

THIRTY-SEVENTH DAY - FEBRUARY 28, 2007**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
FIRST SESSION****THIRTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 28, 2007

PRAYER

The prayer was offered by Father Donald Shane, St. Robert Ballarmino Catholic Church, 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 Senator Janssen who was excused; and Senators Dubas, Heidemann, Kruse, McDonald, Mines, Pedersen, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirty-sixth day was approved.

**COMMITTEE REPORTS
Judiciary**

LEGISLATIVE BILL 143. Placed on General File.

LEGISLATIVE BILL 132. Placed on General File - Com AM141.
AM141

- 1 1. Strike section 1 and insert the following section:
- 2 Section 1. A legal separation decree shall provide that
- 3 in case of a reconciliation at any time thereafter, the parties may
- 4 apply to set aside the decree. Upon such application, the court
- 5 shall set aside the decree and make such orders as are just and
- 6 reasonable under the circumstances.

LEGISLATIVE BILL 157. Placed on General File - Com AM250.
AM250

- 1 1. Insert the following new sections:
- 2 Sec. 2. Section 28-705, Revised Statutes Cumulative
- 3 Supplement, 2006, is amended to read:

4 28-705 (1) Any person who abandons and neglects or
 5 refuses to maintain or provide for his or her spouse or his or
 6 her child or dependent stepchild, whether such child is born in or
 7 out of wedlock, commits abandonment of spouse, child, or dependent
 8 stepchild.

9 (2) It is not a violation of this section for a parent
 10 to leave a child who is thirty days of age or younger with a
 11 firefighter or hospital staff member pursuant to section 1 of this
 12 act.

13 ~~(2)-(3)~~ For the purposes of this section, child shall
 14 mean an individual under the age of sixteen years.

15 ~~(3)-(4)~~ When any person abandons and neglects to provide
 16 for his or her spouse or his or her child or dependent stepchild
 17 for three consecutive months or more, it shall be prima facie
 18 evidence of intent to violate the provisions of subsection (1) of
 19 this section.

20 ~~(4)-(5)~~ A designation of assets for or use of income by
 21 an individual in accordance with section 68-922 shall be considered
 22 just cause for failure to use such assets or income to provide
 23 medical support of such individual's spouse.

1 ~~(5)-(6)~~ Abandonment of spouse, child, or dependent
 2 stepchild is a Class I misdemeanor.

3 Sec. 3. Original section 28-705, Revised Statutes
 4 Cumulative Supplement, 2006, is repealed.

5 2. On page 2, line 1, after "parent" insert "seeking
 6 safe-haven care" and after "child" insert "thirty days of age or
 7 younger"; strike beginning with "if" in line 6 through line 9 and
 8 insert an underscored period; strike beginning with "of" in line 17
 9 through line 21 and insert "within four hours."; in line 22 strike
 10 "~~(4)~~" and insert "~~(3)~~"; in line 23 strike "abandoned"; in line 25
 11 strike "~~(5)~~" and insert "~~(4)~~"; in line 27 strike "abandoned" and
 12 insert "left with safe-haven providers" and after "section" insert
 13 "and the number of children abandoned by other means".

14 3. On page 3, line 1, strike "~~(6)~~" and insert "~~(5)~~"; in
 15 line 3 strike "~~(5)~~" and insert "~~(4)~~"; and strike beginning with the
 16 comma in line 3 through "section" in line 11.

LEGISLATIVE BILL 335. Placed on General File - Com AM207.
 AM207

1 1. On page 2, line 20, strike "illegal"; in line 23
 2 strike "under" through "for", show as stricken, and insert ";
 3 except as provided in subsection (2) of this section, for no"; and
 4 in lines 24 and 25 strike the new matter.

5 2. On page 3, lines 1 and 2, strike the new matter; in
 6 line 3 after "(2)" insert "In counties in which the county board
 7 has adopted a resolution stating that suitable facilities exist
 8 within the county for the care and treatment of persons suffering
 9 from chronic alcoholism or substance abuse, individuals who have
 10 been placed in civil protective custody three or more times in the

11 previous month may be held in civil protective custody for up to
 12 seventy-two hours if necessary to preserve life or prevent injury.
 13 A resolution adopted pursuant to this subsection shall include a
 14 designation of the specific facility or facilities to be used for
 15 seventy-two-hour civil protective custody and specify the maximum
 16 number of patients that can be served at any one time by each such
 17 facility.
 18 (3); in line 8 strike "(3)", show as stricken, and
 19 insert "(4)"; in line 12 strike "(4)", show as stricken, and insert
 20 "(5)"; and in line 16 strike "(5)", show as stricken, and insert
 21 "(6)".

LEGISLATIVE BILL 373. Placed on General File - Com AM447.
 AM447

1 1. On page 2, line 5, strike "fault."; and in line 13
 2 after the period insert "A statement of fault which is otherwise
 3 admissible and is part of or in addition to any such communication
 4 shall be admissible.".

LEGISLATIVE BILL 465. Placed on General File - Com AM485.
 AM485

1 1. On page 2, line 16, after "questioning" insert
 2 "regarding the event for which such person received a deal,
 3 promise, inducement, or benefit".
 4 2. On page 3, lines 13 and 14, strike "in any manner";
 5 and in line 14 after "authority" insert ", during the course of
 6 which the jailhouse informer was offered or received any deal,
 7 promise, inducement, or benefit".

LEGISLATIVE BILL 491. Placed on General File - Com AM288.
 AM288

1 1. Insert the following new sections:
 2 Section 1. Section 69-2436, Revised Statutes Cumulative
 3 Supplement, 2006, is amended to read:
 4 69-2436 (1) A permit to carry a concealed handgun is
 5 valid throughout the state for a period of five years after the
 6 date of issuance. The fee for issuing a permit is one hundred
 7 dollars.
 8 (2) The Nebraska State Patrol shall renew a person's
 9 permit to carry a concealed handgun for a renewal period of five
 10 years, subject to continuing compliance with the requirements of
 11 section 69-2433. The renewal fee is fifty dollars, and renewal may
 12 be applied for up to four months before expiration of a permit to
 13 carry a concealed handgun.
 14 (3) The applicant shall submit the fee with the
 15 application to the Nebraska State Patrol. The fee shall be remitted
 16 to the State Treasurer for credit to the ~~Public Safety-Nebraska~~
 17 State Patrol Cash Fund.
 18 Sec. 2. Section 69-2439, Revised Statutes Cumulative

19 Supplement, 2006, is amended to read:

20 69-2439 (1) ~~Any A~~ peace officer having shall bring an
 21 application for revocation of the permit to be prosecuted as
 22 provided in subsection (2) of this section if he or she has
 23 probable cause to believe that a permit holder

1 (a) Is is no longer in compliance with one or more
 2 requirements of section 69-2433; shall bring an application for
 3 revocation of the permit to be prosecuted as provided in subsection
 4 (2) of this section.

5 (b) Is in possession of a concealed handgun while
 6 consuming alcohol or in a location prohibited by section 69-2441;

7 (c) Has failed to report an incident pursuant to section
 8 69-2442;

9 (d) Is not in possession of his or her permit and other
 10 identification while carrying a concealed handgun as required by
 11 subsection (1) of section 69-2440;

12 (e) Has failed to immediately inform a peace officer or
 13 emergency services personnel that he or she is carrying a concealed
 14 handgun as required by subsection (2) of section 69-2440; or

15 (f) Has failed to submit to an order from a peace officer
 16 or emergency services personnel to secure a handgun pursuant to
 17 subsection (3) of section 69-2440.

18 (2) It is the duty of the county attorney or his or
 19 her deputy of the county in which such permit holder resides
 20 to prosecute a case for the revocation of a permit to carry
 21 a concealed handgun brought pursuant to subsection (1) of this
 22 section. In case the county attorney refuses or is unable to
 23 prosecute the case, the duty to prosecute shall be upon the
 24 Attorney General or his or her assistant.

25 (3) The case shall be prosecuted as a civil case, and
 26 the permit shall be revoked upon a showing by a preponderance
 27 of the evidence that the permit holder does not meet one or more
 1 of the requirements of section 69-2433 or has violated any of
 2 the provisions of the Concealed Handgun Permit Act specified in
 3 subsection (1) of this section.

4 (4) A person who has his or her permit revoked under
 5 this section may be fined up to one thousand dollars and shall
 6 be charged with the costs of the prosecution. The money collected
 7 under this subsection as an administrative fine shall be remitted
 8 to the State Treasurer for distribution in accordance with Article
 9 VII, section 5, of the Constitution of Nebraska.

10 2. On page 2, line 10, after the stricken comma insert
 11 "or"; in line 11 reinstate the stricken "semiprofessional" and
 12 strike "or"; in line 14 strike "private or public" and insert
 13 "public, private, denominational, or parochial"; in line 15 after
 14 the last semicolon insert "hospital"; in line 16 after "room"
 15 insert an underscored comma; and strike beginning with "that" in
 16 line 18 through the semicolon in line 19, show as stricken, and
 17 insert an underscored semicolon.

- 18 3. On page 4, strike lines 19 through 21; and in line
 19 22 after "sections" insert "69-2436, 69-2439," and after "69-2441"
 20 insert a comma.
 21 4. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 586. Placed on General File - Com AM402.
 AM402

- 1 1. On page 2, lines 3, 7, 10, 19, and 21; and page 3,
 2 line 1, after the second comma insert "chiropractor".
 3 2. On page 2, strike the new matter in lines 13 through
 4 17 and insert "For persons covered under medical insurance or
 5 another health benefit plan, the amount of the lien shall be
 6 reduced by the discount or other limitation which would have
 7 been applied had the claim been submitted for reimbursement to
 8 the medical insurer or administrator of such other health benefit
 9 plan.".

LEGISLATIVE BILL 619. Placed on General File - Com AM360.
 AM360

- 1 1. On page 3, line 22, after the period insert "The
 2 charge assessed by the State Treasurer or a state agency shall not
 3 exceed thirty dollars.".

LEGISLATIVE BILL 620. Placed on General File - Com AM361.
 AM361

- 1 1. Insert the following new section:
 2 Sec. 2. (1) The State Treasurer, with state agency
 3 approval, may collect a fee from a debtor of the state agency
 4 electronically equal to the cost of processing any payments for
 5 returned check charges or charges for electronic payments not
 6 accepted, except that the fee shall not exceed thirty dollars. The
 7 fee shall be remitted to the Treasury Management Cash Fund. The fee
 8 shall be used to offset the cost incurred by the State Treasurer
 9 from the collection of bad debt incurred by the state agency.
 10 (2) After the payor has originated two bad debt payments
 11 to a state agency in a period of one year, the state agency may
 12 refuse to accept future payments by check and may require a money
 13 order, cash, a cashier's check, or a certified check for payment.
 14 2. On page 2, line 11, after "accepted" insert ", except
 15 that the fee shall not exceed thirty dollars".
 16 3. Renumber the remaining section accordingly.

(Signed) Brad Ashford, Chairperson

GENERAL FILE

LEGISLATIVE BILL 255. Title read. Considered.

Committee AM453, found on page 657, was adopted with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 34. Senator Erdman renewed his amendment, AM205, found on page 482 and considered on page 685.

Senator Schimek renewed her amendment, AM509, found on page 675 and considered on page 685, to the Erdman amendment.

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

Senator Erdman moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

The motion to cease debate prevailed with 25 ayes, 12 nays, 9 not voting, and 3 excused and not voting.

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

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Erdman amendment:

FA33

Amend AM205 In line 14, strike beginning with "consider" through "issues" in line 15, and insert: "among other things, consider, study, monitor, and review legislation that impacts state-tribal relations issues and to present draft legislation and policy recommendations to the appropriate standing committee of the Legislature"

SPEAKER FLOOD PRESIDING**PRESIDENT SHEEHY PRESIDING**

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

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

The Chair declared the call raised.

The Erdman amendment, as amended, was adopted with 43 ayes, 0 nays, 3 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 32 ayes, 6 nays, 9 present and not voting, and 2 excused and not voting.

COMMITTEE REPORTS **Education**

LEGISLATIVE BILL 30. Indefinitely postponed.

LEGISLATIVE BILL 234. Indefinitely postponed.

LEGISLATIVE BILL 357. Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

Government, Military and Veterans Affairs

LEGISLATIVE BILL 196. Placed on General File - Com AM506.
AM506

- 1 1. On page 2, line 25, after the second comma insert
- 2 "rescue vehicles".
- 3 2. On page 3, line 25, after "any" insert "authorized".
- 4 3. On page 4, line 1, strike "any" and show as stricken;
- 5 and strike lines 2 and 3, show the old matter as stricken,
- 6 and insert "an authorized emergency vehicle shall include funeral
- 7 escort".

LEGISLATIVE BILL 208. Placed on General File - Com AM498.
AM498

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 52-118, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 52-118 (1) Except as provided in subsection (2) of this
- 6 section, it shall be the duty of the State of Nebraska or any
- 7 department or agency thereof, the county boards, the contracting
- 8 board of all cities, villages, and school districts, all public
- 9 boards empowered by law to enter into a contract for the erecting,
- 10 furnishing, or repairing of any public building, bridge, highway,
- 11 or other public structure or improvement, and any officer or
- 12 officers so empowered by law to enter into such contract, to which
- 13 the general provisions of the mechanics' lien laws do not apply
- 14 and when the mechanics and laborers have no lien to secure the
- 15 payment of their wages and suppliers who furnish material and
- 16 who lease equipment for such work have no lien to secure payment
- 17 therefor, to take from the person as defined in section 49-801
- 18 to whom the contract is awarded a payment bond or bonds in a sum

19 not less than the contract price with a corporate surety company
 20 and agent selected by such person, conditioned for the payment of
 21 all laborers and mechanics for labor that is performed and for the
 22 payment for material and equipment rental which is actually used
 23 or rented in the erecting, furnishing, or repairing of the public
 1 structure or improvement or in performing the contract.

2 (2) The labor and material payment bond or bonds referred
 3 to in subsection (1) of this section shall not be required for
 4 (a) any project bid or proposed by the State of Nebraska or any
 5 department or agency thereof which has a total cost of fifteen
 6 thousand dollars or less or (b) any project bid or proposed by any
 7 county board, contracting board of any city, village, or school
 8 district, public board, or officer referred to in subsection (1) of
 9 this section which has a total cost of ~~five-ten~~ thousand dollars
 10 or less unless the state, department, agency, board, or officer
 11 includes a bond requirement in the specifications for the project.

12 (3) The bond or bonds referred to in subsection (1) of
 13 this section shall be to, filed with, approved by, and safely kept
 14 by the State of Nebraska, department or agency thereof, officer
 15 or officers, or board awarding the contract. No contract referred
 16 to in subsection (1) of this section shall be entered into by
 17 the State of Nebraska, department or agency thereof, officer or
 18 officers, or board referred to in subsection (1) of this section
 19 until the bond or bonds referred to in subsection (1) of this
 20 section has been so made, filed, and approved.

21 (4) The bond or bonds referred to in subsection (1) of
 22 this section may be taken from the person to whom the contract
 23 is awarded by the owner and owner's representative jointly as
 24 determined by the owner. The corporate surety company referred to
 25 in subsection (1) of this section shall have a rating acceptable to
 26 the owner as the owner may require.

27 Sec. 2. Original section 52-118, Reissue Revised Statutes
 1 of Nebraska, is repealed.

LEGISLATIVE BILL 497. Placed on General File - Com AM496.
 AM496

1 1. On page 2, strike beginning with "person" in
 2 line 17 through "entity" in line 18 and insert "individual,
 3 legal representative, partnership, limited liability company,
 4 corporation, association, business trust, or other business
 5 entity"; and in line 22 strike "eighty" and insert "seventy-nine".

6 2. On page 3, lines 4 and 5 and 10 and 11, strike
 7 beginning with "Family" through the period.

8 3. On page 5, line 10, strike "circuit" and insert
 9 "district".

LEGISLATIVE BILL 100. Indefinitely postponed.

LEGISLATIVE BILL 172. Indefinitely postponed.

(Signed) Ray Aguilar, Chairperson

Agriculture

LEGISLATIVE BILL 632. Placed on General File - Com AM527.
AM527

- 1 1. Strike the original sections and insert the following
2 sections:
3 Section 1. Section 54-702, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:
5 54-702 The Department of Agriculture may, within the
6 framework and consistent with standards of the National Animal
7 Identification System, cooperate and coordinate with the Animal and
8 Plant Health Inspection Service of the United States Department
9 of Agriculture and other local, state, and national agencies
10 and organizations, public or private, to define premises where
11 livestock are located, to develop a voluntary premises registration
12 system for Nebraska, and to implement other state components of
13 a voluntary national uniform system of animal identification. If
14 the department implements such a system, the department shall also
15 develop and facilitate a process of withdrawal of registration
16 that would remove premises identifiers from its data base. Written
17 confirmation shall be sent upon withdrawal of registration from
18 the department's data base. The department shall cooperate with the
19 United States Department of Agriculture in the process to withdraw
20 registrations.
21 Sec. 2. Original section 54-702, Revised Statutes
22 Cumulative Supplement, 2006, is repealed.

(Signed) Philip Erdman, Chairperson

Transportation and Telecommunications

LEGISLATIVE RESOLUTION 28. Reported to the Legislature for further consideration.

LEGISLATIVE BILL 253. Placed on General File.

LEGISLATIVE BILL 486. Indefinitely postponed.

(Signed) Deb Fischer, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 425. Placed on General File - Com AM511.
AM511

- 1 1. On page 5, line 14, strike "(1)"; and strike line 25.
2 2. On page 6, strike lines 1 through 3.

(Signed) Rich Pahls, Chairperson

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 appointment(s) be confirmed by the Legislature and suggests a record vote.

Lucinda Glen - State Personnel Board

VOTE: Aye: Senators Adams, Aguilar, Avery, Friend,, Karpisek, Mines, Pahls, Rogert. Nay: None. Absent: None.

The Government, Military and Veterans Affairs 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.

Tim Hofbauer - State Emergency Response Commission
Dana Miller - State Emergency Response Commission

VOTE: Aye: Senators Adams, Aguilar, Avery, Friend, Karpisek, Mines, Pahls, Rogert. Nay: None. Absent: None.

(Signed) Ray Aguilar, Chairperson

Agriculture

The Agriculture 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.

Sallie Atkins - Nebraska State Fair Board

VOTE: Aye: Senators Karpisek, Preister, McDonald, Dubas, Dierks, Erdman. Nay: None. Absent: Senators Chambers and Wallman.

The Agriculture 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.

Linda Lovgren - Nebraska State Fair Board

VOTE: Aye: Senators Karpisek, Preister, McDonald, Dubas, Dierks, Erdman. Nay: None. Absent: Senators Chambers and Wallman.

(Signed) Philip Erdman, Chairperson

Transportation and Telecommunications

The Transportation and Telecommunications 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.

Jack Henry - Nebraska Motor Vehicle Industry Licensing Board
 Toby Miller - Nebraska Motor Vehicle Industry Licensing Board
 Kelly Smith - Nebraska Motor Vehicle Industry Licensing Board

VOTE: Aye: Senators Aguilar, Stuthman, Schimek, Louden, Hudkins, Fischer, Pedersen and Mines. Nay: None. Absent: None.

The Transportation and Telecommunications 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.

Linda Aerni - Nebraska Information Technology Commission
 Patrick Flanagan - Nebraska Information Technology Commission
 Lance Hedquist - Nebraska Information Technology Commission
 Daniel Hoelsing - Nebraska Information Technology Commission
 Harold Huggenberger - Nebraska Information Technology Commission
 Doug Kristensen - Nebraska Information Technology Commission

VOTE: Aye: Senators Hudkins, Louden, Aguilar, Schimek, Pedersen, Mines, Fischer and Stuthman. Nay: None. Absent: None.

(Signed) Deb Fischer, Chairperson

AMENDMENT - Print in Journal

Senator Heidemann filed the following amendment to LB 470A:
 AM487

- 1 1. On page 2, after line 7 insert the following:
- 2 "The appropriation made by this section shall only be
- 3 used in carrying out the provisions of Legislative Bill 470, One
- 4 Hundredth Legislature, First Session, 2007, and such appropriation
- 5 shall only be expended from a separate and distinct budget
- 6 subprogram and shall not be commingled with any other expenses."

UNANIMOUS CONSENT - Add Cointroducer

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB 296. No objections. So ordered.

VISITORS

Visitors to the Chamber were Jered Matzke from Gothenburg; 17 ninth- and tenth-grade students and teacher from Bellevue West High School, Bellevue; former Senator Ed Schrock from Holdrege; and 30 members of the Blair Chamber of Commerce.

The Doctor of the Day was Dr. Jay Matzke from Gothenburg.

ADJOURNMENT

At 11:51 a.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, March 1, 2007.

Patrick J. O'Donnell
Clerk of the Legislature