirement Systems

**LEGISLATIVE BILL 187.** Placed on General File with amendment.  
AM1180

1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 79-958, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 79-958 (1) Beginning on September 1, 2006, and ending  
6 August 31, 2007, for the purpose of providing the funds to pay  
7 for formula annuities, every employee shall be required to deposit  
8 in the School Retirement Fund seven and eighty-three hundredths  
9 percent of compensation. Beginning on September 1, 2007, and ending  
10 August 31, 2009, for the purpose of providing the funds to pay  
11 for formula annuities, every employee shall be required to deposit  
12 in the School Retirement Fund seven and twenty-eight hundredths  
13 percent of compensation. Beginning on September 1, 2009, and ending  
14 August 31, 2014, for the purpose of providing the funds to pay  
15 for formula annuities, every employee shall be required to deposit  
16 in the School Retirement Fund eight and twenty-eight hundredths  
17 percent of compensation. Beginning on September 1, 2014, for the  
18 purpose of providing the funds to pay for formula annuities, every  
19 employee shall be required to deposit in the School Retirement Fund  
20 seven and twenty-eight hundredths percent of compensation. Such  
21 deposits shall be transmitted at the same time and in the same  
22 manner as required employer contributions.

23 (2) For the purpose of providing the funds to pay for  
1 formula annuities, every employer shall be required to deposit  
2 in the School Retirement Fund one hundred one percent of the  
3 required contributions of the school employees of each employer.  
4 Such deposits shall be transmitted to the retirement board at  
5 the same time and in the same manner as such required employee  
6 contributions.

7 (3) The employer shall pick up the member contributions  
8 required by this section for all compensation paid on or after  
9 January 1, 1986, and the contributions so picked up shall  
10 be treated as employer contributions in determining federal tax  
11 treatment under the Internal Revenue Code as defined in section  
12 49-801.01, except that the employer shall continue to withhold  
13 federal income taxes based upon these contributions until the  
14 Internal Revenue Service or the federal courts rule that, pursuant  
15 to section 414(h) of the code, these contributions shall not be  
16 included as gross income of the member until such time as they  
17 are distributed or made available. The employer shall pay these  
18 member contributions from the same source of funds which is used  
19 in paying earnings to the member. The employer shall pick up these  
20 contributions by a compensation deduction through a reduction in  
21 the cash compensation of the member. Member contributions picked

22 up shall be treated for all purposes of the School Employees  
23 Retirement Act in the same manner and to the same extent as member  
24 contributions made prior to the date picked up.

25 (4) The employer shall pick up the member contributions  
26 made through irrevocable payroll deduction authorizations pursuant  
27 to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08, and  
1 the contributions so picked up shall be treated as employer  
2 contributions in the same manner as contributions picked up under  
3 subsection (3) of this section.

4 Sec. 2. Section 79-966, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 79-966 (1) On the basis of all data in the possession  
7 of the retirement board, including such mortality and other tables  
8 as are recommended by the actuary engaged by the retirement board  
9 and adopted by the retirement board, the retirement board shall  
10 annually, on or before July 1, determine the state deposit to be  
11 made by the state in the School Retirement Fund for that fiscal  
12 year. The amount of such state deposit shall be determined pursuant  
13 to section 79-966.01. The retirement board shall thereupon certify  
14 the amount of such state deposit, and on the warrant of the  
15 Director of Administrative Services, the State Treasurer shall, as  
16 of July 1 of such year, transfer from funds appropriated by the  
17 state for that purpose to the School Retirement Fund the amount of  
18 such state deposit.

19 (2) In addition to the state deposits required by  
20 subsections (1) and (3) of this section, the state shall deposit  
21 in the School Retirement Fund an amount equal to seven-tenths of  
22 one percent of the compensation of all members of the retirement  
23 system for each fiscal year on or after July 1, 1984, until July  
24 1, 2009. For each fiscal year beginning July 1, 2009, until July  
25 1, 2014, in addition to the state deposits required by subsections  
26 (1) and (3) of this section, the state shall deposit in the School  
27 Retirement Fund an amount equal to one percent of the compensation  
1 of all members of the retirement system. For each fiscal year  
2 beginning July 1, 2014, in addition to the state deposits required  
3 by subsections (1) and (3) of this section, the state shall deposit  
4 in the School Retirement Fund an amount equal to seven-tenths of  
5 one percent of the compensation of all members of the retirement  
6 system.

7 (3) In addition to the state deposits required by  
8 subsections (1) and (2) of this section, beginning on July 1,  
9 2005, and each fiscal year thereafter, the state shall deposit  
10 in the Service Annuity Fund such amounts as may be necessary to  
11 pay the normal cost and amortize the unfunded actuarial accrued  
12 liability of the service annuity benefit established pursuant to  
13 sections 79-933 and 79-952 as accrued through the end of the  
14 previous fiscal year of the school employees who are members of  
15 the retirement system established pursuant to the Class V School  
16 Employees Retirement Act.

17 Sec. 3. Section 79-9,113, Reissue Revised Statutes of  
18 Nebraska, is amended to read:  
19 79-9,113 ~~(1)(a)~~ If, at any future time, a majority of  
20 the eligible members of the retirement system votes to be included  
21 under an agreement providing old age and survivors insurance under  
22 the Social Security Act of the United States, the contributions  
23 to be made by the member and the school district for membership  
24 service, from and after the effective date of the agreement with  
25 respect to services performed subsequent to December 31, 1954,  
26 shall each be reduced from five to three percent but not less than  
27 three percent of the member's salary per annum, and the credits  
1 for membership service under this system, as provided in section  
2 79-999, shall thereafter be reduced from one and one-half percent  
3 to nine-tenths of one percent and not less than nine-tenths of  
4 one percent of salary or wage earned by the member during each  
5 fiscal year, and from one and sixty-five hundredths percent to one  
6 percent and not less than one percent of salary or wage earned  
7 by the member during each fiscal year and from two percent to  
8 one and two-tenths percent of salary or wage earned by the member  
9 during each fiscal year, and from two and four-tenths percent to  
10 one and forty-four hundredths percent of salary or wage earned by  
11 the member during each fiscal year, except that after September  
12 1, 1963, and prior to September 1, 1969, all employees of the  
13 school district shall contribute an amount equal to the membership  
14 contribution which shall be two and three-fourths percent of salary  
15 covered by old age and survivors insurance, and five percent above  
16 that amount. Commencing September 1, 1969, all employees of the  
17 school district shall contribute an amount equal to the membership  
18 contribution which shall be two and three-fourths percent of the  
19 first seven thousand eight hundred dollars of salary or wages  
20 earned each fiscal year and five percent of salary or wages earned  
21 above that amount in the same fiscal year. Commencing September  
22 1, 1976, all employees of the school district shall contribute  
23 an amount equal to the membership contribution which shall be two  
24 and nine-tenths percent of the first seven thousand eight hundred  
25 dollars of salary or wages earned each fiscal year and five and  
26 twenty-five hundredths percent of salary or wages earned above  
27 that amount in the same fiscal year. Commencing on September 1,  
1 1982, all employees of the school district shall contribute an  
2 amount equal to the membership contribution which shall be four and  
3 nine-tenths percent of the compensation earned in each fiscal year.  
4 Commencing September 1, 1989, all employees of the school district  
5 shall contribute an amount equal to the membership contribution  
6 which shall be five and eight-tenths percent of the compensation  
7 earned in each fiscal year. Commencing September 1, 1995, all  
8 employees of the school district shall contribute an amount equal  
9 to the membership contribution which shall be six and three-tenths  
10 percent of the compensation earned in each fiscal year. Commencing  
11 September 1, 2007, all employees of the school district shall

12 contribute an amount equal to the membership contribution which  
13 shall be seven and three-tenths percent of the compensation paid  
14 in each fiscal year. Commencing September 1, 2009, all employees  
15 of the school district shall contribute an amount equal to the  
16 membership contribution which shall be eight and three-tenths  
17 percent of the compensation paid in each fiscal year.

18 (b) The contributions by the school district in any  
19 fiscal year beginning on or after September 1, 1999, shall be the  
20 greater of ~~(a)~~ (i) one hundred percent of the contributions by the  
21 employees for such fiscal year or ~~(b)~~ (ii) such amount as may be  
22 necessary to maintain the solvency of the system, as determined  
23 annually by the board upon recommendation of the actuary and the  
24 trustees.

25 (c) The contributions by the school district in any  
26 fiscal year beginning on or after September 1, 2007, shall be the  
27 greater of (i) one hundred and one percent of the contributions  
1 by the employees for such fiscal year or (ii) such amount as may  
2 be necessary to maintain the solvency of the system, as determined  
3 annually by the board upon recommendation of the actuary and the  
4 trustees.

5 (d) The employee's contribution shall be made in the  
6 form of a monthly deduction from compensation as provided in  
7 subsection (2) of this section. Every employee who is a member of  
8 the system shall be deemed to consent and agree to such deductions  
9 and shall receipt in full for compensation, and payment to such  
10 employee of compensation less such deduction shall constitute a  
11 full and complete discharge of all claims and demands whatsoever  
12 for services rendered by such employee during the period covered  
13 by such payment except as to benefits provided under the Class V  
14 School Employees Retirement Act.

15 (e) After September 1, 1963, and prior to September 1,  
16 1969, all employees shall be credited with a membership service  
17 annuity which shall be nine-tenths of one percent of salary or wage  
18 covered by old age and survivors insurance and one and one-half  
19 percent of salary or wages above that amount, except that those  
20 employees who retire on or after August 31, 1969, shall be credited  
21 with a membership service annuity which shall be one percent of  
22 salary or wages covered by old age and survivors insurance and  
23 one and sixty-five hundredths percent of salary or wages above  
24 that amount for service performed after September 1, 1963, and  
25 prior to September 1, 1969. Commencing September 1, 1969, all  
26 employees shall be credited with a membership service annuity which  
27 shall be one percent of the first seven thousand eight hundred  
1 dollars of salary or wages earned by the employee during each  
2 fiscal year and one and sixty-five hundredths percent of salary  
3 or wages earned above that amount in the same fiscal year, except  
4 that all employees retiring on or after August 31, 1976, shall be  
5 credited with a membership service annuity which shall be one and  
6 forty-four hundredths percent of the first seven thousand eight

7 hundred dollars of salary or wages earned by the employee during  
8 such fiscal year and two and four-tenths percent of salary or wages  
9 earned above that amount in the same fiscal year and the retirement  
10 annuities of employees who have not retired prior to September 1,  
11 1963, and who elected under the provisions of section 79-988 as  
12 such section existed immediately prior to February 20, 1982, not  
13 to become members of the system shall not be less than they would  
14 have been had they remained under any preexisting system to date of  
15 retirement.

16 (f) Members of this system having the service  
17 qualifications of members of the School Retirement System of the  
18 State of Nebraska, as provided by section 79-926, shall receive  
19 the state service annuity provided by sections 79-933 to 79-935  
20 and 79-951.

21 (2) The school district shall pick up the employee  
22 contributions required by this section for all compensation paid  
23 on or after January 1, 1985, and the contributions so picked up  
24 shall be treated as employer contributions in determining federal  
25 tax treatment under the Internal Revenue Code, except that the  
26 school district shall continue to withhold federal income taxes  
27 based upon these contributions until the Internal Revenue Service  
1 or the federal courts rule that, pursuant to section 414(h)  
2 of the Internal Revenue Code, these contributions shall not be  
3 included as gross income of the employee until such time as  
4 they are distributed or made available. The school district shall  
5 pay these employee contributions from the same source of funds  
6 which is used in paying earnings to the employee. The school  
7 district shall pick up these contributions by a salary deduction  
8 either through a reduction in the cash salary of the employee  
9 or a combination of a reduction in salary and offset against a  
10 future salary increase. Beginning September 1, 1995, the school  
11 district shall also pick up any contributions required by sections  
12 79-990, 79-991, and 79-992 which are made under an irrevocable  
13 payroll deduction authorization between the member and the school  
14 district, and the contributions so picked up shall be treated as  
15 employer contributions in determining federal tax treatment under  
16 the Internal Revenue Code, except that the school district shall  
17 continue to withhold federal and state income taxes based upon  
18 these contributions until the Internal Revenue Service rules that,  
19 pursuant to section 414(h) of the Internal Revenue Code, these  
20 contributions shall not be included as gross income of the employee  
21 until such time as they are distributed from the system. Employee  
22 contributions picked up shall be treated for all purposes of the  
23 Class V School Employees Retirement Act in the same manner and to  
24 the extent as employee contributions made prior to the date picked  
25 up.

26 Sec. 4. This act becomes operative on July 1, 2009.

27 Sec. 5. Original sections 79-958, 79-966, and 79-9,113,

1 Reissue Revised Statutes of Nebraska, are repealed.

2 Sec. 6. Since an emergency exists, this act takes effect  
3 when passed and approved according to law.

(Signed) Dave Pankonin, Chairperson

**VISITOR**

The Doctor of the Day was Dr. Tuck Smith from Holdrege.

**ADJOURNMENT**

At 4:52 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Wednesday, April 29, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTIETH DAY - APRIL 29, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 29, 2009

**PRAYER**

The prayer was offered by Father Lloyd Gnirk, St. John's Catholic Church, Valley.

**ROLL CALL**

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

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

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-ninth day was approved.

**BILL ON FIRST READING**

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

**LEGISLATIVE BILL 246A.** Introduced by Dubas, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 246, One Hundred First Legislature, First Session, 2009.

**GENERAL FILE**

**LEGISLATIVE BILL 307.** Senator Council offered the following motion:  
MO39  
Indefinitely postpone.

Laid over.

**LEGISLATIVE BILL 342.** Committee AM741, found on page 818 and considered on page 1223, as amended, was renewed.

Senator Campbell renewed her amendment, AM1225, found on page 1204 and considered on page 1223, to the committee amendment.

The Campbell amendment was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

The committee amendment, as amended, 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, 0 nays, 12 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 568.** Title read. Considered.

Committee AM732, found on page 859, was considered.

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

The committee amendment was adopted with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

### **MOTIONS - Print in Journal**

Senator Gay filed the following motion to LB346:  
MO40  
Indefinitely postpone.

Senator Gay filed the following motion to LB346A:  
MO41  
Indefinitely postpone.

Senator Avery filed the following motion to LB136:  
MO42  
Indefinitely postpone.

Senator Avery filed the following motion to LB136A:  
MO43  
Indefinitely postpone.

Senator Dubas filed the following motion to LB356:  
MO44  
Indefinitely postpone.



Senator Dubas filed the following motion to LB356A:  
MO45  
Indefinitely postpone.

Senator Nordquist filed the following motion to LB601:  
MO46  
Indefinitely postpone.

Senator Nordquist filed the following motion to LB601A:  
MO47  
Indefinitely postpone.

### AMENDMENT - Print in Journal

Senator Adams filed the following amendment to LB545:  
AM1232

(Amendments to AM1119)

- 1 1. In AM1118:
- 2 a. Strike section 7 and all amendments thereto and insert
- 3 the following new section:
- 4 Sec. 7. Section 79-1007.10, Reissue Revised Statutes of
- 5 Nebraska, is amended to read:
- 6 79-1007.10 (1) For state aid calculated for school fiscal
- 7 year 2008-09 and each school fiscal year thereafter, all school
- 8 fiscal years except 2009-10 through 2013-14, the cost growth factor
- 9 shall equal the sum of: (1)-(a) One; plus (2)-(b) the basic
- 10 allowable growth rate pursuant to section 79-1025 for the school
- 11 fiscal year in which the aid is to be distributed; plus (3)-(c)
- 12 the basic allowable growth rate pursuant to section 79-1025 for the
- 13 school fiscal year immediately preceding the school fiscal year in
- 14 which the aid is to be distributed; plus (4)-(d) one percent.
- 15 (2)(a) For state aid calculated for school fiscal year
- 16 2009-10, the cost growth factor shall equal the sum of: (i) One;
- 17 plus (ii) the basic allowable growth rate pursuant to section
- 18 79-1025 for the school fiscal year in which the aid is to be
- 19 distributed; plus (iii) the basic allowable growth rate pursuant to
- 20 section 79-1025 for the school fiscal year immediately preceding
- 21 the school fiscal year in which the aid is to be distributed; plus
- 22 (iv) one and five-tenths percent.
- 1 (b) For state aid calculated for school fiscal year
- 2 2010-11, the cost growth factor shall equal the sum of: (i) One;
- 3 plus (ii) the basic allowable growth rate pursuant to section
- 4 79-1025 for the school fiscal year in which the aid is to be
- 5 distributed; plus (iii) the basic allowable growth rate pursuant to
- 6 section 79-1025 for the school fiscal year immediately preceding
- 7 the school fiscal year in which the aid is to be distributed; plus
- 8 (iv) two percent.
- 9 (c) For state aid calculated for school fiscal years
- 10 2011-12 through 2013-14, the cost growth factor shall equal the sum

11 of: (i) One; plus (ii) the basic allowable growth rate pursuant to  
 12 section 79-1025 for the school fiscal year in which the aid is to  
 13 be distributed; plus (iii) the basic allowable growth rate pursuant  
 14 to section 79-1025 for the school fiscal year immediately preceding  
 15 the school fiscal year in which the aid is to be distributed; plus  
 16 (iv) one and five-tenths percent.

17 b. On page 45, line 9, strike "and 2010-11" and insert  
 18 "through 2013-14"; and in line 11 strike "thirty" and insert  
 19 "fifteen".

20 2. In the Adams amendment, AM1078, strike section 9 and  
 21 all amendments thereto and insert the following new section:

22 Sec. 9. Section 79-1007.18, Reissue Revised Statutes of  
 23 Nebraska, is amended to read:

24 79-1007.18 (1) For school fiscal year 2008-09 and each  
 25 school fiscal year thereafter, the department shall calculate an  
 26 averaging adjustment for districts if the basic funding per formula  
 27 student is less than the ~~statewide average basic funding per~~  
 1 ~~formula student averaging adjustment threshold~~ and the general  
 2 fund levy for the school fiscal year immediately preceding the  
 3 school fiscal year for which aid is being calculated was at least  
 4 ninety-six cents per one hundred dollars of taxable valuation  
 5 for aid calculated for school fiscal year 2008-09 and at least  
 6 one dollar per one hundred dollars of taxable valuation for aid  
 7 calculated for school fiscal year 2009-10 and each school fiscal  
 8 year thereafter. For school districts that are members of a  
 9 learning community, the general fund levy for purposes of this  
 10 section includes both the common general fund levy and the school  
 11 district general fund levy authorized pursuant to subdivisions  
 12 (2)(b) and (2)(c) of section 77-3442. The averaging adjustment  
 13 ~~for aid calculated for school fiscal year 2008-09~~ shall equal  
 14 seventy-five percent of the product of the district's formula  
 15 students multiplied by the percentage specified in subsection (4)  
 16 or (5) of this section for such district of the difference between  
 17 ~~the statewide average basic funding per formula student averaging~~  
 18 ~~adjustment threshold~~ minus such district's basic funding per  
 19 formula student. ~~The averaging adjustment for aid calculated for~~  
 20 ~~school fiscal year 2009-10 and each school fiscal year thereafter~~  
 21 ~~shall equal the district's formula students multiplied by the~~  
 22 ~~percentage specified in this section for such district of the~~  
 23 ~~difference between the statewide average basic funding per formula~~  
 24 ~~student minus such district's basic funding per formula student.~~

25 (2)(a) For school fiscal year 2008-09, the averaging  
 26 adjustment threshold shall equal the statewide average basic  
 27 funding per formula student.

1 (b) For school fiscal year 2009-10 and each school fiscal  
 2 year thereafter, the averaging adjustment threshold shall equal the  
 3 lesser of (i) the averaging adjustment threshold for the school  
 4 fiscal year immediately preceding the school fiscal year for which  
 5 aid is being calculated increased by the sum of the basic allowable

6 growth rate plus five-tenths of one percent or (ii) the statewide  
7 average basic funding per formula student for the school fiscal  
8 year for which aid is being calculated.

9 ~~(2)-(3)~~ The percentage to be used in the calculation of  
10 an averaging adjustment shall be based on the general fund levy for  
11 the school fiscal year immediately preceding the school fiscal year  
12 for which aid is being calculated.

13 ~~(3)-(4)~~ The percentages to be used in the calculation of  
14 averaging adjustments for school fiscal year 2008-09 shall be as  
15 follows:

16 (a) If such levy was at least ninety-six cents per one  
17 hundred dollars of taxable valuation but less than ninety-seven  
18 cents per one hundred dollars of taxable valuation, the percentage  
19 shall be ten percent;

20 (b) If such levy was at least ninety-seven cents per one  
21 hundred dollars of taxable valuation but less than ninety-eight  
22 cents per one hundred dollars of taxable valuation, the percentage  
23 shall be twenty percent;

24 (c) If such levy was at least ninety-eight cents per  
25 one hundred dollars of taxable valuation but less than ninety-nine  
26 cents per one hundred dollars of taxable valuation, the percentage  
27 shall be thirty percent;

1 (d) If such levy was at least ninety-nine cents per one  
2 hundred dollars of taxable valuation but less than one dollar per  
3 one hundred dollars of taxable valuation, the percentage shall be  
4 forty percent;

5 (e) If such levy was at least one dollar per one hundred  
6 dollars of taxable valuation but less than one dollar and one cent  
7 per one hundred dollars of taxable valuation, the percentage shall  
8 be fifty percent;

9 (f) If such levy was at least one dollar and one cent per  
10 one hundred dollars of taxable valuation but less than one dollar  
11 and two cents per one hundred dollars of taxable valuation, the  
12 percentage shall be sixty percent;

13 (g) If such levy was at least one dollar and two  
14 cents per one hundred dollars of taxable valuation but less than  
15 one dollar and three cents per one hundred dollars of taxable  
16 valuation, the percentage shall be seventy percent;

17 (h) If such levy was at least one dollar and three cents  
18 per one hundred dollars of taxable valuation but less than one  
19 dollar and four cents per one hundred dollars of taxable valuation,  
20 the percentage shall be eighty percent; and

21 (i) If such levy was at least one dollar and four cents  
22 per one hundred dollars of taxable valuation, the percentage shall  
23 be ninety percent.

24 ~~(4)-(5)~~ The percentages to be used in the calculation  
25 of averaging adjustments for school fiscal year 2009-10 and each  
26 school fiscal year thereafter shall be as follows:

27 (a) If such levy was at least one dollar per one hundred

- 1 dollars of taxable valuation but less than one dollar and one cent  
 2 per one hundred dollars of taxable valuation, the percentage shall  
 3 be fifty percent;
- 4 (b) If such levy was at least one dollar and one cent per  
 5 one hundred dollars of taxable valuation but less than one dollar  
 6 and two cents per one hundred dollars of taxable valuation, the  
 7 percentage shall be sixty percent;
- 8 (c) If such levy was at least one dollar and two  
 9 cents per one hundred dollars of taxable valuation but less than  
 10 one dollar and three cents per one hundred dollars of taxable  
 11 valuation, the percentage shall be seventy percent;
- 12 (d) If such levy was at least one dollar and three cents  
 13 per one hundred dollars of taxable valuation but less than one  
 14 dollar and four cents per one hundred dollars of taxable valuation,  
 15 the percentage shall be eighty percent; and
- 16 (e) If such levy was at least one dollar and four cents  
 17 per one hundred dollars of taxable valuation, the percentage shall  
 18 be ninety percent.

## RESOLUTION

**LEGISLATIVE RESOLUTION 102.** Introduced by Giese, 17; Avery, 28; Christensen, 44; Flood, 19; Hadley, 37; Harms, 48; Janssen, 15; Langemeier, 23; Louden, 49; Pankonin, 2; Schilz, 47; Stuthman, 22.

**PURPOSE:** The purpose of this interim study is to examine issues relating to the Nebraska Expressway System. The issues addressed by this interim study shall include, but not be limited to:

- (1) A review of the initial establishment of the expressway system in 1988, including the factors used by the Department of Roads to determine the initial expressway routes;
- (2) A review of the process used by the Department of Roads to include additional highway routes in the expressway system;
- (3) An analysis of how the Department of Roads views the expressway system as a key component of the overall state highway system;
- (4) An analysis of methods used by the Department of Roads to prioritize upgrades to the state highway system, including the possible use of commercial traffic volume or other economic factors to prioritize construction;
- (5) A review of the process used by the Department of Roads to apply for and utilize earmarked federal funding for the expressway system; and
- (6) An analysis of possible funding methods to complete the unfinished 179 miles of the planned 600-mile system, as well as additional expressway projects proposed in the Department of Roads long-range planning.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to 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 630.** Committee AM874, found on page 904 and considered on page 1232, was renewed.

### SENATOR STUTHMAN PRESIDING

Senator Schilz renewed his amendment, FA27, found on page 1020 and considered on page 1232, to the committee amendment.

### PRESIDENT SHEEHY PRESIDING

Senator Janssen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 4 nays, and 19 not voting.

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

Senator Schilz requested a roll call vote on his amendment.

Voting in the affirmative, 29:

Adams	Fischer	Hadley	McCoy	Schilz
Campbell	Flood	Hansen	Nelson	Stuthman
Carlson	Friend	Harms	Pahls	Sullivan
Christensen	Fulton	Janssen	Pankonin	Utter
Coash	Gay	Lautenbaugh	Pirsch	Wightman
Dierks	Gloor	Louden	Price	

Voting in the negative, 17:

Ashford	Council	Howard	Nantkes	White
Avery	Dubas	Lathrop	Nordquist	
Cook	Giese	McGill	Rogert	
Cornett	Haar	Mello	Wallman	

Excused and not voting, 3:

Heidemann	Karpisek	Langemeier
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The Schilz amendment was adopted with 29 ayes, 17 nays, and 3 excused and not voting.

The Chair declared the call raised.

The committee amendment, as amended, was adopted with 42 ayes, 2 nays, 4 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 3 nays, 3 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 224.** Title read. Considered.

Committee AM949, found on page 1171, was considered.

Pending.

### AMENDMENT - Print in Journal

Senator Campbell filed the following amendment to LB542:  
AM1224

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 38-1136, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 38-1136 (1) The department, with the recommendation
- 6 of the board, shall adopt and promulgate rules and regulations
- 7 governing the performance of duties by licensed dental hygienists
- 8 and dental assistants.
- 9 (2) The department, with the recommendation of the board,
- 10 shall adopt and promulgate rules and regulations relating to the
- 11 performance of duties by dental assistants which may include basic
- 12 qualifications, education, training, and competency assessment of
- 13 dental assistants.
- 14 Sec. 2. Original section 38-1136, Reissue Revised
- 15 Statutes of Nebraska, is repealed.

### VISITORS

Visitors to the Chamber were 25 fourth- and fifth-grade students from Ansley; 16 fourth-grade students from St. Patrick School, Lincoln; 12 fourth-grade students from St. Joan of Arc Elementary, Omaha; Fred Schneider from Lincoln; 47 fourth-grade students from Joslyn Elementary, Omaha; Senator Frank Kloucek from Scotland, South Dakota, Myron Rau from Sioux Falls, South Dakota, and Larry and Nancy Bowers from Armour, South Dakota; 41 eleventh-grade students and teachers from Wood River; Senator Hadley's wife and sister-in-law, Marilyn Hadley and Kathy Bowen, from Kearney; 50 fourth-grade students from Central City; and 30

twelfth-grade students from Wilber Clatonia School, Wilber.

### RECESS

At 11:58 a.m., on a motion by Speaker Flood, the Legislature recessed until 1:30 p.m.

### AFTER RECESS

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

### ROLL CALL

The roll was called and all members were present except Senators Adams, Ashford, Cornett, Dierks, Friend, Fulton, Hadley, Langemeier, Loudon, Nantkes, Utter, and White who were excused until they arrive.

### AMENDMENT - Print in Journal

Senator Council filed the following amendment to LB679:  
AM1245

(Amendments to Final Reading copy)

- 1 1. Strike the original sections and insert the following
- 2 sections:
- 3 Section 1. Section 43-1302, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 43-1302 ~~(1)(a) Until January 1, 2006, (1) It is the~~
- 6 intent of the Legislature that no person with a conflict of
- 7 interest as described in this section shall be a member of the
- 8 state board. No person or person whose spouse, parent, sibling,
- 9 or child by blood or marriage is employed by or who receives or
- 10 distributes funds from the Department of Health and Human Services,
- 11 a child-caring agency, a child-placing agency, a court, a county,
- 12 or a designated contractor of any such agency is eligible to
- 13 be a member of the state board, except that a practitioner of
- 14 pediatric medicine licensed under the Uniform Credentialing Act and
- 15 a guardian ad litem who receives less than one-half of his or her
- 16 income for such services are eligible to be members of the state
- 17 board.
- 18 (2) The terms of members serving on the state board on
- 19 the effective date of this act who have a conflict of interest
- 20 as described in this section shall expire on the thirtieth day
- 21 after the effective date of this act. The Governor shall make any
- 22 appointments needed to have a nine-member state board that meets
- 1 the requirements of this section. Such appointments shall be made
- 2 and qualified within thirty days after the effective date of this
- 3 act. For such appointments, the terms of such members shall begin
- 4 on the thirty-first day after the effective date of this act, and
- 5 the Governor shall designate terms of one, two, or three years

6 for such appointments to maintain as equal a rotation of terms as  
 7 possible.

8 (3) On and after the thirty-first day after the effective  
 9 date of this act: The the State Foster Care Review Board shall  
 10 be comprised of nine members to be appointed by the Governor;  
 11 subject to confirmation by a majority of the members elected to  
 12 and confirmed by the Legislature. At least one member shall be an  
 13 attorney with legal expertise in child welfare. Two members shall  
 14 be-At least one member shall be a guardian ad litem, at least  
 15 one member shall be a practitioner of pediatric medicine licensed  
 16 under the Uniform Credentialing Act, at least one member shall  
 17 be a former foster parent, and six members shall be members in  
 18 good standing from local foster care review boards with two from  
 19 each of the three congressional districts as they such districts  
 20 existed on January 1, 2009. 1982. In addition to the six members  
 21 representative of the congressional districts, three members shall  
 22 be appointed by the Governor from a group consisting of all the  
 23 chairpersons of the local boards, and one such chairperson shall  
 24 be appointed from each such congressional district. The appointment  
 25 of a member of a local board to the state board shall does not  
 26 create a vacancy on the local board. Members other than those  
 27 appointed from the group consisting of all the chairpersons of  
 1 the local boards shall be appointed to three year terms, and those  
 2 members appointed from the group consisting of all the chairpersons  
 3 of local boards shall be appointed to two year terms. No person  
 4 shall serve on the state board for more than six consecutive years.  
 5 For any vacancy occurring prior to an expired term, the Governor  
 6 shall appoint a member who meets the qualifications of his or  
 7 her predecessor and such appointee shall serve out the unexpired  
 8 term. Members whose terms have expired shall continue to serve  
 9 until their successors have been appointed and qualified. No person  
 10 employed by a child caring agency, a child placing agency, or a  
 11 court shall be appointed to the state board.

12 (b) On and after January 1, 2006, the State Foster  
 13 Care Review Board shall be comprised of eleven members appointed  
 14 by the Governor with the approval of a majority of the members  
 15 elected to the Legislature, consisting of: Three members of local  
 16 foster care review boards, one from each congressional district;  
 17 one practitioner of pediatric medicine, licensed under the Uniform  
 18 Credentialing Act; one practitioner of child clinical psychology,  
 19 licensed under the Uniform Credentialing Act; one social worker  
 20 eertified under the Uniform Credentialing Act, with expertise in  
 21 the area of child welfare; one attorney who is or has been a  
 22 guardian ad litem; one representative of a statewide child advocacy  
 23 group; one director of a child advocacy center; one director of  
 24 a court appointed special advocate program; and one member of the  
 25 public who has a background in business or finance.

26 The terms of members appointed pursuant to this  
 27 subdivision shall be three years, except that of the initial



1 members of the state board, one third shall be appointed for terms  
 2 of one year, one third for terms of two years, and one third for  
 3 terms of three years, as determined by the Governor. No person  
 4 appointed by the Governor to the state board shall serve more  
 5 than two consecutive three year terms. An appointee to a vacancy  
 6 occurring from an unexpired term shall serve out the term of  
 7 his or her predecessor. Members whose terms have expired shall  
 8 continue to serve until their successors have been appointed and  
 9 qualified. Members serving on the state board on December 31, 2005,  
 10 shall continue in office until the members appointed under this  
 11 subdivision take office. The members of the state board shall, to  
 12 the extent possible, represent the three congressional districts  
 13 equally.

14 ~~(2)-(4)~~ The state board shall select a chairperson,  
 15 vice-chairperson, and such other officers as the state board deems  
 16 necessary. Members of the state board shall be reimbursed for their  
 17 actual and necessary expenses as provided in sections 81-1174 to  
 18 81-1177. The state board shall employ or contract for services from  
 19 such persons as are necessary to aid it in carrying out its duties.

20 Sec. 2. Original section 43-1302, Reissue Revised

21 Statutes of Nebraska, is repealed.

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

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 103.** Introduced by Agriculture  
 Committee: Carlson, 38, Chairperson; Council, 11; Dierks, 40; Dubas, 34;  
 Karpisek, 32; Price, 3; Schilz, 47; Wallman, 30.

**PURPOSE:** The purpose of this resolution is to examine the statutory duties and responsibilities of riparian landowners adjacent to natural streams and other watercourses for the control and removal of noxious and invasive vegetation within and adjacent to the streambed. The study shall particularly examine those duties imposed upon adjacent landowners under the Noxious Weed Control Act and the drainage statutes in Chapter 31, article 2, of the Nebraska Revised Statutes. It is a goal of the study to arrive at conclusions regarding the applicability and equity of such duties in relation to societal factors that have altered natural stream flows over time and the efficacy of enforcement of such duties as a means to achieve the objectives and societal benefits of vegetation management projects.

**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 be designated to 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.

**LEGISLATIVE RESOLUTION 104.** Introduced by Agriculture Committee: Carlson, 38, Chairperson; Council, 11; Dierks, 40; Dubas, 34; Karpisek, 32; Price, 3; Schilz, 47; Wallman, 30.

**PURPOSE:** The purpose of this resolution is to examine mechanisms to mitigate marketing risks to producers and other grain market participants beyond those currently available under the Grain Dealer Act and the Grain Warehouse Act. In particular, the study shall examine the concept of producer-funded indemnity programs as a means to insure marketing transactions entered into by producers and other market participants. The study shall compile information regarding indemnity funds existing in other states and identify policy considerations in the establishment and design of such indemnity programs. The study shall seek to involve the participation of the grain warehouse department of the Public Service Commission, commodity producers, and grain market participants.

**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 be designated to 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.

### **SELECT FILE**

**LEGISLATIVE BILL 237.** ER8091, found on page 1158, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 237A.** Senator Lathrop offered the following amendment:

AM1246

- 1 1. Strike original section 2 and insert the following new
- 2 section:
- 3 Sec. 2. There is hereby appropriated (1) \$13,000 from
- 4 the General Fund and \$7,000 from federal funds for FY2009-10 and
- 5 (2) \$13,000 from the General Fund and \$7,000 from federal funds
- 6 for FY2010-11 to the Department of Health and Human Services, for
- 7 Program 33, to aid in carrying out the provisions of Legislative
- 8 Bill 237, One Hundred First Legislature, First Session, 2009.

The Lathrop amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 92.** ER8092, found on page 1159, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 97.** ER8094, found on page 1207, was adopted.

Senator Stuthman renewed his amendment, AM1234, found on page 1220.

The Stuthman amendment was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Senator Flood offered the following amendment:  
AM1259

(Amendments to E & R amendments, ER8094)

- 1 1. Insert the following section:
- 2 Sec. 35. The following section is outright repealed:
- 3 Section 28-321, Reissue Revised Statutes of Nebraska.
- 4 2. On page 5, lines 3 and 4; page 6, lines 3 and 4; and
- 5 page 7, lines 6 and 7, strike "and afford the victim and parties a
- 6 right to attend and be heard".
- 7 3. On page 10, line 25; page 43, line 21; and page 44,
- 8 line 16, strike "28-323" and insert "28-322.04".
- 9 4. On page 44, line 21, strike "and 33" and insert "33,
- 10 and 35".
- 11 5. Renumber the remaining section accordingly.

The Flood amendment was adopted with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

Senator Lautenbaugh offered the following amendment:  
AM1255

(Amendments to E & R amendments, ER8094)

- 1 1. On page 24, after line 13, insert the following new
- 2 subsection:
- 3 "(12) The changes made to this section by this
- 4 legislative bill and Laws 2006, LB 1199, shall apply to offenses
- 5 committed prior to the operative date of this section for which
- 6 the statute of limitations has not expired as of such date and to
- 7 offenses committed on or after such date.".
- 8 2. On page 26, strike beginning with "As" in line 14
- 9 through "requires" in line 15 and insert "For purposes of the
- 10 Sex Offender Registration Act"; in line 22 after "network" insert
- 11 "primarily"; and in line 23 after "text" insert "or voice".
- 12 3. On page 27, after line 4, insert the following new
- 13 subdivision:

14 "(4) Domain name means a series of text-based symbols,  
 15 letters, numbers, or text characters used to provide recognizable  
 16 names to numerically addressed Internet resources that are  
 17 registered by the Internet Corporation for Assigned Names and  
 18 Numbers"; in line 5 strike "(4)" and insert "(5)"; in line 9  
 19 strike "(5)" and insert "(6)"; strike beginning with "computer"  
 20 in line 10 through "the" in line 11; in line 13 strike "(6)" and  
 21 insert "(7)"; in line 19 strike "(7)" and insert "(8)"; in line  
 22 24 after the semicolon insert "and"; and in line 25 strike "(8)"  
 1 and insert "(9)".

2 4. On page 28, line 8, strike "; and" and insert an  
 3 underscored period and strike lines 9 through 13.

4 5. On page 31, line 21; page 34, lines 7 and 8; page  
 5 36, lines 7 and 16; and page 40, lines 7 and 16, strike "uniform  
 6 resource locators" and insert "domain names".

7 6. On page 31, line 22; page 34, line 8; page 36, lines 8  
 8 and 16; and page 40, lines 8 and 16, strike "or used".

9 7. On page 32, line 3, strike "or used" and ", at any  
 10 time"; and in line 7 strike "or used".

11 8. On page 36, lines 19 and 20; and page 40, lines 19  
 12 and 20, strike "within five working days" and insert "by the next  
 13 working day".

14 9. On page 36, line 24; and page 40, line 24, strike  
 15 "potential or".

The Lautenbaugh amendment was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

## COMMITTEE REPORTS

### Appropriations

**LEGISLATIVE BILL 311.** Placed on General File with amendment. AM886 is available in the Bill Room.

**LEGISLATIVE BILL 312.** Placed on General File.

**LEGISLATIVE BILL 313.** Placed on General File with amendment. AM887 is available in the Bill Room.

**LEGISLATIVE BILL 314.** Placed on General File with amendment. AM888 is available in the Bill Room.

**LEGISLATIVE BILL 315.** Placed on General File with amendment. AM889 is available in the Bill Room.

**LEGISLATIVE BILL 316.** Placed on General File with amendment. AM890 is available in the Bill Room.

**LEGISLATIVE BILL 318.** Placed on General File.

**LEGISLATIVE BILL 456.** Placed on General File with amendment.  
AM1214

- 1 1. Insert the following new section:  
 2 Sec. 6. Since an emergency exists, this act takes effect  
 3 when passed and approved according to law.  
 4 2. On page 10, after line 12, insert the following new  
 5 paragraphs:  
 6 "(17) On or before June 15, 2010, the State Treasurer,  
 7 at the direction of the budget administrator, shall transfer  
 8 ninety-five million dollars from the Cash Reserve Fund to the  
 9 General Fund.  
 10 (18) On or before June 15, 2011, the State Treasurer,  
 11 at the direction of the budget administrator, shall transfer one  
 12 hundred fifty-one million dollars from the Cash Reserve Fund to the  
 13 General Fund.  
 14 (19) On June 15, 2009, the State Treasurer shall transfer  
 15 seven million five hundred thousand dollars from the Cash Reserve  
 16 Fund to the Governor's Emergency Cash Fund.  
 17 (20) On July 7, 2009, the State Treasurer shall  
 18 transfer one million dollars from the Cash Reserve Fund to the  
 19 State Visitors Promotion Cash Fund. The Department of Economic  
 20 Development shall use such funds to provide funding for the  
 21 promotion and support of the hosting of a Special Olympics national  
 22 event by a city of the primary class."

(Signed) Lavon Heidemann, Chairperson

### SELECT FILE

**LEGISLATIVE BILL 402.** Advanced to Enrollment and Review for  
Engrossment.

**LEGISLATIVE BILL 286.** ER8059, found on page 1007, was adopted.

Senator Karpisek renewed his amendment, AM1029, found on page 1012.

### SENATOR ROBERT PRESIDING

The Karpisek amendment was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 188.** ER8063, found on page 1022, was adopted.

Senator Pankonin renewed his amendment, AM1063, found on page 1026.

The Pankonin amendment was adopted with 36 ayes, 0 nays, 11 present and

not voting, and 2 excused and not voting.

Senator Pankonin renewed his amendment, AM1153, found on page 1225.

The Pankonin amendment was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 495.** ER8066, found on page 1048, was adopted.

Senator Friend withdrew his amendment, AM1025, found on page 1010.

Senator Friend renewed his amendment, AM1211, found on page 1200.

### **SENATOR LANGEMEIER PRESIDING**

The Friend amendment was adopted with 38 ayes, 0 nays, and 11 present and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 653.** ER8095, found on page 1208, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 497.** ER8064, found on page 1022, was adopted.

Senator Fischer asked unanimous consent to withdraw her amendment, AM1155, found on page 1159, and replace it with her substitute amendment, AM1182, found on page 1215. No objections. So ordered.

The Fischer amendment was adopted with 33 ayes, 0 nays, and 16 present and not voting.

Senator Janssen asked unanimous consent to withdraw his amendment, AM1174, found on page 1190, and replace it with his substitute amendment, AM1240. No objections. So ordered.

AM1240

(Amendments to AM1015)

- 1 1. Strike section 2 and all amendments thereto and insert
- 2 the following new sections:
- 3 Sec. 2. Section 60-498.02, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 60-498.02 (1) At the expiration of thirty days after the
- 6 date of arrest as described in subsection (2) of section 60-6,197
- 7 or if after a hearing pursuant to section 60-498.01 the director
- 8 finds that the operator's license should be revoked, the director

9 shall (a) revoke the operator's license of a person arrested for  
10 refusal to submit to a chemical test of blood, breath, or urine  
11 as required by section 60-6,197 for a period of one year and  
12 (b) revoke the operator's license of a person who submits to a  
13 chemical test pursuant to such section which discloses the presence  
14 of a concentration of alcohol specified in section 60-6,196 for a  
15 period of ninety days unless the person's driving record abstract  
16 maintained in the department's computerized records shows one or  
17 more prior administrative license revocations on which final orders  
18 have been issued during the immediately preceding twelve-year  
19 period at the time the order of revocation is issued, in which case  
20 the period of revocation shall be one year. Except as otherwise  
21 provided in section 60-6,211.05, a new operator's license shall  
22 not be issued to such person until the period of revocation has  
1 elapsed. If the person subject to the revocation is a nonresident  
2 of this state, the director shall revoke only the nonresident's  
3 operating privilege as defined in section 60-474 of such person and  
4 shall immediately forward the operator's license and a statement of  
5 the order of revocation to the person's state of residence.

6 ~~(2)~~(2)(a) At the expiration of thirty days after an  
7 order of revocation is entered under ~~subsection (1) subdivision~~  
8 (1)(b) of this section, any person whose operator's license has  
9 been administratively revoked for a period of ninety days for  
10 submitting to a chemical test pursuant to section 60-6,197 which  
11 disclosed the presence of a concentration of alcohol in violation  
12 of section 60-6,196 may make application to the director for  
13 issuance of an employment driving permit pursuant to section  
14 60-4,130.

15 (b) At the expiration of sixty days after an order of  
16 revocation is entered under subdivision (1)(a) of this section, any  
17 person whose operator's license has been administratively revoked  
18 for refusal to submit to a chemical test pursuant to section  
19 60-6,197, may make application to the director for issuance of  
20 an employment driving permit pursuant to section 60-4,130 unless  
21 the person's driving record abstract maintained in the department's  
22 computerized records shows one or more prior administrative license  
23 revocations on which final orders have been issued during the  
24 immediately preceding twelve-year period at the time of the  
25 revocation is issued.

26 (3)(a) At the expiration of thirty days after an order  
27 of administrative license revocation for ninety days is entered  
1 under ~~subsection (1) subdivision (1)(b)~~ of this section, any person  
2 who submitted to a chemical test pursuant to section 60-6,197  
3 which disclosed the presence of a concentration of alcohol in  
4 violation of section 60-6,196 is eligible for an order to allow  
5 application for an ignition interlock permit to operate a motor  
6 vehicle equipped with an ignition interlock device pursuant to  
7 section 60-6,211.05 upon presentation of sufficient evidence to the  
8 Department of Motor Vehicles that such a device is installed.

9 (b) At the expiration of sixty days after an order of  
 10 administrative license revocation for one year is entered under  
 11 ~~subsection (1) subdivision (1)(b)~~ of this section, any person who  
 12 submitted to a chemical test pursuant to section 60-6,197 which  
 13 disclosed the presence of a concentration of alcohol in violation  
 14 of section 60-6,196 is eligible for an order to allow application  
 15 for an ignition interlock permit in order to operate a motor  
 16 vehicle equipped with an ignition interlock device pursuant to  
 17 section 60-6,211.05 upon presentation of sufficient evidence to the  
 18 Department of Motor Vehicles that such a device is installed.

19 (c) At the expiration of sixty days after an order  
 20 of administrative license revocation is entered under subdivision  
 21 (1)(a) of this section, any person who refused to submit to  
 22 a chemical test pursuant to section 60-6,197 is eligible for  
 23 an order to allow application for an ignition interlock permit  
 24 in order to operate a motor vehicle equipped with an ignition  
 25 interlock device pursuant to section 60-6,211.05 upon presentation  
 26 of sufficient evidence to the department that such a device is  
 27 installed, unless the person's driving record abstract maintained  
 1 in the department's computerized records shows one or more prior  
 2 administrative license revocations on which final orders have been  
 3 issued during the immediately preceding twelve-year period at the  
 4 time of the revocation is issued.

5 (e)-(d) A person operating a motor vehicle pursuant to  
 6 this subsection shall only operate the motor vehicle to and from  
 7 his or her residence, to his or her place of employment, his or  
 8 her school, or an alcohol treatment program, required visits with  
 9 his or her probation officer, or an ignition interlock service  
 10 facility. Such permit shall indicate for which purposes the permit  
 11 may be used. All permits issued pursuant to this subsection shall  
 12 indicate that the permit is not valid for the operation of any  
 13 commercial motor vehicle.

14 (4) No person shall be eligible for an employment driving  
 15 permit or an ignition interlock permit during any period of time  
 16 during which his or her operator's license is subject to an  
 17 administrative revocation order for refusal to submit to a chemical  
 18 test of blood, breath, or urine as required by section 60-6,197.

19 (5)-(4) A person may have his or her eligibility for a  
 20 license reinstated upon payment of a reinstatement fee as required  
 21 by section 60-694.01.

22 (6)(a)-(5)(a) A person whose operator's license is  
 23 subject to revocation pursuant to subsection (3) of section  
 24 60-498.01 shall have all proceedings dismissed or his or her  
 25 operator's license immediately reinstated without payment of the  
 26 reinstatement fee upon receipt of suitable evidence by the director  
 27 that:

1 (i) Within the thirty-day period following the date  
 2 of arrest, the prosecuting attorney responsible for the matter  
 3 declined to file a complaint alleging a violation of section



4 60-6,196 and notified the director by first-class mail or facsimile  
5 transmission of such decision and the director received such notice  
6 within such period or the notice was postmarked within such period;  
7 or

8 (ii) The defendant, after trial, was found not guilty  
9 of violating section 60-6,196 or such charge was dismissed on the  
10 merits by the court.

11 (b) The director shall adopt and promulgate rules and  
12 regulations establishing standards for the presentation of suitable  
13 evidence of compliance with subdivision (a) of this subsection.

14 (c) If a charge is filed for a violation of section  
15 60-6,196 pursuant to an arrest for which all proceedings were  
16 dismissed under this subsection, the prosecuting attorney shall  
17 notify the director by first-class mail or facsimile transmission  
18 of the filing of such charge and the director may reinstate an  
19 administrative license revocation under this section as of the  
20 date that the director receives notification of the filing of the  
21 charge, except that a revocation shall not be reinstated if it was  
22 dismissed pursuant to section 60-498.01.

23 Sec. 8. Section 60-6,197.05, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 60-6,197.05 Any period of revocation imposed for a  
26 violation of section 60-6,196 or 60-6,197 shall be reduced  
27 by any period imposed under section 60-498.02. Any period of  
1 revocation imposed under subdivision (1) of section 60-6,197.03 for  
2 a violation of section 60-6,196 or 60-6,197 or under subdivision  
3 (2)(a) of section 60-6,196, as such section existed prior to July  
4 16, 2004, shall not prohibit the operation of a motor vehicle under  
5 the terms and conditions of an employment driving permit issued  
6 pursuant to subsection (2) of section 60-498.02.

7 2. On page 4, line 8, strike "Department of Motor  
8 Vehicles", show as stricken, and insert "department".

9 3. On page 36, line 14, after "60-6,197.03," insert  
10 "60-6,197.05,".

11 4. Renumber the remaining sections accordingly.

The Janssen amendment was adopted with 33 ayes, 0 nays, and 16 present and not voting.

Senator Fulton renewed his amendment, AM1062, found on page 1190.

## **SENATOR ROBERT PRESIDING**

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

Senator Fulton requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 14:

Christensen	Dubas	Gloor	Pirsch	Wallman
Cook	Fulton	Harms	Price	Wightman
Dierks	Giese	Janssen	Rogert	

Voting in the negative, 15:

Ashford	Fischer	Langemeier	Nantkes	Stuthman
Campbell	Hansen	Lautenbaugh	Nelson	Sullivan
Carlson	Karpisek	Louden	Schilz	Utter

Present and not voting, 17:

Adams	Gay	Howard	Mello	White
Avery	Haar	Lathrop	Nordquist	
Cornett	Hadley	McCoy	Pahls	
Flood	Heidemann	McGill	Pankonin	

Excused and not voting, 3:

Coash	Council	Friend
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The Fulton amendment lost with 14 ayes, 15 nays, 17 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 497A.** Advanced to Enrollment and Review for Engrossment.

## RESOLUTION

**LEGISLATIVE RESOLUTION 105.** Introduced by Ashford, 20; Nelson, 6.

WHEREAS, Donald G. Gilpin has made a tremendous impact on Omaha Westside High School since he first began working there in 1976; and

WHEREAS, Mr. Gilpin has taught business and marketing classes at Omaha Westside High School for many years, helping numerous students along the way; and

WHEREAS, Mr. Gilpin has been a longtime member of the Westside Education Association and the Nebraska Association of Marketing Educators. He also served on the board of directors of DECA for ten years; and

WHEREAS, Mr. Gilpin has also been an influential coach at Omaha Westside High School, serving at various times as soccer coach, football

coach, and wrestling coach. He was also named Girls' High School Soccer Coach of the Year in 1994; and

WHEREAS, Mr. Gilpin will be retiring this year; and

WHEREAS, Mr. Gilpin, throughout his professional teaching, coaching, and administrative career has touched the lives of numerous athletes, students, faculty, and staff by providing a challenging and positive learning environment as well as exemplary leadership.

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

1. That the Legislature recognizes and congratulates Donald G. Gilpin for his many years of service to Omaha Westside High School.

2. That a copy of this resolution be sent to Donald G. Gilpin.

Laid over.

### BILL ON FIRST READING

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

**LEGISLATIVE BILL 342A.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to appropriations; to reduce an appropriation to aid in carrying out the provisions of Legislative Bill 342, One Hundred First Legislature, First Session, 2009.

### GENERAL FILE

**LEGISLATIVE BILL 224.** Committee AM949, found on page 1171 and considered in this day's Journal, was renewed.

Senator Carlson moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator White requested a record vote on the committee amendment.

Voting in the affirmative, 28:

Adams	Dubas	Gloor	Mello	Stuthman
Avery	Fischer	Hadley	Nantkes	Sullivan
Carlson	Flood	Harms	Pirsch	Utter
Christensen	Fulton	Lautenbaugh	Price	Wightman
Coash	Gay	Louden	Rogert	
Cook	Giese	McCoy	Schilz	

Voting in the negative, 4:

Hansen	Karpisek	Wallman	White
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Present and not voting, 10:

Campbell	Haar	Lathrop	Nelson	Pahls
Cornett	Janssen	McGill	Nordquist	Pankonin

Excused and not voting, 7:

Ashford	Dierks	Heidemann	Langemeier
Council	Friend	Howard	

The committee amendment was adopted with 28 ayes, 4 nays, 10 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 4 nays, 6 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 232.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 285.** Placed on Select File with amendment. ER8103 is available in the Bill Room.

**LEGISLATIVE BILL 9.** Placed on Select File with amendment. ER8099

- 1 1. On page 1, line 3, strike "biofuels used" and insert
- 2 "wood and corn used as fuel".

**LEGISLATIVE BILL 494.** Placed on Select File.

**LEGISLATIVE BILL 633.** Placed on Select File with amendment. ER8102

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. This act shall be known and may be cited as
- 4 the Neighborhood Development Act.
- 5 Sec. 2. The Legislature finds that there is a need to:
- 6 (1) Stimulate local community development efforts
- 7 statewide;
- 8 (2) Build an environment to engage in more effective
- 9 community development; and
- 10 (3) Assist community improvement groups which have
- 11 positive impacts upon the vitality, cohesiveness, and continued

12 viability of both urban and rural communities throughout the state.  
13 Sec. 3. The purposes of the Neighborhood Development Act  
14 are to:

15 (1) Strengthen neighborhoods and small communities by  
16 enhancing their ability to develop community development plans;

17 (2) Coordinate the use of existing programs and funds  
18 more efficiently and effectively in support of new programs and  
19 initiatives; and

20 (3) Revitalize declining neighborhoods and small  
21 communities, maintain the integrity of stable, viable neighborhoods  
22 and small communities, and strengthen existing neighborhoods and  
23 small communities.

1 Sec. 4. For purposes of the Neighborhood Development Act:

2 (1) College means the College of Public Affairs and  
3 Community Service of the University of Nebraska at Omaha;

4 (2) Community improvement group means a neighborhood  
5 association or small community;

6 (3) Fund means the Neighborhood Development Grant Fund;

7 (4) Neighborhood association means an organization that  
8 is recognized or endorsed by an incorporated city or village or  
9 county as representing all of the residents within a specific,  
10 defined geographical area, with the organization representing those  
11 residents on a wide range of issues through an open meeting process  
12 with elected officers and regularly scheduled meetings; and

13 (5) Small community means an unincorporated village or  
14 an incorporated city of the second class or village as defined in  
15 sections 17-101 and 17-201.

16 Sec. 5. (1) The Neighborhood Development Grant Fund is  
17 created. The fund shall be used by the college to carry out its  
18 duties and responsibilities under the Neighborhood Development Act.  
19 It is the intent of the Legislature that one hundred twenty-five  
20 thousand dollars be appropriated to the fund for FY2009-10 and each  
21 of the following fiscal years through FY2012-13.

22 (2) The State Treasurer shall credit to the fund any  
23 money (a) appropriated to the fund by the Legislature, (b) donated  
24 as gifts, bequests, grants, or otherwise contributed to the fund  
25 from public or private sources, and (c) received pursuant to this  
26 section. Any money in the fund available for investment shall be  
27 invested by the state investment officer pursuant to the Nebraska  
1 Capital Expansion Act and the Nebraska State Funds Investment Act.

2 Sec. 6. (1) The college shall award development grants  
3 to qualified community improvement groups through an application  
4 process. The college shall develop and provide requesting community  
5 improvement groups with an application form. The form shall be  
6 simple and concise, using nontechnical language, and the questions  
7 on the form shall be factual in nature.

8 (2) To be eligible for a grant, the applying community  
9 improvement group shall:

10 (a) Demonstrate that the grant funds will be used for a

- 11 neighborhood or community project;  
 12 (b) Demonstrate with regard to the project:  
 13 (i) That it will provide a public benefit;  
 14 (ii) That it will provide a particular benefit to the  
 15 applicant's neighborhood or small community;  
 16 (iii) That it will be completed within one year after  
 17 receipt of the grant;  
 18 (iv) That neighborhood or small community residents were  
 19 involved in the identification and planning for the project and  
 20 will be involved in the project's execution; and  
 21 (v) That the project does not duplicate an existing  
 22 public program;  
 23 (c) Document verifiable goals for the project for which  
 24 grant funds are requested; and  
 25 (d) Document that the applicant will bring to the project  
 26 a match equivalent in money or in-kind services equal to the  
 27 following:  
 1 (i) For a grant of five thousand dollars or less, a match  
 2 equivalent to at least twenty-five percent of the amount of the  
 3 grant sought;  
 4 (ii) For a grant of seven thousand five hundred dollars  
 5 or less but more than five thousand dollars, a match equivalent to  
 6 at least twenty-six percent and no more than forty-nine percent of  
 7 the amount of the grant sought; and  
 8 (iii) For a grant of ten thousand dollars or less but  
 9 more than seven thousand five hundred dollars, a match equivalent  
 10 to fifty percent or more of the amount of the grant sought.  
 11 (3) A recipient of a grant shall not use the grant  
 12 funds for administrative support of the recipient, for the planning  
 13 of a project, or for the administrative costs relating to the  
 14 planning of a project. Not more than five percent of the grant  
 15 funds received shall be expended by the recipient of the grant  
 16 for expenses incurred in administering the grant. A recipient of  
 17 a grant may not receive more than one grant for the same project,  
 18 and a project may not receive more than one grant in any one year.  
 19 No grant to a single community improvement group shall exceed ten  
 20 thousand dollars.  
 21 Sec. 7. In assessing the applications received from  
 22 community improvement groups, the college shall weigh the relative  
 23 merits of the applications, giving consideration to the following  
 24 factors:  
 25 (1) The amount of the match;  
 26 (2) The level of involvement by persons living in the  
 27 community;  
 1 (3) The community needs that are reflected in the  
 2 application;  
 3 (4) The likelihood of the successful completion of the  
 4 project;  
 5 (5) The innovative character of the proposed solution;

6 and

7 (6) The efficiency of the proposed allocation of state,  
8 local, public, and private resources in solving the local community  
9 needs.

10 Sec. 8. Upon completion of a project for which a grant  
11 has been received or within one year from the date of receipt of  
12 a grant, whichever comes first, the recipient community improvement  
13 group shall provide the college with an evaluation reporting the  
14 results of the project.

15 Sec. 9. The college shall submit an annual report to the  
16 Governor and the Legislature on or before January 1 of each year  
17 listing the recipients and amounts of grants made pursuant to the  
18 Neighborhood Development Act in the previous year, the impact of  
19 the grants, and an evaluation of each project's performance based  
20 on the documented reports of the recipient community improvement  
21 groups.

22 Sec. 10. The Neighborhood Development Act terminates on  
23 June 30, 2013.

24 2. On page 1, line 2, strike "and"; and in line 3 after  
25 "duties" insert "; and to provide a termination date".

**LEGISLATIVE BILL 160.** Placed on Select File with amendment.  
ER8101

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

3 Section 1. In addition to other powers authorized by law,  
4 the board of directors of a natural resources district encompassing  
5 a city of the metropolitan class, upon an affirmative vote of  
6 two-thirds of the members of the board of directors, may issue  
7 negotiable bonds and refunding bonds of the district, entitled  
8 flood protection and water quality enhancement bonds, with terms  
9 determined appropriate by the board of directors, payable from  
10 an annual special flood protection and water quality enhancement  
11 bond levy upon the taxable value of all taxable property in the  
12 district. Such special bond levy is includable in the computation  
13 of other limitations upon the district's tax levy and shall not  
14 exceed one cent on each one hundred dollars of taxable valuation  
15 annually on all of the taxable property within the district without  
16 approval by a majority of registered voters of the district at an  
17 election in accordance with the Election Act called by the board  
18 of directors and held in conjunction with a statewide primary or  
19 general election.

20 Sec. 2. (1) The proceeds of bonds issued pursuant  
21 to section 1 of this act shall be used to pay costs of  
22 design, rights-of-way acquisition, and construction of multipurpose  
23 projects and practices for storm water management within the  
1 natural resources district issuing such bonds, including flood  
2 control and water quality. For purposes of this section, flood  
3 control and water quality projects and practices include, but are

4 not limited to, low-impact development best management measures,  
5 flood plain buyout, dams, reservoir basins, and levees. The  
6 proceeds of bonds issued pursuant to section 1 of this act  
7 shall not be used to fund combined sewer separation projects in  
8 a city of the metropolitan class. No project for which bonds are  
9 issued under section 1 of this act shall include a reservoir or  
10 water quality basin having a permanent pool greater than four  
11 hundred surface acres. Any project having a permanent pool greater  
12 than twenty surface acres shall provide for public access.

13 (2) A district shall not acquire real property for a  
14 project described in subsection (1) of this section by eminent  
15 domain proceedings pursuant to sections 76-704 to 76-724 if the  
16 real property is to be conveyed to a private entity or private  
17 enterprise after such acquisition.

18 (3) Proceeds from bonds issued pursuant to section 1 of  
19 this act or funds of a natural resources district encompassing  
20 a city of the metropolitan class may be used to pay costs of a  
21 reservoir or water quality basin project or projects greater than  
22 twenty surface acres except when the county board of the affected  
23 county votes on and passes a resolution stating that it does not  
24 approve of the construction of such reservoir or water quality  
25 basin project or projects within its exclusive zoning jurisdiction.  
26 A vote on the resolution must take place within ninety days  
27 after notice from the board of directors of the natural resources  
1 district of its intent to issue bonds, seek voter approval of  
2 bonds, or otherwise fund a reservoir or water quality basin project  
3 or projects within such county's exclusive zoning jurisdiction  
4 pursuant to section 1 of this act.

5 (4) Proceeds of bonds issued pursuant to section 1 of  
6 this act shall not be used to fund any project in any city or  
7 county (a) located within a watershed in which is located a city  
8 of the metropolitan class and (b) which is party to an agreement  
9 under the Interlocal Cooperation Act, unless such city or county  
10 has adopted a storm water management plan approved by the board of  
11 directors of the natural resources district encompassing a city of  
12 the metropolitan class.

13 Sec. 3. For the purpose of making partial payments, the  
14 board of directors of a natural resources district issuing bonds  
15 pursuant to section 1 of this act may issue warrants having terms  
16 as determined appropriate by the board, payable from the proceeds  
17 of such bonds.

18 Sec. 4. The board of directors of a natural resources  
19 district issuing bonds pursuant to section 1 of this act may agree  
20 to pay fees to fiscal agents in connection with the placement of  
21 warrants or bonds of the district. Such warrants and bonds shall  
22 be subject to the same conditions as provided by section 2-3254.07  
23 for improvement project area bonds and such other conditions as the  
24 board of directors determines appropriate.

25 Sec. 5. The authority to issue bonds for qualified



26 projects granted in section 1 of this act terminates on December  
27 31, 2019, except that (1) any bonds already issued and outstanding  
1 for qualified projects as of such date are permitted to remain  
2 outstanding and the district shall retain all powers of taxation  
3 provided for in section 1 of this act to provide for the payment  
4 of principal and interest on such bonds and (2) refunding bonds  
5 may continue to be issued and outstanding as of December 31,  
6 2019, including extension of principal maturities if determined  
7 appropriate.

8 Sec. 6. Section 2-3234, Revised Statutes Cumulative  
9 Supplement, 2008, is amended to read:

10 2-3234 ~~Each~~ Except as provided in section 2 of this  
11 ~~act, each~~ district shall have the power and authority to exercise  
12 the power of eminent domain when necessary to carry out its  
13 authorized purposes within the limits of the district or outside  
14 its boundaries. Exercise of eminent domain shall be governed by the  
15 provisions of sections 76-704 to 76-724, except that whenever any  
16 district seeks to acquire the right to interfere with the use of  
17 any water being used for power purposes in accordance with sections  
18 46-204, 70-668, 70-669, and 70-672 and is unable to agree with  
19 the user of such water upon the compensation to be paid for such  
20 interference, the procedure to condemn property shall be followed  
21 in the manner set forth in sections 76-704 to 76-724 and no other  
22 property shall be included in such condemnation. No district shall  
23 contract for delivery of water to persons within the corporate  
24 limits of any village, city, or metropolitan utilities district,  
25 nor in competition therewith outside such corporate limits, except  
26 by consent of and written agreement with the governing body of such  
27 political subdivision. A village, city, or metropolitan utilities  
1 district may negotiate and, if necessary, exercise the power of  
2 eminent domain for the acquisition of water supply facilities of  
3 the district which are within its boundaries.

4 Sec. 7. Section 2-3290.01, Revised Statutes Cumulative  
5 Supplement, 2008, is amended to read:

6 2-3290.01 (1) A district shall permit public use of  
7 those portions of a water project located on lands owned by  
8 the district and on land over which the district has a lease  
9 or an easement permitting use thereof for public recreational  
10 purposes. All recreational users of such portions of a water  
11 project shall abide by the applicable rules and regulations adopted  
12 and promulgated by the board.

13 (2) The district shall provide public access for  
14 recreational use at designated access points at any water  
15 project. Recreational users, whether public or private, shall  
16 abide by all applicable rules and regulations for use of the  
17 water project adopted and promulgated by the district or the  
18 political subdivision in which the water project is located. Public  
19 recreational users may only access the water project through such  
20 designated access points. Nothing in this subsection shall require

21 public access when the portion of the project cost paid by the  
 22 natural resources district with public funds does not exceed twenty  
 23 percent of the total cost of the project.

24 (3) For purposes of this section, water project means  
 25 a project with cooperators or others, as authorized in section  
 26 2-3235, that results in construction of a reservoir or other body  
 27 of water having a permanent pool suitable for recreational purposes  
 1 greater than one hundred fifty surface acres, the construction  
 2 of which commenced after July 14, 2006. Water project shall  
 3 not mean soil conservation projects, wetlands projects, projects  
 4 described in section 2 of this act, or other district projects with  
 5 cooperators or others that do not have a recreational purpose.

6 (4) For projects funded under section 2 of this act that  
 7 result in a reservoir or other body of water having a permanent  
 8 pool suitable for recreational purposes greater than twenty surface  
 9 acres, the district shall provide public access for recreational  
 10 use at designated access points and shall include access to the  
 11 land area a minimum distance of one hundred feet from the permanent  
 12 pool. Recreational users, whether public or private, shall abide  
 13 by all applicable rules, regulations, ordinances, or resolutions  
 14 for use of the project adopted by the district or the political  
 15 subdivision in which the project is located. Public recreational  
 16 users may only access the project through such designated access  
 17 points.

18 Sec. 8. The Revisor of Statutes shall assign sections 1  
 19 to 5 of this act within Chapter 2, article 32.

20 Sec. 9. Original sections 2-3234 and 2-3290.01, Revised  
 21 Statutes Cumulative Supplement, 2008, are repealed.

22 2. On page 1, line 5, after the second semicolon  
 23 insert "to provide for public access as prescribed; to harmonize  
 24 provisions;".

(Signed) Jeremy Nordquist, Chairperson

### AMENDMENT - Print in Journal

Senator Karpisek filed the following amendment to LB626:  
 AM1256

(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.

### VISITORS

Visitors to the Chamber were Treg, Beth, Garrison, Anna, and Chet Fisher from Beaver City; Senator Sullivan's uncle and cousins, Richard Kokes from Hemet, California and Allan and Shirley Blaha from Lincoln; 25 eighth-grade students from Guardian Angels, West Point; 72 fourth-grade students from Palisades Elementary, Omaha; 12 seventh- and eighth-grade

students from Deshler Lutheran, Deshler; Thomas Pomeranz from Indianapolis, Indiana; and former Senator Ray Janssen from Nickerson.

The Doctor of the Day was Dr. Jay Matzke from Gothenburg.

**ADJOURNMENT**

At 5:04 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, April 30, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTY-FIRST DAY - APRIL 30, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, April 30, 2009

**PRAYER**

The prayer was offered by Pastor Aaron Householder, Southview Baptist Church, Lincoln.

**ROLL CALL**

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

The roll was called and all members were present except Senator Janssen who was excused; and Senators Cornett and Lautenbaugh who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventieth day was approved.

**COMMITTEE REPORTS**

## Revenue

**LEGISLATIVE BILL 421.** Placed on General File with amendment.  
AM1261

- 1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 66-6,100, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:  
5 66-6,100 (1) Compressed fuel means ~~compressed natural~~  
6 gas.  
7 (a) Until the earlier of January 1, 2015, or the first  
8 day of the first calendar quarter following the year during which  
9 the annual usage or consumption of compressed natural gas for  
10 fueling motor vehicles in the state exceeds one million gallon  
11 equivalent, liquefied petroleum gas, liquefied natural gas, butane,  
12 and any other type of compressed gas or compressed liquid suitable  
13 for fueling a motor vehicle ~~except compressed natural gas; and-~~  
14 (b) Commencing the earlier of January 1, 2015, or the

15 first day of the first calendar quarter following the year during  
 16 which the annual usage or consumption of compressed natural gas  
 17 for fueling motor vehicles in the state exceeds one million  
 18 gallon equivalent, compressed natural gas, liquefied petroleum gas,  
 19 liquefied natural gas, butane, and any other type of compressed gas  
 20 or compressed liquid suitable for fueling a motor vehicle.

21 (2) Compressed fuel does not include motor vehicle fuel  
 22 as defined in section 66-482 or diesel fuel as defined in section  
 23 66-482.

1 (3) The department shall make the determination of gallon  
 2 equivalent usage and consumption in the state based upon retailer  
 3 reports pursuant to section 66-6,110.

4 Sec. 2. Section 66-6,110, Revised Statutes Cumulative  
 5 Supplement, 2008, is amended to read:

6 66-6,110 Each retailer shall file a tax return with the  
 7 department on forms prescribed by the department. Annual returns  
 8 are required if the retailer's yearly tax liability is less  
 9 than two hundred fifty dollars. Quarterly returns are required  
 10 if the retailer's yearly tax liability is at least two hundred  
 11 fifty dollars but less than six thousand dollars. Monthly returns  
 12 are required if the retailer's yearly tax liability is at least  
 13 six thousand dollars. The return shall contain a declaration by  
 14 the person making the return to the effect that the statements  
 15 contained in the return are true and are made under penalties  
 16 of law, which declaration has the same force and effect as a  
 17 verification of the return and is in lieu of such verification.  
 18 The return shall show such information as the department reasonably  
 19 requires for the proper administration and enforcement of the  
 20 Compressed Fuel Tax Act. The retailer shall file the return in  
 21 such format as prescribed by the department on or before the  
 22 twenty-fifth day of the next succeeding calendar month following  
 23 the reporting period to which it relates. If the final filing date  
 24 falls on a Saturday, Sunday, or legal holiday, the next secular  
 25 or business day is the final filing date. The return is filed  
 26 on time if transmitted or postmarked before midnight of the final  
 27 filing date. Each retailer shall also file a report of compressed  
 1 natural gas usage and consumption as required by the department  
 2 until January 1, 2015.

3 Sec. 3. This act becomes operative on July 1, 2009.

4 Sec. 4. Original sections 66-6,100 and 66-6,110, Revised  
 5 Statutes Cumulative Supplement, 2008, are repealed.

6 Sec. 5. Since an emergency exists, this act takes effect  
 7 when passed and approved according to law.

**LEGISLATIVE BILL 186.** Indefinitely postponed.

**LEGISLATIVE BILL 249.** Indefinitely postponed.

**LEGISLATIVE BILL 380.** Indefinitely postponed.

**LEGISLATIVE BILL 469.** Indefinitely postponed.

**LEGISLATIVE BILL 474.** Indefinitely postponed.

**LEGISLATIVE BILL 480.** Indefinitely postponed.  
**LEGISLATIVE BILL 521.** Indefinitely postponed.  
**LEGISLATIVE BILL 616.** Indefinitely postponed.  
**LEGISLATIVE BILL 617.** Indefinitely postponed.  
**LEGISLATIVE BILL 618.** Indefinitely postponed.  
**LEGISLATIVE BILL 632.** Indefinitely postponed.  
**LEGISLATIVE BILL 640.** Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

### **REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of April 29, 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

Kelley and Jerram, P.C.  
ABATE of Nebraska, Inc. (Withdrawn 04/27/2009)  
Elevator Industry Work Preservation  
Kubie, Kent  
International Business Machines Corporation (IBM)  
Shasky, Kelly Stevens  
Washington Center, The

### **GENERAL FILE**

**LEGISLATIVE BILL 545.** Senator White withdrew his motion, MO36, found on page 1164, to bracket until June 4, 2009.

The second committee amendment, AM1119, found on page 1136 and considered on pages 1142 and 1164, as amended, was renewed.

Senator Adams renewed his amendment, AM1232, found on page 1241, to the second committee amendment.

The Adams amendment was adopted with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

The second committee amendment, as amended, was adopted with 47 ayes, 0 nays, 1 present and not voting, and 1 excused and not voting.

Senator Council withdrew her amendments, AM1165, AM1166, and AM1167, found on pages 1165, 1166, and 1167.

Senator Ashford withdrew his amendment, AM1178, found on page 1168.

Advanced to Enrollment and Review Initial with 47 ayes, 0 nays, 1 present and not voting, and 1 excused and not voting.

### AMENDMENT - Print in Journal

Senator Rogert filed the following amendment to LB195:  
AM1263

(Amendments to AM930)

- 1 1. Strike section 2.
- 2 2. On page 1, strike lines 18 through 22, show the old
- 3 matter as stricken, and insert the following new subdivision:
- 4 "(b) Dispensing, incident to practice, (i) sample
- 5 medications which are provided by the manufacturer and are provided
- 6 to the patient and (ii) drugs for the prevention of tuberculosis
- 7 which are provided through the department and are dispensed to the
- 8 patient with prospective drug utilization review, labeling, patient
- 9 counseling, storage, and recordkeeping as set forth in the Pharmacy
- 10 Practice Act and rules and regulations adopted and promulgated
- 11 under the act that govern the practice of pharmacy if the facility
- 12 in which the dispensing of tuberculosis drugs occurs meets the
- 13 physical plant standards as set forth in the rules and regulations
- 14 and is subject to inspection by a pharmacy inspector; and".
- 15 3. Renumber the remaining sections accordingly.

### COMMITTEE REPORT

Banking, Commerce and Insurance

**LEGISLATIVE BILL 358.** Placed on General File with amendment.  
AM783

- 1 1. Strike section 3 and insert the following new section:
- 2 Sec. 3. (1)(a) In addition to the requirements of section
- 3 2 of this act, following the close of each calendar year, the board
- 4 shall conduct a review of health care provider reimbursement rates
- 5 for benefits payable under pool coverage for covered services. The
- 6 board shall report to the director the results of the review within
- 7 thirty days after the completion of the review.
- 8 (b) The review required by this section shall include
- 9 a determination of whether (i) health care provider reimbursement
- 10 rates for benefits payable under pool coverage for covered services
- 11 are in excess of reasonable amounts and (ii) cost savings in the
- 12 operation of the pool could be achieved by establishing the level
- 13 of health care provider reimbursement rates for benefits payable
- 14 under pool coverage for covered services as a multiplier of an
- 15 objective standard.
- 16 (c) In the determination pursuant to subdivision
- 17 (1)(b)(i) of this section, the board shall consider:
- 18 (i) The success of any efforts by the administering
- 19 insurer to negotiate reduced health care provider reimbursement
- 20 rates for benefits payable under pool coverage for covered services



21 on a voluntary basis;

22 (ii) The effect of health care provider reimbursement  
23 rates for benefits payable under pool coverage for covered services  
1 on the number and geographic distribution of health care providers  
2 providing covered services to covered individuals;

3 (iii) The administrative cost of implementing a level of  
4 health care provider reimbursement rates for benefits payable under  
5 pool coverage for covered services; and

6 (iv) A filing by the administering insurer which shows  
7 the difference, if any, between the aggregate amounts set for  
8 health care provider reimbursement rates for benefits payable under  
9 pool coverage for covered services by existing contracts between  
10 the administering insurer and health care providers and the amounts  
11 generally charged to reimburse health care providers prevailing  
12 in the commercial market. No such filing shall require the  
13 administering insurer to disclose proprietary information regarding  
14 health care provider reimbursement rates for specific covered  
15 services under pool coverage.

16 (d) If the board determines that cost savings in the  
17 operation of the pool could be achieved, the board shall set forth  
18 specific findings supporting the determination and may establish  
19 the level of health care provider reimbursement rates for benefits  
20 payable under pool coverage for covered services as a multiplier of  
21 an objective standard.

22 (2) A health care provider who provides covered services  
23 to a covered individual under pool coverage and requests payment  
24 is deemed to have agreed to reimbursement according to the health  
25 care provider reimbursement rates for benefits payable under pool  
26 coverage for covered services established pursuant to this section.  
27 Any reimbursement paid to a health care provider for providing  
1 covered services to a covered person under pool coverage is limited  
2 to the lesser of billed charges or the health care provider  
3 reimbursement rates for benefits payable under pool coverage for  
4 covered services established pursuant to this section. A health  
5 care provider shall not collect or attempt to collect from a  
6 covered individual any money owed to the health care provider  
7 by the pool. A health care provider shall not have any recourse  
8 against a covered individual for any covered services under pool  
9 coverage in excess of the copayment, coinsurance, or deductible  
10 amounts specified in the pool coverage. Nothing in this section  
11 shall prohibit a health care provider from billing a covered  
12 individual under pool coverage for services which are not covered  
13 services under pool coverage.

14 2. On page 2, line 7, strike "review" and insert "conduct  
15 a review of".

16 3. On page 3, line 11, after "medicare" insert "by reason  
17 of age".

(Signed) Rich Pahls, Chairperson

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 342.** Placed on Select File with amendment.  
ER8104

- 1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 Section 1. Section 68-901, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:  
5 68-901 Sections 68-901 to 68-956 and section 2 of this  
6 act shall be known and may be cited as the Medical Assistance Act.  
7 Sec. 2. (1) On or before July 1, 2010, the Department  
8 of Health and Human Services shall submit an application to the  
9 Centers for Medicare and Medicaid Services of the United States  
10 Department of Health and Human Services amending the state medicaid  
11 plan to provide for medicaid payments for the comprehensive  
12 treatment of pediatric feeding disorders through interdisciplinary  
13 treatment.  
14 (2) For purposes of this section, interdisciplinary  
15 treatment means the collaboration of medicine, psychology,  
16 nutrition science, speech therapy, occupational therapy, social  
17 work, and other appropriate medical and behavioral disciplines in  
18 an integrated program.  
19 (3) This section terminates on January 1, 2015, unless  
20 extended by action of the Legislature.  
21 Sec. 3. Original section 68-901, Revised Statutes  
22 Cumulative Supplement, 2008, is repealed.  
23 2. On page 1, line 5, after the last semicolon insert  
1 "and"; and in line 6 strike beginning with the semicolon through  
2 "emergency".

**LEGISLATIVE BILL 568.** Placed on Select File with amendment.  
ER8105

- 1 1. In the Standing Committee amendments, AM732, on  
2 page 2, line 15, strike "or", show as stricken, and insert an  
3 underscored comma; in line 16 after "system" insert an underscored  
4 comma; and in line 17 after "writing" insert an underscored comma.  
5 2. On page 1, strike beginning with "sections" in line 1  
6 through line 5 and insert "section 66-911.01, Reissue Revised  
7 Statutes of Nebraska; to provide requirements and conditions  
8 for wind agreements; to harmonize provisions; and to repeal the  
9 original section."

**LEGISLATIVE BILL 630.** Placed on Select File with amendment.  
ER8106

- 1 1. In the Standing Committee amendments, AM874:  
2 a. Renumber sections 4 to 12 as sections 3 to 11;  
3 b. On page 22, line 16, strike the comma and show as

4 stricken; and  
5 c. On page 28, line 2, strike "48-121,".  
6 2. On page 1, strike lines 2 through 9 and insert "to  
7 amend sections 48-138, 48-139, 48-140, and 48-141, Reissue Revised  
8 Statutes of Nebraska, and sections 48-106, 48-120.04, 48-125,  
9 48-144.03, and 48-168, Revised Statutes Cumulative Supplement,  
10 2008; to change provisions relating to an employer exclusion from  
11 the act, implementation of a certain medical fee schedule, periodic  
12 compensation payments and lump-sum settlements, court procedures,  
13 informal dispute resolution approval, and mediators; to harmonize  
14 provisions; to repeal the original sections; and to declare an  
15 emergency."

(Signed) Jeremy Nordquist, Chairperson

### RESOLUTION

**LEGISLATIVE RESOLUTION 106.** Introduced by Cornett, 45.

**PURPOSE:** The purpose of this interim study is to examine the economic impact of retirement income on the State of Nebraska and the most appropriate way to tax such income. The issues addressed by this interim study shall include, but not be limited to:

(1) An examination of the impact that retirees have on the State of Nebraska, both economically and culturally;

(2) An examination of alternative ways to tax and exempt retirement income, and how such measures would affect the state;

(3) An examination of how surrounding states tax and exempt retirement income;

(4) An examination of the measures other states are taking to attract retirees into such states, including an examination of the stated policy reasons for such measures;

(5) An examination of the reasons that retirees leave the state, and whether those reasons focus on taxes; and

(6) An examination of tax-related steps that the state could take to become more attractive to retirees.

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

1. That the Revenue Committee of the Legislature shall be designated to 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 187.** Title read. Considered.

Committee AM1180, found on page 1233, was adopted with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 603.** ER8040, found on page 815, was adopted.

Senator Gay renewed his amendment, AM1171, found on page 1197.

Senator Pankonin moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

The Gay amendment was adopted with 42 ayes, 1 nay, 4 present and not voting, and 2 excused and not voting.

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

Advanced to Enrollment and Review for Engrossment with 41 ayes, 1 nay, 5 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 603A.** Senator Gay renewed his amendment, AM1206, found on page 1197.

The Gay amendment was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 346.** ER8028, found on page 671, was adopted.

Senator Gay renewed his motion, MO40, found on page 1240, to indefinitely postpone.

The Gay motion to indefinitely postpone prevailed with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 346A.** Senator Gay renewed his motion, MO41, found on page 1240, to indefinitely postpone.

The Gay motion to indefinitely postpone prevailed with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 136.** ER8054, found on page 955, was adopted.

Senator Avery renewed his motion, MO42, found on page 1240, to indefinitely postpone.

The Avery motion to indefinitely postpone prevailed with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 136A.** Senator Avery renewed his motion, MO43, found on page 1240, to indefinitely postpone.

The Avery motion to indefinitely postpone prevailed with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 356.** ER8030, found on page 687, was adopted.

Senator Dubas renewed her motion, MO44, found on page 1240, to indefinitely postpone.

The Dubas motion to indefinitely postpone prevailed with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 356A.** Senator Dubas renewed her motion, MO45, found on page 1241, to indefinitely postpone.

The Dubas motion to indefinitely postpone prevailed with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 601.** ER8055, found on page 955, was adopted.

Senator Nordquist renewed his motion, MO46, found on page 1241, to indefinitely postpone.

The Nordquist motion to indefinitely postpone prevailed with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 601A.** Senator Nordquist renewed his motion, MO47, found on page 1241, to indefinitely postpone.

The Nordquist motion to indefinitely postpone prevailed with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 112.** Title read. Considered.

**SENATOR ROBERT PRESIDING**

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 288.** Title read. Considered.

Committee AM846, found on page 857, was considered.

Senator Campbell renewed her amendment, AM1093, found on page 1139, to the committee amendment.

The Campbell amendment was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

The committee amendment, as amended, was adopted with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 16.** Title read. Considered.

Committee AM692, found on page 729, was considered.

Senator White withdrew his amendment, AM955, found on page 929.

Senator White renewed his amendment, AM1061, found on page 1029, to the committee amendment.

The White amendment was adopted with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

The committee amendment, as amended, was adopted with 32 ayes, 0 nays, 9 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 2 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 16A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 241.** Title read. Considered.

**SENATOR LANGEMEIER PRESIDING**

Committee AM428, found on page 630, was considered.

**SENATOR ROBERT PRESIDING**

**SPEAKER FLOOD PRESIDING**

Pending.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 92, 93, and 94 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 92, 93, and 94.

**GENERAL FILE**

**LEGISLATIVE BILL 241.** Committee AM428, found on page 630 and considered in this day's Journal, was renewed.

The committee amendment was adopted with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

Senator Dierks withdrew his amendment, AM947, found on page 931.

Senator Dierks renewed his amendment, AM1028, found on page 1001.

The Dierks amendment was adopted with 32 ayes, 0 nays, 9 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

**COMMITTEE REPORTS**

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 503.** Placed on General File with amendment. AM1080 is available in the Bill Room.

(Signed) Bill Avery, Chairperson

**BILLS ON FIRST READING**

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

**LEGISLATIVE BILL 97A.** Introduced by Lautenbaugh, 18.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 97, One Hundred First Legislature, First Session, 2009.

**LEGISLATIVE BILL 671A.** Introduced by Pirsch, 4.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 671, One Hundred First Legislature, First Session, 2009.

**AMENDMENTS - Print in Journal**

Senator Wightman filed the following amendment to LB494:  
AM1244

(Amendments to Standing Committee amendments, AM844)

- 1 1. On page 5, line 4, strike "Class IV felony" and
- 2 insert "Class I misdemeanor for the first offense and a Class IV
- 3 felony for a second or subsequent offense, whether or not the same
- 4 dangerous dog is involved".

Senator Ashford filed the following amendment to LB63:  
AM1128

(Amendments to E & R amendments, ER8031)

- 1 1. Insert the following new section:
- 2 Section 1. Section 13-2610, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 13-2610 (1) Upon the annual certification under section
- 5 13-2609, the State Treasurer shall transfer after the audit
- 6 the amount certified to the Convention Center Support Fund. The
- 7 Convention Center Support Fund is created. Any money in the fund
- 8 available for investment shall be invested by the state investment
- 9 officer pursuant to the Nebraska Capital Expansion Act and the
- 10 Nebraska State Funds Investment Act.
- 11 (2)(a) It is the intent of the Legislature to appropriate
- 12 from the fund to any political subdivision for which an application
- 13 for state assistance under the Convention Center Facility Financing
- 14 Assistance Act has been approved an amount not to exceed (i)
- 15 seventy percent of the state sales tax revenue collected by
- 16 retailers and operators doing business at such facilities on sales
- 17 at such facilities, state sales tax revenue collected on primary
- 18 and secondary box office sales of admissions to such facilities,
- 19 and state sales tax revenue collected by associated hotels, (ii)
- 20 seventy-five million dollars for any one approved project, or (iii)



21 the total cost of acquiring, constructing, improving, or equipping  
22 the eligible facility. State assistance shall not be used for an  
1 operating subsidy or other ancillary facility.

2 ~~(b) Ten~~ (b)(i) Seven and one-half percent of such funds  
3 appropriated to a city of the metropolitan class under this  
4 subsection shall be equally distributed to areas with a high  
5 concentration of poverty to showcase important historical aspects  
6 of such areas and (ii) two and one-half percent of such funds  
7 appropriated to a city of the metropolitan class under this  
8 subsection shall be equally distributed to areas with a high  
9 concentration of poverty to assist with the reduction of street and  
10 gang violence.

11 (c) Each area with a high concentration of poverty that  
12 has been distributed funds under subdivision (b) of this subsection  
13 shall establish a development fund and form a committee which  
14 shall identify and research potential projects and make final  
15 determinations on the use of state sales tax revenue received for  
16 such projects.

17 (d) A committee formed in subdivision (c) of this  
18 subsection shall include the following three members:

19 (i) The member of the city council whose district  
20 includes a majority of the census tracts which each contain a  
21 percentage of persons below the poverty line of greater than thirty  
22 percent, as determined by the most recent federal decennial census,  
23 within the area with a high concentration of poverty;

24 (ii) The commissioner of the county whose district  
25 includes a majority of the census tracts which each contain a  
26 percentage of persons below the poverty line of greater than thirty  
27 percent, as determined by the most recent federal decennial census,  
1 within the area with a high concentration of poverty; and

2 (iii) A resident of the area with a high concentration of  
3 poverty, appointed by the other two members of the committee.

4 (e) A committee formed in subdivision (c) of this  
5 subsection shall solicit project ideas from the public and shall  
6 hold a public hearing in the area with a high concentration  
7 of poverty. Notice of a proposed hearing shall be provided in  
8 accordance with the procedures for notice of a public hearing  
9 pursuant to section 18-2115. The committee shall research potential  
10 projects in its area and make the final determination regarding the  
11 annual distribution of funding to such projects.

12 (f) For purposes of this subsection, an area with a high  
13 concentration of poverty means an area within the corporate limits  
14 of a city of the metropolitan class consisting of one or more  
15 contiguous census tracts, as determined by the most recent federal  
16 decennial census, which contain a percentage of persons below the  
17 poverty line of greater than thirty percent, and all census tracts  
18 contiguous to such tract or tracts, as determined by the most  
19 recent federal decennial census.

20 (3) State assistance to the political subdivision shall

21 no longer be available upon the retirement of the bonds issued  
 22 to acquire, construct, improve, or equip the facility or any  
 23 subsequent bonds that refunded the original issue or when state  
 24 assistance reaches the amount determined under subdivision (2)(a)  
 25 of this section, whichever comes first.

26 (4) The remaining thirty percent of state sales tax  
 27 revenue collected by retailers and operators doing business at such  
 1 facilities on sales at such facilities, state sales tax revenue  
 2 collected on primary and secondary box office sales of admissions  
 3 to such facilities, and state sales tax revenue collected by  
 4 associated hotels, shall be appropriated by the Legislature to the  
 5 Local Civic, Cultural, and Convention Center Financing Fund.

6 (5) Any municipality that has applied for and received a  
 7 grant of assistance under the Local Civic, Cultural, and Convention  
 8 Center Financing Act may not receive state assistance under the  
 9 Convention Center Facility Financing Assistance Act.

10 2. Renumber the remaining sections and correct internal  
 11 references and the repealer section accordingly.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Mello and Nordquist asked unanimous consent to add their names as cointroducers to LB16. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 66 fourth-grade students from Howard Elementary, Grand Island; Wyatt Nelson from Lincoln; 22 fourth-grade students from Karen Western Elementary, Omaha; 9 sixth-grade students from Lawrence Nelson Elementary, Lawrence; 20 third- and fourth-grade students, teacher, and sponsors from Hampton Lutheran School, Hampton; 40 fourth-grade students from Montclair Elementary, Omaha; 7 fourth-grade students from Sunny Meadow, Norfolk; and former Senator Bob Kremer and his wife, Beverly, from Aurora.

The Doctor of the Day was Dr. Jordon Inouye from Omaha.

### **ADJOURNMENT**

At 1:46 p.m., on a motion by Senator Heidemann, the Legislature adjourned until 10:00 a.m., Tuesday, May 5, 2009.

Patrick J. O'Donnell  
 Clerk of the Legislature

**SEVENTY-SECOND DAY - MAY 5, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, May 5, 2009

**PRAYER**

The prayer was offered by Pastor Mary Ellen Gaither, First Presbyterian Church, Humboldt.

**ROLL CALL**

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

The roll was called and all members were present except Senator Loudon who was excused; and Senators Ashford, Howard, and Rogert who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-first day was approved.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 107.** Introduced by Lathrop, 12.

WHEREAS, Dr. Virginia Moon became the superintendent of Ralston Public Schools in 1998 during a time of financial crisis that she diligently worked to alleviate; and

WHEREAS, Dr. Moon helped lead the successful passage of a bond issue in 2001 to renovate Ralston High School; and

WHEREAS, as executive director of the Ralston Schools Foundation, Dr. Moon helped lead the Capital Campaign, which raised over one million dollars; and

WHEREAS, Dr. Moon worked throughout her tenure to increase and improve early childhood services, resulting in the nearly universal access to quality preschool across the school district; and

WHEREAS, Dr. Moon worked to design and lead the implementation of a premier English language learner program for the Ralston School District; and

WHEREAS, Dr. Moon worked continually with the administration to provide multiple alternative programs for high school students; and

WHEREAS, Dr. Moon strived to maintain a high-quality staff whose focus was to serve the needs of all learners; and

WHEREAS, Dr. Moon is retiring at the end of the 2008-09 school year.

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

1. That the Legislature recognizes Dr. Virginia Moon's lasting contributions in the field of education, including the positive influence she has had on countless students.

2. That a copy of this resolution be sent to Dr. Virginia Moon.

Laid over.

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 224.** Placed on Select File with amendment.  
ER8107

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 2-101, Revised Statutes Cumulative
- 4 Supplement, 2008, is amended to read:
- 5 2-101 (1) The Nebraska State Fair Board, formerly known
- 6 as the State Board of Agriculture, shall hold an annual meeting for
- 7 the purpose of deliberating and consulting as to the wants,
- 8 prospects, and conditions of the agricultural, horticultural,
- 9 industrial, mechanical, and other interests throughout the state,
- 10 as well as those interests in the encouragement and perpetuation of
- 11 the arts, skilled crafts, and sciences.
- 12 (2) The Nebraska State Fair Board may provide in its
- 13 constitution and bylaws for the qualification and participation
- 14 of delegates at the annual meeting from such associations
- 15 incorporated under the laws of the state for purposes of promoting
- 16 and furthering the interests of participants in agricultural,
- 17 horticultural, industrial, mechanical, or other pursuits or for the
- 18 encouragement and perpetuation of the arts, skilled crafts, and
- 19 sciences, and from such associations as provide for the training,
- 20 encouragement, and competition of the youth of Nebraska in such
- 21 endeavors. The annual meeting shall be held in every odd-numbered
- 22 year at the capital of the state and in every even-numbered year at
- 23 such location as the board determines. The chairperson of the board
- 1 shall also have the power to call meetings of the board whenever he
- 2 or she may deem it expedient. All meetings of the board shall be
- 3 conducted in accordance with the Open Meetings Act.
- 4 (3) The Nebraska State Fair shall be under the direction
- 5 and supervision of the Nebraska State Fair Board. The board may, at
- 6 its discretion, hold or dispense with the holding of the fair, in
- 7 any year.
- 8 (4)(a) It is the intent of the Legislature that no later

9 than 2010 the Nebraska State Fair be permanently located within  
 10 the city of Grand Island upon the site and tract of land owned  
 11 by the Hall County Livestock Improvement Association and known as  
 12 Fonner Park ~~no later than 2010, and, as available and necessary,~~  
 13 upon other parcels of land adjacent to Fonner Park. The Nebraska  
 14 State Fair Board shall cooperate and coordinate with the Hall  
 15 County Livestock Improvement Association, the city of Grand Island,  
 16 and other appropriate entities to provide for and carry out any  
 17 plan of improvements to ~~Fonner Park,~~ such location, including  
 18 the construction of buildings, and other capital facilities,  
 19 the relocation of existing improvements, and other enhancements,  
 20 necessary to develop the site as a location suitable for conducting  
 21 the Nebraska State Fair. Such cooperation and coordination may  
 22 include financial participation in the costs of site development,  
 23 new construction, and other capital improvements upon ~~Fonner Park~~  
 24 such location and includes the execution of any agreement for site  
 25 governance, revenue sharing, and facility utilization between and  
 26 among the Nebraska State Fair Board, the Hall County Livestock  
 27 Improvement Association, and other appropriate entities.

1 (b) The Nebraska State Fair Board, the Department of  
 2 Administrative Services, and the Board of Regents of the University  
 3 of Nebraska shall cooperate with each other and with other  
 4 appropriate entities to provide for and carry out the plan to  
 5 relocate the Nebraska State Fair and transfer the Nebraska State  
 6 Fairgrounds in Lancaster County to the Board of Regents, including  
 7 activities by the Board of Regents to obtain due diligence surveys,  
 8 reports, and site assessments at the Nebraska State Fairgrounds in  
 9 Lancaster County and by the Nebraska State Fair Board in connection  
 10 with providing marketable title to the same in a form acceptable to  
 11 the Board of Regents.

12 Sec. 2. Section 2-109, Reissue Revised Statutes of  
 13 Nebraska, is amended to read:

14 2-109 The Department of Revenue shall, ~~on a quarterly~~  
 15 ~~basis,~~ at the conclusion of each calendar quarter, provide to  
 16 the most populous city within the county in which the ~~state~~  
 17 ~~fair~~ Nebraska State Fair is ~~located,~~ held written notification of  
 18 the amount estimated by the department to equal ten percent of  
 19 the lottery revenue collected during the calendar quarter to be  
 20 transferred to the Nebraska State Fair Support and Improvement Cash  
 21 Fund. If the state fair is scheduled to be held in a different  
 22 county from that in which the most recent state fair was held, the  
 23 written notification required by this section shall be made to the  
 24 most populous city within the county in which the state fair is  
 25 scheduled to be held beginning with the written notification made  
 26 at the conclusion of the first calendar quarter during the calendar  
 27 year in which the state fair is held or scheduled to be held in  
 1 such county. The department shall provide a copy of the written  
 2 notification to the Department of Administrative Services.

3 Sec. 3. Section 2-110, Reissue Revised Statutes of

4 Nebraska, is amended to read:

5 2-110 The most populous city within the county in  
6 which the ~~state fair is located~~ Nebraska State Fair is held  
7 or scheduled to be held that calendar year shall remit quarterly  
8 payments to the State Treasurer in amounts equal to the matching  
9 fund requirement established by the Department of Revenue under  
10 section 2-109. The State Treasurer shall credit the matching funds  
11 to the Nebraska State Fair Support and Improvement Cash Fund.  
12 The city shall provide written notification to the Department  
13 of Administrative Services regarding its compliance with the  
14 matching fund requirement. Upon verification by the Department  
15 of Administrative Services that a quarterly transfer of lottery  
16 proceeds to the Nebraska State Fair Support and Improvement Cash  
17 Fund has been executed and that the full amount of the matching  
18 funds requirement has been received from the city, the Department  
19 of Administrative Services shall authorize the expenditure of the  
20 fund by the Nebraska State Fair Board. Matching fund requirements  
21 shall not apply to investment income accruing to the fund and  
22 investment income may be expended by the board.

23 Sec. 4. Section 2-111, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 2-111 ~~(4)~~ The Nebraska State Fair Board shall, no later  
26 than November 1 of each year, provide an annual report to the  
27 Governor and the Legislature regarding the use of the Nebraska  
1 State Fair Support and Improvement Cash Fund. The report shall  
2 include ~~(a)~~ (1) a detailed listing of how the proceeds of the  
3 fund were expended in the prior fiscal year and ~~(b)~~ (2) any  
4 distributions from the fund that remain unexpended and on deposit  
5 in Nebraska State Fair accounts.

6 ~~(2)~~ The Nebraska State Fair Board shall cooperate with a  
7 study by the Agriculture Committee of the Legislature of capital  
8 facilities and infrastructure requirements to serve the purposes  
9 and goals of the Nebraska State Fair and other uses of the Nebraska  
10 State Fairgrounds as a year round multipurpose facility sufficient  
11 to host and accommodate events and attractions of local, state, and  
12 regional interest and attendance. The Nebraska State Fair Board may  
13 utilize available funds, not to exceed one hundred fifty thousand  
14 dollars, including funds disbursed from the Nebraska State Fair  
15 Support and Improvement Cash Fund and other resources, to assist in  
16 completion of such study. This subsection terminates on January 1,  
17 2008.

18 Sec. 5. Section 2-113, Revised Statutes Cumulative  
19 Supplement, 2008, is amended to read:

20 2-113 (1) Upon completion of the conditions specified  
21 in subsection (2) of this section, the Director of Administrative  
22 Services shall, on or before December 31, 2009, transfer by  
23 warranty deed the site and tract of land in Lancaster County known  
24 as the Nebraska State Fairgrounds, to the Board of Regents of the  
25 University of Nebraska. Such transfer shall occur notwithstanding

26 sections 72-811 to 72-818 or any other provision of law.

27 (2) The transfer described in subsection (1) of this

1 section shall be contingent upon:

2 (a) Funds for the purpose of carrying out subsection

3 (4) of section 2-101 having been provided by or on behalf of the  
4 University of Nebraska in a total amount of no less than twenty-one  
5 million five hundred thousand dollars in cash or legally binding  
6 commitments. Such funds may be provided over time, but they shall  
7 in cumulative increments equal at least seven million five hundred  
8 thousand dollars by October 1, 2008, fourteen million five hundred  
9 thousand dollars by February 1, 2009, and twenty-one million five  
10 hundred thousand dollars by July 1, 2009;

11 (b) The University of Nebraska providing a master plan  
12 and business plan to carry out the master plan for the Innovation  
13 Campus to the Department of Administrative Services and to the  
14 Clerk of the Legislature on or before December 1, 2009, and  
15 a commitment to provide on or before December 1 of each year  
16 thereafter an annual update of the master plan and business plan to  
17 the Clerk of the Legislature; and

18 (c) Funds for the purpose of carrying out subsection

19 (4) of section 2-101 having been provided by or on behalf of the  
20 city of Grand Island in a total amount of no less than eight  
21 million five hundred thousand dollars in cash or legally binding  
22 commitments. Such funds may be provided over time, but they shall  
23 in cumulative increments equal at least three million dollars by  
24 October 1, 2008, six million dollars by February 1, 2009, and eight  
25 million five hundred thousand dollars by July 1, 2009.

26 (3) The University of Nebraska and the city of

27 Grand Island shall provide certification to the Department of  
1 Administrative Services on October 1, 2008, February 1, 2009, and  
2 July 1, 2009, of all funds provided to carry out subsection (4) of  
3 section 2-101. All amounts as certified in subdivisions (2)(a) and  
4 (c) of this section shall be held and expended as determined by  
5 agreement between the Hall County Livestock Improvement Association  
6 and the Nebraska State Fair Board.

7 (4)(a) The Nebraska State Fair shall be relocated to  
8 the city of Grand Island pursuant to subsection (4) of section  
9 2-101 contingent upon completion of the conditions specified in  
10 ~~subsection (2) subdivisions (2)(a) and (c)~~ of this section.

11 (b) The Nebraska State Fair Board shall be responsible  
12 for any remaining costs associated with site improvements for  
13 relocating the Nebraska State Fair, not to exceed seven million  
14 dollars.

15 (c) On or before December 31, 2009, the Nebraska  
16 State Fair Board shall provide written release or other written  
17 instrument acceptable to the State Building Administrator in  
18 consultation with the President of the University of Nebraska  
19 in connection with the transfer of the Nebraska State Fairgrounds  
20 to the Board of Regents.

21 Sec. 6. Section 2-1208.01, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 2-1208.01 (1) There is hereby imposed a tax on the gross  
24 sum wagered by the parimutuel method at each race enclosure during  
25 a calendar year as follows:

26 ~~(1) For meets conducted on the Nebraska State  
27 Fairgrounds, no tax shall be imposed, but the licensee shall apply~~  
1 ~~two percent of any amount in excess of ten million dollars for the~~  
2 ~~purpose of maintenance of buildings, streets, utilities, and other~~  
3 ~~existing improvements on the Nebraska State Fairgrounds; and~~

4 ~~(2) For all other meets:~~

5 (a) The first ten million dollars shall not be taxed;

6 (b) Any amount over ten million dollars but less than or  
7 equal to seventy-three million dollars shall be taxed at the rate  
8 of two and one-half percent; and

9 (c) Any amount in excess of seventy-three million dollars  
10 shall be taxed at the rate of four percent; and

11 ~~(d) An (2)(a) Except as provided in subdivision (2)(b) of~~  
12 ~~this section, an amount equal to two percent of the first taxable~~  
13 ~~seventy million dollars at each race meeting shall be retained by~~  
14 ~~the licensee for capital improvements and for maintenance of the~~  
15 ~~premises within the licensed racetrack enclosure and shall be a~~  
16 ~~credit against the tax levied in subsection (1) of this section.~~  
17 This subdivision includes each race meeting held after January 1,  
18 2010, within the licensed racetrack enclosure located in Lancaster  
19 County where the Nebraska State Fair was held prior to 2010.

20 (b) For race meetings conducted at the location where  
21 the Nebraska State Fair is held, an amount equal to two and  
22 one-half percent of the first taxable seventy million dollars at  
23 each race meeting shall be retained by the licensee for the purpose  
24 of maintenance of the premises within the licensed racetrack  
25 enclosure and maintenance of other buildings, streets, utilities,  
26 and existing improvements at the location where the Nebraska State  
27 Fair is held. Such amount shall be a credit against the tax levied  
1 in subsection (1) of this section.

2 (3) A return as required by the Tax Commissioner shall be  
3 filed for a racetrack enclosure for each month during which wagers  
4 are accepted at the enclosure. The return shall be filed with and  
5 the net tax due pursuant to this section shall be paid to the  
6 Department of Revenue on the tenth day of the following month.

7 (4) On or before July 1, 2010, and on or before July 1  
8 of each year thereafter, the State Treasurer shall remit thirty  
9 thousand dollars of the tax collected pursuant to this section to  
10 the State Fair Host Facility Maintenance Assistance Fund.

11 Sec. 7. Sections 6 and 9 of this act become operative on  
12 January 1, 2010. The other sections of this act become operative on  
13 their effective date.

14 Sec. 8. Original sections 2-109, 2-110, and 2-111,  
15 Reissue Revised Statutes of Nebraska, and sections 2-101 and



16 2-113, Revised Statutes Cumulative Supplement, 2008, are repealed.

17 Sec. 9. Original section 2-1208.01, Reissue Revised  
18 Statutes of Nebraska, is repealed.

19 Sec. 10. The following section is outright repealed:

20 Section 2-131, Reissue Revised Statutes of Nebraska.

21 Sec. 11. Since an emergency exists, this act takes effect  
22 when passed and approved according to law.

23 2. On page 1, strike beginning with "section" in line  
24 3 through line 9 and insert "sections 2-101 and 2-113, Revised  
25 Statutes Cumulative Supplement, 2008; to change and eliminate  
26 provisions relating to relocation, matching funds, reports,  
27 studies, and taxes on horseracing; to provide operative dates;  
1 to repeal the original sections; to outright repeal section  
2 2-131, Reissue Revised Statutes of Nebraska; and to declare an  
3 emergency.".

**LEGISLATIVE BILL 232.** Placed on Select File.

**LEGISLATIVE BILL 545.** Placed on Select File with amendment.  
ER8108 is available in the Bill Room.

**LEGISLATIVE BILL 187.** Placed on Select File with amendment.  
ER8109

1 1. On page 1, strike beginning with "the" in line 1  
2 through line 5 and insert "school employees retirement; to amend  
3 sections 79-958, 79-966, and 79-9,113, Reissue Revised Statutes of  
4 Nebraska; to change contribution rates for required deposits by  
5 employees and employers; to provide an operative date; to repeal  
6 the original sections; and to declare an emergency.".

(Signed) Jeremy Nordquist, Chairperson

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 92.** Placed on Final Reading.  
ST9028

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

1. On page 1, line 4, "upon the approach of" has been struck and  
"approaching stopped" inserted; and in line 5 "to harmonize provisions;" has  
been inserted after the semicolon.

**LEGISLATIVE BILL 97.** Placed on Final Reading.  
ST9024

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

1. In the Flood amendment, AM1259:

a. Section 35 has been renumbered as section 36; and

b. On page 1, lines 9 and 10, "33, and 35" has been struck and "34, and 36" inserted.

2. In the Stuthman amendment, AM1234:

a. Amendment 2 has been struck and the following new amendments inserted:

"2. On page 44, line 22, after the period insert "Section 30 of this act becomes operative three calendar months after the adjournment of this legislative session.

3. Renumber the remaining sections accordingly.";

b. On page 1, line 14, "effective date of this act" has been struck and "operative date of this section" inserted.

3. In the E & R amendments, ER8094:

a. On page 5, line 11, "protected persons" has been struck and "a protected individual" inserted;

b. On page 44, line 21, "30" has been struck and "31" inserted;

c. On page 45, line 17, "sexual misconduct and" has been inserted after the first "to" and "and eliminate" has been inserted after "change"; and in line 26 "to prohibit certain convicted or charged individuals from providing transportation services for the Department of Health and Human Services; to provide a penalty;" has been inserted after the first semicolon; and

d. On page 46, line 1, "to outright repeal section 28-321, Reissue Revised Statutes of Nebraska;" has been inserted after the second semicolon.

**LEGISLATIVE BILL 188.** Placed on Final Reading.

ST9026

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

1. In the Pankonin amendment, AM1153, on page 1, line 2, an underscored comma has been inserted after "1".

**LEGISLATIVE BILL 237.** Placed on Final Reading.

**LEGISLATIVE BILL 237A.** Placed on Final Reading.

**LEGISLATIVE BILL 286.** Placed on Final Reading.

ST9025

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

1. On page 1, the matter beginning with "revenue" in line 1 through line 5 and all amendments thereto have been struck and "gaming; to amend sections 9-255.04, 9-347, 9-347.01, and 9-812, Reissue Revised Statutes of Nebraska; to change provisions relating to definite profit under the Nebraska Bingo Act and the Nebraska Pickle Card Lottery Act; to change provisions relating to lottery funds; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

**LEGISLATIVE BILL 402.** Placed on Final Reading.

**LEGISLATIVE BILL 495.** Placed on Final Reading.

ST9029

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

1. In the Friend amendment, AM1211, on page 3, line 13, "after" has been struck and "of" inserted.

2. On page 1, the matter beginning with "section" in line 1 through line 4 has been struck and "sections 15-268, 16-117, 16-230, 17-405.01, 17-563, and 19-916, Reissue Revised Statutes of Nebraska; to require notice of annexation as prescribed; to change provisions relating to the control of weeds and worthless vegetation; to provide for annexation by certain cities; to change provisions relating to the platting of additions; to harmonize provisions; and to repeal the original sections." inserted.

**LEGISLATIVE BILL 497.** Placed on Final Reading.

ST9027

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

1. In the Council amendment, AM1015, on page 36, line 12, "section 29-2259.01" has been struck and "sections 29-2259.01 and 60-6,197.05" inserted.

2. In the Janssen amendment, AM1240:

a. Amendments 2 and 3 have been struck;

b. On page 2, line 24; and page 4, line 4, "of the" has been struck and "the order of" inserted; and

c. On page 3, lines 8 and 18, "Department of Motor Vehicles" has been struck, shown as stricken, and "department" inserted.

3. On page 1, line 2, "section 29-2259.01" has been struck and "sections 29-2259.01 and 60-6,197.05" inserted; and in line 5 the first "and" has been struck and "relating to employment driving permits and ignition interlock devices; to" inserted.

**LEGISLATIVE BILL 497A.** Placed on Final Reading.**LEGISLATIVE BILL 603.** Placed on Final Reading.

ST9031

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

1. In the Gay amendment, AM1171, on page 11, line 13, "effective date of this act" has been struck and "operative date of this section" inserted.

2. On page 1, the matter beginning with "section" in line 1 through line 6 has been struck and "sections 68-911, 68-915, 71-801, and 71-808, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to medical assistance and behavioral health services; to adopt the Behavioral Health Workforce Act and the Children and Family Behavioral Health Support Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

**LEGISLATIVE BILL 603A.** Placed on Final Reading.  
ST9030

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

1. On page 1, line 3, "; and to reduce appropriations" has been inserted after "2009".

**LEGISLATIVE BILL 653.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**NOTICE OF COMMITTEE HEARING**  
General Affairs

Room 1510

Monday, May 18, 2009 1:00 p.m.

Janell Beveridge - State Racing Commission

(Signed) Russ Karpisek, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 97A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 246A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 342A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 633A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 671A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 198A.** Senator Stuthman offered the following amendment:

AM1277

- 1 1. Strike original section 1 and insert the following new
- 2 section:
- 3 Section 1. There is hereby appropriated (1) \$30,568 from
- 4 the Fire Marshal Cash Fund for FY2009-10 and (2) \$55,175 from the
- 5 Reduced Cigarette Ignition Propensity Fund for FY2010-11 to the
- 6 State Fire Marshal, for Program 197, to aid in carrying out the
- 7 provisions of Legislative Bill 198, One Hundred First Legislature,
- 8 First Session, 2009.
- 9 Total expenditures for permanent and temporary salaries
- 10 and per diems from funds appropriated in this section shall not
- 11 exceed \$14,114 for FY2009-10 or \$28,934 for FY2010-11.

The Stuthman amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 311.** Title read. Considered.

Committee AM886, found on page 1252, was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Pending.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 108.** Introduced by Wightman, 36.

WHEREAS, Charles E. Bessey was a nationally-known University of Nebraska professor of botany and horticulture from 1884 to 1915, and he served as acting chancellor from 1888 to 1891 and again in 1899; and

WHEREAS, Professor Bessey established one of the leading botany programs in the country, developed modern plant classification, promoted public education and environmental stewardship, and was president of the American Association for the Advancement of Science; and

WHEREAS, Professor Bessey's motto, "Science with Practice," reflected his guiding philosophy that scientific discovery is most useful when put into practice; and

WHEREAS, Professor Bessey was instrumental in establishing agricultural experiment stations in Nebraska and on the national level as a way to take academic research to the public; and

WHEREAS, Professor Bessey was instrumental in creating the only manmade forests in the nation, the Nebraska National Forest near Halsey and the Samuel R. McKelvie National Forest near Valentine; and

WHEREAS, Professor Bessey vigorously opposed efforts to create two separate state universities in Nebraska, laying the foundation for a single, unified state university; and

WHEREAS, Professor Bessey's induction as the twenty-fourth inductee into the Nebraska Hall of Fame is well-justified recognition of his lasting impact on the State of Nebraska and the University of Nebraska through his notable achievements and his conviction that the university's mission was to benefit the public.

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

1. That the Legislature posthumously honors Charles E. Bessey for his induction into the Nebraska Hall of Fame.

2. That a copy of this resolution be sent to the family of Charles E. Bessey and to the University of Nebraska.

Laid over.

### AMENDMENTS - Print in Journal

Senator Giese filed the following amendment to LB315:  
AM1267

(Amendments to Standing Committee amendments, AM889)

- 1 1. On page 103, after line 24 insert:
- 2 "There is included in the appropriation to this program
- 3 for FY2009-10 \$44,970 General Funds and for FY2010-11 \$44,970
- 4 General Funds which may be expended in remuneration for services
- 5 provided by the Tri-State Graduate Center which facilitate delivery
- 6 of graduate-level courses and programs by Wayne State College
- 7 and other Nebraska public postsecondary institutions to residents
- 8 of South Sioux City and the remainder of the Siouxland area of
- 9 Nebraska, Iowa, and South Dakota."

Senator Gloor filed the following amendment to LB288:  
AM1280

(Amendments to Standing Committee amendments, AM846)

- 1 1. Insert the following new section:
- 2 Sec. 24. Section 71-8403, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-8403 (1) A patient may request a copy of the patient's
- 5 medical records or may request to examine such records. Access to
- 6 such records shall be provided upon request pursuant to sections
- 7 71-8401 to 71-8407, except that mental health medical records may
- 8 be withheld if any treating physician, psychologist, or mental
- 9 health practitioner determines in his or her professional opinion
- 10 that release of the records would not be in the best interest of

11 the patient unless the release is required by court order. The  
 12 request and any authorization shall be in writing, ~~and shall be~~  
 13 ~~valid for one hundred eighty days after the date of execution by~~  
 14 ~~the patient.~~

15 (2) Upon receiving a written request for a copy of the  
 16 patient's medical records under subsection (1) of this section, the  
 17 provider shall furnish the person making the request a copy of such  
 18 records not later than thirty days after the written request is  
 19 received.

20 (3) Upon receiving a written request to examine the  
 21 patient's medical records under subsection (1) of this section, the  
 22 provider shall, as promptly as required under the circumstances but  
 1 no later than ten days after receiving the request: (a) Make the  
 2 medical records available for examination during regular business  
 3 hours; (b) inform the patient if the records do not exist or  
 4 cannot be found; (c) if the provider does not maintain the records,  
 5 inform the patient of the name and address of the provider who  
 6 maintains such records, if known; or (d) if unusual circumstances  
 7 have delayed handling the request, inform the patient in writing  
 8 of the reasons for the delay and the earliest date, not later than  
 9 twenty-one days after receiving the request, when the records will  
 10 be available for examination. The provider shall furnish a copy of  
 11 medical records to the patient as provided in subsection (2) of  
 12 this section if requested.

13 (4) This section does not require the retention of  
 14 records or impose liability for the destruction of records in the  
 15 ordinary course of business prior to receipt of a request made  
 16 under subsection (1) of this section. A provider shall not be  
 17 required to disclose confidential information in any medical record  
 18 concerning another patient or family member who has not consented  
 19 to the release of the record.

20 2. On page 43, line 27, strike "24, 25, 27, 28, 29, 31,  
 21 32, 33, 36," and insert "25, 26, 28, 29, 30, 32, 33, 34, 37,".

22 3. On page 44, line 1, strike "37" and insert "38"; and  
 23 in line 4 after the first comma insert "71-8403,".

24 4. Renumber the remaining sections accordingly.

Senator Pirsch filed the following amendment to LB63:  
 AM758

(Amendments to E & R amendments, ER8031)

1 1. Insert the following new sections:

2 Sec. 6. Section 28-603, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 28-603 (1) Whoever, with intent to deceive or harm,  
 5 falsely makes, completes, endorses, alters, or utters any written  
 6 instrument which is or purports to be, or which is calculated to  
 7 become or to represent if completed, a written instrument which  
 8 does or may evidence, create, transfer, terminate, or otherwise  
 9 affect a legal right, interest, obligation, or status, commits

10 forgery in the second degree.

11 (2) Forgery in the second degree is a Class III felony  
12 when the face value, or purported face value, or the amount of any  
13 proceeds wrongfully procured or intended to be procured by the use  
14 of such instrument, is one thousand dollars or more.

15 (3) Forgery in the second degree is a Class IV felony  
16 when the face value, or purported face value, or the amount of any  
17 proceeds wrongfully procured or intended to be procured by the use  
18 of such instrument, exceeds three hundred dollars but is less than  
19 one thousand dollars.

20 (4) Forgery in the second degree is a Class I misdemeanor  
21 when the face value, or purported face value, or the amount of any  
22 proceeds wrongfully procured or intended to be procured by the use  
23 of such instrument, is three hundred dollars or less.

24 (5) For the purpose of determining the class of penalty  
25 for forgery in the second degree, the face values, or purported  
26 face values, or the amounts of any proceeds wrongfully procured  
27 or intended to be procured by the use of more than one such  
28 instrument, may be aggregated in the indictment or information if  
29 such instruments were part of the same scheme or course of conduct  
30 which took place within a sixty-day period and within one county.  
31 Such values or amounts shall not be aggregated into more than one  
32 offense.

33 Sec. 7. Section 28-604, Reissue Revised Statutes of  
34 Nebraska, is amended to read:

35 28-604 (1) Whoever, with knowledge that it is forged and  
36 with intent to deceive or harm, possesses any forged instrument  
37 covered by section 28-602 or 28-603 commits criminal possession of  
38 a forged instrument.

39 (2) Criminal possession of a forged instrument prohibited  
40 by section 28-602 is a Class IV felony.

41 (3) Criminal possession of a forged instrument prohibited  
42 by section 28-603, the amount or value of which is one thousand  
43 dollars or more, is a Class IV felony.

44 (4) Criminal possession of a forged instrument prohibited  
45 by section 28-603, the amount or value of which is more than three  
46 hundred dollars but less than one thousand dollars, is a Class I  
47 misdemeanor.

48 (5) Criminal possession of a forged instrument prohibited  
49 by section 28-603, the amount or value of which is three hundred  
50 dollars or less, is a Class II misdemeanor.

51 (6) For the purpose of determining the class of penalty  
52 for criminal possession of a forged instrument prohibited by  
53 section 28-603, the amounts or values of more than one such forged  
54 instrument may be aggregated in the indictment or information if  
55 such forced instruments were part of the same scheme or course of  
56 conduct which took place within a sixty-day period and within one  
57 county. Such amounts or values shall not be aggregated into more  
58 than one offense.



- 10 2. On page 43, line 21, after the first comma insert  
 11 "28-603, 28-604,".  
 12 3. Renumber the remaining sections and correct internal  
 13 references accordingly.

### BILL ON FIRST READING

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

**LEGISLATIVE BILL 288A.** Introduced by Gay, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 288, One Hundred First Legislature, First Session, 2009; and to declare an emergency.

### COMMITTEE REPORTS

Judiciary

**LEGISLATIVE BILL 216.** Placed on General File.

**LEGISLATIVE BILL 147.** Placed on General File with amendment.  
 AM756

- 1 1. Insert the following new section:  
 2 Sec. 2. Section 28-376, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 28-376 (1) The department shall establish and maintain  
 5 an Adult Protective Services Central Registry for recording each  
 6 report of alleged abuse.  
 7 (2) Upon request, a vulnerable adult who is the subject  
 8 of a report or, if the vulnerable adult is legally incapacitated,  
 9 the guardian or guardian ad litem of the vulnerable adult shall  
 10 be entitled to receive a copy of all information contained in the  
 11 registry pertaining to his or her case. The department shall not  
 12 release data that would be harmful or detrimental to the vulnerable  
 13 adult or that would identify or locate a person who, in good faith,  
 14 made a report or cooperated in a subsequent investigation unless  
 15 ordered to do so by a court of competent jurisdiction.  
 16 (3) The department shall establish classifications for  
 17 all cases in the registry. All cases determined to be unfounded  
 18 shall be expunged from the registry.  
 19 (4) The department shall determine whether a name-change  
 20 order received from the clerk of a district court pursuant to  
 21 section 25-21,271 is for a person on the Adult Protective Services  
 22 Central Registry and, if so, shall include the changed name with  
 23 the former name in the registry and file or cross-reference the  
 1 information under both names.  
 2 2. On page 2, line 4, strike "may", show as stricken, and  
 3 insert "shall"; in line 7 after "(b)" insert "the address of the  
 4 petitioner, (c) the date of birth of the petitioner, (d)"; and in

- 5 line 8 strike "(c)", show as stricken, and insert "(e)".  
6 3. On page 3, line 12, strike "section" and insert  
7 "sections 28-376 and".  
8 4. On page 8, line 19, after "25-21,271," insert  
9 "28-376,".  
10 5. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 155.** Placed on General File with amendment.  
AM1271 is available in the Bill Room.

**LEGISLATIVE BILL 199.** Placed on General File with amendment.  
AM1213

- 1 1. Strike original sections 2 and 12 and insert the  
2 following new sections:  
3 Sec. 2. Section 42-364, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 42-364 (1) In an action under Chapter 42 involving  
6 child support, child custody, parenting time, visitation, or other  
7 access, the parties and their counsel, if represented, shall  
8 develop a parenting plan as provided in the Parenting Act. If  
9 the parties and counsel do not develop a parenting plan, the  
10 complaint shall so indicate as provided in section 42-353 and  
11 before July 1, 2010, the case may be referred to mediation,  
12 specialized alternative dispute resolution, or other alternative  
13 dispute resolution process and on or after such date the case  
14 shall be referred to mediation or specialized alternative dispute  
15 resolution as provided in the Parenting Act. The decree in an  
16 action involving the custody of a minor child shall include the  
17 determination of legal custody and physical custody based upon the  
18 best interests of the child, as defined in the Parenting Act, and  
19 child support. Such determinations shall be made by incorporation  
20 into the decree of (a) a parenting plan developed by the parties,  
21 if approved by the court, or (b) a parenting plan developed by the  
22 court based upon evidence produced after a hearing in open court if  
23 no parenting plan is developed by the parties or the plan developed  
1 by the parties is not approved by the court. The decree shall  
2 conform to the Parenting Act. The social security number of each  
3 parent and the minor child shall be furnished to the clerk of a public  
4 district court but shall not be disclosed or considered a public  
5 record.  
6 (2) In determining legal custody or physical custody,  
7 the court shall not give preference to either parent based on the  
8 sex of the parent and, except as provided in section 43-2933, no  
9 presumption shall exist that either parent is more fit or suitable  
10 than the other. Custody shall be determined on the basis of the  
11 best interests of the child, as defined in the Parenting Act.  
12 Unless parental rights are terminated, both parents shall continue  
13 to have the rights stated in section 42-381.  
14 (3) Custody of a minor child may be placed with both

15 parents on a joint legal custody or joint physical custody basis,  
16 or both, (a) when both parents agree to such an arrangement in the  
17 parenting plan and the court determines that such an arrangement is  
18 in the best interests of the child or (b) if the court specifically  
19 finds, after a hearing in open court, that joint physical custody  
20 or joint legal custody, or both, is in the best interests of the  
21 minor child regardless of any parental agreement or consent.

22 (4) In determining the amount of child support to be  
23 paid by a parent, the court shall consider the earning capacity  
24 of each parent and the guidelines provided by the Supreme Court  
25 pursuant to section 42-364.16 for the establishment of child  
26 support obligations. Upon application, hearing, and presentation of  
27 evidence of an abusive disregard of the use of child support money  
1 or cash medical support paid by one party to the other, the court  
2 may require the party receiving such payment to file a verified  
3 report with the court, as often as the court requires, stating the  
4 manner in which ~~such child support money~~ or cash medical support  
5 is used. Child support money or cash medical support paid to the  
6 party having custody of the minor child shall be the property of  
7 such party except as provided in section 43-512.07. The clerk of  
8 the district court shall maintain a record, separate from all other  
9 judgment dockets, of all decrees and orders in which the payment  
10 of child support, cash medical support, or spousal support has  
11 been ordered, whether ordered by a district court, county court,  
12 separate juvenile court, or county court sitting as a juvenile  
13 court. Orders for child support or cash medical support in cases  
14 in which a party has applied for services under Title IV-D of  
15 the federal Social Security Act, as amended, shall be reviewed as  
16 provided in sections 43-512.12 to 43-512.18.

17 (5) Whenever termination of parental rights is placed in  
18 issue:

19 (a) The court shall transfer jurisdiction to a juvenile  
20 court established pursuant to the Nebraska Juvenile Code unless  
21 a showing is made that the county court or district court  
22 is a more appropriate forum. In making such determination, the  
23 court may consider such factors as cost to the parties, undue  
24 delay, congestion of dockets, and relative resources available for  
25 investigative and supervisory assistance. A determination that the  
26 county court or district court is a more appropriate forum shall  
27 not be a final order for the purpose of enabling an appeal. If  
1 no such transfer is made, the court shall appoint an attorney as  
2 guardian ad litem to protect the interests of any minor child.  
3 The court may terminate the parental rights of one or both parents  
4 after notice and hearing when the court finds such action to be in  
5 the best interests of the minor child, as defined in the Parenting  
6 Act, and it appears by the evidence that one or more of the grounds  
7 for termination of parental rights stated in section 43-292 exist;  
8 and

9 (b) The court shall inform a parent who does not have

10 legal counsel of the parent's right to retain counsel and of  
11 the parent's right to retain legal counsel at county expense if  
12 such parent is unable to afford legal counsel. If such parent  
13 is unable to afford legal counsel and requests the court to  
14 appoint legal counsel, the court shall immediately appoint an  
15 attorney to represent the parent in the termination proceedings.  
16 The court shall order the county to pay the attorney's fees and  
17 all reasonable expenses incurred by the attorney in protecting the  
18 rights of the parent. At such hearing, the guardian ad litem shall  
19 take all action necessary to protect the interests of the minor  
20 child. The court shall fix the fees and expenses of the guardian ad  
21 litem and tax the same as costs but may order the county to pay on  
22 finding the responsible party indigent and unable to pay.

23 (6) Modification proceedings relating to support,  
24 custody, parenting time, visitation, other access, or removal of  
25 children from the jurisdiction of the court shall be commenced  
26 by filing a complaint to modify. Modification of a parenting  
27 plan is governed by the Parenting Act. Proceedings to modify a  
1 parenting plan shall be commenced by filing a complaint to modify.  
2 Such actions may be referred to mediation, specialized alternative  
3 dispute resolution, or other alternative dispute resolution process  
4 before July 1, 2010, and on and after such date shall be referred  
5 to mediation or specialized alternative dispute resolution as  
6 provided in the Parenting Act. Service of process and other  
7 procedure shall comply with the requirements for a dissolution  
8 action.

9 (7) In any proceeding under this section relating to  
10 custody of a child of school age, certified copies of school  
11 records relating to attendance and academic progress of such child  
12 are admissible in evidence.

13 Sec. 3. Section 42-369, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 42-369 (1) All orders, decrees, or judgments for  
16 temporary or permanent support payments, including child, spousal,  
17 or medical support, and all orders, decrees, or judgments for  
18 alimony or modification of support payments or alimony shall direct  
19 the payment of such sums to be made commencing on the first day  
20 of each month for the use of the persons for whom the support  
21 payments or alimony have been awarded. Such payments shall be made  
22 to the clerk of the district court (a) when the order, decree, or  
23 judgment is for spousal support, alimony, or maintenance support  
24 and the order, decree, or judgment does not also provide for  
25 child support, and (b) when the payment constitutes child care  
26 or day care expenses, unless payments under subdivision (1)(a) or  
27 (1)(b) of this section are ordered to be made directly to the  
1 obligee. All other support order payments shall be made to the  
2 State Disbursement Unit. In all cases in which income withholding  
3 has been implemented pursuant to the Income Withholding for Child  
4 Support Act or sections 42-364.01 to 42-364.14, support order

5 payments shall be made to the State Disbursement Unit. The court  
6 may order such payment to be in cash or guaranteed funds.

7 ~~(2)-(2)(a)~~ If the ~~person party~~ against whom an order,  
8 decree, or judgment for child support is entered or the custodial  
9 ~~parent or guardian party~~ has health insurance available to him  
10 or her through an employer, ~~or organization, or other health~~  
11 insurance entity which may extend to cover any children affected  
12 by the order, decree, or judgment and the health care coverage  
13 is accessible to the children and is available to the responsible  
14 party at reasonable cost, the court shall require health care  
15 coverage to be provided. Health care coverage is accessible if  
16 the covered children can obtain services from a plan provider with  
17 reasonable effort by the custodial party. When the administrative  
18 agency, court, or other tribunal determines that the only health  
19 care coverage option available through the noncustodial party  
20 is a plan that limits service coverage to providers within a  
21 defined geographic area, the administrative agency, court, or  
22 other tribunal shall determine whether the child lives within the  
23 plan's service area. If the child does not live within the plan's  
24 service area, the administrative agency, court, or other tribunal  
25 shall determine whether the plan has a reciprocal agreement that  
26 permits the child to receive coverage at no greater cost than if  
1 the child resided in the plan's service area. The administrative  
2 agency, court, or other tribunal shall also determine if primary  
3 care is available within thirty minutes or thirty miles of the  
4 child's residence. For the purpose of determining the accessibility  
5 of health care coverage, the administrative agency, court, or  
6 other tribunal may determine and include in an order that longer  
7 travel times are permissible if residents, in part or all of  
8 the service area, customarily travel distances farther than thirty  
9 minutes or thirty miles. If primary care services are not available  
10 within these constraints, the health care coverage is presumed  
11 inaccessible. If health care coverage is not available or is  
12 inaccessible and one or more of the parties are receiving Title  
13 IV-D services, then cash medical support shall be ordered. Cash  
14 medical support or the cost of health care coverage is considered  
15 reasonable in cost if the cost to the party responsible for  
16 providing medical support does not exceed three percent of his  
17 or her gross income. In applying the three-percent standard, the  
18 cost is the cost of adding the children to existing health care  
19 coverage or the difference between self-only and family health care  
20 coverage. Cash medical support payments shall not be ordered if,  
21 at the time that the order is issued or modified, the responsible  
22 party's income is or such expense would reduce the responsible  
23 party's net income below the basic subsistence limitation provided  
24 in Nebraska Court Rule section 4-218. If such rule does not  
25 describe a basic subsistence limitation, the responsible party's  
26 net income shall not be reduced below nine hundred three dollars  
net monthly income for one person or below the poverty guidelines

27 updated annually in the Federal Register by the U. S. Department of  
 1 Health and Human Services under the authority of 42 U.S.C. 902(2).  
 2 ~~the court shall require the option to be exercised or comparable~~  
 3 ~~coverage be obtained by either party for additional coverage which~~  
 4 ~~favors the best interests of the child or children affected unless~~  
 5 ~~the parties have otherwise stipulated in writing or to the court.~~

6 (b) For purposes of this section:

7 (i) Health care coverage has the same meaning as in  
 8 section 44-3,144; and

9 (ii) Cash medical support means an amount ordered to be  
 10 paid toward the cost of health insurance provided by a public  
 11 entity or by another parent through employment or otherwise or for  
 12 other medical costs not covered by insurance.

13 ~~(3) Such an A support order, decree, or judgment for~~  
 14 ~~support may include the providing of necessary shelter, food,~~  
 15 ~~clothing, care, medical support as defined in section 43-512,~~  
 16 ~~medical attention, expenses of confinement, education expenses,~~  
 17 ~~funeral expenses, and any other expense the court may deem~~  
 18 ~~reasonable and necessary.~~

19 (4) Orders, decrees, and judgments for temporary or  
 20 permanent support or alimony shall be filed with the clerk of the  
 21 district court and have the force and effect of judgments when  
 22 entered. The clerk and the State Disbursement Unit shall disburse  
 23 all payments received as directed by the court and as provided  
 24 in sections 42-358.02 and 43-512.07. Records shall be kept of all  
 25 funds received and disbursed by the clerk and the unit and shall be  
 26 open to inspection by the parties and their attorneys.

27 (5) Unless otherwise specified by the court, an equal and  
 1 proportionate share of any child support awarded shall be presumed  
 2 to be payable on behalf of each child subject to the order, decree,  
 3 or judgment for purposes of an assignment under section 43-512.07.

4 Sec. 13. Sections 2, 3, 4, 5, 7, 8, 9, 10, 13, and 14 of  
 5 this act become operative on September 30, 2009. Sections 6 and 15  
 6 of this act become operative on October 1, 2009. Sections 11, 12,  
 7 and 16 of this act become operative on January 1, 2010. Sections 1  
 8 and 17 of this act become operative on October 1, 2010.

9 Sec. 14. Original sections 42-364, 42-369, 43-512,  
 10 43-512.03, 43-512.12, 43-512.16, and 43-512.17, Reissue Revised  
 11 Statutes of Nebraska, and section 44-3,144, Revised Statutes  
 12 Cumulative Supplement, 2008, are repealed.

13 Sec. 15. Original section 43-512.07, Reissue Revised  
 14 Statutes of Nebraska, is repealed.

15 Sec. 16. Original sections 48-2302 and 77-27,166, Reissue  
 16 Revised Statutes of Nebraska, are repealed.

17 Sec. 17. Original section 42-358.02, Reissue Revised  
 18 Statutes of Nebraska, is repealed.

(Signed) Brad Ashford, Chairperson

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Giese asked unanimous consent to add his name as cointroducer to LR106. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 14 students and teachers from Southern Leadership Academy, Southern Public Schools; 40 fourth-grade students and teachers from Mockingbird Elementary, Omaha; 50 fourth-grade students and teachers from Alcott Elementary, Hastings; and 40 fourth-grade students and teachers from Johnson County Central School, Tecumseh.

**RECESS**

At 12:01 p.m., on a motion by Senator Utter, 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 Louden who was excused; and Senators Ashford and Christensen who were excused until they arrive.

**GENERAL FILE**

**LEGISLATIVE BILL 311.** Considered.

**SPEAKER FLOOD PRESIDING**

Pending.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 98, 99, and 100 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 98, 99, and 100.

**GENERAL FILE**

**LEGISLATIVE BILL 311.** Considered.

Advanced to Enrollment and Review Initial with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

**AMENDMENT - Print in Journal**

Senator Ashford filed the following amendment to LB63:  
AM1308

(Amendments to E & R amendments, ER8031)

- 1 1. On page 35, line 5, strike "A" and insert "Beginning
- 2 July 1, 2010, a".

**RESOLUTION**

**LEGISLATIVE RESOLUTION 109.** Introduced by Ashford, 20.

**PURPOSE:** The purpose of this interim study is to examine the issue of juvenile overcrowding in youth detention centers. The study shall include, but not be limited to, an examination of the causes of overcrowding and an analysis of ways to alleviate overcrowding and prevent its recurrence.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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 312.** Title read. Considered.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 313.** Title read. Considered.

Committee AM887, found on page 1252, was considered.

**SENATOR LANGEMEIER PRESIDING**

The committee amendment was adopted with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.



Advanced to Enrollment and Review Initial with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 314.** Title read. Considered.

Committee AM888, found on page 1252, was adopted with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 315.** Title read. Considered.

Committee AM889, found on page 1252, was considered.

Senator Friend offered the following amendment to the committee amendment:

AM1286

(Amendments to Standing Committee amendments, AM889)

- 1 1. On page 148, strike lines 7 and 8 and insert:
- 2 "GENERAL FUND 87,516,476 87,516,476
- 3 PROGRAM TOTAL 87,516,476 87,516,476";
- 4 in line 10 strike "\$88,575,473" and insert "\$87,516,476";
- 5 and in line 12 strike "\$89,904,105" and insert "\$87,516,476".

Senator Friend withdrew his amendment.

## **SENATOR CARLSON PRESIDING**

The committee amendment was adopted with 46 ayes, 0 nays, 1 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review Initial with 45 ayes, 1 nay, 1 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 316.** Title read. Considered.

Committee AM890, found on page 1252, was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 318.** Title read. Considered.

Advanced to Enrollment and Review Initial with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 456.** Title read. Considered.

Committee AM1214, found on page 1253, was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 414.** Title read. Considered.

**SENATOR LANGEMEIER PRESIDING**

Committee AM812, found on page 806, was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Senator Pankonin renewed his amendment, AM1236, found on page 1226.

**SENATOR ROBERT PRESIDING**

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

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

**LEGISLATIVE BILL 414A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 629.** Title read. Considered.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 628.** Title read. Considered.

Committee AM1116, found on page 1188, was adopted with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

**AMENDMENTS - Print in Journal**

Senator Nordquist filed the following amendment to LB392:  
AM1296

1 1. Insert the following new sections:

2 Sec. 4. Section 79-575, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 79-575 The secretary of a school district shall draw and  
5 sign all orders upon the treasurer for all money to be disbursed  
6 by the district and all warrants upon the county treasurer for  
7 money raised for district purposes or apportioned to the district  
8 by the county treasurer and shall present the same to the president  
9 to be countersigned. No warrant, check, or other instrument drawn  
10 upon bank depository funds of the district shall be issued until  
11 so countersigned. No warrant, check, or other instrument drawn upon  
12 bank depository funds of the district shall be countersigned by the  
13 president until the amount for which ~~the warrant~~ it is drawn is  
14 written upon its face. Facsimile signatures of board members may  
15 be used, and a person or persons delegated by the board may sign  
16 and validate all warrants, checks, and other instruments drawn upon  
17 bank depository funds of the district.

18 Sec. 5. Section 79-592, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 79-592 The treasurer of a Class V school district shall  
21 receive all taxes of the school district from the county treasurer.  
22 The treasurer of the school district shall attend all meetings of  
23 the board of education of the Class V district when required to  
1 do so, shall prepare and submit in writing a monthly report of  
2 the state of the district's finances, and shall pay school money  
3 ~~only either~~ upon a warrant signed by the president, or in the  
4 president's absence by the vice president, and countersigned by  
5 the secretary or upon a check or other instrument drawn upon bank  
6 depository funds of the school district. The treasurer shall also  
7 perform such other duties as designated by the board of education.  
8 Before entering into the discharge of his or her duties and during  
9 the entire time he or she so serves, the treasurer shall give  
10 bond or evidence of equivalent insurance coverage payable to the  
11 board in such amount as may be required by the board, but in no  
12 event less than two hundred thousand dollars, conditioned for the  
13 faithful discharge of his or her duties as treasurer of the school  
14 district, for the safekeeping and proper disbursement of all funds  
15 and money of the school district received by the treasurer. Such  
16 bond shall be signed by one or more surety companies of recognized  
17 responsibility, to be approved by the board. The cost of the bond  
18 or insurance shall be paid by the school district. Such bond or  
19 insurance coverage may be enlarged at any time the board may deem  
20 an enlargement or additional bond or insurance coverage to be  
21 necessary.

22 2. Amend the repealer and renumber the remaining sections  
23 accordingly.

Senator Adams filed the following amendment to LB392:  
AM1300

- 1 1. Insert the following new sections:
- 2 Section 1. Section 11-119, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 11-119 The following named officers shall execute a bond
- 5 with penalties of the following amounts:
- 6 (1) The Governor, one hundred thousand dollars;
- 7 (2) The Lieutenant Governor, one hundred thousand
- 8 dollars;
- 9 (3) The Auditor of Public Accounts, one hundred thousand
- 10 dollars;
- 11 (4) The Secretary of State, one hundred thousand dollars;
- 12 (5) The Attorney General, one hundred thousand dollars;
- 13 (6) The State Treasurer, not less than one million
- 14 dollars and not more than double the amount of money that may come
- 15 into his or her hands, to be fixed by the Governor;
- 16 (7) Each county attorney, a sum not less than one
- 17 thousand dollars to be fixed by the county board;
- 18 (8) Each clerk of the district court, not less than five
- 19 thousand dollars or more than one hundred thousand dollars to be
- 20 determined by the county board;
- 21 (9) Each county clerk, not less than one thousand dollars
- or more than one hundred thousand dollars to be determined by the
- 23 county board, except that when a county clerk also has the duties
- 1 of other county offices the minimum bond shall be two thousand
- 2 dollars;
- 3 (10) Each county treasurer, not less than ten thousand
- 4 dollars and not more than the amount of money that may come into
- 5 his or her hands, to be determined by the county board;
- 6 (11) Each sheriff, in counties of not more than twenty
- 7 thousand inhabitants, five thousand dollars, and in counties over
- 8 twenty thousand inhabitants, ten thousand dollars;
- 9 (12) Each district superintendent of public instruction,
- 10 one thousand dollars;
- 11 (13) Each county surveyor, five hundred dollars;
- 12 (14) Each county commissioner or supervisor, in counties
- 13 of not more than twenty thousand inhabitants, one thousand dollars,
- 14 in counties over twenty thousand and not more than thirty thousand
- 15 inhabitants, two thousand dollars, in counties over thirty thousand
- 16 and not more than fifty thousand inhabitants, three thousand
- 17 dollars, and in counties over fifty thousand inhabitants, five
- 18 thousand dollars;
- 19 (15) Each register of deeds in counties having a
- 20 population of more than sixteen thousand five hundred inhabitants,
- 21 not less than two thousand dollars or more than one hundred

22 thousand dollars to be determined by the county board;

23 (16) Each township clerk, two hundred fifty dollars;

24 (17) Each township treasurer, two thousand dollars;

25 (18) Each county assessor, not more than five thousand  
26 dollars and not less than two thousand dollars;

27 (19) Each school district treasurer, not less than five  
1 hundred dollars or more than double the amount of money that may  
2 come into his or her hands, the amount to be fixed by the president  
3 and secretary of the district;

4 (20) Each road overseer, two hundred fifty dollars;

5 (21) Each member of a county weed district board and the  
6 manager thereof, such amount as may be determined by the county  
7 board of commissioners or supervisors of each county with the same  
8 amount to apply to each member of any particular board; ~~and~~

9 (22) In any county, in lieu of the individual bonds  
10 required to be furnished by county officers, a schedule, position,  
11 or blanket bond or undertaking may be given by county officers, or  
12 a single corporate surety fidelity, schedule, position, or blanket  
13 bond or undertaking covering all the officers, including officers  
14 required by law to furnish an individual bond or undertaking, may  
15 be furnished. The county may pay the premium for the bond. The bond  
16 shall be, at a minimum, an aggregate of the amounts fixed by law  
17 or by the person or board authorized by law to fix the amounts,  
18 and with such terms and conditions as may be required by sections  
19 11-101 to 11-130; and -

20 (23) Each learning community coordinating council  
21 treasurer, not less than five hundred dollars or more than double  
22 the amount of money that may come into his or her hands, the amount  
23 to be fixed by the learning community coordinating council.

24 All other state officers, department heads, and employees  
25 shall be bonded or insured as required by section 11-201.

26 Sec. 3. Section 13-903, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1 13-903 For purposes of the Political Subdivisions Tort  
2 Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610,  
3 unless the context otherwise requires:

4 (1) Political subdivision shall include villages, cities  
5 of all classes, counties, school districts, public power districts,  
6 learning communities, and all other units of local government,  
7 including entities created pursuant to the Interlocal Cooperation  
8 Act or Joint Public Agency Act. Political subdivision shall not be  
9 construed to include any contractor with a political subdivision;

10 (2) Governing body shall mean the village board of a  
11 village, the city council of a city, the board of commissioners  
12 or board of supervisors of a county, the board of directors of a  
13 public power district, the governing board or other governing body  
14 of an entity created pursuant to the Interlocal Cooperation Act or  
15 Joint Public Agency Act, and any duly elected or appointed body  
16 holding the power and authority to determine the appropriations and

17 expenditures of any other unit of local government;

18 (3) Employee of a political subdivision shall mean any  
 19 one or more officers or employees of the political subdivision or  
 20 any agency of the subdivision and shall include members of the  
 21 governing body, duly appointed members of boards or commissions  
 22 when they are acting in their official capacity, volunteer  
 23 firefighters, and volunteer rescue squad personnel. Employee shall  
 24 not be construed to include any contractor with a political  
 25 subdivision; and

26 (4) Tort claim shall mean any claim against a political  
 27 subdivision for money only on account of damage to or loss of  
 1 property or on account of personal injury or death, caused by  
 2 the negligent or wrongful act or omission of any employee of the  
 3 political subdivision, while acting within the scope of his or her  
 4 office or employment, under circumstances in which the political  
 5 subdivision, if a private person, would be liable to the claimant  
 6 for such damage, loss, injury, or death but shall not include any  
 7 claim accruing before January 1, 1970.

8 Sec. 4. Section 13-2202, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:

10 13-2202 For purposes of the Local Government  
 11 Miscellaneous Expenditure Act:

12 (1) Elected and appointed officials and employees shall  
 13 mean the elected and appointed officials and employees of any local  
 14 government;

15 (2) Governing body shall mean, in the case of a city  
 16 of any class, the council; in the case of a village, cemetery  
 17 district, community hospital for two or more adjoining counties,  
 18 county hospital, road improvement district, sanitary drainage  
 19 district, or sanitary and improvement district, the board of  
 20 trustees; in the case of a county, the county board; in the  
 21 case of a municipal county, the council; in the case of a  
 22 township, the town board; in the case of a school district, the  
 23 school board; in the case of a rural or suburban fire protection  
 24 district, reclamation district, natural resources district, or  
 25 hospital district, the board of directors; in the case of a health  
 26 district, the board of health; in the case of an educational  
 27 service unit, the board; in the case of a community college, the  
 1 Community College Board of Governors for the area the board serves;  
 2 in the case of an airport authority, the airport authority board;  
 3 in the case of a weed control authority, the board; ~~and~~ in the  
 4 case of a county agricultural society, the board of governors;  
 5 and in the case of a learning community, the learning community  
 6 coordinating council;

7 (3) Local government shall mean cities of any class,  
 8 villages, cemetery districts, community hospitals for two or more  
 9 adjoining counties, county hospitals, road improvement districts,  
 10 counties, townships, sanitary drainage districts, sanitary and  
 11 improvement districts, school districts, rural or suburban fire

12 protection districts, reclamation districts, natural resources  
13 districts, hospital districts, health districts, educational  
14 service units, community colleges, airport authorities, weed  
15 control authorities, ~~and~~ county agricultural societies, and  
16 learning communities;

17 (4) Public funds shall mean such public funds as defined  
18 in section 13-503 as are under the direct control of governing  
19 bodies of local governments;

20 (5) Public meeting shall mean all regular, special, or  
21 called meetings, formal or informal, of any governing body for the  
22 purposes of briefing, discussion of public business, formation of  
23 tentative policy, or the taking of any action of the governing  
24 body; and

25 (6) Volunteer shall mean a person who is not an elected  
26 or appointed official or an employee of a local government and  
27 who, at the request or with the permission of the local government,  
1 engages in activities related to the purposes or functions of the  
2 local government or for its general benefit.

3 Sec. 6. Section 32-555.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 32-555.01 The election commissioners of the applicable  
6 counties, pursuant to certification of the establishment of a  
7 learning community pursuant to section 79-2102, shall divide the  
8 territory of the new learning community into six numbered districts  
9 for the purpose of electing members to the learning community  
10 coordinating council in compliance with section 32-553 and for  
11 the purpose of organizing achievement subcouncils pursuant to  
12 section 79-2117. Such districts shall be compact and contiguous  
13 and substantially equal in population. The newly established  
14 ~~election-subcouncil~~ districts shall be certified to the Secretary  
15 of State on or before November 1 immediately following such  
16 certification. The newly established ~~election-subcouncil~~ districts  
17 shall apply beginning with the election of the first council  
18 members for such learning community. Following the drawing of  
19 initial ~~election-subcouncil~~ districts pursuant to this section,  
20 additional redistricting thereafter shall be undertaken by the  
21 learning community coordinating council according to section  
22 32-553.

23 Sec. 8. Section 77-2704.15, Revised Statutes Cumulative  
24 Supplement, 2008, is amended to read:

25 77-2704.15 (1) Sales and use taxes shall not be imposed  
26 on the gross receipts from the sale, lease, or rental of and  
27 the storage, use, or other consumption in this state of purchases  
1 by the state, including public educational institutions recognized  
2 or established under the provisions of Chapter 85, or by any  
3 county, township, city, village, rural or suburban fire protection  
4 district, city airport authority, county airport authority, joint  
5 airport authority, drainage district organized under sections  
6 31-401 to 31-450, natural resources district, elected county fair

7 board, housing agency as defined in section 71-1575 except for  
8 purchases for any commercial operation that does not exclusively  
9 benefit the residents of an affordable housing project, or joint  
10 entity or agency formed to fulfill the purposes described in the  
11 Integrated Solid Waste Management Act by any combination of two  
12 or more counties, townships, cities, or villages pursuant to the  
13 Interlocal Cooperation Act, the Integrated Solid Waste Management  
14 Act, or the Joint Public Agency Act, except for purchases for use  
15 in the business of furnishing gas, water, electricity, or heat, or  
16 by any irrigation or reclamation district, the irrigation division  
17 of any public power and irrigation district, or public schools or  
18 learning communities established under Chapter 79.

19 (2) The appointment of purchasing agents shall be  
20 recognized for the purpose of altering the status of the  
21 construction contractor as the ultimate consumer of building  
22 materials which are physically annexed to the structure and which  
23 subsequently belong to the state or the governmental unit. The  
24 appointment of purchasing agents shall be in writing and occur  
25 prior to having any building materials annexed to real estate in  
26 the construction, improvement, or repair. The contractor who has  
27 been appointed as a purchasing agent may apply for a refund of or  
1 use as a credit against a future use tax liability the tax paid  
2 on inventory items annexed to real estate in the construction,  
3 improvement, or repair of a project for the state or a governmental  
4 unit.

5 (3) Any governmental unit listed in subsection (1) of  
6 this section, except the state, which enters into a contract  
7 of construction, improvement, or repair upon property annexed to  
8 real estate without first issuing a purchasing agent authorization  
9 to a contractor or repairperson prior to the building materials  
10 being annexed to real estate in the project may apply to the Tax  
11 Commissioner for a refund of any sales and use tax paid by the  
12 contractor or repairperson on the building materials physically  
13 annexed to real estate in the construction, improvement, or repair.

14 2. On page 2, lines 6, 7, 9, and 14; page 3, lines 5 and  
15 24; page 4, lines 3, 7, 8, 16, and 21; page 10, line 13; page 11,  
16 line 19; and page 12, lines 2, 5, 7, 12, 14, 17, 18, and 19, strike  
17 "election", show as stricken, and insert "subcouncil".

18 3. On page 2, line 6, after "districts" insert "created  
19 pursuant to section 32-555.01".

20 4. On page 10, line 9; page 11, lines 21 and 23; strike  
21 "election" and insert "subcouncil".

22 5. Amend the repealer and renumber the remaining sections  
23 accordingly.



Senator Adams filed the following amendment to LB392:  
AM1303

(Amendments to Standing Committee amendments, AM1079)

1 1. Insert the following new sections:

2 Sec. 5. Section 79-1024, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 79-1024 (1) The department may require each district  
5 to submit to the department a duplicate copy of such portions  
6 of the district's budget statement as the Commissioner of  
7 Education directs. The department may verify any data used  
8 to meet the requirements of the Tax Equity and Educational  
9 Opportunities Support Act. The Auditor of Public Accounts shall  
10 review each district's budget statement for statutory compliance,  
11 make necessary changes in the budget documents for districts to  
12 effectuate the budget limitations imposed pursuant to sections  
13 79-1023 to 79-1030, and notify the Commissioner of Education of  
14 any district failing to submit to the auditor the budget documents  
15 required pursuant to this subsection by the date established in  
16 subsection (1) of section 13-508 or failing to make any corrections  
17 of errors in the documents pursuant to section 13-504 or 13-511.

18 (2) If a school district fails to submit to the  
19 department or the auditor the budget documents required pursuant  
20 to subsection (1) of this section by the date established in  
21 subsection (1) of section 13-508 or fails to make any corrections  
22 of errors in the documents pursuant to section 13-504 or 13-511,  
1 the commissioner, upon notification from the auditor or upon his  
2 or her own knowledge that the required budget documents and any  
3 required corrections of errors from any school district have not  
4 been properly filed in accordance with the Nebraska Budget Act  
5 and after notice to the district and an opportunity to be heard,  
6 shall direct that any state aid granted pursuant to the Tax Equity  
7 and Educational Opportunities Support Act be withheld until such  
8 time as the required budget documents or corrections of errors  
9 are received by the auditor and the department. In addition, the  
10 commissioner shall direct the county treasurer to withhold all  
11 school money belonging to the school district until such time as  
12 the commissioner notifies the county treasurer of receipt of the  
13 required budget documents or corrections of errors. The county  
14 treasurer shall withhold such money. For school districts that are  
15 members of learning communities, a determination of school money  
16 belonging to the district shall be based on the proportionate  
17 share of property tax receipts allocated to the school district  
18 by the learning community coordinating council, and the ~~learning~~  
19 ~~community coordinating council county treasurer~~ shall withhold any  
20 such school money in the possession of the ~~learning community~~  
21 ~~coordinating council county treasurer~~ from the school district.  
22 If the school district does not comply with this section prior  
23 to the end of the state's biennium following the biennium which  
24 included the fiscal year for which state aid was calculated, the

25 state aid funds shall revert to the General Fund. The amount  
 26 of any reverted funds shall be included in data provided to the  
 27 Governor in accordance with section 79-1031. The board of any  
 1 district failing to submit to the department or the auditor the  
 2 budget documents required pursuant to this section by the date  
 3 established in subsection (1) of section 13-508 or failing to make  
 4 any corrections of errors in the documents pursuant to section  
 5 13-504 or 13-511 shall be liable to the school district for all  
 6 school money which such district may lose by such failing.

7 Sec. 6. Section 79-1033, Reissue Revised Statutes of  
 8 Nebraska, is amended to read:

9 79-1033 (1) Except as otherwise provided in the Tax  
 10 Equity and Educational Opportunities Support Act, state aid payable  
 11 pursuant to the act for each school fiscal year shall be based upon  
 12 data found in applicable reports for the most recently available  
 13 complete data year. The annual financial reports and the annual  
 14 statistical summary of all school districts shall be submitted to  
 15 the Commissioner of Education pursuant to the dates prescribed in  
 16 section 79-528. If a school district fails to timely submit its  
 17 reports, the commissioner, after notice to the district and an  
 18 opportunity to be heard, shall direct that any state aid granted  
 19 pursuant to the act be withheld until such time as the reports  
 20 are received by the department. In addition, the commissioner shall  
 21 direct the county treasurer to withhold all school money belonging  
 22 to the school district until such time as the commissioner notifies  
 23 the county treasurer of receipt of such reports. The county  
 24 treasurer shall withhold such money. For school districts that are  
 25 members of learning communities, a determination of school money  
 26 belonging to the district shall be based on the proportionate share  
 27 of state aid and property tax receipts allocated to the school  
 1 district by the learning community coordinating council, and the  
 2 ~~county treasurer of the learning community coordinating council~~  
 3 shall withhold any such school money in the possession of the  
 4 ~~learning community coordinating council~~ county treasurer from the  
 5 school district. If the school district does not comply with this  
 6 section prior to the end of the state's biennium following the  
 7 biennium which included the school fiscal year for which state aid  
 8 was calculated, the state aid funds shall revert to the General  
 9 Fund. The amount of any reverted funds shall be included in data  
 10 provided to the Governor in accordance with section 79-1031.

11 (2) A district which receives, or has received in the  
 12 most recently available complete data year or in either of the two  
 13 school fiscal years preceding the most recently available complete  
 14 data year, federal funds in excess of twenty-five percent of its  
 15 general fund budget of expenditures may apply for early payment of  
 16 state aid paid pursuant to the act when such federal funds are not  
 17 received in a timely manner. Such application may be made at any  
 18 time by a district suffering such financial hardship and may be for  
 19 any amount up to fifty percent of the remaining amount to which

- 20 the district is entitled during the current school fiscal year. The  
 21 state board may grant the entire amount applied for or any portion  
 22 of such amount if the state board finds that a financial hardship  
 23 exists in the district. The state board shall notify the Director  
 24 of Administrative Services of the amount of funds to be paid  
 25 in lump sum and the reduced amount of the monthly payments. The  
 26 Director of Administrative Services shall, at the time of the next  
 27 state aid payment made pursuant to section 79-1022, draw a warrant  
 1 for the lump-sum amount from appropriated funds and forward such  
 2 warrant to the district. For purposes of this subsection, financial  
 3 hardship means a situation in which income to a district is  
 4 exceeded by liabilities to such a degree that if early payment is  
 5 not received it will be necessary for the district to discontinue  
 6 vital services or functions.
- 7 2. On page 10, line 5, before "79-1041" insert "79-1024,  
 8 79-1033,".
- 9 3. Renumber the remaining sections accordingly.

Senator Avery filed the following amendment to LB402:  
 AM1314

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
- 2 Sec. 3. Pursuant to Article XI, section 1, of the  
 3 Constitution of Nebraska, the Legislature authorizes the investment  
 4 of public endowment funds by any city having a population of  
 5 more than five thousand inhabitants in the manner required of a  
 6 prudent investor who shall act with care, skill, and diligence  
 7 under the prevailing circumstance and in such investments as the  
 8 governing body of such city, acting in a fiduciary capacity for the  
 9 exclusive purpose of protecting and benefiting such investment, may  
 10 determine.
- 11 Sec. 4. Sections 1, 2, and 5 of this act become operative  
 12 three calendar months after the adjournment of this legislative  
 13 session. The other sections of this act become operative on their  
 14 effective date.
- 15 Sec. 6. Since an emergency exists, this act takes effect  
 16 when passed and approved according to law.
- 17 2. On page 1, strike beginning with "the" in line 1  
 18 through "Act" in line 2 and insert "political subdivisions"; in  
 19 line 4 after "bonds" insert "under the Convention Center Facility  
 20 Financing Assistance Act"; in line 5 after "deadline" insert  
 21 "under the Convention Center Facility Financing Assistance Act" and  
 22 strike "and" and insert "to authorize the investment of public  
 1 endowment funds; to provide an operative date;"; and in line 6  
 2 after "sections" insert "; and to declare an emergency".
- 3 3. Renumber the remaining section accordingly.

**VISITORS**

Visitors to the Chamber were 31 fifth-grade students and sponsors from Raymond Central, Valparaiso; and 29 fourth-grade students and teacher from Homer.

**ADJOURNMENT**

At 7:11 p.m., on a motion by Senator Friend, the Legislature adjourned until 9:00 a.m., Wednesday, May 6, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTY-THIRD DAY - MAY 6, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, May 6, 2009

**PRAYER**

The prayer was offered by Pastor Darrell Anderson, Shepard of the Hills Lutheran Church, Omaha.

**ROLL CALL**

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

The roll was called and all members were present except Senators Ashford, Carlson, Cook, Cornett, Friend, Lathrop, Loudon, McCoy, Price, Schilz, and Stuthman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-second day was approved.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 198A.** Placed on Final Reading.  
ST9032

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

1. In the Stuthman amendment, AM1277, on page 1, line 4, "State" has been inserted before "Fire".

(Signed) Jeremy Nordquist, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 288A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 7 present and not voting, and 11 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 432.** ER8070, found on page 1076, was adopted.

Senator Nelson withdrew his amendment, AM501, found on page 577.

Senator Nelson offered the following amendment:  
AM1218

(Amendments to E & R amendments, ER8070)

1 1. On page 2, strike lines 15 through 23, show the  
2 old matter as stricken, and insert "A professional finders' fee  
3 shall be limited to ten percent of the total dollar amount of  
4 the property presumed abandoned. To claim any such fee, the finder  
5 shall disclose to the owner the nature, location, and value of  
6 the property, provide notice of when such property was reported  
7 to the State Treasurer, and provide notice that the property may  
8 be claimed by the owner from the State Treasurer free of charge.  
9 To claim any such fee if the property has not yet been abandoned,  
10 the finder shall disclose to the owner the nature, location, and  
11 value of the property, provide notice of when such property will  
12 be reported to the State Treasurer, if known, and provide notice  
13 that, upon receipt of the property by the State Treasurer, such  
14 property may be claimed by the owner from the State Treasurer free  
15 of charge.".

The Nelson amendment was adopted with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 137.** ER8068, found on page 1078, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 152.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 302.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 299.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 343.** ER8069, found on page 1078, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 84.** Senator McGill renewed her amendment, AM269, found on page 1051.

The McGill amendment was adopted with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 394.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 131.** ER8075, found on page 1126, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 133.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 113.** ER8071, found on page 1126, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 163.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 434.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 348.** ER8072, found on page 1126, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 540.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 528.** ER8073, found on page 1127, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 450.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 274.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 339.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 412.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 27.** ER8074, found on page 1127, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 27A.** ER8089, found on page 1142, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 175.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 129.** Senator Dubas renewed her amendment, AM1102, found on page 1128.

The Dubas amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 208.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 94.** ER8076, found on page 1127, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 389.** ER8077, found on page 1131, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 209.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 422.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 488.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 501.** ER8081, found on page 1132, was adopted.

Advanced to Enrollment and Review for Engrossment.



**LEGISLATIVE BILL 60.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 278.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 447.** ER8082, found on page 1132, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 531.** Senator Sullivan renewed her amendment, AM1175, found on page 1165.

The Sullivan amendment was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 445.** Senator Haar offered the following amendment:

AM1318

- 1 1. Strike sections 3 and 4.
- 2 2. Renumber the remaining sections and correct the
- 3 repealer accordingly.

Senator Haar withdrew his amendment.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 498.** ER8080, found on page 1133, was adopted.

Senator Coash withdrew his amendment, AM1085, found on page 1059.

Senator Coash renewed his amendment, AM1131, found on page 1225.

The Coash amendment was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 604.** ER8085, found on page 1133, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 446.** ER8079, found on page 1133, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 372.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 500.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 627.** ER8078, found on page 1133, was adopted.  
Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 587.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 122.** ER8084, found on page 1133, was adopted.

Senator Coash offered the following amendment:  
AM1151

- 1 1. On page 2, line 10, after the period insert "The
- 2 department shall give public notice of the changes made to this
- 3 section and subsection (3) of section 28-720 by this legislative
- 4 bill within thirty days after the effective date of this act
- 5 by having such notice published in a newspaper or newspapers of
- 6 general circulation within the state.".

The Coash amendment was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 533.** ER8087, found on page 1141, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 524.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 562.** ER8086, found on page 1141, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 360.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 441.** ER8090, found on page 1141, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 537.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 631.** ER8088, found on page 1141, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 598.** ER8093, found on page 1141, was adopted.

Senator Ashford renewed his amendment, AM954, found on page 1093.

The Ashford amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 238.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 294.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 347.** Advanced to Enrollment and Review for Engrossment.

### **GENERAL FILE**

**LEGISLATIVE BILL 626.** Title read. Considered.

Committee AM972, found on page 984, was considered.

### **SENATOR NANTKES PRESIDING**

Senator Price withdrew his amendment, AM1034, found on page 1010.

Senator Karpisek renewed his amendment, AM1256, found on page 1266, to the committee amendment.

### **SENATOR COASH PRESIDING**

### **SENATOR NANTKES PRESIDING**

Senator Wallman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 8 nays, and 14 not voting.

The Karpisek amendment was adopted with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

Senator Lautenbaugh offered the following amendment to the committee amendment:

AM1322 is available in the Bill Room.

Pending.

### COMMITTEE REPORT

Education

**LEGISLATIVE BILL 228.** Indefinitely postponed.

(Signed) Greg Adams, Chairperson

### AMENDMENTS - Print in Journal

Senator Stuthman filed the following amendment to LB288:

AM1278 is available in the Bill Room.

Senator Lautenbaugh filed the following amendment to LB542:

AM1257

1 1. On page 2, line 18, after the period insert "The  
 2 duties of dental assistants shall be limited to preparation  
 3 of procedural trays or armamentaria setups; performance of  
 4 sterilization and disinfection procedures; processing, mounting,  
 5 and labeling of dental radiographics; selection and manipulation  
 6 of gypsums and waxes; provision to patients of written  
 7 preoperative and postoperative instructions; fabrication of custom  
 8 trays, including impression and bleaching trays and athletic  
 9 mouthguards; pouring and trimming of diagnostic casts; and exposing  
 10 radiographs and performing coronal polishing after meeting training  
 11 requirements established by the rules and regulations.".

### VISITORS

Visitors to the Chamber were 33 fourth-grade students and teachers from Abraham Lincoln Elementary, Hastings; Dave and Garlin Muirhead from Overton; 60 fourth-grade students and teachers from Bennington; 48 fourth-grade students and teachers from Arbor Park Elementary, Blair; and 35 eighth-grade students from Blue Hill.

### RECESS

At 11:56 a.m., on a motion by Senator Langemeier, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

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

**ROLL CALL**

The roll was called and all members were present except Senators Ashford, Cook, Cornett, Dierks, and White who were excused until they arrive.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 112.** Placed on Select File with amendment.  
ER8117

- 1 1. On page 1, line 3, strike "rural health" and insert
- 2 "health education".

**LEGISLATIVE BILL 288.** Placed on Select File with amendment.  
ER8118

- 1 1. On page 1, strike lines 2 through 13 and insert
- 2 "sections 32-310, 38-2893, 38-2894, 68-1017.01, 71-531, 81-2270,
- 3 81-2271, 81-3119, 83-1209, 83-1211, 83-1213, 83-1217, 83-1217.02,
- 4 and 85-2104, Reissue Revised Statutes of Nebraska, and sections
- 5 48-647, 68-717, 68-901, 68-906, 68-908, 68-934, 68-940, 68-948,
- 6 68-1016, 68-1017, 68-1017.02, 68-1070, 68-1713, 71-401, 71-604.05,
- 7 and 71-5309, Revised Statutes Cumulative Supplement, 2008; to
- 8 change references to the federal food stamp program; to change a
- 9 date within the Medical Assistance Act relating to acceptance of
- 10 federal provisions; to eliminate references to a pilot project;
- 11 to change provisions relating to pharmacy technicians, a registry,
- 12 the medical assistance program, false medicaid claims, the
- 13 Medicaid Reform Council, consent to human immunodeficiency virus
- 14 infection testing, public water system operator licensing, and
- 15 the Developmental Disabilities Services Act; to create a fund; to
- 16 provide for and eliminate provisions relating to itemized billing
- 17 statements by health care facilities; to provide for a transfer
- 18 of funds; to provide for relabeling and redispensing drugs at
- 19 correctional facilities and jails; to harmonize provisions; to
- 20 provide operative dates; to repeal the original sections; to
- 21 outright repeal sections 71-2049, 81-2265, and 81-2267, Reissue
- 22 Revised Statutes of Nebraska; and to declare an emergency.".
- 23 2. On page 2, strike lines 1 through 4.

**LEGISLATIVE BILL 288A.** Placed on Select File.

**LEGISLATIVE BILL 16.** Placed on Select File with amendment.  
ER8110

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

3 Section 1. The establishment of the web site under  
 4 section 50-401.01 shall be known and may be cited as the Taxpayer  
 5 Transparency Act.

6 Sec. 2. Section 50-401.01, Revised Statutes Cumulative  
 7 Supplement, 2008, is amended to read:

8 50-401.01 (1) The Legislative Council shall have an  
 9 executive board, to be known as the Executive Board of the  
 10 Legislative Council, which shall consist of a chairperson, a  
 11 vice-chairperson, and six members of the Legislature, to be chosen  
 12 by the Legislature at the commencement of each regular session of  
 13 the Legislature when the speaker is chosen, and the Speaker of  
 14 the Legislature. The Legislature at large shall elect two of its  
 15 members from legislative districts Nos. 1, 2, 15, 21 to 30, 32,  
 16 34, and 46, two from legislative districts Nos. 3 to 14, 18, 20,  
 17 31, 39, and 45, and two from legislative districts Nos. 16, 17,  
 18 19, 33, 35 to 38, 40 to 44, and 47 to 49. The Chairperson of the  
 19 Committee on Appropriations shall serve as a nonvoting ex officio  
 20 member of the executive board whenever the board is considering  
 21 fiscal administration.

22 (2) The executive board shall:

23 (a) Supervise all services and service personnel of the  
 1 Legislature and may employ and fix compensation and other terms of  
 2 employment for such personnel as may be needed to carry out the  
 3 intent and activities of the Legislature or of the board, unless  
 4 otherwise directed by the Legislature, including the adoption of  
 5 policies by the executive board which permit (i) the purchasing  
 6 of an annuity for an employee who retires or (ii) the crediting  
 7 of amounts to an employee's deferred compensation account under  
 8 section 84-1504. The payments to or on behalf of an employee may be  
 9 staggered to comply with other law; ~~and~~

10 (b) Appoint persons to fill the positions of Legislative  
 11 Fiscal Analyst, Director of Research, Revisor of Statutes, and  
 12 Legislative Auditor. The persons appointed to these positions shall  
 13 have training and experience as determined by the executive board  
 14 and shall serve at the pleasure of the executive board. The  
 15 Legislative Performance Audit Committee shall recommend the person  
 16 to be appointed Legislative Auditor. Their respective salaries  
 17 shall be set by the executive board; ~~and-~~

18 (c)(i) By August 1, 2010, develop a single, searchable  
 19 web site which is accessible by the public at no cost to access.  
 20 The web site shall be hosted on a server owned and operated by  
 21 the State of Nebraska or approved by the Chief Information Officer.  
 22 The naming convention for the web site shall identify the web site  
 23 as a state government web site. All content and information to  
 24 be provided shall be subject to the review and approval by the  
 25 executive board and shall document the sources of all tax receipts  
 26 and the expenditure of state funds by all agencies, boards,  
 27 commissions, and departments of the state. The duty to compile  
 1 and maintain the content and information on the web site developed

2 pursuant to this section shall, at the discretion of the executive  
3 board, be assigned to the Clerk of the Legislature or to the State  
4 Treasurer if the State Treasurer agrees to perform all the duties  
5 of this subdivision. If the provision allowing assignment of such  
6 duties to the State Treasurer is deemed to be unconstitutional,  
7 then the provision allowing assignment of such duties to the Clerk  
8 of the Legislature shall be deemed severable and survive and such  
9 duties shall be assigned to and performed by the Clerk of the  
10 Legislature. The executive board shall determine the appropriate  
11 level of detail to be published in the web site for each of the  
12 following:

13 (A) The identity, principal location, and amount of funds  
14 received or expended;

15 (B) The funding or expending agency, board, commission,  
16 or department;

17 (C) The budget program source;

18 (D) The amount, date, purpose, and recipient of all  
19 disbursed funds; and

20 (E) Other relevant information.

21 (i) The web site shall include data for fiscal year  
22 2008-09 and each fiscal year thereafter. Beginning July 1, 2010,  
23 the data shall be available on the web site no later than thirty  
24 days after the end of the preceding fiscal year.

25 (iii) All agencies, boards, commissions, and departments  
26 of the state shall provide to the executive board, at such times  
27 and in such form as designated by the executive board, such  
1 information as is necessary to accomplish the purposes of the  
2 Taxpayer Transparency Act.

3 (iv) Nothing in this subdivision requires the disclosure  
4 of information which is considered confidential under state or  
5 federal law or is not a public record under section 84-712.05.

6 (v) For purposes of this subdivision, expenditure  
7 of state funds means all expenditures of appropriated or  
8 nonappropriated funds by an agency, board, commission, or  
9 department of the state from the state treasury in forms including,  
10 but not limited to:

11 (A) Grants;

12 (B) Contracts;

13 (C) Subcontracts;

14 (D) State aid to political subdivisions; and

15 (E) Tax refunds or credits that may be disclosed

16 pursuant to the Nebraska Advantage Act, the Nebraska Advantage  
17 Microenterprise Tax Credit Act, the Nebraska Advantage Research and  
18 Development Act, or the Nebraska Advantage Rural Development Act.

19 (vi) Expenditure of state funds does not include the  
20 transfer of funds between two agencies, boards, commissions, or  
21 departments of the state or payments of state or federal assistance  
22 to an individual.

23 (3) Notwithstanding any other provision of law, the

24 executive board may contract to obtain legal, auditing, accounting,  
 25 actuarial, or other professional services or advice for or on  
 26 behalf of the executive board, the Legislative Council, the  
 27 Legislature, or any member of the Legislature. The providers  
 1 of such services or advice shall meet or exceed the minimum  
 2 professional standards or requirements established or specified by  
 3 their respective professional organizations or licensing entities  
 4 or by federal law. Such contracts, the deliberations of the  
 5 executive board with respect to such contracts, and the work  
 6 product resulting from such contracts shall not be subject to  
 7 review or approval by any other entity of state government.

8 Sec. 3. Section 50-1304, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:

10 50-1304 (1) All agencies, boards, commissions, and  
 11 departments of the state shall furnish such information, reports,  
 12 aid, services, and assistance as may be requested by any standing  
 13 committee of the Legislature or the Executive Board of the  
 14 Legislative Council in the performance of its duties.

15 (2) The Government, Military and Veterans Affairs  
 16 Committee of the Legislature shall use its staff and may  
 17 also request assistance from the Director of Research of the  
 18 Legislature, the Legislative Fiscal Analyst, or any other division  
 19 within the Legislature as may be necessary in the performance of  
 20 the duties set forth in sections 50-1301 to 50-1304.

21 Sec. 4. Section 84-602, Reissue Revised Statutes of  
 22 Nebraska, is amended to read:

23 84-602 It shall be the duty of the State Treasurer:

24 (1) To receive and keep all money of the state not  
 25 expressly required to be received and kept by some other person;

26 (2) To disburse the public money upon warrants drawn upon  
 27 the state treasury according to law; and not otherwise;

1 (3) To keep a just, true, and comprehensive account of  
 2 all money received and disbursed;

3 (4) To keep a just account with each fund, and each head  
 4 of appropriation made by law, and the warrants drawn against them;

5 (5) To render a full statement to the Department of  
 6 Administrative Services; of all money received by him or her from  
 7 whatever source, and if on account of revenue, for what year;  
 8 of all penalties and interest on delinquent taxes reported or  
 9 accounted for to him or her, and of all disbursements of public  
 10 funds; with a list, in numerical order, of all warrants redeemed,  
 11 the name of the payee, amount, interest, and total amount allowed  
 12 thereon, and with the amount of the balance of the several funds  
 13 unexpended; which statement shall be made on the first day of  
 14 December, March, June, and September, and more often if required;

15 (6) To report to the Legislature as soon as practicable,  
 16 but within ten days after the commencement of each regular session,  
 17 a detailed statement of the condition of the treasury; and its  
 18 operations for the preceding fiscal year;



19 (7) To give information in writing to the Legislature,  
 20 whenever required, upon any subject connected with the treasury or  
 21 touching any duty of his or her office; ~~and~~

22 (8) To account for, and pay over, all money received by  
 23 him or her as such treasurer, to his or her successor in office,  
 24 and deliver all books, vouchers, and effects of office to him or  
 25 her; and such successor shall receipt therefor. In accounting for  
 26 and paying over such money the treasurer shall not be held liable  
 27 on account of any loss occasioned by any investment, when such  
 1 investment shall have been made pursuant to the direction of the  
 2 state investment officer; and-

3 (9) To compile and maintain the content and information  
 4 on the web site developed by the Executive Board of the Legislative  
 5 Council pursuant to section 50-401.01 if the State Treasurer is  
 6 designated by the executive board to carry out such duties and he  
 7 or she agrees to discharge such duties.

8 Sec. 5. Original sections 50-1304 and 84-602, Reissue  
 9 Revised Statutes of Nebraska, and section 50-401.01, Revised  
 10 Statutes Cumulative Supplement, 2008, are repealed.

11 2. On page 1, strike beginning with "section" in line  
 12 1 through line 4 and insert "sections 50-1304 and 84-602,  
 13 Reissue Revised Statutes of Nebraska, and section 50-401.01,  
 14 Revised Statutes Cumulative Supplement, 2008; to provide for the  
 15 establishment of a web site known as the Taxpayer Transparency Act;  
 16 to require information to be provided; to provide powers and duties  
 17 for the State Treasurer; and to repeal the original sections."

**LEGISLATIVE BILL 16A.** Placed on Select File.

**LEGISLATIVE BILL 241.** Placed on Select File with amendment.  
 ER8111 is available in the Bill Room.

**LEGISLATIVE BILL 97A.** Placed on Select File with amendment.  
 ER8119

- 1 1. On page 2, line 3, after the second "the" insert
- 2 "Nebraska".

**LEGISLATIVE BILL 246A.** Placed on Select File.

**LEGISLATIVE BILL 342A.** Placed on Select File.

**LEGISLATIVE BILL 633A.** Placed on Select File.

**LEGISLATIVE BILL 671A.** Placed on Select File.

**LEGISLATIVE BILL 311.** Placed on Select File with amendment.  
 ER8113

- 1 1. In the Standing Committee amendments, AM886:
- 2 a. On page 8, line 27, strike the second hyphen and
- 3 insert "to";
- 4 b. On page 9, line 7, after the dash insert "NEBRASKA";
- 5 and in line 14 strike the second "-0-" and insert "10,448";

- 6 c. On page 12, line 11, strike "This" and insert "There";  
 7 d. On page 26, line 20, strike "Legislative Bill", show  
 8 as stricken, and insert "Laws 2008, LB"; and  
 9 e. On page 28, line 15, before "52" insert "Sec."  
 10 2. On page 1, line 6, strike "an appropriation" and  
 11 insert "appropriations"; and in lines 7 and 8 strike "to require  
 12 reports;".

**LEGISLATIVE BILL 312.** Placed on Select File.

**LEGISLATIVE BILL 313.** Placed on Select File.

**LEGISLATIVE BILL 314.** Placed on Select File with amendment.  
 ER8112

- 1 1. In the Standing Committee amendments, AM888:  
 2 a. On page 5, line 13, strike "Ventilative" and insert  
 3 "Ventilation";  
 4 b. On page 8, line 13, strike the second hyphen and  
 5 insert "to"; and in line 23 strike "Nongame-Endangered Species"  
 6 and insert "Nongame and Endangered Species Land Acquisition and  
 7 Development";  
 8 c. On page 12, line 17, after the first comma insert  
 9 "and" and strike the second comma;  
 10 d. On page 22, line 9, strike "88-188.05" and insert  
 11 "81-188.05";  
 12 e. On page 26, line 4, after "State" insert "Parks";  
 13 in line 9 strike "Acquisitions" and insert "Acquisition"; in  
 14 line 20 after the dash insert "Improvements to"; and in lines  
 15 22 and 23 strike "Wildlife Management Areas - Improvements" and  
 16 insert "Improvements to Special Use Areas (Wildlife Management  
 17 Areas)"; and in lines 25 and 26 strike "Administrative Facilities  
 18 - Improvements" and insert "Improvements to Administrative  
 19 Facilities"; and  
 20 f. On page 27, line 1, strike "Fish production" and  
 21 insert "Improvements to Fish Production Facilities"; in line 3  
 22 strike "- Park System" and insert "to State Park System Areas";  
 23 and in line 13 strike "- Improvements" and insert "Enhancement and  
 1 Restoration".

**LEGISLATIVE BILL 315.** Placed on Select File with amendment.  
 ER8122

- 1 1. In the Standing Committee amendments, AM889:  
 2 a. On page 46, line 24, strike the comma;  
 3 b. On page 50, line 24, strike "Families" and insert  
 4 "Family";  
 5 c. On page 55, line 15, strike "5,226,558" and insert  
 6 "5,226,127";  
 7 d. On page 57, after line 19, insert "FEDERAL FUND est.  
 8 35,096,231 36,044,236"; in line 20 strike "FEDERAL FUND est." and  
 9 insert "PROGRAM TOTAL"; and strike line 21;

- 10 e. On page 104, line 14, strike the second comma; and in  
 11 line 24 before "for" insert "General Funds";  
 12 f. On page 167, line 24, strike "Administration" and  
 13 insert "Department of Administrative Services"; and  
 14 g. On page 168, line 6, after "Personnel" insert  
 15 "Division".

**LEGISLATIVE BILL 316.** Placed on Select File with amendment.  
 ER8115

- 1 1. In the Standing Committee amendments, AM890:  
 2 a. On page 1, line 4, strike "Administration"; and in  
 3 lines 5 and 8 after "Personnel" insert "Division";  
 4 b. On page 3, line 10, after the first "the" insert  
 5 "Nebraska"; and  
 6 c. On page 14, line 18, strike the colon.  
 7 2. On page 1, strike beginning with "and" in line 1  
 8 through line 7 and insert ", 81-1201.21, 82-331, 82-332, 84-510,  
 9 and 85-415, Reissue Revised Statutes of Nebraska, and sections  
 10 66-1334, 66-1345.04, 71-7608, 71-7611, and 71-8805, Revised  
 11 Statutes Cumulative Supplement, 2008; to provide for, change, and  
 12 eliminate provisions relating to the use and transfer of funds; to  
 13 harmonize provisions; to repeal the original sections; to outright  
 14 repeal section 81-1623, Reissue Revised Statutes of Nebraska; and  
 15 to declare an emergency.".

**LEGISLATIVE BILL 318.** Placed on Select File with amendment.  
 ER8116

- 1 1. On page 8, line 4, strike "bill" and insert "act".

**LEGISLATIVE BILL 456.** Placed on Select File with amendment.  
 ER8121

- 1 1. On page 1, line 3, after "eliminate" insert "obsolete  
 2 provisions and"; in line 4 after the first semicolon insert "to  
 3 provide for transfers from the Cash Reserve Fund; to provide a duty  
 4 for the Department of Economic Development;" and strike "and"; and  
 5 in line 5 after "sections" insert "; and to declare an emergency".

**LEGISLATIVE BILL 414.** Placed on Select File with amendment.  
 ER8114

- 1 1. Strike the original sections and all amendments  
 2 thereto and insert the following new sections:  
 3 Section 1. Section 24-201.01, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 24-201.01 ~~On July 1, 2006, the salary of the Chief~~  
 6 ~~Justice and the judges of the Supreme Court shall be one hundred~~  
 7 ~~twenty-six thousand eight hundred forty-six dollars. On July 1,~~  
 8 ~~2007, the salary of the Chief Justice and the judges of the~~  
 9 ~~Supreme Court shall be one hundred thirty-one thousand two hundred~~

10 ~~eighty five dollars and sixty one cents.~~ On July 1, 2008, the  
 11 salary of the Chief Justice and the judges of the Supreme Court  
 12 shall be one hundred thirty-five thousand eight hundred eighty  
 13 dollars and sixty cents. On July 1, 2009, the salary of the  
 14 Chief Justice and the judges of the Supreme Court shall be one  
 15 hundred thirty-nine thousand two hundred seventy-seven dollars and  
 16 sixty-one cents. On July 1, 2010, the salary of the Chief Justice  
 17 and the judges of the Supreme Court shall be one hundred forty-two  
 18 thousand seven hundred fifty-nine dollars and fifty-five cents.

19 The Chief Justice and the judges of the Supreme Court  
 20 shall hold no other public office of profit or trust during their  
 21 terms of office nor accept any public appointment or employment  
 22 under the authority of the government of the United States for  
 23 which they receive compensation for their services. Such salaries

1 shall be payable in equal monthly installments.  
 2 Sec. 2. Section 24-703, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 24-703 (1) Each original member shall contribute monthly  
 5 four percent of his or her monthly compensation to the fund  
 6 until the maximum benefit as limited in subsection (1) of section  
 7 24-710 has been earned. It shall be the duty of the Director  
 8 of Administrative Services in accordance with subsection (10) of  
 9 this section to make a deduction of four percent on the monthly  
 10 payroll of each original member who is a judge of the Supreme  
 11 Court, a judge of the Court of Appeals, a judge of the district  
 12 court, a judge of a separate juvenile court, a judge of the county  
 13 court, a clerk magistrate of the county court who was an associate  
 14 county judge and a member of the fund at the time of his or her  
 15 appointment as a clerk magistrate, or a judge of the Nebraska  
 16 Workers' Compensation Court showing the amount to be deducted and  
 17 its credit to the fund. The Director of Administrative Services  
 18 and the State Treasurer shall credit the four percent as shown  
 19 on the payroll and the amounts received from the various counties  
 20 to the fund and remit the same to the director in charge of the  
 21 judges retirement system who shall keep an accurate record of the  
 22 contributions of each judge.

23 (2)(a) ~~Beginning~~ In addition to the contribution required  
 24 under subdivision (c) of this subsection, beginning on July 1,  
 25 2004, each future member who has not elected to make contributions  
 26 and receive benefits as provided in section 24-703.03 shall  
 27 contribute monthly six percent of his or her monthly compensation  
 1 to the fund until the maximum benefit as limited in subsection  
 2 (2) of section 24-710 has been earned. After the maximum benefit  
 3 as limited in subsection (2) of section 24-710 has been earned,  
 4 such future member shall make no further contributions to the fund,  
 5 except that (i) any time the maximum benefit is changed, a future  
 6 member who has previously earned the maximum benefit as it existed  
 7 prior to the change shall contribute monthly six percent of his  
 8 or her monthly compensation to the fund until the maximum benefit

9 as changed and as limited in subsection (2) of section 24-710 has  
10 been earned and (ii) such future member shall continue to make the  
11 contribution required under subdivision (c) of this subsection.

12 (b) ~~Beginning~~ In addition to the contribution required  
13 under subdivision (c) of this subsection, beginning on July 1,  
14 2004, a judge who first serves as a judge on or after such date  
15 or a future member who elects to make contributions and receive  
16 benefits as provided in section 24-703.03 shall contribute monthly  
17 eight percent of his or her monthly compensation to the fund until  
18 the maximum benefit as limited by subsection (2) of section 24-710  
19 has been earned. ~~After~~ In addition to the contribution required  
20 under subdivision (c) of this subsection, after the maximum benefit  
21 as limited in subsection (2) of section 24-710 has been earned,  
22 such judge or future member shall contribute monthly four percent  
23 of his or her monthly compensation to the fund for the remainder of  
24 his or her active service.

25 (c) Beginning on July 1, 2009, until July 1, 2014, a  
26 member or judge described in subdivisions (a) and (b) of this  
27 subsection shall contribute monthly an additional one percent of  
1 his or her monthly compensation to the fund.

2 ~~(e)-(d)~~ It shall be the duty of the Director of  
3 Administrative Services to make a deduction on the monthly payroll  
4 of each such future member who is a judge of the Supreme Court,  
5 a judge of the Court of Appeals, a judge of the district court,  
6 a judge of a separate juvenile court, a judge of the county  
7 court, a clerk magistrate of the county court who was an associate  
8 county judge and a member of the fund at the time of his or her  
9 appointment as a clerk magistrate, or a judge of the Nebraska  
10 Workers' Compensation Court showing the amount to be deducted and  
11 its credit to the fund. This shall be done each month. The Director  
12 of Administrative Services and the State Treasurer shall credit the  
13 amount as shown on the payroll and the amounts received from the  
14 various counties to the fund and remit the same to the director in  
15 charge of the judges retirement system who shall keep an accurate  
16 record of the contributions of each judge.

17 (3) ~~A-Except~~ as otherwise provided in this subsection,  
18 a Nebraska Retirement Fund for Judges fee of five dollars shall  
19 be taxed as costs in each (a) civil cause of action, criminal  
20 cause of action, traffic misdemeanor or infraction, and city or  
21 village ordinance violation filed in the district courts, the  
22 county courts, and the separate juvenile courts, (b) filing in the  
23 district court of an order, award, or judgment of the Nebraska  
24 Workers' Compensation Court or any judge thereof pursuant to  
25 section 48-188, (c) appeal or other proceeding filed in the Court  
26 of Appeals, and (d) original action, appeal, or other proceeding  
27 filed in the Supreme Court. Beginning on July 1, 2009, and until  
1 July 1, 2014, such fee shall be six dollars. In county courts a sum  
2 shall be charged which is equal to ten percent of each fee provided  
3 by sections 33-125, 33-126.02, 33-126.03, and 33-126.06, rounded to

4 the nearest even dollar. No judges retirement fee shall be charged  
5 for filing a report pursuant to sections 33-126.02 and 33-126.06.  
6 When collected by the clerk of the district or county court, such  
7 fees shall be paid and information submitted to the director in  
8 charge of the judges retirement system on forms prescribed by the  
9 board by the clerk within ten days after the close of each calendar  
10 quarter. The board may charge a late administrative processing fee  
11 not to exceed twenty-five dollars if the information is not timely  
12 received or the money is delinquent. In addition, the board may  
13 charge a late fee of thirty-eight thousandths of one percent of the  
14 amount required to be submitted pursuant to this section for each  
15 day such amount has not been received. Such director shall promptly  
16 thereafter remit the same to the State Treasurer for credit to  
17 the fund. No Nebraska Retirement Fund for Judges fee which is  
18 uncollectible for any reason shall be waived by a county judge as  
19 provided in section 29-2709.

20 (4) All expenditures from the fund shall be authorized by  
21 voucher in the manner prescribed in section 24-713. The fund shall  
22 be used for the payment of all annuities and other benefits and for  
23 the expenses of administration.

24 (5) The fund shall consist of the total fund as of  
25 December 25, 1969, the contributions of members as provided in this  
26 section, all supplementary court fees as provided in subsection (3)  
27 of this section, and any required contributions of the state.

1 (6) Not later than January 1 of each year, the State  
2 Treasurer shall transfer to the fund the amount certified by the  
3 board as being necessary to pay the cost of any benefits accrued  
4 during the fiscal year ending the previous June 30 in excess  
5 of member contributions for that fiscal year and court fees as  
6 provided in subsection (3) of this section and fees pursuant to  
7 sections 25-2804, 33-103, 33-103.01, 33-106, 33-106.02, 33-123,  
8 33-125, 33-126.02, 33-126.03, and 33-126.06 and directed to be  
9 remitted to the fund, if any, for that fiscal year plus any  
10 required contributions of the state as provided in subsection (9)  
11 of this section.

12 (7) Benefits under the retirement system to members or to  
13 their beneficiaries shall be paid from the fund.

14 (8) Any member who is making contributions to the fund on  
15 December 25, 1969, may, on or before June 30, 1970, elect to become  
16 a future member by delivering written notice of such election to  
17 the board.

18 (9) Not later than January 1 of each year, the State  
19 Treasurer shall transfer to the fund an amount, determined on  
20 the basis of an actuarial valuation as of the previous June 30  
21 and certified by the board, to fully fund the unfunded accrued  
22 liabilities of the retirement system as of June 30, 1988, by level  
23 payments up to January 1, 2000. Such valuation shall be on the  
24 basis of actuarial assumptions recommended by the actuary, approved  
25 by the board, and kept on file with the board. For the fiscal

26 year beginning July 1, 2002, and each fiscal year thereafter,  
27 the actuary for the board shall perform an actuarial valuation  
1 of the system using the entry age actuarial cost method. Under  
2 this method, the actuarially required funding rate is equal to the  
3 normal cost rate, plus the contribution rate necessary to amortize  
4 the unfunded actuarial accrued liability on a level payment basis.  
5 The normal cost under this method shall be determined for each  
6 individual member on a level percentage of salary basis. The normal  
7 cost amount is then summed for all members. The initial unfunded  
8 actual accrued liability as of July 1, 2002, if any, shall be  
9 amortized over a twenty-five-year period. Prior to July 1, 2006,  
10 changes in the funded actuarial accrued liability due to changes  
11 in benefits, actuarial assumptions, the asset valuation method, or  
12 actuarial gains or losses shall be measured and amortized over a  
13 twenty-five-year period beginning on the valuation date of such  
14 change. Beginning July 1, 2006, any existing unfunded liabilities  
15 shall be reinitialized and amortized over a thirty-year period,  
16 and during each subsequent actuarial valuation, changes in the  
17 funded actuarial accrued liability due to changes in benefits,  
18 actuarial assumptions, the asset valuation method, or actuarial  
19 gains or losses shall be measured and amortized over a thirty-year  
20 period beginning on the valuation date of such change. If the  
21 unfunded actuarial accrued liability under the entry age actuarial  
22 cost method is zero or less than zero on an actuarial valuation  
23 date, then all prior unfunded actuarial accrued liabilities shall  
24 be considered fully funded and the unfunded actuarial accrued  
25 liability shall be reinitialized and amortized over a thirty-year  
26 period as of the actuarial valuation date. If the actuarially  
27 required contribution rate exceeds the rate of all contributions  
1 required pursuant to the Judges Retirement Act, there shall be a  
2 supplemental appropriation sufficient to pay for the differences  
3 between the actuarially required contribution rate and the rate of  
4 all contributions required pursuant to the Judges Retirement Act.

5 (10) The state or county shall pick up the member  
6 contributions required by this section for all compensation paid  
7 on or after January 1, 1985, and the contributions so picked up  
8 shall be treated as employer contributions in determining federal  
9 tax treatment under the Internal Revenue Code as defined in section  
10 49-801.01, except that the state or county shall continue to  
11 withhold federal income taxes based upon these contributions until  
12 the Internal Revenue Service or the federal courts rule that,  
13 pursuant to section 414(h) of the code, these contributions shall  
14 not be included as gross income of the member until such time as  
15 they are distributed or made available. The state or county shall  
16 pay these member contributions from the same source of funds which  
17 is used in paying earnings to the member. The state or county  
18 shall pick up these contributions by a compensation deduction  
19 through a reduction in the compensation of the member. Member  
20 contributions picked up shall be treated for all purposes of the

21 Judges Retirement Act in the same manner and to the extent as  
 22 member contributions made prior to the date picked up.

23 Sec. 3. Sections 2 and 6 of this act become operative on  
 24 July 1, 2009. The other sections of this act become operative on  
 25 their effective date.

26 Sec. 4. This act shall be considered a complete act  
 27 and its provisions inseverable. If any provision of this act is  
 1 declared unconstitutional, the entire act shall be invalid.

2 Sec. 5. Original section 24-201.01, Reissue Revised  
 3 Statutes of Nebraska, is repealed.

4 Sec. 6. Original section 24-703, Reissue Revised Statutes  
 5 of Nebraska, is repealed.

6 Sec. 7. Since an emergency exists, this act takes effect  
 7 when passed and approved according to law.

8 2. On page 1, strike beginning with "section" in line 1  
 9 through line 4 and insert "sections 24-201.01 and 24-703, Reissue  
 10 Revised Statutes of Nebraska; to change salary and retirement  
 11 provisions for judges; to change the Nebraska Retirement Fund  
 12 for Judges fee; to provide operative dates; to provide for  
 13 inseverability; to repeal the original sections; and to declare  
 14 an emergency."

**LEGISLATIVE BILL 414A.** Placed on Select File.

**LEGISLATIVE BILL 629.** Placed on Select File.

**LEGISLATIVE BILL 628.** Placed on Select File with amendment.  
 ER8120

1 1. In the Standing Committee amendments, AM1116, on page  
 2 1, line 10, before "and" insert an underscored comma.

(Signed) Jeremy Nordquist, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 626.** The Lautenbaugh amendment, AM1322, found  
 in this day's Journal, to the committee amendment, was renewed.

Senator Lautenbaugh withdrew and refiled his amendment, AM1322.

Committee AM972, found on page 984 and considered in this day's Journal,  
 as amended, was renewed.

Senator Langemeier moved the previous question. The question is, "Shall  
 the debate now close?" The motion prevailed with 31 ayes, 3 nays, and 15  
 not voting.

The committee amendment, as amended, was adopted with 35 ayes, 6 nays,  
 4 present and not voting, and 4 excused and not voting.



Advanced to Enrollment and Review Initial with 32 ayes, 4 nays, 9 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 263.** Title read. Considered.

Committee AM354, found on page 747, was adopted with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 35 ayes, 2 nays, 8 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 392.** Title read. Considered.

Committee AM1079, found on page 1042, was considered.

Senator Adams renewed his amendment, AM1303, found on page 1313, to the committee amendment.

### **SENATOR CARLSON PRESIDING**

Senator Ashford moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 1 nay, and 20 not voting.

The Adams amendment was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Senator Adams offered the following amendment to the committee amendment:

AM1324

(Amendments to Standing Committee amendments, AM1079)

- 1 1. Strike section 4.
- 2 2. On page 10, after line 4 insert "and strike
- 3 "79-1007.21,"".

The Adams amendment was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

The committee amendment, as amended, was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

Senator Nordquist renewed his amendment, AM1296, found on page 1307.

The Nordquist amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senator Adams renewed his amendment, AM1300, found on page 1308.

The Adams amendment was adopted with 38 ayes, 0 nays, 7 present and not

voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

### BILL ON FIRST READING

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

**LEGISLATIVE BILL 545A.** Introduced by Adams, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 545, One Hundred First Legislature, First Session, 2009; to outright repeal section 48, Legislative Bill 315, One Hundred First Legislature, First Session, 2009; and to declare an emergency.

### AMENDMENTS - Print in Journal

Senator Price filed the following amendment to LB532:  
AM1321

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. (1) In addition to the powers granted by
- 4 section 23-104, a county may, in the manner specified by sections 1
- 5 to 7 of this act, regulate the following subjects by ordinance:
- 6 (a) Parking of motor vehicles on public roads, highways,
- 7 and rights-of-way as it pertains to snow removal for and access by
- 8 emergency vehicles to areas within the county;
- 9 (b) Motor vehicles as defined in section 60-339 that are
- 10 abandoned on public or private property;
- 11 (c) Graffiti on public or private property;
- 12 (d) False alarms from electronic security systems that
- 13 result in requests for emergency response from law enforcement or
- 14 other emergency responders; and
- 15 (e) Violation of the public peace and good order of
- 16 the county by disorderly conduct, lewd or lascivious behavior, or
- 17 public nudity.
- 18 (2) For the enforcement of any ordinance authorized by
- 19 this section, a county may impose fines, forfeitures, or penalties
- 20 and provide for the recovery, collection, and enforcement of such
- 21 fines, forfeitures, or penalties. A county may also authorize
- 22 such other measures for the enforcement of ordinances as may be
- 23 necessary and proper. A fine enacted pursuant to this section shall
- 1 not exceed five hundred dollars for each offense.
- 2 Sec. 2. A county board shall provide notice of the time
- 3 when any county ordinance is set for consideration before the
- 4 board. Such notice shall appear at least once a week for two weeks
- 5 in a newspaper published or of general circulation in the county.

6 The notice shall contain the entire wording of the ordinance and  
7 the time and place of the public hearing. The last publication of  
8 the notice shall be not less than five days nor more than two weeks  
9 prior to the time set for the public hearing on the adoption of  
10 the ordinance. A county board shall not take final action on the  
11 proposed ordinance until after at least one public hearing has been  
12 held thereon by the county board at which public comment regarding  
13 the proposed ordinance was permitted.

14 Sec. 3. A county ordinance may be proved by the  
15 certificate of the county clerk under the seal of the county.  
16 The adoption and publication of the ordinance shall be sufficiently  
17 proved by a certificate under the seal of the county, from the  
18 county clerk, showing (1) that such ordinance was adopted and (2)  
19 when and in what paper the ordinance was published or when, by  
20 whom, and where the ordinance was posted.

21 Sec. 4. (1) A county ordinance shall be read by title  
22 on three different days unless three-fourths of the county board  
23 members, following the public hearing on the ordinance, vote to  
24 suspend this requirement. If such requirement is suspended, the  
25 ordinance shall be read by title or number and then moved for final  
26 adoption. Three-fourths of the county board members may require  
27 a reading of any such ordinance in full before adoption under  
1 either procedure set out in this section. The votes of each member  
2 shall be called aloud and recorded. To adopt any ordinance, the  
3 concurrence of a majority of the whole number of the members of the  
4 county board shall be required.

5 (2) A county ordinance shall contain no subject which is  
6 not clearly expressed in the title, and no ordinance or section  
7 thereof shall be revised or amended unless the new ordinance  
8 contains the entire ordinance or section as revised or amended and  
9 the ordinance or section that is amended is repealed.

10 Sec. 5. The style of county ordinances shall be: "Be it  
11 ordained by the county board of the county of ....., " and  
12 all county ordinances shall, within fifteen days after they are  
13 adopted, be published in some newspaper published or of general  
14 circulation within the county.

15 Sec. 6. (1) No ordinance adopted pursuant to sections 1  
16 to 7 of this act shall be effective within the corporate boundaries  
17 of any incorporated city or village located in whole or in part  
18 within the county. No ordinance adopted pursuant to sections 1 to  
19 7 of this act shall be effective within the area outside of the  
20 corporate boundaries of any city or village in which such city or  
21 village has been granted and is exercising powers by ordinance on a  
22 similar subject matter. Every county ordinance adopted pursuant to  
23 sections 1 to 7 of this act shall include one section defining the  
24 area of the county within which the county ordinance is effective.  
25 The ordinance shall be amended to reflect any changes in the area  
26 of the county's jurisdiction resulting from (a) annexation by a  
27 city or village, (b) action by a city or village to adopt an

1 ordinance regarding similar subject matter to that of the county  
2 ordinance if the city or village ordinance is to be effective in  
3 areas beyond its corporate boundary, or (c) any changes in the  
4 area of jurisdiction of the city or village regarding such city or  
5 village ordinance.

6 (2) Before a county adopts an ordinance under sections 1  
7 to 7 of this act, the county clerk shall provide a copy of the  
8 text of the ordinance to the clerk of each city and village within  
9 the county no later than seven days after the first reading of  
10 the ordinance or the public hearing on the ordinance, whichever  
11 occurs first. Within seven days after receiving a copy of the  
12 ordinance, the city or village shall respond to the county and  
13 provide a copy of any ordinance specifying where the city or  
14 village is enforcing an ordinance on similar subject matter outside  
15 its corporate boundaries. Any ordinance adopted by the county  
16 shall not be effective in the area in which the city or village  
17 is exercising jurisdiction. Prior to the adoption of the county  
18 ordinance, the section of the ordinance that defines the area of  
19 county jurisdiction shall be amended to show the removal of the  
20 area of the jurisdiction of such city or village as indicated  
21 in the city or village ordinance provided to the county from the  
22 description of the area within which the county ordinance will be  
23 effective. An ordinance adopted under sections 1 to 7 of this act  
24 shall not be effective until fifteen days after its adoption.

25 (3) Any city or village located in whole or in part  
26 within a county that has adopted an ordinance pursuant to sections  
27 1 to 7 of this act which (a) annexes any territory, (b) adopts  
1 an ordinance on similar subject matter to that of the county  
2 ordinance and extends the jurisdiction of the city or village under  
3 such ordinance to areas beyond its corporate boundaries, or (c)  
4 changes the area beyond the corporate boundaries of the city or  
5 village within which the city or village exercises jurisdiction  
6 by ordinance on similar subject matter to that of the county  
7 ordinance shall provide to the county clerk a copy of the ordinance  
8 establishing and delineating its jurisdiction or any change to  
9 that jurisdiction within seven days after the adoption of the  
10 relevant city or village ordinance. Upon the effective date of the  
11 city or village ordinance, the county ordinance shall cease to be  
12 effective within the area in which the city or village has assumed  
13 jurisdiction. The county board shall promptly amend its ordinance  
14 to reflect the change in the area within which the county ordinance  
15 is effective.

16 Sec. 7. A county attorney may sign and prosecute a  
17 complaint in the county court for a violation of an ordinance of  
18 the county in which he or she serves as county attorney. No county  
19 may prosecute a complaint for a violation of an ordinance unless  
20 such county has on file with the court a current copy of the  
21 ordinances of such county. Subject to guidelines provided by the

22 State Court Administrator, the court shall prescribe the form in  
 23 which such ordinances shall be filed.

Senator Heidemann filed the following amendment to LB311:  
 AM1294

(Amendments to Standing Committee amendments, AM886)

- 1 1. Purpose: To correct a fund source.  
 2 Amendment:  
 3 1. On page 6, line 25, strike "CASH" and insert  
 4 "GENERAL".  
 5 2. Purpose: To include the federal financial  
 6 participation adjustment contained in ARRA.  
 7 Amendment:  
 8 1. On page 16, line 8, strike "544,521,881" and  
 9 insert "479,681,184"; in line 11 strike "883,964,062" and insert  
 10 "948,804,759"; in line 19 strike "\$544,521,881" and insert  
 11 "\$479,681,184"; and in line 20 strike "\$883,964,062" and insert  
 12 "\$948,804,759".  
 13 2. On page 17, after line 11 insert:  
 14 "There is included in the Federal Fund estimate  
 15 \$64,840,697 for FY2008-09 to be received as authorized by ARRA, for  
 16 Title 5, Federal Medicaid Assistance Participation rate.".  
 17 3. Purpose: To include the federal financial  
 18 participation adjustment contained in ARRA.  
 19 Amendment:  
 20 1. On page 17, line 19, strike "218,973,140" and insert  
 21 "217,792,687"; strike line 21, show as stricken, and insert  
 22 "FEDERAL FUND est. 118,641,094 120,368,732".  
 1 2. On page 18, line 6, strike "\$218,973,140" and insert  
 2 "\$217,792,687" and strike "\$119,188,279", show as stricken, and  
 3 insert "\$120,368,732"; and after line 26 insert:  
 4 "There is included in the Federal Fund estimate  
 5 \$1,180,453 for FY2008-09 to be received as authorized by ARRA, for  
 6 Title 5, Adoption Assistance and Foster Care.".

Senator Heidemann filed the following amendment to LB315:  
 AM1290

(Amendments to Standing Committee amendments, AM889)

- 1 1. Purpose: Divide Legislative Council, Legislative  
 2 Research, into two budget programs.  
 3 Amendment:  
 4 1. Strike section 12 and insert the following new  
 5 sections:  
 6 Sec. 12. AGENCY NO. 3 - LEGISLATIVE COUNCIL  
 7 Program No. 126 - Legislative Research
- |                  | FY2009-10 | FY2010-11 |
|------------------|-----------|-----------|
| 9 GENERAL FUND   | 967,438   | 1,006,696 |
| 10 PROGRAM TOTAL | 967,438   | 1,006,696 |
| 11 SALARY LIMIT  | 698,589   | 715,789   |

12 The unexpended General Fund appropriation balance  
 13 existing on June 30, 2009, is hereby reappropriated.  
 14 Sec. 14. AGENCY NO. 3 - LEGISLATIVE COUNCIL  
 15 Program No. 129 - Legislative Audit

	FY2009-10	FY2010-11
17 GENERAL FUND	456,432	460,436
18 PROGRAM TOTAL	456,432	460,436
19 SALARY LIMIT	335,818	344,233

20 2. Renumber the remaining sections accordingly and  
 21 correct internal references accordingly.

22 2. Purpose: Appropriate additional Help America Vote Act  
 1 funds received from ARRA and the required match.

2 Amendment:

3 1. On page 11, line 10, strike "2,004,033" and insert  
 4 "2,626,547"; and in line 12 strike "2,102,333" and insert  
 5 "2,724,847".

6 2. On page 176, line 15, strike "\$469,908" and insert  
 7 "\$501,034".

8 3. Purpose: Reduce Revolving Fund appropriation and  
 9 increase Cash Fund appropriation.

10 Amendment:

11 1. On page 12, line 10, strike "2,361,724" and insert  
 12 "2,861,724"; and in line 11 strike "1,506,809" and insert  
 13 "1,006,809".

14 4. Purpose: General funds are decreased by \$555,042 in  
 15 FY2009-10 to reflect actual insurance premium taxes available to  
 16 fund TEEOSA.

17 Amendment:

18 1. On page 22, line 2, strike "1,036,452,542" and insert  
 19 "1,035,897,500"; in line 5 strike "1,403,827,415" and insert  
 20 "1,403,272,373"; in line 7 strike "\$1,036,452,542" and insert  
 21 "\$1,035,897,500"; and in line 15 strike "\$826,704,311" and insert  
 22 "\$826,149,269".

23 5. Purpose: To correct a federal fund number and a  
 24 program total.

25 Amendment:

26 1. On page 58, line 18, strike "124,615,656" and insert  
 27 "124,568,759"; and in line 19 strike "371,279,639" and insert  
 1 "371,323,554".

2 2. On page 59, line 7, strike "\$124,615,656" and insert  
 3 "\$124,568,759".

4 6. Purpose: To adjust ICF-MR rates by 2.5% each year.

5 Amendment:

6 1. On page 60, strike line 13 and insert "GENERAL  
 7 FUND 453,901,728 539,841,361"; strike line 15 and insert "FEDERAL  
 8 FUND est. 1,134,179,079 1,110,855,790"; strike line 16 and insert  
 9 "PROGRAM TOTAL 1,611,225,393 1,673,841,737"; in line 18 strike  
 10 "\$453,813,219" and insert "\$453,901,728"; in line 19 strike  
 11 "\$1,134,003,302" and insert "\$1,134,179,079"; in line 21 strike

12 "\$539,643,477" and insert "\$539,841,361"; and in line 22 strike  
 13 "\$1,110,509,139" and insert "\$1,110,855,790".

14 7. Purpose: To correct an earmark amount.

15 Amendment:

16 1. On page 69, lines 22 and 25, strike "\$8,580,000" and  
 17 insert "\$5,600,000".

18 8. Purpose: To correct an earmark amount.

19 Amendment:

20 1. On page 71, line 25, strike "\$549,007" and insert  
 21 "\$650,507"; and strike "\$557,242" and insert "\$660,264".

22 9. Purpose: Increase the Personal Service Limit by \$1,552  
 23 for FY2009-10 and by \$1,580 for FY2010-11.

24 Amendment:

25 1. On page 140, strike line 25 and insert "SALARY LIMIT  
 26 127,071 130,260".

27 10. Purpose: Increase .7 of 1% to 1% for FY2009-10.

1 Amendment:

2 1. On page 151, lines 17 and 18, strike "20,370,490" and  
 3 insert "25,589,490".

Senator Heidemann filed the following amendment to LB316:  
 AM1289

(Amendments to Standing Committee amendments, AM890)

1 1. Insert the following new sections:

2 Sec. 21. Section 77-2602.04, Revised Statutes Cumulative  
 3 Supplement, 2008, is amended to read:

4 77-2602.04 Notwithstanding any other provision of law,  
 5 for bonds issued on or after July 1, 2008, funds received by  
 6 the issuer pursuant to section 77-2602 shall not be pledged for  
 7 repayment of bonds, except that such funds may be pledged for  
 8 repayment of refunding bonds issued to refund bonds issued prior to  
 9 the effective date of this act.

10 Sec. 27. Section 85-421, Reissue Revised Statutes of  
 11 Nebraska, is amended to read:

12 85-421 (1) The Legislature shall appropriate from the  
 13 General Fund (a) an amount not less than five million five hundred  
 14 thousand dollars for each fiscal year for the period beginning  
 15 with the fiscal year commencing July 1, 2006, and continuing  
 16 through the fiscal year ending June 30, 2009, and (b) an amount  
 17 not less than eleven million dollars for each fiscal year for  
 18 the period beginning with the fiscal year commencing July 1,  
 19 2009, and continuing through the fiscal year ending June 30,  
 20 2020, to the University of Nebraska Facilities Program of 2006 to  
 21 be used by the Board of Regents of the University of Nebraska  
 22 to accomplish projects as provided in this section. Through the  
 1 allotment process established in section 81-1113, the Department  
 2 of Administrative Services shall make appropriated funds available.  
 3 Undisbursed appropriations balances existing in the University of  
 4 Nebraska Facilities Program of 2006 at the end of each fiscal year

5 until June 30, 2021, shall be and are hereby reappropriated.

6 (2) The Legislature finds and determines that the  
7 projects funded through the University of Nebraska Facilities  
8 Program of 2006 are of critical importance to the State  
9 of Nebraska. It is the intent of the Legislature that the  
10 appropriations to the program shall not be reduced until all  
11 contracts and securities relating to the construction and financing  
12 of the projects or portions of the projects funded from such funds  
13 or accounts of such funds are completed or paid but in no case  
14 shall such appropriations extend beyond the fiscal year ending  
15 June 30, 2020, nor shall the cumulative total of the General Fund  
16 appropriations for the program exceed one hundred thirty-seven  
17 million five hundred thousand dollars.

18 (3) Subject to the receipt of project approval from  
19 the Coordinating Commission for Postsecondary Education as  
20 required by subsection (10) of section 85-1414 for each of  
21 the following University of Nebraska projects, the Board of  
22 Regents of the University of Nebraska is authorized to make  
23 expenditures from the University of Nebraska Facilities Program  
24 of 2006 for the following projects: (a) Deferred maintenance,  
25 repair, and renovation of University of Nebraska at Kearney  
26 Bruner Hall; (b) construction of University of Nebraska at Kearney  
27 campus-wide central utilities plant and system; (c) construction  
1 of facilities to replace University of Nebraska-Lincoln Behlen,  
2 Brace, and Ferguson Halls or deferred maintenance, repair, and  
3 renovation of University of Nebraska-Lincoln Behlen, Brace,  
4 and Ferguson Halls; (d) construction of a facility to replace  
5 University of Nebraska-Lincoln Keim Hall or deferred maintenance,  
6 repair, and renovation of University of Nebraska-Lincoln Keim  
7 Hall; (e) deferred maintenance, repair, and renovation of  
8 University of Nebraska-Lincoln Sheldon Memorial Art Gallery; (f)  
9 deferred maintenance, repair, and renovation of University of  
10 Nebraska-Lincoln Animal Science Complex; (g) deferred maintenance,  
11 repair, and renovation of University of Nebraska Medical Center  
12 Poynter, Bennet, and Wittson Halls; (h) deferred maintenance,  
13 repair, and renovation of University of Nebraska Medical Center  
14 Eppley Institute for Research in Cancer and Allied Diseases or  
15 replacement if additional federal or private funds are received;  
16 (i) deferred maintenance, repair, and renovation of University  
17 of Nebraska Medical Center College of Dentistry; (j) deferred  
18 maintenance, repair, and renovation of University of Nebraska at  
19 Omaha Library; and (k) deferred maintenance, repair, and renovation  
20 of University of Nebraska at Omaha utilities infrastructure.

21 (4) Expenditures of matching funds provided for the  
22 projects listed in this section by the Board of Regents of the  
23 University of Nebraska as provided for in section 85-419 shall be  
24 accounted for in the Nebraska State Accounting System through the  
25 University of Nebraska Facilities Program of 2006 or according to  
26 some other reporting process mutually agreed upon by the University



27 of Nebraska and the Department of Administrative Services.

1 (5) The Board of Regents of the University of Nebraska  
2 shall record and report, on the Nebraska State Accounting System,  
3 expenditure of amounts from the University of Nebraska Facilities  
4 Program of 2006 and expenditure of proceeds arising from any  
5 contract entered into pursuant to this section and section 85-422  
6 in such manner and format as prescribed by the Department of  
7 Administrative Services or according to some other reporting  
8 process mutually agreed upon by the University of Nebraska and  
9 the Department of Administrative Services.

10 (6) The Board of Regents of the University of Nebraska  
11 shall provide to the Task Force for Building Renewal semiannual  
12 reports concerning the status of each project authorized by this  
13 section.

14 2. On page 2, line 20, strike "\$8,250,000" and insert  
15 "\$3,000,000".

16 3. On page 7, line 27, strike "and".

17 4. On page 8, strike lines 1 and 2 and insert:

18 "(j) For fiscal year 2009-10, \$8,250,000 in addition to  
19 the other amounts in this section; and

20 (k) For fiscal year 2010-11, \$3,000,000 in addition to  
21 the other amounts in this section.".

22 5. On page 20, line 18, strike "and 85-415" and insert  
23 "85-415, and 85-421"; and in line 19 strike "and 71-8805" and  
24 insert "71-8805, and 77-2602.04".

25 6. Renumber the remaining sections accordingly.

## GENERAL FILE

**LEGISLATIVE BILL 561.** Title read. Considered.

Committee AM1210, found on page 1224, was considered.

## SENATOR KARPISEK PRESIDING

The committee amendment was adopted with 38 ayes, 1 nay, 5 present and not voting, and 5 excused and not voting.

Senator Langemeier withdrew his amendment, AM769, found on page 799.

Advanced to Enrollment and Review Initial with 37 ayes, 2 nays, 5 present and not voting, and 5 excused and not voting.

**AMENDMENTS - Print in Journal**

Senator Cornett filed the following amendment to LB218A:  
AM1033

- 1 1. Strike sections 2 and 3.
- 2 2. On page 1, line 1, strike "\$10,493,255" and insert
- 3 "-0-"; and in line 2 strike "\$10,860,519" and insert "-0-".

Senator Council filed the following amendment to LB503:  
AM1260

(Amendments to Standing Committee amendments, AM1080)

- 1 1. Insert the following new section:
- 2 Sec. 11. The Nebraska Shooting Range Protection Act does
- 3 not apply to any city of the metropolitan class.
- 4 2. On page 1, line 3, strike "10" and insert "11".
- 5 3. Renumber the remaining sections accordingly.

Senator Pirsch filed the following amendment to LB671:  
AM1336

(Amendments to AM1009)

- 1 1. Strike section 3 and insert the following new section:
- 2 Sec. 3. The council shall, with respect to ensuring
- 3 quality and uniform death investigation processes throughout the
- 4 state, develop guidelines to promote uniform and quality death
- 5 investigations for county coroners. Such guidelines may include
- 6 guidance to the county coroner in:
- 7 (1) Determining the need for autopsies involving:
- 8 (a) Deaths of individuals nineteen years of age or older;
- 9 (b) Deaths of individuals under nineteen years of age;
- 10 (c) Sudden, unexplained infant deaths;
- 11 (d) Deaths while in custody;
- 12 (e) Deaths caused by motor vehicle collisions;
- 13 (f) Deaths by burning; and
- 14 (g) Suspicious deaths;
- 15 (2) The utilization of investigative tools and equipment;
- 16 (3) Entering the death scene;
- 17 (4) Documenting and evaluating the death scene;
- 18 (5) Documenting and evaluating the body;
- 19 (6) Establishing and recording decedent profile
- 20 information; and
- 21 (7) Completing the death scene investigation.
- 22 Persons investigating infant deaths and young child
- 1 deaths may also refer to the recommendations adopted by the
- 2 Attorney General with respect to such investigations.

**GENERAL FILE**

**LEGISLATIVE BILL 542.** Title read. Considered.

Senator Campbell renewed her amendment, AM1224, found on page 1246.

Pending.

**VISITORS**

Visitors to the Chamber were Carl Sjulín; and 40 fifth- and sixth-grade students from Kenesaw.

The Doctor of the Day was Dr. Tim Dalton from Lincoln.

**ADJOURNMENT**

At 5:54 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, May 7, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTY-FOURTH DAY - MAY 7, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, May 7, 2009

**PRAYER**

The prayer was offered by Pastor Steve Holdaway, Life Spring Church, Bellevue.

**ROLL CALL**

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

The roll was called and all members were present except Senator Christensen who was excused; and Senators Ashford, Dierks, and Langemeier who were excused until they arrive.

**SPEAKER FLOOD PRESIDING****CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-third day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 137.** Placed on Final Reading.  
**LEGISLATIVE BILL 152.** Placed on Final Reading.  
**LEGISLATIVE BILL 299.** Placed on Final Reading.  
**LEGISLATIVE BILL 302.** Placed on Final Reading.  
**LEGISLATIVE BILL 343.** Placed on Final Reading.  
**LEGISLATIVE BILL 432.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**GENERAL FILE****LEGISLATIVE BILL 545A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

**BILLS ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 158.**

A BILL FOR AN ACT relating to law enforcement; to amend sections 17-107, 17-208, and 23-1734, Reissue Revised Statutes of Nebraska; to change provisions relating to removal and discipline of police officers, village marshals, and deputy sheriffs; to provide restrictions regarding employment, investigation, removal, and discipline of peace officers; to require rules and regulations; 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, 46:

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

Voting in the negative, 1:

Council

Excused and not voting, 2:

Christensen Langemeier

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 LB54 with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 54.**

A BILL FOR AN ACT relating to the Nebraska Ground Water Management and Protection Act; to amend sections 46-714, 46-715, and 46-719, Revised Statutes Cumulative Supplement, 2008, and section 46-713, Revised Statutes Cumulative Supplement, 2008, as amended by section 3, Legislative Bill 483, One Hundred First Legislature, First Session, 2009; to change provisions relating to evaluations of hydrologically connected water supplies and integrated management plans; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Christensen    Langemeier

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

The following bills were read and put upon final passage:

#### **LEGISLATIVE BILL 98.** With Emergency Clause.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-958.02,

2-967, 2-968, and 2-5106, Reissue Revised Statutes of Nebraska, and section 2-958.01, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to noxious weed grant programs and the Riparian Vegetation Management Task Force; to provide duties for the Director of Agriculture; to provide for a transfer of funds; 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, 45:

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

Voting in the negative, 0.

Present and not voting, 2:

Adams            White

Excused and not voting, 2:

Christensen    Langemeier

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 98A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 98, One Hundred First Legislature, First Session, 2009; 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, 46:



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

Voting in the negative, 0.

Present and not voting, 1:

White

Excused and not voting, 2:

Christensen Langemeier

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 322.**

A BILL FOR AN ACT relating to state government; to amend section 81-108, Reissue Revised Statutes of Nebraska, and sections 49-1401 and 49-1499.03, Revised Statutes Cumulative Supplement, 2008; to define terms; to prohibit nepotism; to eliminate provisions relating to employment of family members; to eliminate a penalty; to harmonize provisions; to repeal the original sections; and to outright repeal section 49-1499.01, Revised Statutes Cumulative Supplement, 2008.

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, 45:

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

Voting in the negative, 0.

Present and not voting, 2:

Hansen            Nordquist

Excused and not voting, 2:

Christensen    Langemeier

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

### **LEGISLATIVE BILL 56.**

A BILL FOR AN ACT relating to the Livestock Waste Management Act; to amend sections 54-2417, 54-2422, 54-2431, and 54-2435, Revised Statutes Cumulative Supplement, 2008; to redefine a term; to change provisions relating to permit requirements, applications, and rules and regulations; 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	Hansen	McGill	Rogert
Ashford	Flood	Harms	Mello	Schilz
Avery	Friend	Heidemann	Nantkes	Stuthman
Campbell	Fulton	Howard	Nelson	Utter
Carlson	Gay	Janssen	Nordquist	Wallman
Coash	Giese	Lathrop	Pahls	White
Cornett	Gloor	Lautenbaugh	Pankonin	Wightman
Council	Haar	Louden	Pirsch	
Dubas	Hadley	McCoy	Price	

Voting in the negative, 3:

Cook            Dierks            Karpisek

Present and not voting, 1:

Sullivan

Excused and not voting, 2:

Christensen    Langemeier

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 LB162 with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 162.**

A BILL FOR AN ACT relating to contractors; to amend sections 48-2101, 48-2105, and 77-373.01, Reissue Revised Statutes of Nebraska, and sections 48-2103, 48-2104, 48-2107, 48-2115, and 77-2753, Revised Statutes Cumulative Supplement, 2008; to change and eliminate provisions relating to the Contractor Registration Act, registration by nonresident contractors, and income tax withholding by contractors; to provide an operative date; to repeal the original sections; and to outright repeal sections 77-3103, 77-3107, 77-3108, 77-3109, 77-3110, 77-3111, and 77-3112, Reissue Revised Statutes of Nebraska, and sections 77-3101, 77-3102, 77-3104, 77-3105, and 77-3106, Revised Statutes Cumulative Supplement, 2008.

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, 45:

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

Voting in the negative, 2:

Hansen            Stuthman

Excused and not voting, 2:

Christensen    Langemeier

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 436.**

A BILL FOR AN ACT relating to electricity; to amend section 70-1012, Reissue Revised Statutes of Nebraska; to provide for net metering; to state findings; to define terms; to provide duties for local distribution utilities and customer-generators; to require a report; to exempt qualified facilities from approval by the Nebraska Power Review Board; to provide severability; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Pankonin

Excused and not voting, 2:

Christensen Langemeier

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 LB549 with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 549.**

A BILL FOR AN ACT relating to schools; to amend sections 13-518, 43-2007, 60-658, 79-234, 79-239, 79-240, 79-2,104, 79-2,105, 79-304, 79-305, 79-306, 79-310, 79-313, 79-317, 79-318, 79-319, 79-528, 79-569, 79-598, 79-606, 79-608, 79-611, 79-1003, 79-1007.06, 79-1007.08, 79-1007.16, 79-1007.20, 79-1007.21, 79-1014, 79-1065.01, 79-1084, 79-1086, 79-10,110, 79-1102.01, 79-1110, 79-1127, 79-1148, 79-1149, 79-1150, 79-1161, 79-1204, 79-1212, 79-1241.01, 79-1241.03, 79-1601, 79-1606, and 85-607, Reissue Revised Statutes of Nebraska, and sections 79-233, 79-237, 79-238, and 79-1007.22, Reissue Revised Statutes of Nebraska, as amended by sections 1, 2, 3, and 4, respectively, Legislative Bill 62, One Hundred First Legislature, First Session, 2009; to change provisions relating to exempt schools and students, records of missing persons, the enrollment option program, student files, qualifications of the Commissioner of Education and members of the State Board of Education, powers and duties of the commissioner and the state board, school buses, transportation reimbursement, reports, school board meetings, contracts for instruction, the Tax Equity and Educational Opportunities Support Act, state aid adjustments, school tax levies, early childhood education programs, the Special Education Act, educational service units, and certain college admissions as prescribed; to harmonize provisions; to eliminate the Nebraska Equal Opportunity for Displaced Homemakers Act and provisions relating to the Diagnostic Resource Center at Cozad, the Seamless Delivery System Pilot Project, and core services funding for educational service units for prior fiscal years; to repeal the original sections; and to outright repeal sections 48-1301, 48-1302, 48-1303, 48-1304, 48-1305, 48-1306, 48-1309, 79-1168, 79-1169, 79-1170, 79-1171, 79-1172, 79-1173, 79-1174, 79-1175, 79-1176, 79-1177, 79-1178, 79-11,136, 79-11,137, 79-11,138, 79-11,139, 79-11,140, 79-11,141, and 79-1241, Reissue Revised Statutes of Nebraska.

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, 45:

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

Voting in the negative, 0.

Present and not voting, 2:

Cook            Dierks

Excused and not voting, 2:

Christensen    Langemeier

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

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 551.**

A BILL FOR AN ACT relating to insurance; to amend sections 44-710.01 and 44-761, Reissue Revised Statutes of Nebraska; to extend the limiting age on sickness and accident policies; to harmonize provisions; to provide an operative date; 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, 45:

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

Voting in the negative, 0.

Present and not voting, 2:

McCoy            Utter

Excused and not voting, 2:

Christensen    Langemeier

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

**LEGISLATIVE BILL 92.**

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-601, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to operation of vehicles approaching stopped authorized emergency vehicles and road assistance vehicles on a controlled-access highway; to provide penalties; to harmonize provisions; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Christensen Langemeier

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

**LEGISLATIVE BILL 286.** With Emergency Clause.

A BILL FOR AN ACT relating to gaming; to amend sections 9-255.04, 9-347, 9-347.01, and 9-812, Reissue Revised Statutes of Nebraska; to change provisions relating to definite profit under the Nebraska Bingo Act and the Nebraska Pickle Card Lottery Act; to change provisions relating to lottery funds; to provide operative dates; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Haar

Excused and not voting, 2:

Christensen Langemeier

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 LB495 with 42 ayes, 1 nay, 4 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 495.**

A BILL FOR AN ACT relating to cities and villages; to amend sections 15-268, 16-117, 16-230, 17-405.01, 17-563, and 19-916, Reissue Revised Statutes of Nebraska; to require notice of annexation as prescribed; to change provisions relating to the control of weeds and worthless vegetation; to provide for annexation by certain cities; to change provisions relating to the platting of additions; 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, 46:



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

Voting in the negative, 1:

Louden

Excused and not voting, 2:

Christensen Langemeier

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 LB497 with 42 ayes, 1 nay, 4 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 497.** With Emergency Clause.

A BILL FOR AN ACT relating to driving under the influence; to amend sections 29-2259.01 and 60-6,197.05, Reissue Revised Statutes of Nebraska, and sections 60-498.02, 60-4,115, 60-4,118.06, 60-6,197.01, 60-6,197.02, 60-6,197.03, 60-6,197.06, and 60-6,211.05, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to employment driving permits and ignition interlock devices; to change and provide penalties relating to ignition interlock devices; to provide for the payment of installation, removal, or maintenance costs of such devices for certain persons as prescribed; to change provisions relating to operating a motor vehicle under a revoked license; to eliminate a fund; to harmonize provisions; to repeal the original sections; to outright repeal section 60-6,211.10, 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Christensen    Langemeier

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 bills were read and put upon final passage:

**LEGISLATIVE BILL 497A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 497, One Hundred First Legislature, First Session, 2009; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Haar

Excused and not voting, 2:

Christensen Langemeier

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 653.** With Emergency Clause.

A BILL FOR AN ACT relating to the Legislature; to create the Legislature's Planning Committee; to state findings; to provide powers and duties; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Howard

Excused and not voting, 2:

Christensen Langemeier

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

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 158, 54, 98, 98A, 322, 56, 162, 436, 549, 551, 92, 286, 495, 497, 497A, and 653.

**MOTION - Return LB463 to Select File**

Senator Dierks moved to return LB463 to Select File for his specific amendment, AM1100, found on page 1139.

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

**SELECT FILE**

**LEGISLATIVE BILL 463.** The Dierks specific amendment, AM1100, found on page 1139, was adopted with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

**MOTION - Suspend Rules**

Senator Avery offered the following motion to LB402:  
MO48

Suspend Rule 7, Section 3(d) to permit consideration of AM1314.

The Avery motion to suspend the rules prevailed with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

**MOTION - Return LB402 to Select File**

Senator Avery moved to return LB402 to Select File for his specific amendment, AM1314, found on page 1315.

The Avery motion to return prevailed with 45 ayes, 0 nays, 2 present and not voting, and 2 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 402.** The Avery specific amendment, AM1314, found on page 1315, was adopted with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 110.** Introduced by Howard, 9.

WHEREAS, Livingston Wills was born blind in 1917 in Brownsville, Tennessee; and

WHEREAS, Livingston Wills attended Union College in Lincoln, Nebraska, studying English and history; and

WHEREAS, Livingston Wills moved to Omaha in the 1940s; and

WHEREAS, Livingston Wills learned how to make brooms as a young boy and sold them door-to-door to support his family throughout his lifetime beginning in the 1950s; and

WHEREAS, Livingston Wills was known in Omaha as the "Broom Man"; and

WHEREAS, Livingston Wills was the pastor at Tabernacle Church of Christ Holiness and later became bishop in this church in 1975; and

WHEREAS, Livingston Wills believed, "God takes care of me."

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

1. That the Legislature recognizes and honors the values demonstrated throughout the lifetime of Livingston Wills.

2. That a copy of this resolution be given to the family of Livingston Wills.

Laid over.

**SELECT FILE**

**LEGISLATIVE BILL 532.** Senator Friend withdrew his motion, MO28, found on page 872, to indefinitely postpone.

Senator Friend withdrew his amendment, AM899, found on page 866 and considered on page 871.

Senator Price renewed his amendment, AM1321, found on page 1338.

The Price amendment was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 195.** ER8096, found on page 1207, was adopted.

Senator Gloor renewed his amendment, AM1221, found on page 1215.

**SENATOR LATHROP PRESIDING**

The Gloor amendment was adopted with 32 ayes, 0 nays, 15 present and not

voting, and 2 excused and not voting.

Senator Cook asked unanimous consent to withdraw her amendment, AM930, found on page 1216, and replace it with her substitute amendment, AM1333. No objections. So ordered.  
AM1333

(Amendments to Standing Committee amendments, AM952)

- 1 1. Insert the following new sections:
- 2 Sec. 79. Section 71-3601, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 71-3601 For purposes of the Tuberculosis Detection and
- 5 Prevention Act:
- 6 (1) Communicable tuberculosis means tuberculosis
- 7 manifested by a laboratory report of sputum or other body fluid
- 8 or excretion found to contain tubercle bacilli or by chest X-ray
- 9 findings interpreted as active tuberculosis by competent medical
- 10 authority;
- 11 (2) Department means the Department of Health and Human
- 12 Services;
- 13 (3) Directed health measure means any measure, whether
- 14 prophylactic or remedial, intended and directed to prevent, treat,
- 15 or limit the spread of tuberculosis;
- 16 ~~(3)-(4)~~ Facility means a structure in which suitable
- 17 isolation for tuberculosis can be given and which is approved
- 18 by the department for the detention of recalcitrant ~~tuberculosis~~
- 19 tuberculous persons;
- 20 ~~(4)-(5)~~ Local health officer means (a) the health
- 21 director of a local public health department as defined in section
- 22 71-1626 or (b) the medical advisor to the board of health of a
- 1 county, city, or village;
- 2 ~~(5)-(6)~~ Recalcitrant tuberculous person means a person
- 3 affected with tuberculosis in an active stage who by his or her
- 4 conduct or mode of living endangers the health and well-being of
- 5 other persons, by exposing them to tuberculosis, and who refuses to
- 6 accept adequate treatment; and
- 7 ~~(6)-(7)~~ State health officer means the chief medical
- 8 officer as described in section 81-3115.
- 9 Sec. 80. Section 71-3602, Revised Statutes Cumulative
- 10 Supplement, 2008, is amended to read:
- 11 71-3602 ~~(1) When a person with communicable tuberculosis~~
- 12 ~~violates the rules, regulations, or orders adopted and promulgated~~
- 13 ~~by the department and is thereby conducting himself or herself~~
- 14 ~~in such a way as to expose others to danger of infection, after~~
- 15 ~~having been ordered by the state health officer or a local health~~
- 16 ~~officer to comply, there are reasonable grounds to believe that~~
- 17 a person has communicable tuberculosis and the person refuses to
- 18 submit to the examination necessary to determine the existence of
- 19 communicable tuberculosis, the state health officer or local health
- 20 officer may order such person to submit to such examination. If

21 such person refuses to comply with such order, the state health  
22 officer or a local health officer shall institute proceedings  
23 for commitment, returnable to the county court of the county in  
24 which the person resides or, if the person is a nonresident or  
25 has no permanent residence, in the county in which the person  
26 is found. Strictness of pleading is not required, and a general  
27 allegation that the public health requires commitment of the person  
1 is sufficient.

2 (2) When a person with communicable tuberculosis conducts  
3 himself or herself in such a way as to expose another person  
4 to the danger of infection, the state health officer or local  
5 health officer may order such person to submit to directed health  
6 measures necessary for the treatment of the person and to prevent  
7 the transmission of the disease. If such person refuses to comply  
8 with such order, the state health officer or a local health  
9 officer shall institute proceedings for commitment, returnable to  
10 the county court of the county in which the person resides or, if  
11 the person is a nonresident or has no permanent residence, in the  
12 county in which the person is found. Strictness of pleading is not  
13 required, and a general allegation that the public health requires  
14 commitment of the person is sufficient.

15 Sec. 81. Section 71-3604, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-3604 (1) Upon the hearing set in the order, the person  
18 named in the order shall have a right to be represented by counsel,  
19 to confront and cross-examine witnesses against him or her, and to  
20 have compulsory process for the securing of witnesses and evidence  
21 in his or her own behalf.

22 (2) Upon a consideration of the petition and evidence,  
23 if

24 (a) If the court finds that there are reasonable grounds  
25 to believe that the person named in the petition has communicable  
26 tuberculosis and has refused to submit to an examination to  
27 determine the existence of communicable tuberculosis, the court  
1 shall order such person to submit to such examination. If after  
2 such examination is completed it is determined that the person has  
3 communicable tuberculosis, the court shall order directed health  
4 measures necessary for the treatment of the person and to prevent  
5 the transmission of the disease; or

6 (b) If the court finds that the person named in the  
7 petition has communicable tuberculosis and conducts himself or  
8 herself in such a way as to be a danger to the public health, an  
9 order shall be issued committing the person named to a facility  
10 and directing the sheriff to take him or her into custody and  
11 deliver him or her to the facility or to submit to directed health  
12 measures necessary for the treatment of the person and to prevent  
13 the transmission of the disease.

14 (3) If the court does not so find, the petition shall  
15 be dismissed. The cost of transporting such person to the facility

16 shall be paid from county general funds.

17 Sec. 82. Section 71-3614, Revised Statutes Cumulative  
18 Supplement, 2008, is amended to read:

19 71-3614 (1) When any person who has communicable ~~or~~  
20 ~~contagious~~-tuberculosis and who has relatives, friends, or a  
21 private or public agency or organization willing to undertake the  
22 obligation to support him or her or to aid in supporting him or her  
23 in any other state or country, the department may furnish him or  
24 her with the cost of transportation to such other state or country  
25 if it finds that the interest of the State of Nebraska and the  
26 welfare of such person will be promoted thereby. The expense of  
27 such transportation shall be paid by the department out of funds  
1 appropriated to it for the purpose of carrying out the Tuberculosis  
2 Detection and Prevention Act.

3 (2) No funds appropriated to the department for the  
4 purpose of carrying out the act shall be used for meeting the  
5 cost of the care, maintenance, or treatment of any person who has  
6 communicable ~~or contagious~~-tuberculosis in a health care facility  
7 on either an inpatient or an outpatient basis, or otherwise, for  
8 directed health measures, or for transportation to another state  
9 or country, to the extent that such cost is covered by an insurer  
10 or other third-party payor or any other entity under obligation to  
11 such person by contract, policy, certificate, or any other means  
12 whatsoever. The department in no case shall expend any such funds  
13 to the extent that any such person is able to bear the cost of  
14 such care, maintenance, treatment, or transportation. To protect  
15 the health and safety of the public, the department may pay, in  
16 part or in whole, the cost of drugs and medical care used to  
17 treat any person for or to prevent the spread of communicable  
18 tuberculosis and for evaluation and diagnosis of persons who  
19 have been identified as contacts of a person with communicable  
20 tuberculosis. The department shall determine the ability of a  
21 person to pay by consideration of the following factors: (a) The  
22 person's age, (b) the number of his or her dependents and their  
23 ages and physical condition, (c) the person's length of care,  
24 maintenance, or treatment, (d) his or her liabilities, ~~and~~ (e) the  
25 extent that such cost is covered by an insurer or other third-party  
26 payor, and (f) his or her assets. Pursuant to the Administrative  
27 Procedure Act, the department shall adopt and promulgate rules  
1 and regulations for making the determinations required by this  
2 subsection.

3 Rules, regulations, and orders in effect under this  
4 section prior to July 16, 2004, shall continue to be effective  
5 until revised, amended, repealed, or nullified pursuant to law.

6 2. On page 124, line 18, after the sixth comma insert  
7 "71-3604,"; and in line 24 after the first comma insert "71-3601,  
8 71-3602, 71-3614,".

9 3. Renumber the remaining sections and correct internal  
10 references accordingly.



The Cook amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Senator Rogert withdrew his amendment, AM1263, found on page 1272.

Senator Dubas offered the following amendment:

AM1346

- 1 1. Insert the following new section:
- 2 Sec. 51. A mental health practitioner holding a
- 3 provisional license issued pursuant to section 38-2123, a
- 4 psychologist holding a provisional license issued pursuant to
- 5 section 38-3122, or a psychiatrist licensed pursuant to section
- 6 38-2037 and entitled to reimbursement pursuant to the Medical
- 7 Assistance Act for providing mental health services shall
- 8 be reimbursed at the same rate as a licensed mental health
- 9 practitioner, licensed psychologist, or licensed psychiatrist
- 10 providing the same services.
- 11 2. Renumber the remaining sections and correct internal
- 12 references accordingly.

Senator Dubas withdrew her amendment.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 671.** ER8097, found on page 1213, was adopted.

Senator Pirsch renewed his amendment, AM1336, found on page 1346.

The Pirsch amendment was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 476.** ER8098, found on page 1213, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 476A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 342.** ER8104, found on page 1274, was adopted.

Advanced to Enrollment and Review for Engrossment.

**SPEAKER FLOOD PRESIDING**

**LEGISLATIVE BILL 232.** Advanced to Enrollment and Review for

Engrossment.

**LEGISLATIVE BILL 112.** ER8117, found on page 1325, was adopted.

Advanced to Enrollment and Review for Engrossment.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 7, 2009, at 10:30 a.m. were the following: LBs 158, 54, 98e, 98Ae, 322, 56, 162, 436, 549, 551, 92, 286e, 495, 497e, 497Ae, and 653e.

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

**AMENDMENTS - Print in Journal**

Senator Ashford filed the following amendment to LB63:  
AM1337

(Amendments to E & R amendments, ER8031)

- 1 1. Insert the following new section:
- 2 Section 1. Section 13-2610, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 13-2610 (1) Upon the annual certification under section
- 5 13-2609, the State Treasurer shall transfer after the audit
- 6 the amount certified to the Convention Center Support Fund. The
- 7 Convention Center Support Fund is created. Any money in the fund
- 8 available for investment shall be invested by the state investment
- 9 officer pursuant to the Nebraska Capital Expansion Act and the
- 10 Nebraska State Funds Investment Act.
- 11 (2)(a) It is the intent of the Legislature to appropriate
- 12 from the fund to any political subdivision for which an application
- 13 for state assistance under the Convention Center Facility Financing
- 14 Assistance Act has been approved an amount not to exceed (i)
- 15 seventy percent of the state sales tax revenue collected by
- 16 retailers and operators doing business at such facilities on sales
- 17 at such facilities, state sales tax revenue collected on primary
- 18 and secondary box office sales of admissions to such facilities,
- 19 and state sales tax revenue collected by associated hotels, (ii)
- 20 seventy-five million dollars for any one approved project, or (iii)
- 21 the total cost of acquiring, constructing, improving, or equipping
- 22 the eligible facility. State assistance shall not be used for an
- 1 operating subsidy or other ancillary facility.
- 2 (b) Ten percent of such funds appropriated to a city
- 3 of the metropolitan class under this subsection shall be equally
- 4 distributed to areas with a high concentration of poverty to (i)
- 5 showcase important historical aspects of such areas or (ii) assist
- 6 with the reduction of street and gang violence in such areas.

7 (c) Each area with a high concentration of poverty that  
8 has been distributed funds under subdivision (b) of this subsection  
9 shall establish a development fund and form a committee which  
10 shall identify and research potential projects and make final  
11 determinations on the use of state sales tax revenue received for  
12 such projects.

13 (d) A committee formed in subdivision (c) of this  
14 subsection shall include the following three members:

15 (i) The member of the city council whose district  
16 includes a majority of the census tracts which each contain a  
17 percentage of persons below the poverty line of greater than thirty  
18 percent, as determined by the most recent federal decennial census,  
19 within the area with a high concentration of poverty;

20 (ii) The commissioner of the county whose district  
21 includes a majority of the census tracts which each contain a  
22 percentage of persons below the poverty line of greater than thirty  
23 percent, as determined by the most recent federal decennial census,  
24 within the area with a high concentration of poverty; and

25 (iii) A resident of the area with a high concentration of  
26 poverty, appointed by the other two members of the committee.

27 (e) A committee formed in subdivision (c) of this  
1 subsection shall solicit project ideas from the public and shall  
2 hold a public hearing in the area with a high concentration  
3 of poverty. Notice of a proposed hearing shall be provided in  
4 accordance with the procedures for notice of a public hearing  
5 pursuant to section 18-2115. The committee shall research potential  
6 projects in its area and make the final determination regarding the  
7 annual distribution of funding to such projects.

8 (f) For purposes of this subsection, an area with a high  
9 concentration of poverty means an area within the corporate limits  
10 of a city of the metropolitan class consisting of one or more  
11 contiguous census tracts, as determined by the most recent federal  
12 decennial census, which contain a percentage of persons below the  
13 poverty line of greater than thirty percent, and all census tracts  
14 contiguous to such tract or tracts, as determined by the most  
15 recent federal decennial census.

16 (3) State assistance to the political subdivision shall  
17 no longer be available upon the retirement of the bonds issued  
18 to acquire, construct, improve, or equip the facility or any  
19 subsequent bonds that refunded the original issue or when state  
20 assistance reaches the amount determined under subdivision (2)(a)  
21 of this section, whichever comes first.

22 (4) The remaining thirty percent of state sales tax  
23 revenue collected by retailers and operators doing business at such  
24 facilities on sales at such facilities, state sales tax revenue  
25 collected on primary and secondary box office sales of admissions  
26 to such facilities, and state sales tax revenue collected by  
27 associated hotels, shall be appropriated by the Legislature to the  
1 Local Civic, Cultural, and Convention Center Financing Fund.

- 2 (5) Any municipality that has applied for and received a  
 3 grant of assistance under the Local Civic, Cultural, and Convention  
 4 Center Financing Act may not receive state assistance under the  
 5 Convention Center Facility Financing Assistance Act.  
 6 2. Renumber the remaining sections and correct internal  
 7 references and the repealer section accordingly.

Senator Ashford filed the following amendment to LB35:  
 AM1095

(Amendments to E & R amendments, ER8067)

- 1 1. Insert the following new section:  
 2 Sec. 31. Section 81-1429, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 81-1429 (1) ~~Until January 1, 2007, a~~ A Law Enforcement  
 5 Improvement Fund fee of two dollars shall be taxed as costs  
 6 in each criminal proceeding, including traffic infractions and  
 7 misdemeanors, filed in all courts of this state for violations of  
 8 state law or city or village ordinances. No such fee shall be  
 9 collected in any juvenile court proceeding or when waived under  
 10 section 29-2709. Such fee shall be remitted to the State Treasurer  
 11 on forms prescribed by the State Treasurer within ten days after  
 12 the close of each calendar quarter. The State Treasurer shall  
 13 credit the money to the Law Enforcement Improvement Fund.  
 14 ~~(2) Beginning January 1, 2007, a fee of one dollar shall~~  
 15 ~~be taxed as costs in each criminal proceeding, including traffic~~  
 16 ~~infractions and misdemeanors, filed in all courts of this state for~~  
 17 ~~violations of state law or city or village ordinances. No such fee~~  
 18 ~~shall be collected in any juvenile court proceeding or when waived~~  
 19 ~~under section 29-2709. Such fee shall be remitted to the State~~  
 20 ~~Treasurer on forms prescribed by the State Treasurer within ten~~  
 21 ~~days after the close of each calendar quarter. The State Treasurer~~  
 22 ~~shall credit the money to the Law Enforcement Improvement Fund.~~  
 1 2. On page 38, line 5, after the last comma insert  
 2 "81-1429,".  
 3 3. Renumber the remaining sections and correct internal  
 4 references accordingly.

Senator Ashford filed the following amendment to LB35:  
 AM1287

(Amendments to E & R amendments, ER8067)

- 1 1. Strike section 35.  
 2 2. On page 37, line 18, strike "37" and insert "36"; and  
 3 strike beginning with "Sections" in line 19 through the period in  
 4 line 20.  
 5 3. On page 38, line 4, after the first comma insert  
 6 "25-3007, 25-3008,".  
 7 4. Renumber the remaining sections accordingly.

Senator Ashford filed the following amendment to LB35A:  
AM1101

- 1 1. Insert the following section:
- 2 Sec. 3. There is hereby appropriated \$245,000 from the
- 3 Law Enforcement Improvement Fund for FY2010-11 to the Nebraska
- 4 Commission on Law Enforcement and Criminal Justice, for Program
- 5 199, to aid in carrying out the provisions of Legislative Bill 35,
- 6 One Hundred First Legislature, First Session, 2009.
- 7 No expenditures for permanent and temporary salaries and
- 8 per diems for state employees shall be made from funds appropriated
- 9 in this section.
- 10 2. Renumber the remaining sections accordingly.

Senator Council filed the following amendment to LB440:  
AM1233

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 Sec. 3. Section 85-1402, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 85-1402 For purposes of the Coordinating Commission for
- 5 Postsecondary Education Act:
- 6 (1)(a) Capital construction project shall mean a project
- 7 which utilizes tax funds designated by the Legislature and shall
- 8 be: Any proposed new capital structure; any proposed addition
- 9 to, renovation of, or remodeling of a capital structure; any
- 10 proposed acquisition of a capital structure by gift, purchase,
- 11 lease-purchase, or other means of construction or acquisition that
- 12 (i) will be directly financed in whole or in part with tax funds
- 13 designated by the Legislature totaling at least the minimum capital
- 14 expenditure for purposes of this subdivision or (ii) is likely,
- 15 as determined by the institution, to result in an incremental
- 16 increase in appropriation or expenditure of tax funds designated
- 17 by the Legislature of at least the minimum capital expenditure for
- 18 the facility's operations and maintenance costs in any one fiscal
- 19 year within a period of ten years from the date of substantial
- 20 completion or acquisition of the project. No tax funds designated
- 21 by the Legislature shall be appropriated or expended for any
- 22 incremental increase of more than the minimum capital expenditure
- 1 for the costs of the operations and utilities of any facility
- 2 which is not included in the definition of capital construction
- 3 project and thus is not subject to commission approval pursuant
- 4 to the Coordinating Commission for Postsecondary Education Act. No
- 5 institution shall include a request for funding such an increase
- 6 in its budget request for tax funds designated by the Legislature
- 7 nor shall any institution utilize any such funds for such an
- 8 increase. The Governor shall not include in his or her budget
- 9 recommendations, and the Legislature shall not appropriate, such
- 10 funds for such increase.
- 11 (b) For purposes of this subdivision:

12 (i) Directly financed shall mean funded by:  
 13 (A) Appropriation of tax funds designated by the  
 14 Legislature for the specific capital construction project;  
 15 (B) Property tax levies used to establish a capital  
 16 improvement and bond sinking fund pursuant to section 85-1515; or  
 17 (C) That portion of tax funds designated by the  
 18 Legislature and appropriated by the Legislature for the general  
 19 operation of the public institution and utilized to fund the  
 20 capital project;

21 (ii) Incremental increase shall mean an increase in  
 22 appropriation or expenditure of tax funds designated by the  
 23 Legislature of at least the minimum capital expenditure for a  
 24 facility's operations and maintenance costs, beyond any increase  
 25 due to inflation, to pay for a capital structure's operations  
 26 and maintenance costs that are a direct result of a capital  
 27 construction project; and

1 (iii) Minimum capital expenditure shall mean:  
 2 (A) For purposes of subdivision (a)(i) of this  
 3 subdivision, a base amount of ~~five hundred thousand~~ two million  
 4 dollars; and

5 (B) For the facility's operations and maintenance costs  
 6 pursuant to subdivision (a)(ii) of this subdivision, a base amount  
 7 of ~~seventy-five~~ eighty-five thousand dollars for any one fiscal  
 8 year.

9 ~~Both base amounts~~ The base amount for the facility's  
 10 operations and maintenance costs shall be subject to any  
 11 inflationary or market adjustments made by the commission pursuant  
 12 to this subdivision. The commission shall adjust the base ~~amounts~~  
 13 amount on a biennial basis beginning January 1, ~~2008~~ 2010. The  
 14 adjustments shall be based on percentage changes in a construction  
 15 cost index and any other published index relevant to operations and  
 16 utilities costs, both as selected by the commission in cooperation  
 17 with the public institutions. The index or indices shall reflect  
 18 inflationary or market trends for the applicable operations and  
 19 maintenance or construction costs;

20 (2) Commission shall mean the Coordinating Commission for  
 21 Postsecondary Education;

22 (3) Coordination shall mean:

23 (a) Authority to adopt, and revise as needed, a  
 24 comprehensive statewide plan for postsecondary education which  
 25 shall include (i) definitions of the role and mission of each  
 26 public postsecondary educational institution within any general  
 27 assignments of role and mission as may be prescribed by the  
 1 Legislature and (ii) plans for facilities which utilize tax funds  
 2 designated by the Legislature;

3 (b) Authority to review, monitor, and approve or  
 4 disapprove each public postsecondary educational institution's  
 5 programs and capital construction projects which utilize tax funds  
 6 designated by the Legislature in order to provide compliance and

7 consistency with the comprehensive plan and to prevent unnecessary  
8 duplication; and

9 (c) Authority to review and modify, if needed to promote  
10 compliance and consistency with the comprehensive statewide plan  
11 and prevent unnecessary duplication, the budget requests of the  
12 governing boards or any other governing board for any other public  
13 postsecondary educational institution which may be established by  
14 the Legislature;

15 (4) Education center shall mean an off-campus branch of  
16 a public institution or cooperative of either public or public  
17 and private postsecondary educational institutions which offers  
18 instructional programs to students;

19 (5) Governing board shall mean the Board of Regents of  
20 the University of Nebraska, the Board of Trustees of the Nebraska  
21 State Colleges, or the board of governors for each community  
22 college area;

23 (6) Program shall mean any program of instruction which  
24 leads directly to a degree, diploma, or certificate and, for  
25 purposes of section 85-1414, shall include public service programs  
26 and all off-campus instructional programs, whether or not such  
27 programs lead directly to a degree, diploma, or certificate.

1 Program shall also include the establishment of any new college,  
2 school, major division, education center, or institute but  
3 shall not include reasonable and moderate extensions of existing  
4 curricula which have a direct relationship to existing programs;

5 (7) Public institution shall mean each campus of a  
6 public postsecondary educational institution which is or may be  
7 established by the Legislature, which is under the direction of a  
8 governing board, and which is administered as a separate unit by  
9 the board; and

10 (8) Tax funds designated by the Legislature shall mean  
11 all state tax revenue and all property tax revenue.

12 2. On page 1, strike beginning with "the" in line 1  
13 through line 5 and insert "postsecondary educational institutions;  
14 to amend sections 85-9,178, 85-9,182, and 85-1402, Reissue Revised  
15 Statutes of Nebraska; to change the diversity criteria under the  
16 Student Diversity Scholarship Program Act; to change provisions  
17 relating to capital and facility expenditures; and to repeal the  
18 original sections."

19 3. Correct the repealer and renumber the remaining  
20 section accordingly.

## VISITORS

Visitors to the Chamber were Allan Lierman from Lincoln; 24 fourth-grade students, teacher, and sponsors from Christ Lutheran School, Norfolk; members of Nebraska Federation of Women's Clubs from across the state; and Tracy Buffington and Bill Vobejda from Fremont.

**RECESS**

At 11:49 a.m., on a motion by Senator Mello, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Ashford and Christensen who were excused; and Senators Fulton, Rogert, and Sullivan who were excused until they arrive.

**MESSAGES FROM THE GOVERNOR**

May 7, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individual is being reappointed to the Climate Assessment Response Committee:

Al Berndt, Emergency Management Agency, 1300 Military Road, Lincoln,  
NE 68508

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures



May 4, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individual is being appointed to the Motor Vehicle Industry Licensing Board:

Paul Gerber, 1605 North 136th St., Omaha, NE 68154

Contingent upon your approval, the following individual is being reappointed to the Motor Vehicle Industry Licensing Board:

Roy Neneman, 18 Lillian Lane, Doniphan, NE 68832

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

May 5, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Nebraska Ethanol Board:

Galen Frenzen, 50802 N. Edgewood Rd., Fullerton, NE 68638  
Paul Kenney, 10950 Elm Road, Kearney, NE 68847

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman

Governor

Enclosures

**SELECT FILE**

**LEGISLATIVE BILL 311.** ER8113, found on page 1329, was adopted.

Senator Heidemann renewed his amendment, AM1294, found on page 1341.

The Heidemann amendment was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 312.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 313.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 314.** ER8112, found on page 1330, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 316.** ER8115, found on page 1331, was adopted.

Senator Heidemann renewed his amendment, AM1289, found on page 1343.

The Heidemann amendment was adopted with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 315.** ER8122, found on page 1330, was adopted.

Senator Giese withdrew his amendment, AM1267, found on page 1294.

Senator Heidemann renewed his amendment, AM1290, found on page 1341.

The Heidemann amendment was adopted with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 318.** ER8116, found on page 1331, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 456.** ER8121, found on page 1331, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 414.** ER8114, found on page 1331, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 414A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 629.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 628.** ER8120, found on page 1336, was adopted.

Advanced to Enrollment and Review for Engrossment.

### GENERAL FILE

**LEGISLATIVE BILL 503.** Title read. Considered.

Committee AM1080, found on page 1279, was considered.

Senator Council renewed her amendment, AM1260, found on page 1346, to the committee amendment.

The Council amendment lost with 3 ayes, 25 nays, 18 present and not voting, and 3 excused and not voting.

The committee amendment was adopted with 39 ayes, 1 nay, 6 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 42 ayes, 2 nays, 2 present and not voting, and 3 excused and not voting.

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 27.** Placed on Final Reading.

**LEGISLATIVE BILL 27A.** Placed on Final Reading.

**LEGISLATIVE BILL 84.** Placed on Final Reading.

ST9033

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

1. On page 1, line 3, "a reference to a commission that has been eliminated and" has been inserted after "eliminate".

**LEGISLATIVE BILL 113.** Placed on Final Reading.  
**LEGISLATIVE BILL 131.** Placed on Final Reading.  
**LEGISLATIVE BILL 133.** Placed on Final Reading.  
**LEGISLATIVE BILL 163.** Placed on Final Reading.  
**LEGISLATIVE BILL 175.** Placed on Final Reading.  
**LEGISLATIVE BILL 274.** Placed on Final Reading.  
**LEGISLATIVE BILL 339.** Placed on Final Reading.  
**LEGISLATIVE BILL 348.** Placed on Final Reading.  
**LEGISLATIVE BILL 394.** Placed on Final Reading.  
**LEGISLATIVE BILL 412.** Placed on Final Reading.  
**LEGISLATIVE BILL 434.** Placed on Final Reading.  
**LEGISLATIVE BILL 450.** Placed on Final Reading.  
**LEGISLATIVE BILL 528.** Placed on Final Reading.  
**LEGISLATIVE BILL 540.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

#### **AMENDMENTS - Print in Journal**

Senator Carlson filed the following amendment to LB224:  
AM1295

(Amendments to E & R amendments, ER8107)

- 1 1. On page 9, strike lines 7 through 10.

Senator Stuthman filed the following amendment to LB476A:  
FA36

Strike the enacting clause.

#### **NOTICE OF COMMITTEE HEARING**

Business and Labor

Room 2102

Thursday, May 21, 2009 1:00 p.m.

Loren Lindahl - Commission of Industrial Relations

(Signed) Steve Lathrop, Chairperson

#### **GENERAL FILE**

**LEGISLATIVE BILL 358.** Title read. Considered.

Committee AM783, found on page 1272, was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 155.** Title read. Considered.

Committee AM1271, found on page 1298, was considered.

Senator Pirsch offered the following amendment to the committee amendment:

AM1350

(Amendments to Standing Committee amendments, AM1271)

1 1. Insert the following new sections:

2 Sec. 13. Section 28-603, Reissue Revised Statutes of

3 Nebraska, is amended to read:

4 28-603 (1) Whoever, with intent to deceive or harm,  
5 falsely makes, completes, endorses, alters, or utters any written  
6 instrument which is or purports to be, or which is calculated to  
7 become or to represent if completed, a written instrument which  
8 does or may evidence, create, transfer, terminate, or otherwise  
9 affect a legal right, interest, obligation, or status, commits  
10 forgery in the second degree.

11 (2) Forgery in the second degree is a Class III felony  
12 when the face value, or purported face value, or the amount of any  
13 proceeds wrongfully procured or intended to be procured by the use  
14 of such instrument, is one thousand dollars or more.

15 (3) Forgery in the second degree is a Class IV felony  
16 when the face value, or purported face value, or the amount of any  
17 proceeds wrongfully procured or intended to be procured by the use  
18 of such instrument, exceeds three hundred dollars but is less than  
19 one thousand dollars.

20 (4) Forgery in the second degree is a Class I misdemeanor  
21 when the face value, or purported face value, or the amount of any  
22 proceeds wrongfully procured or intended to be procured by the use  
1 of such instrument, is three hundred dollars or less.

2 (5) For the purpose of determining the class of penalty  
3 for forgery in the second degree, the face values, or purported  
4 face values, or the amounts of any proceeds wrongfully procured  
5 or intended to be procured by the use of more than one such  
6 instrument, may be aggregated in the indictment or information if  
7 such instruments were part of the same scheme or course of conduct  
8 which took place within a sixty-day period and within one county.  
9 Such values or amounts shall not be aggregated into more than one  
10 offense.

11 Sec. 14. Section 28-604, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 28-604 (1) Whoever, with knowledge that it is forged and  
14 with intent to deceive or harm, possesses any forged instrument  
15 covered by section 28-602 or 28-603 commits criminal possession of  
16 a forged instrument.

17 (2) Criminal possession of a forged instrument prohibited  
18 by section 28-602 is a Class IV felony.

19 (3) Criminal possession of a forged instrument prohibited  
 20 by section 28-603, the amount or value of which is one thousand  
 21 dollars or more, is a Class IV felony.

22 (4) Criminal possession of a forged instrument prohibited  
 23 by section 28-603, the amount or value of which is more than three  
 24 hundred dollars but less than one thousand dollars, is a Class I  
 25 misdemeanor.

26 (5) Criminal possession of a forged instrument prohibited  
 27 by section 28-603, the amount or value of which is three hundred  
 1 dollars or less, is a Class II misdemeanor.

2 (6) For the purpose of determining the class of penalty  
 3 for criminal possession of a forged instrument prohibited by  
 4 section 28-603, the amounts or values of more than one such forged  
 5 instrument may be aggregated in the indictment or information if  
 6 such forged instruments were part of the same scheme or course of  
 7 conduct which took place within a sixty-day period and within one  
 8 county. Such amounts or values shall not be aggregated into more  
 9 than one offense.

10 2. On page 26, line 13, after the second comma insert  
 11 "28-603, 28-604,".

12 3. Renumber the remaining sections and correct internal  
 13 references accordingly.

The Pirsch amendment was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

The committee amendment, as amended, was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 218.** Title read. Considered.

Committee AM712, found on page 745, was considered.

**SENATOR MCGILL PRESIDING**

**PRESIDENT SHEEHY PRESIDING**

**SENATOR KARPISEK PRESIDING**

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

Senator Wightman moved for a call of the house. The motion prevailed with 33 ayes, 1 nay, and 15 not voting.

Senator Wightman requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 27:

Adams	Fischer	Harms	McCoy	Stuthman
Avery	Flood	Heidemann	Nelson	Sullivan
Campbell	Fulton	Karpisek	Pankonin	Wightman
Coash	Gay	Langemeier	Pirsch	
Cook	Haar	Lautenbaugh	Price	
Cornett	Hadley	Louden	Schilz	

Voting in the negative, 4:

Council	Giese	Wallman	White
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Present and not voting, 7:

Dubas	Gloor	Mello	Pahls
Friend	McGill	Nordquist	

Absent and not voting, 1:

Nantkes

Excused and not voting, 10:

Ashford	Christensen	Hansen	Janssen	Rogert
Carlson	Dierks	Howard	Lathrop	Utter

The motion to cease debate prevailed with 27 ayes, 4 nays, 7 present and not voting, 1 absent and not voting, and 10 excused and not voting.

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

Voting in the affirmative, 34:

Adams	Fischer	Hadley	McCoy	Pirsch
Avery	Flood	Harms	McGill	Price
Campbell	Friend	Heidemann	Mello	Schilz
Coash	Fulton	Karpisek	Nelson	Stuthman
Cook	Gay	Langemeier	Nordquist	Sullivan
Cornett	Gloor	Lautenbaugh	Pahls	Wightman
Dubas	Haar	Louden	Pankonin	

Voting in the negative, 2:

Giese	White
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Present and not voting, 2:

Council Wallman

Absent and not voting, 1:

Nantkes

Excused and not voting, 10:

Ashford	Christensen	Hansen	Janssen	Rogert
Carlson	Dierks	Howard	Lathrop	Utter

The committee amendment was adopted with 34 ayes, 2 nays, 2 present and not voting, 1 absent and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Pending.

### **MOTION - Print in Journal**

Senator Pahls filed the following motion to LB9:

MO49

Bracket until June 4, 2009.

### **AMENDMENTS - Print in Journal**

Senator Lautenbaugh filed the following amendment to LB160:

FA35

Strike the enacting clause.

Senator Adams filed the following amendment to LB545:

AM1327 is available in the Bill Room.

Senator Adams filed the following amendment to LB545:

AM1357

(Amendments to E & R amendments, ER8108)

- 1 1. Insert the following new section:
- 2 Sec. 11. Section 79-1007.24, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 79-1007.24 (1) For school fiscal year 2008-09, aid
- 5 stabilization shall be calculated for each local system and
- 6 disbursed in an amount equal to the difference of the state
- 7 aid paid to such local system for school fiscal year 2007-08
- 8 pursuant to section 79-1022 minus two and one-half percent of the
- 9 need calculated for the school fiscal year for which aid is being
- 10 calculated and minus the sum of the calculated equalization aid,
- 11 allocated income tax funds, and net option funding for such school
- 12 fiscal year, except that aid stabilization shall not be less than
- 13 zero.



14 (2) For school fiscal year 2009-10, aid stabilization  
 15 shall be calculated for each local system and disbursed in an  
 16 amount equal to the difference of the state aid paid to such  
 17 local system for school fiscal year 2007-08 pursuant to section  
 18 79-1022 minus five percent of the need calculated for the school  
 19 fiscal year for which aid is being calculated and minus the sum  
 20 of the calculated equalization aid, allocated income tax funds, and  
 21 net option funding for such school fiscal year, except that aid  
 22 stabilization shall not be less than zero. If the amount actually  
 1 paid to a local system during school fiscal year 2007-08 was  
 2 different than the amount certified pursuant to section 79-1022 due  
 3 to a reorganization affecting such local system, the amount that  
 4 was actually paid to such local system during such school fiscal  
 5 year shall be deemed the amount paid pursuant to section 79-1022.  
 6 2. Renumber the remaining sections, correct internal  
 7 references, and amend the repealer accordingly.

Senator Loudon filed the following amendment to LB545:  
 AM1347

(Amendments to E & R amendments, ER8101)

1 1. On page 53, line 1, after the first "for" insert  
 2 "(a)"; and in line 4 after "2009" insert ", and (b) expenditures  
 3 for new elementary attendance sites in the first year of operation  
 4 or the first year of operation after being closed for at least  
 5 one school year if such elementary attendance site will most  
 6 likely qualify for the elementary site allowance in the immediately  
 7 following school fiscal year as determined by the state board".

Senator Dubas filed the following amendment to LB568:  
 AM1302

(Amendments to AM732)

1 1. On page 2, strike beginning with the comma in line 9  
 2 through "years" in line 10.

## RESOLUTION

**LEGISLATIVE RESOLUTION 111.** Introduced by Janssen, 15.

WHEREAS, Lt. Detective Greg Chamberlain served the Fremont Police Department proudly for thirty-three years; and

WHEREAS, Lt. Detective Chamberlain served on the Fremont Police Department's S.W.A.T. team, was a charter member of the Nebraska emergency medical services training class in 1979, and became an instructor and taught EMS classes for twenty-five years, training countless members of local rescue squads, ambulance crews, and police departments; and

WHEREAS, Lt. Detective Chamberlain was a member of the Nebraska EMS Association and received numerous awards through the association, including induction into the association's Hall of Fame in 2003; and

WHEREAS, Lt. Detective Chamberlain also served as the president of the Dodge County Humane Society and as director of security at Midland Lutheran College for twenty years. He was also a member of the Masonic Lodge and the Fraternal Order of Police and volunteered his time doing gardening at the Louis E. May Museum.

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

1. That the Legislature posthumously honors Lt. Detective Greg Chamberlain for his service to the city of Fremont and the State of Nebraska.

2. That the Legislature congratulates Lt. Detective Greg Chamberlain and his family for his induction into the Nebraska EMS Association Hall of Fame.

3. That a copy of this resolution be sent to Lt. Detective Greg Chamberlain's family and to the Fremont Police Department.

Laid over.

## **SPEAKER FLOOD PRESIDING**

### **GENERAL FILE**

**LEGISLATIVE BILL 218.** Senator Giese renewed his amendment, AM802, found on page 872.

Pending.

### **VISITORS**

Visitors to the Chamber were 17 fourth-grade students, teacher, and sponsors from Seedling Mile, Grand Island; and 41 fourth-grade students, teachers, and sponsors from Wood River.

### **ADJOURNMENT**

At 6:20 p.m., on a motion by Senator Campbell, the Legislature adjourned until 9:00 a.m., Friday, May 8, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTY-FIFTH DAY - MAY 8, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, May 8, 2009

**PRAYER**

The prayer was offered by Senator Sullivan.

**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 Ashford and McGill who were excused; and Senators Gay, Karpisek, Lautenbaugh, and Nelson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-fourth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 626.** Placed on Select File with amendment.  
ER8124

- 1 1. On page 1, strike beginning with "the" in line 1
- 2 through line 7 and insert "public officials and public employees;
- 3 to amend sections 49-1405 and 81-1120.27, Reissue Revised Statutes
- 4 of Nebraska, and sections 49-1401, 49-14,101.01, and 49-14,101.02,
- 5 Revised Statutes Cumulative Supplement, 2008; to change provisions
- 6 relating to use of public resources by public officials and public
- 7 employees; to redefine a term; to harmonize provisions; and to
- 8 repeal the original sections."

**LEGISLATIVE BILL 263.** Placed on Select File with amendment.  
ER8123

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. The Nebraska Seed Law and any rules and
- 4 regulations adopted and promulgated thereunder shall supersede and

5 preempt any ordinance, rule, regulation, or resolution enacted by  
 6 any political subdivision of the state regarding the regulation  
 7 of seeds. No political subdivision shall prohibit or in any other  
 8 manner regulate any matter relating to the registration, labeling,  
 9 or sale of seeds based upon the type, nature, or genetic makeup of  
 10 such seeds. No political subdivision shall prohibit or in any other  
 11 manner regulate any matter relating to the registration, labeling,  
 12 sale, storage, transportation, distribution, notification of use,  
 13 planting, or cultivation of seeds that are in addition to or in  
 14 conflict with the Nebraska Seed Law and any rules and regulations  
 15 adopted and promulgated thereunder. Nothing in this section shall  
 16 be construed to preempt or otherwise limit the authority of any  
 17 city or county to adopt and enforce zoning regulations.

18 Sec. 2. Section 81-2,147, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20 81-2,147 Sections 81-2,147 to 81-2,147.11 and section 1  
 21 of this act shall be known and cited as the Nebraska Seed Law.

22 Sec. 3. The Nebraska Commercial Fertilizer and Soil  
 23 Conditioner Act and any rules and regulations adopted and  
 1 promulgated thereunder shall supersede and preempt any ordinance,  
 2 rule, regulation, or resolution enacted by any political  
 3 subdivision of the state regarding the regulation of fertilizer and  
 4 soil conditioners. No political subdivision shall prohibit or in  
 5 any other manner regulate any matter relating to the registration,  
 6 labeling, or sale of fertilizer and soil conditioners. No political  
 7 subdivision shall prohibit or in any other manner regulate any  
 8 matter relating to the storage, transportation, distribution,  
 9 notification of use, or use that are in addition to or in conflict  
 10 with the Nebraska Commercial Fertilizer and Soil Conditioner Act  
 11 and any rules and regulations adopted and promulgated thereunder.  
 12 Nothing in this section shall be construed to preempt or otherwise  
 13 limit the authority of any city or county to adopt and enforce  
 14 zoning regulations or any natural resources district to enforce the  
 15 Nebraska Ground Water Management and Protection Act.

16 Sec. 4. Section 81-2,162.22, Reissue Revised Statutes of  
 17 Nebraska, is amended to read:

18 81-2,162.22 Sections 81-2,162.01 to 81-2,162.27 and  
 19 section 3 of this act shall be known and may be cited as the  
 20 Nebraska Commercial Fertilizer and Soil Conditioner Act.

21 Sec. 5. Original sections 81-2,147 and 81-2,162.22,  
 22 Reissue Revised Statutes of Nebraska, are repealed.

**LEGISLATIVE BILL 392.** Placed on Select File with amendment.  
 ER8125 is available in the Bill Room.

**LEGISLATIVE BILL 561.** Placed on Select File with amendment.  
 ER8126

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

3 Section 1. Section 70-670, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 70-670 In addition to any other rights and powers  
6 hereinabove conferred upon any district organized under or subject  
7 to Chapter 70, article 6, each such district shall have and  
8 exercise the power of eminent domain to acquire from any person,  
9 firm, association, or private corporation any and all property  
10 owned, used, or operated, or useful for operation, in the  
11 generation, transmission, or distribution of electrical energy,  
12 including an existing electric utility system or any part thereof.  
13 The procedure to condemn property shall be exercised in the manner  
14 set forth in Chapter 76, article 7. In the case of the acquisition  
15 through the exercise of the power of eminent domain of an existing  
16 electric utility system or part thereof, the Attorney General  
17 shall, upon request of any district, represent such district  
18 in the institution and prosecution of condemnation proceedings.  
19 After acquisition of an existing electric utility system through  
20 the exercise of the power of eminent domain, the district shall  
21 reimburse the state for all costs and expenses incurred in the  
22 condemnation proceedings by the Attorney General. A district may  
23 agree to limit its exercise of the power of eminent domain to  
1 acquire a project which is a renewable energy generation facility  
2 producing electricity with wind and any related facilities.

3 Sec. 2. Section 70-1014.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 70-1014.01 ~~An~~ (1) Except as provided in subsection  
6 (2) of this section, an application by a municipality, a  
7 registered group of municipalities, a public power district, a  
8 public power and irrigation district, an electric cooperative, an  
9 electric membership association, or any other governmental entity  
10 for a facility that will generate not more than ten thousand  
11 kilowatts of electric energy at rated capacity and will generate  
12 electricity using solar, wind, biomass, landfill gas, methane gas,  
13 or hydropower generation technology or an emerging generation  
14 technology, including, but not limited to, fuel cells and  
15 micro-turbines, shall be deemed a special generation application.  
16 Such application shall be approved by the board if the board finds  
17 that ~~(1)-(a)~~ the application qualifies as a special generation  
18 application, ~~(2)-(b)~~ the application will provide public benefits  
19 sufficient to warrant approval of the application, although it may  
20 not constitute the most economically feasible generation option,  
21 and ~~(3)-(c)~~ the application under consideration represents a  
22 separate and distinct project from any previous special generation  
23 application the applicant may have filed.

24 (2)(a) An application by a municipality, a registered  
25 group of municipalities, a public power district, a public power  
26 and irrigation district, an electric cooperative, an electric  
27 membership association, or any other governmental entity for a  
1 facility that will generate more than ten thousand kilowatts of

2 electric energy at rated capacity and will generate electricity  
 3 using renewable energy sources such as solar, wind, biomass,  
 4 landfill gas, methane gas, or new hydropower generation technology  
 5 or an emerging technology, including, but not limited to, fuel  
 6 cells and micro-turbines, may be filed with the board if (i)  
 7 the total production from all such renewable projects, excluding  
 8 sales from such projects to other electric-generating entities,  
 9 does not exceed ten percent of total energy sales as shown in  
 10 the producer's Annual Electric Power Industry Report to the United  
 11 States Department of Energy and (ii) the applicant's governing body  
 12 conducts at least one advertised public hearing which affords the  
 13 ratepayers of the applicant a chance to review and comment on the  
 14 subject of the application.

15 (b) The application shall be approved by the board if  
 16 the board finds that (i) the applicant is using renewable energy  
 17 sources described in this subsection, (ii) total production from  
 18 all renewable projects of the applicant does not exceed ten percent  
 19 of the producer's total energy sales as described in subdivision  
 20 (2)(a) of this section, and (iii) the applicant's governing body  
 21 has conducted at least one advertised public hearing which affords  
 22 its ratepayers a chance to review and comment on the subject of the  
 23 application.

24 (3) A community-based energy development project  
 25 organized pursuant to the Rural Community-Based Energy Development  
 26 Act which intends to develop renewable energy sources for sale to  
 27 one or more Nebraska electric utilities described in this section  
 1 may also make an application to the board pursuant to subsection  
 2 (2) of this section if (a) the purchasing electric utilities  
 3 conduct a public hearing described in such subsection and (b)  
 4 the power and energy from the renewable energy sources is sold  
 5 exclusively to such electric utilities for a term of at least  
 6 twenty years.

7 Sec. 3. Original sections 70-670 and 70-1014.01, Reissue  
 8 Revised Statutes of Nebraska, are repealed.

9 2. On page 1, strike beginning with "public" in line  
 10 1 through line 4 and insert "electricity; to amend sections  
 11 70-670 and 70-1014.01, Reissue Revised Statutes of Nebraska; to  
 12 permit public power districts to agree to limit the power of  
 13 eminent domain; to change provisions relating to special generation  
 14 applications for electric generation facilities; and to repeal the  
 15 original sections."

**LEGISLATIVE BILL 545A.** Placed on Select File with amendment.  
 ER8127

- 1 1. On page 1, line 3, after the semicolon insert "to
- 2 eliminate appropriations to the State Department of Education;"
- 3 2. On page 5, line 22, strike "bill" and insert "act".

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 60.** Placed on Final Reading.  
**LEGISLATIVE BILL 94.** Placed on Final Reading.  
**LEGISLATIVE BILL 129.** Placed on Final Reading.  
**LEGISLATIVE BILL 208.** Placed on Final Reading.  
**LEGISLATIVE BILL 209.** Placed on Final Reading.  
**LEGISLATIVE BILL 278.** Placed on Final Reading.  
**LEGISLATIVE BILL 389.** Placed on Final Reading.  
**LEGISLATIVE BILL 422.** Placed on Final Reading.  
**LEGISLATIVE BILL 445.** Placed on Final Reading.  
**LEGISLATIVE BILL 447.** Placed on Final Reading.  
**LEGISLATIVE BILL 488.** Placed on Final Reading.

**LEGISLATIVE BILL 498.** Placed on Final Reading.  
 ST9035

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

1. On page 1, line 3, "to require statements regarding conflicts of interest;" has been inserted after the last semicolon.

**LEGISLATIVE BILL 501.** Placed on Final Reading.  
**LEGISLATIVE BILL 531.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**COMMUNICATION**

Received communication from Board of Educational Lands and Funds.

**REPORTS**

The following reports were received by the Legislature:

**Fiscal Office, Legislative**

Monthly Consensus Estimate of General Fund Receipts

**Investment Finance Authority, Nebraska (NIFA)**

2006 Series A, B, C, D, E and F Community Development Loan Notes  
 (City of Lincoln Program-2006) Report

**Revenue, Nebraska Department of**

Monthly Consensus Estimate of General Fund Receipts

**Roads, Nebraska Department of**

Board of Public Roads Classifications and Standards Minutes for March  
 2009

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of May 7, 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

Carlson, Kyle  
Planned Parenthood of Nebraska & Council Bluffs  
Falkstrom, Mike  
Planned Parenthood of Nebraska & Council Bluffs  
Husch Blackwell Sanders, LLP  
Crown Cork and Seal Company, Inc.  
Kissel/Erickson & Sederstrom Associates, LLC  
Investment Finance Authority, Nebraska (withdrawn 05/01/2009)

**SELECT FILE**

**LEGISLATIVE BILL 671A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 342A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 97A.** ER8119, found on page 1329, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 246A.** Advanced to Enrollment and Review for Engrossment.

**BILL 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 LB188 with 40 ayes, 0 nays, 4 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 188.** With Emergency Clause.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2308.01, 23-2315, 23-2317, 23-2319, 23-2321, 81-2017, 84-712.05, 84-1302, 84-1307, 84-1309.02, 84-1317, 84-1319, 84-1321, 84-1323,



84-1330, 84-1331, and 84-1512, Reissue Revised Statutes of Nebraska, and section 23-2306, Revised Statutes Cumulative Supplement, 2008; to provide and change participation, cash balance benefit, payment deferral, and death benefit provisions relating to the County Employees Retirement Act and the State Employees Retirement Act; to change contribution provisions relating to the Nebraska State Patrol Retirement Act; to provide for deferred compensation transfers under the State Employees Retirement Act; to provide for the withholding of certain records from the public; to harmonize provisions; to provide an operative date; 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, 45:

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

Voting in the negative, 0.

Excused and not voting, 4:

Ashford	Gay	McGill	Nelson
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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.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LB188.

### **SELECT FILE**

**LEGISLATIVE BILL 187.** ER8109, found on page 1289, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 9.** ER8099, found on page 1260, was adopted.

Senator Pahls renewed his motion, MO49, found on page 1384, to bracket until June 4, 2009.

**SENATOR ROBERT PRESIDING**

Senator Pahls withdrew his motion to bracket.

Senator Adams renewed his amendment, AM1217, found on page 1230.

**SENATOR LANGEMEIER PRESIDING**

**SENATOR ROBERT PRESIDING**

Senator Hadley requested a record vote on the Adams amendment.

Voting in the affirmative, 39:

Adams	Dubas	Hadley	Lautenbaugh	Pirsch
Avery	Fischer	Hansen	Louden	Rogert
Campbell	Flood	Harms	McCoy	Stuthman
Carlson	Friend	Howard	Mello	Sullivan
Coash	Fulton	Janssen	Nantkes	Utter
Cook	Giese	Karpisek	Nelson	Wallman
Cornett	Gloor	Langemeier	Nordquist	Wightman
Council	Haar	Lathrop	Pankonin	

Voting in the negative, 0.

Present and not voting, 7:

Dierks	Heidemann	Price	White
Gay	Pahls	Schilz	

Excused and not voting, 3:

Ashford	Christensen	McGill
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The Adams amendment was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 494.** Senator Wightman renewed his amendment, AM1244, found on page 1280.

The Wightman amendment was adopted with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

Senator Cornett reoffered her amendment, AM1203, found on page 1209 and considered on page 1214.

The Cornett amendment was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

### **PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 8, 2009, at 9:22 a.m. was the following: LB188e.

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

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 112.** Introduced by Sullivan, 41; Carlson, 38.

**PURPOSE:** The purpose of this interim study is to examine Nebraska's fence laws and develop a proposal to refine and simplify those laws as applied in rural and urban areas. The study shall seek to involve livestock producers, landowners, legal experts, and other interested parties to examine fence issues and to recommend actions to clarify and improve Nebraska's fence laws.

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 be designated to 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.

### **AMENDMENTS - Print in Journal**

Senator Howard filed the following amendment to LB63:  
AM1360

(Amendments to E & R amendments, ER8031)

- 1 1. Insert the following new sections:
- 2 Sec. 40. Sections 40 to 44 of this act shall be known and
- 3 may be cited as the Lindsay Ann Burke Act.
- 4 Sec. 41. The Legislature finds and declares that all
- 5 students have a right to work and study in a safe, supportive
- 6 environment that is free from harassment, intimidation, and

7 violence. The Legislature further finds that when a student is a  
8 victim of dating violence, his or her academic life suffers and his  
9 or her safety at school is jeopardized. The Legislature therefor  
10 finds and declares that a policy to create a better understanding  
11 and awareness of dating violence shall be adopted by each school  
12 district. It is the intent of the Legislature to require each  
13 school district to establish a policy for educating staff and  
14 students about dating violence.

15 Sec. 42. For purposes of the Lindsay Ann Burke Act,  
16 unless the context otherwise requires:

17 (1) Dating partner means any person, regardless of  
18 gender, involved in an intimate relationship with another person  
19 primarily characterized by the expectation of affectionate  
20 involvement whether casual, serious, or long-term;

21 (2) Dating violence means a pattern of behavior where one  
22 person uses threats of, or actually uses, physical, sexual, verbal,  
1 or emotional abuse to control his or her dating partner;

2 (3) Department means the State Department of Education;  
3 and

4 (4) School district has the same meaning as in section  
5 79-101.

6 Sec. 43. (1) On or before March 1, 2010, the department  
7 shall develop and adopt a model dating violence policy to assist  
8 school districts in developing policies for dating violence.

9 (2) On or before July 1, 2010, each school district shall  
10 develop and adopt a specific policy to address incidents of dating  
11 violence involving students at school, which shall be made a part  
12 of the requirements for accreditation in accordance with section  
13 79-703. Such policy shall include a statement that dating violence  
14 will not be tolerated.

15 (3) To ensure notice of a school district's dating  
16 violence policy, the policy shall be published in any school  
17 district handbook, manual, or similar publication that sets forth  
18 the comprehensive rules, procedures, and standards of conduct for  
19 students at school.

20 (4) Each school district shall provide dating violence  
21 training to staff deemed appropriate by a school district's  
22 administration. The dating violence training shall include, but  
23 not be limited to, basic awareness of dating violence, warning  
24 signs of dating violence, and the school district's dating violence  
25 policy. The dating violence training may be provided by any school  
26 district or combination of school districts, an educational service  
27 unit, or any combination of educational service units.

1 (5) Each school district shall inform the students'  
2 parents or legal guardians of the school district's dating violence  
3 policy. If requested, the school district shall provide the parents  
4 or legal guardians a copy of the school district's dating violence  
5 policy and relevant information.

6 (6) This section does not prevent a victim of dating

7 violence from seeking redress under any other available law, either  
 8 civil or criminal and does not create or alter any existing tort  
 9 liability.  
 10 Sec. 44. Each school district shall incorporate dating  
 11 violence education that is age-appropriate into the school  
 12 program. Dating violence education shall include, but not be  
 13 limited to, defining dating violence, recognizing dating violence  
 14 warning signs, and identifying characteristics of healthy dating  
 15 relationships.

Senator Mello filed the following amendment to LB633:

AM1331

(Amendments to E & R amendments, ER8102)

1 1. On page 2, line 18, after the period insert "The  
 2 college shall distribute no more than fifty percent of the fund  
 3 to neighborhood associations and no more than fifty percent of the  
 4 fund to small communities.".

Senator Gay filed the following amendment to LB160:

AM1361

(Amendments to E & R amendments, ER8101)

1 1. On page 2, strike beginning with "Proceeds" in line  
 2 18 through line 27 and insert "(a) Prior to the issuing of bonds  
 3 pursuant to section 1 of this act or expending funds of a natural  
 4 resources district encompassing a city of the metropolitan class to  
 5 pay costs of a reservoir or water quality basin project or projects  
 6 greater than twenty surface acres, a county board of the affected  
 7 county may pass a resolution stating that it does not approve of  
 8 the construction of such reservoir or water quality basin project  
 9 or projects within its exclusive zoning jurisdiction. A vote on the  
 10 resolution shall take place within ninety days after notice from  
 11 the board of directors of the natural resources district of its  
 12 intent to issue bonds.

13 (b) No proceeds from bonds issued pursuant to section 1  
 14 of this act or funds of a natural resources district encompassing  
 15 a city of the metropolitan class may be used to pay costs of a  
 16 reservoir or water quality basin project or projects greater than  
 17 twenty surface acres if the county board of the affected county  
 18 passes such a resolution.

19 (c) Sections 1 to 5 of this act do not (i) limit  
 20 the authority of a natural resources district with regard to  
 21 reservoirs, water quality basin projects, or other projects of  
 22 less than twenty surface acres or (ii) prohibit use of funds of  
 1 a natural resources district for preliminary studies or reports  
 2 necessary, in the discretion of the board of directors of the  
 3 natural resources district, to determine whether a reservoir or  
 4 water quality basin project should be presented to a county board  
 5 pursuant to this section.

6 2. On page 3, strike lines 1 through 4.

**GENERAL FILE**

**LEGISLATIVE BILL 542.** Senator Campbell renewed her amendment, AM1224, found on page 1246 and considered on page 1347.

**SENATOR CARLSON PRESIDING**

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

Senator Gloor moved for a call of the house. The motion prevailed with 30 ayes, 2 nays, and 17 not voting.

The motion to cease debate failed with 22 ayes, 6 nays, 13 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Pending.

**COMMITTEE REPORT**

## Transportation and Telecommunications

**LEGISLATIVE BILL 181.** Placed on General File with amendment. AM1282

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 86-101, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 86-101 Sections 86-101 to 86-163 and section 2 of
- 6 this act shall be known and may be cited as the Nebraska
- 7 Telecommunications Regulation Act.
- 8 Sec. 2. (1) Any telecommunications carrier that intends
- 9 to place a line, wire, or cable across a railroad right-of-way
- 10 shall request permission for such placement from the railroad
- 11 carrier. The request shall be in the form of a completed crossing
- 12 application, including engineering specifications. Upon receipt of
- 13 such application, the railroad carrier and the telecommunications
- 14 carrier may enter into a binding wire-crossing agreement. If the
- 15 railroad carrier and the telecommunications carrier are unable to
- 16 negotiate a binding wire-crossing agreement within sixty days after
- 17 receipt of the crossing application by the railroad carrier, either
- 18 party may submit a petition to the commission for a hearing on
- 19 the disputed terms and conditions of the purported wire-crossing
- 20 agreement.
- 21 (2)(a) Unless otherwise agreed to by all parties, the
- 22 commission shall, after providing proper notice, hold and complete
- 23 such hearing within sixty days after receipt of the petition.

1 The commission shall issue an order of its decision within  
2 thirty days after the hearing. In rendering its decision, the  
3 commission shall consider whether the terms and conditions at  
4 issue are unreasonable or against the public interest, taking into  
5 account safety, engineering, or access requirements of the railroad  
6 carrier as such requirements are prescribed by the Federal Railroad  
7 Administration and established rail industry standards.

8 (b) Upon issuance of an order by the commission under  
9 subdivision (a) of this subsection, the railroad carrier and the  
10 telecommunications carrier shall have fifteen days after the date  
11 of issuance to file a conforming wire-crossing agreement with  
12 the commission. The commission shall have fifteen days after  
13 the date of such filing to approve or reject the agreement. If  
14 the commission does not issue an approval or rejection of such  
15 agreement within the fifteen-day requirement, the agreement shall  
16 be deemed approved. The commission may reject a wire-crossing  
17 agreement if it finds that the agreement does not conform to the  
18 order issued by the commission. If the commission enters such a  
19 finding, the parties shall revise the agreement to comply with  
20 the commission's order and shall refile the agreement to the  
21 commission for further review. If the commission does not approve  
22 or reject the revised agreement within fifteen days after the date  
23 of refiling, the agreement shall be deemed approved.

24 (3)(a) Except as provided in subsection (4) of this  
25 section or as otherwise agreed to by all parties, if a  
26 telecommunications carrier places a line, wire, or cable across a  
27 railroad right-of-way pursuant to this section, it shall pay the  
1 railroad carrier a one-time standard crossing fee of one thousand  
2 two hundred fifty dollars for each applicable crossing. In addition  
3 to the standard crossing fee, the telecommunications carrier shall  
4 reimburse the railroad carrier for any actual flagging expenses  
5 associated with the placement of the line, wire, or cable.

6 (b) The standard crossing fee shall be in lieu of  
7 any license fee or any other fees or charges to reimburse the  
8 railroad carrier for any direct expense incurred as a result of the  
9 placement of the line, wire, or cable.

10 (4) If a railroad carrier or telecommunications carrier  
11 believes a special circumstance exists for the placement of a  
12 line, wire, or cable across a railroad right-of-way, the railroad  
13 or telecommunications carrier may petition the commission for  
14 additional requirements or for relief from the standard crossing  
15 fee in its initial petition to the commission pursuant to  
16 subsection (1) of this section. If the petition is filed with  
17 the request for additional requirements or relief, the commission  
18 shall determine if a special circumstance exists that necessitates  
19 additional requirements for such placement or a modification of the  
20 standard crossing fee.

21 (5) This section applies to any telecommunications  
22 carrier certified by the commission pursuant to section 86-128.

23 This section does not apply to any longitudinal encumbrance or  
 24 any line, wire, or cable within any public right-of-way and does  
 25 not change, modify, or supersede any rights or obligations created  
 26 pursuant to sections 86-701 to 86-707.

27 (6)(a) A wire-crossing agreement between a railroad  
 1 carrier and a telecommunications carrier that includes a provision,  
 2 clause, covenant, or agreement contained in, collateral to, or  
 3 affecting such wire-crossing agreement that purports to indemnify,  
 4 defend, or hold harmless the railroad carrier from any liability  
 5 for loss or damage resulting from the negligence or willful  
 6 and wanton misconduct of the carrier or its agents, employees,  
 7 or independent contractors who are directly responsible to such  
 8 carrier or has the effect of indemnifying, defending, or holding  
 9 harmless such carrier from the negligence or willful and wanton  
 10 misconduct of the carrier or its agents, employees, or independent  
 11 contractors who are directly responsible to the carrier is against  
 12 the public policy of this state and is unenforceable.

13 (b) Nothing in this section shall affect a provision,  
 14 clause, covenant, or agreement in which the telecommunications  
 15 carrier indemnifies, defends, or holds harmless a railroad carrier  
 16 against liability for loss or damage to the extent that the  
 17 loss or damage results from the negligence or willful and  
 18 wanton misconduct of the telecommunications carrier or its agents,  
 19 employees, or independent contractors who are directly responsible  
 20 to the telecommunications carrier.

21 (7) For purposes of this section:

22 (a) Railroad carrier has the same meaning as in section  
 23 75-402; and

24 (b) Telecommunications carrier means a telecommunications  
 25 common carrier as defined in section 86-118 or a telecommunications  
 26 contract carrier as defined in section 86-120.

27 Sec. 3. Original section 86-101, Reissue Revised Statutes  
 1 of Nebraska, is repealed.

(Signed) Deb Fischer, Chairperson

### AMENDMENTS - Print in Journal

Senator Carlson filed the following amendment to LB224:  
 AM1365

(Amendments to E & R amendments, ER8107)

- 1 1. On page 6, line 22, after the period insert "Up
- 2 to one million five hundred thousand dollars in cash or legally
- 3 binding commitments provided by or on behalf of the city of
- 4 Grand Island for the purpose of relocating and reconstructing
- 5 recreational facilities displaced by the relocation of the Nebraska
- 6 State Fair to Grand Island may be considered part of the eight
- 7 million five hundred thousand dollar contribution required by this



8 subdivision".

9 2. On page 9, strike lines 7 through 10.

Senator Dierks filed the following amendment to LB241:  
AM1362

(Amendments to E & R amendments, ER8111)

1 1. On page 17, line 13, strike "compensation" and insert

2 "consideration".

## GENERAL FILE

**LEGISLATIVE BILL 218.** Senator Giese renewed his amendment, AM802, found on page 872 and considered on page 1386.

The Giese amendment lost with 7 ayes, 22 nays, 12 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 5 nays, 5 present and not voting, and 9 excused and not voting.

**LEGISLATIVE BILL 218A.** Title read. Considered.

Senator Cornett renewed her amendment, AM1033, found on page 1346.

The Cornett amendment was adopted with 29 ayes, 4 nays, 7 present and not voting, and 9 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 7 nays, 4 present and not voting, and 9 excused and not voting.

## UNANIMOUS CONSENT - Add Cointroducers

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB94. No objections. So ordered.

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB447. No objections. So ordered.

## VISITORS

Visitors to the Chamber were 100 fourth-grade students and sponsors from Ackerman Elementary, Millard; 24 fourth-grade students and sponsors from Tri County School, DeWitt; 30 eighth-grade students from Dundy School, Benkelman; 40 eighth-grade students and sponsors from Ord; 34 fourth-grade students from Lewis and Clark, South Sioux City; Senator Coash's sister, brother-in-law, and nieces, Kelly, Joel, Ella, and Lily Johnson, from Lincoln; and Marlin and Denise Weikum.

The Doctor of the Day was Dr. Joe Miller from Lexington.

**ADJOURNMENT**

At 1:32 p.m., on a motion by Senator Pahls, the Legislature adjourned until 10:00 a.m., Monday, May 11, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTY-SIXTH DAY - MAY 11, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, May 11, 2009

**PRAYER**

The prayer was offered by Pastor Perry Gauthier, Capitol Ministries, Lincoln.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Flood presiding.

The roll was called and all members were present except Senators Cornett, Giese, and Wallman who were excused; and Senators Carlson, Gloor, Rogert, and Stuthman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-fifth day was approved.

**RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR105 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR105.

**SELECT FILE**

**LEGISLATIVE BILL 545.** ER8108, found on page 1289, was adopted.

Senator Loudon asked unanimous consent to withdraw his amendment, AM1172, found on page 1162, and replace it with his substitute amendment, AM1347, found on page 1385. No objections. So ordered.

The Loudon amendment was adopted with 38 ayes, 0 nays, 4 present and not voting, and 7 excused and not voting.

Senator Adams asked unanimous consent to withdraw his amendment, AM1327, found on page 1384, and replace it with his substitute amendment, AM1370. No objections. So ordered. AM1370 is available in the Bill Room.

### **SENATOR FRIEND PRESIDING**

Pending.

### **AMENDMENT - Print in Journal**

Senator Langemeier filed the following amendment to LB503:  
AM1367

(Amendments to Standing Committee amendments, AM1080)

- 1 1. On page 2, line 27, after "standards" insert "and
- 2 applicable building and safety codes".

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 113.** Introduced by McGill, 26.

**PURPOSE:** The purpose of this interim study is to examine whether Nebraska should update provisions of the Nebraska Criminal Code relating to the degrees and types of homicides that may be charged under Nebraska law. In order to carry out the purpose of this resolution, the committee should seek and consider the input of interested persons as the committee deems necessary and beneficial.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 114.** Introduced by McGill, 26.

**PURPOSE:** The purpose of this resolution is to study whether Nebraska should amend the Delayed Deposit Services Licensing Act, sections 45-901 to 45-929, to provide for greater consumer protections for customers of "payday lenders." The study should include an examination of issues raised during consideration of LB431 (McGill), which was introduced in 2009 and which was referenced to and is pending in the Banking, Commerce and Insurance Committee. In order to carry out the purpose of this resolution, the study committee should seek the assistance of the Department of

Banking and Finance and should consider the input of interested persons as the committee deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to 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.

### **VISITORS**

Visitors to the Chamber were Roland and Adelyne Koranda from Wahoo and Janet Koranda from Fremont; Senator Utter's wife, Kathy Utter, and Ron and Delores Michalek from Hastings; members of PEO-Chapter G to Z from Hastings; 50 fourth-grade students, teachers, and sponsors from Florence Elementary, Omaha; 36 fourth-grade students from Centennial Elementary, Utica; 40 sixth-grade students from Doniphan/Trumball, Doniphan; and 17 adult English students from Omaha.

### **RECESS**

At 11:58 a.m., on a motion by Senator Nantkes, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

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

### **ROLL CALL**

The roll was called and all members were present except Senators Cornett, Giese, and Wallman who were excused; and Senators Carlson, Christensen, Coash, Dierks, and Schilz who were excused until they arrive.

### **COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 311.** Placed on Final Reading.

**LEGISLATIVE BILL 312.** Placed on Final Reading.

**LEGISLATIVE BILL 313.** Placed on Final Reading.

**LEGISLATIVE BILL 314.** Placed on Final Reading.

ST9041

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

1. In the Standing Committee amendments, AM888:
  - a. On page 26, line 3, the period has been struck; and
  - b. On page 27, line 15, "Programs" has been struck and "Program" inserted.

**LEGISLATIVE BILL 315.** Placed on Final Reading.

ST9037

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

1. In the Standing Committee amendments, AM889:
  - a. On page 39, line 10, "FY2009-11" has been struck and "2009-11" inserted; and
  - b. On page 123, line 18, "total of" has been struck and "of total" inserted.

**LEGISLATIVE BILL 316.** Placed on Final Reading.

ST9038

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

1. In the Standing Committee amendments, AM890, on page 2, line 24, "(2)(j)" has been struck and "(2)(k)" inserted.
2. In the E & R amendments, ER8115, on page 1, line 9, "and 85-415" has been struck and "85-415, and 85-421" inserted; and in line 10 "and 71-8805" has been struck and "71-8805, and 77-2602.04" inserted.

**LEGISLATIVE BILL 318.** Placed on Final Reading.

ST9040

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

1. On page 1, line 4, "to provide an operative date;" has been inserted after the semicolon; and in line 5 "to provide an operative date;" has been struck.

**LEGISLATIVE BILL 414.** Placed on Final Reading.

ST9039

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

1. In the E & R amendments, ER8114, on page 3, line 25, "and" has been inserted after the second comma.

**LEGISLATIVE BILL 414A.** Placed on Final Reading.**LEGISLATIVE BILL 456.** Placed on Final Reading.**LEGISLATIVE BILL 628.** Placed on Final Reading.**LEGISLATIVE BILL 629.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 115.** Introduced by Langemeier, 23.

**PURPOSE:** To investigate and review matters and issues arising during the interim which are within the jurisdiction of the Natural Resources Committee of the Legislature.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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.

**SELECT FILE**

**LEGISLATIVE BILL 545.** The Adams amendment, AM1370, found in this day's Journal, was renewed.

Senator Dubas moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 32 ayes, 1 nay, and 16 not voting.

The Adams amendment was adopted with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

Senator Adams renewed his amendment, AM1357, found on page 1384.

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

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 545A.** ER8127, found on page 1390, was adopted.

Senator Adams offered the following amendment:  
AM1369

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

3 Section 1. Section 49, Legislative Bill 315, One Hundred  
4 First Legislature, First Session, 2009, is amended to read:

5 Sec. 49. AGENCY NO. 13 - STATE DEPARTMENT OF EDUCATION  
6 Program No. 158 - Education Aid

7 FY2009-10

FY2010-11

8	<u>GENERAL FUND</u>	<u>1,035,897,500</u>	<u>1,036,675,660</u>
9	<u>GENERAL FUND</u>	<u>1,034,708,390</u>	<u>1,035,716,478</u>
10	CASH FUND	3,290,938	3,290,938
11	FEDERAL FUND est.	364,083,935	440,776,314
12	<u>PROGRAM TOTAL</u>	<u>1,403,272,373</u>	<u>1,480,742,912</u>
13	FEDERAL FUND est.	373,683,935	431,176,314
14	<u>PROGRAM TOTAL</u>	<u>1,411,683,263</u>	<u>1,470,183,730</u>

15 There is included in the appropriation to this program  
 16 for FY2009-10 ~~\$1,035,897,500~~ \$1,034,708,390 General Funds,  
 17 \$3,290,938 Cash Funds, and ~~\$364,083,935~~ \$373,683,935 Federal  
 18 Funds estimate for state aid, which shall only be used for such  
 19 purpose. There is included in the appropriation to this program for  
 20 FY2010-11 ~~\$1,036,675,660~~ \$1,035,716,478 General Funds, \$3,290,938  
 21 Cash Funds, and ~~\$440,776,314~~ \$431,176,314 Federal Funds estimate  
 22 for state aid, which shall only be used for such purpose.

23 There is included in the amount shown for FY2009-10  
 24 ~~\$826,149,269~~ \$824,960,159 General Funds which are hereby  
 1 appropriated to the Tax Equity and Educational Opportunities  
 2 Fund, which fund is hereby appropriated to provide state aid to  
 3 public school districts pursuant to the Tax Equity and Educational  
 4 Opportunities Support Act. There is included in the amount shown  
 5 for FY2010-11 ~~\$826,887,980~~ \$825,928,798 General Funds which are  
 6 hereby appropriated to the Tax Equity and Educational Opportunities  
 7 Fund, which fund is hereby appropriated to provide state aid to  
 8 public school districts pursuant to the Tax Equity and Educational  
 9 Opportunities Support Act.

10 There is included in the amount shown for FY2009-10  
 11 ~~\$84,068,750~~ \$93,668,750 Federal Funds estimate pursuant to the  
 12 American Recovery and Reinvestment Act of 2009 which are hereby  
 13 appropriated to the Tax Equity and Educational Opportunities Fund,  
 14 which fund is hereby appropriated to provide state aid to public  
 15 school districts pursuant to the Tax Equity and Educational  
 16 Opportunities Support Act. There is included in the amount shown  
 17 for FY2010-11 ~~\$149,887,176~~ \$140,287,176 Federal Funds estimate  
 18 pursuant to the American Recovery and Reinvestment Act of 2009  
 19 which are hereby appropriated to the Tax Equity and Educational  
 20 Opportunities Fund, which fund is hereby appropriated to provide  
 21 state aid to public school districts pursuant to the Tax Equity and  
 22 Educational Opportunities Support Act.

23 There is included in the amount shown for this program  
 24 \$184,893,842 General Funds provided as state aid for FY2009-10 for  
 25 special education reimbursement. There is included in the amount  
 26 shown for this program \$184,893,842 General Funds provided as state  
 27 aid for FY2010-11 for special education reimbursement.

1 There is included in the amount shown for this program  
 2 \$500,000 General Funds provided as state aid for FY2009-10 and  
 3 \$500,000 General Funds provided as state aid for FY2010-11 to carry  
 4 out the provisions of subsection (2) of section 79-734.



- 5 There is included in the amount shown for this program  
6 \$3,615,426 General Funds provided as state aid for FY2009-10 and  
7 \$3,615,426 General Funds provided as state aid for FY2010-11 for  
8 early childhood education projects.
- 9 There is included in the amount shown for this program  
10 \$11,858,793 General Funds provided as state aid for FY2009-10 and  
11 \$11,858,793 General Funds provided as state aid for FY2010-11 for  
12 core services for educational service units.
- 13 There is included in the amount shown for this program  
14 \$3,700,477 General Funds provided as state aid for FY2009-10 and  
15 \$3,700,477 General Funds provided as state aid for FY2010-11 for  
16 technology infrastructure for educational service units.
- 17 There is included in the amount shown for this program  
18 \$328,300 General Funds provided as state aid for FY2009-10 and  
19 \$328,300 General Funds provided as state aid for FY2010-11 for  
20 distance education aid to educational service units.
- 21 There is included in the amount shown for this program  
22 \$2,336,921 General Funds provided as state aid for FY2009-10 and  
23 \$2,336,921 General Funds provided as state aid for FY2010-11 for  
24 programs for learners with high ability.
- 25 There is included in the amount shown for this program  
26 \$412,811 General Funds provided as state aid for FY2009-10 and  
1 \$427,260 General Funds provided as state aid for FY2010-11 for the  
2 school breakfast program.
- 3 There is included in the amount shown for this program  
4 \$421,087 General Funds provided as state aid for FY2009-10 and  
5 \$421,087 General Funds provided as state aid for FY2010-11 for the  
6 school lunch program.
- 7 There is included in the amount shown for this program  
8 \$230,574 General Funds provided as state aid for FY2009-10 and  
9 \$230,574 General Funds provided as state aid for FY2010-11 for  
10 adult basic education programs.
- 11 There is included in the amount shown for this program  
12 \$450,000 General Funds provided as state aid for FY2009-10 and  
13 \$450,000 General Funds provided as state aid for FY2010-11 for the  
14 Career Education Partnership Act.
- 15 There is included in the amount shown for this program  
16 \$1,000,000 General Funds provided as state aid for FY2009-10 and  
17 \$1,025,000 General Funds provided as state aid for FY2010-11 for  
18 learning community aid.
- 19 On or before October 1 of each year, the Department of  
20 Health and Human Services and the State Department of Education  
21 shall jointly certify to the budget administrator of the budget  
22 division of the Department of Administrative Services the amount  
23 of federal medicaid funds paid to school districts pursuant to  
24 the Early Intervention Act for special education services for  
25 children age five years and older. The General Fund appropriation  
26 to the State Department of Education, Program 158, for state  
special education aid shall be decreased by an amount equal to

27 the amount that would have been reimbursed with state General  
 1 Funds to the school districts through the special education  
 2 reimbursement process for special education services for children  
 3 age five years and older that was paid to school districts or  
 4 approved cooperatives with federal medicaid funds. There is hereby  
 5 appropriated from the General Fund an amount equal to the amount  
 6 certified to the budget administrator for FY2009-10 and FY2010-11  
 7 to the Department of Health and Human Services to aid in carrying  
 8 out the provisions of Laws 1991, LB 701. The budget administrator  
 9 shall distribute the amount appropriated between budget programs  
 10 according to percentages certified by the Department of Health and  
 11 Human Services.  
 12 Notwithstanding other provisions of this act, all  
 13 appropriations within this program existing on June 30, 2009, in  
 14 excess of expended or encumbered amounts are hereby lapsed.  
 15 Sec. 2. Original section 49, Legislative Bill 315, One  
 16 Hundred First Legislature, First Session, 2009, is repealed.  
 17 Sec. 3. Since an emergency exists, this act takes effect  
 18 when passed and approved according to law.

The Adams amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

### **UNANIMOUS CONSENT - Expedite LB545**

Senator Flood asked unanimous consent to expedite LB545. No objections. So ordered.

### **SELECT FILE**

**LEGISLATIVE BILL 160.** ER8101, found on page 1263, was adopted.

Senator Lautenbaugh withdrew his amendment, FA35, found on page 1384.

Senator Gay renewed his amendment, AM1361, found on page 1397.

### **SENATOR CARLSON PRESIDING**

Senator Gay asked unanimous consent to withdraw his amendment, AM1361, found on page 1397, and replace it with his substitute amendment, AM1382. No objections. So ordered.  
 AM1382

(Amendments to E & R amendments, ER8101)

- 1 1. On page 2, strike beginning with "Proceeds" in line
- 2 18 through line 27 and insert "(a) Prior to the issuing of bonds
- 3 pursuant to section 1 of this act or expending funds of a natural
- 4 resources district encompassing a city of the metropolitan class to

5 pay costs of a reservoir or water quality basin project or projects  
 6 greater than twenty surface acres, a county board of the affected  
 7 county may pass a resolution stating that it does not approve of  
 8 the construction of such reservoir or water quality basin project  
 9 or projects within its exclusive zoning jurisdiction. The county  
 10 board shall hold a public hearing and shall vote on the resolution  
 11 within ninety days after notice from the board of directors of the  
 12 natural resources district of its intent to issue bonds.

13 (b) No proceeds from bonds issued pursuant to section 1  
 14 of this act or funds of a natural resources district encompassing  
 15 a city of the metropolitan class may be used to pay costs of a  
 16 reservoir or water quality basin project or projects greater than  
 17 twenty surface acres if the county board of the affected county  
 18 passes such a resolution.

19 (c) Sections 1 to 5 of this act do not (i) limit  
 20 the authority of a natural resources district with regard to  
 21 reservoirs, water quality basin projects, or other projects of  
 22 less than twenty surface acres or (ii) prohibit use of funds of  
 1 a natural resources district for preliminary studies or reports  
 2 necessary, in the discretion of the board of directors of the  
 3 natural resources district, to determine whether a reservoir or  
 4 water quality basin project should be presented to a county board  
 5 pursuant to this section."

6 2. On page 3, strike lines 1 through 4.

The Gay amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Senator Lautenbaugh offered the following amendment:

AM1375

(Amendments to E & R amendments, ER8101)

1 1. On page 2, strike lines 13 through 17 and insert:  
 2 "(2) A district shall only convey real property that  
 3 is acquired for a project described in subsection (1) of this  
 4 section by eminent domain proceedings pursuant to sections 76-704  
 5 to 76-724 to a political subdivision or an agency of state or  
 6 federal government."

7 2. On page 3, after line 12 insert:  
 8 "(5) A natural resources district encompassing a city  
 9 of the metropolitan class shall only issue bonds for projects  
 10 in cities and counties that have adopted zoning regulations or  
 11 ordinances that comply with state and federal floodplain management  
 12 rules and regulations."

The Lautenbaugh amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 633.** ER8102, found on page 1260, was adopted.

Senator Mello renewed his amendment, AM1331, found on page 1397.

The Mello amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Senator Utter offered the following amendment:

AM1371

(Amendments to E & R amendments, ER8102)

- 1 1. On page 2, strike lines 2 and 3 and insert:
- 2 "(1) Center means the Center for Rural Research and
- 3 Development of the University of Nebraska at Kearney;"; and in line
- 4 17 strike "college" and insert "center".
- 5 2. On page 3, lines 2 and 4; page 4, line 22; and page 5,
- 6 lines 13 and 15, strike "college" and insert "center".

Senator Utter withdrew his amendment.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 633A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 568.** ER8105, found on page 1274, was adopted.

Senator Dubas renewed her amendment, AM1302, found on page 1385.

The Dubas amendment was adopted with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

Senator Karpisek offered the following amendment:

AM1373

(Amendments to Standing Committee amendments, AM732)

- 1 1. On page 1, line 21; and page 2, line 10, strike
- 2 "fifty" and insert "forty".

The Karpisek amendment was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Senator Dierks withdrew his amendment, AM1156, found on page 1162.

Advanced to Enrollment and Review for Engrossment.

**AMENDMENT - Print in Journal**

Senator Gay filed the following amendment to LB288A:  
AM1368

- 1 1. Insert the following new sections:  
 2 Sec. 2. The General Fund appropriation for FY2009-10 to  
 3 the Department of Health and Human Services, for Program 347, is  
 4 hereby reduced by \$116,064. The General Fund appropriation for  
 5 FY2010-11 to the Department of Health and Human Services, for  
 6 Program 347, is hereby reduced by \$232,128.  
 7 Sec. 3. The General Fund appropriation for FY2009-10 to  
 8 the Department of Health and Human Services, for Program 348, is  
 9 hereby reduced by \$136,970. The federal fund appropriation for  
 10 FY2009-10 to the Department of Health and Human Services, for  
 11 Program 348, is hereby reduced by \$208,130.  
 12 The General Fund appropriation for FY2010-11 to the  
 13 Department of Health and Human Services, for Program 348, is hereby  
 14 reduced by \$273,940. The federal fund appropriation for FY2010-11  
 15 to the Department of Health and Human Services, for Program 348, is  
 16 hereby reduced by \$416,259.  
 17 2. Renumber the remaining section accordingly.

**GENERAL FILE**

**LEGISLATIVE BILL 542.** Senator Campbell renewed her amendment, AM1224, found on page 1246 and considered on pages 1347 and 1398.

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

Senator Campbell requested a roll call vote on her amendment.

Voting in the affirmative, 25:

Adams	Flood	Hadley	Lathrop	Rogert
Avery	Fulton	Hansen	Nelson	Schilz
Campbell	Gay	Harms	Nordquist	Sullivan
Coash	Gloor	Howard	Pirsch	Utter
Council	Haar	Karpisek	Price	Wightman

Voting in the negative, 1:

Louden

Present and not voting, 16:

Ashford	Dubas	Langemeier	Nantkes
Carlson	Fischer	Lautenbaugh	Pahls
Christensen	Heidemann	McGill	Pankonin
Dierks	Janssen	Mello	White

Excused and not voting, 7:

Cook	Friend	McCoy	Wallman
Cornett	Giese	Stuthman	

The Campbell amendment was adopted with 25 ayes, 1 nay, 16 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator Lautenbaugh renewed his amendment, AM1257, found on page 1324.

### SENATOR ROBERT PRESIDING

Senator Lautenbaugh withdrew his amendment.

Senator Lautenbaugh offered the following amendment:  
AM1381

(Amendments to AM1224)

1. On page 1, line 8, after the period insert "Duties
2. listed in subdivisions (1) through (13) of section 38-1131 shall
3. not be performed by dental assistants.".

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

Senator Lautenbaugh requested a roll call vote on his amendment.

Voting in the affirmative, 7:

Christensen	Fischer	Langemeier	Pahls
Coash	Karpisek	Lautenbaugh	

Voting in the negative, 18:

Avery	Fulton	Hansen	Nelson	Utter
Campbell	Gay	Harms	Nordquist	Wightman
Council	Gloor	Lathrop	Schilz	
Dierks	Haar	McGill	Sullivan	

Present and not voting, 15:

Adams	Dubas	Heidemann	Mello	Price
Ashford	Flood	Howard	Pankonin	Rogert
Carlson	Hadley	Louden	Pirsch	White

Excused and not voting, 9:

Cook	Friend	Janssen	Nantkes	Wallman
Cornett	Giese	McCoy	Stuthman	

The Lautenbaugh amendment lost with 7 ayes, 18 nays, 15 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

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

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

Voting in the affirmative, 27:

Adams	Council	Hadley	Mello	Sullivan
Avery	Flood	Hansen	Nelson	Utter
Campbell	Fulton	Harms	Nordquist	Wightman
Carlson	Gay	Howard	Price	
Christensen	Gloor	Lathrop	Rogert	
Coash	Haar	McGill	Schilz	

Voting in the negative, 4:

Karpisek	Lautenbaugh	Louden	Pahls
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Present and not voting, 9:

Ashford	Dubas	Heidemann	Pankonin	White
Dierks	Fischer	Langemeier	Pirsch	

Excused and not voting, 9:

Cook	Friend	Janssen	Nantkes	Wallman
Cornett	Giese	McCoy	Stuthman	

Advanced to Enrollment and Review Initial with 27 ayes, 4 nays, 9 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 122.** Placed on Final Reading.

**LEGISLATIVE BILL 238.** Placed on Final Reading.

**LEGISLATIVE BILL 294.** Placed on Final Reading.

**LEGISLATIVE BILL 347.** Placed on Final Reading.

**LEGISLATIVE BILL 360.** Placed on Final Reading.

ST9046

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

1. In the Standing Committee amendments, AM913, on page 1, line 13, "act" has been struck and "Land Reutilization Act" inserted.

**LEGISLATIVE BILL 372.** Placed on Final Reading.

**LEGISLATIVE BILL 441.** Placed on Final Reading.

**LEGISLATIVE BILL 446.** Placed on Final Reading.

**LEGISLATIVE BILL 500.** Placed on Final Reading.

**LEGISLATIVE BILL 524.** Placed on Final Reading.

**LEGISLATIVE BILL 533.** Placed on Final Reading.

**LEGISLATIVE BILL 537.** Placed on Final Reading.

**LEGISLATIVE BILL 562.** Placed on Final Reading.

**LEGISLATIVE BILL 587.** Placed on Final Reading.

**LEGISLATIVE BILL 598.** Placed on Final Reading.

ST9034

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

1. On page 1, line 3, "81-1839," has been inserted after the last comma.

**LEGISLATIVE BILL 604.** Placed on Final Reading.

**LEGISLATIVE BILL 627.** Placed on Final Reading.

**LEGISLATIVE BILL 631.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 503.** Placed on Select File with amendment.

ER8128

- 1 1. On page 1, line 2, strike "13-910," and the second
- 2 comma; and strike beginning with "change" in line 5 through "to" in
- 3 line 6.

**LEGISLATIVE BILL 358.** Placed on Select File.



**LEGISLATIVE BILL 155.** Placed on Select File with amendment.  
ER8129

1 1. In the Standing Committee amendments, AM1271:  
2 a. On page 1, line 6, strike "14" and insert "16"; and on  
3 page 8, line 13 strike "subsections" and insert "subsection".  
4 2. On page 1, strike lines 2 through 9 and insert  
5 "28-101, 28-518, 28-603, 28-604, 28-608, 28-611, and 29-110,  
6 Reissue Revised Statutes of Nebraska; to adopt the Public  
7 Protection Act; to change provisions relating to theft offenses,  
8 criminal impersonation, identity theft, identity fraud, forgery,  
9 bad checks, and no-account checks; to provide a statute of  
10 limitations; to change and provide penalties; to harmonize  
11 provisions; to provide severability; and to repeal the original  
12 sections."

(Signed) Jeremy Nordquist, Chairperson

### MESSAGES FROM THE GOVERNOR

May 5, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being reappointed to the Public Employees Retirement Board:

Denis Blank, 2451 Winchester South, Lincoln, NE 68512  
Sgt. Glenn Elwell, 3504 Hartley Circle, Lincoln, NE 68521  
Mark Shepard, 7547 Exbury Road, Lincoln, NE 68516

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

May 7, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being reappointed to the Coordinating Commission for Postsecondary Education:

Colleen Adam, 4900 Osborne Dr. East, Hastings, NE 68901  
Ronald Hunter, 4203 470th Lane, Hay Springs, NE 69347  
Eric Seacrest, 109 S. Maloney Dr., North Platte, NE 69101

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### AMENDMENT - Print in Journal

Senator Ashford filed the following amendment to LB63A:  
AM1385

- 1 1. Strike the original sections and insert the following
- 2 sections:
- 3 Section 1. There is hereby appropriated (1) \$100,000
- 4 from the General Fund for FY2009-10 and (2) \$100,000 from the
- 5 General Fund for FY2010-11 to the Nebraska Commission on Law
- 6 Enforcement and Criminal Justice, for Program 204 - Office of
- 7 Violence Prevention, to aid in carrying out the provisions of
- 8 Legislative Bill 63, One Hundred First Legislature, First Session,
- 9 2009.
- 10 Total expenditures for permanent and temporary salaries
- 11 and per diems from funds appropriated in this section shall not
- 12 exceed \$100,000 for FY2009-10 or \$100,000 for FY2010-11.
- 13 Sec. 2. On the effective date of this act, there is
- 14 hereby appropriated \$350,000 from the Violence Prevention Cash Fund
- 15 for FY2008-09 to the Nebraska Commission on Law Enforcement and
- 16 Criminal Justice, for Program 204, to aid in carrying out the
- 17 provisions of Legislative Bill 63, One Hundred First Legislature,
- 18 First Session, 2009.
- 19 No expenditures for permanent and temporary salaries and
- 20 per diems for state employees shall be made from funds appropriated

21 in this section.

22 The unexpended Cash Fund appropriation balance existing  
 23 on June 30, 2009, is hereby reappropriated for FY2009-10.

1 The Nebraska Commission on Law Enforcement and Criminal  
 2 Justice shall distribute the funds appropriated in this section  
 3 as soon as practicable after the effective date of this act to  
 4 organizations or governmental entities that have submitted violence  
 5 prevention plans and that best meet the intent of reducing street  
 6 and gang violence and reducing homicides and injuries caused by  
 7 firearms. When the Office of Violence Prevention is operational  
 8 it shall assume responsibility for administering funding for the  
 9 program.

10 Sec. 3. There is hereby appropriated \$90,000 from the  
 11 Community Corrections Uniform Data Analysis Cash Fund for FY2009-10  
 12 to the Nebraska Commission on Law Enforcement and Criminal Justice,  
 13 for Program 220, Community Corrections Council Office, to aid in  
 14 carrying out the provisions of Legislative Bill 63, One Hundred  
 15 First Legislature, First Session, 2009.

16 No expenditures for permanent and temporary salaries and  
 17 per diems for state employees shall be made from funds appropriated  
 18 in this section.

19 Sec. 4. Since an emergency exists, this act takes effect  
 20 when passed and approved according to law.

### **MOTION - Return LB545A to Select File**

Senator Adams moved to return LB545A to Select File for the following specific amendment:

AM1386

- 1 1. Insert the following new section:
- 2 Sec. 2. This act becomes operative on July 1, 2009.
- 3 2. Renumber the remaining sections accordingly.

The Adams motion to return prevailed with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 545A.** The Adams specific amendment, AM1386, found in this day's Journal, was adopted with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

### **UNANIMOUS CONSENT - Expedite LB545A**

Senator Flood asked unanimous consent to expedite LB545A. No objections. So ordered.

**SELECT FILE**

**LEGISLATIVE BILL 224.** ER8107, found on page 1284, was adopted.

Senator Carlson withdrew his amendment, AM1295, found on page 1380.

Senator Carlson renewed his amendment, AM1365, found on page 1400.

**SENATOR LANGEMEIER PRESIDING****SPEAKER FLOOD PRESIDING**

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

The Carlson amendment was adopted with 33 ayes, 2 nays, 3 present and not voting, and 11 excused and not voting.

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

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

The Chair declared the call raised.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 545.** Placed on Final Reading.

**LEGISLATIVE BILL 545A.** Placed on Final Reading.  
ST9045

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

1. On page 1, the matter beginning with "appropriate" in line 1 through line 6 and all amendments thereto have been struck and "amend section 49, Legislative Bill 315, One Hundred First Legislature, First Session, 2009; to appropriate funds to aid in carrying out the provisions of Legislative Bill 545, One Hundred First Legislature, First Session, 2009; to change appropriations; to provide an operative date; to repeal the original section; and to declare an emergency." inserted.

2. The E & R amendments, ER8127, have been struck.

(Signed) Jeremy Nordquist, Chairperson

**AMENDMENT - Print in Journal**

Senator Langemeier filed the following amendment to LB561:  
FA37  
Strike the enacting clause.

**MOTION - Print in Journal**

Senator Council filed the following motion to LB440:  
MO50  
Suspend Rule 7, Section 3(d) to allow consideration of AM1233.

**VISITORS**

Visitors to the Chamber were 49 fourth-grade students from West Point; 24 students from Midland Lutheran College, Fremont; and 38 fifth-grade students from Boone Central School, Albion.

**ADJOURNMENT**

At 7:25 p.m., on a motion by Senator Council, the Legislature adjourned until 9:00 a.m., Tuesday, May 12, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTY-SEVENTH DAY - MAY 12, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, May 12, 2009

**PRAYER**

The prayer was offered by Senator Hansen.

**ROLL CALL**

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

The roll was called and all members were present except Senators Cornett and Wallman who were excused; and Senators Cook, Dierks, Gloor, and Lathrop who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-sixth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 97A.** Placed on Final Reading.

**LEGISLATIVE BILL 402.** Placed on Final Reading Second.  
ST9047

(Final Reading copy)

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

1. In the Avery amendment, AM1314, on page 2, line 1, "an operative date" has been struck and "operative dates" inserted.

**LEGISLATIVE BILL 463.** Placed on Final Reading Second.

**LEGISLATIVE BILL 532.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

**SELECT FILE**

**LEGISLATIVE BILL 63.** ER8031, found on page 732, was adopted.

Senator Coash withdrew his amendment, AM775, found on page 794.

Senator Coash renewed his amendment, AM995, found on page 969.

Senator Coash withdrew his amendment.

Senator Christensen renewed his amendment, AM1088, found on page 1074.

The Christensen amendment was adopted with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

Senator Ashford renewed his amendment, AM1124, found on page 1180.

The Ashford amendment was adopted with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

Pending.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 116.** Introduced by Adams, 24.

**PURPOSE:** The purpose of this interim study is to examine issues related to early childhood education and kindergarten eligibility.

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

1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 117.** Introduced by Adams, 24.

**PURPOSE:** The purpose of this interim study is to determine and evaluate the positive and negative outcomes that could result from aligning the school fiscal year with the state fiscal year.

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



1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 118.** Introduced by Adams, 24.

**PURPOSE:** To investigate and review matters and issues arising during the interim which are within the jurisdiction of the Education Committee of the Legislature.

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

1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 119.** Introduced by Avery, 28.

**PURPOSE:** The purpose of this interim study is to examine the initiative and referendum process, particularly the issue of how petitions are circulated. In the past few years, concerns regarding petition circulators have been the subject of several public hearings and bills to address the problem. In 2008, a bill was passed to limit how petition circulators can be paid and required petition circulators to be eligible to vote in order to circulate petitions. In 2009, LB 575 was introduced and heard by the Government, Military and Veterans Affairs Committee. The bill outlined how to investigate a potential violation regarding a signer or circulator of an initiative or referendum petition.

The issues to be examined by the interim study shall include, but are not limited to:

(1) Determining how best to investigate potential violations of the initiative and referendum process;

(2) Studying the issue of requiring circulators to read the object statement on the petition to every potential signer of the initiative or referendum; and

(3) Studying what are appropriate requirements for the petition circulators, such as residency requirements.

The Secretary of State, along with other interested parties, will be invited to participate in this study.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 120.** Introduced by Avery, 28.

**PURPOSE:** The purpose of this interim study is to examine the history and structure of salary, benefit, and retirement packages available to Nebraska public school employees. The study shall include, but not be limited to:

(1) Equity of compensation among employees with comparable education and experience;

(2) Equity of compensation among employees working in comparably sized public school systems;

(3) Cell phone, mileage, and laptop or personal computer allowances;

(4) Merit or bonus pay;

(5) Reimbursement payments contributed to the Nebraska Public Employees Retirement Systems on behalf of employees; and

(6) Transparency and disclosure of the State Board of Education's policies and procedures with respect to available and approved compensation packages to employees.

Based on these findings, the study committee shall make a recommendation with respect to the State Board of Education's rules and regulations, taking into consideration the issues raised during consideration of LB 612 (Avery) which was introduced in 2009 and referred to the Nebraska Retirement Systems Committee of the Legislature.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 121.** Introduced by Avery, 28; Campbell, 25; Rogert, 16.

**PURPOSE:** The purpose of this interim study is to examine the structure, authority, and mission of the Nebraska School Activities Association (NSAA). The study shall include, but not be limited to:

1. The NSAA's governance structure;

2. The NSAA's role in formulating rules, regulations, and public policy;
3. The accountability and oversight of rules, regulations, and public policy issued by the NSAA;
4. The NSAA's financial accountability to members and the public;
5. The NSAA's transparency and disclosure responsibilities to members and the public; and
6. The application of sections 84-712 to 84-712.09 and the Open Meetings Act to NSAA activities.

Based on these findings, the study committee shall make a recommendation with respect to the NSAA's application of its rules, regulations, and public policy, taking into consideration the issues raised during consideration of LB 228 (Rogert) which was introduced in 2009 and referred to the Education Committee.

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

1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 122.** Introduced by McCoy, 39.

PURPOSE: The purpose of this interim study is to examine the feasibility and benefits of making the Game and Parks Commission a code agency, and therefore subject to the Governor's direct control. The commission is currently a noncode agency and not subject to the Governor's direct control.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 123.** Introduced by Giese, 17.

PURPOSE: The purpose of this interim study is to examine the Department of Labor's authority to conduct workplace safety inspections. The issues addressed by this interim study shall include, but not be limited to:

- (1) A review of the Department of Labor's authority to conduct workplace safety inspections under applicable federal and state laws, including the

federal Occupational Safety and Health Act of 1970, with emphasis on the authority to conduct inspections on county or city property;

(2) A review of voluntary workplace safety consultation programs currently operated by the Department of Labor; and

(3) A review of workplace safety inspection programs utilized by other states.

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

1. That the Business and Labor Committee of the Legislature shall be designated to 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.

### **EXPLANATION OF VOTE**

Had I been present, I would have voted "aye" on the adoption of AM1224 to LB542.

(Signed) Tanya Cook

### **REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

Adam, Colleen - Coordinating Commission for Postsecondary Education - Education

Berndt, Al - Climate Assessment Response Committee - Agriculture

Blank, Denis - Public Employees Retirement Board - Nebraska Retirement Systems

Elwell, Glenn - Public Employees Retirement Board - Nebraska Retirement Systems

Frenzen, Galen - Nebraska Ethanol Board - Natural Resources

Gerber, Paul - Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Hunter, Ronald - Coordinating Commission for Postsecondary Education - Education

Kenney, Paul - Nebraska Ethanol Board - Natural Resources

Neneman, Roy - Motor Vehicle Industry Licensing Board - Transportation and Telecommunications

Seacrest, Eric - Coordinating Commission for Postsecondary Education - Education

Shepard, Mark - Public Employees Retirement Board - Nebraska Retirement Systems

(Signed) John Wightman, Chairperson  
Executive Board

**NOTICE OF COMMITTEE HEARING**  
Nebraska Retirement Systems

Room 1525

Wednesday, May 20, 2009 12:10 p.m.

Denis Blank - Public Employees Retirement Board  
Mark Shepard - Public Employees Retirement Board  
Glenn Elwell - Public Employees Retirement Board

(Signed) Dave Pankonin, Chairperson

**SELECT FILE**

**LEGISLATIVE BILL 63.** Senator Ashford asked unanimous consent to withdraw his amendment, AM1128, found on page 1280, and replace it with his substitute amendment, AM1337, found on page 1370. No objections. So ordered.

The Ashford amendment was adopted with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

Senator Pirsch withdrew his amendment, AM758, found on page 1295.

Senator Ashford renewed his amendment, AM1308, found on page 1304.

**SENATOR CARLSON PRESIDING**

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

Senator Howard renewed her amendment, AM1360, found on page 1395.

Pending.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 218.** Placed on Select File with amendment. ER8132 is available in the Bill Room.

**LEGISLATIVE BILL 218A.** Placed on Select File with amendment. ER8131

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new section:
- 3 Section 1. There is hereby appropriated (1) -0- from the
- 4 General Fund for FY2009-10 and (2) -0- from the General Fund for
- 5 FY2010-11 to the Department of Revenue, for Program 104, County Aid
- 6 Program, to aid in carrying out the provisions of Legislative Bill
- 7 218, One Hundred First Legislature, First Session, 2009.
- 8 No expenditures for permanent and temporary salaries and
- 9 per diems for state employees shall be made from funds appropriated
- 10 in this section.
- 11 2. On page 1, strike beginning with the semicolon in line
- 12 3 through "emergency" in line 5.

**LEGISLATIVE BILL 542.** Placed on Select File with amendment. ER8130

- 1 1. On page 1, lines 1 and 2, strike "sections 38-1135
- 2 and" and insert "section"; in line 4 strike "to harmonize
- 3 provisions;"; and in line 5 strike "sections" and insert "section".

(Signed) Jeremy Nordquist, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 124.** Introduced by Pankonin, 2.

**PURPOSE:** The purpose of this interim study is to examine the use of eminent domain by natural resources districts for the taking of private land for the development or management of recreational trails or corridors. The topics to be studied shall include, but not be limited to, the following:

- (1) The process and criteria used by natural resources districts for consideration of recreational trail or corridor development;
- (2) The role or authority of affected local governing bodies in the recreational trail or corridor development process;
- (3) An examination of the state trails plan, A Network of Discovery: A Comprehensive Trails Plan for the State of Nebraska, prepared by the Game and Parks Commission;
- (4) The possible enactment of a procedure for dispute resolution to resolve disagreements between affected property owners and natural resources districts about recreational trail or corridor placement; and
- (5) Practices used by other states for recreational trail or corridor placement.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 125.** Introduced by Wightman, 36.

WHEREAS, the United States Constitution requires a national census once every ten years; and

WHEREAS, the census is a count of everyone residing in the United States; and

WHEREAS, by law the United States Bureau of the Census cannot share an individual's census questionnaire responses with anyone, including other federal agencies and law enforcement entities; and

WHEREAS, the next decennial census will be taken on April 1, 2010, with census questionnaires delivered or mailed to households in March 2010; and

WHEREAS, every year the federal government can allocate more than three hundred billion dollars to states and communities based, in part, on census data; and

WHEREAS, the allocation of federal and state funding for critical community services, such as health, education, transportation, and social programs depends on complete and accurate age, population, and demographic information generated by the census; and

WHEREAS, redistricting will occur on the state and local levels using data collected in the 2010 Census. The data also determines how many seats each state will have in the United States Congress, making a complete count vital to accurate representation.

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

1. That the Legislature supports the efforts of the United States Bureau of the Census to achieve a complete and accurate census.

2. That the Legislature encourages all citizens to "Be Counted in 2010" by filling out their ten-question census questionnaire when it arrives at their household.

3. That the Legislature encourages local governments, community-based organizations, faith-based organizations, schools, media, businesses, and others to raise awareness of and encourage participation in the 2010 Census.

Laid over.

**ANNOUNCEMENT**

Senator Adams announced the Education Committee will hold an executive session Wednesday, May 13, 2009, 15 minutes after morning recess, in Room 1525.

**VISITORS**

Visitors to the Chamber were 39 fourth-grade students, teachers, and sponsors from St. Michael Elementary, Hastings; 30 fourth-grade students and sponsors from St. Mary's, David City; 18 fourth-grade students and teacher from Trinity Lutheran School, Grand Island; Special Olympics athletes from across the state; and Ann and Ellen Fauss from Fremont.

**RECESS**

At 12:00 p.m., on a motion by Senator Christensen, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

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

**ROLL CALL**

The roll was called and all members were present except Senators Cornett, Gay, Pahls, and Wallman who were excused; and Senator Schilz who was excused until he arrives.

**SELECT FILE**

**LEGISLATIVE BILL 63.** The Howard amendment, AM1360, found on page 1395 and considered in this day's Journal, was renewed.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 31 ayes, 2 nays, and 16 not voting.

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

Senator Howard requested a roll call vote on her amendment.



Voting in the affirmative, 41:

Adams	Dierks	Hadley	Lautenbaugh	Rogert
Ashford	Dubas	Hansen	McCoy	Sullivan
Avery	Fischer	Harms	McGill	Utter
Campbell	Flood	Heidemann	Mello	White
Carlson	Friend	Howard	Nantkes	Wightman
Christensen	Fulton	Janssen	Nordquist	
Coash	Giese	Karpisek	Pankonin	
Cook	Gloor	Langemeier	Pirsch	
Council	Haar	Lathrop	Price	

Voting in the negative, 0.

Present and not voting, 4:

Louden	Nelson	Schilz	Stuthman
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Excused and not voting, 4:

Cornett	Gay	Pahls	Wallman
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The Howard amendment was adopted with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Council offered the following amendment:

AM1392

(Amendments to E & R amendments, ER8031)

- 1 1. On page 26, strike beginning with "the" in line 2
- 2 through line 6 and insert "custody as: An accused defendant,
- 3 a convicted defendant awaiting sentencing, a convicted defendant
- 4 -serving a sentence, a criminal suspect, or a person detained for
- 5 questioning regarding an event for which such person received
- 6 a deal, promise, inducement, or benefit. A jailhouse witness is
- 7 deemed to be in custody whether physically in jail or not.".
- 8 2. On page 44, lines 1 and 24 and 25, strike ", 29-1929,
- 9 and 29-2262.01" and insert "and 29-1929"; and strike beginning with
- 10 "and" in line 21 through "enforcement" in line 22.

## SENATOR KARPISEK PRESIDING

Senator Council moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Council requested a roll call vote on her amendment.

Voting in the affirmative, 11:

Avery	Giese	Mello	White
Cook	Haar	Nantkes	Wightman
Council	McGill	Sullivan	

Voting in the negative, 25:

Adams	Fischer	Hansen	Langemeier	Nordquist
Ashford	Flood	Harms	Lautenbaugh	Pirsch
Campbell	Friend	Heidemann	Louden	Price
Carlson	Gloor	Janssen	McCoy	Schilz
Coash	Hadley	Karpisek	Nelson	Utter

Present and not voting, 8:

Christensen	Dubas	Howard	Pankonin
Dierks	Fulton	Lathrop	Rogert

Excused and not voting, 5:

Cornett	Gay	Pahls	Stuthman	Wallman
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The Council amendment lost with 11 ayes, 25 nays, 8 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 63A.** Senator Ashford withdrew his amendment AM1108, found on page 1181.

Senator Ashford renewed his amendment, AM1385, found on page 1418.

The Ashford amendment was adopted with 30 ayes, 1 nay, 13 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 9.** Placed on Final Reading.

ST9042

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

1. On page 1, line 2, ", and sections 77-2701 and 77-2701.04, Revised Statutes Cumulative Supplement, 2008; to exempt mineral oil from sales

and use taxes as prescribed" has been inserted after "Nebraska"; and lines 4 and 5 have been struck and "and use taxes; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

**LEGISLATIVE BILL 112.** Placed on Final Reading.

**LEGISLATIVE BILL 187.** Placed on Final Reading.

**LEGISLATIVE BILL 195.** Placed on Final Reading.

ST9036

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

1. In the E & R amendments, ER8096:

a. On page 1, line 14 , "71-3604," has been inserted after the third comma; and in line 19 "71-3601, 71-3602, 71-3614," has been inserted after the fifth comma; and

b. On page 2, line 2, "tuberculosis detection and prevention," has been inserted after the second comma.

**LEGISLATIVE BILL 232.** Placed on Final Reading.

**LEGISLATIVE BILL 246A.** Placed on Final Reading.

**LEGISLATIVE BILL 342.** Placed on Final Reading.

**LEGISLATIVE BILL 342A.** Placed on Final Reading.

**LEGISLATIVE BILL 476.** Placed on Final Reading.

**LEGISLATIVE BILL 476A.** Placed on Final Reading.

**LEGISLATIVE BILL 671.** Placed on Final Reading.

**LEGISLATIVE BILL 671A.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 126.** Introduced by Avery, 28; Flood, 19.

**PURPOSE:** The purpose of this interim study is to examine issues within the jurisdiction of the Government, Military and Veterans Affairs Committee of the Legislature which may arise during the interim.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 127.** Introduced by Avery, 28; Giese, 17; Rogert, 16.

**PURPOSE:** The purpose of this interim study is to examine the issue of election day registration. Statistics have shown that states with election day registration experience higher voter turnout than states without election day registration. In the 2008 presidential election, states with election day registration had a seven percent higher voter turnout. The experience in other states has been an increase in turnout among young adults, a group which historically has had low voter turnout rates.

During the 2009 legislative session, two bills allowing election day registration in Nebraska were introduced and heard by the Government, Military and Veterans Affairs Committee of the Legislature. Concerns were raised at the public hearings regarding the number of ballot splits in many precincts and the difficulties of allowing citizens to register and vote at the polling site or the county election official's office.

The issues to be examined by the interim study will include, but are not limited to:

(1) Determining whether it is more appropriate to have a citizen register and vote on election day at the polling site or at the county clerk or election commissioner's office;

(2) Determining what type of identification is necessary for citizens who wish to register and vote on election day; and

(3) Studying whether a citizen who registers and votes on election day could be given a limited ballot instead of the entire ballot.

Representatives of the Secretary of State's office and county officials, along with other interested parties, will be invited to participate in this study.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 128.** Introduced by Langemeier, 23.

**PURPOSE:** To study issues relating to the laws of Nebraska governing the management and use of Nebraska surface water and ground water. A comprehensive and inclusive evaluation is necessary, utilizing every identifiable source of funding and research, to create a valid and beneficial statewide water policy. The goal of the study is to identify all sources of funding and research that can be integrated and used by the Legislature and the Department of Natural Resources to develop a statewide water plan.

Special attention shall be given to current water planning efforts and projects. Sources may include any local, state, or federal government entity, including the University of Nebraska, and any private individual, business, or organization.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 129.** Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to study whether Nebraska should update its statutory provisions, particularly section 8-113, which restrict the use by an individual, firm, company, corporation, or association of the word "bank" or any derivative thereof as any part of a title or description of any business activity. The study should include an examination of issues raised during consideration of LB32 (Pahls) and LB88 (Pahls), which were introduced in 2009 and referenced to the Banking, Commerce and Insurance Committee. In order to carry out the purpose of this resolution, the study committee should seek the assistance of the Department of Banking and Finance and should consider the input of interested persons as the committee deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to 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.

#### SELECT FILE

**LEGISLATIVE BILL 392.** ER8125, found on page 1388, was adopted.

Senator Adams offered the following amendment:

AM1393

(Amendments to E & R amendments, ER8125)

- 1 1. On page 13, line 8, after "council" insert an
- 2 underscored period and strike beginning with "as" in line 8
- 3 through line 9 and show as stricken.

The Adams amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Senator Adams offered the following amendment:

AM1395

(Amendments to E & R amendments, ER8215)

- 1 1. On page 27, line 17, strike "June" and insert
- 2 "September".

The Adams amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 263.** ER8123, found on page 1387, was adopted.

Advanced to Enrollment and Review for Engrossment.

## **SPEAKER FLOOD PRESIDING**

### **MOTION - Suspend Rules**

Senator Council renewed her motion, MO50, found on page 1421, to suspend Rule 7, Section 3(d) to allow consideration of AM1233 to LB440.

The Council motion to suspend the rules prevailed with 33 ayes, 1 nay, 10 present and not voting, and 5 excused and not voting.

### **MOTION - Return LB440 to Select File**

Senator Council moved to return LB440 to Select File for her specific amendment, AM1233, found on page 1373.

The Council motion to return prevailed with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

## **SELECT FILE**

**LEGISLATIVE BILL 440.** The Council specific amendment, AM1233, found on page 1373, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

**LEGISLATIVE BILL 35.** ER8067, found on page 1051, was adopted.

Senator Pankonin withdrew his amendment, AM934, found on page 990 and considered on page 1015.

Senator Ashford renewed his amendment, AM1095, found on page 1372.

**SENATOR STUTHMAN PRESIDING**

The Ashford amendment was adopted with 36 ayes, 0 nays, 7 present and not voting, and 6 excused and not voting.

Senator Ashford renewed his amendment, AM1287, found on page 1372.

The Ashford amendment was adopted with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 35A.** Senator Ashford renewed his amendment, AM1087, found on page 1128.

The Ashford amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Senator Ashford renewed his amendment, AM1101, found on page 1373.

The Ashford amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**AMENDMENT - Print in Journal**

Senator Pirsch filed the following amendment to LB671:  
AM1389

(Amendments to Final Reading copy)

- 1 1. Strike section 2 and insert the following new section:
- 2 Sec. 2. Section 23-1213, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 23-1213 (1)(a) There is hereby created the Nebraska
- 5 County Attorney Standards Advisory Council which, except as
- 6 provided in subdivision (b) of this subsection, shall consist of
- 7 seven members, four of whom shall be either a county attorney
- 8 or deputy county attorney, one member being a professor of law
- 9 or professor of forensic science, and two members being county

10 commissioners or supervisors. The members of such council shall be  
 11 appointed by the Governor. Of the county attorneys or deputy county  
 12 attorneys appointed to such council, one shall be from Douglas  
 13 County, one shall be from Lancaster County, and the remaining two  
 14 shall be appointed from the remainder of the state. Members of  
 15 the council shall serve a term of four years, except that of the  
 16 members first appointed one member shall serve a term of one year,  
 17 two members shall serve a term of two years, two members shall  
 18 serve a term of three years, and two members shall each serve a  
 19 term of four years.

20 (b) On and after the effective date of this act, the  
 21 council shall consist of eleven members with the addition of the  
 22 following four new members: (i) Two members who shall be either  
 1 county attorneys or deputy county attorneys from counties other  
 2 than Douglas County or Lancaster County; (ii) one member who is a  
 3 county sheriff or a chief of police; and (iii) one member who is a  
 4 certified forensic pathologist. The new members shall serve terms  
 5 of four years, except that of the new members first appointed two  
 6 members shall serve terms of two years and two members shall serve  
 7 terms of three years.

8 (2) A member may be reappointed at the expiration of his  
 9 or her term. Any vacancy occurring other than by expiration of  
 10 a term shall be filled for the remainder of the unexpired term  
 11 in the same manner as the original appointment. The council shall  
 12 select one of its members as chairperson. The Governor shall make  
 13 the appointments under this section within ninety days of July 19,  
 14 1980.

15 (3) Members of the council shall have such membership  
 16 terminated if they cease to hold the office of county attorney,  
 17 deputy county attorney, ~~or~~ county commissioner or supervisor, or  
 18 county sheriff or chief of police. A member of the council may be  
 19 removed from the council for good cause upon written notice and  
 20 upon an opportunity to be heard before the Governor. After the  
 21 hearing, the Governor shall file in the office of the Secretary  
 22 of State a complete statement of the charges and the findings and  
 23 disposition together with a complete record of the proceedings.

## VISITORS

Visitors to the Chamber were 7 eighth-grade students and teacher from Cedar Rapids, Iowa; 60 fourth-grade students and teachers from West Lawn Elementary, Grand Island; and 50 fourth-grade students from Twin River Elementary, Genoa.

The Doctor of the Day was Dr. Derrick Anderson from Lincoln.



**ADJOURNMENT**

At 4:38 p.m., on a motion by Senator Lautenbaugh, the Legislature adjourned until 9:00 a.m., Wednesday, May 13, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTY-EIGHTH DAY - MAY 13, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, May 13, 2009

**PRAYER**

The prayer was offered by Senator Heidemann.

**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 Adams, Cornett, Council, and Fulton who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-seventh day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 160.** Placed on Final Reading.

**LEGISLATIVE BILL 224.** Placed on Final Reading.

**LEGISLATIVE BILL 494.** Placed on Final Reading.

ST9043

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

1. In the Standing Committee amendments, AM844:

a. On page 1, lines 6 and 15; page 2, lines 11 and 17; page 3, line 22; page 4, lines 1, 4, 10, 15, 17, and 27; and page 5, lines 13 and 16, "6" has been struck and "13" inserted; and

b. On page 5, line 18, "section" has been struck and "sections 28-1008, 28-1013, 28-1014, 28-1015, 28-1016, 28-1017, and" inserted.

2. On page 1, the matter beginning with "dogs" in line 1 through line 7 has been struck and "animals; to amend sections 28-1008, 28-1013, 28-1014, 28-1015, 28-1016, 28-1017, and 54-622, Reissue Revised Statutes of Nebraska, and sections 54-617, 54-620, 54-623, 54-623.01, and 54-624, Revised Statutes Cumulative Supplement, 2008; to define and redefine

terms; to require animal health care professionals to report animal abandonment, cruel neglect, and cruel mistreatment; to change provisions relating to dangerous dogs; to provide and change penalties; to harmonize provisions; and to repeal the original sections." inserted.

**LEGISLATIVE BILL 568.** Placed on Final Reading.

**LEGISLATIVE BILL 633.** Placed on Final Reading.

**LEGISLATIVE BILL 633A.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 130.** Introduced by Louden, 49.

**PURPOSE:** The purpose of this interim study is to examine whether Nebraska should update provisions of the Nebraska Pure Food Act in relation to the growing trend of home baking, canning, and small food businesses in Nebraska. This growing trend could produce a positive effect on economic development in Nebraska. The study should include an examination of section 81-2,245.01 and whether or not a home baking, canning, or small food operation would be exempted from the definition of a food establishment if the operation met certain requirements.

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 be designated to 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.

**LEGISLATIVE RESOLUTION 131.** Introduced by Pahls, 31.

**PURPOSE:** The purpose of this resolution is to study school accountability. The Legislature appropriates hundreds of millions of dollars in the form of state aid to school districts throughout the state, making accountability for these funds extremely important. The issues addressed by this study shall include, but not be limited to:

(1) Ways the Legislature can evaluate how the money is expended;

(2) The accountability that school districts must provide to show that the funds they receive through state and local resources are expended on effective educational programs; and

(3) Ways the Legislature can be assured that every public school student in the state is receiving a quality education.

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

1. That the Education Committee of the Legislature shall be designated to 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.

## **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 107, 108, 110, and 111 were adopted.

## **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 107, 108, 110, and 111.

## **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 LB311 with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 311.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2007, LB 320, sections 32 and 34, Laws 2007, LB 321, sections 111 and 117, Laws 2008, LB 959, sections 57, 72, 74, 76, and 90, and Laws 2008, LB 988A, section 1; to define terms; to provide, change, and eliminate provisions relating to appropriations; to reduce appropriations; to provide for a transfer of funds; to state intent; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Council

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 bills were read and put upon final passage:

**LEGISLATIVE BILL 312.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of salaries of members of the Nebraska Legislature and payments to be made as provided by Chapter 68, article 6, for FY2009-10 and FY2010-11; to provide an operative date; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

## Council

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 313.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of the salaries and benefits of certain state officers for FY2009-10 and FY2010-11; to define terms; to provide an operative date; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

## Council

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 LB314 with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 314.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to define terms; to appropriate funds for capital construction and property acquisition as prescribed; to state intent; to require program statements; to provide an operative date; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Council

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 LB315 with 47 ayes, 0 nays, 1 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 315.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to state intent; to define terms; to make appropriations for the expenses of Nebraska State Government for the biennium ending June 30, 2011; to transfer funds; to provide duties; to provide an operative date; 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, 46:

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

Voting in the negative, 2:

Friend            Langemeier

Excused and not voting, 1:

Council

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 LB316 with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 316.** With Emergency Clause.

A BILL FOR AN ACT relating to state funds; to amend sections 57-705, 81-1201.21, 82-331, 82-332, 84-510, 85-415, and 85-421, Reissue Revised Statutes of Nebraska, and sections 66-1334, 66-1345.04, 71-7608, 71-7611, 71-8805, and 77-2602.04, Revised Statutes Cumulative Supplement, 2008; to provide for, change, and eliminate provisions relating to the use and transfer of funds; to harmonize provisions; to repeal the original sections; to outright repeal section 81-1623, 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Council

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 bills were read and put upon final passage:

**LEGISLATIVE BILL 318.** With Emergency Clause.

A BILL FOR AN ACT relating to capital improvement projects; to amend sections 81-188.02, 81-188.04, and 81-188.06, Reissue Revised Statutes of Nebraska; to change provisions governing depreciation charges; to provide an operative date; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Council

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 414.** With Emergency Clause.

A BILL FOR AN ACT relating to courts; to amend sections 24-201.01 and 24-703, Reissue Revised Statutes of Nebraska; to change salary and retirement provisions for judges; to change the Nebraska Retirement Fund for Judges fee; to provide operative dates; to provide for inseverability; 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, 46:

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

Voting in the negative, 1:

Stuthman

Present and not voting, 1:

Nelson

Excused and not voting, 1:

Council

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 414A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 414, One Hundred First Legislature, First Session, 2009; to provide an operative date; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Council

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 456.** With Emergency Clause.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend sections 79-1104.01, 79-1104.05, 84-612, and 84-613, Reissue Revised Statutes of Nebraska; to eliminate obsolete provisions and completed transfers; to provide for transfers from the Cash Reserve Fund; to provide a duty for the Department of Economic Development; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Council

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 628.** With Emergency Clause.

A BILL FOR AN ACT relating to claims against the state; to appropriate funds for the payment of certain claims; to provide for payment of the claims; to authorize agencies to write off certain claims; 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, 47:

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

Voting in the negative, 0.

Present and not voting, 1:

Giese

Excused and not voting, 1:

Council

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 629.**

A BILL FOR AN ACT relating to claims against the state; to disapprove certain claims.

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, 47:

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

Voting in the negative, 0.

Present and not voting, 1:

Utter

Excused and not voting, 1:

Council

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

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 311, 312, 313, 314, 315, 316, 318, 414, 414A, 456, 628, and 629.

**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 LB545 with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 545.** With Emergency Clause.

A BILL FOR AN ACT relating to education; to amend sections 77-3446, 79-1001, 79-1003, 79-1007.07, 79-1007.09, 79-1007.10, 79-1007.11, 79-1007.18, 79-1007.23, 79-1007.24, 79-1011, 79-1012, 79-1017.01, 79-1028.01, 79-1073, and 79-10,110, Reissue Revised Statutes of Nebraska, section 9-812, Reissue Revised Statutes of Nebraska, as amended by section 1, Legislative Bill 547, One Hundred First Legislature, First Session, 2009, and sections 79-1022, 79-1023, 79-1026.01, 79-1027, and 79-1031.01, Reissue Revised Statutes of Nebraska, as amended by sections 1, 2, 3, 4, and 5, respectively, Legislative Bill 548, One Hundred First Legislature, First Session, 2009; to change and eliminate provisions relating to the distribution of state lottery funds for education, budget limitations, the Tax Equity and Educational Opportunities Support Act, learning communities, construction or alteration of or acquisition of land for public school facilities, and funding for Network Nebraska; to harmonize provisions; to repeal the original sections; to outright repeal sections 79-1015 and 86-5,101, 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, 46:

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

Voting in the negative, 1:

Christensen

Present and not voting, 1:

Heidemann

Excused and not voting, 1:

Council

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 545A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to amend section 49, Legislative Bill 315, One Hundred First Legislature, First Session, 2009; to appropriate funds to aid in carrying out the provisions of Legislative Bill 545, One Hundred First Legislature, First Session, 2009; to change appropriations; to provide an operative date; 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, 47:

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

Voting in the negative, 1:

Christensen

Excused and not voting, 1:

Council

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 LB198 with 42 ayes, 1 nay, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 198.**

A BILL FOR AN ACT relating to cigarettes; to adopt the Reduced Cigarette Ignition Propensity Act; and to provide operative dates.

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, 47:

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

Voting in the negative, 0.

Present and not voting, 1:

Schilz

Excused and not voting, 1:

Council

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 198A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 198, One Hundred First Legislature, First Session, 2009.

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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Council

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 LB430 with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 430.**

A BILL FOR AN ACT relating to firearms; to amend sections 15-255, 16-227, 17-556, 28-1201, 28-1204.03, and 28-1204.04, Reissue Revised Statutes of Nebraska, and sections 14-102, 69-2427, 69-2430, 69-2433, and 69-2441, Revised Statutes Cumulative Supplement, 2008; to limit the power of cities and villages to regulate the ownership, possession, or transportation of concealed handguns; to change provisions relating to possession of a firearm at school as defined; to change concealed handgun permit issuance provisions; to provide a residency exception for members of the United States Armed Forces with respect to concealed handgun permits; to authorize security personnel to carry concealed handguns in places of worship as prescribed; to provide for concealed handgun permit reciprocity; 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, 45:

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

Voting in the negative, 3:

Campbell      Cook              McGill

Excused and not voting, 1:

Council

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

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 545, 545A, 198, 198A, and 430.

### **MOTION - Return LB671 to Select File**

Senator Pirsch moved to return LB671 to Select File for his specific amendment, AM1389, found on page 1439.

The Pirsch motion to return prevailed with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 671.** The Pirsch specific amendment, AM1389, found on page 1439, was adopted with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 13, 2009, at 10:02 a.m. were the following: LBs 311e, 312e, 313e, 314e, 315e, 316e, 318e, 414e, 414Ae, 456e, 628e, and 629.

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

**RESOLUTION**

**LEGISLATIVE RESOLUTION 132.** Introduced by Stuthman, 22.

**PURPOSE:** The purpose of this resolution is to study whether the Nebraska statutes should be amended to provide for partial payment by an insurance company of the proceeds for damage to or loss of a building or other structure caused by fire, explosion, windstorm, or other natural disaster to the city or village wherein the building or other structure is located if demolition and removal of the building or other structure is necessary. The study should include an examination of issues raised during consideration of LB 484 (Stuthman), which was introduced in 2009 and referred to the Banking, Commerce and Insurance Committee. In order to carry out the purpose of this resolution, the study committee should seek and consider the input of interested persons as the committee deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to 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.

**COMMITTEE REPORT**

Judiciary

**LEGISLATIVE BILL 190.** Placed on General File with amendment. AM85

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 29-4102, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 29-4102 The Legislature finds that DNA data banks are
- 6 an important tool in criminal investigations, in the exclusion
- 7 of individuals who are the subject of criminal investigations or
- 8 prosecutions, in deterring and detecting recidivist acts, and in

9 locating and identifying missing persons and human remains. Several  
10 states have enacted laws requiring persons convicted of certain  
11 crimes, especially sex offenses, to provide genetic samples for DNA  
12 typing tests. Moreover, it is the policy of this state to assist  
13 federal, state, and local criminal justice and law enforcement  
14 agencies in the identification and detection of individuals in  
15 criminal investigations and in locating and identifying missing  
16 persons and human remains. It is in the best interest of this  
17 state to establish a State DNA Data Base for DNA records and  
18 a State DNA Sample Bank as a repository for DNA samples from  
19 individuals convicted of felony ~~sex~~ offenses and other specified  
20 offenses and from individuals for purposes of assisting in locating  
21 and identifying missing persons and human remains.

22 Sec. 2. Section 29-4103, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

1 29-4103 For purposes of the DNA Identification  
2 Information Act:

3 (1) Combined DNA Index System means the Federal Bureau  
4 of Investigation's national DNA identification index system that  
5 allows the storage and exchange of DNA records submitted by state  
6 and local forensic DNA laboratories;

7 (2) DNA means deoxyribonucleic acid which is located in  
8 the cells and provides an individual's personal genetic blueprint.  
9 DNA encodes genetic information that is the basis of human heredity  
10 and forensic identification;

11 (3) DNA record means the DNA identification information  
12 stored in the State DNA Data Base or the Combined DNA Index System  
13 which is derived from DNA typing test results;

14 (4) DNA sample means a blood, tissue, or bodily fluid  
15 sample provided by any person covered by the DNA Identification  
16 Information Act for analysis or storage, or both;

17 (5) DNA typing tests means the laboratory procedures  
18 which evaluate the characteristics of a DNA sample which are of  
19 value in establishing the identity of an individual;

20 ~~(6) Felony sex offense means a felony offense, or an~~  
21 ~~attempt, conspiracy, or solicitation to commit a felony offense,~~  
22 ~~under any of the following:~~

23 ~~(a) Kidnapping of a minor pursuant to section 28-313,~~  
24 ~~except when the person is the parent of the minor and was not~~  
25 ~~convicted of any other offense in this subdivision;~~

26 ~~(b) Incest of a minor pursuant to section 28-703;~~

27 ~~(c) Sexual assault in the first or second degree pursuant~~  
1 ~~to section 28-319 or 28-320;~~

2 ~~(d) Sexual assault of a child in the second or third~~  
3 ~~degree pursuant to section 28-320.01;~~

4 ~~(e) Sexual assault of a child in the first degree~~  
5 ~~pursuant to section 28-319.01;~~

6 ~~(f) Sexual assault of a vulnerable adult pursuant to~~  
7 ~~subdivision (1)(c) of section 28-386; and~~

8 (g) ~~False imprisonment of a minor in the first degree~~  
 9 ~~pursuant to section 28-314, except when the person is the parent~~  
 10 ~~of the minor and was not convicted of any other offense in this~~  
 11 ~~subdivision;~~

12 ~~(7)-(6) Law enforcement agency includes a police~~  
 13 ~~department, a town marshal, a county sheriff, and the Nebraska~~  
 14 ~~State Patrol, and the office of the Attorney General;~~

15 ~~(8)-(7) Other specified offense means an offense,~~  
 16 ~~misdemeanor stalking pursuant to sections 28-311.02 to 28-311.05 or~~  
 17 ~~false imprisonment in the second degree pursuant to section 28-315~~  
 18 ~~or an attempt, conspiracy, or solicitation to commit an offense,~~  
 19 ~~under any of the following: stalking pursuant to sections 28-311.02~~  
 20 ~~to 28-311.05, false imprisonment in the first degree pursuant to~~  
 21 ~~section 28-314, false imprisonment in the second degree pursuant~~  
 22 ~~to section 28-315, knowing and intentional sexual abuse of a~~  
 23 ~~vulnerable adult pursuant to subdivision (1)(c) of section 28-386,~~  
 24 ~~or a violation of the Sex Offender Registration Act pursuant to~~  
 25 ~~section 29-4011; and~~

26 ~~(a) Murder in the first degree pursuant to section~~  
 27 ~~28-303;~~

1 ~~(b) Murder in the second degree pursuant to section~~  
 2 ~~28-304;~~

3 ~~(c) Manslaughter pursuant to section 28-305;~~

4 ~~(d) Stalking pursuant to sections 28-311.02 to 28-311.05;~~

5 ~~(e) Burglary pursuant to section 28-507 provided that the~~  
 6 ~~real estate is a dwelling place intended for human occupancy; or~~

7 ~~(f) Robbery pursuant to section 28-324; and~~

8 ~~(9)-(8) Released means any release, parole, furlough,~~  
 9 ~~work release, prerelease, or release in any other manner from a~~  
 10 ~~prison, a jail, or any other detention facility or institution.~~

11 Sec. 3. Section 29-4106, Reissue Revised Statutes of  
 12 Nebraska, is amended to read:

13 29-4106 (1) A person who is convicted of a felony sex  
 14 offense or other specified offense on or after July 14, 2006,  
 15 the effective date of this act, who does not have a DNA sample  
 16 available for use in the State DNA Sample Bank, shall have a DNA  
 17 sample collected:

18 (a) Upon intake to a prison, jail, or other detention  
 19 facility or institution to which such person is sentenced. If the  
 20 person is already confined at the time of sentencing, the person  
 21 shall have a DNA sample collected immediately after the sentencing.  
 22 Such DNA samples shall be collected at the place of incarceration  
 23 or confinement. Such person shall not be released unless and until  
 24 a DNA sample has been collected; or

25 (b) As a condition for any sentence which will not  
 26 involve an intake into a prison, jail, or other detention facility  
 27 or institution. Such DNA samples shall be collected at a detention  
 1 facility or institution as specified by the court. Such person  
 2 shall not be released unless and until a DNA sample has been

3 collected.

4 (2) A person who has been convicted of a felony ~~sex~~  
 5 offense or other specified offense before ~~July 14, 2006, the~~  
 6 effective date of this act, who does not have a DNA sample  
 7 available for use in the State DNA Sample Bank, and who is still  
 8 serving a term of confinement for such felony offense or other  
 9 specified offense on July 14, 2006, the effective date of this  
 10 act, shall not be released prior to the expiration of his or her  
 11 maximum term of confinement unless and until a DNA sample has been  
 12 collected.

13 Sec. 4. Original sections 29-4102, 29-4103, and 29-4106,  
 14 Reissue Revised Statutes of Nebraska, are repealed.

(Signed) Brad Ashford, Chairperson

### SELECT FILE

**LEGISLATIVE BILL 503.** ER8128, found on page 1416, was adopted.

Senator Langemeier withdrew his amendment, AM1367, found on page 1404.

Senator Langemeier offered the following amendment:  
 AM1400

(Amendments to Standing Committee amendments, AM1080)

- 1 1. On page 2, line 27, after "standards" insert "and
- 2 generally applicable building and safety codes".

The Langemeier amendment was adopted with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 358.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 155.** ER8129, found on page 1417, was adopted.

### SENATOR LANGEMEIER PRESIDING

Senator Rogert offered the following amendment:  
 FA42

Add to 87-302(a)(9) after "advertised" the following: or advertises the price in any manner calculated or tending to mislead or in any way deceive a person;

The Rogert amendment was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Senator Avery offered the following amendment:

AM1399

(Amendments to Standing Committee amendments, AM1271)

1 1. Insert the following new sections:

2 Sec. 18. Section 29-4102, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 29-4102 The Legislature finds that DNA data banks are  
5 an important tool in criminal investigations, in the exclusion  
6 of individuals who are the subject of criminal investigations or  
7 prosecutions, in deterring and detecting recidivist acts, and in  
8 locating and identifying missing persons and human remains. Several  
9 states have enacted laws requiring persons convicted of certain  
10 crimes, especially sex offenses, to provide genetic samples for DNA  
11 typing tests. Moreover, it is the policy of this state to assist  
12 federal, state, and local criminal justice and law enforcement  
13 agencies in the identification and detection of individuals in  
14 criminal investigations and in locating and identifying missing  
15 persons and human remains. It is in the best interest of this  
16 state to establish a State DNA Data Base for DNA records and  
17 a State DNA Sample Bank as a repository for DNA samples from  
18 individuals convicted of felony ~~sex~~ offenses and other specified  
19 offenses and from individuals for purposes of assisting in locating  
20 and identifying missing persons and human remains.

21 Sec. 19. Section 29-4103, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

1 29-4103 For purposes of the DNA Identification  
2 Information Act:

3 (1) Combined DNA Index System means the Federal Bureau  
4 of Investigation's national DNA identification index system that  
5 allows the storage and exchange of DNA records submitted by state  
6 and local forensic DNA laboratories;

7 (2) DNA means deoxyribonucleic acid which is located in  
8 the cells and provides an individual's personal genetic blueprint.  
9 DNA encodes genetic information that is the basis of human heredity  
10 and forensic identification;

11 (3) DNA record means the DNA identification information  
12 stored in the State DNA Data Base or the Combined DNA Index System  
13 which is derived from DNA typing test results;

14 (4) DNA sample means a blood, tissue, or bodily fluid  
15 sample provided by any person covered by the DNA Identification  
16 Information Act for analysis or storage, or both;

17 (5) DNA typing tests means the laboratory procedures  
18 which evaluate the characteristics of a DNA sample which are of  
19 value in establishing the identity of an individual;

20 ~~(6) Felony sex offense means a felony offense, or an  
21 attempt, conspiracy, or solicitation to commit a felony offense,  
22 under any of the following:~~

23 ~~(a) Kidnapping of a minor pursuant to section 28-313;~~



24 except when the person is the parent of the minor and was not  
 25 convicted of any other offense in this subdivision;

26 (b) Incest of a minor pursuant to section 28-703;

27 (c) Sexual assault in the first or second degree pursuant  
 1 to section 28-319 or 28-320;

2 (d) Sexual assault of a child in the second or third  
 3 degree pursuant to section 28-320.01;

4 (e) Sexual assault of a child in the first degree  
 5 pursuant to section 28-319.01;

6 (f) Sexual assault of a vulnerable adult pursuant to  
 7 subdivision (1)(c) of section 28-386; and

8 (g) False imprisonment of a minor in the first degree  
 9 pursuant to section 28-314, except when the person is the parent  
 10 of the minor and was not convicted of any other offense in this  
 11 subdivision;

12 (7)-(6) Law enforcement agency includes a police  
 13 department, a town marshal, a county sheriff, and the Nebraska  
 14 State Patrol, and the office of the Attorney General;

15 (8)-(7) Other specified offense means an offense,  
 16 misdemeanor stalking pursuant to sections 28-311.02 to 28-311.05 or  
 17 false imprisonment in the second degree pursuant to section 28-315  
 18 or an attempt, conspiracy, or solicitation to commit an offense,  
 19 under any of the following: stalking pursuant to sections 28-311.02  
 20 to 28-311.05, false imprisonment in the first degree pursuant to  
 21 section 28-314, false imprisonment in the second degree pursuant  
 22 to section 28-315, knowing and intentional sexual abuse of a  
 23 vulnerable adult pursuant to subdivision (1)(c) of section 28-386,  
 24 or a violation of the Sex Offender Registration Act pursuant to  
 25 section 29-4011; and

26 (a) Murder in the first degree pursuant to section  
 27 28-303;

1 (b) Murder in the second degree pursuant to section  
 2 28-304;

3 (c) Manslaughter pursuant to section 28-305;

4 (d) Stalking pursuant to sections 28-311.02 to 28-311.05;

5 (e) Burglary pursuant to section 28-507 provided that the  
 6 real estate is a dwelling place intended for human occupancy; or

7 (f) Robbery pursuant to section 28-324; and

8 (9)-(8) Released means any release, parole, furlough,  
 9 work release, prerelease, or release in any other manner from a  
 10 prison, a jail, or any other detention facility or institution.

11 Sec. 20. Section 29-4106, Reissue Revised Statutes of  
 12 Nebraska, is amended to read:

13 29-4106 (1) A person who is convicted of a felony sex  
 14 offense or other specified offense on or after July 14, 2006,  
 15 the effective date of this act, who does not have a DNA sample  
 16 available for use in the State DNA Sample Bank, shall have a DNA  
 17 sample collected:

18 (a) Upon intake to a prison, jail, or other detention

19 facility or institution to which such person is sentenced. If the  
 20 person is already confined at the time of sentencing, the person  
 21 shall have a DNA sample collected immediately after the sentencing.  
 22 Such DNA samples shall be collected at the place of incarceration  
 23 or confinement. Such person shall not be released unless and until  
 24 a DNA sample has been collected; or

25 (b) As a condition for any sentence which will not  
 26 involve an intake into a prison, jail, or other detention facility  
 27 or institution. Such DNA samples shall be collected at a detention  
 1 facility or institution as specified by the court. Such person  
 2 shall not be released unless and until a DNA sample has been  
 3 collected.

4 (2) A person who has been convicted of a felony ~~sex~~  
 5 offense or other specified offense before July 14, 2006, the  
 6 effective date of this act, who does not have a DNA sample  
 7 available for use in the State DNA Sample Bank, and who is still  
 8 serving a term of confinement for such felony offense or other  
 9 specified offense on July 14, 2006, the effective date of this  
 10 act, shall not be released prior to the expiration of his or her  
 11 maximum term of confinement unless and until a DNA sample has been  
 12 collected.

13 2. On page 26, line 14, strike "and" and after "29-110,"  
 14 insert "29-4102, 29-4103, and 29-4106,".

15 3. Renumber the remaining sections accordingly.

The Avery amendment was adopted with 29 ayes, 0 nays, 18 present and not  
 voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 630.** ER8106, found on page 1274, was adopted.

Senator Lathrop offered the following amendment:

AM1398

1 1. Insert the following section:

2 Sec. 4. Section 48-136, Revised Statutes Cumulative  
 3 Supplement, 2008, is amended to read:

4 48-136 The interested parties shall have the right to  
 5 settle all matters of compensation between themselves with the  
 6 consent of the workers' compensation insurer, if any, and in  
 7 accordance with the Nebraska Workers' Compensation Act. ~~A copy of~~  
 8 ~~such settlement, duly verified by all parties, shall be filed with~~  
 9 ~~the Nebraska Workers' Compensation Court and no~~ No such settlement  
 10 shall be binding unless the settlement is in accordance with such  
 11 act.

12 2. On page 19, line 2, after the period insert "Nothing  
 13 in this section shall be construed to increase the compensation  
 14 court's duties or authority with respect to the approval of  
 15 lump-sum settlements under the act.".

- 16 3. On page 25, lines 23 and 25, strike "or agreement"  
17 and show as stricken; and strike beginning with "and" in line 26  
18 through "48-139" in line 27.  
19 4. On page 26, line 1, strike "or agreement".  
20 5. Renumber the remaining sections and correct the  
21 repealer accordingly.

### SENATOR CARLSON PRESIDING

The Lathrop amendment was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

### PRESENTED TO THE GOVERNOR

Presented to the Governor on May 13, 2009, at 10:18 a.m. were the following: LBs 545e, 545Ae, 198, 198A, and 430.

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

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 133.** Introduced by Nebraska Retirement Systems Committee: Pankonin, 2, Chairperson; Heidemann, 1; Karpisek, 32; Loudon, 49; Mello, 5; Nordquist, 7.

**PURPOSE:** To study retirement issues related to military leave and persons returning to employment following military leave.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 134.** Introduced by Nebraska Retirement Systems Committee: Pankonin, 2, Chairperson; Heidemann, 1; Karpisek, 32; Loudon, 49; Mello, 5; Nordquist, 7.

**PURPOSE:** The purpose of this interim study is to examine the public employees retirement systems administered by the Public Employees Retirement Board, including the State Employees Retirement System of the

State of Nebraska, the Retirement System for Nebraska Counties, the School Retirement System of the State of Nebraska, the Nebraska State Patrol Retirement System, and the Nebraska Judges Retirement System. The study may also examine the Class V School Employees' Retirement System administered under the Class V School Employees Retirement Act. The study will examine issues as they relate to the funding needs, benefits, contributions, and administration of each retirement system.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to 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.

### SELECT FILE

**LEGISLATIVE BILL 626.** ER8124, found on page 1387, was adopted.

Senator Lautenbaugh reoffered his amendment, AM1322, found on page 1324 and considered on page 1336.

Pending.

### RESOLUTION

**LEGISLATIVE RESOLUTION 135.** Introduced by Nordquist, 7.

**PURPOSE:** The purpose of this resolution is to study the pension benefits offered to professional firefighters in cities of the first class. The firefighters retirement system was established with the passage of LB 531 in 1983, but the structure of the system has not been changed since its enactment. The study shall include, but not be limited to:

(1) Examination of the current defined contribution plan, including the lack of social security benefits;

(2) Examination of the adequacy and comparability of current established benefits;

(3) Consideration of creating an option for cities to provide enhanced benefits, including a defined benefit option; and

(4) Recommendations for changes to the firefighters retirement system.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to 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.

### **ANNOUNCEMENTS**

Senator Avery announced the Government, Military and Veterans Affairs Committee will hold an executive session Wednesday, May 13, 2009, at 1:15 p.m., under the south balcony.

Senator Cornett announced the Revenue Committee will hold an executive session Wednesday, May 13, 2009, at 2:00 p.m., in Room 2022.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Karpisek asked unanimous consent to add his name as cointroducer to LB155 and LB476. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 48 fourth-grade students from Plattsmouth; 60 fourth-grade students from Rumsey Station Elementary, Papillion; 10 fourth- and fifth-grade students from St. Paul Lutheran School, West Point; 36 fifth-grade students, teachers, and sponsors from Christ the King, Omaha; 45 fourth-grade students from Hickory Hill, Papillion; and Kent, Helen, Kelsey, Casen, Kara, and Calen Bernbeck from Omaha and Craig Bernbeck and Brenda Fernau from Stanton.

### **RECESS**

At 11:54 a.m., on a motion by Senator Fischer, 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 White who was excused.

**SELECT FILE**

**LEGISLATIVE BILL 626.** The Lautenbaugh amendment, AM1322, found on page 1324 and considered on page 1336 and in this day's Journal, was renewed.

**SENATOR CARLSON PRESIDING**

**SENATOR FISCHER PRESIDING**

Pending.

**MESSAGE FROM THE GOVERNOR**

May 13, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 54, 56, 92, 98e, 98Ae, 158, 162, 286e, 322, 436, 495, 497e, 497Ae, 549, 551, and 653e were received in my office on May 7, 2009.

Engrossed Legislative Bill 188e was received in my office on May 8, 2009.

These bills were signed and delivered to the Secretary of State on May 13, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 136.** Introduced by Avery, 28; Campbell, 25; Coash, 27; Haar, 21; Nantkes, 46.

**PURPOSE:** The purpose of this interim study is to examine the public psychiatric rehabilitation in secure settings that is available to chronically and severely impaired mentally ill persons residing in Nebraska. The study shall include, but not be limited to:

(1) An examination of existing inpatient and community-based Intensive Psychiatric Recovery and Rehabilitation (IPRR) services in the wake of the closing of the Community Transition Program / Psychiatric Rehabilitation Program (CTP/PRP) in building 14 at the Lincoln Regional Center (LRC);

(2) The impact of closing the CTP/PRP on the quality of inpatient services for individuals previously served by that program, and the impact the closing will have on community-based programs;

(3) The therapeutic goals for this highly-defined patient population at LRC and at existing community-based programs;

(4) A determination of the nature and capacity of community-based IPRR services, whether all IPRR services are research-based, whether the services support the recovery-based philosophy versus stabilization, and whether those services are offered in compliance with Best Practices, as developed by the Academic Support Workgroup of the Behavioral Health Reform Project, published by the Division of Behavioral Health of the Department of Health and Human Services; and

(5) An evaluation of current service definitions, standards, and regulations of the Department of Health and Human Services as they relate to inpatient psychiatric rehabilitation.

The study will seek to involve various interested parties and organizations, including, but not limited to: (1) The Division of Behavioral Health of the Department of Health and Human Services; (2) mental health providers to the regions; (3) the University of Nebraska-Lincoln Department of Psychology; (4) the University of Nebraska Medical Center Department of Psychiatry; (5) consumer and family groups; and (6) 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 Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 137.** Introduced by Heidemann, 1.

**PURPOSE:** To determine whether a reserve is necessary for the defined benefit retirement plans prior to the Legislature's approval of any benefit improvements.

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

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to 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.

**NOTICE OF COMMITTEE HEARING**

Natural Resources

Room 1524

Wednesday, May 20, 2009 1:00 p.m.

Galen Frenzen - Nebraska Ethanol Board

Paul Kenney - Nebraska Ethanol Board

(Signed) Chris Langemeier, Chairperson

**SELECT FILE**

**LEGISLATIVE BILL 626.** The Lautenbaugh amendment, AM1322, found on page 1324 and considered on page 1336 and in this day's Journal, was renewed.

Senator Nordquist offered the following amendment to the Lautenbaugh amendment:

AM1406

(Amendments to AM1322)

- 1 1. Strike sections 1, 2, 4 to 6, 11 to 15, 18, 19, 21,
- 2 and 23 to 36.
- 3 2. On page 9, lines 22 through 27; page 10, lines 1
- 4 through 5; page 19, line 19; page 24, line 27; and page 28, line
- 5 11, reinstate the stricken matter.
- 6 3. On page 10, line 5; page 19, lines 20 through 24; page
- 7 21, lines 5 through 14; page 24, line 27; page 26, line 5; and page
- 8 28, lines 8 through 23, strike the new matter.
- 9 4. Renumber the remaining sections accordingly.

Senator Nordquist withdrew his amendment.

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

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

Senator Janssen requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 36:



Adams	Cornett	Hansen	McCoy	Stuthman
Ashford	Dubas	Harms	McGill	Sullivan
Avery	Fischer	Heidemann	Mello	Wallman
Campbell	Flood	Janssen	Nordquist	Wightman
Carlson	Gay	Karpisek	Pahls	
Christensen	Giese	Langemeier	Pankonin	
Coash	Gloor	Lathrop	Pirsch	
Cook	Hadley	Louden	Price	

Voting in the negative, 8:

Friend	Haar	Lautenbaugh	Rogert
Fulton	Howard	Nantkes	Schilz

Present and not voting, 4:

Council	Dierks	Nelson	Utter
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Excused and not voting, 1:

White

The motion to cease debate prevailed with 36 ayes, 8 nays, 4 present and not voting, and 1 excused and not voting.

Senator Nordquist requested a roll call vote on the Lautenbaugh amendment.

Voting in the affirmative, 13:

Coash	Fulton	Lautenbaugh	Pahls	Schilz
Flood	Heidemann	McCoy	Price	
Friend	Janssen	Nelson	Rogert	

Voting in the negative, 25:

Adams	Cook	Giese	Lathrop	Pankonin
Ashford	Cornett	Haar	Louden	Stuthman
Avery	Council	Hansen	McGill	Sullivan
Campbell	Dubas	Harms	Mello	Wallman
Carlson	Gay	Howard	Nordquist	Wightman

Present and not voting, 10:

Christensen	Fischer	Hadley	Langemeier	Pirsch
Dierks	Gloor	Karpisek	Nantkes	Utter

Excused and not voting, 1:

White

The Lautenbaugh amendment lost with 13 ayes, 25 nays, 10 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

### COMMITTEE REPORTS

#### Enrollment and Review

**LEGISLATIVE BILL 263.** Placed on Final Reading.  
ST9052

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

1. In the E & R amendments, ER8123, on page 1, line 13; and page 2, line 9, "are" has been struck and "is" inserted.

**LEGISLATIVE BILL 392.** Placed on Final Reading.

**LEGISLATIVE BILL 440.** Placed on Final Reading Second.

(Signed) Jeremy Nordquist, Chairperson

### NOTICE OF COMMITTEE HEARING

Agriculture

Room 2102

Thursday, May 28, 2009 8:00 a.m.

Al Berndt - Climate Assessment Response Committee  
William Marshall III - Nebraska State Fair Board

(Signed) Tom Carlson, Chairperson

### RESOLUTION

**LEGISLATIVE RESOLUTION 138.** Introduced by Ashford, 20.

PURPOSE: To investigate and review matters and issues arising during the interim which are within the jurisdiction of the Judiciary Committee of the Legislature.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

### SELECT FILE

**LEGISLATIVE BILL 626.** Senator Stuthman offered the following amendment:

AM1396

(Amendments to Standing Committee amendments, AM972)

- 1 1. Insert the following new section:  
 2 Section 1. Section 23-1401, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 23-1401 In any county in this state having a population  
 5 in excess of three hundred thousand inhabitants, ~~there is hereby~~  
 6 ~~created the office of the county board of such county shall appoint~~  
 7 a county comptroller for such county, and the county clerk of such  
 8 county shall be the ex officio county comptroller for the county.  
 9 The position of county comptroller shall not be held simultaneously  
 10 by any other county official. The county comptroller shall act  
 11 as the ~~general accountant, chief auditing officer, and internal~~  
 12 ~~auditor, and fiscal agent~~ of the county and shall exercise a  
 13 general supervision financial auditing authority over all officers  
 14 of the county charged in any manner with the receipt, collection,  
 15 or disbursement of the county revenue. The county comptroller shall  
 16 be a competent bookkeeper and accountant, and it shall be his or  
 17 her duty to keep a complete set of books in which, among other  
 18 things, the amount of the appropriation that has been made on the  
 19 fund that has been expended on account of such appropriation fund  
 20 shall be stated. ~~It shall be the duty of the~~ The county comptroller  
 21 ~~to shall~~ audit all claims filed against the county and prepare  
 22 a report thereon to the county board of such county. The county  
 1 ~~comptroller shall also keep accurate and separate accounts between~~  
 2 ~~the county and officers of the county, and between the county and~~  
 3 ~~all contractors or other persons doing work or furnishing material~~  
 4 ~~for the county.~~ The county comptroller shall also examine and check  
 5 the financial reports of all officers of the county. ~~The county~~  
 6 ~~comptroller shall prepare and file the required annual inventory~~  
 7 ~~statement of county personal property in his or her custody or~~  
 8 ~~possession, as provided in sections 23-346 to 23-350.~~  
 9 2. Renumber the remaining sections and correct internal  
 10 references and the repealer accordingly.

Senator Stuthman withdrew his amendment.

Senator Lautenbaugh offered the following amendment:

FA38

Amend Committee Amendment: Strike the phrase "if any" on page 4, line 4.

Senator Lautenbaugh withdrew his amendment.

Senator Mello offered the following amendment:

AM1364

(Amendments to Standing Committee amendments, AM972)

- 1 1. Insert the following new sections:
- 2 Sec. 4. Section 49-1455, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 49-1455 (1) The campaign statement of a committee, ~~other~~
- 5 ~~than a political party committee~~, shall contain the following
- 6 information:
- 7 (a) The filing committee's name, address, and telephone
- 8 number and the full name, residential and business addresses, and
- 9 telephone numbers of its committee treasurer;
- 10 (b) Under the heading RECEIPTS, the total amount of
- 11 contributions received during the period covered by the campaign
- 12 statement; under the heading EXPENDITURES, the total amount of
- 13 expenditures made during the period covered by the campaign
- 14 statement; and the cumulative amount of those totals for the
- 15 election period. If a loan was repaid during the period covered
- 16 by the campaign statement, the amount of the repayment shall
- 17 be subtracted from the total amount of contributions received.
- 18 Forgiveness of a loan shall not be included in the totals. Payment
- 19 of a loan by a third party shall be recorded and reported as a
- 20 contribution by the third party but shall not be included in the
- 21 totals. In-kind contributions or expenditures shall be listed at
- 22 fair market value and shall be reported as both contributions and
- 1 expenditures;
- 2 (c) The balance of cash and cash equivalents on hand at
- 3 the beginning and the end of the period covered by the campaign
- 4 statement;
- 5 (d) The full name of each individual from whom
- 6 contributions totaling more than two hundred fifty dollars are
- 7 received during the period covered by the report, together with
- 8 the individual's street address, the amount contributed, the date
- 9 on which each contribution was received, and the cumulative amount
- 10 contributed by that individual for the election period;
- 11 (e) The full name of each person, except those
- 12 individuals reported under subdivision (1)(d) of this section,
- 13 which contributed a total of more than two hundred fifty dollars
- 14 during the period covered by the report together with the person's
- 15 street address, the amount contributed, the date on which each
- 16 contribution was received, and the cumulative amount contributed by
- 17 the person for the election period;
- 18 (f) The name of each committee which is listed as

19 a contributor shall include the full name of the committee's  
20 treasurer;

21 (g) Except as otherwise provided in subsection (3) of  
22 this section: The full name and street address of each person  
23 to whom expenditures totaling more than two hundred fifty dollars  
24 were made, together with the date and amount of each separate  
25 expenditure to each such person during the period covered by the  
26 campaign statement; the purpose of the expenditure; and the full  
27 name and street address of the person providing the consideration  
1 for which any expenditure was made if different from the payee;

2 (h) The amount and the date of expenditures for or  
3 against a candidate or ballot question during the period covered  
4 by the campaign statement and the cumulative amount of expenditures  
5 for or against that candidate or ballot question for the election  
6 period. An expenditure made in support of more than one candidate  
7 or ballot question, or both, shall be apportioned reasonably among  
8 the candidates or ballot questions, or both; and

9 (i) The total amount of funds disbursed by a separate  
10 segregated political fund or political party committee, by state,  
11 for the purpose of supporting or opposing candidates and committees  
12 in elections in states other than Nebraska and candidates for  
13 federal office, including independent expenditures made in such  
14 elections.

15 (2) For purposes of this section, election period means  
16 (a) the period beginning January 1 of the calendar year prior  
17 to the year of the election in which the candidate is seeking  
18 office through the end of the calendar year of such election for  
19 candidate committees of candidates seeking covered elective offices  
20 as defined in subdivision (1)(a) of section 32-1603, (b) the period  
21 beginning July 1 of the calendar year prior to the year of the  
22 election in which the candidate is seeking office through the end  
23 of the calendar year of such election for candidate committees  
24 of candidates seeking covered elective offices so defined in  
25 subdivision (1)(b) of section 32-1603, and (c) the calendar year of  
26 the election for all other committees.

27 (3) A campaign statement shall include the total amount  
1 paid to individual petition circulators during the reporting  
2 period, if any, but shall not include the name, address, or  
3 telephone number of any individual petition circulator if the only  
4 payment made to such individual was for services as a petition  
5 circulator.

6 Sec. 5. Section 49-1472, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 49-1472 (1) A person shall not accept or expend an  
9 anonymous contribution. An anonymous contribution received by a  
10 person shall not knowingly be deposited but shall be given to  
11 a tax-exempt charitable organization. The charitable organization  
12 receiving the contribution shall provide the person with a receipt.  
13 The person shall give a copy of the receipt to the commission.

14 (2) A contribution received as the result of a  
15 fundraising event, or from the sale of political merchandise, or  
16 from membership fees, dues, or subscriptions for political purposes  
17 to an independent committee or political party committee that  
18 is fifty dollars or less shall not be considered an anonymous  
19 contribution.

20 (3) A person making a contribution pursuant to subsection  
21 (2) of this section which is fifty dollars or more shall furnish  
22 the recipient with the donor's name, address, and the total amount  
23 contributed.

24 (4) Any person violating the provisions of this section  
25 shall be guilty of a Class III misdemeanor.

26 Sec. 6. Section 49-1478.01, Revised Statutes Cumulative  
27 Supplement, 2008, is amended to read:

1 49-1478.01 (1) An independent committee, including a  
2 separate segregated political fund, and a political party committee  
3 which makes a late independent expenditure shall report the  
4 expenditure to the commission by filing within two days after  
5 the date of the expenditure the committee's full name and street  
6 address, the amount of the expenditure, and the date of the  
7 expenditure. The report shall include (a) the full name and  
8 street address of the recipient of the expenditure, (b) the  
9 name and office sought of the candidate whose nomination or  
10 election is supported or opposed by the expenditure, and (c)  
11 the identification of the ballot question, the qualification,  
12 passage, or defeat of which is supported or opposed. Filing  
13 of a report of a late independent expenditure may be by any  
14 written means of communication, including electronic means approved  
15 by the commission, and need not contain an original signature.  
16 A late independent expenditure shall be reported on subsequent  
17 campaign statements without regard to reports filed pursuant to  
18 this section.

19 (2) A committee which fails to file a report of a late  
20 independent expenditure with the commission as required by this  
21 section shall pay to the commission a late filing fee of one  
22 hundred dollars for each of the first ten days the report remains  
23 not filed in violation of this section. After the tenth day, such  
24 committee shall pay, for each day the report remains not filed,  
25 an additional late filing fee of one percent of the amount of the  
26 late independent expenditure which was required to be reported,  
27 not to exceed ten percent of the amount of the late independent  
1 expenditure which was required to be reported.

2 (3) For purposes of this section, late independent  
3 expenditure means an independent expenditure as defined in section  
4 49-1428 of one thousand dollars or more made after the closing  
5 date for campaign statements as provided in subdivision (1)(b) of  
6 section 49-1459.

7 Sec. 11. The following section is outright repealed:

8 Section 49-1457, Reissue Revised Statutes of Nebraska.

9 2. Renumber the remaining sections and correct the  
10 repealer accordingly.

**SENATOR FRIEND PRESIDING**

**SENATOR PIRSCH PRESIDING**

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

Senator Mello requested a roll call vote on his amendment.

Voting in the affirmative, 15:

Adams	Cook	Giese	Lathrop	Nordquist
Ashford	Council	Haar	McGill	Rogert
Avery	Dubas	Howard	Mello	Sullivan

Voting in the negative, 7:

Fischer	Hansen	Louden	Stuthman
Friend	Janssen	Nelson	

Present and not voting, 22:

Campbell	Dierks	Hadley	Nantkes	Wallman
Carlson	Flood	Harms	Pahls	Wightman
Christensen	Fulton	Heidemann	Pankonin	
Coash	Gay	Karpisek	Pirsch	
Cornett	Gloor	McCoy	Utter	

Excused and not voting, 5:

Langemeier	Lautenbaugh	Price	Schilz	White
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The Mello amendment lost with 15 ayes, 7 nays, 22 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Advanced to Enrollment and Review for Engrossment.

**COMMITTEE REPORT**

Revenue

**LEGISLATIVE BILL 681.** Indefinitely postponed.

(Signed) Abbie Cornett, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 139.** Introduced by Nordquist, 7; Hadley, 37.

**PURPOSE:** The purpose of this resolution is to study the tax climate for Nebraska's retired residents. Economic downturns can have a significant impact on retirees who rely on investment returns to supplement their pension incomes. Nebraska currently taxes benefits from the federal Social Security Act to the same extent as the federal government, one of only five states that does so. The current economic climate demands further investigation into how Nebraska's tax structure affects its retired residents. The study shall:

(1) Examine Nebraska's tax climate for retirees and compare it to that of other states;

(2) Consider the benefits of providing a more favorable tax climate for retirees; and

(3) Make recommendations on how to improve Nebraska's tax climate to make it more competitive with other regional states

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 140.** Introduced by Nordquist, 7; Mello, 5.

**PURPOSE:** The purpose of this interim study is to examine the quality of jobs created under the Nebraska Advantage and Nebraska Super Advantage programs to assure that economic development tax incentives contribute to quality job opportunities in our state. Nebraska's economic development programs received a major overhaul in the recent implementation of the Nebraska Advantage and Nebraska Super Advantage programs. It is important to consider the ways in which these revisions address job quality and possibilities for improvement and to examine the strength of associated reporting requirements in describing jobs created under these programs.

The study shall include, but not be limited to:

(1) Examination of the job-quality standards related to economic development programs in peer states;

(2) Examination of the job-quality reporting standards related to economic development programs in peer states;

(3) Examination of the potential to provide more detailed job-quality data regarding outcomes in Nebraska Advantage and Nebraska Super Advantage



programs under Nebraska's current rules and regulations, including information by wage levels and provision of training and benefits;

(4) Summary and analysis of models of metrics used to analyze job quality;

(5) Examination of the current job-quality standards incorporated in economic development programs in the Nebraska Advantage and Nebraska Super Advantage programs; and

(6) Opportunities to increase job-quality requirements in Nebraska Advantage and Nebraska Super Advantage programs.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 141.** Introduced by Stuthman, 22.

PURPOSE: The purpose of this interim study is to examine the competitive use of properties owned by the state and its governmental subdivisions and whether the use of such properties should be considered incidental. This issue is related to the subject matter of LB 474 (2009). LB 474 would have required the state and its governmental subdivisions to pay property tax on property that was not being used for a public purpose.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 142.** Introduced by Fischer, 43.

PURPOSE: The purpose of this study is to examine the issues and matters within the jurisdiction of the Transportation and Telecommunications Committee of the Legislature.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 143.** Introduced by Fischer, 43.

**PURPOSE:** The purpose of this study is to conduct a thorough review of the Nebraska statutes and address the lack of governance regarding off-road vehicles. Off-road vehicles are becoming increasingly prevalent in our society. These vehicles include Japanese minitrucks, side-by-side utility vehicles, and neighborhood electric vehicles, among others.

Although special rules are provided for all-terrain vehicles in the Nebraska statutes (sections 60-6,355 to 60-6,362), mention of other off-road vehicles is rarely found in the Nebraska motor vehicle statutes or the Nebraska Rules of the Road. Additionally, as the Nebraska statutes do not specifically refer to these vehicles, there has been some argument regarding the ability of local governments to regulate them because they are not eligible for registration under state law.

The committee shall conduct an examination to determine the capacity of these off-road vehicles, including the level of safety as they interact with the normal flow of traffic. Additionally, the study shall analyze the policy implications of allowing certain off-road vehicles on the highways of the state and local political subdivisions, and whether they should be subject to the titling and registration provisions in the motor vehicle statutes, as well as the Nebraska Rules of the Road.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 144.** Introduced by Carlson, 38.

**PURPOSE:** The purpose of this resolution is to study the Commission of Industrial Relations and the statutory requirements for comparable wages and conditions of employment for municipal employees in section 48-818. The study should include an examination of issues such as whether the

statutes should be clarified regarding comparability for municipal employees and other issues relating to array, job match, and methodology.

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

1. That the Business and Labor Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 145.** Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to study whether Nebraska should update its version of Uniform Commercial Code article 9 (Secured Transactions). The study should include consideration of changes recommended to the states by the National Conference of Commissioners on Uniform State Laws and, in particular, any changes in Uniform Commercial Code section 9-506 regarding errors and omissions in debtors' names in financing statements. The study should accordingly include an examination of issues raised during consideration of amendments adopted in Uniform Commercial Code section 9-506 in 2008 (LB 716, LB 851, and LB 308A) and 2009 (LB 87). In order to carry out the purpose of this resolution, the study committee should seek and consider the input of interested persons as the committee deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 146.** Introduced by Nantkes, 46.

PURPOSE: The purpose of this resolution is to study whether Nebraska should enact the Uniform Limited Partnership Act (2001) as approved and recommended to the states by the National Conference of Commissioners on Uniform State Laws. This act would replace the current Nebraska Uniform Limited Partnership Act, Neb. Rev. Stat. sections 67-233 to 67-296, which is based on the Revised Uniform Limited Partnership Act (1976) and (1985). In order to carry out the purpose of this resolution, the committee

should seek and consider the input of the Secretary of State, the practicing bar, and other interested persons as it deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 147.** Introduced by Nantkes, 46.

**PURPOSE:** The purpose of this resolution is to study whether Nebraska should enact the Revised Uniform Limited Liability Company Act (2006) as approved and recommended to the states by the National Conference of Commissioners on Uniform State Laws. This act would replace Nebraska's current Limited Liability Company Act, Neb. Rev. Stat. sections 21-2601 to 21-2653. In order to carry out the purpose of this resolution, the committee should seek and consider the input of the Secretary of State, the practicing bar, and other interested persons as it deems necessary and beneficial.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to 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.

### **MESSAGE FROM THE GOVERNOR**

May 13, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individual is being reappointed to the Nebraska Liquor Control Commission:

Janice Wiebusch, 2712 Central Avenue, Kearney, NE 68847

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background material are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### **VISITORS**

Visitors to the Chamber were Kay Lynn Kalkowski, Ron Harris, and Nate Lore from Lincoln; 87 fourth-grade students from Ashland Park Robbins Elementary, Omaha; 23 fourth-grade students, teachers, and sponsors from High Plains, Polk; 33 eighth-grade students and teachers from Our Lady of Lourdes, Omaha; and 17 eighth-grade students from St. Michael School, South Sioux City.

The Doctor of the Day was Dr. Dale Michels from Lincoln.

### **ADJOURNMENT**

At 4:52 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, May 14, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTY-NINTH DAY - MAY 14, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****SEVENTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, May 14, 2009

**PRAYER**

The prayer was offered by Pastor Doyle Karst, St. John's Lutheran Church, Sterling.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Coash, Cornett, and Pankonin who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-eighth day was approved.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 148.** Introduced by Wightman, 36.

PURPOSE: (1) The Legislature finds that:

(a) Americans spend more on health care than residents of any other country, and the costs of health care and health insurance are rising rapidly, with health care costing \$2.2 trillion in 2007, or \$7,412 per capita;

(b) It is estimated that seventy percent of health care costs are driven by behaviors;

(c) Private employers in the State of Nebraska have adopted wellness programs to help their employees address unhealthy behaviors and reduce their health insurance costs;

(d) The State of Nebraska must contain the costs of its Nebraska State Insurance Program;

(e) The State of Nebraska has started a wellness program for its employees;

(f) Other states have adopted wellness programs for their state employees that have been in operation for multiple years and could provide additional cost-effective options for consideration; and

(g) The Division of Public Health of the Department of Health and Human Services has as part of its mission the promotion of the public health and has a health promotion unit that encourages healthy behaviors.

(2) An interim study should be conducted to:

(a) Evaluate the State of Nebraska's wellness program and provide policy options, if any, for improvement of the program;

(b) Collect information concerning the effectiveness of wellness programs operated by other states and provide policy options for improvement of the State of Nebraska's wellness program, including incentives for participation;

(c) Collect information concerning the effectiveness of wellness programs operated by private employers to provide policy options for the improvement of the State of Nebraska's wellness program; and

(d) Outline the strategies and options that exist for the State of Nebraska to encourage wellness initiatives and activities to improve the public health of all the citizens of the state.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 149.** Introduced by Wightman, 36.

PURPOSE: (1) The Legislature finds that:

(a) In 2007-08, the State of Nebraska provided 39.99% of the total funding for K-12 education;

(b) Under the 2007-08 state aid formula, the state would have distributed over \$839 million in state aid to school districts, which would have been a \$295 million increase over the previous year;

(c) State aid for K-12 education has increased substantially over the past few years;

(d) Such increases are not sustainable when compared to the average growth in the state's revenue;

(e) The American Recovery and Reinvestment Act of 2009 provided increased federal funds of approximately \$150 million in one-time funding for K-12 education. This funding must be replaced to sustain aid for K-12 education;

(f) The Legislature needs accurate and complete information to evaluate the performance and cost of its K-12 educational system; and

(g) The Legislature should make information available to taxpayers so that they can understand and evaluate the cost-effectiveness of their local school district.

(2) An interim study should be conducted for the following purposes:



(a) To examine how school finance data is reported to the public and how it could be made more user-friendly, comparable, and understandable; and

(b) To examine what type of information would assist the Legislature and the public in evaluating the cost-effectiveness of state aid for K-12 education.

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

1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 150.** Introduced by Campbell, 25.

PURPOSE: To study issues related to the Department of Health and Human Services' plan to contract for delivery of medicaid services using an at-risk capitated managed care model. The study shall include, but not be limited to: A review of the department plan, timeline, goals, and objectives for implementation of an at-risk systems contract; determination of quality performance incentives and penalties, as well as other contract objectives, which should be included in any request for proposal for such services; and how such a system will change current service delivery with attention to improving cost-effectiveness and promoting safety, progress, and recovery with limited resources.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of May 13, 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

Kelley and Jerram, P.C.  
Brashear, LLP  
Plucker, Julia  
Southport West Partners, LLC  
Radcliffe, Walter H. of Radcliffe & Associates  
Brashear, LLP

**REPORT**

The following report was received by the Legislature:

**Roads, Nebraska Department of**  
State Highway Commission Quarterly Report

**AMENDMENT - Print in Journal**

Senator Adams filed the following amendment to LB392:  
AM1409

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 Sec. 21. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.
- 4 2. On page 2, line 5, strike the second "and"; and in
- 5 line 6 after "sections" insert "; and to declare an emergency".

**GENERAL FILE**

**LEGISLATIVE BILL 675.** Title read. Considered.

Committee AM994, found on page 1067, was considered.

Senator Nantkes offered the following amendment to the committee amendment:

AM1060

(Amendments to AM994)

- 1 1. On page 5, line 13; and page 8, line 15, after
- 2 "clinics" insert ", licensed pursuant to the Uniform Credentialing
- 3 Act,".

Pending.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 151.** Introduced by Avery, 28.

**PURPOSE:** The purpose of this interim study is to consider and recommend funding strategies for the improvement of the Centennial Mall area of the Nebraska State Capitol Environs District. In 2008, a bill was introduced which created a task force to study the issue of Centennial Mall. The purpose of the bill was to review and consider possible design and repair options, as well as funding strategies.

Centennial Mall, which is part of the Nebraska State Capitol Environs District, serves as the scenic doorway to Nebraska's iconic State Capitol. The fountains in Centennial Mall, in particular, are a source of pride for many Nebraskans and are featured in a variety of the state's promotional materials.

Although challenging state and local budgets have contributed to the decline of Centennial Mall in the past several years, the city of Lincoln has renewed its commitment to the area. The city recently announced its plan to improve Centennial Mall by leveraging local tax-increment financing (TIF) revenue with private investment dollars. The Mayor of Lincoln will also appoint a task force to work with the appropriate entities in developing design options and associated estimates of construction costs for Centennial Mall.

The city of Lincoln and its task force, the Nebraska State Capitol Environs Commission, and other interested parties will be invited to participate in this study to consider additional funding strategies.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 152.** Introduced by Fischer, 43.

**PURPOSE:** To conduct a comprehensive examination of Nebraska's highway funding structure and to recommend possible alternatives to the traditional methods that have historically been employed in the state.

Highway funding has reached a crisis level in Nebraska. While revenue continues to decrease through less fuel consumption and less motor vehicle sales tax revenue, highway construction costs continue to increase through inflationary factors, global demand for resources, and greater needs due to

increased traffic volume. The Department of Roads has gone from a \$390 million construction program in 2006 to a \$317 million construction program for the current fiscal year.

With an estimated \$286 million annual cost to preserve the state's current highway system, Nebraska is rapidly approaching the point where revenue will be insufficient to sustain the number one priority of system preservation. The \$286 million total does not include any expansion of the current system through capital construction.

This study shall examine several factors surrounding the state of highways in Nebraska, including, but not limited to:

(1) An analysis of the current funding for highways and streets in Nebraska and the emphasis on user fees;

(2) An analysis of the overall effectiveness of the fuel tax in today's economic environment;

(3) An analysis of how the Department of Roads has responded to lower revenue and higher costs over the past several years, including a reassessment of the priority funding system;

(4) An analysis of how local governments have fared under the state's highway revenue structure; and

(5) A review of other states' alternative methods of funding highways, including, but not limited to, bonding, implementing a vehicle miles traveled (VMT) system, tolling, using public-private partnerships, and redistributing current state revenue.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 153.** Introduced by Janssen, 15.

**PURPOSE:** The purpose of this interim study is to examine whether Nebraska should repeal statutory provisions that allow persons not lawfully present in the United States to pay resident tuition at Nebraska postsecondary educational institutions.

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

1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 154.** Introduced by Janssen, 15.

**PURPOSE:** The purpose of this interim study is to examine the need for age-appropriate and size-appropriate booster seats on school district vehicles.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to 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.

**NOTICE OF COMMITTEE HEARING**  
Transportation and Telecommunications

Room 1113

Wednesday, May 27, 2009 1:00 p.m.

Paul Gerber - Motor Vehicle Industry Licensing Board  
Roy Neneman - Motor Vehicle Industry Licensing Board

(Signed) Deb Fischer, Chairperson

**EASE**

The Legislature was at ease from 9:58 a.m. until 10:20 a.m.

**GENERAL FILE**

**LEGISLATIVE BILL 675.** The Nantkes amendment, AM1060, found in this day's Journal, to the committee amendment, was renewed.

Pending.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 358.** Placed on Final Reading.

**LEGISLATIVE BILL 503.** Placed on Final Reading.

**LEGISLATIVE BILL 671.** Placed on Final Reading Second.

(Signed) Jeremy Nordquist, Chairperson

**MESSAGE FROM THE GOVERNOR**

May 14, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individual is being reappointed to the Nebraska Accountability and Disclosure Commission:

Kevin Brostrom, 2316 Apache Road, Grand Island, NE 68801

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background materials are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

Wiebusch, Janice - Nebraska Liquor Control Commission - General Affairs

Brostrom, Kevin - Nebraska Accountability and Disclosure Commission - Government, Military and Veterans Affairs

(Signed) John Wightman, Chairperson  
Executive Board

**NOTICE OF COMMITTEE HEARINGS**

Agriculture

Room 2102

Thursday, May 28, 2009 8:00 a.m.

Al Berndt - Climate Assessment Response Committee (cancel)  
 William Marshall III - Nebraska State Fair Board (cancel)

Thursday, May 21, 2009 8:00 a.m.

Al Berndt - Climate Assessment Response Committee (reschedule)  
 William Marshall III - Nebraska State Fair Board (reschedule)

(Signed) Tom Carlson, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 675.** The Nantkes amendment, AM1060, found in this day's Journal, to the committee amendment, was renewed.

Senator Nantkes moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Nantkes requested a roll call vote on her amendment.

Voting in the affirmative, 10:

Avery	Dubas	Haar	Karpisek	Nantkes
Cook	Giese	Howard	McGill	White

Voting in the negative, 27:

Adams	Fischer	Hadley	Lautenbaugh	Schilz
Carlson	Flood	Hansen	McCoy	Stuthman
Christensen	Friend	Harms	Nelson	Utter
Coash	Fulton	Heidemann	Pahls	
Cornett	Gay	Janssen	Pirsch	
Dierks	Gloor	Langemeier	Price	

Present and not voting, 9:

Campbell	Lathrop	Nordquist	Sullivan	Wightman
Council	Mello	Rogert	Wallman	

Excused and not voting, 3:

Ashford	Louden	Pankonin
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The Nantkes amendment lost with 10 ayes, 27 nays, 9 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Haar offered the following amendment to the committee amendment:

AM1421

(Amendments to Standing Committee amendments, AM994)

- 1 1. On page 1, strike line 21, show as stricken, and
- 2 insert "a developing fetus within her body";".

### SENATOR FISCHER PRESIDING

Senator Haar withdrew his amendment.

Senator Haar offered the following amendment to the committee amendment:

AM1417

(Amendments to Standing Committee amendments, AM994)

- 1 1. Insert the following new sections:
- 2 Section 1. Section 28-325, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 28-325 The Legislature hereby finds and declares:
- 5 (1) That the following provisions were motivated by
- 6 the legislative intrusion of the United States Supreme Court by
- 7 virtue of its decision removing the protection afforded the unborn.
- 8 Sections 28-325 to 28-345 and section 8 of this act are in no way
- 9 to be construed as legislatively encouraging abortions at any stage
- 10 of unborn human development, but are rather an expression of the
- 11 will of the people of the State of Nebraska and the members of the
- 12 Legislature to provide protection for the life of the unborn child
- 13 whenever possible;
- 14 (2) That the members of the Legislature expressly deplore
- 15 the destruction of the unborn human lives which has and will occur
- 16 in Nebraska as a consequence of the United States Supreme Court's
- 17 decision on abortion of January 22, 1973;
- 18 (3) That it is in the interest of the people of the State
- 19 of Nebraska that every precaution be taken to insure the protection
- 20 of every viable unborn child being aborted, and every precaution
- 21 be taken to provide life-supportive procedures to insure the unborn
- 22 child its continued life after its abortion;
- 1 (4) That currently this state is prevented from providing
- 2 adequate legal remedies to protect the life, health, and welfare of
- 3 pregnant women and unborn human life; and
- 4 (5) That it is in the interest of the people of the
- 5 State of Nebraska to maintain accurate statistical data to aid in
- 6 providing proper maternal health regulations and education.



7 Sec. 7. Section 28-340, Reissue Revised Statutes of  
 8 Nebraska, is amended to read:  
 9 28-340 Any person whose employment or position has been  
 10 in any way altered, impaired, or terminated in violation of  
 11 sections 28-325 to 28-345 and section 8 of this act may sue  
 12 in the district court for all consequential damages, lost wages,  
 13 reasonable attorney's fees incurred, and the cost of litigation.  
 14 Sec. 8. If consent to an abortion is withdrawn by a woman  
 15 during the abortion, the person or persons performing the abortion  
 16 shall be immune from civil liability for damages occurring during  
 17 the abortion that are proximately related to the abortion, unless  
 18 such damages were caused by the willful or wanton act or omission  
 19 of the person or persons performing the abortion.  
 20 2. Renumber the remaining sections and correct the  
 21 repealer accordingly.

Senator Haar withdrew his amendment.

Senator Council offered the following amendment to the committee amendment:

FA43

Amend AM994

On page 3 strike everything after the word "abortion" in line 25 to the period on line 27.

Senator Council moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator Council requested a roll call vote on her amendment.

Voting in the affirmative, 32:

Adams	Fischer	Harms	Mello	Rogert
Ashford	Flood	Karpisek	Nantkes	Schilz
Campbell	Fulton	Langemeier	Nordquist	Wallman
Carlson	Gay	Lathrop	Pahls	White
Coash	Giese	Lautenbaugh	Pankonin	
Cornett	Gloor	McCoy	Pirsch	
Council	Haar	McGill	Price	

Voting in the negative, 0.

Present and not voting, 12:

Avery	Dubas	Heidemann	Nelson
Christensen	Friend	Howard	Stuthman
Cook	Hansen	Janssen	Utter

Excused and not voting, 5:

Dierks            Hadley            Louden            Sullivan            Wightman

The Council amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Committee AM994, found on page 1067 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 37 ayes, 5 nays, 2 present and not voting, and 5 excused and not voting.

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

Voting in the affirmative, 37:

Adams	Flood	Heidemann	Nelson	Stuthman
Ashford	Friend	Janssen	Nordquist	Sullivan
Carlson	Fulton	Karpisek	Pahls	Utter
Christensen	Gay	Langemeier	Pankonin	Wallman
Coash	Giese	Lathrop	Pirsch	White
Cornett	Gloor	Lautenbaugh	Price	
Dubas	Hansen	McCoy	Rogert	
Fischer	Harms	Mello	Schilz	

Voting in the negative, 5:

Campbell	Council	Haar	McGill	Nantkes
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Present and not voting, 3:

Avery	Cook	Howard
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Excused and not voting, 4:

Dierks	Hadley	Louden	Wightman
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Advanced to Enrollment and Review Initial with 37 ayes, 5 nays, 3 present and not voting, and 4 excused and not voting.

**AMENDMENTS - Print in Journal**

Senator Friend filed the following amendment to LB16:  
AM1431

(Amendments to E & R amendments, ER8110)

- 1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 Section 1. The establishment of the web site provided for  
4 in section 84-602 and described in section 3 of this act shall be  
5 known and may be cited as the Taxpayer Transparency Act.  
6 Sec. 2. Section 84-602, Reissue Revised Statutes of  
7 Nebraska, is amended to read:  
8 84-602 It shall be the duty of the State Treasurer:  
9 (1) To receive and keep all money of the state not  
10 expressly required to be received and kept by some other person;  
11 (2) To disburse the public money upon warrants drawn upon  
12 the state treasury according to law; and not otherwise;  
13 (3) To keep a just, true, and comprehensive account of  
14 all money received and disbursed;  
15 (4) To keep a just account with each fund, and each head  
16 of appropriation made by law, and the warrants drawn against them;  
17 (5) To render a full statement to the Department of  
18 Administrative Services; of all money received by him or her from  
19 whatever source, and if on account of revenue, for what year;  
20 of all penalties and interest on delinquent taxes reported or  
21 accounted for to him or her, and of all disbursements of public  
22 funds; with a list, in numerical order, of all warrants redeemed,  
1 the name of the payee, amount, interest, and total amount allowed  
2 thereon, and with the amount of the balance of the several funds  
3 unexpended; which statement shall be made on the first day of  
4 December, March, June, and September, and more often if required;  
5 (6) To report to the Legislature as soon as practicable,  
6 but within ten days after the commencement of each regular session,  
7 a detailed statement of the condition of the treasury; and its  
8 operations for the preceding fiscal year;  
9 (7) To give information in writing to the Legislature,  
10 whenever required, upon any subject connected with the treasury or  
11 touching any duty of his or her office; ~~and~~  
12 (8) To account for, and pay over, all money received by  
13 him or her as such treasurer, to his or her successor in office,  
14 and deliver all books, vouchers, and effects of office to him or  
15 her; and such successor shall receipt therefor. In accounting for  
16 and paying over such money the treasurer shall not be held liable  
17 on account of any loss occasioned by any investment, when such  
18 investment shall have been made pursuant to the direction of the  
19 state investment officer; ~~and~~;  
20 (9) To develop and maintain a single, searchable web  
21 site with information on state tax receipts and expenditures which  
22 is accessible by the public at no cost to access as provided in

23 section 3 of this act. The web site shall be hosted on a server  
24 owned and operated by the State of Nebraska or approved by the  
25 Chief Information Officer. The naming convention for the web site  
26 shall identify the web site as a state government web site.

27 Sec. 3. (1)(a) Not later than January 1, 2010, the web  
1 site established, developed, and maintained by the State Treasurer  
2 pursuant to subdivision (9) of section 84-602 shall provide such  
3 information as will document the sources of all tax receipts  
4 and the expenditure of state funds by all agencies, boards,  
5 commissions, and departments of the state.

6 (b) The State Treasurer shall, in appropriate detail,  
7 cause to be published on the web site:

8 (i) The identity, principal location, and amount of funds  
9 received or expended by the State of Nebraska and all of its  
10 agencies, boards, commissions, and departments;

11 (ii) The funding or expending agency, board, commission,  
12 or department;

13 (iii) The budget program source;

14 (iv) The amount, date, purpose, and recipient of all  
15 disbursed funds; and

16 (v) Such other relevant information as will further  
17 the intent of enhancing the transparency of state government  
18 financial operations to its citizens and taxpayers. The web site  
19 shall include data for fiscal year 2008-09 and each fiscal year  
20 thereafter.

21 (2) Beginning July 1, 2010, the data shall be available  
22 on the web site no later than thirty days after the end of  
23 the preceding fiscal year. All agencies, boards, commissions, and  
24 departments of the state shall provide to the State Treasurer, at  
25 such times and in such form as designated by the State Treasurer,  
26 such information as is necessary to accomplish the purposes of the  
27 Taxpayer Transparency Act. Nothing in this subsection requires the  
1 disclosure of information which is considered confidential under  
2 state or federal law or is not a public record under section  
3 84-712.05.

4 (3)(a) For purposes of this section, expenditure of state  
5 funds means all expenditures of appropriated or nonappropriated  
6 funds by an agency, board, commission, or department of the state  
7 from the state treasury in forms including, but not limited to:

8 (i) Grants;

9 (ii) Contracts;

10 (iii) Subcontracts;

11 (iv) State aid to political subdivisions; and

12 (v) Tax refunds or credits that may be disclosed

13 pursuant to the Nebraska Advantage Act, the Nebraska Advantage  
14 Microenterprise Tax Credit Act, the Nebraska Advantage Research and  
15 Development Act, or the Nebraska Advantage Rural Development Act.

16 (b) Expenditure of state funds does not include the  
17 transfer of funds between two agencies, boards, commissions, or

18 departments of the state or payments of state or federal assistance  
 19 to an individual.  
 20 Sec. 4. Original section 84-602, Reissue Revised Statutes  
 21 of Nebraska, is repealed.

Senator Friend filed the following amendment to LB16A:  
 AM1383

- 1 1. On page 2, line 2, strike "Legislative Council" and
- 2 insert "State Treasurer"; and in line 3 strike "122" and insert
- 3 "503".

Senator Giese filed the following amendment to LB218:  
 AM1423

(Amendments to E & R amendments, ER8132)

- 1 1. Insert the following new section:
- 2 Sec. 9. Section 81-8,297, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 81-8,297 The State Claims Board shall have the power
- 5 and authority to receive, investigate, and otherwise carry out its
- 6 duties with regard to (1) all claims under the State Miscellaneous
- 7 Claims Act, (2) all claims under sections 25-1802 to 25-1807, (3)
- 8 all claims under the State Contract Claims Act, (4) all requests
- 9 on behalf of any department, board, or commission of the state
- 10 for waiver or cancellation of money or charges when necessary for
- 11 fiscal or accounting procedures, ~~and~~ (5) all claims filed under
- 12 section 66-1531, and (6) all claims filed under section 7 of this
- 13 act. All such claims or requests and supporting documents shall be
- 14 filed with the Risk Manager and shall be designated by number, name
- 15 of claimant as requester, and short title. Nothing in this section
- 16 shall be construed to be a waiver of the sovereign immunity of the
- 17 state beyond what is otherwise provided by law.
- 18 The board shall adopt and promulgate such rules and
- 19 regulations as are necessary to carry out the powers granted in
- 20 this section. The Attorney General shall be the legal advisor
- 21 to the board for purposes of this section and may authorize the
- 22 assistant attorney general in charge of the Claims Division to
- 1 perform any of his or her duties under this section.
- 2 2. On page 8, line 4, after the period insert "If the
- 3 Legislature fails to appropriate funds as aid to counties of
- 4 at least .0075 percent of the total real and personal property
- 5 valuation of all counties, the counties may file claims with the
- 6 State Claims Board under the State Miscellaneous Claims Act for the
- 7 difference between the amount of funds appropriated and the .0075
- 8 percent requirement.".
- 9 3. Renumber the remaining sections and correct the
- 10 repealer accordingly.

Senator Gay filed the following amendment to LB679:  
AM1427

(Amendments to Final Reading copy)

1 1. Insert the following new sections:

2 Sec. 2. Section 43-1304, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 43-1304 (1) ~~The state board shall establish local foster~~  
5 ~~care review boards for the review of cases of children in foster~~  
6 ~~care placement. The state board shall select members to serve on~~  
7 ~~local boards from a list of applications submitted to the state~~  
8 ~~board. Each local board shall consist of not less than four and not~~  
9 ~~more than ten members.~~

10 (2) ~~The members of the each local board shall reasonably~~  
11 ~~represent the various social, economic, racial, and ethnic groups~~  
12 ~~of the county or counties from which its members may be are~~  
13 ~~appointed. A person employed by the state board, the Department of~~  
14 ~~Health and Human Services, a child-caring agency, a child-placing~~  
15 ~~agency, or a court shall not be appointed to a local board. No~~  
16 ~~person with a conflict of interest as described in this section~~  
17 ~~shall be a member of a local board. No person or person whose~~  
18 ~~spouse, parent, sibling, or child by blood or marriage is employed~~  
19 ~~by or who receives or distributes funds from the Department of~~  
20 ~~Health and Human Services, a child-caring agency, a child-placing~~  
21 ~~agency, a court, a county, or a designated contractor of any such~~  
22 ~~agency is eligible to be a member of a local board, except that~~  
1 ~~a practitioner of pediatric medicine licensed under the Uniform~~  
2 ~~Credentialing Act and a guardian ad litem who receives less than~~  
3 ~~one-half of his or her income for such services are eligible to be~~  
4 ~~members of a local board.~~

5 (3) ~~The terms of members serving on a local board on~~  
6 ~~the effective date of this act who have a conflict of interest~~  
7 ~~shall expire on the sixtieth day after the effective date of this~~  
8 ~~act. The state board shall make any appointments needed to ensure~~  
9 ~~that each local board consists of not less than four and not more~~  
10 ~~than ten members and meets the requirements of this section. Such~~  
11 ~~appointments shall be made and qualified within sixty days after~~  
12 ~~the effective date of this act. For such appointments, the terms of~~  
13 ~~such members shall begin on the sixty-first day after the effective~~  
14 ~~date of this act, and the state board shall designate terms of one,~~  
15 ~~two, or three years for such appointments to maintain as equal a~~  
16 ~~rotation of terms as possible.~~

17 (4) ~~On and after the sixty-first day after the effective~~  
18 ~~date of this act, the state board shall select members to serve~~  
19 ~~on local boards from a list of applicants submitted to the state~~  
20 ~~board who do not have a conflict of interest as described in this~~  
21 ~~section. Each local board shall consist of not less than four and~~  
22 ~~not more than ten members. A list of the members of each local~~  
23 ~~board shall be sent to the department.~~

24 Sec. 3. Section 43-1305, Reissue Revised Statutes of

25 Nebraska, is amended to read:

26 43-1305 ~~All~~ Except for appointments made under subsection  
 27 (3) of section 43-1304, all local board members shall be appointed  
 1 for terms of three years. If a vacancy occurs on a local board,  
 2 the state board shall appoint another person to serve the unexpired  
 3 portion of the term. Appointments to fill vacancies on the local  
 4 board shall be made in the same manner and subject to the same  
 5 conditions as the initial appointments to such board. The term  
 6 of each member shall expire on the second Monday in July of the  
 7 appropriate year. Members shall continue to serve until a successor  
 8 is appointed.

9 2. On page 1, line 1, strike "the State Foster Care  
 10 Review Board" and insert "state and local foster care review  
 11 boards"; in line 2 strike "section 43-1302" and insert "sections  
 12 43-1302, 43-1304, and 43-1305"; in line 4 after the second  
 13 semicolon insert "to change provisions relating to appointments  
 14 of local foster care review boards;"; and in line 5, strike  
 15 "section" and insert "sections".

16 3. On page 4, line 11, strike "section 43-1302" and  
 17 insert "sections 43-1302, 43-1304, and 43-1305"; and in line 12  
 18 strike "is" and insert "are".

19 4. Renumber the remaining section accordingly.

Senator Rogert filed the following amendment to LB155:  
 AM1432

1 1. Insert the following new section:

2 Sec. 21. Section 87-302, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 87-302 (a) A person engages in a deceptive trade  
 5 practice when, in the course of his or her business, vocation,  
 6 or occupation, he or she:

7 (1) Passes off goods or services as those of another;

8 (2) Causes likelihood of confusion or of misunderstanding  
 9 as to the source, sponsorship, approval, or certification of goods  
 10 or services;

11 (3) Causes likelihood of confusion or of misunderstanding  
 12 as to affiliation, connection, or association with, or  
 13 certification by, another;

14 (4) Uses deceptive representations or designations of  
 15 geographic origin in connection with goods or services;

16 (5) Represents that goods or services have sponsorship,  
 17 approval, characteristics, ingredients, uses, benefits, or  
 18 quantities that they do not have or that a person has a  
 19 sponsorship, approval, status, affiliation, or connection that he  
 20 or she does not have;

21 (6) Represents that goods are original or new if they  
 22 are deteriorated, altered, reconditioned, reclaimed, used, or  
 23 secondhand, except that sellers may repair damage to and make  
 1 adjustments on or replace parts of otherwise new goods in an effort

- 2 to place such goods in compliance with factory specifications;
- 3 (7) Represents that goods or services are of a particular  
4 standard, quality, or grade, or that goods are of a particular  
5 style or model, if they are of another;
- 6 (8) Disparages the goods, services, or business of  
7 another by false or misleading representation of fact;
- 8 (9) Advertises goods or services with intent not to sell  
9 them as advertised or advertises the price in any manner calculated  
10 or tending to mislead or in any way deceive a person;
- 11 (10) Advertises goods or services with intent not  
12 to supply reasonably expectable public demand, unless the  
13 advertisement discloses a limitation of quantity;
- 14 (11) Makes false or misleading statements of fact  
15 concerning the reasons for, existence of, or amounts of price  
16 reductions;
- 17 (12) Uses or promotes the use of a chain distributor  
18 scheme in connection with the solicitation of business or personal  
19 investments from members of the public;
- 20 (13) With respect to a sale or lease to a natural person  
21 of goods or services purchased or leased primarily for personal,  
22 family, household, or agricultural purposes, uses or employs any  
23 referral or chain referral sales technique, plan, arrangement, or  
24 agreement;
- 25 (14) Knowingly makes a false or misleading statement in a  
26 privacy policy, published on the Internet or otherwise distributed  
27 or published, regarding the use of personal information submitted  
1 by members of the public;
- 2 (15) Uses any scheme or device to defraud by means of:  
3 (i) Obtaining money or property by knowingly false or  
4 fraudulent pretenses, representations, or promises; or  
5 (ii) Selling, distributing, supplying, furnishing, or  
6 procuring any property for the purpose of furthering such scheme;
- 7 (16) Offers an unsolicited check, through the mail or  
8 by other means, to promote goods or services if the cashing or  
9 depositing of the check obligates the endorser or payee identified  
10 on the check to pay for goods or services. This subdivision does  
11 not apply to an extension of credit or an offer to lend money;
- 12 (17) Mails or causes to be sent an unsolicited billing  
13 statement, invoice, or other document that appears to obligate the  
14 consumer to make a payment for services or merchandise he or she  
15 did not order; or
- 16 (18) Violates any provision of the Nebraska Foreclosure  
17 Protection Act.
- 18 (b) In order to prevail in an action under the Uniform  
19 Deceptive Trade Practices Act, a complainant need not prove  
20 competition between the parties.
- 21 (c) This section does not affect unfair trade practices  
22 otherwise actionable at common law or under other statutes of this  
23 state.



- 24 2. Strike the Rogert amendment, FA42.  
 25 3. Strike the Avery amendment, AM1399.  
 26 4. Renumber the remaining sections and correct the  
 27 repealer and title accordingly.

Senator Avery filed the following amendment to LB36:  
 AM1412

- 1 1. Insert the following new section:  
 2 Section 1. Section 28-105.01, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 28-105.01 (1) Notwithstanding any other provision of law,  
 5 the death penalty shall not be imposed upon any person who was  
 6 under the age of eighteen years at the time of the commission of  
 7 the crime.  
 8 (2) Notwithstanding any other provision of law, the  
 9 death penalty shall not be imposed upon any person with mental  
 10 retardation. ~~As used in this subsection, (3) As used in subsection~~  
 11 ~~(2) of this section, mental retardation means significantly~~  
 12 subaverage general intellectual functioning existing concurrently  
 13 with deficits in adaptive behavior. An intelligence quotient of  
 14 seventy or below on a reliably administered intelligence quotient  
 15 test shall be presumptive evidence of mental retardation.  
 16 (3) Notwithstanding any other provision of law, the death  
 17 penalty shall not be imposed upon any person if the only evidence  
 18 admitted at trial against such person is eyewitness or informant  
 19 testimony.  
 20 (4) If (a) a jury renders a verdict finding the existence  
 21 of one or more aggravating circumstances as provided in section  
 22 29-2520 or (b)(i) the information contains a notice of aggravation  
 23 as provided in section 29-1603 and (ii) the defendant waives his or  
 1 her right to a jury determination of the alleged aggravating  
 2 circumstances, the court shall hold a hearing prior to any  
 3 sentencing determination proceeding as provided in section 29-2521  
 4 upon a verified motion of the defense requesting a ruling that the  
 5 penalty of death be precluded under subsection (2) of this section.  
 6 If the court finds, by a preponderance of the evidence, that the  
 7 defendant is a person with mental retardation, the death sentence  
 8 shall not be imposed. A ruling by the court that the evidence  
 9 of diminished intelligence introduced by the defendant does not  
 10 preclude the death penalty under subsection (2) of this section  
 11 shall not restrict the defendant's opportunity to introduce such  
 12 evidence at the sentencing determination proceeding as provided in  
 13 section 29-2521 or to argue that such evidence should be given  
 14 mitigating significance.  
 15 2. On page 15, line 2, after "sections" insert  
 16 "28-105.01,".  
 17 3. Renumber the remaining sections and correct internal  
 18 references accordingly.

**VISITORS**

Visitors to the Chamber were Mary Jo Gunnels and Amy Jorgenson; Nikki Pappas from Lincoln and Charles Murphey from Texas; 32 fourth-grade students and teachers from Exeter Milligan School, Milligan; 20 seventh- and eighth-grade students, teachers, and sponsors from Orchard; 11 fourth-through twelfth-grade students and teachers from Home School Apologetics Group, Lincoln and Panama; 16 fourth-grade students, teachers, and sponsors from McCool Junction; 40 fourth-grade students and teachers from Knickrehm Elementary, Grand Island; 37 seventh- and eighth-grade students from Trinity Lutheran, Fremont; and 20 fourth-grade students, teacher, and sponsors from Raymond Central School, Ceresco.

The Doctor of the Day was Dr. Randy Kohl from Firth.

**ADJOURNMENT**

At 2:11 p.m., on a motion by Senator Heidemann, the Legislature adjourned until 10:00 a.m., Monday, May 18, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTIETH DAY - MAY 18, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****EIGHTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, May 18, 2009

**PRAYER**

The prayer was offered by Father Jim Kramper, St. Peters Church, Ewing.

**ROLL CALL**

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

The roll was called and all members were present.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-ninth day was approved.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 675.** Placed on Select File with amendment.  
ER8133

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 28-326, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 28-326 For purposes of sections 28-325 to 28-345, unless
- 6 the context otherwise requires:
- 7 (1) Abortion means the use or prescription of any
- 8 instrument, medicine, drug, or other substance or device
- 9 intentionally to terminate the pregnancy of a woman known to be
- 10 pregnant with an intention other than to increase the probability
- 11 of a live birth, to preserve the life or health of the child after
- 12 live birth, or to remove a dead unborn child, and which causes the
- 13 premature termination of the pregnancy;
- 14 (2) Hospital means those institutions licensed by the
- 15 Department of Health and Human Services pursuant to the Health Care
- 16 Facility Licensure Act;
- 17 (3) Physician means any person licensed to practice

18 medicine in this state as provided in ~~sections 71-102 to 71-110;~~  
 19 the Uniform Credentialing Act;

20 (4) Pregnant means that condition of a woman who has  
 21 unborn human life within her as the result of conception;

22 (5) Conception means the fecundation of the ovum by the  
 23 spermatozoa;

1 (6) Viability means that stage of human development when  
 2 the unborn child is potentially able to live more than merely  
 3 momentarily outside the womb of the mother by natural or artificial  
 4 means;

5 (7) Emergency situation means that condition which, on  
 6 the basis of the physician's good faith clinical judgment, so  
 7 complicates the medical condition of a pregnant woman as to  
 8 necessitate the immediate abortion of her pregnancy to avert her  
 9 death or for which a delay will create serious risk of substantial  
 10 impairment of a major bodily function;

11 (8) Probable gestational age of the unborn child means  
 12 what will with reasonable probability, in the judgment of the  
 13 physician, be the gestational age of the unborn child at the time  
 14 the abortion is planned to be performed; ~~and~~

15 (9) Partial-birth abortion means an abortion procedure  
 16 in which the person performing the abortion partially delivers  
 17 vaginally a living unborn child before killing the unborn child and  
 18 completing the delivery. For purposes of this subdivision, the term  
 19 partially delivers vaginally a living unborn child before killing  
 20 the unborn child means deliberately and intentionally delivering  
 21 into the vagina a living unborn child, or a substantial portion  
 22 thereof, for the purpose of performing a procedure that the person  
 23 performing such procedure knows will kill the unborn child and does  
 24 kill the unborn child;:-

25 (10) Woman means any female human being whether or not  
 26 she has reached the age of majority; and

27 (11) Ultrasound means the use of ultrasonic waves for  
 1 diagnostic or therapeutic purposes, specifically to monitor an  
 2 unborn child.

3 Sec. 2. Section 28-327, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 28-327 No abortion shall be performed except with the  
 6 voluntary and informed consent of the woman upon whom the abortion  
 7 is to be performed. Except in the case of an emergency situation,  
 8 consent to an abortion is voluntary and informed only if:

9 (1) The woman is told the following by the physician who  
 10 is to perform the abortion, by the referring physician, or by a  
 11 ~~licensed~~ physician assistant or registered nurse licensed under the  
 12 Uniform Credentialing Act who is an agent of either physician, at  
 13 least twenty-four hours before the abortion:

14 (a) The particular medical risks associated with  
 15 the particular abortion procedure to be employed including,  
 16 when medically accurate, the risks of infection, hemorrhage,

17 ~~and~~ perforated uterus, danger to subsequent pregnancies, and  
18 infertility;

19 (b) The probable gestational age of the unborn child at  
20 the time the abortion is to be performed; ~~and~~

21 (c) The medical risks associated with carrying her child  
22 to term; ~~and~~-

23 (d) That she cannot be forced or required by anyone to  
24 have an abortion and is free to withhold or withdraw her consent  
25 for an abortion.

26 The person providing the information specified in this  
27 subdivision to the person upon whom the abortion is to be  
1 performed shall be deemed qualified to so advise and provide  
2 such information only if, at a minimum, he or she has had  
3 training in each of the following subjects: Sexual and reproductive  
4 health; abortion technology; contraceptive technology; short-term  
5 counseling skills; community resources and referral; and informed  
6 consent. The physician or the physician's agent may provide this  
7 information by telephone without conducting a physical examination  
8 or tests of the patient, in which case the information required  
9 to be supplied may be based on facts supplied by the patient and  
10 whatever other relevant information is reasonably available to the  
11 physician or the physician's agent;

12 (2) The woman is informed by telephone or in person, by  
13 the physician who is to perform the abortion, by the referring  
14 physician, or by an agent of either physician, at least twenty-four  
15 hours before the abortion:

16 (a) The name of the physician who will perform the  
17 abortion;

18 (b) That medical assistance benefits may be available for  
19 prenatal care, childbirth, and neonatal care;

20 (c) That the father is liable to assist in the support of  
21 her child, even in instances in which the father has offered to pay  
22 for the abortion; ~~and~~

23 (d) That she has the right to review the printed  
24 materials described in section 28-327.01. The physician or his  
25 or her agent shall orally inform the woman that the materials  
26 have been provided by the Department of Health and Human Services  
27 and that they describe the unborn child and list agencies which  
1 offer alternatives to abortion. If the woman chooses to review the  
2 materials, they shall either be given to her at least twenty-four  
3 hours before the abortion or mailed to her at least seventy-two  
4 hours before the abortion by certified mail, restricted delivery  
5 to addressee, which means the postal employee can only deliver  
6 the mail to the addressee. The physician and his or her agent  
7 may disassociate themselves from the materials and may comment or  
8 refrain from commenting on them as they choose; ~~and~~

9 (e) That she has the right to request a comprehensive  
10 list, compiled by the Department of Health and Human Services,  
11 of health care providers, facilities, and clinics that offer to

12 perform ultrasounds, including and specifying those that offer to  
 13 perform ultrasounds free of charge. The list shall be arranged  
 14 geographically and shall include the name, address, hours of  
 15 operation, and telephone number of each entity. If requested by  
 16 the woman, the physician who is to perform the abortion, the  
 17 referring physician, or his or her agent shall provide such a list  
 18 as compiled by the department;

19 (3) If an ultrasound is used prior to the performance  
 20 of an abortion, the physician who is to perform the abortion,  
 21 the referring physician, or a physician assistant or registered  
 22 nurse licensed under the Uniform Credentialing Act who is an agent  
 23 of either physician, or any qualified agent of either physician,  
 24 shall:

25 (a) Perform an ultrasound of the woman's unborn child  
 26 of a quality consistent with standard medical practice in the  
 27 community at least one hour prior to the performance of the  
 1 abortion;

2 (b) Simultaneously display the ultrasound images so that  
 3 the woman may choose to view the ultrasound images or not view the  
 4 ultrasound images. The woman shall be informed that the ultrasound  
 5 images will be displayed so that she is able to view them. Nothing  
 6 in this subdivision shall be construed to require the woman to view  
 7 the displayed ultrasound images; and

8 (c) If the woman requests information about the displayed  
 9 ultrasound image, her questions shall be answered. If she requests  
 10 a detailed, simultaneous, medical description of the ultrasound  
 11 image, one shall be provided that includes the dimensions of the  
 12 unborn child, the presence of cardiac activity, if present and  
 13 viewable, and the presence of external members and internal organs,  
 14 if present and viewable;

15 ~~(3)-(4)~~ The woman certifies in writing, prior to the  
 16 abortion, that

17 (a) The ~~the~~ information described in subdivisions (1) and  
 18 (2)(a), (b), and (c) of this section has been furnished her;

19 (b) She ~~and that she~~ has been informed of her right to  
 20 review the information referred to in subdivision (2)(d) of this  
 21 section; and

22 (c) The requirements of subdivision (3) of this section  
 23 have been performed if an ultrasound is performed prior to the  
 24 performance of the abortion; and

25 ~~(4)-(5)~~ Prior to the performance of the abortion,  
 26 the physician who is to perform the abortion or his or her  
 27 agent receives a copy of the written certification prescribed by  
 1 subdivision ~~(3)-(4)~~ of this section. The physician or his or her  
 2 agent shall retain a copy of the signed certification form in the  
 3 woman's medical record.

4 Sec. 3. Section 28-327.01, Reissue Revised Statutes of  
 5 Nebraska, is amended to read:

6 28-327.01 (1) The Department of Health and Human Services

7 shall cause to be published, ~~within sixty days after September 9,~~  
8 ~~1993,~~ the following easily comprehensible printed materials:

9 (a) Geographically indexed materials designed to inform  
10 the woman of public and private agencies and services available to  
11 assist a woman through pregnancy, upon childbirth, and while the  
12 child is dependent, including adoption agencies and agencies and  
13 services for prevention of unintended pregnancies, which materials  
14 shall include a comprehensive list of the agencies available,  
15 a description of the services they offer, and a description of  
16 the manner, including telephone numbers and addresses in which  
17 such agencies may be contacted or printed materials including a  
18 toll-free, twenty-four-hour-a-day telephone number which may be  
19 called to orally obtain such a list and description of agencies in  
20 the locality of the caller and of the services they offer; ~~and~~

21 (b) Materials designed to inform the woman of the  
22 probable anatomical and physiological characteristics of the unborn  
23 child at two-week gestational increments from the time when a woman  
24 can be known to be pregnant to full term, including pictures or  
25 drawings representing the development of unborn children at the  
26 two-week gestational increments, and any relevant information on  
27 the possibility of the unborn child's survival. Any such pictures  
1 or drawings shall contain the dimensions of the unborn child and  
2 shall be realistic and appropriate for the stage of pregnancy  
3 depicted. The materials shall be objective, nonjudgmental, and  
4 designed to convey only accurate scientific information about  
5 the unborn child at the various gestational ages. The materials  
6 shall also contain objective information describing the methods of  
7 abortion procedures commonly employed, the medical risks commonly  
8 associated with each such procedure, the possible detrimental  
9 psychological effects of abortion, the medical risks commonly  
10 associated with abortion, and the medical risks commonly associated  
11 with carrying a child to term; ~~and-~~

12 (c) A comprehensive list of health care providers,  
13 facilities, and clinics that offer to perform ultrasounds,  
14 including and specifying those that offer to perform ultrasounds  
15 free of charge. The list shall be arranged geographically and shall  
16 include the name, address, hours of operation, and telephone number  
17 of each entity.

18 (2) The materials shall be printed in a typeface large  
19 enough to be clearly legible.

20 (3) The materials required under this section shall be  
21 available from the department upon the request by any person,  
22 facility, or hospital for an amount equal to the cost incurred by  
23 the department to publish the materials.

24 Sec. 4. Section 28-327.03, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 28-327.03 No civil liability for failure to comply with  
27 subdivision (2)(d) of section 28-327 or that portion of subdivision  
1 ~~(3)-(4)~~ of such section requiring a written certification that the

2 woman has been informed of her right to review the information  
 3 referred to in subdivision (2)(d) of such section may be imposed  
 4 unless the Department of Health and Human Services has published  
 5 and made available the printed materials at the time the physician  
 6 or his or her agent is required to inform the woman of her right  
 7 to review them.

8 Sec. 5. Section 28-327.04, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:

10 28-327.04 Any person upon whom an abortion has been  
 11 performed or attempted in violation of section 28-327 or the parent  
 12 or guardian of a minor upon whom an abortion has been performed  
 13 or attempted in violation of such section shall have a right to  
 14 maintain a civil cause of action against the person who performed  
 15 the abortion or attempted to perform the abortion. A violation  
 16 of such section shall be prima facie evidence of professional  
 17 negligence. The written certification prescribed by subdivision ~~(3)~~  
 18 (4) of section 28-327 signed by the person upon whom an abortion  
 19 has been performed or attempted shall constitute and create a  
 20 rebuttable presumption of full compliance with all provisions of  
 21 section 28-327 in favor of the physician who performed or attempted  
 22 to perform the abortion, the referring physician, or the agent  
 23 of either physician. The written certification shall be admissible  
 24 as evidence in the cause of action for professional negligence or  
 25 in any criminal action. If judgment is rendered in favor of the  
 26 plaintiff in any such action, the court shall also render judgment  
 27 for a reasonable attorney's fee in favor of the plaintiff against  
 1 the defendant.

2 Sec. 6. If any section in this act or any part of any  
 3 section is declared invalid or unconstitutional, the declaration  
 4 shall not affect the validity or constitutionality of the remaining  
 5 portions.

6 Sec. 7. Original sections 28-326, 28-327, 28-327.01,  
 7 28-327.03, and 28-327.04, Reissue Revised Statutes of Nebraska, are  
 8 repealed.

(Signed) Jeremy Nordquist, Chairperson

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 35.** Placed on Final Reading.  
 ST9050

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

1. In the E & R amendments, ER8067:

a. Section 32 and all amendments thereto have been struck and the  
 following new section inserted:

Sec. 33. Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19,  
 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, and 36 of this act become



operative three calendar months after the adjournment of this legislative session. Sections 4 and 34 of this act become operative on July 1, 2009. The other sections of this act become operative on their effective date.

b. On page 38, line 15, "81-1429," has been inserted after the first comma; and

c. On page 39, line 1, "and sheriffs" has been struck and ", sheriffs', and Law Enforcement Improvement Fund" inserted.

**LEGISLATIVE BILL 35A.** Placed on Final Reading.

ST9051

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

1. On page 1, line 3, "to reduce appropriations;" has been inserted after the semicolon.

**LEGISLATIVE BILL 63.** Placed on Final Reading.

ST9049

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

1. In the Howard amendment, AM1360:

a. Sections 40 to 44 have been renumbered as sections 43 to 47, respectively;

b. On page 1, line 2, "40 to 44" has been struck and "43 to 47" inserted;

c. On page 2, line 1, an underscored comma has been inserted after "abuse"; and

d. On page 3, line 8, an underscored comma has been inserted after "criminal".

2. In the Ashford amendment, AM1124:

a. On page 2, line 10, "5" has been struck and "6" inserted; and

b. Amendment 3 has been struck.

3. In the Christensen amendment, AM1088, section 40 has been renumbered as section 42.

4. In the E & R amendments, ER8031:

a. Sections 39 to 42 have been renumbered as sections 48 to 51, respectively;

b. On page 1, lines 5 and 6, "5, 19, and 20" has been struck and "6, 20, and 21" inserted;

c. On page 2, line 9, "5" has been struck and "6" inserted;

d. On page 5, line 12, "19" has been struck and "20" inserted;

e. On page 11, line 12, "shall be" has been inserted before "remitted";

f. On page 17, line 24, "19" has been struck and "20" inserted.

g. On page 18, line 23, "5" has been struck and "6" inserted;

h. On page 43, line 25; and page 44, line 8, "13-2610, 47-632, 60-497.01," has been inserted after "sections"; and

i. On page 44, line 8, "and 69-2407" has been struck and "69-2407, and 83-183" inserted; in line 10 "to permit the use of the Convention Center Support Fund for the reduction of street and gang violence;" has been inserted after the semicolon; in line 19 "to provide for the transfer of community corrections administrative funds to the Office of Violence

Prevention; to require abstracts of convictions to be transmitted to the Director of Motor Vehicles;" has been inserted after the semicolon; and in line 20 "to permit supervised employment of persons committed to the Department of Correctional Services; to adopt the Lindsay Ann Burke Act;" has been inserted after the semicolon.

**LEGISLATIVE BILL 63A.** Placed on Final Reading.

ST9048

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

1. On page 1, line 3, "to provide for the distribution and administration of funds;" has been inserted after the semicolon.

**LEGISLATIVE BILL 626.** Placed on Final Reading.

**LEGISLATIVE BILL 630.** Placed on Final Reading.

ST9053

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

1. In the Standing Committee amendments, AM874, on page 28, line 2, "48-136," has been inserted after "48-125,".

2. In the E & R amendments, ER8106, on page 1, line 8, "48-136," has been inserted after the last comma.

(Signed) Jeremy Nordquist, Chairperson

**SPEAKER FLOOD PRESIDING**

**MOTION - Return LB155 to Select File**

Senator Rogert moved to return LB155 to Select File for his specific amendment, AM1432, found on page 1503.

The Rogert motion to return prevailed with 49 ayes, 0 nays, and 0 not voting.

**SELECT FILE**

**LEGISLATIVE BILL 155.** The Rogert specific amendment, AM1432, found on page 1503, was adopted with 46 ayes, 1 nay, and 2 present and not voting.

Advanced to Enrollment and Review for Engrossment.

**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 LB97 with 40 ayes, 0 nays, and 9 present and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 97.** With Emergency Clause.

A BILL FOR AN ACT relating to law; to amend sections 21-20,177, 21-20,179, 27-404, 27-1103, 28-101, 28-311, 28-318, 28-319.01, 28-320.02, 28-813.01, 28-1010, 28-1463.02, 28-1463.03, 28-1463.04, 28-1463.05, 29-110, 29-4001, 29-4003, 29-4006, 29-4007, 29-4008, and 83-4,143, Reissue Revised Statutes of Nebraska; to change provisions relating to service on and revocation of certificates of authority of foreign corporations; to adopt new rules of evidence relating to sexual misconduct and sexual offenses; to change and eliminate provisions relating to admissibility of evidence; to change provisions and penalties regarding criminal child enticement, use of a computer in sexual assault, sexual assault of a child, visual depictions of sexually explicit conduct, and the Child Pornography Prevention Act; to prohibit certain Internet use by sexually violent predators; to eliminate a statute of limitations for incest; to provide for confidentiality of certain property or material of a sexual nature held by law enforcement; to change provisions relating to the Sex Offender Registration Act; to prohibit certain convicted or charged individuals from providing transportation services for the Department of Health and Human Services; to provide a penalty; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to provide severability; to repeal the original sections; to outright repeal section 28-321, 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, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Council

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 bills were read and put upon final passage:

**LEGISLATIVE BILL 97A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 97, One Hundred First Legislature, First Session, 2009.

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, 48:

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

Voting in the negative, 0.

Present and not voting, 1:

Council

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

**LEGISLATIVE BILL 187.** With Emergency Clause.

A BILL FOR AN ACT relating to school employees retirement; to amend sections 79-958, 79-966, and 79-9,113, Reissue Revised Statutes of Nebraska; to change contribution rates for required deposits by employees and employers; to provide an operative date; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 LB195 with 48 ayes, 0 nays, and 1 present and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 195.**

A BILL FOR AN ACT relating to public health and welfare; to amend sections 28-401, 28-407, 28-414, 37-413, 38-101, 38-121, 38-167, 38-507, 38-511, 38-512, 38-524, 38-1215, 38-1217, 38-1218, 38-1219, 38-1221, 38-1224, 38-1232, 38-1501, 38-1502, 38-1503, 38-1504, 38-1505, 38-1506, 38-1507, 38-1508, 38-1509, 38-1510, 38-1511, 38-1512, 38-1513, 38-1514, 38-1515, 38-1516, 38-1517, 38-1518, 38-2008, 38-2014, 38-2015, 38-2017, 38-2018, 38-2037, 38-2047, 38-2049, 38-2050, 38-2055, 38-2801, 38-2802, 38-2871, 69-2603, 71-201, 71-208.02, 71-208.06, 71-216, 71-219, 71-219.01, 71-219.02, 71-223.01, 71-224, 71-239, 71-242, 71-245, 71-2413, 71-2414, 71-2416, 71-2417, 71-3604, 71-5829.04, 71-5865, 71-8205, 71-8207, 71-8208, 71-8210, 71-8216, 71-8218, 71-8222, 71-8230, 71-8232, 71-8234, 71-8235, 71-8237, 71-8240, 71-8242, 71-8243, 71-8244, 71-8245, 71-8246, 71-8247, 71-8248, and 86-275, Reissue Revised Statutes of

Nebraska, and sections 48-120, 71-604, 71-605, 71-2411, 71-2412, 71-2445, 71-2447, 71-2449, 71-2450, 71-3601, 71-3602, 71-3614, 71-5403, 71-5829.03, 71-5830.01, and 71-8239, Revised Statutes Cumulative Supplement, 2008; to adopt, change, and eliminate provisions relating to controlled substances, hearing aid fitting and dispensing, emergency medical services licensure classifications, physician assistants, transfer of prescriptions, barbering, the Emergency Box Drug Act, automated medication systems, tuberculosis detection and prevention, drug product selection, certificates of need, and statewide trauma systems; to define and redefine terms; to rename an act and a board; to harmonize provisions; to repeal the original sections; and to outright repeal sections 38-2009, 38-2051, 71-2415, 71-5829.01, 71-5829.02, and 71-8223, Reissue Revised Statutes of Nebraska, and section 71-1,106.01, Revised Statutes Cumulative Supplement, 2008.

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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 232.**

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-177, Reissue Revised Statutes of Nebraska, and section 53-101, Revised Statutes Cumulative Supplement, 2008; to permit the sale of alcoholic liquor by community college culinary education programs as prescribed; 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, 47:

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

Voting in the negative, 0.

Present and not voting, 2:

Howard          Louden

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

### **LEGISLATIVE BILL 342.**

A BILL FOR AN ACT relating to the Medical Assistance Act; to amend section 68-901, Revised Statutes Cumulative Supplement, 2008; to provide duties for the Department of Health and Human Services relating to payment for treatment of pediatric feeding disorders; to provide a termination date; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

**LEGISLATIVE BILL 342A.**

A BILL FOR AN ACT relating to appropriations; to reduce an appropriation to aid in carrying out the provisions of Legislative Bill 342, One Hundred First Legislature, First Session, 2009.

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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

**LEGISLATIVE BILL 402.** With Emergency Clause.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 13-2611 and 13-2612, Reissue Revised Statutes of Nebraska; to change provisions relating to the elections for bonds under the Convention Center Facility Financing Assistance Act; to extend the application acceptance deadline under the Convention Center Facility Financing Assistance Act; to authorize the investment of public endowment funds; to provide operative dates; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 463.**

A BILL FOR AN ACT relating to veterinary medicine and surgery; to amend sections 38-1,140, 38-3301, 38-3302, 38-3314, and 38-3321, Reissue Revised Statutes of Nebraska, and sections 71-8909, 71-8910, and 71-8922, Revised Statutes Cumulative Supplement, 2008; to provide for licensure of animal therapists; to change provisions relating to the practice of veterinary medicine and surgery and the performance of collaborative animal health care tasks; to provide for a civil penalty and disciplinary grounds; to redefine terms under the Veterinary Drug Distribution Licensing Act; to change provisions relating to the distribution of veterinary legend drugs; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

**LEGISLATIVE BILL 463A.**

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.

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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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

**LEGISLATIVE BILL 476.** With Emergency Clause.

A BILL FOR AN ACT relating to education; to adopt the Center for Student Leadership and Extended Learning Act; to repeal the Career Education Partnership Act; to provide an operative date; to outright repeal sections 79-763, 79-764, 79-765, 79-766, 79-767, and 79-768, 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 LB476A to Select File**

Senator Stuthman moved to return LB476A to Select File for his specific amendment, FA36, found on page 1380.

Senator Stuthman withdrew his motion to return.

#### **BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 476A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 476, One Hundred First Legislature, First Session, 2009; to reduce an appropriation; 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, 49:

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

Voting in the negative, 0.

Not voting, 0.

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 532.**

A BILL FOR AN ACT relating to counties; to provide for the adoption of ordinances as prescribed.

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, 45:

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

Voting in the negative, 4:

Adams	Friend	Janssen	Louden
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Not voting, 0.

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

**LEGISLATIVE BILL 160.**

A BILL FOR AN ACT relating to natural resources districts; to amend sections 2-3234 and 2-3290.01, Revised Statutes Cumulative Supplement, 2008; to provide for issuance of flood protection and water quality enhancement bonds as prescribed; to provide powers and duties; to provide for public access as prescribed; to harmonize provisions; to provide a duty for the Revisor of Statutes; 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, 36:

Adams	Council	Haar	Nantkes	Sullivan
Ashford	Dubas	Hadley	Nelson	Wallman
Avery	Fischer	Harms	Nordquist	White
Campbell	Flood	Lathrop	Pahls	Wightman
Carlson	Fulton	Louden	Pankonin	
Christensen	Gay	McCoy	Price	
Cook	Giese	McGill	Schilz	
Cornett	Gloor	Mello	Stuthman	

Voting in the negative, 12:

Dierks	Heidemann	Karpisek	Pirsch
Friend	Howard	Langemeier	Rogert
Hansen	Janssen	Lautenbaugh	Utter

Present and not voting, 1:

Coash

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

**LEGISLATIVE BILL 224.** With Emergency Clause.

A BILL FOR AN ACT relating to the Nebraska State Fair; to amend sections 2-109, 2-110, 2-111, and 2-1208.01, Reissue Revised Statutes of Nebraska, and sections 2-101 and 2-113, Revised Statutes Cumulative Supplement, 2008; to change and eliminate provisions relating to relocation, matching funds, reports, studies, and taxes on horseracing; to provide operative dates; to repeal the original sections; to outright repeal section 2-131, 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, 43:

Adams	Council	Haar	McCoy	Price
Ashford	Dierks	Hadley	McGill	Rogert
Avery	Dubas	Harms	Mello	Schilz
Campbell	Fischer	Heidemann	Nantkes	Stuthman
Carlson	Flood	Janssen	Nelson	Sullivan
Christensen	Friend	Langemeier	Nordquist	Utter
Coash	Fulton	Lathrop	Pahls	Wightman
Cook	Giese	Lautenbaugh	Pankonin	
Cornett	Gloor	Louden	Pirsch	

Voting in the negative, 2:

Hansen            Karpisek

Present and not voting, 3:

Howard            Wallman            White

Excused and not voting, 1:

Gay

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 263.**

A BILL FOR AN ACT relating to agriculture; to amend sections 81-2,147 and 81-2,162.22, Reissue Revised Statutes of Nebraska; to provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act; 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	Council	Harms	McCoy	Price
Ashford	Fischer	Heidemann	McGill	Rogert
Avery	Flood	Howard	Mello	Schilz
Campbell	Friend	Janssen	Nantkes	Stuthman
Carlson	Fulton	Karpisek	Nelson	Utter
Christensen	Giese	Langemeier	Nordquist	Wallman
Coash	Gloor	Lathrop	Pahls	White
Cook	Hadley	Lautenbaugh	Pankonin	Wightman
Cornett	Hansen	Louden	Pirsch	

Voting in the negative, 4:

Dierks	Dubas	Haar	Sullivan
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Excused and not voting, 1:

Gay

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

#### **MOTION - Return LB440 to Select File**

Senator Adams moved to return LB440 to Select File for the following specific amendment:

FA44

Strike the enacting clause.

Senator Adams withdrew his motion to return.

#### **BILLS ON FINAL READING**

The following bills were read and put upon final passage:

#### **LEGISLATIVE BILL 440.**

A BILL FOR AN ACT relating to postsecondary educational institutions; to amend sections 85-9,178, 85-9,182, and 85-1402, Reissue Revised Statutes of Nebraska; to change the diversity criteria under the Student Diversity Scholarship Program Act; to change provisions relating to capital and facility expenditures; 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	Council	Hadley	McCoy	Price
Ashford	Dierks	Hansen	McGill	Rogert
Avery	Dubas	Harms	Mello	Schilz
Campbell	Fischer	Heidemann	Nantkes	Stuthman
Carlson	Flood	Janssen	Nelson	Sullivan
Christensen	Fulton	Karpisek	Nordquist	Wallman
Coash	Giese	Langemeier	Pahls	White
Cook	Gloor	Lathrop	Pankonin	Wightman
Cornett	Haar	Louden	Pirsch	

Voting in the negative, 0.

Present and not voting, 4:

Friend	Howard	Lautenbaugh	Utter
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Excused and not voting, 1:

Gay

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

#### **LEGISLATIVE BILL 494.**

A BILL FOR AN ACT relating to animals; to amend sections 28-1008, 28-1013, 28-1014, 28-1015, 28-1016, 28-1017, and 54-622, Reissue Revised Statutes of Nebraska, and sections 54-617, 54-620, 54-623, 54-623.01, and 54-624, Revised Statutes Cumulative Supplement, 2008; to define and redefine terms; to require animal health care professionals to report animal abandonment, cruel neglect, and cruel mistreatment; to change provisions relating to dangerous dogs; to provide and change penalties; 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, 48:

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



Voting in the negative, 0.

Excused and not voting, 1:

Gay

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

### **LEGISLATIVE BILL 568.**

A BILL FOR AN ACT relating to real estate; to amend section 66-911.01, Reissue Revised Statutes of Nebraska; to provide requirements and conditions for wind agreements; to harmonize provisions; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

Gay

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

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 97, 97A, 187, 195, 232, 342, 342A, 402, 463, 463A, 476, 476A, 532, 160, 224, 263, 440, 494, and 568.

**MOTION - Return LB392 to Select File**

Senator Adams moved to return LB392 to Select File for his specific amendment, AM1409, found on page 1490.

The Adams motion to return prevailed with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 392.** The Adams specific amendment, AM1409, found on page 1490, was adopted with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

**LEGISLATIVE BILL 218.** ER8132, found on page 1430, was adopted.

Senator Giese renewed his amendment, AM1423, found on page 1501.

**SENATOR CARLSON PRESIDING**

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

Senator Giese requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Avery	Gloor	Lathrop	Pahls
Council	Haar	McGill	Sullivan
Dubas	Howard	Mello	Wallman
Giese	Karpisek	Nantkes	White

Voting in the negative, 26:

Adams	Dierks	Harms	McCoy	Utter
Campbell	Fischer	Heidemann	Nelson	Wightman
Carlson	Flood	Janssen	Pirsch	
Christensen	Friend	Langemeier	Rogert	
Coash	Hadley	Lautenbaugh	Schilz	
Cornett	Hansen	Louden	Stuthman	

Present and not voting, 4:

Cook	Fulton	Pankonin	Price
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Excused and not voting, 3:

Ashford            Gay            Nordquist

The Giese amendment lost with 16 ayes, 26 nays, 4 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 155.** Introduced by Gay, 14.

**PURPOSE:** The purpose of this resolution is to review, assess, and provide recommendations relating to rates paid by the state to providers of publicly-funded behavioral health services, rate methodologies employed to determine such rates, the frequency with which such rates are adjusted, and the timeliness of payments made to providers of such services.

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

1. That the Appropriations and Health and Human Services Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 156.** Introduced by Gay, 14.

**PURPOSE:** (1) The Legislature finds that:

(a) The Department of Health and Human Services has been entrusted by the Legislature with numerous powers and duties relating to the protection and promotion of the health and welfare of persons in Nebraska;

(b) The department has initiated and expanded numerous programs and services under its administration to carry out such powers and duties;

(c) The Legislature has appropriated General Funds and other funds for such programs and services, but the amount of such appropriations is often less than the amount identified by the department as being necessary and appropriate for such purposes, despite repeated legislative action to increase such appropriations;

(d) State budget constraints are inconsistent with increasing budget needs of programs and services administered by the department; and

(e) Further legislative action is necessary and appropriate to identify and prioritize core responsibilities of the department, to adequately fund such priorities, and to identify nongovernmental alternatives for the administration and funding of nonpriority programs and services.

(2) The purpose of this resolution is to:

(a) Identify and categorize the statutory powers and duties of the department and prioritize the programs and services administered by the department to carry out such powers and duties;

(b) Indicate the amount of funding necessary to adequately fund each program or service;

(c) Identify those programs and services which would not be funded if the FY2009-10 budget for the department was first allocated to each program and service in the order of priority at its adequately funded level; and

(d) Recommend nongovernmental alternatives for the administration and funding of such nonpriority programs and services.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 157.** Introduced by Gay, 14.

PURPOSE: The purpose of this resolution is to review, assess, and provide recommendations relating to the implementation of the Nebraska Health Care Funding Act. The issues addressed by the study shall include, but not be limited to, the distribution of funding under the act, the outcomes achieved from such funding, and the future sustainability of the Nebraska Health Care Cash Fund.

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

1. That the Appropriations and Health and Human Services Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 158.** Introduced by Gay, 14.

PURPOSE: The purpose of this interim study is to conduct research and provide recommendations for substantive reform of Nebraska's health care delivery system and health care financing system to ensure the provision of high-quality, affordable, and accessible health care coverage for all Nebraskans.

This study shall be conducted by a select committee consisting of two members of the Appropriations Committee of the Legislature appointed by the chairperson of the committee, two members of the Banking, Commerce and Insurance Committee of the Legislature appointed by the chairperson of the committee, two members of the Health and Human Services Committee of the Legislature appointed by the chairperson of the committee, and three additional members who are not members of such committees, with one member appointed by each chairperson of such committees. The chairperson of the select committee shall be the chairperson of the Health and Human Services Committee unless he or she is not appointed to the select committee, in which case the chairperson of the select committee shall be one of the two members of the Health and Human Services Committee who were appointed to the select committee, selected by the chairperson of the Health and Human Services Committee.

In conducting the study, the select committee shall consult with employers, small businesses, consumers, insurers, health care providers, the Department of Health and Human Services, the Department of Insurance, and other interested parties.

Issues considered by the select committee may include, but shall not be limited to:

(1) The anticipated effect of national health care reform initiatives on Nebraska;

(2) The role of employer-sponsored insurance and public programs in providing health care coverage for Nebraskans;

(3) The large number of Nebraskans who are uninsured or underinsured;

(4) The cost shift imposed on Nebraska employers and consumers who purchase health insurance by the underfunding of public programs and the high levels of uncompensated care borne by hospitals and clinics;

(5) Policy options available to reduce the number of Nebraskans who are uninsured or underinsured, make private health insurance more affordable for businesses and individuals, and strengthen public programs for low-income Nebraskans;

(6) The desirability and feasibility of establishing a state plan to provide Nebraskans access to affordable health insurance coverage; and

(7) Available funding options to assure a financially sustainable and affordable health care system.

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

1. That the Health and Human Services Committee, the Banking, Commerce and Insurance Committee, and the Appropriations Committee of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature on or before December 31, 2009.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 159.** Introduced by Gay, 14.

**PURPOSE:** The purpose of this interim study is to examine the future need for health care workers in Nebraska and to review recommendations to meet the state's needs now and in the future. The study shall include, but not be limited to:

(1) A review of the current match of the supply of health care professionals to the needs of the state, including a detailed review of the match within each of the state's health planning regions for all health professions for which valid and reliable data are available;

(2) A review of educational and training programs in the state that produce graduates that serve Nebraska's residents;

(3) A review of special programs in Nebraska designed to recruit and retain health care professionals in areas designated as health profession shortage areas or medically underserved areas and in areas that might become shortage or underserved areas but for successful locally-based efforts to recruit and retain health professionals;

(4) Forecasts of numbers of professionals needed in Nebraska up to twenty years into the future, including distribution of those professionals across the regions of the state;

(5) Recommendations for public policies and educational and training programs designed to help the state meet its future needs; and

(6) Assessment of the benefits and costs of establishing a Nebraska health care workforce commission through a private/public partnership.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 160.** Introduced by Gay, 14.

**PURPOSE:** The purpose of this resolution is to review, assess, and provide recommendations relating to the statewide telehealth network, including, but not limited to, (1) organization and operation of the network, (2) costs, (3) utilization, (4) rates, and (5) regulatory issues relating to network utilization by out-of-state providers.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 161.** Introduced by Cornett, 45.

**PURPOSE:** The purpose of this interim study is to examine Nebraska's sales and use tax provisions. The study shall include, but not be limited to, an examination of the role of the sales tax as a revenue source in state and local fiscal systems.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 162.** Introduced by Avery, 28.

**PURPOSE:** The purpose of this resolution is to provide an opportunity for the Government, Military and Veterans Affairs Committee of the Legislature to study the competitive bidding statutes for the purchase of machinery and equipment. The study will include consideration of the total cost of ownership in the competitive bidding process. The study of such costs should include consideration of alternatives for all classes of equipment, evidence of expected life, costs of repair and maintenance, efficiency standards, energy consumption on a per-year basis, and potential resale value. This interim study is intended to facilitate the committee's review of the total cost of ownership as a primary focus of the competitive bidding process.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 163.** Introduced by Avery, 28.

**PURPOSE:** The purpose of this interim study is to examine the issues which fall under the jurisdiction of the Nebraska Accountability and Disclosure Commission, including the financing of campaigns, the Campaign Finance Limitation Act, the role of lobbyists, and ethics in the political system. Specific issues to be examined include, but are not limited to:

- (1) Independent committees and their role in campaigns;
- (2) Ways to provide more transparency in the system, including reporting requirements; and
- (3) Elected officials becoming lobbyists.

The Nebraska Accountability and Disclosure Commission, along with other interested parties, will be invited to participate in this study.

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

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 164.** Introduced by Campbell, 25.

**PURPOSE:** The purpose of this study is to examine the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 and its implementation in Nebraska. The act was passed by the United States House of Representatives and the United States Senate in September of 2008 and signed into law by President Bush in October of 2008. The law includes, among other things, provisions to promote permanent families for foster children through relative guardianships and adoptions, to enhance adoption incentives, to increase federal support for adoption assistance regardless of income, to increase support for youth who age out of foster care, to improve education and health care for foster children, to require early identification of potential relative placements for children, to extend federal support for children in foster care after age eighteen, and to offer federal assistance and support to American Indian children.

The committee shall examine:

(1) The implementation of the act in Nebraska, specifically the various optional and mandatory provisions of the act and which optional provisions of the act the State of Nebraska has chosen to carry out;

(2) The various benefits and implications of the act for Nebraska; and

(3) Whether any changes should be made to current state statute in accordance with the act.



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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 165.** Introduced by Friend, 10; Fulton, 29.

**PURPOSE:** The purpose of this interim study is to examine issues related to the adoption of a corporate and individual income tax credit scholarship program as contemplated by LB 67 (Friend), which was introduced in 2009 and referred to the Revenue Committee of the Legislature. The study shall include, but not be limited to: An analysis of the fiscal impact of such a program; an analysis of enrollment patterns in public and private schools; an analysis of recent trends in private school attrition rates and the economic factors related thereto; and an analysis of the potential cost savings for state and local taxpayers and the State of Nebraska from adopting such a program.

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

1. That the Education and Revenue Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 166.** Introduced by Dierks, 40.

**PURPOSE:** The Revenue Committee of the Legislature shall conduct a comprehensive study and review of state and local taxes in Nebraska with the objective of developing alternatives in taxation and funding which will substantially reduce reliance on property taxes. In conducting this study, the committee shall first assemble or cause to be assembled the following information:

(1) Specific sales tax exemptions, which shall be put into the following categories:

- (a) Seller-based;
- (b) Item sold;

(c) Buyer-based; and

(d) Item use;

(2) Information regarding each exemption showing the estimated amount of the sales tax base, the taxes not collected because of the exemption, and the year the exemption was enacted;

(3) The services subject to the sales tax and when the tax was imposed, including the tax base and the amount collected from the tax on each service;

(4) Services not currently taxed by the State of Nebraska but taxed by other states and an estimate of such tax base in Nebraska; and

(5) The income tax basis and rates for individuals and corporations in South Dakota, Iowa, Missouri, Kansas, Colorado, and Wyoming.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 167.** Introduced by Nantkes, 46.

**PURPOSE:** The purpose of this resolution is to study the issue of homeless youth in the State of Nebraska. Specifically, this study will look at what is being done to address this issue and what resources are being utilized to address the problem. The study will also evaluate the effectiveness of current state government programs that address homeless youth and will identify alternative strategies to help combat this growing problem in our state.

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

1. That the Health and Human Services and Education Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 168.** Introduced by Nordquist, 7.

**PURPOSE:** The purpose of this resolution is to study the factors contributing to childhood obesity, as well as its consequences. The issues addressed by the study should include, but not be limited to:

- (1) An examination of the factors contributing to childhood obesity in underserved and low-income populations;
- (2) An examination of the costs of childhood obesity, both in terms of medical expenses and physical well-being;
- (3) An analysis of methods to increase access to safe places for children to exercise and participate in physical activity; and
- (4) An analysis of ways to increase children's access to nutritious meals.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 169.** Introduced by Campbell, 25.

WHEREAS, the United States Department of Energy created the National Science Bowl in 1991 to encourage students to excel in and pursue careers in mathematics and science; and

WHEREAS, the Lux Middle School 2009 Science Bowl Team members are Ben Bradley, Trevor Henning, Akshay Rajagopal, Katie Sedlar, and Alex Toalson, who were among twenty thousand students from across the country who participated in science bowls in 2009; and

WHEREAS, forty Nebraska middle school teams competed at the Nebraska Middle School Science Bowl on January 29, 2009, at the University of Nebraska-Lincoln; and

WHEREAS, the Lux Middle School team won the state competition, thereby also winning a trip to Washington, D.C., with expenses paid by the United States Department of Energy, to compete at the National Science Bowl April 30 through May 5, 2009; and

WHEREAS, the Lux Middle School team competed against thirty-six other teams in the National Science Bowl, advancing to the final round of sixteen teams and finishing fifth in the nation.

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

1. That the Legislature congratulates the students of the Lux Middle School 2009 Science Bowl Team on winning the Nebraska Middle School Science Bowl Competition and finishing fifth in the National Middle School Science Bowl Competition.

2. That a copy of this resolution be presented to Mr. Rich Powers and Ms. Colleen Toalson, coaches of the Lux Middle School 2009 Science Bowl Team.

Laid over.

**LEGISLATIVE RESOLUTION 170.** Introduced by Pirsch, 4.

WHEREAS, the Academic Decathlon competition is a strenuous mental competition that many teams enter, but in which few prevail; and

WHEREAS, the Academic Decathlon is a scholastic competition for teams of high school students; and

WHEREAS, the Harry A. Burke High School team from Omaha, Nebraska, entered and won the Nebraska Academic Decathlon; and

WHEREAS, the Burke High School Academic Decathlon team achieved second in Division I schools and third nationally, and therefor finished higher in the national competition than ever before; and

WHEREAS, team members Alec Agan, Cristen Cavel, Michelle Clifford, Robert Dooling, John Gill, Erika Goergen, Eugene Kim, Shelby Miller, Andrew Nguyen, Kyle Seneker, and Caya Simonsen deserve special recognition for their teamwork and diverse knowledge, which contributed to the team's outstanding success in 2009; and

WHEREAS, the accomplishments of students should be recognized by the Legislature.

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

1. That the Legislature recognizes and congratulates the members of the Burke High School Academic Decathlon team and their coach, Judy Kennedy, for their outstanding success in 2009.

2. That a copy of this resolution be sent to the Burke High School Academic Decathlon team and their coach, Judy Kennedy.

Laid over.

**LEGISLATIVE RESOLUTION 171.** Introduced by Ashford, 20; Council, 11.

With the April 24th announcement by the Director of Correctional Services that the State of Nebraska's correctional institutions have reached a level of one hundred forty percent of capacity, Nebraska statutes require notification of the Governor with a recommendation as to what should be done to address the issue of capacity. This recent level of incarceration provides an opportunity for the state to address the proper sentencing of individuals for violations of the Nebraska Criminal Code and an opportunity to assess the degree to which the state is successful in rehabilitating individuals sentenced to Nebraska correctional institutions, particularly when viewed through the reentry of these convicted individuals into Nebraska communities. Failure to provide proven and adequate reentry programming contributes to the recidivism of previously convicted individuals, who then end up back in Nebraska correctional institutions, thereby further increasing Nebraska's rate of incarceration.

The Legislature, recognizing that a prolonged period of high incarceration rates places a pronounced strain on the state's fiscal resources, believes it to be imperative to implement adequate measures to address sentencing and rehabilitative programs for individuals incarcerated in Nebraska correctional institutions.

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

1. That the Legislature hereby calls for the Executive Board of the Legislative Council to meet forthwith and appoint a special committee to be known as the Sentencing and Recidivism Committee of the Legislature. The committee shall consist of seven members of the Legislature appointed by the Executive Board. The committee shall elect a chairperson and vice-chairperson from the membership of the committee. The Executive Board is hereby authorized to provide the committee with a legal counsel, committee clerk, and other staff as required by the committee from existing legislative staff. The Executive Board is also authorized to hire outside consultants as deemed necessary by the committee.

2. The Sentencing and Recidivism Committee of the Legislature is hereby authorized to study the sentencing of juveniles and adults to Nebraska correctional institutions for rehabilitative purposes, including the associated fiscal impact. The committee shall study issues relating to the reentry of these juveniles and adults into Nebraska communities, including, but not limited to, the sufficiency and effectiveness of the rehabilitative and reentry programs, the number of spaces available for these programs, and the effectiveness of these programs in reducing the rate of recidivism. Finally, the committee shall study the sentencing of individuals convicted of crimes for equality of sentencing for the same or similar crimes statewide. The committee shall issue a report of its findings and recommendations to the Legislature on or before January 1, 2011.

Laid over.

### **SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR171 was referred to the Reference Committee.

### **NOTICE OF COMMITTEE HEARING**

General Affairs

Room 1510

Tuesday, May 26, 2009 1:00 p.m.

Janice Wiebusch - Nebraska Liquor Control Commission

(Signed) Russ Karpisek, Chairperson

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 18, 2009, at 11:34 a.m. were the following: LBs 97e, 97A, 187e, 195, 232, 342, 342A, 402e, 463, 463A, 476e, 476Ae, 532, 160, 224e, 263, 440, 494, and 568.

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

**RESOLUTION**

**LEGISLATIVE RESOLUTION 172.** Introduced by Harms, 48; Campbell, 25; Fulton, 29; Heidemann, 1; Wallman, 30; Wightman, 36.

**PURPOSE:** The purpose of this interim study is to analyze the education and training available that could lead to careers in high-demand industries in Nebraska. The Department of Labor predicts gaps in the labor force in several high-demand industries, such as health care, information technology, insurance, and green jobs. These industries are a cornerstone of Nebraska's future economic development and require higher-skilled labor. Only thirty-six percent of Nebraska adults have a postsecondary educational degree and one in ten do not have a high school diploma or GED. Other states, such as California, Massachusetts, and Kentucky, have developed pipeline programs to build worker skills for high-demand industries. The general objective of this study is to examine high-demand industries, the skills and education of the current workforce, the programs currently in place for worker education and training, and the opportunities to align systems and programs to meet business and worker needs.

The study shall include, but not be limited to, the following topics:

- (1) Examination of high-demand industries with high earning and economic development potential in Nebraska and the education, training, and skills required for workers to fill those high-demand jobs;
- (2) Analysis of the current skills and education levels of Nebraska's current workforce, specifically using a regional analysis;
- (3) A catalog of current major education and training opportunities in high-demand career fields;
- (4) Models of career pipeline programs in other states that may be appropriate for Nebraska;
- (5) Barriers to education and training, particularly adult basic education; and
- (6) Opportunities to align or improve systems to improve Nebraska's workforce.

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

1. That the Education Committee of the Legislature shall be designated to 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.

### **VISITORS**

Visitors to the Chamber were 41 fourth-grade students and teachers from Paddock Lane School, Beatrice; Bruce and Carol Hendrickson from Holdrege; members of Human Resources Association of the Midlands from across the state; 33 sixth-grade students, teachers, and sponsors from Edison Elementary, Omaha; and 70 fourth-grade students and teachers from Holling Height Elementary, Omaha.

### **RECESS**

At 12:06 p.m., on a motion by Senator Langemeier, 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 Gay who was excused; and Senators Cornett and Pahls who were excused until they arrive.

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 173.** Introduced by Mello, 5.

**PURPOSE:** The purpose of this interim study is to examine the film industry in Nebraska and whether tax incentives could be used to encourage future economic growth in this area. The study shall include, but not be limited to, an examination of the types and numbers of jobs in Nebraska created by the film industry, the amount of revenue generated in Nebraska by the film industry, the tax incentives other states are offering to attract the film industry, and the tax incentives Nebraska could offer to attract the film industry. The primary focus of the study will be to find ways to encourage future job growth and economic development in Nebraska's film industry.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 174.** Introduced by Mello, 5.

**PURPOSE:** The purpose of this interim study is to examine ways to provide low-income families with access to high-quality child care. Nebraska consistently ranks among the states with the highest number of all available parents in the workforce, particularly when it comes to parents of children under five years of age, yet the state does not perform as well when it comes to the number of parents who are eligible for child care subsidies. An adequate amount of child care subsidies is extremely important in helping parents stay in the workforce and off of full welfare assistance. It also helps children by increasing access to quality child care which helps set the foundation for future success in school and later in life.

This interim study shall attempt to produce a workable proposal to increase access to high-quality child care. The study shall include, but not be limited to, an examination of eligibility requirements to qualify for child care subsidies and an analysis of whether the Department of Health and Human Services should allow low-income families a choice between receiving child care pursuant to a contracted slot or a voucher.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 175.** Introduced by Mello, 5.

**PURPOSE:** The purpose of this interim study is to examine ways to increase financial literacy in Nebraska through financial literacy education classes. The issues addressed by this interim study shall include, but not be limited to, an examination of incentives that could be offered to adults to take financial literacy classes, an examination of the most efficient and effective ways to offer such classes, and an analysis of the options for requiring instruction on financial literacy in elementary and high school courses.

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



1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 176.** Introduced by Mello, 5.

**PURPOSE:** The purpose of this interim study is to examine the feasibility of creating a fund that would be used to help organizations market large-scale events held in Nebraska. Such large-scale events are important to the state for generating tourism and a high level of national and international attention. Recently, organizers of the United States Olympic Swim Trials, the Great American Comedy Festival, the Special Olympics, and the United States Senior Open have all asked for appropriations from the state for the marketing of these events. This study shall look into creating one fund that would be used for all such requests rather than having each organization request a direct appropriation from the state.

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

1. That the Appropriations Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 177.** Introduced by Christensen, 44.

**PURPOSE:** A vital part of the public safety network in the State of Nebraska is wireless and landline 911 emergency telephone service. Pursuant to the Emergency Telephone Communication Systems Act, individual cities and counties are responsible for the implementation of landline 911 service in their respective areas and are permitted to impose a uniform service charge to cover costs associated with the purchase, installation, maintenance, and operation of landline 911 service.

As for wireless 911 emergency telephone service, pursuant to the Enhanced Wireless 911 Service Act, the Nebraska Public Service Commission is responsible for administering the implementation of enhanced wireless 911 service throughout the state and currently administers the Enhanced Wireless 911 Fund. Annually, the commission determines the level of surcharge to be assessed on each wireless subscriber which will be credited to the Enhanced Wireless 911 Fund for ultimate distribution to wireless carriers and public service answering points to cover eligible costs

for implementing and maintaining enhanced wireless 911 service designed to locate calls coming from wireless telephones.

This study will investigate issues relating to the current mechanism utilized by the commission to allocate available money deposited in the Enhanced Wireless 911 Fund to wireless carriers and public service answering points for reimbursement of eligible costs for implementing and maintaining the final phase of wireless 911 service mandated by the Federal Communications Commission called Phase II E-911 Service, which will permit the seamless and exact location of the wireless caller's location by longitude and latitude.

Study topics shall include, but need not be limited to, the following areas:

(1) Analysis of the mechanism currently used by the Public Service Commission to allocate and distribute funds deposited to the Enhanced Wireless 911 Fund to public service answering points and wireless carriers to recover eligible Phase II costs;

(2) Analysis of whether the mechanism currently used by the commission to allocate and distribute funds from the Enhanced Wireless 911 Fund is technologically and competitively neutral;

(3) Analysis of whether the commission's current funding mechanism is consistent with the stated intent of the Legislature to fund the E-911 costs of both public service answering points and wireless carriers;

(4) Analysis of whether the Enhanced Wireless 911 Fund has adequate funds to cover the reasonably foreseeable costs of both public service answering points and wireless carriers;

(5) Analysis of commission funding decisions regarding Phase II deployment costs of public service answering points, wireless carriers, and local exchange carriers;

(6) Analysis of commission financial reports, projections, estimates, forecasts, and studies concerning current and future expenditures from the Enhanced Wireless 911 Fund for Phase II costs;

(7) Analysis of membership and duties of the Enhanced Wireless 911 Advisory Board, including the following:

(a) The adequacy of representation of wireless carriers on the advisory board;

(b) Scope of responsibilities delegated to the advisory board;

(c) Scope of authority of the advisory board; and

(d) Technical expertise of advisory board members; and

(8) Any other issues arising during the course of the study related to furthering access to E-911 Phase II service.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 178.** Introduced by Nordquist, 7; Ashford, 20.

**PURPOSE:** The purpose of this interim study is to examine the Nebraska need-based financial aid program (Nebraska Scholarship Act) that was created by the Nebraska Legislature in 2003 and other issues relating to higher education. The study shall include: (1) A determination of the differences in allocations of state funds to students attending particular sectors of higher education institutions in the state compared to the allocations to students before 2003, and whether those changes were intended and are appropriate in light of changing state policies; (2) a determination of student aid currently available from all sources, including direct and indirect state assistance, federal assistance from financial aid programs, including changes made in the stimulus plan enacted by the United States Congress in 2009, institutional assistance, and private sector assistance, and a comparison with other states' efforts relating to student aid, including eligibility of students attending for-profit colleges; (3) a determination of whether the state's investment in higher education has resulted in an appropriately-educated workforce in Nebraska; (4) an analysis of college graduate migration patterns to and from Nebraska; (5) an analysis of the ability of the state to maintain successful institutions and educational programs in Nebraska, both public and private nonprofit, in the event that financial resources become more scarce in the future; and (6) an analysis of other issues relating to higher education and higher education financial aid programs in Nebraska.

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

1. That the Education and Appropriations Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 179.** Introduced by Howard, 9.

**PURPOSE:** The state contracts with Magellan Behavioral Health Services to manage, maintain, and coordinate state-funded behavioral health services for the identified populations of the Division of Behavioral Health, the Division of Children and Family Services, and the Division of Medicaid and Long-Term Care of the Department of Health and Human Services. Because of the magnitude of the services coordinated by Magellan and the issues raised recently by recipients, providers, and members of the judiciary, a greater understanding of the contract is desired by the Legislature.

This study will include, but is not limited to, a description of the requirements and conditions of the contract, an identification of the costs, and an examination of the reasons for denials and the options available to individuals, caseworkers, judges and others when services are denied by Magellan.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 180.** Introduced by Adams, 24.

PURPOSE: The purpose of this interim study is to examine the role of educational service units within learning communities.

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

1. That the Education Committee of the Legislature shall be designated to 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 36.** Title read. Considered.

Committee AM828, found on page 1081, was considered.

Pending.

### COMMITTEE REPORTS

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 638.** Placed on General File.

**LEGISLATIVE BILL 635.** Placed on General File with amendment.  
AM1140

- 1 1. Strike original sections 1, 2, and 6 and insert the
- 2 following new sections:

- 3 Sec. 4. Original section 49-1472, Reissue Revised
- 4 Statutes of Nebraska, and sections 49-1455 and 49-1478.01, Revised
- 5 Statutes Cumulative Supplement, 2008, are repealed.
- 6 Sec. 5. The following section is outright repealed:
- 7 Section 49-1457, Reissue Revised Statutes of Nebraska.
- 8 2. Renumber the remaining sections accordingly.

(Signed) Bill Avery, Chairperson

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 181.** Introduced by McCoy, 39.

PURPOSE: The purpose of this interim study is to examine the feasibility and benefits of restructuring the natural resources districts. The study shall focus on the advantages of having a natural resources district encompass the entirety of a watershed, water basin, river, or other specific area of the state. The study shall also review the processes and ramifications of realigning, and perhaps reducing, the number of natural resources districts.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 182.** Introduced by Dubas, 34.

PURPOSE: The purpose of this interim study is to study the growing problem in recruiting and retaining volunteer firefighters and volunteer emergency medical care providers. The Legislature recognizes that volunteer firefighters and volunteer emergency medical care providers have provided fire suppression and emergency medical services to their local communities for over a century at only a fraction of the cost to the taxpayers that would have resulted from implementing a system of paid fire departments and paid emergency medical services. Many cities, villages, and rural areas could not afford the costs of maintaining their current level of fire suppression and emergency response services without the presence of a local pool of committed and dedicated volunteer firefighters and volunteer emergency medical care providers. It is necessary for the public health, safety, and welfare of many Nebraska communities to encourage the recruitment and retention of such individuals. Volunteer firefighters and emergency medical care providers are relied upon by the entire State of Nebraska, including Nebraskans traveling throughout the state.

The Legislature finds that Nebraska communities that rely on volunteers to provide fire suppression and emergency medical services are faced with numerous economic and demographic trends and conditions which make the recruitment and retention of qualified volunteers increasingly difficult and that, as a consequence, some volunteer departments are trying to cope with declining rosters of active volunteers.

The Legislature finds that the recruitment and retention of qualified men and women in fire suppression and emergency medical services are matters of statewide as well as local concern.

The issues to be examined by the interim study shall include, but are not limited to:

(1) Economic incentives available to assist communities with the recruitment and retention of volunteer firefighters and volunteer emergency medical care providers;

(2) Noneconomic incentives available to assist communities with the recruitment and retention of such volunteers; and

(3) The financial cost to Nebraska's cities, villages, and rural areas if such volunteer services cease to exist.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 183.** Introduced by Coash, 27.

**PURPOSE:** The purpose of this interim study is to examine the possibility of creating a specialized magistrate for the state's largest courts. The intent for creating the position would be to provide an independent, unbiased review of complaints brought by law enforcement and citizens. The magistrate would be specially trained and empowered to issue search warrants, subpoenas, arrest warrants, and summonses and to set bail. The intent would also be for the magistrate to be a state employee under the control and supervision of the judiciary. It is the expectation that the creation of this position would curb the need for new judges and help reduce populations at correctional facilities.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 184.** Introduced by Coash, 27; McGill, 26.

**PURPOSE:** The purpose of this interim study is to examine the process by which the Division of Children and Family Services of the Department of Health and Human Services places Nebraska citizens on the central register of child protection cases. The issues addressed by this interim study shall include, but not be limited to:

(1) The procedure used by the division in placing a citizen on the central register of child protection cases, which should include an examination of the investigative procedures used by the Department of Health and Human Services and an examination of the categories used by the department, including court substantiated, agency substantiated, court pending, and unfounded;

(2) The due process implications of procedures relating to the central register of child protection cases; and

(3) The expungement process.

The study will seek to involve various interested parties and organizations, including, but not limited to, legal experts on investigative procedures, the Division of Children and Family Services of the Department of Health and Human Services, child welfare advocates, and family advocates.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 185.** Introduced by Lathrop, 12.

**PURPOSE:** The purpose of this interim study is to examine the impact of employer misclassification of employees in Nebraska. The committee shall conduct a study that includes, but is not limited to, the following topics:

(1) A review of information from state agencies, including, but not limited to, the Department of Revenue, the Department of Labor, and the Nebraska Workers' Compensation Court, detailing how employer misclassification affects employee benefits and protections as well as state revenue, unemployment insurance, and the workers' compensation system;

(2) An evaluation of current agency guidelines and practices to identify employers who misclassify and what, if any, consequence follows;

(3) An evaluation of current agency guidelines and practices to coordinate and share information regarding employer misclassification;

- (4) An analysis of information from both the public and private sectors on how employer misclassification affects law-abiding employers;
- (5) An analysis of information from other states that have addressed employer misclassification; and
- (6) An analysis of how the committee can legislatively address employer misclassification.

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

- 1. That the Business and Labor Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 186.** Introduced by Lathrop, 12.

**PURPOSE:** The purpose of this interim study is to examine workers' compensation insurance premiums in Nebraska. The committee shall conduct a study that includes, but is not limited to, the following topics:

- (1) An evaluation, both historical and current, of premium rates by industry, including what information is used to calculate the rates;
- (2) An evaluation of the effect, if any, of the hospital fee schedule on premiums; and
- (3) A comparison of other states' premium rates.

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

- 1. That the Business and Labor Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 187.** Introduced by Lathrop, 12.

**PURPOSE:** The purpose of this resolution is to examine the issues raised by the introduction of Legislative Bill 560, which would have made several changes to Nebraska's laws regarding the towing of motor vehicles. The study will include an examination of current state laws and city ordinances in Nebraska as they relate to the towing of motor vehicles, a review of other states' laws regarding the towing of motor vehicles, and a review of other issues raised during the hearing on LB 560.



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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 188.** Introduced by Lathrop, 12.

PURPOSE: The purpose of this resolution is to review the practice of using credit information in connection with the issuance, underwriting, renewal, cancellation, or denial of insurance. The study should include an examination of the issues raised during the public hearing on Legislative Bill 176, including a further examination of the extent of this practice in Nebraska and in other states and a review of legislation in other states that would seek to prohibit this practice.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 189.** Introduced by Lathrop, 12.

PURPOSE: The purpose of this interim study is to examine Nebraska's court-appointed special advocate programs and to develop a proposal to provide for sustainability of the programs in Nebraska's rural and urban areas. The study shall seek to involve advocates, judges, legal experts, and other interested parties to examine the court-appointed special advocate programs and to recommend actions to clarify, improve, and sustain the programs.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 190.** Introduced by Lathrop, 12.

**PURPOSE:** The purpose of this resolution is to review the current practice of issuing handicapped parking permits. The issues addressed in this study shall include, but not be limited to, the identifying information that is included on handicapped parking permits, the procedures involved in issuing handicapped parking permits, and the appropriate use of handicapped parking permits.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 191.** Introduced by Christensen, 44.

**PURPOSE:** The purpose of this interim study is to examine Nebraska's laws regarding a person's right in their home to defend his or her own life or another's life by reasonable force, which may include the use of deadly force, and to examine similar laws in other states that would potentially provide a model for expanding this right in Nebraska. The right to defend yourself by the use of reasonable force in one's home, which may include the use of deadly force, is generally called the Castle Doctrine. This study shall include, but not be limited to: (1) An examination of Nebraska's laws regarding one's right to self-defense within the home; (2) the review of Castle Doctrine laws in other states; and (3) the development of potential policy changes, if needed, to strengthen the right to self-defense within the home in Nebraska.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 192.** Introduced by Christensen, 44.

**PURPOSE:** Many students in Nebraska are holders of a school permit and are allowed to operate a motor vehicle, moped, or motorcycle at the ages of fourteen and fifteen years pursuant to section 60-4,124. School-permit holders are allowed to operate a motor vehicle, moped, or motorcycle under certain conditions and can drive from home to their school and its activities and then back home again. A school-permit holder must use the most direct route when traveling from home to school. This study will seek to examine the feasibility of allowing individuals who are fourteen and fifteen years of age, in addition to their current authority to obtain a school permit, the authority to travel to and from work under similar laws and regulations to school permits. This study shall include, but not be limited to: (1) Identifying any additional safety concerns for such students when traveling to work beyond what is already present with school-permit holders; (2) comparing any strengths and weaknesses to narrowing such a work permit to certain classes of cities or villages; and (3) comparing the strengths and weaknesses between adding such a privilege under a school permit, allowing a school-permit holder to add a work endorsement similar to a Class M endorsement, or creating a whole new, separate permit.

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

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to 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 36.** Committee AM828, found on page 1081 and considered in this day's Journal, was renewed.

Senator Avery offered the following amendment to the committee amendment:

AM1455

(Amendments to Standing Committee amendments, AM828)

- 1 1. Insert the following new amendments:
- 2 1. Insert the following new section:
- 3 Section 1. Section 28-105.01, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 28-105.01 (1) Notwithstanding any other provision of law,
- 6 the death penalty shall not be imposed upon any person who was
- 7 under the age of eighteen years at the time of the commission of

8 the crime.

9 (2) Notwithstanding any other provision of law, the  
10 death penalty shall not be imposed upon any person with mental  
11 retardation. As used in this subsection, (3) As used in subsection  
12 (2) of this section, mental retardation means significantly  
13 subaverage general intellectual functioning existing concurrently  
14 with deficits in adaptive behavior. An intelligence quotient of  
15 seventy or below on a reliably administered intelligence quotient  
16 test shall be presumptive evidence of mental retardation.

17 (3) Notwithstanding any other provision of law, the death  
18 penalty shall not be imposed upon any person unless at least  
19 one of the following was admitted as evidence at the person's  
20 trial: (a) Deoxyribonucleic acid conclusively proving that the  
21 person committed the offense; (b) a video recording of the person  
22 confessing to the offense, including video recordings of all  
1 prior interrogations of the person by a peace officer; or (c) a  
2 video recording conclusively proving that the person committed the  
3 offense.

4 (4) If (a) a jury renders a verdict finding the existence  
5 of one or more aggravating circumstances as provided in section  
6 29-2520 or (b)(i) the information contains a notice of aggravation  
7 as provided in section 29-1603 and (ii) the defendant waives his or  
8 her right to a jury determination of the alleged aggravating  
9 circumstances, the court shall hold a hearing prior to any  
10 sentencing determination proceeding as provided in section 29-2521  
11 upon a verified motion of the defense requesting a ruling that the  
12 penalty of death be precluded under subsection (2) of this section.  
13 If the court finds, by a preponderance of the evidence, that the  
14 defendant is a person with mental retardation, the death sentence  
15 shall not be imposed. A ruling by the court that the evidence  
16 of diminished intelligence introduced by the defendant does not  
17 preclude the death penalty under subsection (2) of this section  
18 shall not restrict the defendant's opportunity to introduce such  
19 evidence at the sentencing determination proceeding as provided in  
20 section 29-2521 or to argue that such evidence should be given  
21 mitigating significance.

22 5. On page 15, line 2, after "sections" insert  
23 "28-105.01,".

24 6. Renumber the remaining sections and correct internal  
25 references accordingly.

26 2. Renumber the remaining amendments accordingly.

**SENATOR STUTHMAN PRESIDING**

**SENATOR LANGEMEIER PRESIDING**

**SENATOR CARLSON PRESIDING**

Pending.

**REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

**LB/LR**     **Committee**  
LR171     Executive Board

(Signed) John Wightman, Chairperson  
Executive Board

**NOTICE OF COMMITTEE HEARING**  
Executive Board

Room 2102

Tuesday, May 26, 2009     12:00 p.m.

LR171

(Signed) John Wightman, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 193.** Introduced by Haar, 21.

**PURPOSE:** The 2009 Legislature passed LB 436, which established a statewide net metering policy. This study will examine the impact of the passage of LB 436. Issues to be studied shall include, but are not limited to, the following:

- (1) Whether the passage of LB 436 has stimulated investments in renewable energy equipment by electrical consumers;
- (2) Whether increasing the rated capacity cap would increase consumer investments in renewable energy;
- (3) Whether changes in credit carryover procedures would increase consumer investments in renewable energy;
- (4) Whether statewide interconnection standards should be established;
- (5) Recognized best practices in net metering policies; and
- (6) The impact of LB 436 on Nebraska's public utilities.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 194.** Introduced by Haar, 21.

**PURPOSE:** The purpose of this interim study is to examine unintended pregnancies and sexually transmitted diseases. It is in the interest of the State of Nebraska to prevent both unintended pregnancies and sexually transmitted diseases to the greatest extent possible. Approximately half of all pregnancies in the United States are unintended. Unintended pregnancies can lead to mental and physical health problems, poverty, and abortions. The rise of sexually transmitted diseases is also a growing concern in Nebraska. Unsafe and unhealthy sexual practices lead to a rise in sexually transmitted diseases, unintended pregnancies, and abortions. The study shall include, but not be limited to:

(1) A study of Nebraska's sex education policy for determining effective, age-appropriate sex education curriculum in Nebraska's public schools;

(2) A study of the role of families and communities in providing information on sex and pregnancy and how parents can be equipped to provide accurate information to their children;

(3) A study of the role of the state in providing family planning services to economically disadvantaged Nebraskans, including the effectiveness of applying for the federal medicaid waiver;

(4) A study of the effectiveness, availability, and accuracy of information regarding contraceptives and their role in preventing unintended pregnancies and sexually transmitted diseases; and

(5) A recommendation for any legislation necessary to address issues and solutions suggested by this study.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 195.** Introduced by Haar, 21.

**PURPOSE:** The purpose of this interim study is to examine energy efficiency. Greater energy efficiency can provide many benefits, including the following: (1) Reduction of pollution and other environmental impacts associated with the production, generation, and use of electricity, natural gas, and oil; (2) increasing the reliability of electricity systems by reducing the strain on the electrical grid during peak demand periods, which can also reduce or delay the need for new power plants, power transmission lines, and power distribution upgrades; (3) improving national security by

reducing dependence on oil and other resources from other countries, particularly from areas that are politically unstable or hostile toward the United States; (4) reduction in the amount of money required to heat, cool, and light buildings and operate motor vehicles; and (5) improving the economy of the state and its communities by reducing money sent out-of-state to pay for energy costs. The State of Nebraska and its political subdivisions should have the most up-to-date information on current energy usage and energy efficiency measures that are available and being utilized. The issues to be addressed by this study shall include, but are not limited to:

(1) A review of methods of determining energy usage by the state and its political subdivisions;

(2) A review of effective energy efficiency methods currently being used in the state by state agencies, political subdivisions, including school districts, and Nebraska's public power districts;

(3) A review of studies of energy efficiency being conducted by academic institutions, including the University of Nebraska;

(4) A review of effective energy efficiency methods being utilized in other states;

(5) A review of methods of providing funding for energy efficiency projects, including how to best utilize federal stimulus money;

(6) A review of any other topics deemed necessary for a complete examination of this issue; and

(7) A recommendation for any legislation needed to accomplish the goals of energy efficiency, including any legislation necessary to utilize federal stimulus money.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 196.** Introduced by General Affairs Committee: Karpisek, 32, Chairperson; Coash, 27; Cook, 13; Dierks, 40; Dubas, 34; Friend, 10; Price, 3; Rogert, 16.

**PURPOSE:** The purpose of this interim study is to examine and review the Nebraska Liquor Control Act to determine whether the act should be revised and updated with respect to retail licenses. The study shall also include recommendations regarding what, if anything, should be updated in the act. The act was initially passed in 1935, making it 75 years old in 2010.

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

1. That the General Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 197.** Introduced by General Affairs Committee: Karpisek, 32, Chairperson; Coash, 27; Cook, 13; Dierks, 40; Dubas, 34; Friend, 10; Price, 3; Rogert, 16.

**PURPOSE:** To investigate and review matters and issues arising during the interim which are within the jurisdiction of the General Affairs Committee of the Legislature.

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

1. That the General Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 198.** Introduced by Nordquist, 7; Mello, 5.

**PURPOSE:** The purpose of this resolution is to study 529 college savings plans, including their performance and administration. The increasing cost of tuition makes financial planning for secondary education critical to most Nebraska families. As such, the citizens of Nebraska must be able to rely on their state government to offer highly-rated and high-performing 529 college savings plans. Recent reports demonstrate that the 529 college savings plans currently offered by Nebraska do not meet these expectations. This study shall:

(1) Compare the performance of Nebraska's 529 college savings plans with those offered by other states;

(2) Determine why Nebraska's plans have underperformed as compared to their peers;

(3) Identify attributes common to the elite 529 college savings plans in the country and evaluate how these plans are administered; and

(4) Make recommendations to enhance the performance of Nebraska's 529 college savings plans.



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

1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 199.** Introduced by General Affairs Committee: Karpisek, 32, Chairperson; Coash, 27; Cook, 13; Dierks, 40; Dubas, 34; Friend, 10; Price, 3; Rogert, 16; Ashford, 20; Lautenbaugh, 18.

**PURPOSE:** The purpose of this interim study is to examine and review the situation in Whiteclay, Nebraska, regarding the sale of alcohol and its secondary effects. The study shall also include recommendations for what, if anything, should be done to address the issues regarding alcohol sales in Whiteclay. The study may include, but is not limited to, the following:

(1) An examination of whether the Whiteclay alcohol licensees are violating the Nebraska Liquor Control Act;

(2) An examination of the socioeconomic impact of alcohol and related issues on the Whiteclay area;

(3) An examination of whether the Nebraska Liquor Control Act is effective in its current form or whether changes should be made to more effectively address the issues in Whiteclay;

(4) An examination of whether law enforcement efforts to enforce the Nebraska Liquor Control Act and other state and federal statutes are effective; and

(5) An examination of the relationship between local and state authorities, Pine Ridge Native American authorities, the State of South Dakota, and the federal Bureau of Indian Affairs.

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

1. That the General Affairs and Judiciary Committees of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 200.** Introduced by Rogert, 16; Karpisek, 32.

**PURPOSE:** In 1983, the program created under sections 23-362 and 23-362.01 in 1957 was placed under the jurisdiction of the Nebraska Commission on Law Enforcement and Criminal Justice (LB 607), Program 196.

Since 1986 and the most recent criminal retrocession for the Winnebago Tribe, the commission has interpreted the statute to mean that the counties, including Thurston County, should not receive state aid any longer for law enforcement on the reservations.

However, Thurston County may still be spending county funds in order to provide for law enforcement and county operations on the reservation since the criminal retrocession for the Winnebago Tribe in 1986 due to the exception left in for traffic violations when the Omaha Tribe retroceded in 1969.

The purpose of this study is to determine if Thurston County is still entitled to automatic state aid payments and a reimbursement and, if this is the case, how to reimburse the county.

The issues to be addressed by this study include, but are not limited to:

(1) What are the geographic boundaries of the Winnebago and Omaha Tribes in Thurston County;

(2) Is the method for reimbursement to Thurston County a federal or a state responsibility;

(3) How much has Thurston County lost due to traffic violations since the decision to stop state aid due to the criminal retrocession for the Winnebago Tribe in 1986;

(4) Is the commission correct in its interpretation that state aid ceases to Thurston County after the criminal retrocession for the Winnebago Tribe in 1986; and

(5) What is the appropriate method for reimbursement.

Based on this study, the committee shall make any recommendations necessary to address any concerns relative to the funding and reimbursement to Thurston County.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 201.** Introduced by Rogert, 16; Friend, 10.

**PURPOSE:** In the last legislative session the Urban Affairs Committee of the Legislature considered LB 381. That bill proposes two separate and independent acts, the Community Improvement District Act (sections 1 to 19 of the bill) and the Transportation Development District Act (sections 20 to 55 of the bill).

Both acts propose the creation of local, self-governing political subdivisions given broad general taxation powers, generally based upon local voter approval, and general power to act to implement economic development and infrastructure construction and improvement agendas, independent of political subdivision oversight.

In the light of the significant issues involved in the legislation and the potential they have for providing new economic development tools for local governments, the committee decided that it would be appropriate to devote study during the interim to the provisions of the bill and their impact and how best modify it to meet the particular needs of our municipalities in the current economic environment. In addition, some time would be devoted to determining the effectiveness of the proposed acts in other states.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 202.** Introduced by Friend, 10.

**PURPOSE:** Under Nebraska law, cities and villages exercise jurisdiction for a number of purposes over areas outside of their boundaries. In addition to planning and zoning regulations, subdivision regulations, and building codes, these areas are also subject to some police power regulations, including nuisance laws. The citizens who live in that area often pay higher fees or taxes as the result of municipal action on the construction, improvement, or expansion of some utility facilities.

Municipal decisions involving expansions of facilities that provide water, sewer, gas, or solid waste disposal services can have a significant influence on the cost and quality of life of the residents both inside and outside city limits.

The purpose of this study will be to investigate the full range of powers granted to municipalities, both cities and villages, which involve jurisdiction over residents in areas outside of municipal boundaries, determine how widespread is the exercise of these powers and the extent of their reach, and

determine if these powers are necessary or appropriate or if they should be expanded or modified.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 203.** Introduced by Friend, 10.

**PURPOSE:** The purpose of this resolution is for the Urban Affairs Committee of the Legislature to study the cost-effectiveness of upgrading the Nebraska Energy Code for new commercial construction to thirty percent beyond the existing code. Nebraska's current standard for new commercial construction is the 2003 International Energy Conservation Code as developed by the International Code Council. The most recent national energy standard is the 2009 International Energy Conservation Code. Nebraska consumers are requesting more energy efficiency and environmental standards in new commercial construction. The results of this study will provide the basis for the Urban Affairs Committee to determine whether Nebraska should upgrade the Nebraska Energy Code.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 204.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Coash, 27; Cook, 13; Lathrop, 12; McGill, 26; Rogert, 16; White, 8.

**PURPOSE:** This study will provide the opportunity for the Urban Affairs Committee of the Legislature to investigate and review matters and issues arising during the interim which are within its jurisdiction and which may be the subject of bills to be introduced in the 2010 legislative session.

The study will involve:

(1) A review of any legislation considered by the committee during the 2009 legislative session which failed to advance from committee or to be

adopted to determine what further action by the committee might be warranted with regard to the particular subjects of the individual bills;

(2) A review of problems, concerns, or legislation proposed for introduction by senators or other parties for study, technical discussion, or conceptual refinement before the start of the next legislative session; and

(3) The conduct of at least one public hearing to provide an opportunity for public comment and discussion with members of the committee and the public on issues involving matters within the committee's jurisdiction.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 205.** Introduced by Friend, 10.

PURPOSE: State law gives authority to cities and villages to adopt various building codes, plumbing codes, electrical codes, fire prevention codes, energy efficiency codes, and other codes relating to the building or construction of structures, both residential and commercial.

Over the course of time various issues have come to the Urban Affairs Committee of the Legislature regarding building codes: The appropriate code or version of a code to adopt by statute; the adoption and enforcement of these codes on the local level; the interrelationship of the various codes; the proper role of the various state agencies with authority regarding the codes and their enforcement; and the various jurisdictional issues surrounding local subdivision enactment and enforcement of codes.

This study would examine these issues and questions and review the status of current state law regarding the various codes currently in use by cities and villages in Nebraska.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 206.** Introduced by Adams, 24.

**PURPOSE:** The purpose of this interim study is to examine issues related to learning communities.

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

1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 207.** Introduced by Nantkes, 46.

**PURPOSE:** The purpose of this interim study is to (1) examine the statutory means by which a city of the primary class would establish a separate transit authority, similar to Omaha's Metro Area Transit (MAT) and (2) identify the steps that need to be taken at the federal or state level to facilitate the transfer of transit assets from a city of the primary class to a separate transit authority.

MAT is Omaha's public transit system. Created pursuant to the Transit Authority Law, MAT is a governmental subdivision that is separate from the city of Omaha. It is vested with a number of powers and duties, including the ability to set routes and raise revenue. MAT is governed by a five-member board of directors who are appointed by local elected officials.

The Transit Authority Law applies only to cities of the metropolitan class. In the city of Lincoln (a primary class city), the public transit system is known as StarTran. StarTran is not a separate governmental subdivision; rather, it is a division of the city's Public Works and Utilities Department. As such, many of StarTran's activities, including budgeting and major route-setting, are subject to approval by the city council or the mayor.

It is the intent of the Legislature that this interim study will examine whether or not it is sound public policy to allow a city of the primary class to create a separate transit authority and determine an outline of the steps necessary at the federal or state level to facilitate the transfer of transit assets from a city of the primary class to the separate transit authority.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 208.** Introduced by Nantkes, 46.

PURPOSE: During tough economic times when traditional sources of funds to grow businesses are limited, it becomes important to study innovative ways to invest in economic development. The purpose of this interim study is to focus on innovative and creative solutions to supplement traditional economic development tools, including the use of private "angel investors" in new companies. The study will also evaluate innovative programs in other states and report on what is lacking and needed in Nebraska.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 209.** Introduced by Nantkes, 46.

PURPOSE: The State of Nebraska is about to embark on a major modernization effort in its delivery of legally authorized health and human services. The current proposal seeks to reduce the number of state employees employed by the Department of Health and Human Services. The modernization proposal requires communities to partner with the state in the delivery of services previously provided by state employees. Other states have embarked on similar efforts. Nebraskans who are elderly or disabled have difficulties interacting with new technologies.

The purpose of this interim study is to explore the implications of the Department of Health and Human Services' discontinuance of the existing manner in which they interact with citizens of this state and the utilization of new technologies, such as Access Nebraska.

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

1. That the Appropriations and Health and Human Services Committees of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

**GENERAL FILE**

**LEGISLATIVE BILL 36.** The Avery amendment, AM1455, found in this day's Journal, to the committee amendment, was renewed.

Pending.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 155.** Placed on Final Reading.

ST9056

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

1. In the Rogert amendment, AM1432, section 21 has been renumbered as section 18.

2. In the Standing Committee amendments, AM1271, section 17 and all amendments thereto have been struck and the following new section inserted.

Sec. 20. Original sections 28-101, 28-518, 28-603, 28-604, 28-608, 28-611, 29-110, and 87-302, Reissue Revised Statutes of Nebraska, are repealed.

3. In the E & R amendments, ER8129, on page 1, line 5, "and 29-110" has been struck and "29-110, and 87-302" inserted; and in line 10 "to create an additional deceptive trade practice under the Uniform Deceptive Trade Practices Act;" has been inserted after the first semicolon.

**LEGISLATIVE BILL 218.** Placed on Final Reading.

**LEGISLATIVE BILL 392.** Placed on Final Reading Second.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**

## Education

**LEGISLATIVE BILL 281.** Placed on General File with amendment.  
AM353

1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 79-1212, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 79-1212 ~~Members~~ (1) Except as provided in subsection  
6 (2) of this section, members of boards of educational service  
7 units existing prior to approval of any plan of reorganization  
8 shall serve as board members of educational service units which  
9 are reorganized pursuant to sections 79-1206 to 79-1211 until the  
10 expiration of their original terms. Such persons shall be members  
11 of the board of the reorganized educational service unit in which



12 they reside. Within thirty days after approval of any plan of  
13 reorganization by the State Board of Education, the Commissioner of  
14 Education shall call a meeting of board members of each educational  
15 service unit being reorganized pursuant to sections 79-1206 to  
16 79-1211. At such meeting, members of each such board shall appoint  
17 one member from each election district to be created pursuant to  
18 the plan of reorganization not having representation on such board  
19 to serve until the next general election. The board shall take  
20 all necessary action to prepare for operation of the reorganized  
21 educational service unit commencing one year following approval  
22 of any plan of reorganization by the State Board of Education.  
23 Expenses incurred by such board prior to such times shall be  
1 prorated between the counties comprising the educational service  
2 unit on the basis of the assessed valuation of such counties.

3 (2) Except as otherwise provided in this subsection,  
4 for any plan of reorganization that includes the addition of  
5 one school district to a single-district educational service unit  
6 to form a two-district educational service unit, members of the  
7 boards of educational service units existing prior to approval of  
8 any plan of reorganization shall serve as members of the boards  
9 of educational service units which are reorganized pursuant to  
10 sections 79-1206 to 79-1211 until the educational service unit  
11 board members elected in the next statewide general election  
12 take office. Such persons shall be members of the board of the  
13 reorganized educational service unit in which they reside. In  
14 addition, the school board of the school district that is being  
15 added to the existing single-district educational service unit  
16 shall appoint a number of school board members to serve on the  
17 educational service unit board until the educational service unit  
18 board members elected in the next statewide general election  
19 take office such that the combination of board members from any  
20 previous educational service unit residing within such school  
21 district plus the members appointed from such school board equal  
22 the number of school board members serving as educational service  
23 unit members for the single-district educational service unit  
24 immediately prior to the reorganization. If the number of school  
25 board members serving as educational service unit board members for  
26 the single-district educational service unit immediately prior to  
27 the reorganization exceeds the number of school board members of  
1 the school district that is being added to the educational service  
2 unit plus the board members from another educational service unit  
3 residing within the school district, then the school board members  
4 erving as educational service unit board members prior to the  
5 reorganization shall appoint a number of such board members to  
6 serve on the reorganized educational service unit board equal to  
7 the number of board members for the reorganized educational service  
8 unit that reside in the other school district. Within thirty days  
9 after approval of any plan of reorganization by the State Board of  
10 Education, the Commissioner of Education shall call a meeting of

11 board members of each educational service unit being reorganized  
 12 pursuant to sections 79-1206 to 79-1211. The board shall take  
 13 all necessary action to prepare for operation of the reorganized  
 14 educational service unit commencing one year following approval  
 15 of any plan of reorganization by the State Board of Education.  
 16 Expenses incurred by such educational service unit board prior to  
 17 such times shall be prorated between the counties comprising the  
 18 educational service unit on the basis of the assessed valuation of  
 19 such counties.  
 20 Sec. 2. Original section 79-1212, Reissue Revised  
 21 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 22.** Indefinitely postponed.  
**LEGISLATIVE BILL 215.** Indefinitely postponed.  
**LEGISLATIVE BILL 558.** Indefinitely postponed.  
**LEGISLATIVE BILL 607.** Indefinitely postponed.  
**LEGISLATIVE BILL 654.** Indefinitely postponed.  
**LEGISLATIVE BILL 665.** Indefinitely postponed.

(Signed) Greg Adams, Chairperson

**NOTICE OF COMMITTEE HEARING**  
 Education

Room 1525

Tuesday, May 26, 2009 9:00 a.m.

Colleen Adam - Coordinating Commission for Postsecondary Education  
 Ronald Hunter - Coordinating Commission for Postsecondary Education  
 Eric Seacrest - Coordinating Commission for Postsecondary Education

(Signed) Greg Adams, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 210.** Introduced by Revenue Committee:  
 Cornett, 45, Chairperson; Adams, 24; Dierks, 40; Friend, 10; Hadley, 37;  
 Loudon, 49; Utter, 33; White, 8.

**PURPOSE:** The purpose of this interim study is to determine whether lodging taxes should apply to home rentals since a bed and breakfast is subject to lodging tax but if a homeowner rents their home out for multiple weeks to persons not intending to use it as a residence, no lodging tax is collected.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 211.** Introduced by Revenue Committee: Cornett, 45, Chairperson; Adams, 24; Dierks, 40; Friend, 10; Hadley, 37; Loudon, 49; Utter, 33; White, 8.

**PURPOSE:** The purpose of this interim study is to determine whether the sales tax collected on heating fuels should be changed to an excise tax so as to minimize the impact of the volatility of sales prices.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 212.** Introduced by Revenue Committee: Cornett, 45, Chairperson; Adams, 24; Dierks, 40; Friend, 10; Hadley, 37; Loudon, 49; Utter, 33; White, 8.

**PURPOSE:** The purpose of this interim study is to examine the valuation of agricultural land for tax purposes in Nebraska and in surrounding states. The goal of the study is to produce a workable legislative proposal for valuing agricultural land. The study shall also examine issues raised by the enforcement of greenbelt statutes and other laws relating to the valuation of agricultural land.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 213.** Introduced by Revenue Committee: Cornett, 45, Chairperson; Adams, 24; Dierks, 40; Friend, 10; Hadley, 37; Loudon, 49; Utter, 33; White, 8.

**PURPOSE:** The purpose of this interim study is to determine whether current business tax incentive programs should be changed to recognize that jobs that were part of a bankrupt entity that are now part of a business that qualifies for a tax incentive program may be counted regardless of the waiting periods in place.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 214.** Introduced by Revenue Committee: Cornett, 45, Chairperson; Adams, 24; Dierks, 40; Friend, 10; Hadley, 37; Loudon, 49; Utter, 33; White, 8.

**PURPOSE:** The purpose of this interim study is to examine the local government levy limits and the property tax related proposals that have been implemented since 1995. The study should include an analysis of the impact that such legislation has had on taxpayers and on local government finances.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 215.** Introduced by Revenue Committee: Cornett, 45, Chairperson; Adams, 24; Dierks, 40; Friend, 10; Hadley, 37; Loudon, 49; Utter, 33; White, 8.

**PURPOSE:** The purpose of this resolution is to study the current processes and procedures in statute applicable to county boards of equalization.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 216.** Introduced by Friend, 10; Pirsch, 4.

**PURPOSE:** Municipalities in Nebraska have been granted broad general authority to levy occupation taxes. The full extent to which the authority has been exercised has not been fully investigated or documented.

During the course of this legislative session, the Urban Affairs Committee of the Legislature considered two bills involving modifications to occupation tax authority, LB 174 (to modify wheel tax authority in Omaha) and LB 470 (to limit certain city occupation taxes).

This study will endeavor to identify the range of occupation taxes which are currently levied by cities and villages in Nebraska, the types of business activities which are the subject of such taxes, the impact of such taxes upon the general business climate in such communities, and the reliance of municipalities upon such taxes and the extent to which municipalities use such taxes to supplement other local sources of revenue. The study will also seek to determine the role such taxes play in helping municipalities who use them to cope with budget and property tax levy limits.

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

1. That the Urban Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 217.** Introduced by Mello, 5.

**PURPOSE:** The purpose of this interim study is to examine ways to encourage entrepreneurship and private funding programs in Nebraska. The study shall include, but not be limited to: (1) A list and review of existing state and private funding for microlending, entrepreneurship, seed capital, angel capital, and venture capital programs in Nebraska; (2) an examination of ways to increase any needed state involvement in these programs; and (3) an examination of ways to encourage private businesses to leverage additional federal research funds.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 218.** Introduced by Pirsch, 4.

**PURPOSE:** The purpose of this resolution is to determine ways the State of Nebraska can promote and increase the export of Nebraska's agricultural products.

**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 be designated to 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.

**LEGISLATIVE RESOLUTION 219.** Introduced by Pirsch, 4.

**PURPOSE:** To determine ways the state can play a role in reducing truancies among Nebraska's K-12 students.

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

1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 220.** Introduced by Pirsch, 4.

**PURPOSE:** The purpose of this resolution is to review recent trends and developments in the regulation of the business of insurance, especially those concerning the financial soundness of insurers in an evolving national and global economic environment.

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

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 221.** Introduced by Pirsch, 4.

**PURPOSE:** The purpose of this resolution is to determine ways the State of Nebraska could promote energy conservation in commercial buildings and residential properties.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 222.** Introduced by Langemeier, 23.

**PURPOSE:** To study the issues related to granting the Department of Environmental Quality the statutory authority to file and collect environmental liens on property (both real and personal) of responsible parties in order to recover state funds expended if responsible parties (1) are insolvent, (2) refuse to take responsibility, or (3) are unavailable to undertake the required investigation, remediation, cleanup, or closure of property or a facility. An environmental lien would allow the state to equitably recover any state funds expended if significant environmental activity has occurred.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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 36.** The Avery amendment, AM1455, found in this day's Journal, to the committee amendment, was renewed.

**SENATOR ROBERT PRESIDING**

The Avery amendment lost with 7 ayes, 31 nays, 9 present and not voting, and 2 excused and not voting.

Pending.

**AMENDMENTS - Print in Journal**

Senator Pirsch filed the following amendment to LB288:  
AM1428

- 1 1. Insert the following section:  
 2 Sec. 4. Section 43-512.15, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 43-512.15 (1) The county attorney or authorized attorney,  
 5 upon referral from the Department of Health and Human Services,  
 6 shall file a complaint to modify a child support order unless the  
 7 attorney determines in the exercise of independent professional  
 8 judgment that:  
 9 (a) The variation from the Supreme Court child support  
 10 guidelines pursuant to section 42-364.16 is based on material  
 11 misrepresentation of fact concerning any financial information  
 12 submitted to the attorney;  
 13 (b) The variation from the guidelines is due to a  
 14 voluntary reduction in net monthly income. For purposes of this  
 15 section, a person who has been incarcerated for a period of one  
 16 year or more in a county or city jail or a federal or state  
 17 correctional facility shall be considered to have an involuntary  
 18 reduction of income unless (i) the incarceration is a result of  
 19 a conviction for criminal nonsupport pursuant to section 28-706  
 20 or a conviction for a violation of any federal law or law of  
 21 another state substantially similar to section 28-706, ~~or~~ (ii)  
 22 the incarcerated individual has a documented record of willfully  
 23 failing or neglecting to provide proper support which he or  
 1 she knew or reasonably should have known he or she was legally  
 2 obligated to provide when he or she had sufficient resources to  
 3 provide such support, or (iii) the incarceration is a result of a  
 4 conviction for a crime in which the child who is the subject of the  
 5 child support order was victimized; or  
 6 (c) When the amount of the order is considered with all  
 7 the other undisputed facts in the case, no variation from the  
 8 criteria set forth in subdivisions (1) and (2) of section 43-512.12  
 9 exists.  
 10 (2) The department, a county attorney, or an authorized



11 attorney shall not in any case be responsible for reviewing or  
 12 filing an application to modify child support for individuals  
 13 incarcerated as described in subdivision (1)(b) of this section.

14 (3) The proceedings to modify a child support order shall  
 15 comply with section 42-364, and the county attorney or authorized  
 16 attorney shall represent the state in the proceedings.

17 (4) After a complaint to modify a child support order is  
 18 filed, any party may choose to be represented personally by private  
 19 counsel. Any party who retains private counsel shall so notify the  
 20 county attorney or authorized attorney in writing.

21 2. Renumber the remaining sections, correct internal  
 22 references, and correct the repealer so that the section added  
 23 by this amendment becomes operative three calendar months after  
 24 adjournment of this legislative session.

Senator Cornett filed the following amendment to LB218A:  
 AM1453

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

3 Section 1. Section 77-27,228, Revised Statutes Cumulative  
 4 Supplement, 2008, is amended to read:

5 77-27,228 (1) For purposes of sections 77-27,228 to  
 6 77-27,234, subject to subsection (2) of this section, planned gift  
 7 means an irrevocable contribution to a qualified endowment when the  
 8 contribution uses any of the following techniques authorized under  
 9 the Internal Revenue Code of 1986, as amended:

10 (a) Charitable remainder unitrusts, as defined by section  
 11 664(d)(2) of the code;

12 (b) Charitable remainder annuity trusts, as defined by  
 13 section 664(d)(1) of the code;

14 (c) Pooled income ~~fund trusts, funds,~~ as defined by  
 15 section 642(c)(5) of the code;

16 (d) Charitable lead unitrusts qualifying under section  
 17 170(f)(2)(B) of the code;

18 (e) Charitable lead annuity trusts qualifying under  
 19 section 170(f)(2)(B) of the code;

20 (f) Charitable gift annuities ~~undertaken pursuant to~~  
 21 ~~section 1011(b) of the code;~~ qualifying under section 59-1802;

22 (g) Deferred charitable gift annuities ~~undertaken~~  
 23 ~~pursuant to section 1011(b) of the code;~~ qualifying under section  
 1 59-1802;

2 (h) Charitable life estate agreements qualifying under  
 3 section 170(f)(3)(B) of the code; or

4 (i) Paid-up life insurance policies qualifying as a  
 5 deduction under section 170 of the code.

6 (2)(a) A contribution using a technique described in  
 7 subdivision (1)(a) or (1)(b) of this section is not a planned gift  
 8 unless the trust agreement provides that the trust cannot terminate  
 9 and the beneficiaries' interest in the trust cannot be assigned or

10 contributed to the qualified endowment sooner than the earlier of:

11 (i) The date of death of the beneficiaries; or

12 (ii) Five years after the date of the contribution.

13 (b) A contribution using the technique described in  
 14 subdivision (1)(g) of this section is not a planned gift unless  
 15 the payment of the annuity is required to begin within the life  
 16 expectancy of the annuitant or of the joint life expectancies  
 17 of the annuitants, if more than one annuitant, as determined  
 18 using the actuarial tables adopted by the Department of Revenue  
 19 in effect on the date of the contribution. The department may  
 20 adopt and promulgate rules and regulations adopting life expectancy  
 21 tables that are derived from the actuarial tables contained in the  
 22 publications of the Internal Revenue Service.

23 (c) A contribution using a technique described in  
 24 subdivision (1)(f) or (1)(g) of this section is not a planned gift  
 25 unless the annuity agreement provides that the interest of the  
 26 annuitant or annuitants in the gift annuity cannot be assigned to  
 27 the qualified endowment sooner than the earlier of:

1 (i) The date of death of the annuitant or annuitants; or

2 (ii) Five years after the date of the contribution.

3 (d) A contribution using a technique described in  
 4 subdivision (1)(f) or (1)(g) of this section is not a planned gift  
 5 unless the annuity is made by way of a qualified-charitable gift  
 6 annuity contribution as defined in section ~~59-1802~~. 170 of the  
 7 code.

8 Sec. 2. Section 77-27,229, Revised Statutes Cumulative  
 9 Supplement, 2008, is amended to read:

10 77-27,229 (1) For purposes of sections 77-27,228 to  
 11 77-27,234, endowment fund means an institutional fund, or part  
 12 thereof, as defined in section 58-611.

13 (2) For purposes of sections 77-27,228 to 77-27,234,  
 14 qualified endowment means a permanent, irrevocable an endowment  
 15 fund that is used for Nebraska charitable purposes and held by a  
 16 Nebraska incorporated or established organization that:

17 ~~(1)(a)~~ (a)(i) Is a tax-exempt organization under section  
 18 501(c)(3) of the Internal Revenue Code of 1986, as amended; or

19 ~~(b)~~ (ii) Is a bank or trust company that is holding the  
 20 fund on behalf of a tax-exempt organization under section 501(c)(3)  
 21 of the code; and

22 ~~(2)(b)~~ Holds the fund as a permanent-qualified endowment  
 23 fund from which funds may only be appropriated under the standards  
 24 set forth in section 58-613.

25 Sec. 3. Section 77-27,234, Revised Statutes Cumulative  
 26 Supplement, 2008, is amended to read:

27 77-27,234 Sections 77-27,228 to 77-27,233 terminate for  
 1 taxable years beginning or deemed to begin on or after January 1,  
 2 2010, December 31, 2015, under the Internal Revenue Code of 1986,  
 3 as amended.

4 Sec. 4. This act becomes operative for all taxable years

5 beginning or deemed to begin on or after January 1, 2009, under the  
 6 Internal Revenue Code of 1986, as amended.  
 7 Sec. 5. Original sections 77-27,228, 77-27,229, and  
 8 77-27,234, Revised Statutes Cumulative Supplement, 2008, are  
 9 repealed.

Senator Langemeier filed the following amendment to LB561:  
 AM1454

(Amendments to E & R amendments, ER8126)

- 1 1. Strike section 3 and insert the following new  
 2 sections:  
 3 Sec. 3. Section 70-1903, Revised Statutes Cumulative  
 4 Supplement, 2008, is amended to read:  
 5 70-1903 For purposes of the Rural Community-Based Energy  
 6 Development Act:  
 7 (1) C-BED project or community-based energy development  
 8 project means a new wind energy project that:  
 9 (a) Has an ownership structure as follows:  
 10 (i) For a C-BED project that consists of more than  
 11 two turbines, has one or more qualified owners with no single  
 12 individual qualified owner owning directly or indirectly more than  
 13 fifteen percent of the project and with at least thirty-three  
 14 percent of the gross power purchase agreement payments flowing to  
 15 the qualified owner or owners or local community; or  
 16 (ii) For a C-BED project that consists of one or  
 17 two turbines, has one or more qualified owners with at least  
 18 thirty-three percent of the gross power purchase agreement payments  
 19 flowing to a qualified owner or owners or local community; and  
 20 (b) Has a resolution of support adopted:  
 21 (i) By the county board of each county in which the C-BED  
 22 project is to be located; or  
 1 (ii) By the tribal council for a C-BED project located  
 2 within the boundaries of an Indian reservation;  
 3 (2) Debt financing payments means principal, interest,  
 4 and other typical financing costs paid by the C-BED project company  
 5 to one or more third-party financial institutions for the financing  
 6 or refinancing of the construction of the C-BED project. Debt  
 7 financing payments does not include the repayment of principal at  
 8 the time of a refinancing;  
 9 ~~(2)-(3)~~ Electric utility means an electric supplier that:  
 10 (a) Owns more than one hundred miles of  
 11 one-hundred-fifteen-kilovolt or larger transmission lines in the  
 12 State of Nebraska;  
 13 (b) Owns more than two hundred megawatts of electric  
 14 generating facilities; and  
 15 (c) Has the obligation to directly serve more than two  
 16 hundred megawatts of wholesale or retail electric load in the State  
 17 of Nebraska; ~~and~~  
 18 (4) Gross power purchase agreement payments means the

19 total amount of payments during the life of the agreement. For  
 20 power purchase agreements entered into on or before December 31,  
 21 2011, if the qualified owners have a combined total of at least  
 22 thirty-three percent of the equity ownership in the C-BED project,  
 23 gross power purchase agreement payments shall be reduced by the  
 24 debt financing payments; and

25 ~~(3)~~(5) Qualified owner means:

26 (a) A Nebraska resident;

27 (b) A limited liability company that is organized under  
 1 the Limited Liability Company Act and that is made up of members  
 2 who are Nebraska residents;

3 (c) A Nebraska nonprofit corporation organized under the  
 4 Nebraska Nonprofit Corporation Act;

5 (d) An electric supplier as defined in section  
 6 70-1001.01, except that ownership in a single C-BED project is  
 7 limited to no more than:

8 (i) Fifteen percent either directly or indirectly by a  
 9 single electric supplier; and

10 (ii) A combined total of twenty-five percent ownership  
 11 either directly or indirectly by multiple electric suppliers; or

12 (e) A tribal council.

13 Sec. 4. Section 70-1904, Revised Statutes Cumulative  
 14 Supplement, 2008, is amended to read:

15 70-1904 (1) A C-BED project developer and an electric  
 16 utility are authorized to negotiate in good faith mutually  
 17 agreeable power purchase agreement terms.

18 (2) A qualified owner or any combination of qualified  
 19 owners may develop a C-BED project with an equity partner that is  
 20 not a qualified owner, if not more than sixty-seven percent of the  
 21 gross power purchase agreement payments flow to the nonqualified  
 22 owners.

23 (3) Except for an inherited interest, the transfer of  
 24 a C-BED project to any person other than a qualified owner is  
 25 prohibited during the initial ten years of the power purchase  
 26 agreement.

27 (4) A C-BED project that is operating under a power  
 1 purchase agreement is not eligible for any applicable net energy  
 2 billing.

3 (5) A C-BED project shall be subject to approval by the  
 4 Nebraska Power Review Board in accordance with Chapter 70, article  
 5 10, or shall receive certification as a qualifying facility in  
 6 accordance with the federal Public Utility Regulatory Policies Act  
 7 of 1978, 16 U.S.C. 2601 et seq., with written notice of such  
 8 certification provided to the Nebraska Power Review Board.

9 (6) A C-BED project developer shall notify the electric  
 10 utility that has a power purchase agreement with a C-BED project if  
 11 there is a change in project ownership which makes the project no  
 12 longer eligible as a C-BED project.

13 Sec. 5. Section 77-2704.57, Revised Statutes Cumulative

14 Supplement, 2008, is amended to read:

15 77-2704.57 (1) Sales and use tax shall not be imposed  
 16 on the gross receipts from the sale, lease, or rental of personal  
 17 property for use in a C-BED project or community-based energy  
 18 development project. This exemption shall be conditioned upon  
 19 filing requirements for the exemption as imposed by the Tax  
 20 Commissioner. The requirements imposed by the Tax Commissioner  
 21 shall be related to ensuring that the property purchased qualifies  
 22 for the exemption. The Tax Commissioner may require the filing  
 23 of the documents showing compliance with section 70-1907, the  
 24 organization of the project, the distribution of the payments,  
 25 the power purchase agreements, the project pro forma, articles of  
 26 incorporation, operating agreements, and any amendments or changes  
 27 to these documents during the life of the power purchase agreement.

1 (2) The Tax Commissioner shall notify an electric utility  
 2 that has a power purchase agreement with a C-BED project if  
 3 there is a change in project ownership which makes the project no  
 4 longer eligible as a C-BED project. Purchase of a C-BED project  
 5 by an electric utility prior to the end of the power purchase  
 6 agreement disqualifies the C-BED project for the exemption, but the  
 7 Department of Revenue may not recover the amount of the sales and  
 8 use tax that was not paid by the project prior to the purchase.

9 (3) For purposes of this section:

10 (a) C-BED project or community-based energy development  
 11 project means a new wind energy project that:

12 (i) Has an ownership structure as follows:

13 (A) For a C-BED project that consists of more than  
 14 two turbines, has one or more qualified owners with no single  
 15 individual qualified owner owning directly or indirectly more than  
 16 fifteen percent of the project and with at least thirty-three  
 17 percent of the gross power purchase agreement payments flowing to  
 18 the qualified owner or owners or local community; or

19 (B) For a C-BED project that consists of one or  
 20 two turbines, has one or more qualified owners with at least  
 21 thirty-three percent of the gross power purchase agreement payments  
 22 flowing to a qualified owner or owners or local community; and

23 (ii) Has a resolution of support adopted:

24 (A) By the county board of each county in which the C-BED  
 25 project is to be located; or

26 (B) By the tribal council for a C-BED project located  
 27 within the boundaries of an Indian reservation;

1 (b) Debt financing payments means principal, interest,  
 2 and other typical financing costs paid by the C-BED project company  
 3 to one or more third-party financial institutions for the financing  
 4 or refinancing of the construction of the C-BED project. Debt  
 5 financing payments does not include the repayment of principal at  
 6 the time of a refinancing;

7 ~~(b)~~(c) New wind energy project means any tangible  
 8 personal property incorporated into the manufacture, installation,

9 construction, repair, or replacement of a device, such as a wind  
 10 charger, windmill, or wind turbine, which is used to convert wind  
 11 energy to electrical energy or for the transmission of electricity  
 12 to the purchaser; and

13 ~~(e)~~(d) Qualified owner means:

14 (i) A Nebraska resident;

15 (ii) A limited liability company that is organized under  
 16 the Limited Liability Company Act and that is entirely made up of  
 17 members who are Nebraska residents;

18 (iii) A Nebraska nonprofit corporation organized under  
 19 the Nebraska Nonprofit Corporation Act;

20 (iv) An electric supplier as defined in section  
 21 70-1001.01, except that ownership in a single C-BED project is  
 22 limited to no more than:

23 (A) Fifteen percent either directly or indirectly by a  
 24 single electric supplier; and

25 (B) A combined total of twenty-five percent ownership  
 26 either directly or indirectly by multiple electric suppliers; or

27 (v) A tribal council.

1 (4) ~~Power~~Gross power purchase agreement payments are the  
 2 total amount of payments during the life of the agreement. For  
 3 power purchase agreements entered into on or before December 31,  
 4 2011, if the qualified owners have a combined total of at least  
 5 thirty-three percent of the equity ownership in the C-BED project,  
 6 gross power purchase agreement payments shall be reduced by the  
 7 debt financing payments. For the ~~purposes~~purpose of determining  
 8 eligibility of the project, an estimate of the payments and their  
 9 recipients shall be used.

10 (5) Payments to the local community include, but are not  
 11 limited to, lease payments to property owners on whose property a  
 12 turbine is located, wind energy easement payments, and real and  
 13 personal property tax receipts from the C-BED project.

14 (6) The Department of Revenue may examine the actual  
 15 payments and the distribution of the payments to determine if the  
 16 projected distributions were met. If the payment distributions to  
 17 qualified owners do not meet the requirements of this section, the  
 18 department may recover the amount of the sales or use tax that was  
 19 not paid by the project at any time up until the end of three years  
 20 after the end of the power purchase agreement.

21 (7) At any time prior to the end of the power purchase  
 22 agreements, the project may voluntarily surrender the exemption  
 23 granted by the Tax Commissioner and pay the amount of sales and use  
 24 tax that would have otherwise have been due.

25 (8) The amount of the tax due under either subsection  
 26 (6) or (7) of this section shall be increased by interest at the  
 27 rate specified in section 45-104.02, as such rate may from time to  
 1 time be adjusted, from the date the tax would have been due if no  
 2 exemption was granted until the date paid.

3 Sec. 6. Original sections 70-670 and 70-1014.01, Reissue

4 Revised Statutes of Nebraska, and sections 70-1903, 70-1904,  
5 and 77-2704.57, Revised Statutes Cumulative Supplement, 2008, are  
6 repealed.

## RESOLUTION

### LEGISLATIVE RESOLUTION 223. Introduced by Council, 11.

WHEREAS, the State of Nebraska recognizes its immigrant history of hard-working families coming to our state to make a better life for themselves; and

WHEREAS, immigrants have always been an important part of the social and economic fabric of the State of Nebraska; and

WHEREAS, in recent years new immigrants are once again coming to the State of Nebraska, helping to boost our population and revitalize our communities; and

WHEREAS, the economic and other contributions of these newcomers to our state are significant and include paying taxes and contributing to our schools, churches, neighborhoods, and communities; and

WHEREAS, our federal immigration system is broken, leaving local communities and the state to grapple with the consequences. This broken system has also led to lost opportunities; and

WHEREAS, our federal immigration system should uphold our basic values of family, economic opportunity, and fairness; and

WHEREAS, by restoring order to our federal immigration system, such reform will make our nation more secure, help to meet our labor needs, and uphold our basic values as a nation; and

WHEREAS, the need for rational and humane immigration reform is recognized by businesses, educators, faith communities, labor groups, state and local elected officials, and other leaders and sectors in the State of Nebraska; and

WHEREAS, the State of Nebraska recognizes that there is now a movement and a real possibility to enact meaningful immigration reform at the federal level.

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

1. That the Legislature urges the members of Nebraska's congressional delegation to work to pass rational and humane immigration reform which simultaneously addresses the following:

- a. The situation of undocumented workers currently in the United States;
- b. The future flow of undocumented workers into the United States;
- c. The need for tailored, targeted, and effective enforcement that respects the human and legal rights of all involved;
- d. Support for the successful integration of newcomers into the communities where they settle; and
- e. The need to ensure full due process rights for all.

2. That the Legislature further urges the members of Nebraska's congressional delegation to ensure that any immigration reform conform with the following principles:

- a. Provide a meaningful path to citizenship for undocumented workers currently in the United States and for future workers and close family members;
- b. Protect workers, both immigrant and American-born, from exploitation;
- c. Reunite families;
- d. Restore the rule of law and enhance security; and
- e. Promote citizenship and civic participation.

3. That a copy of this resolution be sent to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives, and each member of Nebraska's congressional delegation.

Laid over.

### SPEAKER'S ANNOUNCEMENT

Pursuant to Rule 4, Section 8, LR223 was referred to the Reference Committee.

### RESOLUTION

**LEGISLATIVE RESOLUTION 224.** Introduced by Mello, 5; Adams, 24; Ashford, 20; Campbell, 25; Christensen, 44; Coash, 27; Cornett, 45; Council, 11; Dierks, 40; Dubas, 34; Friend, 10; Giese, 17; Gloor, 35; Haar, 21; Hadley, 37; Hansen, 42; Harms, 48; Howard, 9; Janssen, 15; Karpisek, 32; Langemeier, 23; Lathrop, 12; McGill, 26; Nantkes, 46; Nelson, 6; Nordquist, 7; Pankonin, 2; Pirsch, 4; Price, 3; Rogert, 16; Schilz, 47; Sullivan, 41; Utter, 33; Wallman, 30; White, 8; Wightman, 36.

The Legislature recognizes that it is essential for the State of Nebraska to have an effective, efficient, and transparent budgeting process that yields a budget from which success or failure can be measured. In order to ensure that the state's budgeting process is as effective, efficient, and transparent as possible, it becomes necessary to periodically review the process in detail and to make changes to it when necessary.

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

1. That the Legislature hereby calls for the Executive Board of the Legislative Council to meet forthwith and appoint a task force to be known as the Budget Reform Task Force. The task force shall consist of the following members:

- (a) The chairperson of the Executive Board of the Legislative Council or another member of the board as his or her designee;
- (b) The chairperson of the Appropriations Committee of the Legislature or another member of the committee as his or her designee;



(c) The chairperson of the Education Committee of the Legislature or another member of the committee as his or her designee;

(d) The chairperson of the Legislature's Planning Committee or another member of the committee as his or her designee;

(e) Two members of the Appropriations Committee of the Legislature other than the chairperson or his or her designee, appointed by the chairperson of such committee;

(f) Two members of the Revenue Committee of the Legislature, appointed by the chairperson of such committee; and

(g) Three members from other standing committees of the Legislature, appointed by the Executive Board.

The task force shall elect a chairperson and vice-chairperson from the membership of the task force. The Executive Board is hereby authorized to provide the task force with a legal counsel, committee clerk, and other staff as required by the task force from existing legislative staff. The task force is hereby authorized to hold hearings and issue subpoenas as is deemed necessary by the task force.

2. The Budget Reform Task Force is hereby authorized to study the budgeting process for the State of Nebraska. The issues examined by the task force shall include, but not be limited to:

(a) Zero-based budgeting;

(b) Performance measurements;

(c) Oversight of public contracts;

(d) An evaluation of existing programs and agencies;

(e) An evaluation of the fiscal note process, including an analysis of the roles played by outside departments and agencies; and

(f) Strategic planning on budgeting.

The task force shall issue a report with its findings and recommendations to the Legislature no later than June 30, 2010.

Laid over.

## **SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR224 was referred to the Reference Committee.

## **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 225.** Introduced by Christensen, 44.

**PURPOSE:** With divorce rates remaining high throughout the United States, many states have enacted laws to reduce divorce and mitigate its effects. Many government leaders have recognized the large and increasing cost divorce has had on not only the immediate couple and their families, but also communities and states as a whole. Many state governments are interested in identifying what part the states' policies, incentives, and initiatives can play in reversing the high rates of divorce.

Though many states have taken some action in this area, approximately ten years ago, Oklahoma took major steps to address divorce and its negative effects through a comprehensive effort called the Oklahoma Marriage Initiative. This initiative has provided thousands of couples with, and directed many to, a variety of marriage education courses and resources. During the initiative, evidence showed that while the national divorce rate was increasing, Oklahoma's divorce rate was decreasing.

Results from an economic study of the State of Oklahoma showing the negative effects of divorce on the state's economy helped spark this initiative. The Governor of Oklahoma, realizing his state's economy had been negatively affected by divorce, and realizing his state had one of the highest rates of divorce in the nation at the time, pushed for the development of a plan to help reduce divorce in Oklahoma through policy changes, marriage education courses, and other resources.

This study will seek to understand the process Oklahoma went through to study the problem of divorce and implement the Oklahoma Marriage Initiative so that Nebraska may explore and learn from Oklahoma's actions and formulate possible changes in policy, which could potentially launch Nebraska's own marriage initiative. In addition, this study will seek to learn from other states and organizations that have taken actions to strengthen marriage and reduce divorce through policy change and marriage education. This study shall include, but not be limited to (1) examining steps Oklahoma used to understand divorce and its affect on the state's economy and public services, (2) examining Oklahoma's implementation of new policies and education under the marriage initiative, (3) examining the effectiveness of the Oklahoma Marriage Initiative in strengthening marriages and reducing divorce, (4) applying Oklahoma's successes with successes from other states to develop potential recommendations for policy changes and education, or a potential plan for a Nebraska Marriage Initiative, and (5) exploring the need for marriage education in Nebraska and how state government may appropriately partner with public and private organizations to reduce divorce in Nebraska.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 226.** Introduced by Howard, 9.

**PURPOSE:** The purpose of this interim study is to examine medical malpractice liability. In 1976, the Legislature passed the Nebraska Hospital-Medical Liability Act. The act included several provisions to protect doctors and hospitals from exposure to litigation for medical negligence, including

limitations on the damages recoverable by those harmed by medical mistakes and elimination of the right to trial by jury. Over the three decades since the act was adopted, the Legislature has not studied the impact that the act has had on those persons who have been injured by medical negligence. The Legislature should study the impact that the provisions of the act have had on victims, including, but not limited to, (1) whether the limitations on damages have unfairly shifted the costs of medical negligence to the victims of medical negligence and to the state or political subdivisions, (2) the impact on the lives of persons whose damages exceeded the limitations, (3) whether the cap on damages has kept pace with inflation and medical cost inflation, (4) whether the denial of trial by jury has negatively impacted victims of medical mistakes, and (5) whether the limitation on damages has provided unfair negotiating leverage for insurance carriers.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 227.** Introduced by Nordquist, 7.

PURPOSE: The purpose of this resolution is to conduct research and make recommendations relating to peer support for mental health consumers. The issues to be addressed shall include, but not be limited to, (1) the concept of peer support, (2) education and training, (3) employment, salary, benefit, and career opportunities, (4) state recognition certifications, and (5) public and private funding mechanisms.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 228.** Introduced by Dierks, 40.

PURPOSE: The purpose of this interim study is to examine organic foods. Consumer demand for organic foods is rapidly increasing. Nebraska farmers have an opportunity to become leaders in the growth and marketing of

organic foods as farmers markets, grocery stores, restaurants, and other businesses continue to add more organic products in response to the demand. Organic foods can provide economic development opportunities for Nebraska farmers, ranchers, and businesses. Organic products must maintain certain standards in order to be granted organic certification. This study shall include, but not be limited to, examination of the following:

- (1) Methods of increasing organic food production;
- (2) Whether incentives are necessary or effective in supporting organic food production;
- (3) Whether there are barriers to developing organic food production;
- (4) Whether policies are needed to protect organic agriculture from contamination by other agriculture which is not organic;
- (5) Methods of developing and expanding markets for organic foods; and
- (6) Policies of other states and the federal government related to support for organic agriculture.

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 be designated to 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.

**LEGISLATIVE RESOLUTION 229.** Introduced by Dierks, 40.

**PURPOSE:** The purpose of this resolution is to examine the impact of federal and state bans on the slaughter of horses and the transport of horses for slaughter and the options available for the disposal of horses. The study shall also consider the impact of legislation and resolutions passed by other states regarding the issue of the slaughter of horses.

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 be designated to 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.

**LEGISLATIVE RESOLUTION 230.** Introduced by Dierks, 40.

**PURPOSE:** The purpose of this resolution is to examine matchup or lineup video gaming devices that award monetary prizes, in which two or more numerals, symbols, letters, icons, or other objects align to form a winning

combination on one or more lines vertically, horizontally, diagonally, or otherwise, with or without assistance by the player. The study shall include, but not be limited to, a determination of the estimated number of devices thought to be in operation in Nebraska and the projected number of future devices, a determination of how revenue generated from the devices is allocated, a determination of the amount of taxes and fees collected on the devices, an analysis of the current and future projected impact such devices are having on legal forms of gaming in Nebraska, including the revenue impact on local governments and nonprofit organizations, and an analysis of any other issues deemed relevant by the committee. The committee shall determine whether any legislation addressing such video gaming devices is necessary.

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

1. That the General Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 231.** Introduced by Pirsch, 4.

PURPOSE: The purpose of this resolution is to examine ways the state could promote job creation in the more economically disadvantaged, rural communities in Nebraska.

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

1. That the Business and Labor Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 232.** Introduced by Pirsch, 4.

PURPOSE: The purpose of this interim study is to examine the occupation taxes imposed on wireless telecommunication services. Nebraska had the highest rate of taxation on wireless telecommunication consumers in the country with a rate in excess of 18%, in part due to occupation taxes. There is no limit on the occupation tax rate that may be imposed on wireless telecommunication services. Customers in some areas pay an occupation tax

of up to 6.25% on wireless telecommunication services, while consumers in other areas pay no occupation tax. The occupation tax is a regressive tax, burdening lower-income customers at the same rate as higher-income customers. The State of Nebraska covers a large geographic area, and it is in the interest of all Nebraskans to have affordable statewide wireless telecommunication services. Occupation taxes create a burden on the development of new wireless telecommunication services and the growth of existing wireless telecommunication services. The Legislature should study the occupation taxes currently imposed on wireless telecommunication services in Nebraska and determine ways the state can maintain and advance the efficiency and availability of telecommunication services in the state.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 233.** Introduced by Coash, 27.

**PURPOSE:** The purpose of this interim study is to examine judicial resources and the allocation of judicial resources to determine whether changes should be made in order for the state to utilize such resources more efficiently.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 234.** Introduced by Coash, 27.

**PURPOSE:** The purpose of this study is to review current statutes and regulations related to community-based developmental disability service providers. The issues addressed by this interim study shall include, but not be limited to:

(1) Identifying existing regulations currently needed to promote the safety of persons receiving services and the safety of the community; and

(2) Recommendations to the Legislature about statutes and regulations that no longer address the safety of persons receiving services and the safety of the community.

The study may involve interested parties, both public and private.

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

1. That the Health and Human Services Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 235.** Introduced by Christensen, 44.

PURPOSE: This study will examine two different water issues in Nebraska. First, it will examine potential programs to achieve the needed amount of retired irrigated acres under the Platte River Recovery Implementation Program, entered into by the State of Nebraska under the Platte River Cooperative Agreement, and how to finance such programs. Second, the study will examine potential programs to address future water-short years in the Republican River Basin, and how to finance these programs.

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

1. That the Natural Resources Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 236.** Introduced by Christensen, 44.

PURPOSE: The purpose of this interim study is to examine in vitro fertilization. The reproductive technology called in vitro fertilization (IVF) has allowed many couples and women to have children who could not have children otherwise. Because IVF creates a human embryo, which is a new and unique human being at its earliest stage of human development, and because several recent uses of this technology in the United States have appeared to treat human life trivially and like a commodity, many Americans are calling for tougher regulations of doctors and clinics that perform this procedure.

In one such case of questionable use of IVF, a single mother with six children had, in one single IVF procedure, at least eight human embryos implanted into her uterus. All eight of these embryos became viable, and she successfully delivered eight children. She is now a single mom with fourteen children.

In many other cases, IVF clinics create more human embryos through IVF than they will use or need. Many of these human embryos are frozen, discarded, or destroyed during medical research. This advancement in reproductive technology has given rise to many moral and ethical questions and dilemmas. Millions of Americans are calling for their state governments to look into increasing the regulation of this procedure to protect and show respect for human life at all stages of development.

This study seeks to review Nebraska's policies regarding IVF and identify potential areas where regulation is lacking and proper protections do not exist to appropriately secure the dignity of human life.

This study shall include, but not be limited to, examining Nebraska's current regulations regarding IVF, examining the appropriateness of limiting the number of human embryos created during a single IVF procedure, and examining what is the appropriate handling of human embryos created by IVF after their parents no longer want them.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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 36.** Committee AM828, found on page 108 and considered in this day's Journal, was renewed.

The committee amendment was adopted with 34 ayes, 4 nays, 7 present and not voting, and 4 excused and not voting.

Pending.

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 237.** Introduced by Pirsch, 4.

**PURPOSE:** The purpose of this resolution is to evaluate the period of time juveniles are involved in the Nebraska juvenile court system and examine ways to improve and streamline the process.



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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 238.** Introduced by Nordquist, 7.

PURPOSE: The purpose of this resolution is to study the proliferation of retail liquor licenses. Unrestrained proliferation could prove harmful to a community, as well as reduce the value of existing retail liquor-serving businesses. This study shall:

(1) Find what methods are available to control the proliferation of alcohol-serving establishments;

(2) Determine what impact such methods would have on existing businesses;

(3) Determine what impact such methods would have on investment in new businesses; and

(4) Recommend appropriate action, if any.

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

1. That the General Affairs Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 239.** Introduced by Pirsch, 4.

PURPOSE: The purpose of this resolution is to assess the effectiveness of existing community corrections programs and to determine whether the community corrections concept could be expanded to save taxpayer money, prevent nonviolent, low-risk offender recidivism, and free up prison space for high-risk and violent offenders.

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

1. That the Judiciary Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 240.** Introduced by Christensen, 44; Schilz, 47.

**PURPOSE:** Rural economic development is an important tool to encourage economic growth in rural Nebraska. Livestock production is vital to the economic prosperity and overall growth of Nebraska and the well-being of its citizens. This study seeks to examine ideas for encouraging responsible livestock development through voluntary participation and partnerships between communities, counties, organizations, and state agencies. This study shall include, but not be limited to, identifying obstacles to successful economic development through enhanced livestock development, examining appropriate voluntary participation and partnerships between communities, counties, organizations, and state agencies in achieving the desired livestock development, and examining the funding for potential assistance or incentives for counties to help with infrastructure needs due to livestock development in their counties.

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 be designated to 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 36.** Senator Avery withdrew his amendment AM1412, found on page 1505.

Senator Nantkes offered the following amendment:

AM1439

- 1 1. On page 5, line 18, before "If" insert "Since it is
- 2 the policy of this state to respect life from conception through
- 3 natural death, the commission shall take all reasonable steps to
- 4 insure that the life of the baby is preserved before the state
- 5 takes the life of its mother.".

Senator Nantkes withdrew her amendment.

Senator Dierks offered the following amendment:

AM62

- 1 1. Insert the following new section:
- 2 Sec. 18. Section 29-3903, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 29-3903 At a felony defendant's first appearance before
- 5 a judge, the judge shall advise him or her of the right to
- 6 court-appointed counsel if such person is indigent. If he or she
- 7 asserts indigency, the court shall make a reasonable inquiry to
- 8 determine such person's financial condition and shall require him
- 9 or her to execute an affidavit of indigency for filing with the
- 10 clerk of the court.
- 11 If the court determines the defendant to be indigent,
- 12 it shall formally appoint the public defender or, in counties not
- 13 having a public defender, an attorney or attorneys licensed to
- 14 practice law in this state, not exceeding two, to represent the
- 15 indigent felony defendant at all future critical stages of the
- 16 criminal proceedings against such defendant, consistent with the
- 17 provisions of section 23-3402, but appointed counsel other than the
- 18 public defender must obtain leave of court before being authorized
- 19 to proceed beyond an initial direct appeal to either the Court of
- 20 Appeals or the Supreme Court of Nebraska to any further direct,
- 21 collateral, or postconviction appeals to state or federal courts.
- 22 If the criminal proceedings involve a capital offense, the public
- 23 defender or appointed counsel shall have been licensed to practice
- 1 law in the State of Nebraska for at least five years prior to the
- 2 date of appointment, and shall be experienced in the practice of
- 3 criminal defense, including the defense of capital offenses.
- 4 A felony defendant who is not indigent at the time of his
- 5 or her first appearance before a judge may nevertheless assert his
- 6 or her indigency at any subsequent stage of felony proceedings, at
- 7 which time the judge shall consider appointing counsel as otherwise
- 8 provided in this section.
- 9 The judge shall make a notation of such appointment and
- 10 all appearances of appointed counsel upon the court's docket. If at
- 11 the time of appointment of counsel the indigent felony defendant
- 12 and appointed counsel have not had a reasonable opportunity to
- 13 consult concerning the prosecution, the judge shall continue the
- 14 arraignment, trial, or other next stage of the felony proceedings
- 15 for a reasonable period of time to allow for such consultation.
- 16 2. On page 15, line 4, strike "and" and after the last
- 17 comma insert "and 29-3903,".
- 18 3. Renumber the remaining sections accordingly.

Senator Dierks withdrew his amendment.

Pending.

**UNANIMOUS CONSENT - Add Cointroducers**

Senators Adams, Dierks, Friend, Hadley, Louden, Utter, and White asked unanimous consent to add their names as cointroducers to LR161. No objections. So ordered.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 241.** Introduced by Pirsch, 4.

**PURPOSE:** The purpose of this resolution is to study the valuation processes of real property in Nebraska insofar as it affects our citizen's local property taxes and to investigate whether the state's valuation processes can be improved.

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

1. That the Revenue Committee of the Legislature shall be designated to 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.

**AMENDMENT - Print in Journal**

Senator Council filed the following amendment to LB36:  
AM1452 is available in the Bill Room.

**VISITORS**

Visitors to the Chamber were Dennis and Diane McCallister from Lincoln; Diane Armstrong from Omaha; 100 fourth-grade students, teachers, and sponsors from Field Club Elementary, Omaha; and 70 fourth-grade students and teachers from Gothenburg.

The Doctor of the Day was Dr. Aaron Lanik from Omaha.

**ADJOURNMENT**

At 7:40 p.m., on a motion by Senator Lathrop, the Legislature adjourned until 9:00 a.m., Tuesday, May 19, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTY-FIRST DAY - MAY 19, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**EIGHTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, May 19, 2009

**PRAYER**

The prayer was offered by Evangelist Sharon Anderson Towery, Sharon Adele Ministries, Lincoln.

**ROLL CALL**

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

The roll was called and all members were present except Senators Christensen, Cook, Cornett, Dierks, and Schilz who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eightieth day was approved.

**MESSAGE FROM THE GOVERNOR**

May 19, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 311e, 312e, 314e, 318e, 628e, and 629 were received in my office on May 13, 2009.

These bills were signed and delivered to the Secretary of State on May 19, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**NOTICE OF COMMITTEE HEARING**  
Government, Military and Veterans Affairs

Room 1507

Tuesday, May 26, 2009 9:45 a.m.

Kevin Brostrom - Nebraska Accountability and Disclosure Commission

(Signed) Bill Avery, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 36.** Senator Council renewed her amendment, AM1452, found on page 1596.

**SENATOR ROBERT PRESIDING**

**SENATOR CARLSON PRESIDING**

Senator Council moved for a call of the house. The motion prevailed with 44 ayes, 0 nays, and 5 not voting.

Senator Council requested a roll call vote on her amendment.

Voting in the affirmative, 13:

Ashford	Cook	Haar	Mello	Rogert
Avery	Council	Lathrop	Nantkes	
Coash	Dierks	McGill	Nordquist	

Voting in the negative, 33:

Adams	Friend	Harms	McCoy	Stuthman
Campbell	Fulton	Heidemann	Nelson	Sullivan
Carlson	Gay	Howard	Pahls	Utter
Christensen	Giese	Janssen	Pankonin	White
Cornett	Gloor	Karpisek	Pirsch	Wightman
Fischer	Hadley	Lautenbaugh	Price	
Flood	Hansen	Louden	Schilz	

Present and not voting, 1:

Wallman

Excused and not voting, 2:

Dubas                      Langemeier

The Council amendment lost with 13 ayes, 33 nays, 1 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

### **REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LR223	Judiciary
LR224	Executive Board

(Signed) John Wightman, Chairperson  
Executive Board

### **NOTICE OF COMMITTEE HEARING**

Executive Board

Room 2102

Tuesday, May 26, 2009 12:00 p.m.

LR224

(Signed) John Wightman, Chairperson

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Carlson, Christensen, Cook, Dubas, Fulton, Haar, McCoy, and Schilz asked unanimous consent to add their names as cointroducers to LB561. No objections. So ordered.

Senator Giese asked unanimous consent to add his name as cointroducer to LR139. No objections. So ordered.

Senators Giese and Hansen asked unanimous consent to add their names as cointroducers to LR240. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 26 third- through fifth-grade students and teachers from Platteville Elementary, Fremont; 27 third-grade students, teachers, and sponsors from Arnold Elementary, Lincoln; 35 fourth-grade students, teachers, and sponsors from Ravenna; and former Lt. Governor, David I. Maurstad, from Landsdown, VA.

**RECESS**

At 12:01 p.m., on a motion by Senator Giese, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

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

**ROLL CALL**

The roll was called and all members were present except Senators Coash, Dubas, and Langemeier who were excused until they arrive.

**AMENDMENTS - Print in Journal**

Senator Ashford filed the following amendment to LB35:  
AM1468

(Amendments to Final Reading copy)

- 1 1. Strike section 4.
- 2 2. On page 1, strike beginning with "and" in line 10
- 3 through "judges" in line 11.
- 4 3. Renumber the remaining sections and correct internal
- 5 references, the operative date section, and the repealer section
- 6 accordingly.

Senator Ashford filed the following amendment to LB35A:  
AM1467

(Amendments to Final Reading copy)

- 1 1. Strike original sections 1 and 2 and renumber the
- 2 remaining sections accordingly.

**COMMITTEE REPORT**

General Affairs

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Janell Beveridge - State Racing Commission

Aye: 8 Senators Coash, Cook, Dierks, Dubas, Friend, Karpisek, Price, Rogert. Nay: 0. Absent: 0.

(Signed) Russ Karpisek, Chairperson



**COMMITTEE REPORT**  
General Affairs

**LEGISLATIVE BILL 404.** Indefinitely postponed.

(Signed) Russ Karpisek, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 36.** Considered.

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

Voting in the affirmative, 34:

Adams	Flood	Hansen	McCoy	Schilz
Ashford	Friend	Harms	Nelson	Stuthman
Campbell	Fulton	Heidemann	Pahls	Sullivan
Carlson	Gay	Janssen	Pankonin	Utter
Christensen	Giese	Karpisek	Pirsch	White
Cornett	Gloor	Lautenbaugh	Price	Wightman
Fischer	Hadley	Louden	Rogert	

Voting in the negative, 7:

Coash	Council	Haar	Nantkes
Cook	Dierks	Howard	

Present and not voting, 6:

Avery	McGill	Nordquist
Lathrop	Mello	Wallman

Excused and not voting, 2:

Dubas	Langemeier
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Advanced to Enrollment and Review Initial with 34 ayes, 7 nays, 6 present and not voting, and 2 excused and not voting.

**PRESIDENT SHEEHY PRESIDING**

**SELECT FILE**

**LEGISLATIVE BILL 561.** ER8126, found on page 1388, was adopted.

The Langemeier amendment, FA37, found on page 1421, was withdrawn.

Senator McCoy renewed the Langemeier amendment, AM1454, found on page 1579.

The Langemeier amendment was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 288.** ER8118, found on page 1325, was adopted.

Senator Gloor withdrew his amendment, AM1280, found on page 1294.

Senator Stuthman renewed his amendment, AM1278, found on page 1324.

The Stuthman amendment was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Senator Pirsch renewed his amendment, AM1428, found on page 1576.

The Pirsch amendment was adopted with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 288A.** Senator Gay withdrew his amendment, AM1368, found on page 1413.

Senator Gay offered the following amendment:  
AM1456

- 1 1. Insert the following new sections:
- 2 Sec. 2. The General Fund appropriation for FY2009-10 to
- 3 the Department of Health and Human Services, for Program 347, is
- 4 hereby reduced by \$116,064. The General Fund appropriation for
- 5 FY2010-11 to the Department of Health and Human Services, for
- 6 Program 347, is hereby reduced by \$232,128.
- 7 Sec. 3. The General Fund appropriation for FY2009-10 to
- 8 the Department of Health and Human Services, for Program 348, is
- 9 hereby reduced by \$158,879. The federal fund appropriation for
- 10 FY2009-10 to the Department of Health and Human Services, for
- 11 Program 348, is hereby reduced by \$241,421.
- 12 The General Fund appropriation for FY2010-11 to the
- 13 Department of Health and Human Services, for Program 348, is hereby
- 14 reduced by \$307,060. The federal fund appropriation for FY2010-11
- 15 to the Department of Health and Human Services, for Program 348, is
- 16 hereby reduced by \$465,939.
- 17 2. Renumber the remaining section accordingly.

The Gay amendment was adopted with 40 ayes, 0 nays, 8 present and not

voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

### **MESSAGES FROM THE GOVERNOR**

May 19, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being reappointed to the Community Corrections Council:

Thomas Dorwart, 2310 11th Avenue, Sidney, NE 69162  
Jeffrey Davis, 1104 Crest Road, Papillion, NE 68046

The aforementioned appointees are respectfully submitted for your consideration. Enclosed are copies of the certificates and background materials for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

May 19, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Community Corrections Council:

Darrell Fisher, 510 W. Chanceler, Lincoln, NE 68521  
Eleanor Marie Devlin, 4862 Harney Street, Omaha, NE 68132

The aforementioned appointees are respectfully submitted for your consideration. Enclosed are copies of the certificates and background materials for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

**SELECT FILE**

**LEGISLATIVE BILL 16.** ER8110, found on page 1325, was adopted.

Senator Friend renewed his amendment, AM1431, found on page 1499.

Pending.

**MESSAGES FROM THE GOVERNOR**

May 19, 2009

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

Dear Mr. O'Donnell:

Engrossed Legislative Bills 198, 198A, and 430 were received in my office on May 13, 2009.

These bills were signed and delivered to the Secretary of State on May 19, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

May 19, 2009

Mr. President, Mr. Speaker and  
Members of the Legislature  
State Capitol  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Today I signed into law the main line budget bill LB 315e without any vetoes. The bill has been forwarded to the Secretary of State along with LB 313e, 316e, 414e, 414Ae, 456e, 545e, and 545Ae.

I want to commend the leadership of your Appropriations Committee Chairman, Senator Lavon Heidemann, for his work on LB 315 and your Education Committee Chairman, Senator Greg Adams, for his work on

LB 545. I appreciate the strong support of the Legislature in voting for the Appropriations Committee's budget without any amendments. This has been a difficult budget cycle, given the financial challenges that America and Nebraska face.

In reviewing the budget the past few days, it was very clear that this budget met the four principles I outlined in my budget proposal. Those were:

1. No tax increases
2. Priority funding for education
3. Continued funding for programs for vulnerable children and families
4. Maintain a strong cash reserve.

Nebraskans expect us to exhibit fiscal discipline and fiscal responsibility with their hard earned tax dollars. We did two years ago when we restrained spending which put us in the position to weather the upcoming fiscal storm. This budget takes another step forward in preparing our state for the next two difficult years.

Finally, I want to note that there are very challenging decisions ahead of us when you review the out-biennium (FY 12 and 13). Your financial status indicates a projected deficit of \$477 million. That status is based upon a revenue receipt growth rate of 7.2%, which most would agree is an optimistic estimate.

Therefore, given that Nebraska's revenues are declining, I would ask that you carefully review each remaining appropriations bill. Are there appropriations bills that can wait until next January when we will have a more clear picture of the impact of the national economic slowdown on Nebraska's economy?

Even with these challenges, I am confident that we can continue to move Nebraska forward if we restrain spending in order to avoid any income or sales tax increase. Thank you.

Sincerely,  
(Signed) Dave Heineman  
Governor

### **REFERENCE COMMITTEE REPORT**

The Executive Board submits the following report:

Davis, Jeffrey - Community Corrections Council - Judiciary  
Devlin, Eleanor Marie - Community Corrections Council - Judiciary  
Dorwart, Thomas - Community Corrections Council - Judiciary  
Fisher, Darrell - Community Corrections Council - Judiciary

(Signed) John Wightman, Chairperson  
Executive Board

**SELECT FILE**

**LEGISLATIVE BILL 16.** The Friend amendment, AM1431, found on page 1499 and considered in this day's Journal, was renewed.

Pending.

**NOTICE OF COMMITTEE HEARING**

Judiciary

Room 1113

Tuesday, May 26, 2009 12:30 p.m.

Jeffrey Davis - Community Corrections Council  
 Eleanor Marie Devlin - Community Corrections Council  
 Thomas Dorwart - Community Corrections Council  
 Darrell Fisher - Community Corrections Council

LR223

(Signed) Brad Ashford, Chairperson

**EXPLANATION OF VOTE**

Had I been present, I would have voted "aye" on the advancement of LB36.

(Signed) Chris Langemeier

**SELECT FILE**

**LEGISLATIVE BILL 16.** Senator McCoy offered the following amendment to the Friend amendment:  
 AM1469

(Amendments to AM1431)

- 1 1. On page 2, line 26, after the period insert "The web
- 2 site shall not include the treasurer's name, the treasurer's image,
- 3 the treasurer's seal, or a welcome message.".

Senator White moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The McCoy amendment was adopted with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

The Friend amendment, AM1431, found on page 1499 and considered in this day's Journal, as amended, was renewed.

Senator Langemeier moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 30 ayes, 2 nays, and 17 not voting.

The Friend amendment, as amended, was adopted with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 16A.** Senator Friend renewed his amendment, AM1383, found on page 1501.

Senator Friend withdrew his amendment.

Senator Mello offered the following motion:

MO51

Indefinitely postpone.

The Mello motion to indefinitely postpone prevailed with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 241.** ER8111, found on page 1329, was adopted.

Senator Dierks renewed his amendment, AM1362, found on page 1401.

The Dierks amendment was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

### AMENDMENTS - Print in Journal

Senator Karpisek filed the following amendment to LB542:  
AM1430

(Amendments to AM1224)

- 1 1. On page 1, line 11, strike "may" and insert "shall".

Senator Karpisek filed the following amendment to LB542:  
AM1426

(Amendments to AM1224)

- 1 1. Insert the following new section:
- 2 Section 1. Section 38-1135, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 38-1135 Any licensed dentist, public institution, or
- 5 school may employ dental assistants in addition to licensed dental

- 6 hygienists. Such dental assistants, under the indirect supervision  
7 of a licensed dentist, may perform such duties as are prescribed  
8 in accordance with rules and regulations adopted and promulgated by  
9 the department, with the recommendation of the board.  
10 2. On page 1, line 14, strike "section" and insert  
11 "sections 38-1135 and"; and in line 15 strike "is" and insert  
12 "are".  
13 3. Renumber the remaining sections accordingly.

### **MOTION - Print in Journal**

Senator Karpisek filed the following motion to LB542:  
MO52  
Bracket until May 29, 2009.

### **ANNOUNCEMENT**

Senator Adams announced the Education Committee will hold an executive session Wednesday, May 20, 2009, at 12:30 p.m., in Room 1107.

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

Senator Mello asked unanimous consent to add his name as cointroducer to LR172. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 42 fourth-grade students, teachers, and sponsors from Jefferson Elementary, Grand Island; and Bob Twiss from Gretna.

The Doctor of the Day was Dr. Ronald Craig from Lincoln.

### **ADJOURNMENT**

At 5:23 p.m., on a motion by Senator Pahls, the Legislature adjourned until 9:00 a.m., Wednesday, May 20, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**EIGHTY-SECOND DAY - MAY 20, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****EIGHTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, May 20, 2009

**PRAYER**

The prayer was offered by Pastor Zachary Anderson, Conestoga Parish, Lincoln.

**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 Senator McCoy who was excused; and Senators Cornett, Council, and Janssen who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-first day was approved.

**COMMITTEE REPORT**

Health and Human Services

**LEGISLATIVE BILL 25.** Placed on General File with amendment.  
AM589

- 1 1. Strike original sections 1 to 3.
- 2 2. On page 6, line 24, strike "four" and insert "twenty".
- 3 3. On page 7, line 13, strike "68-908, 68-911, 68-1202,".
- 4 4. Renumber the remaining sections and correct internal
- 5 references accordingly.

(Signed) Tim Gay, Chairperson

**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 LB155 with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 155.**

A BILL FOR AN ACT relating to crimes and punishments; to amend sections 28-101, 28-518, 28-603, 28-604, 28-608, 28-611, 29-110, and 87-302, Reissue Revised Statutes of Nebraska; to adopt the Public Protection Act; to change provisions relating to theft offenses, criminal impersonation, identity theft, identity fraud, forgery, bad checks, and no-account checks; to provide a statute of limitations; to create an additional deceptive trade practice under the Uniform Deceptive Trade Practices Act; to change and provide penalties; to harmonize provisions; to provide severability; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council            McCoy

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 LB392 with 46 ayes, 0 nays, 1 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 392.** With Emergency Clause.

A BILL FOR AN ACT relating to schools; to amend sections 11-119, 13-503, 13-903, 13-2202, 32-546.01, 32-555.01, 32-606, 79-575, 79-592, 79-1024, 79-1033, 79-1041, 79-1073, 79-1073.01, 79-2104, 79-2113, 79-2117, and 79-2118, Reissue Revised Statutes of Nebraska, and section 77-2704.15, Revised Statutes Cumulative Supplement, 2008; to require execution of a bond by a learning community coordinating council treasurer; to redefine terms; to include learning communities in the Political Subdivisions Tort Claims Act and the Local Government Miscellaneous Expenditure Act; to change election provisions for members of learning community coordinating council members; to exempt purchases by learning communities from sales and use taxes; to change provisions relating to school district warrants; to change state aid and property tax distribution provisions for learning communities; to change provisions relating to elementary learning centers and achievement subcouncils; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council	McCoy
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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 358.**

A BILL FOR AN ACT relating to the Comprehensive Health Insurance Pool Act; to amend sections 44-4201, 44-4226, and 44-4227, Reissue Revised Statutes of Nebraska, and sections 44-4221 and 44-4222, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to eligibility under the act, unfair trade practices, major medical expense coverage, and premium and standard risk rates; to provide duties for the board of directors of the pool; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council            McCoy

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 LB503 with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 503.**

A BILL FOR AN ACT relating to recreational activities; to amend sections 15-258 and 16-226, Reissue Revised Statutes of Nebraska, and section 14-102, Revised Statutes Cumulative Supplement, 2008; to adopt the Nebraska Shooting Range Protection Act; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Cook

Excused and not voting, 2:

Council      McCoy

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 626.**

A BILL FOR AN ACT relating to public officials and public employees; to amend sections 49-1405 and 81-1120.27, Reissue Revised Statutes of Nebraska, and sections 49-1401, 49-14,101.01, and 49-14,101.02, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to use of public resources by public officials and public employees; to redefine a term; 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	Dierks	Haar	Lautenbaugh	Price
Ashford	Dubas	Hadley	McGill	Rogert
Avery	Fischer	Hansen	Mello	Schilz
Campbell	Flood	Harms	Nantkes	Stuthman
Carlson	Friend	Heidemann	Nelson	Utter
Christensen	Fulton	Howard	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	

Voting in the negative, 2:

Janssen            Sullivan

Present and not voting, 1:

Louden

Excused and not voting, 2:

Council            McCoy

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 LB630 with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 630.** With Emergency Clause.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend sections 48-138, 48-139, 48-140, and 48-141, Reissue Revised Statutes of Nebraska, and sections 48-106, 48-120.04, 48-125, 48-136, 48-144.03, and 48-168, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to an employer exclusion from the act, implementation of a certain medical fee schedule, periodic compensation payments and lump-sum settlements, court procedures, informal dispute resolution approval, and mediators; 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, 45:

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

Voting in the negative, 0.

Present and not voting, 2:

Flood	Janssen
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Excused and not voting, 2:

Council	McCoy
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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 bills were read and put upon final passage:

**LEGISLATIVE BILL 27.** With Emergency Clause.

A BILL FOR AN ACT relating to the Medical Assistance Act; to amend sections 85-1,138, 85-1,139, 85-1,140, 85-1,141, and 85-1,142, Reissue Revised Statutes of Nebraska, and sections 68-901 and 71-7611, Revised Statutes Cumulative Supplement, 2008; to change and transfer provisions relating to the Autism Treatment Program Act, the Autism Treatment Program Cash Fund, and the administration of the Autism Treatment Program; to provide powers and duties for the Department of Health and Human Services; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council          McCoy

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 27A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 27, One Hundred First Legislature, First Session, 2009; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council          McCoy



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 60.**

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-1901, Revised Statutes Cumulative Supplement, 2008; to redefine abandoned vehicle; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Lautenbaugh

Excused and not voting, 2:

Council      McCoy

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

### **LEGISLATIVE BILL 84.**

A BILL FOR AN ACT relating to the Women's Health Initiative Advisory Council; to amend section 71-702, Revised Statutes Cumulative Supplement, 2008; to eliminate a reference to a commission that has been eliminated and a termination date; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Harms

Excused and not voting, 2:

Council          McCoy

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

**LEGISLATIVE BILL 94.** With Emergency Clause.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3501, 77-3512, and 77-3516, Reissue Revised Statutes of Nebraska, and sections 77-3513 and 77-3514, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to applications for homestead exemptions; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council            McCoy

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 113.** With Emergency Clause.

A BILL FOR AN ACT relating to the Securities Act of Nebraska; to amend sections 8-1110, 8-1116, and 8-1123, Reissue Revised Statutes of Nebraska; to change provisions relating to exempt securities; to prohibit tampering with or falsifying evidence; to provide additional equitable powers for courts with respect to violations of the act; 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, 47:

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

Voting in the negative, 0.

Excused and not voting, 2:

Council           McCoy

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 122.**

A BILL FOR AN ACT relating to children; to amend sections 28-718 and 28-720, Reissue Revised Statutes of Nebraska; to change terminology in the central register of child protection cases; 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	Hadley	Louden	Price
Ashford	Fischer	Hansen	McGill	Schilz
Avery	Flood	Heidemann	Mello	Stuthman
Campbell	Friend	Howard	Nantkes	Sullivan
Carlson	Fulton	Janssen	Nelson	Utter
Christensen	Gay	Karpisek	Nordquist	Wallman
Coash	Giese	Langemeier	Pahls	White
Cook	Gloor	Lathrop	Pankonin	Wightman
Dierks	Haar	Lautenbaugh	Pirsch	

Voting in the negative, 0.

Present and not voting, 3:

Cornett           Harms           Rogert

Excused and not voting, 2:

Council           McCoy

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

**LEGISLATIVE BILL 129.**

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-301, Revised Statutes Cumulative Supplement, 2008; to authorize certain actions and procedures by counties and the Director of Motor Vehicles for invalid financial transactions; to harmonize provisions; 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, 46:

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

Voting in the negative, 0.

Present and not voting, 1:

Cornett

Excused and not voting, 2:

Council      McCoy

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 LB131 with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 131.**

A BILL FOR AN ACT relating to counties; to change boundaries of certain counties; to harmonize provisions; and to outright repeal sections 22-161 and 22-172, Reissue Revised Statutes of Nebraska.

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, 47:

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

Voting in the negative, 0.

Present and not voting, 1:

Council

Excused and not voting, 1:

McCoy

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

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 133.**

A BILL FOR AN ACT relating to elections; to amend section 32-707, Reissue Revised Statutes of Nebraska; to change provisions relating to the location of county postprimary conventions; 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, 48:

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

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 137.**

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-103, Revised Statutes Cumulative Supplement, 2008; to redefine campus as it pertains to the University of Nebraska-Lincoln; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 152.**

A BILL FOR AN ACT relating to insurance; to amend section 44-6413, Reissue Revised Statutes of Nebraska; to change a provision relating to uninsured and underinsured motorist coverages; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 163.**

A BILL FOR AN ACT relating to schools; to amend section 79-544, Reissue Revised Statutes of Nebraska; to change provisions relating to school board membership; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:



McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 175.**

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-395 and 60-3,157, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to lost license plates; 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, 45:

Adams	Dierks	Hadley	Lautenbaugh	Pirsch
Avery	Dubas	Hansen	Louden	Rogert
Campbell	Fischer	Harms	McGill	Schilz
Carlson	Flood	Heidemann	Mello	Stuthman
Christensen	Friend	Howard	Nantkes	Sullivan
Coash	Fulton	Janssen	Nelson	Utter
Cook	Gay	Karpisek	Nordquist	Wallman
Cornett	Giese	Langemeier	Pahls	White
Council	Haar	Lathrop	Pankonin	Wightman

Voting in the negative, 0.

Present and not voting, 3:

Ashford	Gloor	Price
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Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 208.**

A BILL FOR AN ACT relating to workers' compensation; to amend section 28-631, Reissue Revised Statutes of Nebraska, and section 44-6604, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to fraudulent insurance acts; 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, 47:

Adams	Dubas	Hansen	McGill	Schilz
Ashford	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	
Dierks	Hadley	Louden	Regert	

Voting in the negative, 0.

Present and not voting, 1:

Avery

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 209.**

A BILL FOR AN ACT relating to irrigation; to amend section 46-238, Reissue Revised Statutes of Nebraska, and section 46-1654, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to time for construction of works and dams; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 238.** With Emergency Clause.

A BILL FOR AN ACT relating to public power suppliers; to amend sections 28-520 and 28-521, Reissue Revised Statutes of Nebraska, and section 70-301, Revised Statutes Cumulative Supplement, 2008; to provide, change, and repeal penalties relating to criminal trespass and interference with electric poles or wires; to adopt the Public Power Infrastructure Protection Act; to harmonize provisions; to repeal the original sections; to outright repeal section 70-310, 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, 47:

Adams	Dierks	Hadley	McGill	Schilz
Ashford	Dubas	Hansen	Mello	Stuthman
Avery	Fischer	Harms	Nantkes	Sullivan
Campbell	Flood	Heidemann	Nelson	Utter
Carlson	Friend	Howard	Nordquist	Wallman
Christensen	Fulton	Janssen	Pahls	White
Coash	Gay	Karpisek	Pankonin	Wightman
Cook	Giese	Lathrop	Pirsch	
Cornett	Gloor	Lautenbaugh	Price	
Council	Haar	Louden	Rogert	

Voting in the negative, 0.

Present and not voting, 1:

Langemeier

Excused and not voting, 1:

McCoy

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 274.**

A BILL FOR AN ACT relating to incarceration work camps; to amend sections 83-4,142 and 83-4,143, Reissue Revised Statutes of Nebraska; to provide powers for the Director of Correctional 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 278.**

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,157, Reissue Revised Statutes of Nebraska; to permit municipalities to allow pedestrians to solicit contributions on roadways as

prescribed; to harmonize provisions; 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, 46:

Adams	Dubas	Hansen	Mello	Stuthman
Ashford	Fischer	Harms	Nantkes	Sullivan
Avery	Flood	Heidemann	Nelson	Utter
Campbell	Friend	Howard	Nordquist	Wallman
Carlson	Fulton	Janssen	Pahls	White
Christensen	Gay	Karpisek	Pankonin	Wightman
Coash	Giese	Langemeier	Pirsch	
Cook	Gloor	Lathrop	Price	
Cornett	Haar	Louden	Rogert	
Dierks	Hadley	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 2:

Council      Lautenbaugh

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 294.**

A BILL FOR AN ACT relating to county government; to amend section 23-120, Reissue Revised Statutes of Nebraska; to change provisions relating to county building levies; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 299.**

A BILL FOR AN ACT relating to the Nebraska Safety Center Advisory Council; to amend section 85-1008, Reissue Revised Statutes of Nebraska; to add a member to the council; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was

declared passed and the title agreed to.

**LEGISLATIVE BILL 302.** With Emergency Clause.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3509.01 and 77-3509.02, Reissue Revised Statutes of Nebraska; to change provisions relating to transfer of a homestead exemption; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

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 339.**

A BILL FOR AN ACT relating to cities and villages; to amend section 18-2102.01, Reissue Revised Statutes of Nebraska; to change provisions relating to community development authorities as prescribed; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 343.**

A BILL FOR AN ACT relating to courts; to amend section 24-819, Reissue Revised Statutes of Nebraska; to designate the time the full term of a judge ends; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was



declared passed and the title agreed to.

**LEGISLATIVE BILL 347.**

A BILL FOR AN ACT relating to dogs; to amend section 54-601, Reissue Revised Statutes of Nebraska; to eliminate liability with respect to governmental agencies as prescribed; 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, 47:

Adams	Dierks	Hadley	McGill	Schilz
Ashford	Dubas	Hansen	Mello	Stuthman
Avery	Fischer	Heidemann	Nantkes	Sullivan
Campbell	Flood	Howard	Nelson	Utter
Carlson	Friend	Janssen	Nordquist	Wallman
Christensen	Fulton	Karpisek	Pahls	White
Coash	Gay	Langemeier	Pankonin	Wightman
Cook	Giese	Lathrop	Pirsch	
Cornett	Gloor	Lautenbaugh	Price	
Council	Haar	Louden	Rogert	

Voting in the negative, 0.

Present and not voting, 1:

Harms

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**EASE**

The Legislature was at ease from 10:37 a.m. until 10:45 a.m.

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 348.**

A BILL FOR AN ACT relating to tax statements; to amend section 76-214, Revised Statutes Cumulative Supplement, 2008; to authorize access to

statements at the office of the register of deeds; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 360.**

A BILL FOR AN ACT relating to the Land Reutilization Act; to amend sections 77-3201, 77-3203, 77-3205, and 77-3211, Reissue Revised Statutes of Nebraska, and sections 77-3204 and 77-3207, Revised Statutes Cumulative Supplement, 2008; to authorize the creation of an authority by a city of the metropolitan class; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 372.**

A BILL FOR AN ACT relating to driver's licenses; to amend section 60-484.02, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the release of driver's license digital images or digital signatures; to change a penalty; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 389.** With Emergency Clause.

A BILL FOR AN ACT relating to agriculture; to amend section 2-4901, Reissue Revised Statutes of Nebraska; to change membership provisions for the Climate Assessment Response Committee; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

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 394.**

A BILL FOR AN ACT relating to the Medicine and Surgery Practice Act; to amend section 38-2001, Reissue Revised Statutes of Nebraska; to define an act of unprofessional conduct; to define terms relating to unprofessional conduct; to harmonize provisions; to provide an operative date; 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, 47:

Adams	Dierks	Hadley	McGill	Schilz
Ashford	Dubas	Hansen	Mello	Stuthman
Avery	Fischer	Harms	Nantkes	Sullivan
Campbell	Flood	Heidemann	Nelson	Utter
Carlson	Friend	Howard	Nordquist	Wallman
Christensen	Fulton	Janssen	Pahls	White
Coash	Gay	Karpisek	Pankonin	Wightman
Cook	Giese	Lathrop	Pirsch	
Cornett	Gloor	Lautenbaugh	Price	
Council	Haar	Louden	Rogert	

Voting in the negative, 0.

Present and not voting, 1:

Langemeier

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 412.**

A BILL FOR AN ACT relating to sanitary and improvement districts; to amend section 31-735, Reissue Revised Statutes of Nebraska; to change procedures relating to the conduct of certain district elections; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 422.**

A BILL FOR AN ACT relating to veterans; to amend section 80-401.01, Reissue Revised Statutes of Nebraska; to define veteran of the Global War on Terror; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 432.**

A BILL FOR AN ACT relating to the Uniform Disposition of Unclaimed Property Act; to amend section 69-1317, Reissue Revised Statutes of Nebraska; to change provisions relating to confidential information and professional finders' fees; 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, 47:

Adams	Dierks	Hadley	Louden	Schilz
Ashford	Dubas	Hansen	McGill	Stuthman
Avery	Fischer	Harms	Nantkes	Sullivan
Campbell	Flood	Heidemann	Nelson	Utter
Carlson	Friend	Howard	Nordquist	Wallman
Christensen	Fulton	Janssen	Pahls	White
Coash	Gay	Karpisek	Pankonin	Wightman
Cook	Giese	Langemeier	Pirsch	
Cornett	Gloor	Lathrop	Price	
Council	Haar	Lautenbaugh	Rogert	

Voting in the negative, 0.

Present and not voting, 1:

Mello

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 434.**

A BILL FOR AN ACT relating to counties; to amend sections 23-202, 23-294, and 23-295, Revised Statutes Cumulative Supplement, 2008; to change ballot questions regarding township organization; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 441.**

A BILL FOR AN ACT relating to transcripts; to amend sections 14-813, 15-1202, 15-1203, 15-1204, and 19-2424, Reissue Revised Statutes of Nebraska; to change provisions relating to the costs of transcripts of certain municipal proceedings; 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, 47:

Adams	Dierks	Hadley	McGill	Schilz
Ashford	Dubas	Hansen	Mello	Stuthman
Avery	Fischer	Harms	Nantkes	Sullivan
Campbell	Flood	Heidemann	Nelson	Utter
Carlson	Friend	Janssen	Nordquist	Wallman
Christensen	Fulton	Karpisek	Pahls	White
Coash	Gay	Langemeier	Pankonin	Wightman
Cook	Giese	Lathrop	Pirsch	
Cornett	Gloor	Lautenbaugh	Price	
Council	Haar	Louden	Regert	

Voting in the negative, 0.

Present and not voting, 1:

Howard

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 445.**

A BILL FOR AN ACT relating to the Health Insurance Access Act; to amend sections 44-5302, 44-5303, 44-5306, and 44-5307, Reissue Revised Statutes of Nebraska, and section 44-5305, Revised Statutes Cumulative



Supplement, 2008; to change provisions relating to legislative intent, defined terms, and policy or contract eligibility and requirements; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 446.**

A BILL FOR AN ACT relating to the Engineers and Architects Regulation Act; to amend sections 81-3401 and 81-3432, Reissue Revised Statutes of Nebraska; to provide for a loan repayment program for graduates; to define a term; to eliminate obsolete language; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 447.**

A BILL FOR AN ACT relating to the Beginning Farmer Tax Credit Act; to amend section 77-5209, Revised Statutes Cumulative Supplement, 2008; to change qualification provisions; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was

declared passed and the title agreed to.

**LEGISLATIVE BILL 450.**

A BILL FOR AN ACT relating to the Nebraska State Capitol Environs District; to amend section 90-303, Reissue Revised Statutes of Nebraska; to change a height restriction within the district; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 488.**

A BILL FOR AN ACT relating to veterans; to amend section 80-316, Reissue Revised Statutes of Nebraska; to change provisions relating to eligibility for domiciliary and nursing home care and subsistence; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 498.** With Emergency Clause.

A BILL FOR AN ACT relating to cemeteries; to amend section 12-101, Reissue Revised Statutes of Nebraska; to add trustees to the board of Wyuka Cemetery; to delete obsolete provisions; to require statements regarding conflicts of interest; to harmonize provisions; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

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 500.**

A BILL FOR AN ACT relating to cemeteries; to amend sections 16-242 and 17-936, Reissue Revised Statutes of Nebraska, and section 12-402, Revised Statutes Cumulative Supplement, 2008; to authorize certain cities and villages to use funds for the general care of cemeteries as prescribed; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 501.**

A BILL FOR AN ACT relating to elections; to amend sections 32-607, 32-960, 77-27,142.01, 77-27,142.02, and 77-27,142.03, Reissue Revised Statutes of Nebraska, and section 13-519, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the submission of certain questions at an election; to change candidate filing form requirements; to change population requirements for elections conducted by mail; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 524.**

A BILL FOR AN ACT relating to handicapped parking; to amend section 18-1741.02, Reissue Revised Statutes of Nebraska; to increase fines for handicapped parking infractions; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 528.**

A BILL FOR AN ACT relating to the Business Corporation Act; to amend sections 21-2003, 21-2014, 21-2015, 21-2060, and 21-20,186, Reissue Revised Statutes of Nebraska; to define and redefine terms; to change provisions relating to notice, appointment of proxies, and delivery of documents under the act; to authorize electronic transmissions as a means of notice, delivery, and appointment; 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, 47:

Adams	Dierks	Hansen	McGill	Schilz
Ashford	Dubas	Harms	Mello	Stuthman
Avery	Fischer	Heidemann	Nantkes	Sullivan
Campbell	Friend	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Langemeier	Pankonin	Wightman
Cook	Gloor	Lathrop	Pirsch	
Cornett	Haar	Lautenbaugh	Price	
Council	Hadley	Louden	Regert	

Voting in the negative, 0.

Present and not voting, 1:

Flood

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 531.**

A BILL FOR AN ACT relating to the Nebraska Advantage Microenterprise Tax Credit Act; to amend section 77-5903, Revised Statutes Cumulative Supplement, 2008; to redefine a term; to harmonize provisions; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 533.** With Emergency Clause.

A BILL FOR AN ACT relating to the Department of Administrative Services; to amend section 81-1174, Reissue Revised Statutes of Nebraska; to change provisions relating to expense reimbursement; 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, 48:



Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

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 537.**

A BILL FOR AN ACT relating to fire departments; to amend section 35-302, Reissue Revised Statutes of Nebraska; to change provisions relating to hours of duty of firefighters; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was

declared passed and the title agreed to.

**LEGISLATIVE BILL 540.** With Emergency Clause.

A BILL FOR AN ACT relating to infants; to amend section 43-4001, Reissue Revised Statutes of Nebraska; to change provisions relating to membership on the Children's Behavioral Health Task Force; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

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 562.**

A BILL FOR AN ACT relating to metropolitan utilities districts; to amend section 14-2102, Reissue Revised Statutes of Nebraska; to provide for the continuance of service of the outside member of the board of directors in the event of annexation; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 587.**

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701.16, Revised Statutes Cumulative Supplement, 2008; to exempt animal grooming by veterinarians and veterinary technicians from sales tax; to provide an operative date; 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 155, 392, 358, 503, 626, 630, 27, 27A, 60, 84, 94, 113, 122, 129, 131, 133, 137, 152, 163, 175, 208, 209, 238, 274, 278, 294, 299, 302, 339, 343, 347, 348, 360, 372, 389, 394, 412, 422, 432, 434, 441, 445, 446, 447, 450, 488, 498, 500, 501, 524, and 528.

### **EXPLANATION OF VOTES**

Had I been present, I would have voted "aye" on final passage of LB392 and LB358 and "nay" on final passage of LB503.

(Signed) Brenda Council

### **MOTION - Print in Journal**

Senator Cornett filed the following motion to LB218A:  
MO53  
Indefinitely postpone.

### **COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 36.** Placed on Select File with amendment.  
ER8134 is available in the Bill Room.

(Signed) Jeremy Nordquist, Chairperson

### **VISITORS**

Visitors to the Chamber were Grant Anderson from Wahoo and Bryan Brandenburgh from Raymond; 60 fourth-grade students and sponsors from Sunny Slope School, Omaha; 30 sixth-grade students, teachers, and sponsors from Superior; and 110 fourth-grade students, teachers, and sponsors from Prairie Wind Elementary, Omaha.

### **RECESS**

At 12:01 p.m., on a motion by Senator McGill, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Friend presiding.

**ROLL CALL**

The roll was called and all members were present except Senator McCoy who was excused; and Senators Cook and Schilz who were excused until they arrive.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 20, 2009, at 12:05 p.m. were the following: LBs 155, 392e, 358, 503, 626, 630e, 27e, 27Ae, 60, 84, 94e, 113e, 122, 129, 131, 133, 137, 152, 163, 175, 208, 209, 238e, 274, 278, 294, 299, 302e, 339, 343, 347, 348, 360, 372, 389e, 394, 412, 422, 432, 434, 441, 445, 446, 447, 450, 488, 498e, 500, 501, 524, and 528.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**SELECT FILE**

**LEGISLATIVE BILL 675.** ER8133, found on page 1507, was adopted.

Senator Nantkes offered the following amendment:

AM1484

(Amendments to E & R amendments, ER8133)

- 1 1. On page 6, line 7, after "images" insert "Ultrasound
- 2 images shall not be displayed so that the woman is able to view
- 3 them if the woman's pregnancy is the result of rape or incest".

Senator White offered the following amendment to the Nantkes amendment:

FA45

Amend AM1484

After the word "incest" strike the period and insert the following ", unless the woman asks to view the ultrasound image".

Senator McGill moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 32 ayes, 2 nays, and 15 not voting.

Senator White moved for a call of the house. The motion prevailed with 43 ayes, 0 nays, and 6 not voting.

Senator White requested a roll call vote on his amendment.

Voting in the affirmative, 26:

Adams	Cornett	Harms	Mello	Wallman
Ashford	Council	Howard	Nantkes	White
Avery	Dubas	Karpisek	Nordquist	
Campbell	Giese	Lathrop	Pankonin	
Carlson	Haar	Louden	Rogert	
Cook	Hansen	McGill	Sullivan	

Voting in the negative, 8:

Coash	Fulton	Lautenbaugh	Stuthman
Friend	Gloor	Schilz	Wightman

Present and not voting, 13:

Christensen	Flood	Heidemann	Pahls	Utter
Dierks	Gay	Janssen	Pirsch	
Fischer	Hadley	Nelson	Price	

Excused and not voting, 2:

Langemeier    McCoy

The White amendment was adopted with 26 ayes, 8 nays, 13 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

### **COMMITTEE REPORT**

#### Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Galen Frenzen - Nebraska Ethanol Board  
Paul Kenney - Nebraska Ethanol Board

Aye: 6 Senators Carlson, Cook, Dubas, Fischer, Langemeier, Schilz. Nay: 0.  
Absent: 2 Senators Haar, McCoy.

(Signed) Chris Langemeier, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 242.** Introduced by Stuthman, 22.

WHEREAS, the Scotus Central Catholic High School boys' soccer team is the champion of the 2009 Class B Boys' State Soccer Tournament; and

WHEREAS, the Shamrocks' 1-0 victory over Columbus High School in the championship game capped a 16-6 season and gave the team its third state title; and

WHEREAS, the Shamrocks have exemplified teamwork, sportsmanship, discipline, and determination; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Scotus Central Catholic High School boys' soccer team on winning the 2009 Class B Boys' State Soccer Tournament.

2. That a copy of this resolution be sent to the Shamrocks and their head coach, Jon Brezenski.

Laid over.

**MESSAGE FROM THE GOVERNOR**

May 20, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 97e and 97A were received in my office on May 18, 2009.

These bills were signed and delivered to the Secretary of State on May 20, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**SELECT FILE**

**LEGISLATIVE BILL 675.** The Nantkes amendment, AM1484, found in this day's Journal, as amended, was renewed.

**SENATOR STUTHMAN PRESIDING**

Senator White moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Nantkes moved for a call of the house. The motion prevailed with 45 ayes, 0 nays, and 4 not voting.

Senator Nantkes requested a roll call vote on her amendment, as amended.

Voting in the affirmative, 22:

Adams	Council	Harms	McGill	Wallman
Ashford	Dubas	Howard	Mello	White
Avery	Giese	Karpisek	Nantkes	
Campbell	Haar	Lathrop	Pankonin	
Cook	Hansen	Louden	Sullivan	

Voting in the negative, 20:

Carlson	Flood	Gloor	Lautenbaugh	Price
Christensen	Friend	Hadley	Nelson	Schilz
Coash	Fulton	Heidemann	Nordquist	Stuthman
Dierks	Gay	Janssen	Pirsch	Utter

Present and not voting, 5:

Cornett	Fischer	Pahls	Rogert	Wightman
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Excused and not voting, 2:

Langemeier	McCoy
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The Nantkes amendment, as amended, lost with 22 ayes, 20 nays, 5 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Haar offered the following amendment:

AM1480

(Amendments to E & R amendments, ER8133)

- 1 1. On page 6, line 7, after "images" insert ". If
- 2 the woman requests in writing, prior to the performance of the
- 3 ultrasound, that the ultrasound images not be displayed so that she
- 4 is able to view them, such ultrasound images shall not be displayed
- 5 so that the woman is able to view them. A copy of the request shall
- 6 be retained in the woman's medical record".



Senator Haar moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

Senator Haar requested a roll call vote on his amendment.

Senator Adams requested the roll call vote be taken in reverse order.

Voting in the affirmative, 10:

Avery	Council	Haar	Louden	Nantkes
Cook	Giese	Howard	McGill	Wallman

Voting in the negative, 30:

Adams	Dierks	Gloor	Karpisek	Nordquist
Ashford	Fischer	Hadley	Langemeier	Pirsch
Carlson	Flood	Hansen	Lathrop	Schilz
Christensen	Friend	Harms	Lautenbaugh	Stuthman
Coash	Fulton	Heidemann	Mello	Utter
Cornett	Gay	Janssen	Nelson	Wightman

Present and not voting, 5:

Campbell	Pahls	Price	Rogert	Sullivan
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Excused and not voting, 4:

Dubas	McCoy	Pankonin	White
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The Haar amendment lost with 10 ayes, 30 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Council offered the following amendment:

AM1482

(Amendments to E & R amendments, ER8133)

- 1 1. On page 5, line 13; and page 8, line 15, after the
- 2 period insert "A facility or clinic that is not licensed may only
- 3 be included on the list if there is a contractual relationship
- 4 between the facility or clinic and a licensed health care provider
- 5 providing for the delivery of medical services.".

Senator Council withdrew her amendment.

Senator Council offered the following amendment:

FA46

Amend ER8133 Strike "them." on line 5, page 6, and insert "or not view the ultrasound images."

Senator Council withdrew her amendment.

Senator Nordquist offered the following amendment:  
AM1492

(Amendments to E & R amendments, ER8133)

- 1 1. On page 5, line 12, strike "perform ultrasounds"
- 2 and insert "have ultrasounds performed by a person at least
- 3 as qualified as a registered nurse licensed under the Uniform
- 4 Credentialing Act"; and in line 13 after "perform" insert "such".

The Nordquist amendment was adopted with 36 ayes, 1 nay, 8 present and not voting, and 4 excused and not voting.

Senator Fulton moved for a call of the house. The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

Senator Nantkes requested a roll call vote on the advancement of the bill.

Senator Ashford requested the roll call vote be taken in reverse order.

Voting in the affirmative, 38:

Adams	Flood	Harms	Nelson	Stuthman
Ashford	Friend	Heidemann	Nordquist	Sullivan
Carlson	Fulton	Janssen	Pahls	Utter
Christensen	Gay	Karpisek	Pankonin	Wallman
Coash	Giese	Langemeier	Pirsch	White
Cornett	Gloor	Lathrop	Price	Wightman
Dierks	Hadley	Lautenbaugh	Rogert	
Fischer	Hansen	Mello	Schilz	

Voting in the negative, 6:

Campbell	Haar	McGill
Council	Howard	Nantkes

Present and not voting, 3:

Avery	Cook	Louden
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Excused and not voting, 2:

Dubas	McCoy
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Advanced to Enrollment and Review for Engrossment with 38 ayes, 6 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

**SENATOR LANGEMEIER PRESIDING****MOTION - Return LB35 to Select File**

Senator Ashford moved to return LB35 to Select File for his specific amendment, AM1468, found on page 1600.

Pending.

**EASE**

The Legislature was at ease from 5:34 p.m. until 6:05 p.m.

**COMMITTEE REPORTS**

## Enrollment and Review

**LEGISLATIVE BILL 16.** Placed on Final Reading.

ST9055

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "the" in line 1 through line 4 and all amendments thereto have been struck and "state government; to amend section 84-602, Reissue Revised Statutes of Nebraska; to provide for the establishment of a web site known as the Taxpayer Transparency Act; to provide powers and duties for the State Treasurer; and to repeal the original section." inserted.

**LEGISLATIVE BILL 241.** Placed on Final Reading.

**LEGISLATIVE BILL 288.** Placed on Final Reading.

ST9059

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Pirsch amendment, AM1428, section 4 has been renumbered as section 11 and incorporated into the Stuthman amendment, AM1278, and the Standing Committee amendment, AM846.

2. In the Stuthman amendment, AM1278:

a. Sections 11, 12, 13, 15, 35, 49, 50, 51, and 52 have been renumbered as sections 12, 13, 14, 16, 36, 50, 51, 52, and 53, respectively;

b. On page 9, line 25, "U.S." has been struck and "United States" inserted; and in line 26 "42 U.S.C. 902(2)" has been struck and "42 U.S.C. 9902(2)" inserted;

c. On page 24, line 15, "of" has been inserted after "amount"; and

d. Section 46 has been struck.

3. In the Standing Committee amendment, AM846:

a. Section 34 and all amendments thereto have been struck and the following new section inserted:

Sec. 47. Sections 18, 19, 20, 21, 22, 23, 33, 39, 43, 47, 48, and 55 of this act become operative on their effective date. Sections 5, 6, 7, 8, 10, 12, 13, 14, and 50 of this act become operative on September 30, 2009. Sections 9 and 51 of this act become operative on October 1, 2009. Sections 16, 36, and 52 of this act become operative on January 1, 2010. Sections 4 and 53 of this act become operative on October 1, 2010. The other sections of this act become operative three calendar months after the adjournment of this legislative session.

b. On page 12, line 6; and page 14, line 1, "11" has been struck and "23" inserted;

c. On page 26, line 20, "20" has been struck and "32" inserted; and

d. On page 44, line 8, "43-512.15," has been inserted after the last comma.

4. In the E & R amendments, ER8118, on page 1, line 2, "42-358.02, 42-364, 42-369, 43-512, 43-512.03, 43-512.07, 43-512.12, 43-512.15, 43-512.16, 43-512.17, 48-2302," has been inserted after the third comma and "77-27,166," has been inserted after "71-531,;" in line 4 "44-3,144," has been inserted after "sections"; in line 7 "to define and redefine terms;" has been inserted after the semicolon; and in line 8 "to change provisions relating to support orders and collection of past-due payments, interest, assignment, setoff, medical support, and health care coverage for dependent children;" has been inserted after the semicolon.

**LEGISLATIVE BILL 288A.** Placed on Final Reading.

ST9058

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, line 3, "to reduce appropriations;" has been inserted after the semicolon.

**LEGISLATIVE BILL 561.** Placed on Final Reading.

ST9057

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, ER8126, on page 4, line 11, ", and sections 70-1903, 70-1904, and 77-2704.57, Revised Statutes Cumulative Supplement, 2008" has been inserted after "Nebraska"; and in line 14 "to change provisions relating to community-based energy development projects;" has been inserted after the semicolon.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORT**

Urban Affairs

**LEGISLATIVE BILL 658.** Placed on General File with amendment. AM1487 is available in the Bill Room.

(Signed) Mike Friend, Chairperson

**AMENDMENT - Print in Journal**

Senator Lautenbaugh filed the following amendment to LB285:  
AM1465 is available in the Bill Room.

**MOTION - Return LB35 to Select File**

The Ashford motion, found in this day's Journal, to return LB35 to Select File for his specific amendment, AM1468, found on page 1600, was renewed.

Senator Price moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 31 ayes, 5 nays, and 13 not voting.

Senator Lathrop requested a record vote on the Ashford motion to return.

Voting in the affirmative, 26:

Adams	Flood	Heidemann	Mello	Utter
Ashford	Friend	Howard	Nelson	Wightman
Avery	Gay	Janssen	Nordquist	
Coash	Gloor	Langemeier	Pirsch	
Cornett	Hadley	Lautenbaugh	Price	
Fischer	Hansen	Louden	Stuthman	

Voting in the negative, 20:

Campbell	Council	Giese	Lathrop	Schilz
Carlson	Dierks	Haar	McGill	Sullivan
Christensen	Dubas	Harms	Nantkes	Wallman
Cook	Fulton	Karpisek	Rogert	White

Present and not voting, 2:

Pahls                      Pankonin

Excused and not voting, 1:

McCoy

The Ashford motion to return prevailed with 26 ayes, 20 nays, 2 present and not voting, and 1 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 35.** Senator Ashford withdrew his specific amendment, AM1468, found on page 1600.

Readvanced to Final Reading.

**MOTION - Return LB35 to Select File**

Senator Ashford moved to return LB35 to Select File for the following specific amendment:

AM1493

(Amendments to AM1468)

- 1 1. Strike amendments 1 through 3 and insert the following
- 2 amendments:
- 3 1. Strike section 34.
- 4 2. On page 6, lines 8 and 9, strike the new matter and
- 5 reinstate the stricken matter; in line 8 before "there" insert "1
- 6 until June 30, 2010."; and in line 9 after "court" insert "and,
- 7 beginning July 1, 2011, there shall be eight judges of the district
- 8 court".
- 9 3. On page 43, line 6, strike "36" and insert "35";
- 10 strike beginning with "Sections" in line 7 through the period in
- 11 line 8; and in line 12 strike "24-517" and insert "24-301.02,
- 12 24-517,".
- 13 4. Renumber the remaining sections accordingly.

**SENATOR FRIEND PRESIDING**

Senator Price moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 32 ayes, 7 nays, and 10 not voting.

The Ashford motion to return prevailed with 33 ayes, 10 nays, 5 present and not voting, and 1 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 35.** The Ashford specific amendment, AM1493, found in this day's Journal, was renewed.

Senator Karpisek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 30 ayes, 3 nays, and 16 not voting.

The Ashford specific amendment was adopted with 35 ayes, 8 nays, 5 present and not voting, and 1 excused and not voting.

Senator Council requested a roll call vote on the advancement of the bill.

Senator Pirsch requested the roll call vote be taken in reverse order.

Voting in the affirmative, 43:

Adams	Dierks	Hansen	McGill	Rogert
Ashford	Dubas	Harms	Mello	Schilz
Avery	Flood	Howard	Nantkes	Stuthman
Campbell	Fulton	Janssen	Nelson	Sullivan
Carlson	Gay	Karpisek	Nordquist	Wallman
Christensen	Giese	Langemeier	Pahls	White
Coash	Gloor	Lathrop	Pankonin	Wightman
Cook	Haar	Lautenbaugh	Pirsch	
Cornett	Hadley	Louden	Price	

Voting in the negative, 4:

Council	Fischer	Friend	Heidemann
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Present and not voting, 1:

Utter

Excused and not voting, 1:

McCoy

Advanced to Enrollment and Review for Reengrossment with 43 ayes, 4 nays, 1 present and not voting, and 1 excused and not voting.

### **MOTION - Return LB35A to Select File**

Senator Ashford moved to return LB35A to Select File for his specific amendment, AM1467, found on page 1600.

The Ashford motion to return prevailed with 39 ayes, 1 nay, 8 present and not voting, and 1 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 35A.** The Ashford specific amendment, AM1467, found on page 1600, was adopted with 41 ayes, 2 nays, 5 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

### **BILLS ON FINAL READING**

The following bills were read and put upon final passage:

#### **LEGISLATIVE BILL 598.**

A BILL FOR AN ACT relating to victims of tragedy; to amend sections 81-1801, 81-1802, 81-1803, 81-1805, 81-1813, 81-1818, 81-1820, 81-1822,

81-1823, 81-1825, 81-1833, 81-1834, 81-1835, 81-1839, 81-1840, and 81-1841, Reissue Revised Statutes of Nebraska; to authorize a Community Trust; to redefine terms; to change provisions relating to the Nebraska Crime Victim's Reparations 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 604.** With Emergency Clause.

A BILL FOR AN ACT relating to the Pharmacy Practice Act; to amend sections 38-2801, 38-2802, 38-2826, 38-2850, 38-2867, 38-2869, and 38-2873, Reissue Revised Statutes of Nebraska; to define terms and eliminate a term; to change and eliminate provisions relating to medical gas distribution; to harmonize provisions; to repeal the original sections; to outright repeal section 38-2827, 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, 46:



Adams	Dierks	Hadley	Mello	Stuthman
Ashford	Dubas	Hansen	Nantkes	Sullivan
Avery	Fischer	Harms	Nelson	Utter
Campbell	Flood	Heidemann	Nordquist	Wallman
Carlson	Friend	Howard	Pahls	White
Christensen	Fulton	Janssen	Pankonin	Wightman
Coash	Gay	Langemeier	Pirsch	
Cook	Giese	Lathrop	Price	
Cornett	Gloor	Lautenbaugh	Rogert	
Council	Haar	Louden	Schilz	

Voting in the negative, 0.

Present and not voting, 2:

Karpisek      McGill

Excused and not voting, 1:

McCoy

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 627.**

A BILL FOR AN ACT relating to the Boiler Inspection Act; to amend section 48-722, Revised Statutes Cumulative Supplement, 2008; to require inspections of domestic potable hot water heaters; 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, 47:

Adams	Dierks	Hadley	McGill	Schilz
Ashford	Dubas	Hansen	Mello	Stuthman
Avery	Fischer	Harms	Nantkes	Sullivan
Campbell	Flood	Heidemann	Nelson	Utter
Carlson	Friend	Howard	Nordquist	Wallman
Christensen	Fulton	Janssen	Pahls	White
Coash	Gay	Langemeier	Pankonin	Wightman
Cook	Giese	Lathrop	Pirsch	
Cornett	Gloor	Lautenbaugh	Price	
Council	Haar	Louden	Rogert	

Voting in the negative, 0.

Present and not voting, 1:

Karpisek

Excused and not voting, 1:

McCoy

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 LB631 with 43 ayes, 1 nay, 4 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 631.** With Emergency Clause.

A BILL FOR AN ACT relating to the Employment Security Law; to amend sections 48-622.01, 48-622.02, 48-622.03, 48-655, 48-665, 48-668, and 48-668.02, Reissue Revised Statutes of Nebraska, and sections 48-612.01, 48-648, 48-648.01, 48-649, 48-652, and 48-654, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to information disclosure, electronic payment and filing, combined tax rate, employer accounts, unemployment compensation, and worker training programs; to harmonize provisions; to eliminate an advisory council; to repeal the original sections; to outright repeal section 48-610, 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, 48:

Adams	Dierks	Hadley	Louden	Rogert
Ashford	Dubas	Hansen	McGill	Schilz
Avery	Fischer	Harms	Mello	Stuthman
Campbell	Flood	Heidemann	Nantkes	Sullivan
Carlson	Friend	Howard	Nelson	Utter
Christensen	Fulton	Janssen	Nordquist	Wallman
Coash	Gay	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman
Cornett	Gloor	Lathrop	Pirsch	
Council	Haar	Lautenbaugh	Price	

Voting in the negative, 0.

Excused and not voting, 1:

McCoy

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 531, 533, 537, 540, 562, 587, 598, 604, 627, and 631.

### **VISITOR**

The Doctor of the Day was Dr. Paul Wolfe from Lincoln.

### **ADJOURNMENT**

At 9:04 p.m., on a motion by Senator Rogert, the Legislature adjourned until 9:00 a.m., Thursday, May 21, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**EIGHTY-THIRD DAY - MAY 21, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****EIGHTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, May 21, 2009

**PRAYER**

The prayer was offered by Chaplain Oledia Bell, Lieutenant Colonel, Deputy Wing Chaplain - Offutt Air Force Base, Offutt.

**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 Council and McCoy who were excused; and Senators Christensen, Gay, and Wightman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-second day was approved.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 20, 2009, at 9:10 p.m. were the following: LBs 531, 533e, 537, 540e, 562, 587, 598, 604e, 627, and 631e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**REPORT**

The following report was received by the Legislature:

**Revenue, Nebraska Department of**

Report of Examination of State of Nebraska Auditor of Public Accounts  
for Fiscal Year Ended June 30, 2008

**COMMUNICATION**

Received a copy of House Concurrent Resolution No. 3063 from the state of North Dakota relating to North Dakota's sovereignty under the 10th Amendment and their demand that the federal government halt its practice of assuming powers and imposing mandates on states for purposes not enumerated in the Constitution of the United States.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Mello asked unanimous consent to add his name as cointroducer to LR114, LR139, LR149, LR163, LR195, LR199, LR201, LR219, and LR238. No objections. So ordered.

Senator Nantkes asked unanimous consent to add her name as cointroducer to LR173. No objections. So ordered.

**SELECT FILE**

**LEGISLATIVE BILL 218A.** ER8131, found on page 1430, was adopted.

Senator Cornett withdrew her amendment, AM1453, found on page 1577.

Senator Cornett renewed her motion, MO53, found on page 1652, to indefinitely postpone.

**PRESIDENT SHEEHY PRESIDING**

Senator Karpisek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 33 ayes, 4 nays, and 12 not voting.

The Cornett motion to indefinitely postpone prevailed with 28 ayes, 13 nays, 6 present and not voting, and 2 excused and not voting.

**COMMITTEE REPORTS****Agriculture**

The Agriculture Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Al Berndt - Climate Assessment Response Committee

Aye: 7 Senators Carlson, Dierks, Dubas, Karpisek, Price, Schilz, Wallman.  
Nay: 0. Absent: 1 Senator Council.

The Agriculture Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

William Marshall III - Nebraska State Fair Board

Aye: 7 Senators Carlson, Dierks, Dubas, Karpisek, Price, Schilz, Wallman.  
Nay: 0. Absent: 1 Senator Council.

(Signed) Tom Carlson, Chairperson

### **REFERENCE COMMITTEE REPORT**

#### 2009 Resolutions calling for an Interim Study

LR42	Interim study to identify methods necessary to assist Nebraska farms in providing local schools with Nebraska-grown farm commodities for schools meals and snacks	Agriculture
LR82	Interim study to examine issues relating to the Grand Island Veterans' Home	Government, Military and Veterans Affairs
LR83	Interim study relating to expanded development of wind energy in Nebraska	Natural Resources
LR88	Interim study to examine the issuance of LPD-learner's permits	Transportation and Telecommunications
LR95	Interim study to examine the needs, resources, and responsibilities of the Dept. of Revenue and its divisions	Revenue
LR96	Interim study to examine the responsiveness of state agencies when they are requested to provide information to the Legislature	Executive Board
LR97	Interim study to examine the major sources of state and local tax revenue	Revenue
LR101	Interim study to examine issues relating to the impact of additional well development on water use by domestic wells in areas of the state where ground water supplies are limited	Natural Resources
LR102	Interim study to examine issues relating to the Nebraska Expressway System	Transportation and Telecommunications

LR103	Interim study to examine the statutory duties of riparian landowners adjacent to natural streams and other watercourses for the control and removal of noxious and invasive vegetation	Agriculture
LR104	Interim study to examine mechanisms to mitigate marketing risks to producers and other grain market participants beyond those available under the Grain Dealer Act and the Grain Warehouse Act	Agriculture
LR106	Interim study to examine the economic impact of retirement income on the State of Nebraska and the most appropriate way to tax such income	Revenue
LR109	Interim study to examine the issue of juvenile overcrowding in youth detention centers	Judiciary
LR112	Interim study to examine Nebraska's fence laws and develop a proposal to refine and simplify the laws as applied in rural and urban areas	Agriculture
LR113	Interim study to examine whether Nebraska should update provisions of the Nebraska Criminal Code relating to the degrees and types of homicides that may be charged under Nebraska law	Judiciary
LR114	Interim study to examine whether Nebraska should amend the Delayed Deposit Services Licensing Act to provide for greater consumer protections for customers of payday lenders	Banking, Commerce and Insurance
LR115	Interim study to review issues under the jurisdiction of the Natural Resources Committee	Natural Resources
LR116	Interim study to examine issues relating to early childhood education and kindergarten eligibility	Education
LR117	Interim study to determine the positive and negative outcomes that could result from aligning the school fiscal year with the state fiscal year	Education
LR118	Interim study to examine issues under the jurisdiction of the Education Committee	Education



LR119	Interim study to examine the initiative and referendum process and how petitions are circulated	Government, Military and Veterans Affairs
LR120	Interim study to examine the history of salary, benefit, and retirement packages available to Nebraska public school employees	Nebraska Retirement Systems
LR121	Interim study to examine the structure, authority, and mission of the Nebraska School Activities Association	Education
LR122	Interim study to examine the feasibility of making the Game and Parks Commission a code agency	Natural Resources
LR123	Interim study to examine the Department of Labor's authority to conduct workplace safety inspections	Business and Labor
LR124	Interim study to examine the use of eminent domain by natural resources districts for the taking of private land for development or management of recreational trails or corridors	Natural Resources
LR126	Interim study to examine issues under the jurisdiction of the Government, Military and Veterans Affairs Committee	Government, Military and Veterans Affairs
LR127	Interim study to examine the issue of election day registration	Government, Military and Veterans Affairs
LR128	Interim study to examine issues relating to the laws of Nebraska governing the management and use of Nebraska surface water and ground water	Natural Resources
LR129	Interim study to examine updating statutes which restrict the unauthorized use of the word bank	Banking, Commerce and Insurance
LR130	Interim study to examine whether provisions of the Nebraska Pure Food Act should be updated in relation to the growing trend of home baking, canning, and small food businesses in Nebraska	Agriculture
LR131	Interim study to examine school accountability	Education
LR132	Interim study to examine updating statutes to provide for partial payment of insurance policy proceeds to a city or village for certain damages or losses	Banking, Commerce and Insurance

LR133	Interim study to examine retirement issues relating to military leave and persons returning to employment following military leave	Nebraska Retirement Systems
LR134	Interim study to examine the public employees retirement systems administered by the Public Employees Retirement Board	Nebraska Retirement Systems
LR135	Interim study to examine the pension benefits offered to professional firefighters in cities of the first class	Nebraska Retirement Systems
LR136	Interim study to examine the public psychiatric rehabilitation in secure settings that is available to chronically and severely impaired mentally ill persons residing in Nebraska	Health and Human Services
LR137	Interim study to determine whether a reserve is necessary for the defined benefit retirement plans prior to the Legislature's approval of any benefit improvements	Nebraska Retirement Systems
LR138	Interim study to examine issues under the jurisdiction of the Judiciary Committee	Judiciary
LR139	Interim study to examine the tax climate for Nebraska's retired citizens	Revenue
LR140	Interim study to examine the quality of jobs created under the Nebraska Advantage and Nebraska Super Advantage programs	Revenue
LR141	Interim study to examine the subject matter of LB 474, 2009, that would have required the state and its governmental subdivisions to pay property tax on property that was not being used for a public purpose	Revenue
LR142	Interim study to examine issues under the jurisdiction of the Transportation and Telecommunications Committee	Transportation and Telecommunications
LR143	Interim study to examine Nebraska statutes and address the lack of governance regarding off-road vehicles	Transportation and Telecommunications
LR144	Interim study to examine the Commission of Industrial Relations and the statutory requirements for comparable wages and conditions of employment for municipal employees	Business and Labor

LR145	Interim study to determine whether Nebraska should update its version of the Uniform Commercial Code, Article 9, relating to secured transactions	Banking, Commerce and Insurance
LR146	Interim study to determine whether Nebraska should enact the Uniform Limited Partnership Act (2001)	Banking, Commerce and Insurance
LR147	Interim study to determine whether Nebraska should enact the Revised Uniform Limited Liability Company Act (2006)	Banking, Commerce and Insurance
LR148	Interim study to evaluate the State of Nebraska's wellness program and provide policy options	Health and Human Services
LR149	Interim study to examine how school finance data is reported to the public and what type of information would assist the Legislature in evaluating the cost effectiveness of state aid for K-12 education	Education
LR150	Interim study to examine the Department of Health and Human Services' plan to contract for delivery of medicaid services using an at-risk capitated managed care model	Health and Human Services
LR151	Interim study to consider and recommend funding strategies for the improvement of the Centennial Mall area of the Nebraska State Capitol Environs District	Government, Military and Veterans Affairs
LR152	Interim study to examine Nebraska's highway funding structure and to recommend possible alternatives to the traditional methods	Transportation and Telecommunications
LR153	Interim study to examine whether Nebraska should repeal statutes that allow persons not lawfully present in the United States to pay resident tuition at Nebraska postsecondary educational institutions	Education
LR154	Interim study to examine the need for age-appropriate and size-appropriate booster seats on school district vehicles	Transportation and Telecommunications

LR155	Interim study to provide recommendations and examine issues relating to rates paid by the state to providers of publicly-funded behavioral health services	Appropriations/Health and Human Services
LR156	Interim study to identify the statutory powers and duties of the Department of Health and Human Services and to prioritize the programs and services administered by the department	Health and Human Services
LR157	Interim study to review, assess, and provide recommendations relating to the implementation of the Nebraska Health Care Funding Act	Appropriations/Health and Human Services
LR158	Interim study to conduct research and provide recommendations for reform of Nebraska's health care delivery system and health care financing system	Select Committee
LR159	Interim study to examine the future need for health care workers in Nebraska	Health and Human Services
LR160	Interim study to review and provide recommendations relating to the statewide telehealth network	Health and Human Services
LR161	Interim study to examine Nebraska's sales and use tax provisions	Revenue
LR162	Interim study to examine the competitive bidding statutes for the purchase of machinery and equipment	Government, Military and Veterans Affairs
LR163	Interim study to examine issues which fall under the jurisdiction of the Nebraska Accountability and Disclosure Commission	Government, Military and Veterans Affairs
LR164	Interim study to examine the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 and its implementation in Nebraska	Health and Human Services
LR165	Interim study to examine issues relating to the adoption of a corporate and individual income tax credit scholarship program	Education/Revenue
LR166	Interim study to conduct a comprehensive review of state and local taxes in Nebraska	Revenue
LR167	Interim study to examine the issue of homeless youth in Nebraska	Health and Human Services/Education
LR168	Interim study to examine the factors contributing to childhood obesity	Health and Human Services

LR172	Interim study to analyze the education and training available that could lead to careers in high-demand industries in Nebraska	Education
LR173	Interim study to examine the film industry in Nebraska and whether tax incentives could be used to encourage future economic growth	Revenue
LR174	Interim study to examine ways to provide low-income families with access to high quality child care	Health and Human Services
LR175	Interim study to examine ways to increase financial literacy in Nebraska through financial literacy education classes	Education
LR176	Interim study to examine the feasibility of creating a fund that would be used to help organizations market large-scale events in Nebraska	Appropriations
LR177	Interim study to examine issues relating to the current mechanism utilized by the Public Service Commission to allocate money deposited in the Enhanced Wireless 911 Fund to wireless carriers	Transportation and Telecommunications
LR178	Interim study to examine the need-based financial aid program that was created by the Legislature relating to higher education	Education/ Appropriations
LR179	Interim study to examine the requirements and conditions of the state's contract with Magellan Behavioral Health Services	Health and Human Services
LR180	Interim study to examine the role of educational service units within learning communities	Education
LR181	Interim study to examine the feasibility and benefits of restructuring the natural resources districts	Natural Resources
LR182	Interim study to examine issues relating to recruiting and retaining volunteer firefighters and volunteer emergency medical care providers	Revenue
LR183	Interim study to examine creating a specialized magistrate for the state's largest courts	Judiciary

LR184	Interim study to examine the process by which the Division of Children and Family Services of the Dept. of Health and Human Services places Nebraska citizens on the central register of child protection cases	Judiciary
LR185	Interim study to examine the impact of employer misclassification of employees in Nebraska	Business and Labor
LR186	Interim study to examine workers' compensation insurance premiums	Business and Labor
LR187	Interim study to examine issues relating to LB560 which would have amended laws regarding the towing of motor vehicles	Transportation and Telecommunications
LR188	Interim study to review the practice of using credit information for insurance purposes	Banking, Commerce and Insurance
LR189	Interim study to examine Nebraska's court-appointed special advocate programs	Judiciary
LR190	Interim study to review the current practice of issuing handicapped parking permits	Urban Affairs
LR191	Interim study to examine Nebraska's laws regarding a persons' right in their home to defend another person's life by reasonable force and to review the Castle Doctrine laws	Judiciary
LR192	Interim study to examine allowing individuals who are fourteen and fifteen years of age, the authority to travel to and from work, under similar laws and regulations to school permits	Transportation and Telecommunications
LR193	Interim study to examine the impact of LB436 which established a statewide net metering policy	Natural Resources
LR194	Interim study to examine unintended pregnancies and sexually transmitted diseases	Health and Human Services
LR195	Interim study to examine energy efficiency	Natural Resources
LR196	Interim study to determine whether the Nebraska Liquor Control Act should be updated with respect to retail licenses	General Affairs
LR197	Interim study to review matters under the jurisdiction of the General Affairs Committee	General Affairs

LR198	Interim study to examine 529 college savings plans including their performance and administration	Nebraska Retirement Systems
LR199	Interim study to examine the situation in Whiteclay, Nebraska, regarding the sale of alcohol and its secondary effects	General Affairs/ Judiciary
LR200	Interim study to determine if Thurston County is entitled to automatic state aid payments and a reimbursement for law enforcement on the reservations	Revenue
LR201	Interim study to examine LB381, which would have created the Community Improvement District Act and the Transportation Development District Act	Urban Affairs
LR202	Interim study to investigate the full range of powers granted to municipalities which involve jurisdiction over residents in areas outside of municipal boundaries	Urban Affairs
LR203	Interim study to examine the cost-effectiveness of upgrading the Nebraska Energy Code for new commercial construction	Urban Affairs
LR204	Interim study to review matters under the jurisdiction of the Urban Affairs Committee	Urban Affairs
LR205	Interim study to review the status of current state law regarding the various building and construction codes currently in use by cities and villages	Urban Affairs
LR206	Interim study to examine issues relating to learning communities	Education
LR207	Interim study to examine the statutory means by which a city of the primary class would establish a separate transit authority	Urban Affairs
LR208	Interim study to focus on innovative and creative solutions to supplement traditional economic development tools	Banking, Commerce and Insurance
LR209	Interim study to examine the implications of requiring communities to partner with the state in the delivery of health and human services previously provided by state employees	Appropriations/Health and Human Services
LR210	Interim study to determine whether lodging taxes should apply to home rentals	Revenue

LR211	Interim study to determine whether sales tax collected on heating fuels should be changed to an excise tax	Revenue
LR212	Interim study to examine the valuation of agricultural land for tax purposes in Nebraska and in surrounding states	Revenue
LR213	Interim study to determine whether current business tax incentive programs should be changed when jobs were part of a bankrupt entity	Revenue
LR214	Interim study to examine local government levy limits and property tax proposals that have been implemented since 1995	Revenue
LR215	Interim study to examine the current processes and procedures in statute applicable to county boards of equalization	Revenue
LR216	Interim study to identify the range of occupations taxes which are currently levied by cities and villages in Nebraska	Urban Affairs
LR217	Interim study to examine ways to encourage entrepreneurship and private funding programs in Nebraska	Banking, Commerce and Insurance
LR218	Interim study to determine ways the State of Nebraska can promote and increase the export of Nebraska's agricultural products	Agriculture
LR219	Interim study to determine ways the state can play a role in reducing truancies among Nebraska's K-12 students	Education
LR220	Interim study to review recent trends and developments in the regulation of the business of insurance	Banking, Commerce and Insurance
LR221	Interim study to determine ways the State of Nebraska could promote energy conservation in commercial buildings and residential properties	Natural Resources
LR222	Interim study to examine granting the Department of Environmental Quality the statutory authority to file and collect environmental liens on property	Natural Resources



LR225	Interim study to examine the actions other states and organizations have taken to strengthen marriage and reduce divorce through policy change and marriage education	Judiciary
LR226	Interim study to examine medical malpractice liability	Judiciary
LR227	Interim study to conduct research and make recommendations relating to peer support for mental health consumers	Health and Human Services
LR228	Interim study to examine organic foods	Agriculture
LR229	Interim study to examine the impact of federal and state bans on the slaughter of horses and options available for the disposal of horses	Agriculture
LR230	Interim study to examine matchup or lineup video gaming devices that award monetary prizes	General Affairs
LR231	Interim study to examine ways the state could promote job creation in the more economically disadvantaged rural communities in Nebraska	Business and Labor
LR232	Interim study to examine the occupation taxes imposed on wireless telecommunication services	Revenue
LR233	Interim study to examine judicial resources and the allocation of judicial resources	Judiciary
LR234	Interim study to review current statutes and regulations related to community-based developmental disability service providers	Health and Human Services
LR235	Interim study to examine water issues	Natural Resources
LR236	Interim study to examine in vitro fertilization	Judiciary
LR237	Interim study to evaluate the period of time juveniles are involved in the Nebraska juvenile court system	Judiciary
LR238	Interim study to examine the proliferation of retail liquor licenses	General Affairs
LR239	Interim study to assess the effectiveness of existing community corrections programs	Judiciary

LR240	Interim study to examine ideas for encouraging responsible livestock development through participation and partnerships between communities, counties, organizations, and state agencies	Agriculture
LR241	Interim study to examine the valuation processes of real property	Revenue

(Signed) John Wightman, Chairperson  
Executive Board

### BILLS ON FINAL READING

The following bill was read and put upon final passage:

#### **LEGISLATIVE BILL 9.** With Emergency Clause.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.13, Reissue Revised Statutes of Nebraska, and sections 77-2701 and 77-2701.04, Revised Statutes Cumulative Supplement, 2008; to exempt mineral oil from sales and use taxes as prescribed; to exempt wood and corn used as fuel in irrigation and farming from sales and use taxes; to harmonize provisions; to provide operative dates; 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, 44:

Adams	Dierks	Hadley	McGill	Rogert
Ashford	Dubas	Harms	Mello	Schilz
Avery	Fischer	Howard	Nantkes	Stuthman
Campbell	Flood	Janssen	Nelson	Sullivan
Carlson	Friend	Karpisek	Nordquist	Utter
Christensen	Gay	Langemeier	Pahls	Wallman
Coash	Giese	Lathrop	Pankonin	White
Cook	Gloor	Lautenbaugh	Pirsch	Wightman
Cornett	Haar	Louden	Price	

Voting in the negative, 3:

Fulton	Hansen	Heidemann
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Excused and not voting, 2:

Council	McCoy
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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 LB63 with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 63. With Emergency Clause.**

A BILL FOR AN ACT relating to law; to amend sections 28-101, 28-111, 28-308, 28-309, 28-929, 28-930, 28-1201, 28-1202, 28-1204, 28-1204.01, 28-1204.04, 28-1205, 28-1206, 28-1207, 28-1208, 28-1212.02, 28-1212.03, 29-401, 29-901, 29-901.01, 29-1912, 29-2320, 29-2321, 43-245, 43-250, 43-276, 69-2407, and 83-183, Reissue Revised Statutes of Nebraska, and sections 13-2610, 47-632, 60-497.01, 69-2404, 69-2410, and 69-2430, Revised Statutes Cumulative Supplement, 2008; to permit the use of the Convention Center Support Fund for the reduction of street and gang violence; to change provisions relating to penalty enhancements, assault, firearm and handgun offenses, deadly weapon offenses, bail, handgun certificates, and concealed handgun permits; to prohibit the unauthorized application of graffiti, discharge of a firearm while in or near a motor vehicle, and unlawful membership recruitment for an organization; to change provisions relating to the use of jailhouse witnesses and appeals by the Attorney General; to change and provide penalties; to change provisions relating to detention of juveniles and the Nebraska Juvenile Code; to provide for the transfer of community corrections administrative funds to the Office of Violence Prevention; to require abstracts of convictions to be transmitted to the Director of Motor Vehicles; to create the Office of Violence Prevention, an advisory council, and a fund; to permit supervised employment of persons committed to the Department of Correctional Services; to adopt the Lindsay Ann Burke Act; to eliminate provisions relating to the use of jailhouse informers and persons released on probation, parole, or work release by law enforcement; to harmonize provisions; to provide severability; to repeal the original sections; to outright repeal sections 29-1928, 29-1929, and 29-2262.01, 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, 43:

Adams	Dierks	Haar	Louden	Price
Ashford	Dubas	Hadley	McGill	Rogert
Avery	Fischer	Harms	Mello	Schilz
Campbell	Flood	Howard	Nantkes	Sullivan
Carlson	Friend	Janssen	Nelson	Wallman
Christensen	Fulton	Karpisek	Nordquist	White
Coash	Gay	Langemeier	Pahls	Wightman
Cook	Giese	Lathrop	Pankonin	
Cornett	Gloor	Lautenbaugh	Pirsch	

Voting in the negative, 4:

Hansen	Heidemann	Stuthman	Utter
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Excused and not voting, 2:

Council	McCoy
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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 63A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 63, One Hundred First Legislature, First Session, 2009; to provide for the distribution and administration of funds; 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	Dierks	Haar	Louden	Price
Ashford	Dubas	Hadley	McGill	Rogert
Avery	Fischer	Harms	Mello	Schilz
Campbell	Flood	Howard	Nantkes	Sullivan
Carlson	Friend	Janssen	Nelson	Wallman
Christensen	Fulton	Karpisek	Nordquist	White
Coash	Gay	Langemeier	Pahls	Wightman
Cook	Giese	Lathrop	Pankonin	
Cornett	Gloor	Lautenbaugh	Pirsch	

Voting in the negative, 4:

Hansen	Heidemann	Stuthman	Utter
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Excused and not voting, 2:

Council            McCoy

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 LB237 with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 237.**

A BILL FOR AN ACT relating to children; to amend section 43-1005, Reissue Revised Statutes of Nebraska; to adopt the Interstate Compact for Juveniles and the Interstate Compact for the Placement of Children; to provide for a compact administrator and an advisory council; to provide for certain expenses related to the Interstate Compact for Juveniles; to eliminate the Interstate Compact on Juveniles and the Interstate Compact on the Placement of Children and related provisions; to repeal the original section; and to outright repeal sections 43-1001, 43-1002, 43-1003, 43-1004, 43-1006, 43-1007, 43-1008, 43-1009, 43-1010, 43-1101, and 43-1102, Reissue Revised Statutes of Nebraska.

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, 47:

Adams	Dubas	Hansen	McGill	Schilz
Ashford	Fischer	Harms	Mello	Stuthman
Avery	Flood	Heidemann	Nantkes	Sullivan
Campbell	Friend	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Langemeier	Pankonin	Wightman
Cook	Gloor	Lathrop	Pirsch	
Cornett	Haar	Lautenbaugh	Price	
Dierks	Hadley	Louden	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council            McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 237A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 237, One Hundred First Legislature, First Session, 2009.

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, 47:

Adams	Dubas	Hansen	McGill	Schilz
Ashford	Fischer	Harms	Mello	Stuthman
Avery	Flood	Heidemann	Nantkes	Sullivan
Campbell	Friend	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Langemeier	Pankonin	Wightman
Cook	Gloor	Lathrop	Pirsch	
Cornett	Haar	Lautenbaugh	Price	
Dierks	Hadley	Louden	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council            McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 246.**

A BILL FOR AN ACT relating to biotechnology; to provide for development of a statewide strategic plan for biotechnology; to create a fund; to define terms; to eliminate the Biopower Steering Committee and the Biopower Development Cash Fund; and to outright repeal section 66-1701, Reissue Revised Statutes of Nebraska.

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, 37:

Adams	Dierks	Howard	Mello	Rogert
Ashford	Dubas	Janssen	Nantkes	Schilz
Avery	Gay	Karpisek	Nelson	Sullivan
Campbell	Giese	Langemeier	Nordquist	Wallman
Carlson	Gloor	Lathrop	Pahls	White
Christensen	Haar	Lautenbaugh	Pankonin	
Cook	Hadley	Louden	Pirsch	
Cornett	Harms	McGill	Price	

Voting in the negative, 5:

Friend	Hansen	Heidemann	Stuthman	Utter
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Present and not voting, 5:

Coash	Fischer	Flood	Fulton	Wightman
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Excused and not voting, 2:

Council	McCoy
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 246A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 246, One Hundred First Legislature, First Session, 2009.

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:

Adams	Dierks	Hadley	McGill	Rogert
Ashford	Dubas	Harms	Mello	Schilz
Avery	Flood	Howard	Nantkes	Sullivan
Campbell	Gay	Janssen	Nordquist	Wallman
Carlson	Giese	Karpisek	Pahls	White
Cook	Gloor	Langemeier	Pankonin	
Cornett	Haar	Lathrop	Price	

Voting in the negative, 10:

Christensen	Fulton	Heidemann	Nelson	Stuthman
Friend	Hansen	Lautenbaugh	Pirsch	Utter

Present and not voting, 4:

Coash            Fischer            Louden            Wightman

Excused and not voting, 2:

Council            McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 420.** With Emergency Clause.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.12, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to sales and use tax exemptions for certain nonprofit entities; to provide an operative date; 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	Dierks	Hansen	Louden	Rogert
Ashford	Dubas	Harms	McGill	Schilz
Avery	Fischer	Heidemann	Mello	Stuthman
Campbell	Flood	Howard	Nantkes	Sullivan
Carlson	Gay	Janssen	Nelson	Wallman
Christensen	Giese	Karpisek	Nordquist	White
Coash	Gloor	Langemeier	Pankonin	
Cook	Haar	Lathrop	Pirsch	
Cornett	Hadley	Lautenbaugh	Price	

Voting in the negative, 0.

Present and not voting, 5:

Friend            Fulton            Pahls            Utter            Wightman

Excused and not voting, 2:

Council            McCoy

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 464.**

A BILL FOR AN ACT relating to schools; to amend section 79-217, Reissue Revised Statutes of Nebraska; to require booster immunizations as prescribed for students entering seventh grade; to harmonize provisions; 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, 46:

Adams	Dubas	Hansen	McGill	Stuthman
Ashford	Fischer	Harms	Mello	Sullivan
Avery	Flood	Heidemann	Nantkes	Utter
Campbell	Friend	Howard	Nelson	Wallman
Carlson	Fulton	Janssen	Nordquist	White
Christensen	Gay	Karpisek	Pahls	Wightman
Coash	Giese	Langemeier	Pankonin	
Cook	Gloor	Lathrop	Price	
Cornett	Haar	Lautenbaugh	Rogert	
Dierks	Hadley	Louden	Schilz	

Voting in the negative, 0.

Present and not voting, 1:

Pirsch

Excused and not voting, 2:

Council      McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 464A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 464, One Hundred First Legislature, First Session, 2009.

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, 47:

Adams	Dubas	Hansen	McGill	Schilz
Ashford	Fischer	Harms	Mello	Stuthman
Avery	Flood	Heidemann	Nantkes	Sullivan
Campbell	Friend	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Langemeier	Pankonin	Wightman
Cook	Gloor	Lathrop	Pirsch	
Cornett	Haar	Lautenbaugh	Price	
Dierks	Hadley	Louden	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council            McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 555.**

A BILL FOR AN ACT relating to the Nebraska Advantage Research and Development Act; to amend section 77-5803, Revised Statutes Cumulative Supplement, 2008; to change the research tax credit; to provide an operative date; 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, 40:

Ashford	Dierks	Hadley	Louden	Pirsch
Avery	Dubas	Harms	McGill	Price
Campbell	Flood	Howard	Mello	Rogert
Carlson	Fulton	Janssen	Nantkes	Schilz
Christensen	Gay	Karpisek	Nelson	Sullivan
Coash	Giese	Langemeier	Nordquist	Wallman
Cook	Gloor	Lathrop	Pahls	White
Cornett	Haar	Lautenbaugh	Pankonin	Wightman

Voting in the negative, 4:

Hansen            Heidemann    Stuthman    Utter

Present and not voting, 3:

Adams            Fischer            Friend

Excused and not voting, 2:

Council        McCoy

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 LB603 with 42 ayes, 2 nays, 3 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 603.** With Emergency Clause.

A BILL FOR AN ACT relating to health; to amend sections 68-911, 68-915, 71-801, and 71-808, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to medical assistance and behavioral health services; to adopt the Behavioral Health Workforce Act and the Children and Family Behavioral Health Support Act; to harmonize provisions; to provide operative dates; 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, 45:

Adams	Dierks	Hadley	Louden	Price
Ashford	Dubas	Hansen	McGill	Rogert
Avery	Fischer	Harms	Mello	Schilz
Campbell	Flood	Heidemann	Nantkes	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Christensen	Gay	Janssen	Nordquist	Utter
Coash	Giese	Karpisek	Pahls	Wallman
Cook	Gloor	Lathrop	Pankonin	White
Cornett	Haar	Lautenbaugh	Pirsch	Wightman

Voting in the negative, 2:

Friend        Langemeier

Excused and not voting, 2:

Council        McCoy

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 bills were read and put upon final passage:

**LEGISLATIVE BILL 603A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 603, One Hundred First Legislature, First Session, 2009; and to reduce appropriations.

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, 45:

Adams	Dierks	Hadley	Louden	Price
Ashford	Dubas	Hansen	McGill	Rogert
Avery	Fischer	Harms	Mello	Schilz
Campbell	Flood	Heidemann	Nantkes	Stuthman
Carlson	Fulton	Howard	Nelson	Sullivan
Christensen	Gay	Janssen	Nordquist	Utter
Coash	Giese	Karpisek	Pahls	Wallman
Cook	Gloor	Lathrop	Pankonin	White
Cornett	Haar	Lautenbaugh	Pirsch	Wightman

Voting in the negative, 2:

Friend            Langemeier

Excused and not voting, 2:

Council            McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 671.**

A BILL FOR AN ACT relating to death investigations; to amend sections 23-1212, 23-1213, and 23-1218, Reissue Revised Statutes of Nebraska; to change the membership of the Nebraska County Attorney Standards Advisory Council; to provide powers and duties for the council regarding establishment of checklists, standardized procedures, best practices, a voluntary network of regional officials, and standardized forms; to require training for coroners and deputy coroners; to provide duties for the Nebraska Commission on Law Enforcement and Criminal Justice; 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, 47:

Adams	Dubas	Hansen	McGill	Schilz
Ashford	Fischer	Harms	Mello	Stuthman
Avery	Flood	Heidemann	Nantkes	Sullivan
Campbell	Friend	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Langemeier	Pankonin	Wightman
Cook	Gloor	Lathrop	Pirsch	
Cornett	Haar	Lautenbaugh	Price	
Dierks	Hadley	Louden	Rogert	

Voting in the negative, 0.

Excused and not voting, 2:

Council      McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 671A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 671, One Hundred First Legislature, First Session, 2009.

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, 46:

Adams	Fischer	Harms	Mello	Stuthman
Ashford	Flood	Heidemann	Nantkes	Sullivan
Avery	Friend	Howard	Nelson	Utter
Carlson	Fulton	Janssen	Nordquist	Wallman
Christensen	Gay	Karpisek	Pahls	White
Coash	Giese	Langemeier	Pankonin	Wightman
Cook	Gloor	Lathrop	Pirsch	
Cornett	Haar	Lautenbaugh	Price	
Dierks	Hadley	Louden	Rogert	
Dubas	Hansen	McGill	Schilz	

Voting in the negative, 0.

Present and not voting, 1:

Campbell

Excused and not voting, 2:

Council            McCoy

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LBs 9, 63, 63A, 237, 237A, 246, 246A, 420, 464, 464A, 555, 603, 603A, 671, and 671A.

### SELECT FILE

**LEGISLATIVE BILL 285.** ER8103, found on page 1260, was adopted.

Senator Lautenbaugh renewed his amendment, AM1465, found on page 1661.

Senator Lautenbaugh offered the following amendment to his amendment: AM1496

(Amendments to AM1465)

- 1     1. On page 31, line 7, after "is" insert "residing, has a
- 2     temporary domicile, or is habitually".
- 3     2. On page 38, line 3, after "requirements" insert ", if
- 4     eligible".

The Lautenbaugh amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

The Lautenbaugh amendment, AM1465, as amended, was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 542.** ER8130, found on page 1430, was adopted.

Senator Karpisek renewed his motion, MO52, found on page 1608, to bracket until May 29, 2009.

Pending.

**COMMITTEE REPORTS**  
Enrollment and Review

**LEGISLATIVE BILL 35.** Placed on Final Reading Second.  
ST9062

(Final Reading copy)

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Ashford amendment, AM1493:
  - a. "(Amendments to AM1468)" has been struck and "(Amendments to Final Reading copy)" inserted; and
  - b. On page 1, lines 1 and 2 have been struck; and in line 6 "2010" has been struck and "2011" inserted.

**LEGISLATIVE BILL 35A.** Placed on Final Reading Second.

**LEGISLATIVE BILL 675.** Placed on Final Reading.  
ST9061

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Nordquist amendment, AM1492, on page 1, line 1, "; and page 8, line 13" has been inserted after "12"; and in line 4 "; and in line 13" has been struck and ". On page 5, line 13; and page 8, line 14," inserted.

(Signed) Jeremy Nordquist, Chairperson

**COMMITTEE REPORTS**  
Nebraska Retirement Systems

**LEGISLATIVE BILL 81.** Indefinitely postponed.  
**LEGISLATIVE BILL 424.** Indefinitely postponed.  
**LEGISLATIVE BILL 425.** Indefinitely postponed.

(Signed) Dave Pankonin, Chairperson

**COMMITTEE REPORT**  
Nebraska Retirement Systems

The Nebraska Retirement Systems Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Denis Blank - Public Employees Retirement Board  
Glenn Elwell - Public Employees Retirement Board  
Mark Shepard - Public Employees Retirement Board

Aye: 5 Senators Karpisek, Loudon, Mello, Nordquist, Pankonin. Nay: 0.  
Absent: 1 Senator Heidemann.

(Signed) Dave Pankonin, Chairperson

**MOTION - Print in Journal**

Senator Pankonin filed the following motion to LB134:

MO54

Indefinitely postpone.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 21, 2009, at 11:00 a.m. were the following: LBs 9e, 63e, 63Ae, 237, 237A, 246, 246A, 420e, 464, 464A, 555, 603e, 603A, 671, and 671A.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**SELECT FILE**

**LEGISLATIVE BILL 542.** The Karpisek motion, MO52, found on page 1608 and considered in this day's Journal, to bracket until May 29, 2009, was renewed.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?"

Senator Stuthman moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

The motion to cease debate prevailed with 26 ayes, 6 nays, 14 present and not voting, and 3 excused and not voting.

Senator Campbell requested a roll call vote on the Karpisek motion to bracket.

Voting in the affirmative, 12:

Dierks	Janssen	Lautenbaugh	Pahls
Fischer	Karpisek	Louden	Pankonin
Friend	Langemeier	Nantkes	Stuthman

Voting in the negative, 27:

Adams	Cornett	Hadley	Nelson	Utter
Avery	Flood	Hansen	Nordquist	Wallman
Campbell	Fulton	Harms	Price	Wightman
Carlson	Gay	Lathrop	Rogert	
Christensen	Gloor	McGill	Schilz	
Cook	Haar	Mello	Sullivan	



Present and not voting, 7:

Ashford	Giese	Howard	White
Coash	Heidemann	Pirsch	

Excused and not voting, 3:

Council	Dubas	McCoy
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The Karpisek motion to bracket failed with 12 ayes, 27 nays, 7 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Karpisek renewed his amendment, AM1430, found on page 1607.

Senator Gloor moved the previous question.

Senator Karpisek requested a ruling of the Chair on whether there had been a full and fair debate, pursuant to Rule 7, Sec. 4, on his amendment.

The Chair ruled there had not been a full and fair debate on the Karpisek amendment.

Pending.

### **REPORT OF THE EXECUTIVE BOARD**

Senator Wightman, Chairperson of the Executive Board, reported the appointments of the following members of the Legislature to the following special committee:

	Legislature's Planning Committee		
Adams	Gloor	Harms	McCoy
Mello	Sullivan		

### **ANNOUNCEMENT**

Senator Dierks announced the State-Tribal Relations Committee will meet Tuesday, May 26, 2009, at 9:00 a.m. in Room 2108.

### **AMENDMENT - Print in Journal**

Senator Lathrop filed the following amendment to LB622:  
AM1198

(Amendments to Standing Committee amendments, AM875)

- 1 1. Strike section 1 and insert the following section:
- 2 Section 1. Section 48-125, Revised Statutes Cumulative

3 Supplement, 2008, is amended to read:

4 48-125 (1) Except as hereinafter provided, all amounts  
5 of compensation payable under the Nebraska Workers' Compensation  
6 Act shall be payable periodically in accordance with the methods  
7 of payment of wages of the employee at the time of the injury  
8 or death. Fifty percent shall be added for waiting time for all  
9 ~~delinquent payments after thirty days' notice has been given of~~  
10 ~~disability or after thirty days compensation payments which are~~  
11 not made within thirty days: (a) After notice has been given of  
12 disability for which there is no reasonable controversy; (b) after  
13 the deadline for filing an appeal of an order, award, or judgment  
14 of the compensation court which is being reviewed or is on appeal  
15 for those portions of such order, award, or judgment for which  
16 there is no reasonable controversy; or (c) from the entry of a  
17 final order, award, or judgment of the compensation court; from  
18 which no appeal is or may be taken; except that for any award  
19 or judgment against the state in excess of one hundred thousand  
20 dollars which must be reviewed by the Legislature as provided in  
21 section 48-1,102, fifty percent shall be added for waiting time  
22 for delinquent payments thirty days after the effective date of  
1 the legislative bill appropriating any funds necessary to pay the  
2 portion of the award or judgment in excess of one hundred thousand  
3 dollars. Such payments shall be sent directly to the person  
4 entitled to compensation or his or her designated representative  
5 except as otherwise provided in section 48-149.

6 (2) Whenever the employer refuses payment of compensation  
7 or medical payments subject to section 48-120, or when the employer  
8 neglects to pay compensation for thirty days after injury or  
9 neglects to pay medical payments subject to such section after  
10 thirty days' notice has been given of the obligation for medical  
11 payments, and proceedings are held before the Nebraska Workers'  
12 Compensation Court, a reasonable attorney's fee shall be allowed  
13 the employee by the compensation court in all cases when the  
14 employee receives an award. Attorney's fees allowed shall not  
15 be deducted from the amounts ordered to be paid for medical  
16 services nor shall attorney's fees be charged to the medical  
17 providers. If the employer files an application for review before  
18 the compensation court from an award of a judge of the compensation  
19 court and fails to obtain any reduction in the amount of such  
20 award, the compensation court shall allow the employee a reasonable  
21 attorney's fee to be taxed as costs against the employer for such  
22 review, and the Court of Appeals or Supreme Court shall in like  
23 manner allow the employee a reasonable sum as attorney's fees for  
24 the proceedings in the Court of Appeals or Supreme Court. If the  
25 employee files an application for a review before the compensation  
26 court from an order of a judge of the compensation court denying an  
27 award and obtains an award or if the employee files an application  
1 for a review before the compensation court from an award of a judge  
2 of the compensation court when the amount of compensation due is

3 disputed and obtains an increase in the amount of such award, the  
4 compensation court may allow the employee a reasonable attorney's  
5 fee to be taxed as costs against the employer for such review, and  
6 the Court of Appeals or Supreme Court may in like manner allow the  
7 employee a reasonable sum as attorney's fees for the proceedings in  
8 the Court of Appeals or Supreme Court. A reasonable attorney's fee  
9 allowed pursuant to this section shall not affect or diminish the  
10 amount of the award.

11 (3) When an attorney's fee is allowed pursuant to this  
12 section, there shall further be assessed against the employer an  
13 amount of interest on the final award obtained, computed from the  
14 date compensation was payable, as provided in section 48-119, until  
15 the date payment is made by the employer, at a rate equal to the  
16 rate of interest allowed per annum under section 45-104.01, as such  
17 rate may from time to time be adjusted by the Legislature. Interest  
18 shall apply only to those weekly compensation benefits awarded  
19 which have accrued as of the date payment is made by the employer.  
20 If the employer pays or tenders payment of compensation, the amount  
21 of compensation due is disputed, and the award obtained is greater  
22 than the amount paid or tendered by the employer, the assessment of  
23 interest shall be determined solely upon the difference between the  
24 amount awarded and the amount tendered or paid.

### SELECT FILE

**LEGISLATIVE BILL 542.** The Karpisek amendment, AM1430, found on page 1607 and considered in this day's Journal, was renewed.

Senator Karpisek withdrew his amendment.

Senator Karpisek withdrew his amendment, AM1426, found on page 1607.

Senator Campbell offered the following motion:

MO56

Indefinitely postpone.

Laid over.

### GENERAL FILE

**LEGISLATIVE BILL 658.** Title read. Considered.

### SENATOR LANGEMEIER PRESIDING

Committee AM1487, found on page 1660, was adopted with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 6 present and not voting, and 9 excused and not voting.

**VISITORS**

Visitors to the Chamber were 28 sixth- through eighth-grade students and teachers from Central Middle School, Omaha; members of Boy Scout Troop 474 and Girl Scout Troop 5532 from Bellevue; Alar Karis from Estonia and Harry Huge; 22 fourth-grade students, teachers, and sponsors from Sunset Hills Elementary, Omaha; 54 fourth-grade students from Columbian Elementary, Omaha; and Justin Caniglia from Omaha.

**ADJOURNMENT**

At 2:31 p.m., on a motion by Senator Sullivan, the Legislature adjourned until 9:00 a.m., Tuesday, May 26, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTY-FOURTH DAY - MAY 26, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****EIGHTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, May 26, 2009

**PRAYER**

The prayer was offered by Senator Wallman.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Stuthman presiding.

The roll was called and all members were present except Senator Haar who was excused; and Senators Adams, Ashford, Cook, Giese, Gloor, and Sullivan who were excused until they arrive.

**SPEAKER FLOOD PRESIDING****CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-third day was approved.

**MESSAGES FROM THE GOVERNOR**

May 22, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 160 was received in my office on May 18, 2009.

I signed this bill and delivered it to the Secretary of State on May 22, 2009.

Sincerely,  
(Signed) Dave Heineman

Governor

May 22, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 603e and 603A were received in my office on May 21, 2009.

These bills were signed and delivered to the Secretary of State on May 22, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

May 22, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 187e, 195, 224e, 232, 263, 342, 342A, 402e, 440, 463, 463A, 476e, 476Ae, 494, 532, and 568 were received in my office on May 18, 2009.

These bills were signed and delivered to the Secretary of State on May 22, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**COMMITTEE REPORT**  
Enrollment and Review

**LEGISLATIVE BILL 285.** Placed on Final Reading.  
ST9063

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Lautenbaugh amendment, AM1465:

a. On page 10, line 15, "subdivision" has been struck and "section" inserted;

- b. On page 30, line 17, the first "in" has been struck and "of" inserted;
- c. On page 31, lines 4 and 6, the first "in" has been struck, shown as stricken, and "of" inserted; and in line 23 an underscored comma has been inserted after "attendance";
- d. On page 34, line 14, "(1)(a)(ix)(A) through (1)(a)(ix)(J)" has been struck, shown as stricken, and "(1)(a)(xiv)(A) through (1)(a)(xiv)(J)" inserted;
- e. On page 36, line 25, "had" has been inserted after "has" and "is" has been struck and "has been" inserted;
- f. On page 37, line 7, an underscored comma has been inserted after "attendance"; and
- g. On page 39, line 25, "(3)(a)(ix)(A) through (3)(a)(ix)(J)" has been struck, shown as stricken, and "(3)(a)(xiv)(A) through (3)(a)(xiv)(J)" inserted.
2. On page 1, lines 2 through 9 have been struck and "29-2264, 29-4004, 29-4005, 29-4009, 29-4011, 29-4013, 29-4016, and 83-174.03, Reissue Revised Statutes of Nebraska, sections 29-4003, 29-4006, and 29-4007, Reissue Revised Statutes of Nebraska, as amended by sections 25, 26, and 27, respectively, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, and sections 14 and 24, Legislative Bill 97, One Hundred First Legislature, First Session, 2009; to change and eliminate provisions relating to the Sex Offender Registration Act; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 29-4010, Reissue Revised Statutes of Nebraska; and to declare an emergency." inserted.

(Signed) Jeremy Nordquist, Chairperson

### **MOTION - Print in Journal**

Senator Friend filed the following motion to LB658:  
MO57  
Bracket until May 29, 2009.

### **BILLS ON FINAL READING**

The following bills were read and put upon final passage:

#### **LEGISLATIVE BILL 16.**

A BILL FOR AN ACT relating to state government; to amend section 84-602, Reissue Revised Statutes of Nebraska; to provide for the establishment of a web site known as the Taxpayer Transparency Act; to provide powers and duties for the State Treasurer; and to repeal the original section.

#### **PRESIDENT SHEEHY PRESIDING**

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, 40:

Campbell	Fischer	Heidemann	McGill	Price
Carlson	Flood	Janssen	Mello	Rogert
Christensen	Friend	Karpisek	Nantkes	Schilz
Coash	Fulton	Langemeier	Nelson	Stuthman
Cornett	Gay	Lathrop	Nordquist	Utter
Council	Hadley	Lautenbaugh	Pahls	Wallman
Dierks	Hansen	Louden	Pankonin	White
Dubas	Harms	McCoy	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 2:

Avery            Howard

Excused and not voting, 7:

Adams	Cook	Gloor	Sullivan
Ashford	Giese	Haar	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 218.**

A BILL FOR AN ACT relating to state aid; to amend sections 13-518, 47-120, 71-5326, 77-27,136, 77-27,139, 81-15,158, 83-380, and 83-4,133, Reissue Revised Statutes of Nebraska, and sections 77-27,137.01 and 77-27,137.02, Revised Statutes Cumulative Supplement, 2008; to change and eliminate provisions relating to aid to various political subdivisions; to change and eliminate provisions relating to jail reimbursement; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 47-119, 47-119.01, 47-121, 47-121.01, 77-27,137, and 77-3618, Reissue Revised Statutes of Nebraska.

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, 37:



Ashford	Flood	Janssen	Nantkes	Schilz
Campbell	Friend	Karpisek	Nelson	Stuthman
Carlson	Fulton	Langemeier	Nordquist	Utter
Christensen	Gay	Lathrop	Pahls	Wallman
Coash	Hadley	Lautenbaugh	Pankonin	Wightman
Dierks	Hansen	Louden	Pirsch	
Dubas	Harms	McCoy	Price	
Fischer	Heidemann	McGill	Rogert	

Voting in the negative, 1:

Council

Present and not voting, 5:

Avery	Cornett	Howard	Mello	White
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Excused and not voting, 6:

Adams	Giese	Haar
Cook	Gloor	Sullivan

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 LB241 with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 241.**

A BILL FOR AN ACT relating to animals; to amend sections 54-626 and 54-640, Reissue Revised Statutes of Nebraska, and sections 54-625, 54-627, 54-628, 54-629, and 54-632, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to licensing requirements, inspections, rules and regulations, and duties of commercial breeders under the Commercial Dog and Cat Operator Inspection Act; to define and redefine terms; to provide for stop-movement orders as prescribed; to prohibit certain acts; to adopt the Dog and Cat Purchase Protection Act; to harmonize provisions; to provide operative dates; 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:

Ashford	Fischer	Janssen	Nantkes	Stuthman
Campbell	Flood	Karpisek	Nelson	Utter
Carlson	Friend	Langemeier	Nordquist	Wallman
Christensen	Fulton	Lathrop	Pahls	White
Coash	Gay	Lautenbaugh	Pankonin	Wightman
Cornett	Hadley	Louden	Pirsch	
Council	Hansen	McCoy	Price	
Dierks	Harms	McGill	Rogert	
Dubas	Heidemann	Mello	Schilz	

Voting in the negative, 0.

Present and not voting, 2:

Avery            Howard

Excused and not voting, 6:

Adams	Giese	Haar
Cook	Gloor	Sullivan

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 LB288 with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 288.** With Emergency Clause.

A BILL FOR AN ACT relating to health and human services; to amend sections 32-310, 38-2893, 38-2894, 42-358.02, 42-364, 42-369, 43-512, 43-512.03, 43-512.07, 43-512.12, 43-512.15, 43-512.16, 43-512.17, 48-2302, 68-1017.01, 71-531, 77-27,166, 81-2270, 81-2271, 81-3119, 83-1209, 83-1211, 83-1213, 83-1217, 83-1217.02, and 85-2104, Reissue Revised Statutes of Nebraska, and sections 44-3,144, 48-647, 68-717, 68-901, 68-906, 68-908, 68-934, 68-940, 68-948, 68-1016, 68-1017, 68-1017.02, 68-1070, 68-1713, 71-401, 71-604.05, and 71-5309, Revised Statutes Cumulative Supplement, 2008; to define and redefine terms; to change references to the federal food stamp program; to change provisions relating to support orders and collection of past-due payments, interest, assignment, setoff, medical support, and health care coverage for dependent children; to change a date within the Medical Assistance Act relating to acceptance of federal provisions; to eliminate references to a pilot project; to

change provisions relating to pharmacy technicians, a registry, the medical assistance program, false medicaid claims, the Medicaid Reform Council, consent to human immunodeficiency virus infection testing, public water system operator licensing, and the Developmental Disabilities Services Act; to create a fund; to provide for and eliminate provisions relating to itemized billing statements by health care facilities; to provide for a transfer of funds; to provide for relabeling and redispensing drugs at correctional facilities and jails; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 71-2049, 81-2265, and 81-2267, 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	Dierks	Harms	McCoy	Price
Ashford	Dubas	Heidemann	McGill	Rogert
Avery	Fischer	Howard	Mello	Schilz
Campbell	Flood	Janssen	Nantkes	Stuthman
Carlson	Friend	Karpisek	Nelson	Utter
Christensen	Fulton	Langemeier	Nordquist	Wallman
Coash	Gay	Lathrop	Pahls	White
Cornett	Hadley	Lautenbaugh	Pankonin	Wightman
Council	Hansen	Louden	Pirsch	

Voting in the negative, 0.

Excused and not voting, 5:

Cook	Giese	Gloor	Haar	Sullivan
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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 288A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 288, One Hundred First Legislature, First Session, 2009; to reduce appropriations; 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	Dierks	Harms	McCoy	Price
Ashford	Dubas	Heidemann	McGill	Rogert
Avery	Fischer	Howard	Mello	Schilz
Campbell	Flood	Janssen	Nantkes	Stuthman
Carlson	Friend	Karpisek	Nelson	Utter
Christensen	Fulton	Langemeier	Nordquist	Wallman
Coash	Gay	Lathrop	Pahls	White
Cornett	Hadley	Lautenbaugh	Pankonin	Wightman
Council	Hansen	Louden	Pirsch	

Voting in the negative, 0.

Excused and not voting, 5:

Cook	Giese	Gloor	Haar	Sullivan
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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.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LBs 16, 218, 241, 288, and 288A.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 169 and 170 were adopted.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 169 and 170.

### **COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 658.** Placed on Select File with amendment.  
ER8135

- 1 1. In the Standing Committee amendment, AM1487:
- 2 a. On page 10, line 20, after "infrastructure" insert
- 3 "system";
- 4 b. On page 11, line 19, after "excise" insert "tax";
- 5 c. On page 12, line 9; and page 19, line 2, strike "was"
- 6 and insert "were";
- 7 d. On page 13, line 18, after "possible" insert "to";
- 8 e. On page 17, line 3, after "shall" insert "be";
- 9 f. On page 18, line 3, after "or" insert

10 "jurisdictional"; and  
11 g. On page 19, line 11, after "charge" insert "by" and in  
12 line 15 strike "that" and insert "during which".  
13 2. On page 1, strike lines 2 through 7 and insert "to  
14 amend sections 66-1802, 66-1839, and 84-712.05, Reissue Revised  
15 Statutes of Nebraska, and section 66-1801, Revised Statutes  
16 Cumulative Supplement, 2008; to define and redefine terms; to  
17 provide for loans for negotiations; to provide procedures for  
18 infrastructure system replacement cost recovery; to harmonize  
19 provisions; and to repeal the original sections.".

(Signed) Jeremy Nordquist, Chairperson

### SELECT FILE

**LEGISLATIVE BILL 36.** ER8134, found on page 1652, was adopted.

### SENATOR MCGILL PRESIDING

Pending.

### PRESENTED TO THE GOVERNOR

Presented to the Governor on May 26, 2009, at 9:56 a.m. were the following: LBs 16, 218, 241, 288e, and 288Ae.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 243.** Introduced by Cornett, 45.

WHEREAS, the Omaha Gross Catholic High School baseball team won the 2009 Class B State Baseball Championship; and

WHEREAS, the Cougars defeated Lincoln Pius X 4-2 in a hard-fought championship game; and

WHEREAS, head coach Mike Filipowicz has served as a mentor and leader for all of the members of the team; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Omaha Gross Catholic High School baseball team on winning the 2009 Class B State Baseball Championship.

2. That head coach Mike Filipowicz be congratulated for his efforts in teaching, coaching, and providing guidance to the members of the Omaha Gross Catholic High School baseball team.

3. That a copy of this resolution be sent to the Omaha Gross Catholic High School baseball team and their head coach, Mike Filipowicz.

Laid over.

**LEGISLATIVE RESOLUTION 244.** Introduced by Mello, 5.

WHEREAS, the Greater Omaha Chamber of Commerce held its Omaha 25 Awards Luncheon on May 12, 2009; and

WHEREAS, at this event, the Greater Omaha Chamber of Commerce recognized Social Settlement as one of the 2009 recipients of the Nonprofit Organization of the Year award, recognizing Social Settlement's excellent stewardship of resources and exceptional outcomes; and

WHEREAS, Social Settlement has helped serve the social and economic needs of the south Omaha community for one hundred one years; and

WHEREAS, the Legislature recognizes the important work of charitable organizations like Social Settlement.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Social Settlement for being honored by the Greater Omaha Chamber of Commerce as one of the 2009 recipients of the Nonprofit Organization of the Year award.

2. That a copy of this resolution be sent to Social Settlement and its executive director, Renee Franklin.

Laid over.

**COMMITTEE REPORT**

Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Kevin Brostrom - Nebraska Accountability and Disclosure Commission

Aye: 8 Senators Avery, Giese, Janssen, Karpisek, Pahls, Pirsch, Price, Sullivan. Nay: 0. Absent: 0.

(Signed) Bill Avery, Chairperson

**EXPLANATION OF VOTES**

Had I been present, I would have voted "aye" on final passage of LBs 16, 218, 241, 288e, and 288Ae.

(Signed) Kate Sullivan

**SELECT FILE**

**LEGISLATIVE BILL 36.** Senator Nantkes offered the following motion:  
MO59

Bracket until May 29, 2009.

**PRESIDENT SHEEHY PRESIDING**

Pending.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 245.** Introduced by Lathrop, 12;  
Wightman, 36.

WHEREAS, the One Hundred First Legislature, First Session, 2009, adopted Legislative Resolution 11, which provides for the continuation of the Developmental Disabilities Special Investigative Committee of the Legislature; and

WHEREAS, the committee consists of seven members of the Legislature appointed by the Executive Board of the Legislative Council; and

WHEREAS, in the event that a vacancy occurs on the committee, it is in the best interests of the State of Nebraska that such a vacancy be filled.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. If a vacancy occurs on the Developmental Disabilities Special Investigative Committee of the Legislature for any reason, the Executive Board of the Legislative Council shall appoint another member of the Legislature to fill such vacancy.

2. If any such vacancy on the committee is in the position of chairperson or vice-chairperson of the committee, after the executive board appoints a new member to fill such vacancy, the committee shall elect a new chairperson or vice-chairperson, as the case may be, from the membership of the committee.

Laid over.

**EXPLANATIONS OF VOTES**

Had I been present, I would have voted "nay" on final passage of LB218.

(Signed) Robert Giese

Had I been present, I would have voted "aye" on final passage of LBs 155, 392e, 358, 503, 626, 630e, 27e, 27Ae, 60, 84, 94e, 113e, 122, 129, 131, 133, 137, 152, 163, 175, 208, 209, 238e, 274, 278, 294, 299, 302e, 339, 343, 347, 348, 360, 372, 389e, 394, 412, 422, 432, 434, 441, 445, 446, 447, 450, 488, 498e, 500, 501, 524, 528, 531, 533e, 537, 540e, 562, 587, 598, 604e, 627, 631e, 9e, 63e, 63Ae, 237, 237A, 246, 246A, 420e, 464, 464A, 555, 603e, 603A, 671, and 671A.

(Signed) Beau McCoy

**VISITORS**

Visitors to the Chamber were Senator Christensen's daughter, Ryelee Christensen, from Imperial; Scott and Jordan Utech from Bellevue; Ethan Bell from Grand Island; 45 fifth-grade students and teachers from Swanson Elementary, Omaha; 50 students of Kaplan University from Omaha and Lincoln; and Jean Ann, Leslie, and Dan Watermeier.

**RECESS**

At 12:01 p.m., on a motion by Senator Sullivan, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Carlson presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Haar who was excused.

**PRESIDENT SHEEHY PRESIDING****RESOLUTIONS**

**LEGISLATIVE RESOLUTION 246.** Introduced by Hadley, 37.

WHEREAS, the Kearney Bearcats boys' track team won the 2009 Class A State Track and Field Championship; and

WHEREAS, the Bearcats rallied from a fifth-place finish after the first day of competition to win the state title; and



WHEREAS, this is the 13th state title for the Bearcats boys' track team; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Kearney Bearcats boys' track team on winning the 2009 Class A State Track and Field Championship.

2. That a copy of this resolution be sent to the Bearcats and their head coach, Roger Mathiesen.

Laid over.

**LEGISLATIVE RESOLUTION 247.** Introduced by Pahls, 31.

WHEREAS, James Allen Roberts 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 achievement 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, Allen 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. Allen earned 23 merit badges and built and hung 30 birdhouses for the Gene Eppley Camp located in Bellevue, Nebraska, for his community service project; and

WHEREAS, Allen served as senior patrol leader of Troop 430 for 3 years, the highest scout-held leadership position for a Boy Scout; and

WHEREAS, only five percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates James Allen Roberts on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to James Allen Roberts.

Laid over.

### SELECT FILE

**LEGISLATIVE BILL 36.** Senator Nantkes renewed her motion, MO59, found in this day's Journal, to bracket until May 29, 2009.

Senator Nantkes moved for a call of the house. The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

Senator Nantkes requested a roll call vote on her motion to bracket.

Voting in the affirmative, 11:

Avery	Council	McGill	Nordquist
Coash	Dierks	Mello	Wallman
Cook	Howard	Nantkes	

Voting in the negative, 35:

Adams	Fischer	Hadley	Lautenbaugh	Price
Ashford	Flood	Hansen	Louden	Schilz
Campbell	Friend	Harms	McCoy	Stuthman
Carlson	Fulton	Heidemann	Nelson	Sullivan
Christensen	Gay	Janssen	Pahls	Utter
Cornett	Giese	Karpisek	Pankonin	White
Dubas	Gloor	Langemeier	Pirsch	Wightman

Present and not voting, 2:

Lathrop	Rogert
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Excused and not voting, 1:

Haar

The Nantkes motion to bracket failed with 11 ayes, 35 nays, 2 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Nantkes requested a record vote on the advancement of the bill.

Voting in the affirmative, 34:

Adams	Flood	Hansen	Louden	Schilz
Ashford	Friend	Harms	McCoy	Stuthman
Campbell	Fulton	Heidemann	Nelson	Sullivan
Carlson	Gay	Janssen	Pahls	Utter
Christensen	Giese	Karpisek	Pirsch	White
Cornett	Gloor	Langemeier	Price	Wightman
Fischer	Hadley	Lautenbaugh	Rogert	

Voting in the negative, 11:

Coash	Dierks	McGill	Nordquist
Cook	Dubas	Mello	Wallman
Council	Howard	Nantkes	

Present and not voting, 3:

Avery	Lathrop	Pankonin
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Excused and not voting, 1:

Haar

Advanced to Enrollment and Review for Engrossment with 34 ayes, 11 nays, 3 present and not voting, and 1 excused and not voting.

### **MOTION - Return LB35 to Select File**

Senator Ashford moved to return LB35 to Select File for the following specific amendment:

AM1498

(Amendments to Second Final Reading copy)

- 1 1. Strike original section 4 and insert the following
- 2 section:
- 3 Sec. 4. Section 24-301.02, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 24-301.02 The State of Nebraska shall be divided into the
- 6 following twelve district court judicial districts:
- 7 District No. 1 shall contain the counties of Clay,
- 8 Nuckolls, Saline, Jefferson, Gage, Thayer, Johnson, Pawnee, Nemaha,
- 9 Fillmore, and Richardson;
- 10 District No. 2 shall contain the counties of Sarpy, Cass,
- 11 and Otoe;
- 12 District No. 3 shall contain the county of Lancaster;
- 13 District No. 4 shall contain the county of Douglas;
- 14 District No. 5 shall contain the counties of Merrick,
- 15 Platte, Colfax, Boone, Nance, Hamilton, Polk, York, Butler, Seward,
- 16 and Saunders;
- 17 District No. 6 shall contain the counties of Dixon,
- 18 Dakota, Cedar, Burt, Thurston, Dodge, and Washington;
- 19 District No. 7 shall contain the counties of Knox,
- 20 Cuming, Antelope, Pierce, Wayne, Madison, and Stanton;
- 21 District No. 8 shall contain the counties of Cherry,
- 22 Keya Paha, Brown, Rock, Blaine, Loup, Custer, Boyd, Holt, Garfield,
- 1 Wheeler, Valley, Greeley, Sherman, and Howard;
- 2 District No. 9 shall contain the counties of Buffalo and
- 3 Hall;
- 4 District No. 10 shall contain the counties of Adams,
- 5 Phelps, Kearney, Harlan, Franklin, and Webster;
- 6 District No. 11 shall contain the counties of Hooker,

7 Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson,  
 8 Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and  
 9 Furnas; and

10 District No. 12 shall contain the counties of Sioux,  
 11 Dawes, Box Butte, Sheridan, Scotts Bluff, Morrill, Garden, Banner,  
 12 Kimball, Cheyenne, Grant, and Deuel.

13 In the fourth district there shall be sixteen judges of  
 14 the district court. In the third district, until June 30, 2011,  
 15 there shall be seven judges of the district court and, beginning  
 16 July 1, 2011, there shall be eight judges of the district court.

17 In the second, fifth, ninth, eleventh, and twelfth districts there  
 18 shall be four judges of the district court. In the first and sixth  
 19 districts there shall be three judges of the district court. In the  
 20 seventh, eighth, and tenth districts there shall be two judges of  
 21 the district court.

The Ashford motion to return prevailed with 42 ayes, 1 nay, 5 present and not voting, and 1 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 35.** The Ashford specific amendment, AM1498, found in this day's Journal, was adopted with 46 ayes, 1 nay, 1 present and not voting, and 1 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

### COMMITTEE REPORT

#### Judiciary

The Judiciary Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Jeffrey Davis - Community Corrections Council  
 Eleanor Marie Devlin - Community Corrections Council  
 Thomas Dorwart - Community Corrections Council  
 Darrell Fisher - Community Corrections Council

Aye: 8 Senators Ashford, Christensen, Coash, Council, Lathrop, Lautenbaugh, McGill, Rogert. Nay: 0. Absent: 0.

(Signed) Brad Ashford, Chairperson

### EXPLANATION OF VOTES

Had I been present, I would have voted "aye" on final passage of LBs 16 and 241.

(Signed) Ken Haar

**SELECT FILE**

**LEGISLATIVE BILL 622.** Senator Lathrop offered the following motion:  
MO61  
Bracket until May 27, 2009.

Senator Lathrop withdrew his motion to bracket.

Senator Lautenbaugh offered the following motion:  
MO60  
Recommit to the Business and Labor Committee.

Senator Lautenbaugh withdrew his motion to recommit to committee.

Senator Lathrop renewed his amendment, AM1198, found on page 1697.

**SENATOR PIRSCH PRESIDING**

Senator Lautenbaugh offered the following amendment to the Lathrop amendment:  
AM1500

(Amendments to AM1198)

- 1 1. On page 1, line 13, strike "an appeal" and insert
- 2 "a cross appeal"; and in line 16 strike "there is no reasonable
- 3 controversy" and insert "no appeal or cross appeal is taken".

Senator Lautenbaugh moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

Senator Lautenbaugh requested a roll call vote on his amendment.

Voting in the affirmative, 27:

Campbell	Flood	Harms	McCoy	Schilz
Carlson	Friend	Heidemann	Nelson	Utter
Christensen	Fulton	Janssen	Pahls	Wightman
Coash	Gloor	Langemeier	Pankonin	
Dierks	Hadley	Lautenbaugh	Pirsch	
Fischer	Hansen	Louden	Price	

Voting in the negative, 19:

Ashford	Council	Howard	Mello	Sullivan
Avery	Dubas	Karpisek	Nantkes	Wallman
Cook	Gay	Lathrop	Nordquist	White
Cornett	Giese	McGill	Rotert	

Present and not voting, 2:

Adams            Stuthman

Excused and not voting, 1:

Haar

The Lautenbaugh amendment was adopted with 27 ayes, 19 nays, 2 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

### **PRESIDENT SHEEHY PRESIDING**

Senator Lathrop offered the following amendment to his amendment:

FA50

Amend AM1198

Strike "no appeal or cross appeal is taken" on page 1 lines 15 and 16 and insert "there is no reasonable controversy".

Senator Lathrop moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Lathrop requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Ashford	Council	Karpisek	Nantkes
Avery	Gay	Lathrop	Nordquist
Cook	Giese	McGill	Rogert
Cornett	Howard	Mello	White

Voting in the negative, 27:

Adams	Flood	Harms	Nelson	Stuthman
Campbell	Friend	Janssen	Pahls	Utter
Carlson	Fulton	Langemeier	Pankonin	Wightman
Christensen	Gloor	Lautenbaugh	Pirsch	
Coash	Hadley	Louden	Price	
Fischer	Hansen	McCoy	Schilz	

Present and not voting, 3:

Dierks            Dubas            Sullivan

Excused and not voting, 3:

Haar            Heidemann      Wallman

The Lathrop amendment lost with 16 ayes, 27 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

### **COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 35.** Placed on Final Reading Third.

**LEGISLATIVE BILL 36.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

### **COMMITTEE REPORTS**

General Affairs

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Janice Wiebusch - Nebraska Liquor Control Commission

Aye: 8 Senators Coash, Cook, Dierks, Dubas, Friend, Karpisek, Price, Rogert. Nay: 0. Absent: 0.

(Signed) Russ Karpisek, Chairperson

Business and Labor

The Business and Labor Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Loren Lindahl - Commission of Industrial Relations

Aye: 7 Senators Carlson, Council, Lathrop, McGill, Schilz, Wallman, White. Nay: 0. Absent: 0.

(Signed) Steve Lathrop, Chairperson

### **ANNOUNCEMENT**

The Legislature's Planning Committee elected Senator Harms as Chairperson and Senator Gloor as Vice Chairperson.

**AMENDMENTS - Print in Journal**

Senator Fulton filed the following amendment to LB675:  
AM1503

(Amendments to Final Reading copy)

- 1     1. Strike section 3 and insert the following section:  
2     Sec. 3. Section 28-327.01, Reissue Revised Statutes of  
3     Nebraska, is amended to read:  
4     28-327.01 (1) The Department of Health and Human Services  
5     shall cause to be published, ~~within sixty days after September 9,~~  
6     ~~1993,~~ the following easily comprehensible printed materials:  
7     (a) Geographically indexed materials designed to inform  
8     the woman of public and private agencies and services available to  
9     assist a woman through pregnancy, upon childbirth, and while the  
10    child is dependent, including adoption agencies and agencies and  
11    services for prevention of unintended pregnancies, which materials  
12    shall include a comprehensive list of the agencies available,  
13    a description of the services they offer, and a description of  
14    the manner, including telephone numbers and addresses in which  
15    such agencies may be contacted or printed materials including a  
16    toll-free, twenty-four-hour-a-day telephone number which may be  
17    called to orally obtain such a list and description of agencies in  
18    the locality of the caller and of the services they offer; ~~and~~  
19    (b) Materials designed to inform the woman of the  
20    probable anatomical and physiological characteristics of the unborn  
21    child at two-week gestational increments from the time when a woman  
22    can be known to be pregnant to full term, including pictures or  
1     drawings representing the development of unborn children at the  
2     two-week gestational increments, and any relevant information on  
3     the possibility of the unborn child's survival. Any such pictures  
4     or drawings shall contain the dimensions of the unborn child and  
5     shall be realistic and appropriate for the stage of pregnancy  
6     depicted. The materials shall be objective, nonjudgmental, and  
7     designed to convey only accurate scientific information about  
8     the unborn child at the various gestational ages. The materials  
9     shall also contain objective information describing the methods of  
10    abortion procedures commonly employed, the medical risks commonly  
11    associated with each such procedure, the possible detrimental  
12    psychological effects of abortion, the medical risks commonly  
13    associated with abortion, and the medical risks commonly associated  
14    with carrying a child to term; ~~and~~:-  
15    (c) A comprehensive list of health care providers,  
16    facilities, and clinics that offer to have ultrasounds performed by  
17    a person at least as qualified as a registered nurse licensed under  
18    the Uniform Credentialing Act, including and specifying those that  
19    offer to perform such ultrasounds free of charge. The list shall be  
20    arranged geographically and shall include the name, address, hours  
21    of operation, and telephone number of each entity.  
22    (2) The materials shall be printed in a typeface large



23 enough to be clearly legible.

24 (3) The materials required under this section shall be  
 25 available from the department upon the request by any person,  
 26 facility, or hospital for an amount equal to the cost incurred by  
 27 the department to publish the materials.

Senator Hadley filed the following amendment to LB420:  
 AM1504

(Amendments to Final Reading copy)

- 1 1. On page 6, line 18, strike "2009" and insert "2010".

### EXPLANATION OF VOTES

Had I been present, I would have voted "aye" on final passage of LBs 16, 218, 241, 288e, and 288Ae.

(Signed) Tanya Cook

### SELECT FILE

**LEGISLATIVE BILL 622.** The Lathrop amendment, AM1198, found on page 1697 and considered in this day's Journal, as amended, was renewed.

Senator Lautenbaugh moved for a call of the house. The motion prevailed with 42 ayes, 0 nays, and 7 not voting.

Senator Lautenbaugh requested a roll call vote on the Lathrop amendment, as amended.

Voting in the affirmative, 27:

Adams	Flood	Hansen	Nelson	Stuthman
Campbell	Friend	Harms	Pahls	Utter
Christensen	Fulton	Janssen	Pankonin	Wightman
Coash	Gay	Lautenbaugh	Pirsch	
Dierks	Gloor	Louden	Price	
Fischer	Hadley	McCoy	Schilz	

Voting in the negative, 18:

Ashford	Cornett	Karpisek	Mello	Wallman
Avery	Council	Langemeier	Nantkes	White
Carlson	Giese	Lathrop	Nordquist	
Cook	Howard	McGill	Rogert	

Present and not voting, 2:

Dubas	Sullivan
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Excused and not voting, 2:

Haar                    Heidemann

The Lathrop amendment, as amended, was adopted with 27 ayes, 18 nays, 2 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Lautenbaugh offered the following amendment:

AM1463

1     1. Strike section 1 and all amendments thereto and insert  
 2 the following section:  
 3     Section 1. Section 48-125, Revised Statutes Cumulative  
 4 Supplement, 2008, is amended to read:  
 5     48-125 (1) Except as hereinafter provided, all amounts  
 6 of compensation payable under the Nebraska Workers' Compensation  
 7 Act shall be payable periodically in accordance with the methods  
 8 of payment of wages of the employee at the time of the injury  
 9 or death. Fifty percent shall be added for waiting time for all  
 10 ~~delinquent payments after thirty days' notice has been given of~~  
 11 ~~disability or after thirty days compensation payments which are~~  
 12 not made within thirty days: (a) After notice has been given of  
 13 disability for which there is no reasonable controversy; (b) after  
 14 the deadline for filing a cross appeal of an order, award, or  
 15 judgment of the compensation court which is on review or appeal  
 16 with regard to those portions of such order, award, or judgment for  
 17 which no appeal or cross appeal is taken; or (c) from the entry  
 18 of a final order, award, or judgment of the compensation court;  
 19 from which no further review or further appeal is or may be taken;  
 20 except that for any award or judgment against the state in excess  
 21 of one hundred thousand dollars which must be reviewed by the  
 22 Legislature as provided in section 48-1,102, fifty percent shall be  
 23 added for waiting time for delinquent payments thirty days after  
 1 the effective date of the legislative bill appropriating any funds  
 2 necessary to pay the portion of the award or judgment in excess of  
 3 one hundred thousand dollars. Such payments shall be sent directly  
 4 to the person entitled to compensation or his or her designated  
 5 representative except as otherwise provided in section 48-149.  
 6     (2) Whenever the employer refuses payment of compensation  
 7 or medical payments subject to section 48-120, or when the employer  
 8 neglects to pay compensation for thirty days after injury or  
 9 neglects to pay medical payments subject to such section after  
 10 thirty days' notice has been given of the obligation for medical  
 11 payments, and proceedings are held before the Nebraska Workers'  
 12 Compensation Court, a reasonable attorney's fee shall be allowed  
 13 the employee by the compensation court in all cases when the  
 14 employee receives an award. Attorney's fees allowed shall not  
 15 be deducted from the amounts ordered to be paid for medical

16 services nor shall attorney's fees be charged to the medical  
17 providers. If the employer files an application for review before  
18 the compensation court from an award of a judge of the compensation  
19 court and fails to obtain any reduction in the amount of such  
20 award, the compensation court shall allow the employee a reasonable  
21 attorney's fee to be taxed as costs against the employer for such  
22 review, and the Court of Appeals or Supreme Court shall in like  
23 manner allow the employee a reasonable sum as attorney's fees for  
24 the proceedings in the Court of Appeals or Supreme Court. If the  
25 employee files an application for a review before the compensation  
26 court from an order of a judge of the compensation court denying an  
27 award and obtains an award or if the employee files an application  
1 for a review before the compensation court from an award of a judge  
2 of the compensation court when the amount of compensation due is  
3 disputed and obtains an increase in the amount of such award, the  
4 compensation court may allow the employee a reasonable attorney's  
5 fee to be taxed as costs against the employer for such review, and  
6 the Court of Appeals or Supreme Court may in like manner allow the  
7 employee a reasonable sum as attorney's fees for the proceedings in  
8 the Court of Appeals or Supreme Court. A reasonable attorney's fee  
9 allowed pursuant to this section shall not affect or diminish the  
10 amount of the award.

11 (3) When an attorney's fee is allowed pursuant to this  
12 section, there shall further be assessed against the employer an  
13 amount of interest on the final award obtained, computed from the  
14 date compensation was payable, as provided in section 48-119, until  
15 the date payment is made by the employer, at a rate equal to the  
16 rate of interest allowed per annum under section 45-104.01, as such  
17 rate may from time to time be adjusted by the Legislature. Interest  
18 shall apply only to those weekly compensation benefits awarded  
19 which have accrued as of the date payment is made by the employer.  
20 If the employer pays or tenders payment of compensation, the amount  
21 of compensation due is disputed, and the award obtained is greater  
22 than the amount paid or tendered by the employer, the assessment of  
23 interest shall be determined solely upon the difference between the  
24 amount awarded and the amount tendered or paid.

Senator Lautenbaugh withdrew his amendment.

Senator Lathrop offered the following motion:

MO62

Indefinitely postpone.

Laid over.

#### **MOTION - Return LB679 to Select File**

Senator Council moved to return LB679 to Select File for her specific amendment, AM1245, found on page 1247.

Pending.

### MESSAGES FROM THE GOVERNOR

May 26, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 27e, 27Ae, 60, 84, 94e, 113e, 122, 129, 131, 133, 137, 152, 155, 163, 175, 208, 209, 238e, 274, 278, 294, 299, 302e, 339, 343, 347, 348, 358, 360, 372, 389e, 392e, 394, 412, 422, 432, 434, 441, 445, 446, 447, 450, 488, 498e, 500, 501, 503, 524, 528, 531, 533e, 537, 540e, 562, 587, 598, 604e, 627, 630e, and 631e were received in my office on May 20, 2009.

These bills were signed and delivered to the Secretary of State on May 26, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

May 26, 2009

Mr. President, Mr. Speaker, and  
Members of the Legislature  
State Capitol  
Lincoln, NE 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 626 without my signature and with my objections.

This legislation would provide that limited use of public resources by public officials or employees for private financial gain or campaigning is not a violation of law. Additionally, the bill permits the use of a government resource, including a vehicle, for personal use if it is bargained for in an employment contract.

I believe very strongly that government resources should not be used for political purposes. On this issue, there should be a bright line. This legislation blurs the rules regarding the use of these public resources.

LB 626 has the potential to erode the integrity of the public positions we hold. Government resources, including mobile communication devices, computers, and vehicles, are paid for by Nebraska taxpayers. Any misuse of these resources, or the appearance of misuse, damages the trust of the people that we are elected to serve.

For these reasons, I respectfully urge you to sustain my veto of LB 626.

Sincerely,  
(Signed) Dave Heineman  
Governor

## RESOLUTION

**LEGISLATIVE RESOLUTION 248.** Introduced by Cook, 13.

WHEREAS, information and referral (I&R) services provide the active process of linking the citizens of Nebraska who have a need or problem with the most appropriate services that can address that need or problem; and

WHEREAS, quality I&R services are key entry points to the entire health and human services delivery system; and

WHEREAS, in 2000, the Federal Communications Commission reserved the 2-1-1 dialing code for community information and referral services, which was intended to provide an easy-to-remember and universally recognizable number that would enable a critical connection between individuals and families in need and the appropriate community-based organizations and government agencies, especially during times of disaster and health emergencies; and

WHEREAS, Nebraska is currently served by a number of I&R services, including 2-1-1 programs, aging I&R services, aging and disability resource centers, child care resource and referral services, military family centers, Answers 4 Families, and other specialty I&R services, and informed individuals are better equipped to make decisions when they understand the variety of services available; and

WHEREAS, during these challenging economic times, citizens of Nebraska are in need of easy access to health and human services information and referral services more so now than at any other time. There is an increased need for information on items such as the Earned Income Tax Credit (EITC) and the digital television conversion and information on mortgages and foreclosures and the H1N1 virus (Swine Flu).

WHEREAS, Nebraska 2-1-1 telephone service, hosted by United Way of the Midlands, was established on February 11, 2004, as a 24-hour telephone information and referral service for Nebraskans using the easy to remember 2-1-1 dialing code for access; and

WHEREAS, [www.ne211.org](http://www.ne211.org) internet service, hosted by the University of Nebraska Public Policy Center, was established in February 2005 to provide Nebraskans enhanced online access to needed health and human services; and

WHEREAS, access to information about services provides individuals with lower-cost and safer options for managing needs and is likely to reduce confusion, frustration, and inaccessibility of such services.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature designates the week of September 6 through September 12, 2009, as Information and Referral Services Week to raise public awareness about the existence and importance of information and referral services for all Nebraskans and to more effectively target these services to reach those most in need.

2. That a copy of this resolution be sent to the United Way of the Midlands and to the Department of Health and Human Services.

Laid over.

### **MOTION - Return LB679 to Select File**

The Council motion to return LB679 to Select File, found in this day's Journal, for her specific amendment, AM1245, found on page 1247, was renewed.

Senator Council withdrew her motion to return.

### **WITHDRAW - Amendment to LB679**

Senator Gay withdrew his amendment, AM1427, found on page 1502, to LB679.

### **BILL ON FINAL READING**

The following bill was read and put upon final passage:

#### **LEGISLATIVE BILL 679.**

A BILL FOR AN ACT relating to the State Foster Care Review Board; to amend section 43-1302, Reissue Revised Statutes of Nebraska; to require certain disclosure from potential board members as prescribed; to eliminate obsolete provisions; 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, 43:

Adams	Dierks	Hansen	McCoy	Rogert
Avery	Dubas	Harms	McGill	Schilz
Campbell	Fischer	Heidemann	Mello	Sullivan
Carlson	Flood	Howard	Nantkes	Utter
Christensen	Friend	Janssen	Nelson	Wallman
Coash	Fulton	Langemeier	Nordquist	White
Cook	Gay	Lathrop	Pankonin	Wightman
Cornett	Gloor	Lautenbaugh	Pirsch	
Council	Hadley	Louden	Price	

Voting in the negative, 0.

Excused and not voting, 6:

Ashford	Haar	Pahls
Giese	Karpisek	Stuthman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LB679.

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 249.** Introduced by Sullivan, 41.

WHEREAS, the 2009 Nebraska Envirothon is an environmental competition for high school students sponsored by the Nebraska Association of Resources Districts as part of the national Canon Envirothon program to encourage students to excel in and pursue careers in environmental studies; and

WHEREAS, the Canon Envirothon is a national program in which fifty five-member teams of high school students compete based on their knowledge of seven categories of environmental studies: Soils; aquatics; forestry; wildlife; range; policy; and the current environmental issue, titled Biodiversity in a Changing World; and

WHEREAS, the 2009 Nebraska Envirothon State Championship team is from Ord High School; and

WHEREAS, the 2009 Ord High School Envirothon team members are Amanda Duvall, Kris Hornickel, Aaron Kokes, Samantha Krikac, and Debra Wray. Their coach is Dave Ference, and the team is sponsored by the Lower Loup Natural Resources District; and

WHEREAS, by virtue of winning the Nebraska Envirothon State Championship, the 2009 Ord High School Envirothon team received a \$1,000 scholarship from the Nebraska Association of Resources Districts and an invitation to represent Nebraska at the national Canon Envirothon at

the University of North Carolina at Asheville from August 2nd through the 8th, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the 2009 Ord High School Envirothon team on winning the Nebraska Envirothon State Championship and wishes them the best of luck in competition at the national Canon Envirothon in August.

2. That a copy of this resolution be sent to coach Dave Ference and the 2009 Ord High School Envirothon team.

Laid over.

**LEGISLATIVE RESOLUTION 250.** Introduced by Sullivan, 41.

WHEREAS, the Burwell Longhorns won the 2009 Class C Boys' State Track and Field Championship; and

WHEREAS, the Longhorns only qualified five athletes for the 2009 Boys' State Track and Field meet; and

WHEREAS, the Longhorns wanted to win a boys' track title for coach Allen Boucher, who has coached the team for forty-six years; and

WHEREAS, Jacob Holmquist won the pole vault and the 110-meter high hurdles and finished third in the 300-meter intermediate hurdles, Derek Snyder won the 800-meter run, and the 3200-meter relay team finished fifth to clinch the title.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Burwell Longhorns for winning the 2009 Class C Boys' State Track and Field Championship.

2. That a copy of this resolution be sent to the Burwell Longhorns and their coach, Allen Boucher.

Laid over.

### AMENDMENTS - Print in Journal

Senator Friend filed the following amendment to LB658:  
AM1505

(Amendments to Standing Committee amendments, AM1487)

- 1 1. On page 2, line 17, strike "case" and insert
- 2 "proceeding".
- 3 2. On page 5, line 17, after "or" insert "negotiations or
- 4 litigation under"; and in line 19 strike "such", show as stricken,
- 5 and insert "each".
- 6 3. On page 6, line 17, before the period insert "or
- 7 litigation under section 6 of this act".
- 8 4. On page 7, line 23; page 9, line 16; page 10, lines 3



9 and 26; and page 14, line 10, strike "a petition" and insert "an  
10 application".

11 5. On page 8, lines 1, 8, and 21; page 9, line 17; page  
12 12, lines 16 and 20; page 13, lines 7, 14, and 23; page 14, line  
13 11; page 17, line 22; page 18, lines 11 and 22; page 19, lines 9  
14 and 13; and page 20, lines 3 and 10, strike "an" and insert "any".

15 6. On page 8, lines 3, 9, 14, and 22; page 9, lines 18  
16 and 23; page 10, lines 7, 13, and 20; page 12, lines 17, 21, and  
17 24; page 13, lines 3, 8, 15, and 24; page 14, lines 12 and 16; page  
18 15, line 3; page 17, lines 3, 7, 10, 14, and 23; page 18, lines 12,  
19 15, and 23; page 19, lines 10, 14, 17, and 22; and page 20, lines 4  
20 and 11, strike "schedule" and insert "schedules".

21 7. On page 8, lines 3 and 9, strike "it" and insert "such  
22 schedules"; in line 13 strike "An" and insert "Any"; in line 20  
1 after "act" insert "or as approved by the affected cities to the  
2 extent provided in subsection (6) and subdivision (7)(c) of section  
3 6 of this act"; and in line 25 strike "past".

4 8. On page 9, line 14, after "provided" insert "for"; and  
5 in line 16 after "utility" insert "governed by this section".

6 9. On page 9, line 19; page 10, lines 15, 17, 21, and 25;  
7 page 14, line 16; page 15, line 27; and page 18, line 24, strike  
8 "petition" and insert "application".

9 10. On page 10, line 6, strike "investigation" and insert  
10 "examination"; in line 24 strike "for" and insert "before"; and in  
11 line 25 strike "ninety" and insert "one hundred twenty" and after  
12 "filed" insert ", except that the commission may, for good cause,  
13 extend such period for an additional thirty days".

14 11. On page 11, line 5; and page 18, line 21, strike  
15 "petition" and insert "apply".

16 12. On page 11, line 6, strike "its rate" and insert  
17 "any infrastructure system replacement cost recovery charge rate  
18 schedules approved"; and in line 7 after the period insert "Any  
19 such application for a change shall be pursued in the manner  
20 provided for in this section.".

21 13. On page 12, line 19; and page 19, line 12, strike  
22 "filing" and insert "application".

23 14. On page 12, line 24; and page 19, line 17, strike  
24 "is" and insert "are".

25 15. On page 13, line 1, strike "a" and insert "any"; and  
26 in line 5 strike the second "charge".

27 16. On page 15, line 5, after "(d)" insert "the purpose  
1 of the projects, (e)"; in line 6 strike "(e)" and insert "(f)"; in  
2 line 7 strike "(f)" and insert "(g)"; in line 11 strike "fifteen"  
3 and insert "thirty"; and in line 20 strike "fifteen-day" and insert  
4 "thirty-day".

5 17. On page 16, line 3, strike "notice" and insert  
6 "copies of resolutions"; in line 11 strike "received" and insert  
7 "entered"; strike beginning with "filing" in line 17 through  
8 "schedule" in line 19 and insert "commission's certification to

9 pursue negotiations"; in line 20 strike beginning with "for"  
 10 through the second "period" and insert "to a future date certain";  
 11 and strike lines 22 through 27.

12 18. On page 17, line 1, strike "(g)" and insert "(f)"; in  
 13 line 16 strike "(h)" and insert "(g)"; in line 21 strike "(i)" and  
 14 insert "(h)"; and in line 24 strike "shall" and insert "may".

15 19. On page 18, line 8, after the period insert "In  
 16 determining the appropriate pretax revenue of the jurisdictional  
 17 utility, the commission shall consider the factors set out in  
 18 subsection (5) of section 5 of this act."; after line 10 insert the  
 19 following new subdivision:

20 "(i) If information filed pursuant to subdivision (h)  
 21 of this subsection is not considered a public record within the  
 22 meaning of sections 84-712 to 84-712.09, such information may  
 23 be submitted to the commission by the jurisdictional utility or  
 24 affected cities for the limited purpose of consideration by the  
 25 commission under this section subject to a protective order issued  
 26 by the commission."; in line 18 strike "(f)" and insert "(h) or  
 27 (j)"; and in line 26 strike "A" and insert "The".

1 20. On page 19, line 27, strike the first "for an" and  
 2 insert "in the commission order on the".

3 21. On page 20, line 1, strike "as provided in this  
 4 section"; in line 18 strike "replacement cost recovery charges"  
 5 and insert "replacements"; and in line 23 after "general" insert  
 6 "rate".

Senator Friend filed the following amendment to LB658:  
 AM1506

(Amendments to Standing Committee amendments, AM1487)

1 1. Insert the following new section:

2 Sec. 7. Section 66-1830, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 66-1830 (1) The office of public advocate is created as  
 5 a separate and independent division within the commission. The  
 6 public advocate shall represent the interests of Nebraska citizens  
 7 and all classes of jurisdictional utility ratepayers, other  
 8 than high-volume ratepayers, in matters involving jurisdictional  
 9 utilities and shall act as trial staff before the commission.

10 In the exercise of his or her powers, the public advocate shall  
 11 consider all relevant factors, including, but not limited to, the  
 12 provision of safe, efficient, and reliable utility services at just  
 13 and reasonable rates.

14 (2) Notwithstanding the provisions of section 75-105, the  
 15 executive director of the commission, upon consultation with the  
 16 members of the commission, shall appoint the public advocate. The  
 17 public advocate position shall be a full-time position, and the  
 18 public advocate shall devote all of his or her time and efforts to  
 19 fulfilling the requirements of the position and performing his or  
 20 her duties under the State Natural Gas Regulation Act. The public

21 advocate shall serve a four-year term and shall be removed only  
22 for good cause. The executive director shall be responsible for  
1 reviewing the performance of the public advocate, for removing the  
2 public advocate in accordance with law, and for filling any vacancy  
3 in that position in the same manner as the original appointment.  
4 (3) The public advocate shall be an attorney and shall  
5 have experience in consumer-related utility issues or in the  
6 operation, management, or regulation of utilities. No person owning  
7 stocks or bonds in a corporation subject in whole or in part to  
8 regulation by the commission or who has any pecuniary interest in  
9 such corporation shall be appointed as public advocate.  
10 2. Renumber the remaining sections and correct the  
11 repealer accordingly.

### **MOTION - Print in Journal**

Senator Hadley filed the following motion to LB420:  
MO58

Suspend Rule 7, Section 7(d) and (e) to request return from the Governor for further action.

### **VISITORS**

Visitor to the Chamber was Kerry Kimple.

The Doctor of the Day was Dr. Daniel Belts from Omaha.

### **ADJOURNMENT**

At 6:57 p.m., on a motion by Senator Wightman, the Legislature adjourned until 9:00 a.m., Wednesday, May 27, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**EIGHTY-FIFTH DAY - MAY 27, 2009****LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION****EIGHTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, May 27, 2009

**PRAYER**

The prayer was offered by Senator Heidemann.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Haar who was excused; and Senators Coash, Gay, and White who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-fourth day was approved.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 26, 2009, at 6:57 p.m. was the following: LB679.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 251.** Introduced by Stuthman, 22.

WHEREAS, the Scotus Central Catholic High School girls' track team won the 2009 Class B State Track and Field Championship; and

WHEREAS, Scotus scored 58 points to win the title, outscoring runner-up Fillmore Central by 17 points; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Scotus Central Catholic High School girls' track team on winning the 2009 Class B State Track and Field Championship.

2. That a copy of this resolution be sent to the Scotus Central Catholic High School girls' track team and their coach, Janet Tooley.

Laid over.

**LEGISLATIVE RESOLUTION 252.** Introduced by Stuthman, 22.

WHEREAS, the Lindsay Holy Family High School girls' track team won the 2009 Class D State Track and Field Championship; and

WHEREAS, Lindsay Holy Family scored 64.5 points to win the title, outscoring runner-up Humphrey St. Francis by 4.5 points; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Lindsay Holy Family High School girls' track team on winning the 2009 Class D State Track and Field Championship.

2. That a copy of this resolution be sent to the Lindsay Holy Family High School girls' track team and their coach, Travis Friesen.

Laid over.

**MOTION - Suspend Rules to Request  
Return of LB420 From Governor**

Senator Hadley renewed his motion, MO58, found on page 1731, to suspend Rule 7, Section 7(d) and (e) to request return of LB420 from the Governor for further action.

**SENATOR ROBERT PRESIDING**

Senator Pirsch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 4 nays, and 19 not voting.

The Hadley motion to suspend the rules prevailed with 38 ayes, 3 nays, 4 present and not voting, and 4 excused and not voting.

**COMMUNICATION**

May 27, 2009

The Honorable David Heineman  
Governor - State of Nebraska  
State Capitol  
Lincoln, NE 68509

Dear Governor Heineman:

The Legislature has directed that I respectfully request the return of LB420 to the Legislature for further consideration.

Sincerely,  
(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

**MESSAGE FROM THE GOVERNOR**

May 27, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
2018 State Capitol  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 420e was received in my office on May 21, 2009. Pursuant to the Legislature's formal request to return this bill for further action, I am returning LB 420e without having given any consideration to, or taken action upon, the legislation.

Sincerely,  
(Signed) Dave Heineman  
Governor

**MOTION - Reconsider Final Passage of LB420**

Senator Hadley offered the following motion to LB420:  
MO63  
Reconsider the vote on final passage.

**PRESIDENT SHEEHY PRESIDING**

Senator Pirsch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 2 nays, and 13 not voting.

The Hadley motion to reconsider prevailed with 41 ayes, 3 nays, 3 present and not voting, and 2 excused and not voting.

**MOTION - Return LB420 to Select File**

Senator Hadley moved to return LB420 to Select File for his specific amendment, AM1504, found on page 1721.

The Hadley motion to return prevailed with 40 ayes, 2 nays, 5 present and not voting, and 2 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 420.** The Hadley specific amendment, AM1504, found on page 1721, was adopted with 43 ayes, 1 nay, 3 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

**COMMITTEE REPORTS**

Education

**LEGISLATIVE BILL 461.** Indefinitely postponed.

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Colleen Adam - Coordinating Commission for Postsecondary Education  
 Ronald Hunter - Coordinating Commission for Postsecondary Education  
 Eric Seacrest - Coordinating Commission for Postsecondary Education

Aye: 5 Senators Adams, Avery, Giese, Howard, Sullivan. Nay: 0. Absent: 3 Senators Ashford, Cornett, Haar.

(Signed) Greg Adams, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 253.** Introduced by Pirsch, 4.

WHEREAS, Dennis Pavlik, of Omaha, Nebraska, is a veteran and former prisoner of war during the Korean War; and

WHEREAS, in recent years, Dennis Pavlik has shared his war experiences with numerous people through his writing, personal conversations, and public speaking engagements; and

WHEREAS, Dennis Pavlik has served as the commander of the Nebraska Department of American Ex-Prisoners of War; and



WHEREAS, Dennis Pavlik is establishing a monument in Omaha's Memorial Park to honor American prisoners of war.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes Dennis Pavlik for his efforts in establishing a monument for American prisoners of war and honors Mr. Pavlik for his sacrifice and service to the United States of America.

2. That a copy of this resolution be sent to Dennis Pavlik.

Laid over.

### MESSAGE FROM THE GOVERNOR

May 27, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 9e, 63e, 63Ae, 237, 237A, 246, 246A, 464, 464A, 555, 671, and 671A were received in my office on May 21, 2009.

These bills were signed and delivered to the Secretary of State on May 27, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

### BILL ON FINAL READING

The following bill was read and put upon final passage:

#### LEGISLATIVE BILL 561.

A BILL FOR AN ACT relating to electricity; to amend sections 70-670 and 70-1014.01, Reissue Revised Statutes of Nebraska, and sections 70-1903, 70-1904, and 77-2704.57, Revised Statutes Cumulative Supplement, 2008; to permit public power districts to agree to limit the power of eminent domain; to change provisions relating to special generation applications for electric generation facilities; to change provisions relating to community-based energy development projects; 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	Council	Hadley	McCoy	Price
Ashford	Dubas	Harms	McGill	Rogert
Avery	Fischer	Heidemann	Mello	Schilz
Campbell	Flood	Howard	Nantkes	Stuthman
Carlson	Friend	Janssen	Nelson	Sullivan
Christensen	Fulton	Karpisek	Nordquist	Utter
Coash	Gay	Langemeier	Pahls	Wallman
Cook	Giese	Lathrop	Pankonin	Wightman
Cornett	Gloor	Louden	Pirsch	

Voting in the negative, 1:

Hansen

Present and not voting, 2:

Dierks           Lautenbaugh

Excused and not voting, 2:

Haar           White

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LB561.

### **MOTION - Return LB675 to Select File**

Senator Fulton moved to return LB675 to Select File for his specific amendment, AM1503, found on page 1720.

The Fulton motion to return prevailed with 39 ayes, 2 nays, 6 present and not voting, and 2 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 675.** The Fulton specific amendment, AM1503, found on page 1720, was adopted with 38 ayes, 4 nays, 5 present and not voting, and 2 excused and not voting.

Advanced to Enrollment and Review for Reengrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 134.** Title read. Considered.

Committee AM636, found on page 774, was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Senator Pankonin renewed his motion, MO54, found on page 1696, to indefinitely postpone.

Laid over.

**SELECT FILE**

**LEGISLATIVE BILL 658.** ER8135, found on page 1708, was adopted.

Senator Friend withdrew his motion, MO57, found on page 1703, to bracket until May 29, 2009.

Senator Friend renewed his amendment, AM1505, found on page 1728.

The Friend amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Senator Friend renewed his amendment, AM1506, found on page 1730.

Senator Friend withdrew his amendment.

Advanced to Enrollment and Review for Engrossment.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 27, 2009, at 10:55 a.m. was the following: LB561.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 254.** Introduced by Giese, 17; Dierks, 40.

WHEREAS, the Laurel-Concord High School girls' track and field team won the Class C team title at the 2009 State Track and Field Championships, the school's second consecutive state championship; and

WHEREAS, Laurel-Concord High School scored 54 points, outscoring runner-up Hastings St. Cecilia High School by just four points; and

WHEREAS, the Lady Bears' relay teams earned two medals, a gold medal in the 400-meter relay, and a silver medal in the 3200-meter relay; and

WHEREAS, the Lady Bears had four individual medalists, with Bethany DeLong earning gold medals in both the long jump and the 200-meter dash, and Katie Jacobsen earning silver medals in both the 800-meter run and the 1600-meter run; and

WHEREAS, Bethany DeLong set a new state record of 19 feet, one and one-half inches in the long jump at the 2009 State Track and Field Championships, breaking the previous record of 18 feet, 11 inches; and

WHEREAS, the Lady Bears have exemplified teamwork, sportsmanship, discipline, and determination; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Laurel-Concord High School girls' track and field team on winning their second consecutive team title at the 2009 Class C State Track and Field Championships.

2. That a copy of this resolution be sent to the Lady Bears and their head coach, Nathaniel Sims.

Laid over.

**LEGISLATIVE RESOLUTION 255.** Introduced by Cook, 13; Council, 11.

WHEREAS, Native Omahans Club, Inc., founded in the fall of 1976, promotes, educates, reunites, and contributes to the betterment of the African American community and its social, historical, and cultural values; and

WHEREAS, Native Omahans Club, Inc., is a symbol of the tradition, pride, and unity of the Black community; and

WHEREAS, Native Omahans Club, Inc., will be holding its 17th Biennial Homecoming event, otherwise known as "Omaha Days", from Wednesday, July 29, 2009, through Monday, August 3, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature designates July 29, 2009, through August 3, 2009, as "Omaha Days" in Nebraska.

2. That a copy of this resolution be sent to Native Omahans Club, Inc., and to the mayor of Omaha, Nebraska.

Laid over.

### **MOTION - Print in Journal**

Senator Karpisek filed the following motion to LB626:  
MO64

Becomes law notwithstanding the objections of the Governor.

**VISITORS**

Visitors to the Chamber were Senator Langemeier's wife and son, Kerri and Jakub Langemeier, and Shanda and Auston Hall and Noah Beebe from Schuyler; and Sue Handy from Lincoln.

**RECESS**

At 11:59 a.m., on a motion by Senator Campbell, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., President Sheehy presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Haar who was excused; and Senators Cornett, Council, Dierks, Friend, Hansen, Price, and Schilz who were excused until they arrive.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 420.** Placed on Final Reading Second.

**LEGISLATIVE BILL 675.** Placed on Final Reading Second.

(Signed) Jeremy Nordquist, Chairperson

**SELECT FILE**

**LEGISLATIVE BILL 219.** ER8024, found on page 580, was adopted.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 219A.** Advanced to Enrollment and Review for Engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 134.** Senator Pankonin renewed his motion, MO54, found on page 1696 and considered in this day's Journal, to indefinitely postpone.

The Pankonin motion to indefinitely postpone prevailed with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 245.** Read. Considered.

LR245 was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**COMMITTEE REPORT**

Enrollment and Review

**LEGISLATIVE BILL 658.** Placed on Final Reading.

ST9065

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Standing Committee amendment, AM1487, on page 18, line 13, "becomes" has been struck and "become" inserted.

(Signed) Jeremy Nordquist, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 256.** Introduced by Mello, 5.

WHEREAS, the foundation of Nebraska agriculture, farm production, occurs on 47,400 farms representing 45.6 million acres of farmland in our state; and

WHEREAS, the acres of farmland in our state amount to 92.5% of the state's total land area; and

WHEREAS, Nebraska's farm families are stewards of the land who contribute to the health, beauty, productivity, and quality of our state's water, soil, and forest resources for the benefit of all Nebraskans; and

WHEREAS, agriculture and the farming sector are the core of our state's health and economy, generating a financial output of over \$16.1 billion annually; and

WHEREAS, the Nebraska farmer, a symbol of strength and strong moral fiber, has displayed ingenuity in times of prosperity and perseverance in the face of hardships while supplying our state, nation, and world, with an abundance of high-quality agricultural goods and products; and

WHEREAS, the State of Nebraska maintains a proactive role in supporting current family farmers and encouraging the succession of new, young farmers in an effort to raise awareness of the positive contribution farmers make in providing the necessary food and fiber of everyday life.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the importance of farmers to the State of Nebraska.

2. That the Legislature designates July 25, 2009, as Farmer Appreciation Day in Nebraska.

Laid over.

## COMMITTEE REPORT

Executive Board

**LEGISLATIVE RESOLUTION 171.** Reported to the Legislature for further consideration with the following amendment:

AM1507

1 1. Strike the original provisions and insert the  
2 following new provisions:  
3 "With the April 24th announcement by the Director of  
4 Correctional Services that the State of Nebraska's correctional  
5 institutions have reached a level of one hundred forty percent of  
6 capacity, Nebraska statutes require notification of the Governor  
7 with a recommendation as to what should be done to address the  
8 issue of capacity. This recent level of incarceration provides  
9 an opportunity for the state to address the proper sentencing of  
10 individuals for violations of the Nebraska Criminal Code and an  
11 opportunity to assess the degree to which the state is successful  
12 in rehabilitating individuals sentenced to Nebraska correctional  
13 institutions, particularly when viewed through the reentry of  
14 these convicted individuals into Nebraska communities. Failure to  
15 provide proven and adequate reentry programming contributes to  
16 the recidivism of previously convicted individuals, who then end  
17 up back in Nebraska correctional institutions, thereby further  
18 increasing Nebraska's rate of incarceration.

19 The Legislature, recognizing that a prolonged period  
20 of high incarceration rates places a pronounced strain on the  
21 state's fiscal resources, believes it to be imperative to implement  
22 adequate measures to address sentencing and rehabilitative programs  
23 for individuals incarcerated in Nebraska correctional institutions.

1 NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE  
2 HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

3 1. That the Legislature hereby calls for the Executive  
4 Board of the Legislative Council to meet forthwith and appoint a  
5 task force to be known as the Sentencing and Recidivism Task Force.  
6 The task force shall consist of seven members of the Legislature  
7 appointed by the Executive Board. The task force shall elect a  
8 chairperson and vice-chairperson from the membership of the task  
9 force. The Judiciary Committee of the Legislature shall provide  
10 staff support for the task force.

11 2. The Sentencing and Recidivism Task Force is authorized  
12 to study the sentencing of juveniles and adults to Nebraska  
13 correctional institutions for rehabilitative purposes, including  
14 the associated fiscal impact. The task force shall study issues  
15 relating to the reentry of these juveniles and adults into Nebraska  
16 communities, including, but not limited to, the sufficiency  
17 and effectiveness of the rehabilitative and reentry programs,

18 the number of spaces available for these programs, and the  
 19 effectiveness of these programs in reducing the rate of recidivism.  
 20 Finally, the task force shall study the sentencing of individuals  
 21 convicted of crimes for equality of sentencing for the same or  
 22 similar crimes statewide. The task force shall issue a report of  
 23 its findings and recommendations to the Legislature on or before  
 24 January 1, 2011, and shall terminate on January 1, 2011."

(Signed) John Wightman, Chairperson

#### Transportation and Telecommunications

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Paul Gerber - Motor Vehicle Industry Licensing Board  
 Roy Neneman - Motor Vehicle Industry Licensing Board

Aye: 8 Senators Campbell, Fischer, Gay, Hadley, Janssen, Lautenbaugh, Loudon, Stuthman. Nay: 0. Absent: 0.

(Signed) Deb Fischer, Chairperson

#### **EXPLANATIONS OF VOTES**

Had I been present, I would have voted "aye" on final passage of LB561.

(Signed) Ken Haar

Had I been present, I would have voted "aye" on final passage of LB561.

(Signed) Tom White

#### **EASE**

The Legislature was at ease from 2:13 p.m. until 2:50 p.m.

#### **COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 219.** Placed on Final Reading.  
**LEGISLATIVE BILL 219A.** Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson



**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 257.** Introduced by Price, 3; Harms, 48; Sullivan, 41.

WHEREAS, the earliest designs of the Nebraska State Capitol building by architect Bertram Goodhue planned for a fountain at the center of each of the four courtyards; and

WHEREAS, each courtyard fountain was designed to be an 8-foot diameter that consists of a low-cast bronze bowl set into a granite outer ring 12 feet in diameter; and

WHEREAS, during the Great Depression, the state chose not to build the courtyard fountains to reduce the cost of the construction of the Capitol building; and

WHEREAS, the courtyard fountains are the only part of the Capitol design which have yet to be completed; and

WHEREAS, construction of the courtyard fountains would complete the Capitol building as designed by Bertram Goodhue and would enrich the experience of visitors at the Capitol.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature supports the collection of private donations to design, construct, and install a fountain in each of the four courtyards of the Capitol building as designed by Bertram Goodhue.

Laid over.

**LEGISLATIVE RESOLUTION 258.** Introduced by Ashford, 20; Lathrop, 12; Nelson, 6.

WHEREAS, the Omaha Westside High School baseball team won the 2009 Class A State Baseball Championship; and

WHEREAS, Omaha Westside defeated Omaha Creighton Prep 6-5 in a hard-fought championship game; and

WHEREAS, head coach Bob Greco has served as a mentor and leader for all of the members of the team; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Omaha Westside High School baseball team on winning the 2009 Class A State Baseball Championship.

2. That head coach Bob Greco be congratulated for his efforts in teaching, coaching, and providing guidance to the members of the team.

3. That a copy of this resolution be sent to the Omaha Westside High School baseball team and their head coach, Bob Greco.

Laid over.

### **VISITORS**

Visitors to the Chamber were Senator Christensen's daughter, Brooklyn Christensen, from Imperial; former Senator Pat Engel from South Sioux City; and Paul and Margaret Hensley from Colorado Springs and Befkadu Meshesha from Ethiopia.

The Doctor of the Day was Dr. Dale Michels from Lincoln.

### **ADJOURNMENT**

At 2:51 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, May 28, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTY-SIXTH DAY - MAY 28, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**EIGHTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, May 28, 2009

**PRAYER**

The prayer was offered by Father Paul Rutten, Lincoln.

**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 Haar and Lautenbaugh who were excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-fifth day was approved.

**COMMITTEE REPORT**

Urban Affairs

**LEGISLATIVE BILL 525.** Placed on General File.

(Signed) Mike Friend, Chairperson

**COMMITTEE REPORT**

Executive Board

**LEGISLATIVE RESOLUTION 224.** Reported to the Legislature for further consideration with the following amendment:

AM1508

- 1 1. Strike the first Resolved clause and insert:
- 2 "1. That the Legislature calls for the establishment of a
- 3 task force to be known as the Budget Reform Task Force. The members
- 4 of the Appropriations Committee of the Legislature shall serve as
- 5 the members of the task force. The task force shall terminate on
- 6 June 30, 2010."

(Signed) John Wightman, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 259.** Introduced by Fischer, 43; Adams, 24; Ashford, 20; Campbell, 25; Carlson, 38; Coash, 27; Cook, 13; Council, 11; Dubas, 34; Friend, 10; Giese, 17; Gloor, 35; Haar, 21; Hadley, 37; Hansen, 42; Heidemann, 1; Langemeier, 23; Lautenbaugh, 18; Louden, 49; McGill, 26; Nantkes, 46; Nelson, 6; Nordquist, 7; Pahls, 31; Pankonin, 2; Schilz, 47; Sullivan, 41; Utter, 33; Wallman, 30; White, 8.

WHEREAS, Carrie Ann Stacy Howard was born to Gwen and David Howard in Omaha, Nebraska, on July 16, 1975; and

WHEREAS, Carrie was an alumnus of Omaha Central High School; and

WHEREAS, Carrie began working on political campaigns at the age of four and as an adult became a political activist and consultant; and

WHEREAS, Carrie worked on presidential, congressional, state, and local campaign races and frequently attended political rallies and events; and

WHEREAS, Carrie was an active member of the Gifford Park Neighborhood Association; and

WHEREAS, Carrie volunteered for numerous human services organizations serving children and families in need; and

WHEREAS, Carrie was a bright, energetic young woman who peacefully passed on Tuesday, March 24, 2009; and

WHEREAS, Carrie's mother, Senator Gwen Howard, her sister, Sara Howard, her fiancé, Jarod Schulz, and many other family members and friends loved her very much.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature honors the memory of Carrie Ann Stacy Howard and her many contributions and achievements.

2. That the Legislature expresses and extends its sympathy and condolences to the family of Carrie Ann Stacy Howard.

3. That a copy of this resolution be sent to the family of Carrie Ann Stacy Howard.

Laid over.

**COMMUNICATION**

Letter of resignation from Senator Gay from the Developmental Disabilities Special Investigative Committee erected by LR11 (2009).

**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 LB35 with 41 ayes, 1 nay, 5 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 35.** With Emergency Clause.

A BILL FOR AN ACT relating to legal process; to amend sections 21-2601, 23-1205, 24-301.02, 24-517, 25-505.01, 25-506.01, 25-507.01, 25-1144, 25-1628, 25-1708, 25-1801, 25-2405, 25-2721, 25-3007, 25-3008, 27-1201, 30-2302, 30-2485, 30-2487, 30-24.125, 30-24.129, 33-107.03, 33-117, 34-301, 43-103, 43-1314.02, 43-3001, 43-3713, 81-1429, and 84-917, Reissue Revised Statutes of Nebraska; to provide restrictions regarding judgments against limited liability companies; to change provisions relating to appointment of acting county attorneys and the number of district court judges; to change jurisdiction provisions regarding county and district courts; to change provisions relating to service of process, applications for new trial, juror lists, recovery of costs of actions, interpreters for official proceedings, execution on judgments, civil legal services for low-income persons, unanticipated outcomes of medical care, decedents' estates, corners and boundaries of real estate, petitions for adoption, foster care information forms, confidential information concerning children, court appointed special advocate volunteers, and judicial review under the Administrative Procedure Act; to change court automation, sheriffs', and Law Enforcement Improvement Fund fees; to harmonize provisions; to provide operative dates; 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, 46:

Adams	Dubas	Harms	Mello	Stuthman
Ashford	Fischer	Heidemann	Nantkes	Sullivan
Avery	Flood	Howard	Nelson	Utter
Campbell	Friend	Janssen	Nordquist	Wallman
Carlson	Fulton	Karpisek	Pahls	White
Christensen	Gay	Langemeier	Pankonin	Wightman
Coash	Giese	Lathrop	Pirsch	
Cook	Gloor	Louden	Price	
Cornett	Hadley	McCoy	Rogert	
Dierks	Hansen	McGill	Schilz	

Voting in the negative, 1:

Council

Excused and not voting, 2:

Haar           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.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 35A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 35, One Hundred First Legislature, First Session, 2009; to reduce appropriations; to provide an operative date; 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, 46:

Adams	Dubas	Harms	Mello	Stuthman
Ashford	Fischer	Heidemann	Nantkes	Sullivan
Avery	Flood	Howard	Nelson	Utter
Campbell	Friend	Janssen	Nordquist	Wallman
Carlson	Fulton	Karpisek	Pahls	White
Christensen	Gay	Langemeier	Pankonin	Wightman
Coash	Giese	Lathrop	Pirsch	
Cook	Gloor	Louden	Price	
Cornett	Hadley	McCoy	Rogert	
Dierks	Hansen	McGill	Schilz	

Voting in the negative, 1:

Council

Excused and not voting, 2:

Haar           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 36.**

A BILL FOR AN ACT relating to the death penalty; to amend sections 29-2532, 29-2533, 29-2534, 29-2535, 29-2536, 29-2537, 29-2538, 29-2539, 29-2540, 29-2541, 29-2542, 29-2543, and 29-2546, Reissue Revised Statutes of Nebraska; to change the method of and procedure for inflicting the death penalty; to provide, change, and eliminate certain powers and duties for the Director of Correctional Services and the Department of Correctional Services; to change certain duties of the Supreme Court; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide severability; to repeal the original sections; and to outright repeal sections 29-2544 and 29-2545, Reissue Revised Statutes of Nebraska.

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, 34:

Adams	Flood	Hansen	McCoy	Schilz
Ashford	Friend	Harms	Nelson	Stuthman
Campbell	Fulton	Heidemann	Pahls	Sullivan
Carlson	Gay	Janssen	Pankonin	Utter
Christensen	Giese	Karpisek	Pirsch	White
Cornett	Gloor	Langemeier	Price	Wightman
Fischer	Hadley	Louden	Rogert	

Voting in the negative, 12:

Coash	Dierks	Lathrop	Nantkes
Cook	Dubas	McGill	Nordquist
Council	Howard	Mello	Wallman

Present and not voting, 1:

Avery

Excused and not voting, 2:

Haar           Lautenbaugh

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 LB285 with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 285.** With Emergency Clause.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-2264, 29-4004, 29-4005, 29-4009, 29-4011, 29-4013, 29-4016, and 83-174.03, Reissue Revised Statutes of Nebraska, sections 29-4003, 29-4006, and 29-4007, Reissue Revised Statutes of Nebraska, as amended by sections 25, 26, and 27, respectively, Legislative Bill 97, One Hundred First Legislature, First Session, 2009, and sections 14 and 24, Legislative Bill 97, One Hundred First Legislature, First Session, 2009; to change and eliminate provisions relating to the Sex Offender Registration Act; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 29-4010, 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, 46:

Adams	Dubas	Harms	Mello	Stuthman
Ashford	Fischer	Heidemann	Nantkes	Sullivan
Avery	Flood	Howard	Nelson	Utter
Campbell	Friend	Janssen	Nordquist	Wallman
Carlson	Fulton	Karpisek	Pahls	White
Christensen	Gay	Langemeier	Pankonin	Wightman
Coash	Giese	Lathrop	Pirsch	
Cook	Gloor	Louden	Price	
Cornett	Hadley	McCoy	Rogert	
Dierks	Hansen	McGill	Schilz	

Voting in the negative, 1:

Council

Excused and not voting, 2:

Haar                      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.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 35, 35A, 36, and 285.



**RESOLUTION**

**LEGISLATIVE RESOLUTION 260.** Introduced by White, 8.

WHEREAS, the Omaha Marian High School girls' tennis team won the 2009 Class A Girls' State Tennis Championship; and

WHEREAS, Omaha Marian earned a perfect score of sixty points in the championship matches; and

WHEREAS, team co-captain Anna Kirshenbaum won her fourth straight No. 1 doubles title, making her only the third person in state history to win four times at any one division and the first at No. 1 doubles; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Omaha Marian High School girls' tennis team on winning the 2009 Class A Girls' State Tennis Championship with a perfect score of sixty points, a first for Class A.

2. That Anna Kirshenbaum be congratulated for her efforts as co-captain and for winning her fourth straight No. 1 doubles title.

3. That a copy of this resolution be sent to the Omaha Marian High School girls' tennis team and their head coach, Beth Dye.

Laid over.

**MOTION - Override Veto on LB626**

Senator Karpisek renewed his motion, MO64, found on page 1740, that LB626 becomes law notwithstanding the objections of the Governor.

Senator Price moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 31 ayes, 7 nays, and 11 not voting.

Senator Karpisek moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

Senator Karpisek requested a roll call vote on his motion to override the Governor's veto.

Whereupon the President stated: "The question shall be, 'Shall the bill pass notwithstanding the objections of the Governor?' "

Voting in the affirmative, 35:

Adams	Cornett	Gloor	Lathrop	Price
Avery	Council	Hadley	McGill	Rogert
Campbell	Dierks	Harms	Mello	Schilz
Carlson	Dubas	Heidemann	Nantkes	Utter
Christensen	Fischer	Howard	Nordquist	Wallman
Coash	Flood	Karpisek	Pahls	White
Cook	Giese	Langemeier	Pankonin	Wightman

Voting in the negative, 10:

Friend	Gay	Janssen	McCoy	Pirsch
Fulton	Hansen	Louden	Nelson	Sullivan

Present and not voting, 2:

Ashford	Stuthman
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Excused and not voting, 2:

Haar	Lautenbaugh
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Having received a constitutional three-fifths majority voting in the affirmative, the bill passed notwithstanding the objections of the Governor.

The Chair declared the call raised.

### COMMUNICATION

May 28, 2009

The Honorable John Gale  
 Secretary of State  
 2300 State Capitol  
 Lincoln, NE 68509

Dear Mr. Secretary:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB626 with a certificate attached thereto signed by the President of the Legislature certifying the passage of LB626, notwithstanding the objections of the Governor.

Sincerely,  
 (Signed) Patrick J. O'Donnell  
 Clerk of the Legislature

PJO:jk  
 Enc.

**CERTIFICATE**

Legislative Bill 626, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority, has become law this 28th day of May 2009.

(Signed) Michael Flood  
President of the Legislature

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 28, 2009, at 9:35 a.m. were the following: LBs 35e, 35Ae, 36, and 285e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**EXPLANATION OF VOTES**

Had I been present, I would have voted "aye" on final passage of LBs 35, 35A, and 285. I would have voted "nay" on final passage of LB36.

(Signed) Ken Haar

**COMMITTEE REPORT**

Business and Labor

**LEGISLATIVE BILL 573.** Placed on General File with amendment.  
AM807

- 1 1. Strike section 1 and insert the following new section:
- 2 Section 1. Section 48-2503, Revised Statutes Cumulative
- 3 Supplement, 2008, is amended to read:
- 4 48-2503 ~~(4)~~(1)(a) The Conveyance Advisory Committee is
- 5 created. One member shall be the state elevator inspector appointed
- 6 pursuant to section 48-2512.01. One member shall be the State Fire
- 7 Marshal or his or her designee. The Governor shall appoint the
- 8 remaining members of the committee as follows: One representative
- 9 from a major elevator manufacturing company; one representative
- 10 from an elevator servicing company; one representative who is a
- 11 building manager; one representative who is an elevator mechanic;
- 12 and except as provided in subdivision (b) of this subsection, one
- 13 representative of the general public from each county that has
- 14 a population of more than one hundred thousand inhabitants.~~The~~
- 15 ~~committee shall be appointed within ninety days after January 1,~~
- 16 ~~2008.~~
- 17 (b) On and after the effective date of this act, as
- 18 the term of each representative of the general public from a
- 19 county that has a population of more than one hundred thousand
- 20 inhabitants expires, the Governor shall fill such expired terms

21 with representatives from three different counties of the state,  
 22 one of whom shall represent urban interests, one of whom shall  
 23 represent suburban interests, and one of whom shall represent rural  
 1 interests of the general public. A representative of the general  
 2 public who is serving on the committee as of the effective date of  
 3 this act may be eligible for reappointment when his or her term  
 4 expires if he or she is eligible under the criteria established by  
 5 this subdivision.

6 (2) The members of the committee appointed by the  
 7 Governor shall serve for terms of three years, except that of  
 8 the initial members appointed, two shall serve for terms of one  
 9 year and three shall serve for terms of two years. The state  
 10 elevator inspector and the State Fire Marshal or his or her  
 11 designee shall serve continuously. The appointed members shall be  
 12 reimbursed for their actual and necessary expenses for service  
 13 on the committee as provided in sections 81-1174 to 81-1177. The  
 14 members of the committee shall elect a chairperson who shall be the  
 15 deciding vote in the event of a tie vote.

16 (3) ~~The committee shall meet and organize within thirty~~  
 17 ~~days after the appointment of the members.~~ The committee shall meet  
 18 quarterly at a time and place to be fixed by the committee for the  
 19 consideration of code regulations and for the transaction of such  
 20 other business as properly comes before it. Special meetings may be  
 21 called by the chairperson or at the request of two or more members  
 22 of the committee. Any appointed committee member absent from three  
 23 consecutive meetings shall be dismissed.

24 2. On page 3, line 20, strike "stair chairs" and insert  
 25 "stairway chair lifts".

26 3. On page 6, line 11, strike "Stairway", show as  
 27 stricken, and insert "If installed in a private residence,  
 1 stairway".

(Signed) Steve Lathrop, Chairperson

## COMMUNICATION

Letter of resignation from Senator Adams from the Developmental Disabilities Special Investigative Committee erected by LR11 (2009).

## RESOLUTION

**LEGISLATIVE RESOLUTION 261.** Introduced by Price, 3; Friend, 10.

WHEREAS, the 101st Airborne Division (Air Assault) is an air assault division of the United States Army; and

WHEREAS, nicknamed the "Screaming Eagles", the 101st Airborne Division has consistently distinguished itself by demonstrating the highest standards of military professionalism since its activation; and

WHEREAS, General Order Number 5, which gave birth to the division, reads: "The 101st Airborne Division, which was activated on August 16, 1942, at Camp Claiborne, Louisiana, has no history, but it has a rendezvous with destiny."; and

WHEREAS, the 101st Airborne Division has been deployed in World War II, the Vietnam War, Operation Desert Storm, and the Global War on Terror and has engaged in peace-keeping and relief efforts in Rwanda, Somalia, Haiti, and Bosnia; and

WHEREAS, since its activation in 1942, a number of Nebraskans have served honorably in the 101st Airborne Division.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature extends its appreciation to the 101st Airborne Division and to those Nebraskans who have served in the 101st Airborne Division.

2. That a copy of this resolution be sent to the Commanding General of the 101st Airborne Division, Major General Jeffrey J. Schloesser.

Laid over.

## **PRESIDENT SHEEHY PRESIDING**

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 125.** Read. Considered.

LR125 was adopted with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

**LEGISLATIVE RESOLUTION 171.** Read. Considered.

Committee AM1507, found on page 1743, was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

LR171, as amended, was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

**LEGISLATIVE RESOLUTION 257.** Read. Considered.

LR257 was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**MOTIONS - Approve Appointments**

Senator Karpisek moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 1600:

State Racing Commission  
Janell Beveridge

Voting in the affirmative, 37:

Adams	Cornett	Harms	Mello	Schilz
Ashford	Dubas	Howard	Nantkes	Sullivan
Avery	Fischer	Janssen	Nelson	Wallman
Campbell	Friend	Karpisek	Nordquist	White
Carlson	Fulton	Langemeier	Pahls	Wightman
Christensen	Gloor	Lathrop	Pankonin	
Coash	Hadley	McCoy	Pirsch	
Cook	Hansen	McGill	Price	

Voting in the negative, 0.

Present and not voting, 9:

Council	Flood	Giese	Rogert	Utter
Dierks	Gay	Heidemann	Stuthman	

Excused and not voting, 3:

Haar            Lautenbaugh    Louden

The appointment was confirmed with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Senator Langemeier moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 1654:

Nebraska Ethanol Board  
Galen Frenzen  
Paul Kenney

Voting in the affirmative, 38:

Adams	Cornett	Hansen	McCoy	Pirsch
Ashford	Dubas	Harms	McGill	Rogert
Avery	Fischer	Heidemann	Mello	Schilz
Campbell	Flood	Howard	Nantkes	Wallman
Carlson	Friend	Janssen	Nelson	White
Christensen	Fulton	Karpisek	Nordquist	Wightman
Coash	Gloor	Langemeier	Pahls	
Cook	Hadley	Lathrop	Pankonin	

Voting in the negative, 0.

Present and not voting, 8:

Council	Gay	Price	Sullivan
Dierks	Giese	Stuthman	Utter

Excused and not voting, 3:

Haar	Lautenbaugh	Louden
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The appointments were confirmed with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Senator Carlson moved the adoption of the Agriculture Committee report for the confirmation of the following appointment(s) found on page 1670:

Climate Assessment Response Committee  
Al Berndt

Voting in the affirmative, 41:

Adams	Dierks	Hansen	McGill	Schilz
Ashford	Dubas	Harms	Mello	Sullivan
Avery	Fischer	Heidemann	Nelson	Wallman
Campbell	Flood	Howard	Nordquist	White
Carlson	Friend	Janssen	Pahls	Wightman
Christensen	Fulton	Karpisek	Pankonin	
Coash	Giese	Langemeier	Pirsch	
Cook	Gloor	Lathrop	Price	
Cornett	Hadley	Louden	Rogert	

Voting in the negative, 0.

Present and not voting, 6:

Council	McCoy	Stuthman
Gay	Nantkes	Utter

Excused and not voting, 2:

Haar           Lautenbaugh

The appointment was confirmed with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

Senator Carlson moved the adoption of the Agriculture Committee report for the confirmation of the following appointment(s) found on page 1671:

Nebraska State Fair Board  
William Marshall III

Voting in the affirmative, 40:

Adams	Dierks	Hansen	Louden	Price
Avery	Dubas	Harms	McGill	Rogert
Campbell	Fischer	Heidemann	Mello	Schilz
Carlson	Flood	Howard	Nelson	Sullivan
Christensen	Friend	Janssen	Nordquist	Utter
Coash	Giese	Karpisek	Pahls	Wallman
Cook	Gloor	Langemeier	Pankonin	White
Cornett	Hadley	Lathrop	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 7:

Ashford	Fulton	McCoy	Stuthman
Council	Gay	Nantkes	

Excused and not voting, 2:

Haar           Lautenbaugh

The appointment was confirmed with 40 ayes, 0 nays, 7 present and not voting, and 2 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 1695:

Public Employees Retirement Board  
Denis Blank  
Glenn Elwell  
Mark Shepard

Voting in the affirmative, 38:



Adams	Cornett	Harms	Mello	Schilz
Ashford	Dierks	Heidemann	Nelson	Sullivan
Avery	Dubas	Howard	Nordquist	Utter
Campbell	Fischer	Janssen	Pahls	Wallman
Carlson	Friend	Karpisek	Pankonin	White
Christensen	Giese	Lathrop	Pirsch	Wightman
Coash	Gloor	Louden	Price	
Cook	Hansen	McGill	Rogert	

Voting in the negative, 0.

Present and not voting, 9:

Council	Fulton	Hadley	McCoy	Stuthman
Flood	Gay	Langemeier	Nantkes	

Excused and not voting, 2:

Haar	Lautenbaugh
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The appointments were confirmed with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Senator Avery moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 1710:

Nebraska Accountability and Disclosure Commission  
Kevin Brostrom

Voting in the affirmative, 40:

Adams	Cornett	Hadley	Lathrop	Price
Ashford	Dierks	Hansen	Louden	Rogert
Avery	Dubas	Harms	McCoy	Schilz
Campbell	Fischer	Heidemann	McGill	Sullivan
Carlson	Flood	Howard	Mello	Utter
Christensen	Friend	Janssen	Nordquist	Wallman
Coash	Giese	Karpisek	Pahls	White
Cook	Gloor	Langemeier	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 7:

Council	Gay	Nelson	Stuthman
Fulton	Nantkes	Pankonin	

Excused and not voting, 2:

Haar           Lautenbaugh

The appointment was confirmed with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Senator Karpisek moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 1719:

Nebraska Liquor Control Commission  
Janice Wiebusch

Voting in the affirmative, 40:

Adams	Dierks	Harms	McCoy	Pirsch
Ashford	Dubas	Heidemann	McGill	Price
Avery	Fischer	Howard	Mello	Rogert
Campbell	Friend	Janssen	Nantkes	Schilz
Carlson	Giese	Karpisek	Nelson	Sullivan
Christensen	Gloor	Langemeier	Nordquist	Wallman
Cook	Hadley	Lathrop	Pahls	White
Cornett	Hansen	Louden	Pankonin	Wightman

Voting in the negative, 0.

Present and not voting, 7:

Coash	Flood	Gay	Utter
Council	Fulton	Stuthman	

Excused and not voting, 2:

Haar           Lautenbaugh

The appointment was confirmed with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

Senator Lathrop moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 1719:

Commission of Industrial Relations  
Loren Lindahl

Voting in the affirmative, 39:

Adams	Dubas	Harms	McCoy	Pirsch
Avery	Fischer	Heidemann	McGill	Price
Campbell	Flood	Howard	Mello	Rogert
Carlson	Friend	Janssen	Nantkes	Schilz
Christensen	Giese	Karpisek	Nelson	Sullivan
Cook	Gloor	Langemeier	Nordquist	Wallman
Cornett	Hadley	Lathrop	Pahls	White
Dierks	Hansen	Louden	Pankonin	

Voting in the negative, 0.

Present and not voting, 8:

Ashford	Council	Gay	Utter
Coash	Fulton	Stuthman	Wightman

Excused and not voting, 2:

Haar	Lautenbaugh
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The appointment was confirmed with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Senator Adams moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 1736:

Coordinating Commission for Postsecondary Education

Colleen Adam

Ronald Hunter

Eric Seacrest

Voting in the affirmative, 42:

Adams	Dierks	Harms	McGill	Schilz
Avery	Dubas	Heidemann	Mello	Sullivan
Campbell	Fischer	Howard	Nantkes	Utter
Carlson	Flood	Janssen	Nelson	Wallman
Christensen	Friend	Karpisek	Nordquist	White
Coash	Giese	Langemeier	Pahls	Wightman
Cook	Gloor	Lathrop	Pirsch	
Cornett	Hadley	Louden	Price	
Council	Hansen	McCoy	Rogert	

Voting in the negative, 0.

Present and not voting, 5:

Ashford	Fulton	Gay	Pankonin	Stuthman
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Excused and not voting, 2:

Haar           Lautenbaugh

The appointments were confirmed with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

Senator Fischer moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 1744:

Motor Vehicle Industry Licensing Board

Paul Gerber

Roy Neneman

Voting in the affirmative, 43:

Adams	Dubas	Heidemann	Mello	Schilz
Avery	Fischer	Howard	Nantkes	Stuthman
Campbell	Flood	Janssen	Nelson	Sullivan
Carlson	Friend	Karpisek	Nordquist	Utter
Christensen	Giese	Langemeier	Pahls	Wallman
Coash	Gloor	Lathrop	Pankonin	White
Cook	Hadley	Louden	Pirsch	Wightman
Cornett	Hansen	McCoy	Price	
Dierks	Harms	McGill	Rogert	

Voting in the negative, 0.

Present and not voting, 4:

Ashford       Council       Fulton       Gay

Excused and not voting, 2:

Haar           Lautenbaugh

The appointments were confirmed with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 242.** Read. Considered.

**LEGISLATIVE RESOLUTION 243.** Read. Considered.

**LEGISLATIVE RESOLUTION 244.** Read. Considered.

**LEGISLATIVE RESOLUTION 246.** Read. Considered.

**LEGISLATIVE RESOLUTION 247.** Read. Considered.

**LEGISLATIVE RESOLUTION 248.** Read. Considered.

**LEGISLATIVE RESOLUTION 249.** Read. Considered.

**LEGISLATIVE RESOLUTION 250.** Read. Considered.

**LEGISLATIVE RESOLUTION 251.** Read. Considered.

**LEGISLATIVE RESOLUTION 252.** Read. Considered.

**LEGISLATIVE RESOLUTION 253.** Read. Considered.

**LEGISLATIVE RESOLUTION 254.** Read. Considered.

**LEGISLATIVE RESOLUTION 255.** Read. Considered.

**LEGISLATIVE RESOLUTION 256.** Read. Considered.

Senator Langemeier moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 35 ayes, 5 nays, and 9 not voting.

**LEGISLATIVE RESOLUTION 258.** Read. Considered.

LRs 242, 243, 244, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, and 258 were adopted with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 125, 257, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, and 258.

### **MOTION - Print in Journal**

Senator Flood filed the following motion:

Suspend Rule 6, Section 3, and Rule 7, Sections 3 and 7, and to indefinitely postpone the following bills whose provisions have been included in other enacted legislation or whose companion bill has been indefinitely postponed: LBs 39, 47, 64, 71, 76, 103, 104, 128, 132, 145, 172, 172A, 173, 199, 220, 250, 221, 233, 273, 287, 290, 290A, 305, 335, 338, 354, 367, 371, 374, 375, 390, 429, 451, 462, 471, 515, 530, 588, 599, and 647.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 262.** Introduced by Education Committee: Adams, 24, Chairperson; Ashford, 20; Avery, 28; Cornett, 45; Giese, 17; Howard, 9; Sullivan, 41.

**PURPOSE:** The purpose of this interim study is to examine issues related to postsecondary education.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Education Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 263.** Introduced by Revenue Committee: Cornett, 45, Chairperson; Adams, 24; Dierks, 40; Friend, 10; Hadley, 37; Loudon, 49; Utter, 33; White, 8.

**PURPOSE:** To investigate and review matters and issues arising during the interim which are within the jurisdiction of the Revenue Committee of the Legislature.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Revenue Committee of the Legislature shall be designated to 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.

**LEGISLATIVE RESOLUTION 264.** Introduced by Pahls, 31.

**WHEREAS,** Bill and Evonne Williams, of Omaha, spearheaded the Heartland Honor Flights in 2008 and 2009; and

**WHEREAS,** the Heartland Honor Flights were initiated by Mr. and Mrs. Williams to pay tribute to the veterans of World War II, the Greatest Generation; and

**WHEREAS,** Mr. and Mrs. Williams solicited contributions from business leaders and private contributors to cover the costs of the flights and arrangements for the veterans and guardians to travel to Washington, D.C.; and

WHEREAS, eight flights transported over 1,500 midland veterans to Washington, D.C., to view the national World War II Memorial created in their honor; and

WHEREAS, the Honor Flights brought veterans and their families back together to recognize the contributions of the Greatest Generation; and

WHEREAS, many of the honored veterans expressed that the experience and recognition were the highlight of their lives; and

WHEREAS, military representatives assisted in the transportation and logistics of the flights; and

WHEREAS, many of the veterans who made the flights were honored again at a dinner reunion held in Omaha over the Memorial Day weekend; and

WHEREAS, a traveling Memorial Wall inscribed with the names of every member of the military killed in World War II through the Persian Gulf War was brought to Omaha, and veterans were given a private display for the Honor Flight participants.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the efforts of Bill and Evonne Williams in spearheading the Heartland Honor Flights.

2. That a copy of this resolution be sent to Bill and Evonne Williams.

Laid over.

### **COMMITTEE REPORT Enrollment and Review**

#### **Correctly Enrolled**

The following resolution was correctly enrolled: LR171.

(Signed) Jeremy Nordquist, Chairperson

### **ENROLLED RESOLUTION**

**LEGISLATIVE RESOLUTION 171.** Introduced by Ashford, 20; Council, 11.

With the April 24th announcement by the Director of Correctional Services that the State of Nebraska's correctional institutions have reached a level of one hundred forty percent of capacity, Nebraska statutes require notification of the Governor with a recommendation as to what should be done to address the issue of capacity. This recent level of incarceration provides an opportunity for the state to address the proper sentencing of individuals for violations of the Nebraska Criminal Code and an opportunity to assess the degree to which the state is successful in rehabilitating individuals sentenced to Nebraska correctional institutions, particularly when viewed through the reentry of these convicted individuals into

Nebraska communities. Failure to provide proven and adequate reentry programming contributes to the recidivism of previously convicted individuals, who then end up back in Nebraska correctional institutions, thereby further increasing Nebraska's rate of incarceration.

The Legislature, recognizing that a prolonged period of high incarceration rates places a pronounced strain on the state's fiscal resources, believes it to be imperative to implement adequate measures to address sentencing and rehabilitative programs for individuals incarcerated in Nebraska correctional institutions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby calls for the Executive Board of the Legislative Council to meet forthwith and appoint a task force to be known as the Sentencing and Recidivism Task Force. The task force shall consist of seven members of the Legislature appointed by the Executive Board. The task force shall elect a chairperson and vice-chairperson from the membership of the task force. The Judiciary Committee of the Legislature shall provide staff support for the task force.

2. The Sentencing and Recidivism Task Force is authorized to study the sentencing of juveniles and adults to Nebraska correctional institutions for rehabilitative purposes, including the associated fiscal impact. The task force shall study issues relating to the reentry of these juveniles and adults into Nebraska communities, including, but not limited to, the sufficiency and effectiveness of the rehabilitative and reentry programs, the number of spaces available for these programs, and the effectiveness of these programs in reducing the rate of recidivism. Finally, the task force shall study the sentencing of individuals convicted of crimes for equality of sentencing for the same or similar crimes statewide. The task force shall issue a report of its findings and recommendations to the Legislature on or before January 1, 2011, and shall terminate on January 1, 2011.

### ANNOUNCEMENT

Senator Wightman announced the Executive Board will meet Friday, May 29, 2009, at 11:00 a.m. in Room 2102.

### VISITORS

Visitors to the Chamber were 39 fourth-grade students and teachers from Cody Elementary, Omaha; 52 fourth-grade students from Harvey Oaks Elementary, Millard; Dr. Mark and Sue Davis from Norfolk; former Senator Dan Fisher's wife, Alice Fisher, from Grand Island; Tony Gomez from Jackson; 61 fourth-grade students, teachers, and sponsors from Bryan Elementary, Millard; and Michelle Hupp from Albion.

The Doctor of the Day was Dr. Brad Hupp from Albion.



**ADJOURNMENT**

At 11:58 a.m., on a motion by Senator Nelson, the Legislature adjourned until 1:30 p.m., Friday, May 29, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature



**EIGHTY-SEVENTH DAY - MAY 29, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**EIGHTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, May 29, 2009

**PRAYER**

The prayer was offered by Senator Harms.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 1:30 p.m., President Sheehy presiding.

The roll was called and all members were present except Senator Haar who was excused.

**SPEAKER FLOOD PRESIDING**

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-sixth day was approved.

**COMMITTEE REPORT**

Business and Labor

**LEGISLATIVE BILL 579.** Placed on General File with amendment.  
AM1323 is available in the Bill Room.

(Signed) Steve Lathrop, Chairperson

**MESSAGES FROM THE GOVERNOR**

May 28, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 36 was received, signed, and delivered to the Secretary of State earlier today.

Sincerely,  
(Signed) Dave Heineman  
Governor

May 29, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 288e and 288Ae were received in my office on May 26, 2009. Engrossed Legislative Bill 561 was received in my office on May 27, 2009. Engrossed Legislative Bill 285e was received in my office on May 28, 2009.

Earlier, today, I signed and delivered these bills to the Secretary of State.

Sincerely,  
(Signed) Dave Heineman  
Governor

## REFERENCE COMMITTEE REPORT

### 2009 Resolutions calling for an Interim Study

LR262	Interim study to examine issues relating to postsecondary education	Education
LR263	Interim study to examine issues under the jurisdiction of the Revenue Committee	Revenue

(Signed) John Wightman, Chairperson  
Executive Board

## REPORTS

The following reports were received by the Legislature:

### **Correctional Services, Department of**

Certification of Inmate Population above Design Capacity in Nebraska's Correctional System

### **Investment Finance Authority, Nebraska (NIFA)**

Clean Water State Revolving Fund Bonds Notice

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 219.** With Emergency Clause.

A BILL FOR AN ACT relating to highways; to amend section 60-2132, Reissue Revised Statutes of Nebraska, and section 60-6,267, Revised Statutes Cumulative Supplement, 2008; to transfer responsibility for the highway safety program, including the child passenger restraint and occupation protection systems information and education program, to the Department of Roads as prescribed; to harmonize provisions; to provide an operative date; 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, 39:

Adams	Fischer	Harms	McGill	Rogert
Avery	Flood	Heidemann	Mello	Schilz
Campbell	Friend	Janssen	Nantkes	Stuthman
Carlson	Fulton	Karpisek	Nelson	Sullivan
Christensen	Gay	Langemeier	Nordquist	Utter
Cornett	Giese	Lautenbaugh	Pahls	Wallman
Dierks	Hadley	Louden	Pirsch	Wightman
Dubas	Hansen	McCoy	Price	

Voting in the negative, 7:

Coash	Council	Lathrop	White
Cook	Howard	Pankonin	

Present and not voting, 2:

Ashford	Gloor
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Excused and not voting, 1:

Haar

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 219A.** With Emergency Clause.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 219, One Hundred First Legislature, First Session, 2009; to reduce an appropriation; to provide an operative date; 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, 39:

Adams	Dubas	Hansen	McCoy	Price
Ashford	Fischer	Harms	McGill	Rogert
Avery	Flood	Heidemann	Mello	Schilz
Campbell	Friend	Janssen	Nantkes	Stuthman
Carlson	Fulton	Karpisek	Nelson	Sullivan
Christensen	Gay	Langemeier	Nordquist	Utter
Cornett	Giese	Lautenbaugh	Pahls	Wightman
Dierks	Hadley	Louden	Pirsch	

Voting in the negative, 7:

Cook	Howard	Pankonin	White
Council	Lathrop	Wallman	

Present and not voting, 2:

Coash	Gloor
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Excused and not voting, 1:

Haar

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 LB658 with 45 ayes, 0 nays, 3 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 658.**

A BILL FOR AN ACT relating to the State Natural Gas Regulation Act; to amend sections 66-1802, 66-1839, and 84-712.05, Reissue Revised Statutes of Nebraska, and section 66-1801, Revised Statutes Cumulative Supplement, 2008; to define and redefine terms; to provide for loans for negotiations; to provide procedures for infrastructure system replacement cost recovery; 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, 48:

Adams	Dierks	Hansen	McCoy	Rogert
Ashford	Dubas	Harms	McGill	Schilz
Avery	Fischer	Heidemann	Mello	Stuthman
Campbell	Flood	Howard	Nantkes	Sullivan
Carlson	Friend	Janssen	Nelson	Utter
Christensen	Fulton	Karpisek	Nordquist	Wallman
Coash	Gay	Langemeier	Pahls	White
Cook	Giese	Lathrop	Pankonin	Wightman
Cornett	Gloor	Lautenbaugh	Pirsch	
Council	Hadley	Louden	Price	

Voting in the negative, 0.

Excused and not voting, 1:

Haar

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 675.**

A BILL FOR AN ACT relating to abortion; to amend sections 28-326, 28-327, 28-327.01, 28-327.03, and 28-327.04, Reissue Revised Statutes of Nebraska; to provide for additional voluntary and informed consents from the pregnant woman; to define terms; to harmonize provisions; to provide severability; 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, 40:

Adams	Fischer	Hansen	McCoy	Rogert
Ashford	Flood	Harms	Mello	Schilz
Carlson	Friend	Heidemann	Nelson	Stuthman
Christensen	Fulton	Janssen	Nordquist	Sullivan
Coash	Gay	Karpisek	Pahls	Utter
Cornett	Giese	Langemeier	Pankonin	Wallman
Dierks	Gloor	Lathrop	Pirsch	White
Dubas	Hadley	Lautenbaugh	Price	Wightman

Voting in the negative, 5:

Campbell	Council	Howard	McGill	Nantkes
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Present and not voting, 3:

Avery	Cook	Louden
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Excused and not voting, 1:

Haar

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 219, 219A, 658, and 675.

### **MOTION - Approve Appointments**

Senator Ashford moved the adoption of the Judiciary Committee report for the confirmation of the following appointment(s) found on page 1716:

Community Corrections Council

Jeffrey Davis

Eleanor Marie Devlin

Thomas Dorwart

Darrell Fisher

Voting in the affirmative, 45:



Adams	Dierks	Hadley	Lautenbaugh	Price
Ashford	Dubas	Hansen	Louden	Rogert
Campbell	Fischer	Harms	McCoy	Schilz
Carlson	Flood	Heidemann	Mello	Stuthman
Christensen	Friend	Howard	Nantkes	Sullivan
Coash	Fulton	Janssen	Nordquist	Utter
Cook	Gay	Karpisek	Pahls	Wallman
Cornett	Giese	Langemeier	Pankonin	White
Council	Gloor	Lathrop	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 3:

Avery            McGill            Nelson

Excused and not voting, 1:

Haar

The appointments were confirmed with 45 ayes, 0 nays, 3 present and not voting, and 1 excused and not voting.

## **PRESIDENT SHEEHY PRESIDING**

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 224.** Read. Considered.

Committee AM1508, found on page 1747, was adopted with 37 ayes, 5 nays, 6 present and not voting, and 1 excused and not voting.

LR224, as amended, was adopted with 45 ayes, 0 nays, 3 present and not voting, and 1 excused and not voting.

**LEGISLATIVE RESOLUTION 259.** Read. Considered.

LR259 was adopted with 47 ayes, 0 nays, 1 present and not voting, and 1 excused and not voting.

### **PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 29, 2009, at 1:58 p.m. were the following: LBs 219e, 219Ae, 658, and 675.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**MESSAGE FROM THE GOVERNOR**

May 29, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 16, 218, 241, and 679 were received in my office on May 26, 2009. Engrossed Legislative Bills 35e and 35Ae were received in my office on May 28, 2009. Engrossed Legislative Bills 219e, 219Ae, 658, and 675 were received in my office on May 29, 2009

Earlier, today, I signed and delivered these bills to the Secretary of State.

Sincerely,  
(Signed) Dave Heineman  
Governor

**EXPLANATION OF VOTE**

Had I been present, I would have voted "nay" on final passage of LB675.

(Signed) Ken Haar

**EXECUTIVE BOARD ANNOUNCEMENTS**

The Executive Board made the following appointments to the Children's Behavioral Health Oversight Committee (LB603, 2009): Senators Hansen, Nordquist, Campbell, Howard, McGill, Coash, Avery, Dubas, and Pirsch.

The Executive Board also appointed the following Senators to the Sentencing and Recidivism Task Force pursuant to LR171 (2009): Senators Ashford, Carlson, Council, Fulton, Giese, Nelson, and Pirsch.

The Executive Board also appointed Senators Coash and Karpisek to fill the vacancies on the Developmental Disabilities Special Investigative Committee (LR11, 2009).

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 260.** Read. Considered.

**LEGISLATIVE RESOLUTION 261.** Read. Considered.

**LEGISLATIVE RESOLUTION 264.** Read. Considered.

LRs 260, 261, and 264 were adopted with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

## RESOLUTION

**LEGISLATIVE RESOLUTION 265.** Introduced by Coash, 27.

WHEREAS, Steve O'Brien, a husband, father, friend, officer of the law, rescue squad member, and volunteer fireman, died on May 7, 2009, in Omaha, Nebraska, at the age of fifty-three; and

WHEREAS, Steve O'Brien dedicated thirty-seven years of his life to protecting the citizens of Nebraska; and

WHEREAS, Steve O'Brien began his career in law enforcement at the age of sixteen as a police cadet for the city of LaVista; and

WHEREAS, Steve O'Brien became a deputy in Saunders County and quickly rose to the rank of chief deputy sheriff; and

WHEREAS, Steve O'Brien also served in the police departments of Valley and Waterloo and served as police chief of Yutan and Ashland; and

WHEREAS, Steve O'Brien's devotion to the citizens of Nebraska also included his service as a volunteer fireman, rescue squad member, and investigator for the Department of Health and Human Services; and

WHEREAS, Steve O'Brien is survived by his wife of thirty years, Melanie, and his beloved child, Kelly.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature expresses its gratitude to Steve O'Brien for his thirty-seven years of protecting the citizens of Nebraska.

2. That the Legislature expresses and extends its sympathy and condolences to the family of Steve O'Brien.

3. That a copy of this resolution be sent to the family of Steve O'Brien.

Laid over.

## MOTION - Suspend Rules

Senator Coash offered the following motion to LR265:

MO65

Suspend Rule 4, Section 6, to permit consideration of LR265.

The Coash motion to suspend the rules prevailed with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

## RESOLUTION

**LEGISLATIVE RESOLUTION 265.** Read. Considered.

LR265 was adopted with 46 ayes, 0 nays, 2 present and not voting, and 1 excused and not voting.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 266.** Introduced by Cook, 13.

WHEREAS, Dr. Jerry Fischer has committed time, energy, and expertise to improving the health of Omaha's most vulnerable citizens, the city's homeless families, by creating a highly effective health clinic for residents of the Open Door Mission; and

WHEREAS, Dr. Jerry Fischer received the honor of the Adult Health Volunteer of the Year at the United Way of the Midlands' 54th annual Volunteer Recognition Luncheon on April 22, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes Dr. Jerry Fischer for distinguished service to the State of Nebraska, its residents, and the United Way of the Midlands.

2. That the Legislature congratulates Dr. Jerry Fischer for receiving the 2009 Adult Health Volunteer of the Year award.

3. That a copy of this resolution be sent to Dr. Jerry Fischer and to the Open Door Mission.

Laid over.

**MOTION - Suspend Rules**

Senator Cook offered the following motion to LR266:

MO66

Suspend Rule 4, Section 6, to permit consideration of LR266.

The Cook motion to suspend the rules prevailed with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 266.** Read. Considered.

LR266 was adopted with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 267.** Introduced by Cook, 13.

WHEREAS, Connie Rose has been a longstanding, selfless servant to her Florence community, including organizing a monthly reception for new American citizens, recruiting people to fund a free medical clinic at the

Open Door Mission, and collecting items for American soldiers overseas and residents of a girls' home; and

WHEREAS, Connie Rose received the top honor at the United Way of the Midlands' 54th annual Volunteer Recognition Luncheon, Volunteer of the Year, on April 22, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes Connie Rose for her distinguished service to the State of Nebraska, its residents, and the United Way of the Midlands.

2. That the Legislature congratulates Connie Rose for her Volunteer of the Year award.

3. That a copy of this resolution be sent to Connie Rose.

Laid over.

### **MOTION - Suspend Rules**

Senator Cook offered the following motion to LR267:

MO67

Suspend Rule 4, Section 6, to permit consideration of LR267.

The Cook motion to suspend the rules prevailed with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 267.** Read. Considered.

LR267 was adopted with 43 ayes, 0 nays, 5 present and not voting, and 1 excused and not voting.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 268.** Introduced by Pahls, 31.

WHEREAS, on May 28, 2009, Andy Sajevic of Fremont High School won the 2009 Class A Boys' Golf State Championship; and

WHEREAS, Andy Sajevic set a state tournament scoring record in Class A Boys Golf, finishing the 36-hole tournament at 8 under par; and

WHEREAS, Andy Sajevic will continue to advance his education and athletic performance as a recruit to the University of North Carolina-Charlotte; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Andy Sajevic for winning the Class A Boys' Golf State Championship.

2. That a copy of this resolution be sent to Andy Sajevic and Fremont High School.

Laid over.

### **MOTION - Suspend Rules**

Senator Pahls offered the following motion to LR268:

MO68

Suspend Rule 4, Section 6, to permit consideration of LR268.

The Pahls motion to suspend the rules prevailed with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 268.** Read. Considered.

LR268 was adopted with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 269.** Introduced by Nordquist, 7.

WHEREAS, on May 28, 2009, the Fremont Archbishop Bergan Knights boys' golf team won the 2009 Class D Boys' Golf State Championship, the first state championship for the Bergan boys' golf team; and

WHEREAS, the Knights have won four district championships in the past five years and have qualified for the state tournament for five consecutive years; and

WHEREAS, players John Spellerberg, Kurtis Kammerer, Thomas Wendt, Kyle Thompson, and Nicholas Lassek have brought honor and respect to themselves, their families, their school, and their communities through their accomplishments, teamwork, and determination; and

WHEREAS, coach Chris Rainforth has consistently led the Knights boys' golf teams to the state tournament, teaching those under his charge the importance of teamwork, discipline, and sportsmanship; and

WHEREAS, the Knights have brought pride and honor to District 15; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Legislature congratulates the Fremont Archbishop Bergan Knights boys' golf team on winning the 2009 Class D Boys' Golf State Championship.

2. That a copy of this resolution be sent to the Knights and their coach, Chris Rainforth.

Laid over.

### **MOTION - Suspend Rules**

Senator Nordquist offered the following motion to LR269:  
MO69

Suspend Rule 4, Section 6, to permit consideration of LR269.

The Nordquist motion to suspend the rules prevailed with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 269.** Read. Considered.

LR269 was adopted with 47 ayes, 0 nays, 1 present and not voting, and 1 excused and not voting.

### **COMMITTEE REPORT Enrollment and Review**

#### **Correctly Enrolled**

The following resolution was correctly enrolled: LR224.

(Signed) Jeremy Nordquist, Chairperson

### **ENROLLED RESOLUTION**

**LEGISLATIVE RESOLUTION 224.** Introduced by Mello, 5; Adams, 24; Ashford, 20; Campbell, 25; Christensen, 44; Coash, 27; Cornett, 45; Council, 11; Dierks, 40; Dubas, 34; Friend, 10; Giese, 17; Gloor, 35; Haar, 21; Hadley, 37; Hansen, 42; Harms, 48; Howard, 9; Janssen, 15; Karpisek, 32; Langemeier, 23; Lathrop, 12; McGill, 26; Nantkes, 46; Nelson, 6; Nordquist, 7; Pankonin, 2; Pirsch, 4; Price, 3; Rogert, 16; Schilz, 47; Sullivan, 41; Utter, 33; Wallman, 30; White, 8; Wightman, 36.

The Legislature recognizes that it is essential for the State of Nebraska to have an effective, efficient, and transparent budgeting process that yields a budget from which success or failure can be measured. In order to ensure that the state's budgeting process is as effective, efficient, and transparent as possible, it becomes necessary to periodically review the process in detail and to make changes to it when necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature calls for the establishment of a task force to be known as the Budget Reform Task Force. The members of the Appropriations Committee of the Legislature shall serve as the members of the task force. The task force shall terminate on June 30, 2010.

2. The Budget Reform Task Force is hereby authorized to study the budgeting process for the State of Nebraska. The issues examined by the task force shall include, but not be limited to:

- (a) Zero-based budgeting;
- (b) Performance measurements;
- (c) Oversight of public contracts;
- (d) An evaluation of existing programs and agencies;
- (e) An evaluation of the fiscal note process, including an analysis of the roles played by outside departments and agencies; and
- (f) Strategic planning on budgeting.

The task force shall issue a report with its findings and recommendations to the Legislature no later than June 30, 2010.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 171, 224, 259, 260, 261, 264, 265, 266, 267, 268, and 269.

### **MOTION - Notify Governor**

Senator Pirsch moved that a committee of five be appointed to notify the Governor that the One Hundred First Legislature, First Session of the Nebraska Legislature, is about to complete its work, and to return with any message the Governor may have for the Legislature.

The motion prevailed.

The Chair appointed Senators Dubas, Cornett, Stuthman, Fulton, and Wallman to serve on said committee.

The committee returned and escorted Governor Dave Heineman to the rostrum where he delivered a message to the members.

The committee escorted Governor Dave Heineman from the Chamber.

### **MOTION - Suspend Rules**

Senator Flood renewed his motion, found on page 1765, to suspend Rule 6, Section 3, and Rule 7, Sections 3 and 7, and to indefinitely postpone the following bills whose provisions have been included in other enacted legislation or whose companion bill has been indefinitely postponed: LBs 39, 47, 64, 71, 76, 103, 104, 128, 132, 145, 172, 172A, 173, 199, 220, 250, 221, 233, 273, 287, 290, 290A, 305, 335, 338, 354, 367, 371, 374, 375, 390, 429, 451, 462, 471, 515, 530, 588, 599, and 647.



The Flood motion to suspend the rules prevailed with 47 ayes, 0 nays, 1 present and not voting, and 1 excused and not voting.

### **MOTION - Journal, Session Laws, and Indexes**

Senator Dierks moved that the Legislature approve the preparation and printing of the permanent Legislative Journal, Session Laws, and Indexes by Patrick J. O'Donnell, and that he be directed to send to each member of the Legislature a copy of the loose-leaf session laws and of the permanent Journal and Session Laws.

The motion prevailed.

### **VISITORS**

Visitors to the Chamber were Ray, Felicia, Steve, and Megan Keiser from Fordyce; Senator Harms' daughter and granddaughter, Suzette Luster and Madison Blehm, from Greeley, Colorado and grandsons, John and Nathan Harms, from Scottsbluff; and Senator Giese's daughter and granddaughter, Season and Ella Giese, from Kearney.

### **MOTION - Adjourn Sine Die**

Senator Stuthman moved that the Journal for the Eighty-Seventh Day, as prepared by the Clerk of the Legislature, be approved and that the One Hundred First Legislature, First Session of the Nebraska Legislature, having finished all business before it, now at 3:23 p.m., adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell  
Clerk of the Legislature

