

FORTY-THIRD DAY - MARCH 9, 2007**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
FIRST SESSION****FORTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, March 9, 2007

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 Carlson and Engel who were excused; and Senators Ashford, Dierks, Heidemann, Nantkes, and Pedersen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 781, last line, strike ", found on page 454".
The Journal for the forty-second day was approved as corrected.

**COMMITTEE REPORTS
Enrollment and Review**

LEGISLATIVE BILL 143. Placed on Select File - ER8043.
ER8043

- 1 1. On page 2, line 6, strike "and" and insert an
- 2 underscored period.

LEGISLATIVE BILL 661. Placed on Select File - ER8044.
ER8044

- 1 1. In the Standing Committee amendments, AM455:
- 2 a. On page 1, line 18; page 2, lines 12, 22, and 26;
- 3 and page 3, line 2, strike the period and reinstate the stricken
- 4 semicolon;
- 5 b. On page 2, line 16, strike the period and insert an
- 6 underscored semicolon;
- 7 c. On page 3, line 6, strike the period and insert ";
- 8 and"; and in line 16 after "separately" insert an underscored
- 9 comma; and

10 d. On page 12, line 27, strike the underscored comma.
 11 2. On page 1, strike lines 2 through 11 and insert
 12 "86-125, 86-140, 86-313, 86-316, 86-318, 86-322, 86-323,
 13 86-420, 86-422, 86-433, 86-434, 86-435, 86-436, 86-442,
 14 86-443, 86-456, 86-457, 86-459, and 86-461, Revised Statutes
 15 Cumulative Supplement, 2006; to change provisions relating
 16 to registration of communications providers, access charges,
 17 surcharges, the Telecommunications Relay System Act, the Nebraska
 18 Telecommunications Universal Service Fund Act, the Emergency
 19 Telephone Communications Systems Act, the Enhanced Wireless 911
 20 Services Act, and the Enhanced Wireless 911 Advisory Board; to
 21 define and redefine terms; to harmonize provisions; to provide
 22 operative dates; to repeal the original sections; to outright
 23 repeal sections 86-427, 86-443.01, and 86-450.01, Revised Statutes
 1 Cumulative Supplement, 2006; and to declare an emergency."

(Signed) Amanda McGill, Chairperson

ANNOUNCEMENTS

Senator Karpisek designates LB 232 as his priority bill.

Senator Kopplin designates LB 596 as his priority bill.

Senator Hansen designates LB 457 as his priority bill.

The Judiciary Committee designates LB 377 and LB 475 as its priority bills.

Senator Ashford designates LB 373 as his priority bill.

Senator Janssen designates LB 367 as his priority bill.

The Revenue Committee designates LB 334 and LB 106 as its priority bills.

Senator White designates LB 498 as his priority bill.

Senator Dubas designates LB 461 as her priority bill.

Senator Burling designates LB 218 as his priority bill.

Senator McGill designates LB 73 as her priority bill.

Senator Christensen designates LB 701 as his priority bill.

The Banking, Commerce and Insurance Committee designates LB 190 as its priority bill.

COMMITTEE REPORTS
Nebraska Retirement Systems

LEGISLATIVE BILL 324. Placed on General File.

LEGISLATIVE BILL 303. Placed on General File - Com AM614.
AM614

1 1. On page 4, strike beginning with the period in line 2
2 through "Code" in line 5; and strike lines 6 and 7 and renumber the
3 remaining subdivisions accordingly.

4 2. On page 7, strike beginning with "eligible" in line
5 8 through "contributions" in line 9 and insert "retirement benefit
6 payments"; and in line 12 strike "pension" and insert "retirement
7 benefit".

8 3. On page 8, strike beginning with "If" in line 18
9 through line 25 and insert "Upon the death of a member during the
10 DROP period, monthly benefits shall be provided as a percentage of
11 the amount of the member's annuity as set forth in subsection (3)
12 of section 81-2026 based upon the annuity benefit calculation made
13 at commencement of the DROP period. In addition, the balance of
14 the DROP account, if any, shall be provided to the beneficiary or
15 beneficiaries of the member or, if no beneficiary is provided, to
16 the estate of the member. Upon the disability of a member during
17 the DROP period, the member shall be deemed to have completed
18 the DROP period, shall begin receiving the annuity benefit as
19 calculated at the commencement of the DROP period, and shall be
20 paid the balance of the DROP account, if any;".

21 4. On page 9, strike line 1; strike beginning with the
22 period in line 3 through "Code" in line 7; and strike beginning
23 with the comma in line 15 through line 17 and insert "and interest
1 on such benefits;".

2 5. On page 10, line 2, after the period insert "The
3 retirement system, the state, the board, and the state investment
4 officer shall not be responsible for any investment results
5 under the DROP agreement."; in lines 5 and 6 strike "DROP
6 contributions."; in line 6 strike the second comma; in line 7
7 strike the second "and"; and in line 10 before the period insert
8 "; and

9 (h) Cost-of-living adjustments as provided for in section
10 81-2027.03 shall not be applied to retirement benefits during the
11 DROP period".

LEGISLATIVE BILL 596. Placed on General File - Com AM610.
AM610

1 1. On page 3, line 25; and page 9, line 21, strike
2 "ninety" and insert "eighty-five".

(Signed) John Synowiecki, Chairperson

EXPLANATION OF VOTES

Had I been present, I would have voted "aye" on final passage of LBs 213, 263, 290, 298, 307, 311, and 313.

(Signed) Vickie D. McDonald

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 8, 2007, 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

Adams, Robert P.
Alliance for Marriage Foundation

Bydalek, Dave
Family First

Cunningham, Douglas
Affiliated Foods Midwest

Giles, Elizabeth L.
Philip Morris USA, Inc. - Altria Corporate Services, Inc.

Hallstrom, Robert J.
Bankers Insurance and Services Company, Nebraska (NBISCO)

Johnson, Kimberly
United Parcel Service

Kelley & Lehan, P.C.
Nebraska Furniture Mart

REPORTS

The following reports were received by the Legislature:

Auditor of Public Accounts

Statewide Single Audit for the year ended June 30, 2006

Education, Department of

Status of the 2007-2009 Negotiations between the Nebraska Department of Education and the Nebraska Association of Public Employees, AFSCME, Local 61

Health and Human Services System

2006 Nebraska Medicaid Report of Implementation of Rules and Regulations, Plan Amendments, and Waivers

Homeland Security, Nebraska Office of

2007 Program Report

Property Assessment and Taxation, Department of

Report of Redevelopment Projects for Cities Using Tax Increment Financing in 2006

University of Nebraska

Collective Bargaining Negotiations Status Report

MOTIONS - Approve Appointments

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 768:

Nebraska Educational Telecommunications Commission

J. Richard Shoemaker

Voting in the affirmative, 27:

Aguilar	Erdman	Harms	McGill	Rogert
Avery	Fischer	Howard	Mines	Schimek
Burling	Flood	Janssen	Pankonin	Wightman
Christensen	Friend	Kruse	Pirsch	
Cornett	Gay	Langemeier	Preister	
Dubas	Hansen	Louden	Raikes	

Voting in the negative, 0.

Present and not voting, 14:

Adams	Johnson	Lathrop	Pahls	Wallman
Chambers	Karpisek	McDonald	Stuthman	White
Fulton	Kopplin	Nelson	Synowiecki	

Excused and not voting, 8:

Ashford	Dierks	Heidemann	Nantkes
Carlson	Engel	Hudkins	Pedersen

The appointment was confirmed with 27 ayes, 0 nays, 14 present and not voting, and 8 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 772:

Board of Public Roads Classifications and Standards

Richard Pierce

Voting in the affirmative, 25:

Burling	Flood	Howard	McDonald	Preister
Christensen	Friend	Janssen	McGill	Raikes
Cornett	Fulton	Kopplin	Nelson	Schimek
Erdman	Gay	Langemeier	Pankonin	Stuthman
Fischer	Hansen	Louden	Pirsch	Wightman

Voting in the negative, 0.

Present and not voting, 16:

Adams	Dubas	Kruse	Rogert
Aguilar	Harms	Lathrop	Synowiecki
Avery	Johnson	Mines	Wallman
Chambers	Karpisek	Pahls	White

Excused and not voting, 8:

Ashford	Dierks	Heidemann	Nantkes
Carlson	Engel	Hudkins	Pedersen

The appointment was confirmed with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 638. Title read. Considered.

Senator McDonald offered the following amendment:
AM565

- 1 1. Strike section 16 and insert the following new
- 2 sections:
- 3 Sec. 15. Section 9-803, Revised Statutes Cumulative
- 4 Supplement, 2006, is amended to read:
- 5 9-803 For purposes of the State Lottery Act:
- 6 (1) Director shall mean the Director of the Lottery
- 7 Division;
- 8 (2) Division shall mean the Lottery Division of the
- 9 Department of Revenue;
- 10 (3) Lottery contractor shall mean a lottery vendor or
- 11 lottery game retailer with whom the division has contracted for the
- 12 purpose of providing goods or services for the state lottery;
- 13 (4) Lottery game shall mean any variation of the
- 14 following types of games:
- 15 (a) An instant-win game in which disposable tickets
- 16 contain certain preprinted winners which are determined by rubbing
- 17 or scraping an area or areas on the tickets to match numbers,
- 18 letters, symbols, or configurations, or any combination thereof, as
- 19 provided by the rules of the game. An instant-win game may also

20 provide for preliminary and grand prize drawings conducted pursuant
21 to the rules of the game. An instant-win game shall not include the
22 use of any pickle card as defined in section 9-315; and

23 (b) An on-line lottery game in which lottery game
1 retailer terminals are hooked up to a central computer via a
2 telecommunications system through which (i) a player selects a
3 specified group of numbers or symbols out of a predetermined
4 range of numbers or symbols and purchases a ticket bearing the
5 player-selected numbers or symbols for eligibility in a drawing
6 regularly scheduled in accordance with game rules or (ii) a
7 player purchases a ticket bearing randomly selected numbers for
8 eligibility in a drawing regularly scheduled in accordance with
9 game rules.

10 Lottery game shall not be construed to mean any video
11 lottery game;

12 (5) Lottery game retailer shall mean a person who
13 contracts with or seeks to contract with the division to sell
14 tickets in lottery games to the public;

15 (6) Lottery vendor shall mean any person who submits a
16 bid, proposal, or offer as part of a major procurement;

17 (7) Major procurement shall mean any procurement or
18 contract unique to the operation of the state lottery in excess of
19 ~~fifteen~~ twenty-five thousand dollars for the printing of tickets
20 used in any lottery game, security services, consulting services,
21 advertising services, any goods or services involving the receiving
22 or recording of number selections in any lottery game, or any
23 goods or services involving the determination of winners in
24 any lottery game. Major procurement shall include production of
25 instant-win tickets, procurement of on-line gaming systems and
26 drawing equipment, or retaining the services of a consultant who
27 will have access to any goods or services involving the receiving
1 or recording of number selections or determination of winners in
2 any lottery game; and

3 (8) Ticket or lottery ticket shall mean any tangible
4 evidence authorized by the division to prove participation in a
5 lottery game.

6 Sec. 16. Section 9-812, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 9-812 (1) All money received from the operation of
9 lottery games conducted pursuant to the State Lottery Act in
10 Nebraska shall be credited to the State Lottery Operation Trust
11 Fund, which fund is hereby created. All payments of the costs
12 of establishing and maintaining the lottery games shall be made
13 from the State Lottery Operation Cash Fund. In accordance with
14 legislative appropriations, money for payments for expenses of the
15 division shall be transferred from the State Lottery Operation
16 Trust Fund to the State Lottery Operation Cash Fund, which fund
17 is hereby created. All money necessary for the payment of lottery
18 prizes shall be transferred from the State Lottery Operation Trust

19 Fund to the State Lottery Prize Trust Fund, which fund is hereby
20 created. The amount used for the payment of lottery prizes shall
21 not be less than forty percent of the dollar amount of the lottery
22 tickets which have been sold.

23 (2)(a) Beginning October 1, 2003, and until ~~January~~ July
24 ~~1, 2008, 2013,~~ a portion of the dollar amount of the lottery
25 tickets which have been sold on an annualized basis shall be
26 transferred from the State Lottery Operation Trust Fund to the
27 Education Innovation Fund, the Nebraska Scholarship Fund, the
1 Nebraska Environmental Trust Fund, the Nebraska State Fair Board,
2 and the Compulsive Gamblers Assistance Fund, except that the
3 dollar amount transferred shall not be less than the dollar amount
4 transferred to the funds in fiscal year 2002-03.

5 (b) On and after ~~January~~ July 1, ~~2008, 2013,~~ at least
6 twenty-five percent of the dollar amount of the lottery tickets
7 which have been sold on an annualized basis shall be transferred
8 from the State Lottery Operation Trust Fund to the Education
9 Innovation Fund, the Nebraska Scholarship Fund, the Nebraska
10 Environmental Trust Fund, the Nebraska State Fair Board, and
11 the Compulsive Gamblers Assistance Fund.

12 (3) Of the money available to be transferred to the
13 Education Innovation Fund, the Nebraska Scholarship Fund, the
14 Nebraska Environmental Trust Fund, the Nebraska State Fair Board,
15 and the Compulsive Gamblers Assistance Fund:

16 (a) The first five hundred thousand dollars shall be
17 transferred to the Compulsive Gamblers Assistance Fund to be used
18 as provided in section 71-817;

19 (b) Nineteen and three-fourths percent of the money
20 remaining after the payment of prizes and operating expenses and
21 the initial transfer to the Compulsive Gamblers Assistance Fund
22 shall be transferred to the Education Innovation Fund;

23 (c) Twenty-four and three-fourths percent of the money
24 remaining after the payment of prizes and operating expenses and
25 the initial transfer to the Compulsive Gamblers Assistance Fund
26 shall be transferred to the Nebraska Scholarship Fund;

27 (d) Forty-four and one-half percent of the money
1 remaining after the payment of prizes and operating expenses and
2 the initial transfer to the Compulsive Gamblers Assistance Fund
3 shall be transferred to the Nebraska Environmental Trust Fund to be
4 used as provided in the Nebraska Environmental Trust Act;

5 (e) Ten percent of the money remaining after the payment
6 of prizes and operating expenses and the initial transfer to
7 the Compulsive Gamblers Assistance Fund shall be transferred to
8 the Nebraska State Fair Board if the most populous city within
9 the county in which the fair is located provides matching funds
10 equivalent to ten percent of the funds available for transfer. Such
11 matching funds may be obtained from the city and any other private
12 or public entity, except that no portion of such matching funds
13 shall be provided by the state. If the Nebraska State Fair ceases

14 operations, ten percent of the money remaining after the payment
15 of prizes and operating expenses and the initial transfer to the
16 Compulsive Gamblers Assistance Fund shall be transferred to the
17 General Fund; and

18 (f) One percent of the money remaining after the payment
19 of prizes and operating expenses and the initial transfer to the
20 Compulsive Gamblers Assistance Fund shall be transferred to the
21 Compulsive Gamblers Assistance Fund to be used as provided in
22 section 71-817.

23 (4)(a) The Education Innovation Fund is created. At least
24 seventy-five percent of the lottery proceeds allocated to the
25 Education Innovation Fund shall be available for disbursement.

26 (b) For fiscal year 2005-06, the Education Innovation
27 Fund shall be allocated as follows: The first one million dollars
1 shall be transferred to the School District Reorganization Fund,
2 and the remaining amount shall be allocated to the General Fund
3 after operating expenses for the Excellence in Education Council
4 are deducted.

5 (c) For fiscal year 2006-07, the Education Innovation
6 Fund shall be allocated as follows: The first two hundred fifty
7 thousand dollars shall be transferred to the Attracting Excellence
8 to Teaching Program Cash Fund to fund the Attracting Excellence
9 to Teaching Program Act, the next one million dollars shall
10 be transferred to the School District Reorganization Fund, and
11 the amount remaining in the Education Innovation Fund shall be
12 allocated, after administrative expenses, for distance education
13 equipment and incentives pursuant to sections 79-1336 and 79-1337.

14 (d) For fiscal year 2007-08, the Education Innovation
15 Fund shall be allocated as follows: The first five hundred thousand
16 dollars shall be transferred to the Attracting Excellence to
17 Teaching Program Cash Fund to fund the Attracting Excellence to
18 Teaching Program Act, and the amount remaining in the Education
19 Innovation Fund shall be allocated, after administrative expenses,
20 for distance education equipment and incentives pursuant to
21 sections 79-1336 and 79-1337.

22 (e) For fiscal year 2008-09, the Education Innovation
23 Fund shall be allocated as follows: The first seven hundred
24 fifty thousand dollars shall be transferred to the Attracting
25 Excellence to Teaching Program Cash Fund to fund the Attracting
26 Excellence to Teaching Program Act, and the amount remaining in the
27 Education Innovation Fund shall be allocated, after administrative
1 expenses, for distance education equipment and incentives pursuant
2 to sections 79-1336 and 79-1337.

3 (f) For fiscal years 2009-10 through 2015-16, the
4 Education Innovation Fund shall be allocated as follows: The
5 first one million dollars shall be transferred to the Attracting
6 Excellence to Teaching Program Cash Fund to fund the Attracting
7 Excellence to Teaching Program Act, and the amount remaining in the
8 Education Innovation Fund shall be allocated, after administrative

9 expenses, for distance education equipment and incentives pursuant
10 to sections 79-1336 and 79-1337.

11 (g) For fiscal year 2016-17 and each fiscal year
12 thereafter, the Education Innovation Fund shall be allocated,
13 after administrative expenses, for education purposes as provided
14 by the Legislature.

15 (5) Any money in the State Lottery Operation Trust
16 Fund, the State Lottery Operation Cash Fund, the State Lottery
17 Prize Trust Fund, or the Education Innovation Fund available
18 for investment shall be invested by the state investment officer
19 pursuant to the Nebraska Capital Expansion Act and the Nebraska
20 State Funds Investment Act.

21 (6) Unclaimed prize money on a winning lottery ticket
22 shall be retained for a period of time prescribed by rules and
23 regulations. If no claim is made within such period, the prize
24 money shall be used at the discretion of the Tax Commissioner for
25 any of the purposes prescribed in this section.

26 Sec. 17. Section 9-833, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 9-833 The director may contract for, purchase, or lease
2 goods or services necessary for effectuating the purpose of the
3 State Lottery Act. All procurements shall be subject to the act and
4 shall be exempt from any other state law concerning the purchase
5 of any goods or services, and all purchases in excess of ~~fifteen~~
6 twenty-five thousand dollars shall be subject to approval by the
7 Tax Commissioner.

8 Sec. 18. Section 9-835, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 9-835 (1) Subject to the approval of the Tax
11 Commissioner, the director may request proposals for or enter
12 into major procurements for effectuating the purpose of the
13 State Lottery Act. In awarding contracts in response to requests
14 for proposals, the director shall award such contracts to the
15 responsible vendor who submits the lowest and best proposal which
16 maximizes the benefits to the state in relation to the cost in
17 the areas of security, competence, quality of product, capability,
18 timely performance, and maximization of net revenue to benefit the
19 public purpose of the act. All contract awards made by the director
20 exceeding ~~fifteen~~twenty-five thousand dollars shall be approved by
21 the Tax Commissioner.

22 (2) The director may not award and the Tax Commissioner
23 may not approve a contract with a person to serve as a lottery
24 contractor for a major procurement if the person has made a
25 contribution to a candidate for a state elective office as defined
26 in section 49-1444 after March 1, 1995, and within three years
27 preceding the award of the contract. A person shall be considered
1 to have made a contribution if the contribution is made by the
2 person, by an officer of the person, by a separate segregated
3 political fund established and administered by the person as

4 provided in section 49-1469, or by anyone acting on behalf of the
 5 person, officer, or fund. Any contract awarded in violation of the
 6 subsection shall be void.

7 (3) No contract may be assigned by a lottery contractor
 8 except by a written agreement approved by the Tax Commissioner and
 9 signed by the director.

10 Sec. 20. Original sections 9-239, 9-266, 9-356, 9-424,
 11 9-833, and 9-835, Reissue Revised Statutes of Nebraska, and
 12 sections 9-1,101, 9-232.01, 9-232.02, 9-233, 9-241.03, 9-255.06,
 13 9-328, 9-329, 9-329.02, 9-425, 9-803, 9-812, and 77-366, Revised
 14 Statutes Cumulative Supplement, 2006, are repealed.

15 2. Renumber the remaining sections accordingly.

Senator Janssen offered the following amendment to the McDonald amendment:

FA38

Amendment to AM565 On page 3, line 24 and page 4, line 5 strike "2013" and insert "2009"

The Janssen amendment was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

The McDonald amendment, as amended, was adopted with 27 ayes, 6 nays, 11 present and not voting, and 5 excused and not voting.

Senator McDonald moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

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

Voting in the affirmative, 30:

Adams	Dierks	Johnson	McDonald	Preister
Aguilar	Dubas	Karpisek	McGill	Rogert
Ashford	Friend	Kopplin	Mines	Schimek
Avery	Fulton	Kruse	Nantkes	Stuthman
Chambers	Howard	Lathrop	Pankonin	Synowiecki
Cornett	Janssen	Louden	Pedersen	White

Voting in the negative, 2:

Erdman	Hansen
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Present and not voting, 13:

Burling	Gay	Langemeier	Pirsch	Wightman
Fischer	Harms	Nelson	Raikes	
Flood	Heidemann	Pahls	Wallman	

Excused and not voting, 4:

Carlson Christensen Engel Hudkins

Advanced to E & R for review with 30 ayes, 2 nays, 13 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

AMENDMENT - Print in Journal

Senator Synowiecki filed the following amendment to LB 328:
AM479

(Amendments to Standing Committee amendments, AM391)

- 1 1. On page 1, line 18; and page 9, line 11, after the
- 2 period insert "Members who elect to participate in the cash balance
- 3 benefit on or after November 1, 2007, but before January 1, 2008,
- 4 shall commence participation in the cash balance benefit on January
- 5 1, 2008.".

ANNOUNCEMENTS

Senator Wallman designates LB 488 as his priority bill.

Senator Erdman designates LB 368 as his priority bill.

The Agriculture Committee designates LB 516 and LB 435 as its priority bills.

Senator Gay designates LB 338 as his priority bill.

The Legislative Performance Audit Committee designates LB 610 as its priority bill.

Senator Raikes designates LB 603 as his priority bill.

The Education Committee designates LB 641 and LB 651 as its priority bills.

Senator Preister designates LR 1CA as his priority resolution.

Senator Mines designates LB 304 as his priority bill.

Senator Avery designates LR 6CA as his priority resolution.

Senator Flood designates LB 658 as his priority bill.

Senator Loudon designates LB 570 as his priority bill.

Senator Synowiecki designates LB 542 as his priority bill.

The Nebraska Retirement Systems Committee designates LB 324 as its priority bill.

Senator Schimek designates LB 554 as her priority bill.

GENERAL FILE

LEGISLATIVE BILL 425. Title read. Considered.

Committee AM511, found on page 697, was considered.

SENATOR ERDMAN PRESIDING

The committee amendment was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 425A. Title read. Considered.

Senator Pankonin moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 157. Title read. Considered.

Committee AM250, found on page 689, was considered.

Senator Chambers asked unanimous consent to bracket LB 157 until April 18, 2007.

Senator Ashford objected.

Senator Chambers offered the following motion:
Bracket LB 157 until April 18, 2007.

Senator Pahls moved the previous question. The question is, "Shall the debate now close?" The motion failed with 15 ayes, 8 nays, and 26 not voting.

SENATOR LANGEMEIER PRESIDING

Pending.

COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 677. Placed on General File - Com AM630.
AM630

- 1 1. Insert the following section:
- 2 Sec. 3. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.
- 4 2. Strike beginning with page 2, line 24, through page 3,
- 5 line 8, show the old matter as stricken, and insert
- 6 "(3) Any person required to request an inspection under
- 7 this section who operates an animal feeding operation after January
- 8 1, 2000, without first submitting the request for inspection
- 9 required under this section shall be assessed, except for good
- 10 cause shown, a late fee of not less than fifty dollars nor more
- 11 than five hundred dollars for each offense. Each month a violation
- 12 continues shall constitute a separate offense. Exceptions to this
- 13 provision are:
- 14 (a) An animal feeding operation exempted by the
- 15 department from National Pollutant Discharge Elimination System
- 16 permit requirements prior to July 16, 2004; or
- 17 (b) A livestock operation that became an animal feeding
- 18 operation by enactment of the Livestock Waste Management Act as
- 19 such act existed on July 16, 2004, but was not required to request
- 20 an inspection prior to that date.
- 21 (4) A person meeting the provisions of subdivision (3)(b)
- 22 of this section shall request an inspection prior to January 1,
- 23 2009, and pay fees required pursuant to subsection (1) of this
- 1 section.
- 2 (5) Any person required to request an inspection under
- 3 subsection (4) of this section who operates an animal feeding
- 4 operation after December 31, 2008, shall be assessed, except for
- 5 good cause shown, a late fee of not less than fifty dollars nor
- 6 more than five hundred dollars for each offense. Each month a
- 7 violation continues shall constitute a separate offense."

LEGISLATIVE BILL 594. Indefinitely postponed.
LEGISLATIVE BILL 704. Indefinitely postponed.

(Signed) LeRoy Loudon, Chairperson

General Affairs

LEGISLATIVE BILL 578. Placed on General File - Com AM573.
AM573

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

- 3 Section 1. Section 53-101, Revised Statutes Cumulative
 4 Supplement, 2006, is amended to read:
 5 53-101 Sections 53-101 to 53-1,122 and section 2 of this
 6 act shall be known and may be cited as the Nebraska Liquor Control
 7 Act.
 8 Sec. 2. When the commission finds that the administration
 9 of the state alcohol excise tax laws might be more efficiently
 10 and economically conducted, the commission may require or allow for
 11 rounding of all amounts on returns or reports, including amounts of
 12 tax. Amounts shall be rounded to the nearest dollar with amounts
 13 ending in fifty cents or more rounded to the next highest dollar.
 14 Sec. 3. Original section 53-101, Revised Statutes
 15 Cumulative Supplement, 2006, is repealed.

LEGISLATIVE BILL 181. Indefinitely postponed.

(Signed) Vickie McDonald, Chairperson

ANNOUNCEMENTS

Senator Langemeier designates LB 343 as his priority bill.

Senator Fulton designates LB 198 as his priority bill.

Senator Friend designates LB 316 as his priority bill.

Senator Nelson designates LB 236 as his priority bill.

Senator Heidemann designates LB 636 as his priority bill.

Senator Pirsch designates LB 142 as his priority bill.

Senator Lathrop designates LB 674 as his priority bill.

The Business and Labor Committee designates LB 588 and LB 265 as its priority bills.

AMENDMENTS - Print in Journal

Senators Rogert and Mines filed the following amendment to LB 255:
 AM640

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

3 Section 1. Section 48-1228, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 48-1228 Sections 48-1228 to 48-1232 and section 4 of this
 6 act shall be known and may be cited as the Nebraska Wage Payment
 7 and Collection Act.

8 Sec. 2. Section 48-1229, Reissue Revised Statutes of

9 Nebraska, is amended to read:

10 48-1229 For purposes of the Nebraska Wage Payment and
11 Collection Act, unless the context otherwise requires:

12 (1) Employer means the state or any individual,
13 partnership, limited liability company, association, joint-stock
14 company, trust, corporation, political subdivision, or personal
15 representative of the estate of a deceased individual, or the
16 receiver, trustee, or successor thereof, within or without the
17 state, employing any person within the state as an employee;

18 (2) Employee means any individual permitted to work by
19 an employer pursuant to an employment relationship or who has
20 contracted to sell the goods or services of an employer and to be
21 compensated by commission. Services performed by an individual for
22 an employer shall be deemed to be employment, unless it is shown

23 that (a) such individual has been and will continue to be free
1 from control or direction over the performance of such services,
2 both under his or her contract of service and in fact, (b) such
3 service is either outside the usual course of business for which
4 such service is performed or such service is performed outside of
5 all the places of business of the enterprise for which such service
6 is performed, and (c) such individual is customarily engaged in
7 an independently established trade, occupation, profession, or
8 business. This subdivision is not intended to be a codification of
9 the common law and shall be considered complete as written;

10 (3) Fringe benefits includes sick and vacation leave
11 plans, disability income protection plans, retirement, pension, or
12 profit-sharing plans, health and accident benefit plans, and any
13 other employee benefit plans or benefit programs regardless of
14 whether the employee participates in such plans or programs. Paid
15 leave, other than earned but unused vacation leave, provided as a
16 fringe benefit by the employer shall not be included in the wages
17 due and payable at the time of separation, unless the employer
18 and the employee or the employer and the collective bargaining
19 representative have specifically agreed otherwise; and

20 (4) Wages means compensation for labor or services
21 rendered by an employee, including fringe benefits, when previously
22 agreed to and conditions stipulated have been met by the employee,
23 whether the amount is determined on a time, task, fee, commission,
24 or other basis. ~~Wages includes commissions on all orders delivered~~
25 ~~and all orders on file with the employer at the time of termination~~
26 Unless the employer and employee have specifically agreed otherwise
27 through a contract effective at the commencement of employment or
1 at least ninety days prior to separation, whichever is later, wages
2 includes commissions on all orders delivered and all orders on file
3 with the employer at the time of separation of employment less any
4 orders returned or canceled at the time suit is filed.

5 Sec. 3. Section 48-1230, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 48-1230 (1) Except as otherwise provided in this section,

8 each employer shall pay all wages due its employees on regular
 9 days designated by the employer or agreed upon by the employer and
 10 employee. Thirty days' written notice shall be given to an employee
 11 before regular paydays are altered by an employer. An employer
 12 may deduct, withhold, or divert a portion of an employee's wages
 13 only when the employer is required to or may do so by state or
 14 federal law or by order of a court of competent jurisdiction or
 15 the employer has written agreement with the employee to deduct,
 16 withhold, or divert.

17 (2) Except as otherwise provided in section 4 of this
 18 act:

19 (a) Whenever an employer, other than a political
 20 subdivision, separates an employee from the payroll, the unpaid
 21 wages shall become due on the next regular payday or within two
 22 weeks of the date of termination, whichever is sooner; and -

23 (b) Whenever a political subdivision separates an
 24 employee from the payroll, the unpaid wages shall become due within
 25 two weeks of the next regularly scheduled meeting of the governing
 26 body of the political subdivision if such employee is separated
 27 from the payroll at least one week prior to such meeting, or if -
 1 ~~When~~ an employee of a political subdivision is separated from the
 2 payroll less than one week prior to the next regularly scheduled
 3 meeting of the governing body of the political subdivision, the
 4 unpaid wages shall be due within two weeks of the following
 5 regularly scheduled meeting of the governing body of the political
 6 subdivision.

7 Sec. 4. Whenever an employer separates an employee from
 8 the payroll, the unpaid wages constituting commissions shall become
 9 due on the next regular payday following the employer's receipt of
 10 payment for the goods or services from the customer from which the
 11 commission was generated. The employer shall provide an employee
 12 with a periodic accounting of outstanding commissions, until all
 13 commissions have been paid or the orders have been returned or
 14 canceled by the customer.

15 Sec. 5. Section 48-1232, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 48-1232 If an employee establishes a claim and secures
 18 judgment on such claim under section 48-1231: (1) An amount equal
 19 to the judgment may be recovered from the employer; or (2) if the
 20 nonpayment of wages is found to be willful, an amount equal to
 21 two times the amount of unpaid wages shall be recovered from the
 22 employer. Any amount recovered pursuant to subdivision (1) or (2)
 23 of this section shall be placed in a fund to be distributed to
 24 the common schools of this state, remitted to the State Treasurer
 25 for distribution in accordance with Article VII, section 5, of the
 26 Constitution of Nebraska.

27 Sec. 6. This act becomes operative on January 1, 2008.

1 Sec. 7. Original sections 48-1228, 48-1229, 48-1230, and
 2 48-1232, Reissue Revised Statutes of Nebraska, are repealed.

Senator Harms filed the following amendment to LB 192:
AM643

(Amendments to E & R amendments, ER8039)

- 1 1. On page 4, line 16, strike "in Nebraska"; in line 18
- 2 after the semicolon insert the following new subdivision:
- 3 "(4) Qualified postsecondary educational institution
- 4 means a postsecondary educational institution located in Nebraska
- 5 which has agreed, on a form developed and provided by the
- 6 commission, to comply with the requirements of the act."; in
- 7 line 19 strike "(4)" and insert "(5)" and after "student" insert
- 8 "residing in Nebraska and"; in lines 23 and 24 strike "who"
- 9 through "a" and insert "for courses to be taken for credit from
- 10 a qualified"; and in line 26 after "student" insert "who is
- 11 applying to take one or more courses for credit from a qualified
- 12 postsecondary educational institution".
- 13 2. On page 5, line 19, after "fees" insert "to be accrued
- 14 by the student"; and in line 20 after "or" insert "qualified".
- 15 3. On page 6, strike line 1 and insert "lesser of tuition
- 16 and fees accrued by the student from the qualified postsecondary";
- 17 in line 2 after "institution" insert "or the tuition and fees
- 18 that would have been accrued by the student for the same number
- 19 of credit hours if the student were taking the course from the
- 20 University of Nebraska-Lincoln"; in line 3 after "the" insert
- 21 "qualified"; after line 9 insert the following new subsection:
- 22 "(5) For any student receiving a scholarship pursuant
- 1 to the act for tuition and fees, the qualified postsecondary
- 2 educational institution receiving the payment shall report either
- 3 the student's grade for the course or the student's failure to
- 4 complete the course to the commission within thirty days after
- 5 the end of the course or within one hundred eighty days after
- 6 receipt of a payment pursuant to the act if the course for which
- 7 the scholarship was awarded does not have a specified ending
- 8 date. The commission shall keep the identity of students receiving
- 9 scholarships confidential, except as necessary to comply with the
- 10 requirements of the act."; in line 14 strike "and" and insert an
- 11 underscored comma; and in line 15 after "recipients" insert ", and
- 12 information regarding the success of scholarship recipients in the
- 13 courses for which the scholarships were awarded".

Senator White filed the following amendment to LB 497:
AM646

- 1 1. On page 2, line 22, strike "longer than one hundred
- 2 eighty days" and all amendments thereto and insert "one hundred
- 3 seventy-nine days or longer".

Senator Erdman filed the following amendment to LB 286:
AM648

(Amendments to E & R amendments, ER8034)

- 1 1. On page 40, strike beginning with "Only" in line 10
- 2 through "trailer" in line 11, show the old matter as stricken, and
- 3 insert "Any number of motor vehicles, trailers, semitrailers, or
- 4 cabin trailers"; and in line 12 strike "shall", show as stricken,
- 5 and insert "may".

Senator Raikes filed the following amendment to LB 223:
AM649

- 1 1. On page 57, strike lines 13 and 14, show the old
- 2 matter as stricken, and insert the following new subdivision:
- 3 "(5) Livestock production means the active use,
- 4 management, and operation of real and personal property for the
- 5 commercial production of livestock, for the commercial breeding,
- 6 training, showing, or racing of horses, or for the use of horses
- 7 in a recreational or tourism enterprise. The activity will be
- 8 considered commercial if the gross income derived from an activity
- 9 for two or more of the taxable years in the period of seven
- 10 consecutive taxable years which ends with the taxable year exceeds
- 11 the deductions attributable to such activity or, if the operation
- 12 has been in existence for less than seven years, if the activity is
- 13 engaged in for the purpose of generating a profit;".

UNANIMOUS CONSENT - Add Cointroducers

Senators Kruse, Lathrop, McGill, and Mines asked unanimous consent to add their names as cointroducers to LB 646. No objections. So ordered.

VISITORS

Visitors to the Chamber were members of the Lincoln Chamber of Commerce; Ron, Liane, Stephanie, and Sara Bode from Elgin; Senator Adams' wife and granddaughter, Julie Adams from York and Addison Loveless from Wichita, Kansas; 6 students and teacher from the Pine Ridge Job Corp Multi-Cultural Club; Deb Hilker from O'Neill and Ashley Boettcher from Spencer; Senator Rogert's father and uncle, Dave Rogert and Larry Hansen, from Herman; and 25 fourth-grade students from York.

The Doctor of the Day was Dr. Lane Handke from Lincoln.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Avery, the Legislature adjourned until 10:00 a.m., Monday, March 12, 2007.

Patrick J. O'Donnell
Clerk of the Legislature

