

FIFTY-SEVENTH DAY - APRIL 3, 2007**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
FIRST SESSION****FIFTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 3, 2007

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 Cornett and White who were excused; and Senators Engel, Erdman, Fischer, Heidemann, Nantkes, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-sixth day was approved.

AMENDMENT - Print in Journal

Senator Dubas filed the following amendment to LB 232:
AM884

(Amendments to E & R amendments, ER8060)

- 1 1. On page 2, line 27, strike "percent" and insert "cents
- 2 for each dollar".

MOTIONS - Approve Appointments

Senator Ashford moved the adoption of the Judiciary Committee report for the confirmation of the following appointment(s) found on page 1011:

Board of Parole

Robert L. Boozer

Voting in the affirmative, 31:

Ashford	Fulton	Johnson	McGill	Stuthman
Burling	Gay	Karpisek	Mines	Wallman
Carlson	Hansen	Kopplin	Nelson	Wightman
Christensen	Harms	Langemeier	Pahls	
Dierks	Howard	Lathrop	Pankonin	
Dubas	Hudkins	Louden	Pedersen	
Friend	Janssen	McDonald	Pirsch	

Voting in the negative, 0.

Present and not voting, 10:

Adams	Avery	Flood	Preister	Schimek
Aguilar	Chambers	Kruse	Rogert	Synowiecki

Excused and not voting, 8:

Cornett	Erdman	Heidemann	Raikes
Engel	Fischer	Nantkes	White

The appointment was confirmed with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

Senator Ashford moved the adoption of the Judiciary Committee report for the confirmation of the following appointment(s) found on page 1012:

Community Corrections Council

Kermit Brashear
 Catherine Cook
 Jeffrey Davis
 Thomas Dorwart
 Julie Hippen
 Joe Kelly
 Robert Lindemeier

Voting in the affirmative, 41:

Adams	Engel	Howard	McDonald	Rogert
Aguilar	Erdman	Hudkins	McGill	Stuthman
Ashford	Fischer	Janssen	Mines	Synowiecki
Avery	Flood	Johnson	Nantkes	Wallman
Burling	Friend	Karpisek	Nelson	Wightman
Carlson	Fulton	Kopplin	Pankonin	
Chambers	Gay	Langemeier	Pedersen	
Christensen	Hansen	Lathrop	Pirsch	
Dierks	Heidemann	Louden	Preister	

Voting in the negative, 0.

Present and not voting, 4:

Dubas Kruse Pahls Schimek

Excused and not voting, 4:

Cornett Harms Raikes White

The appointments were confirmed with 41 ayes, 0 nays, 4 present and not voting, and 4 excused and not voting.

Senator Ashford moved the adoption of the Judiciary Committee report for the confirmation of the following appointment(s) found on page 1012:

Crime Victim's Reparations Committee

Scott Arnold

James Riskowski

Voting in the affirmative, 43:

Adams	Engel	Heidemann	Louden	Pirsch
Aguilar	Erdman	Howard	McDonald	Preister
Ashford	Fischer	Hudkins	McGill	Rogert
Avery	Flood	Janssen	Mines	Schimek
Burling	Friend	Johnson	Nantkes	Stuthman
Carlson	Fulton	Karpisek	Nelson	Wallman
Christensen	Gay	Kopplin	Pahls	Wightman
Dierks	Hansen	Langemeier	Pankonin	
Dubas	Harms	Lathrop	Pedersen	

Voting in the negative, 0.

Present and not voting, 3:

Chambers Kruse Synowiecki

Excused and not voting, 3:

Cornett Raikes White

The appointments were confirmed with 43 ayes, 0 nays, 3 present and not voting, and 3 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 596. Title read. Considered.

Committee AM610, found on page 789, was considered.

SENATOR SCHIMEK PRESIDING

The committee amendment was adopted with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 488. Title read. Considered.

Committee AM825, found on page 943, was considered.

Senator Wallman renewed his amendment, AM864, found on page 1050, to the committee amendment.

Senator Burling moved the previous question. The question is, "Shall the debate now close?" The motion failed with 20 ayes, 13 nays, and 16 not voting.

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

Senator Wallman requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 17:

Aguilar	Dierks	Kopplin	Preister	Wallman
Ashford	Dubas	Lathrop	Rogert	
Avery	Howard	McGill	Schimek	
Chambers	Karpisek	Nantkes	Synowiecki	

Voting in the negative, 13:

Adams	Engel	Flood	Hudkins	Stuthman
Carlson	Erdman	Friend	Pankonin	
Christensen	Fischer	Hansen	Pirsch	

Present and not voting, 16:

Burling	Heidemann	Langemeier	Nelson
Fulton	Janssen	Louden	Pahls
Gay	Johnson	McDonald	Raikes
Harms	Kruse	Mines	Wightman

Excused and not voting, 3:

Cornett	Pedersen	White
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The Wallman amendment lost with 17 ayes, 13 nays, 16 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Langemeier offered the following amendment to the committee amendment:

AM924

(Amendments to Standing Committee amendments, AM825)

- 1 1. On page 2, line 3, strike "in one of the following
- 2 areas"; strike beginning with the colon in line 4 through "Areas"
- 3 in line 5 and insert "The credit shall be available with respect
- 4 to areas"; in line 14 strike "and"; and strike lines 15 through 26.
- 5 2. On page 3, strike beginning with "For" in line 9
- 6 through "the" in line 10 and insert "The"; in line 12 after the
- 7 semicolon insert "and"; strike lines 13 through 20; and in line 21
- 8 strike "(iii)" and insert "(ii)".

The Langemeier amendment lost with 19 ayes, 3 nays, 23 present and not voting, and 4 excused and not voting.

Senator Wallman moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

The committee amendment was adopted with 25 ayes, 6 nays, 14 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Langemeier offered the following motion:
To indefinitely postpone LB 488.

Laid over.

SPEAKER FLOOD PRESIDING

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 59, 60, 61, 62, and 63 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 59, 60, 61, 62, and 63.

AMENDMENT - Print in Journal

Senator Preister filed the following amendment to LB 701:
AM914

(Amendments to AM872)

- 1 1. On page 1, line 10, after "Agriculture," insert
 2 "the Department of Environmental Quality"; in lines 16 and 17
 3 strike "Natural Resources Committee of the"; and in line 23
 4 after the period insert "Such plans and policies shall include a
 5 prohibition on the use of chemicals until all other feasible best
 6 management practices for vegetation management have been considered
 7 and exhausted".
 8 2. On page 5, line 3, after the period insert "Priority
 9 shall be given to grant applicants who propose programs which are
 10 consistent with the policy established in section 2 of this act".
 11 3. On page 7, line 25, after "tributaries" insert
 12 "consistent with the policy established in section 2 of this
 13 act".

VISITORS

Visitors to the Chamber were Dustin Meyer, Josh Lydic, and Landon Bailey from Maxwell; Hugh and Jane Hunt from Blair; and 40 fourth-grade students from Fort Calhoun.

RECESS

At 11:44 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 Langemeier presiding.

ROLL CALL

The roll was called and all members were present except Senators Cornett and White who were excused; and Senators Dierks, Heidemann, Nantkes, Pedersen, Preister, Raikes, and Synowiecki who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 564. Title read. Considered.

Committee AM879, found on page 1015, was considered.

SPEAKER FLOOD PRESIDING

Senator Chambers offered the following amendment to the committee amendment:

FA58

Amend Committee Amendments (AM879) P. 4, lines 5 and 6, strike "for which no fee is charged".

PRESIDENT SHEEHY PRESIDING

Pending.

COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 151. Placed on General File - Com AM539.
AM539

- 1 1. On page 2, line 24; and page 3, line 14, strike "Six"
- 2 and insert "Seven".

LEGISLATIVE BILL 246. Placed on General File - Com AM800.
AM800

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. The Legislature finds and declares that it is
- 4 in the public interest to facilitate organ and tissue donations
- 5 pursuant to the Uniform Anatomical Gift Act and thereby to increase
- 6 the availability of organs and tissues for medical transplantation.
- 7 To accomplish these purposes, the following constitutes the
- 8 procedure to facilitate the recovery of organs and tissues from
- 9 donors under the jurisdiction of a coroner within a time period
- 10 compatible with the preservation of such organ or tissue for the
- 11 purpose of transplantation.

12 Sec. 2. For purposes of sections 1 to 8 of this act:

13 (1) Coroner means a coroner or his or her designated

14 representative;

15 (2) Decedent means an individual with respect to whom a

16 determination of death has been made pursuant to section 71-7202;

17 (3) Donor means a decedent (a) who is a donor of all

18 or part of his or her body pursuant to subsection (1) of section

19 71-4802 or (b) for whom an anatomical gift has been made pursuant

20 to subsection (2) of section 71-4802; and

21 (4) Preliminary investigation means an inquiry into

22 whether any organs or tissues are necessary to determine the

23 proximate cause or means of death.

1 Sec. 3. (1) A coroner shall conduct a preliminary

2 investigation of a decedent within the coroner's jurisdiction as

3 soon as possible after notification by the hospital in which such

4 decedent is located or the hospital to which such decedent is being

5 transported. The coroner may designate the coroner's physician or

6 another physician to conduct the preliminary investigation.

7 (2) The preliminary investigation shall be completed
8 within a time period that is compatible with the preservation and
9 recovery of organs or tissues for the purpose of transplantation.

10 (3) The coroner may request and shall have access to
11 all necessary information including copies of medical records,
12 laboratory test results, X-rays, and other diagnostic results. The
13 information shall be provided as expeditiously as possible, through
14 reasonable means, to permit the preliminary investigation to be
15 completed within a time period compatible with the preservation and
16 recovery of organs or tissues for the purpose of transplantation.

17 (4) Upon completion of the preliminary investigation, the
18 coroner shall release all organs or tissues which have been donated
19 or may yet be donated pursuant to the Uniform Anatomical Gift Act
20 except those that the coroner reasonably believes contain evidence
21 of the proximate cause or means of death. If the coroner reasonably
22 believes that a specific organ or tissue contains evidence of the
23 proximate cause or means of death and the organ or tissue is
24 otherwise subject to recovery as a donated organ or tissue pursuant
25 to the Uniform Anatomical Gift Act, the coroner or his or her
26 designee shall be present for the removal procedure (a) to make
27 a final determination that allows the recovery of the organs and
1 tissues to proceed, (b) to request a biopsy, or (c) to deny removal
2 of such organ or tissue if the coroner determines such organ or
3 tissue contains evidence of the proximate cause or means of death.
4 After a preliminary investigation is completed under this section,
5 all organs or tissues compatible for transplantation, except any
6 organs or tissues for which the coroner has denied recovery, may be
7 recovered pursuant to the Uniform Anatomical Gift Act.

8 Sec. 4. If the coroner, coroner's physician, or
9 other physician designated by the coroner fails to complete
10 the preliminary investigation required under section 3 of
11 this act, or if the coroner fails to designate the coroner's
12 physician or another physician to conduct and complete the
13 preliminary investigation, within a time period compatible with
14 the preservation of the organs and tissues for the purpose
15 of transplantation, or if the coroner declines to conduct the
16 preliminary investigation, any organ or tissue that is compatible
17 for transplantation may be recovered pursuant to the Uniform
18 Anatomical Gift Act as though the donor was not within the
19 coroner's jurisdiction.

20 Sec. 5. If the coroner denies recovery of an organ or
21 tissue, the coroner shall state in a written report the reasons
22 such recovery was denied and provide the report within ten days
23 to the federally designated organ procurement organization in
24 Nebraska.

25 Sec. 6. (1) If the coroner releases any organ or tissue
26 for recovery, he or she may request that a blood sample, a sample
27 of catheterized urine, a sample of bile if the liver is recovered
1 for the purpose of transplantation, a biopsy specimen in fixative

2 of the organ or tissue procured, and copies of any photographs,
 3 pictures, or other diagrams of the organ or tissue made at the time
 4 of recovery be delivered to the coroner.

5 (2) A coroner shall have access to medical records,
 6 pathology reports, and the body of the donor following the recovery
 7 of any organ or tissue allowed under section 3 or 4 of this act.

8 Sec. 7. Any physician or designated recovery personnel
 9 authorized by the federally designated organ procurement
 10 organization in Nebraska to recover any organ or tissue pursuant
 11 to section 3 or 4 of this act shall provide to the coroner a
 12 report detailing the recovery of such organ or tissue and any
 13 known relationship to the proximate cause or means of death.
 14 If appropriate, such report shall include a biopsy or medically
 15 approved sample from the recovered organ or tissue and the results
 16 of any diagnostic testing performed upon the recovered organ or
 17 tissue. Such report shall become part of the coroner's or coroner's
 18 physician's report.

19 Sec. 8. Any coroner, coroner's designee, coroner's
 20 physician or his or her designee, facility at which an organ or
 21 tissue recovery took place pursuant to sections 1 to 8 of this
 22 act, authorized recovery personnel, or other person who acts in
 23 good faith in compliance with sections 1 to 8 of this act shall be
 24 immune from criminal liability for recovery of any organ or tissue.

LEGISLATIVE BILL 540. Placed on General File - Com AM737.
 AM737

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 Probation and Parole Services Study Act.

5 Sec. 2. It is the intent of the Legislature that the
 6 Probation and Parole Services Study Act create a multi-branch
 7 commission, known as the Probation and Parole Services Study
 8 Commission, to undertake an in-depth analysis of the state's adult
 9 and juvenile probation systems and services and the parole system
 10 and services in order to assess the efficacy of coordination of
 11 such services and administration of the systems for the benefit of
 12 the public and the offenders served by the systems.

13 Sec. 3. The Legislature finds that:

14 (1) Nebraska's probation and parole services function
 15 administratively under different branches of state government.
 16 Probation services are currently under the judicial branch while
 17 parole is a function of the Department of Correctional Services in
 18 the executive branch;

19 (2) Probation and parole offender-based services share
 20 many characteristics relative to: Community supervision of
 21 offenders; risk assessment; enforcement of probation and parole
 22 terms and conditions; offender accountability; initiation of
 23 filings relating to probation and parole violations; providing

1 offender assistance; and appropriate referral for community-based
2 services, including, but not limited to, substance abuse and mental
3 health evaluation and treatment, housing assistance, and workforce
4 development;

5 (3) Laws 1971, LB 680, which statutorily established
6 probation service delivery in the judicial branch, provided the
7 authority for parole officers to supervise probationers;

8 (4) Laws 2003, LB 46, provided for the establishment
9 of community-based programs, services, and facilities for both
10 probationers and parolees. Access to and participation in program
11 services and facilities are shared by probationers and parolees.
12 Probation officers and parole officers are assigned supervision of
13 probationers and parolees that concurrently access and participate
14 in community-based programs and services;

15 (5) It is appropriate for a multi-branch commission
16 to study the effectiveness, efficiency, and responsiveness of
17 Nebraska's current administrative assignment of probation and
18 parole service delivery.

19 Sec. 4. The Probation and Parole Services Study
20 Commission shall:

21 (1) Identify areas of overlap in offender services
22 provided by probation and parole administration and assess
23 the potential for coordination of state-sponsored services and
24 resources which assist in offender rehabilitation;

25 (2) Assess the optimum methods for delivery of a seamless
26 continuum of offender services within the current probation and
27 parole systems and analyze whether a single system would be to the
1 advantage of state government and offenders;

2 (3) Undertake a comparative analysis of other state's
3 probation and parole administrative systems to include, but not
4 be limited to, issues relating to personnel salary and benefits
5 structures, hiring standards, officer caseloads, and officer
6 training curriculum; and

7 (4) Assess service needs of juveniles on probation, their
8 access to services, and the appropriate minimum array of services
9 to be available for juveniles on probation throughout the state.

10 Sec. 5. (1) The Probation and Parole Services Study
11 Commission is created. The commission shall have nineteen members
12 as follows:

13 (a) Two members of the Judiciary Committee of the
14 Legislature to be appointed by the chairperson of that committee;

15 (b) The Chief Justice of the Nebraska Supreme Court or
16 his or her designee;

17 (c) The Governor of the State of Nebraska or his or her
18 designee;

19 (d) The probation administrator or a representative of
20 the Office of Probation Administration, appointed by the probation
21 administrator;

22 (e) The Parole Administrator or a representative of

23 the Office of Parole Administration, appointed by the Parole
24 Administrator;

25 (f) One district court judge appointed by the Chief
26 Justice;

27 (g) One county court judge appointed by the Chief
1 Justice;

2 (h) One judge of a separate Juvenile Court appointed by
3 the Chief Justice;

4 (i) The administrator of the Office of Juvenile Services
5 or his or her designee;

6 (j) The Director of Correctional Services or his or her
7 designee;

8 (k) The Director of Health and Human Services or his or
9 designee;

10 (l) The executive director of the Community Corrections
11 Council or his or designee;

12 (m) The State Court Administrator who shall be an ex
13 officio member;

14 (n) The executive director of the Nebraska Commission on
15 Law Enforcement and Criminal Justice;

16 (o) One probation officer, appointed by the chairperson
17 of the Judiciary Committee of the Legislature;

18 (p) One parole officer, appointed by the chairperson of
19 the Judiciary Committee of the Legislature;

20 (q) A representative of the Chief Probation Officers
21 Association; and

22 (r) The chairperson of the Parole Board or his or
23 designee.

24 (2) The chairperson of the Probation and Parole Services
25 Study Commission shall be selected by a majority vote of the
26 members of the commission.

27 (3) Necessary appointments to the commission shall be
1 made within thirty days after the effective date of this act.
2 Members of the commission shall serve without compensation but
3 shall be reimbursed for their actual and necessary expenses as
4 provided in sections 81-1174 to 81-1177.

5 (4) The commission may hire consultants with expertise
6 in the type of study required pursuant to this section to design
7 the study, conduct research deemed necessary by the commission, and
8 analyze the results of such study. The study shall be completed
9 by the commission on or before December 31, 2007, and a copy of
10 the completed study shall be submitted to the Chief Justice, the
11 Governor, and the Speaker of the Legislature.

12 Sec. 6. The Legislature shall appropriate funds to the
13 Probation and Parole Services Study Commission for purposes of
14 conducting the study required by section 5 of this act.

15 Sec. 7. Since an emergency exists, this act takes effect
16 when passed and approved according to law.

(Signed) Brad Ashford, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 68. Introduced by Rogert, 16.

WHEREAS, the townsite of Stanton, Nebraska, was officially platted on September 9, 1870, by Ludwig Lehmann, S. L. Holman, and George Graves, and the plat was recorded June 17, 1871; and

WHEREAS, the town of Stanton began to grow and officially became an incorporated village on November 14, 1881, and the following Board of Trustees was appointed by the commissioners: C. L. Lamb, Chairman; F. McGivern; Adam Pilger; Julius Poessnecker; and J. L. Everson. Karl Ley was appointed clerk and W. L. Kendall was appointed treasurer; and

WHEREAS, Stanton has been a thriving community for 125 years and is celebrating its year-long celebration.

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

1. That the Legislature congratulates the community of Stanton on its sesquicentennial celebration.

2. That a copy of this resolution be sent to Colleen Paden, Mayor of Stanton.

Laid over.

AMENDMENTS - Print in Journal

Senator Janssen filed the following amendment to LB 367:
AM921

(Amendments to Standing Committee amendments, AM911)

- 1 1. On page 3, line 5, after "(5)" insert "The State
- 2 Treasurer shall transfer twenty million dollars from the Cash
- 3 Reserve Fund to the Property Tax Credit Cash Fund by August 1,
- 4 2007."; and in line 6 strike "one hundred" and insert "eighty".

Senator Janssen filed the following amendment to LB 367:
AM922

(Amendments to Standing Committee amendments, AM911)

- 1 1. On page 44, line 6, after "2007" insert ". and before
- 2 January 1, 2008"; in line 10 strike "1.7973" and insert "1.8243";
- 3 after line 10 insert the following new subdivision:
- 4 "(g) For taxable years beginning or deemed to begin on
- 5 or after January 1, 2008, under the Internal Revenue Code of
- 6 1986, as amended, the primary rate set by the Legislature shall
- 7 be multiplied by the following factors to compute the tax rates
- 8 for column D. The factors for the brackets, from lowest to highest
- 9 bracket, shall be .6932, .9646, 1.3846, and 1.7973."; in line 11
- 10 strike "(g)" and insert "(h)"; and in line 14 strike "(h)" and
- 11 insert "(i)".

Senator Janssen filed the following amendment to LB 367:
AM923

(Amendments to Standing Committee amendments, AM911)

- 1 1. Strike section 6.
- 2 2. On page 68, strike beginning with "section" in line
- 3 2 through "and" in line 3; and in line 4 strike "are" and insert
- 4 "is".
- 5 3. Renumber the remaining sections and correct internal
- 6 references accordingly.

UNANIMOUS CONSENT - Add Cointroducers

Senators Flood and Gay asked unanimous consent to add their names as cointroducers to LB 368. No objections. So ordered.

Senators Erdman, Loudon, and Pirsch asked unanimous consent to add their names as cointroducers to LB 564. No objections. So ordered.

Senator Howard asked unanimous consent to add her name as cointroducer to LB 596. No objections. So ordered.

VISITORS

Visitors to the Chamber were Ritchie Burkhart from Alexandria and Bill Glenn from Fairbury; 38 fourth-grade students from Stanton; 23 fourth-grade students from Arapahoe; and 96 fourth-grade students and teachers from St. Wenceslaus School, Omaha.

The Doctor of the Day was Dr. Audrey Paulman from Omaha.

ADJOURNMENT

At 4:00 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Wednesday, April 4, 2007.

Patrick J. O'Donnell
Clerk of the Legislature

