

SEVENTY-SIXTH DAY - MAY 7, 2007**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
FIRST SESSION****SEVENTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, May 7, 2007

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 Senator McGill who was excused; and Senators Ashford, Flood, Loudon, McDonald, Mines, and Stuthman who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventy-fifth day was approved.

COMMITTEE REPORTS**Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 8, 214, 233, 277, 382, 424, 445, 449, 508, and 580.

LEGISLATIVE BILL 540. Placed on Select File - ER8104.

ER8104

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Sections 1 to 5 of this act shall be known and
- 4 may be cited as the Probation and Parole Services Study Act.
- 5 Sec. 2. The Legislature finds that an indepth analysis of
- 6 the state's adult and juvenile probation systems and services and
- 7 the parole system and services is needed to assess the efficacy of
- 8 coordination of such services and administration of the systems for
- 9 the benefit of the public and the offenders served by the systems.
- 10 Sec. 3. The Legislature finds that:

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

16 (2) Probation and parole offender-based services share
17 many characteristics relative to: Community supervision of
18 offenders; risk assessment; enforcement of probation and parole
19 terms and conditions; offender accountability; initiation of
20 filings relating to probation and parole violations; providing
21 offender assistance; and appropriate referral for community-based
22 services, including, but not limited to, substance abuse and mental
23 health evaluation and treatment, housing assistance, and workforce
1 development;

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

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

12 (5) It is appropriate for the Legislature to commission
13 a study of the effectiveness, efficiency, and responsiveness of
14 Nebraska's current administrative assignment of probation and
15 parole service delivery.

16 Sec. 4. (1) The Community Corrections Council shall
17 contract with the Vera Institute of Justice to conduct a study of
18 Nebraska's probation and parole service delivery system. The study
19 shall:

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

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

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

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

9 (2) The study shall be completed on or before December

10 31, 2007, and a copy of the completed study shall be submitted
11 to the Chief Justice, the Governor, and the Speaker of the
12 Legislature.

13 Sec. 5. The Legislature shall appropriate funds to the
14 Community Corrections Council for purposes of conducting the study
15 required by section 4 of this act.

16 Sec. 6. Since an emergency exists, this act takes effect
17 when passed and approved according to law.

18 2. On page 1, line 2, strike "Merger" and insert "Study".

LEGISLATIVE BILL 456. Placed on Select File - ER8105.

ER8105

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

3 Section 1. Section 77-2715.07, Revised Statutes
4 Cumulative Supplement, 2006, 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 eight 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; and

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.

10 (4) There shall be allowed as a credit against the income
11 tax imposed by the Nebraska Revenue Act of 1967:

12 (a) A credit to all resident estates and trusts for taxes
13 paid to another state as provided in section 77-2730; and

14 (b) A credit to all estates and trusts for contributions
15 to certified community betterment programs as provided in the
16 Community Development Assistance Act.

17 (5) There shall be allowed to all business firms as a
18 credit against the income tax imposed by the Nebraska Revenue Act
19 of 1967 a credit as provided in section 77-27,222.

20 (6)(a) For all taxable years beginning on or after
21 January 1, 2007, and before January 1, 2008, under the Internal
22 Revenue Code of 1986, as amended, there shall be allowed to each
23 partner, shareholder, member, or beneficiary of a partnership,
24 subchapter S corporation, limited liability company, or estate or
25 trust a nonrefundable credit against the income tax imposed by
26 the Nebraska Revenue Act of 1967 equal to fifty percent of the
27 partner's, shareholder's, member's, or beneficiary's portion of the
1 amount of franchise tax paid to the state under sections 77-3801 to
2 77-3807 by a financial institution.

3 (b) For all taxable years beginning on or after January
4 1, 2008, under the Internal Revenue Code of 1986, as amended,
5 there shall be allowed to each partner, shareholder, member, or
6 beneficiary of a partnership, subchapter S corporation, limited
7 liability company, or estate or trust a nonrefundable credit
8 against the income tax imposed by the Nebraska Revenue Act of 1967
9 equal to the partner's, shareholder's, member's, or beneficiary's

10 portion of the amount of franchise tax paid to the state under
 11 sections 77-3801 to 77-3807 by a financial institution.

12 (c) Each partner, shareholder, member, or beneficiary
 13 shall report his or her share of the credit in the same manner
 14 and proportion as he or she reports the partnership, subchapter S
 15 corporation, limited liability company, or estate or trust income.
 16 If any partner, shareholder, member, or beneficiary cannot fully
 17 utilize the credit for that year, the credit may not be carried
 18 forward or back.

19 Sec. 2. Section 77-3807, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 77-3807 (1) The Tax Commissioner shall prescribe the
 22 necessary forms and the supporting documentation to be filed for
 23 the reporting and payment of the tax imposed by section 77-3802 and
 24 for the calculation of credits allowable under subsection (6) of
 25 section 77-2715.07.

26 (2) The Tax Commissioner shall adopt and promulgate rules
 27 and regulations to carry out sections 77-3801 to 77-3807.

1 (3) The Tax Commissioner may use electronic funds
 2 transfers to collect the tax imposed by section 77-3802 or to pay
 3 any refunds allowed under section 77-3806. The use of electronic
 4 funds transfers shall not change the rights of any party from the
 5 rights such party would have if a different method of payment is
 6 used.

7 The other sections of this act become operative on their
 8 effective date.

9 Sec. 3. Original section 77-3807, Reissue Revised
 10 Statutes of Nebraska, and section 77-2715.07, Revised Statutes
 11 Cumulative Supplement, 2006, are repealed.

12 2. On page 1, strike beginning with the second "to" in
 13 line 4 through "date" in line 6 and insert "for franchise taxes
 14 paid by certain financial institutions".

(Signed) Amanda McGill, Chairperson

GENERAL FILE

LEGISLATIVE BILL 540A. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 629A. Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 236A. Advanced to E & R for engrossment.

LEGISLATIVE BILL 463. ER8042, printed separately and referred to on page 1364, was adopted.

Senator Johnson renewed his amendment, AM1114, found on page 1392.

The Johnson amendment was adopted with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 610. Senator Hudkins offered the following amendment:

AM1035

- 1 1. Insert the following new section:
- 2 Sec. 2. (1) The Legislature declares that in order to
- 3 improve public safety and to ensure the treatment and management of
- 4 sex offenders is appropriate and effective, the policy of the State
- 5 of Nebraska shall be to have a coordinated effort (a) to provide
- 6 oversight and coordination of existing agencies currently managing
- 7 and treating sex offenders and (b) to develop needs assessment,
- 8 training, standards, and guidelines for a comprehensive management
- 9 system for sex offenders.
- 10 (2) The Council on the Management and Treatment of Sex
- 11 Offenders is hereby created. The Governor shall appoint members
- 12 to serve on the council that include, but are not limited to,
- 13 at least one representative from each of the following: (a) The
- 14 court system; (b) the Department of Health and Human Services;
- 15 (c) the Department of Correctional Services; (d) the Board of
- 16 Parole; (e) the Office of Probation Administration; (f) the
- 17 office of the Attorney General; (g) the Nebraska State Patrol;
- 18 (h) the Legislature; (i) the Nebraska Criminal Defense Attorneys
- 19 Association; (j) law enforcement; (k) mental health providers; (l)
- 20 sex offender treatment services providers; (m) victim's advocates;
- 21 and (n) postsecondary educational institutions.
- 22 (3) The council's duties include, but are not limited to,
- 23 the following:
 - 1 (a) Develop standards for eligible sex offender treatment
 - 2 services and programs in which offenders may participate, taking
 - 3 into consideration the following factors:
 - 4 (i) Public and victim safety;
 - 5 (ii) Qualifications of staff;
 - 6 (iii) Suitability of programs;
 - 7 (iv) Offender needs;
 - 8 (v) The probation population;
 - 9 (vi) The parole population;

- 10 (vii) The regional center population; and
11 (viii) Other applicable criminal justice data;
12 (b) Study sex offender treatment services in and
13 related to the criminal justice and health and human services
14 systems, recommend improvements, and evaluate the implementation
15 of improvements;
16 (c) Study, develop, and implement minimum standards for
17 the development and use of sex offender treatment services;
18 (d) Develop and implement a plan for statewide use of sex
19 offender treatment services;
20 (e) Facilitate communication between agencies and
21 providers;
22 (f) Generate strategic planning, goal-setting, and
23 process evaluation;
24 (g) Coordinate activities related to the identification,
25 treatment, and management of sex offenders;
26 (h) Facilitate the sharing of information and other
27 resources between agencies and providers, including releases signed
1 by offenders and records of agencies and providers;
2 (i) Provide consultation and assistance in technical and
3 procedural issues; and
4 (j) Upon request of a county board or boards, develop a
5 sex offender management and treatment team in the county or in a
6 contiguous group of counties.

Senator Hudkins withdrew her amendment.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 324. ER8096, found on page 1369, was adopted.

Senator Synowiecki renewed his amendment, AM1184, found on page 1386.

The Synowiecki amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 324A. Senator Synowiecki renewed his amendment, AM1154, found on page 1352.

The Synowiecki amendment was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 435. ER8095, found on page 1370, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 317. ER8100, found on page 1388, was adopted.

Senator Heidemann offered the following amendment:

AM1254

(Amendments to Standing Committee amendments, AM726)

- 1 Purpose: To increase the General Fund appropriation to
- 2 the Governor's Emergency Program by \$1,000,000 in FY2006-07.
- 3 1. On page 4, in lines 18 and 19 strike "450,000" and
- 4 insert "1,450,000"; and after line 19 insert the following:
- 5 "The unexpended balance existing on June 30, 2007,
- 6 of the appropriation made pursuant to this section is hereby
- 7 reappropriated for FY2007-08.".

The Heidemann amendment was adopted with 26 ayes, 1 nay, 15 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 318. Considered.

SENATOR AGUILAR PRESIDING

Pending.

COMMITTEE REPORTS Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 305, 305A, 367, 367A, and 564.

ST9030

Enrollment and Review Change to LB 367

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

1. In the Standing Committee amendments, AM911:
 - a. On page 5, lines 10 and 15; and page 58, line 26, "9" has been struck and "11" inserted; and
 - b. Sections 25 and 27 have been struck and the following new sections inserted:

Sec. 26. Sections 5, 19, 20, 21, 22, 23, 25, 27, and 30 of this act become operative for taxable years beginning or deemed to begin on or after January 1, 2007, under the Internal Revenue Code of 1986, as amended. Sections 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 29, and 31 of this act become operative

on October 1, 2007. Sections 1, 2, 3, 4, 6, 7, 8, 26, 28, and 32 of this act become operative on their effective date.

Sec. 28. Original section 77-2101.02, Reissue Revised Statutes of Nebraska, and sections 77-2101.01 and 77-2101.03, Revised Statutes Cumulative Supplement, 2006, are repealed.

2. On page 1, the matter beginning with "section" in line 1 through line 10 and all amendments thereto have been struck and "sections 77-2101.02 and 77-3806, Reissue Revised Statutes of Nebraska, and sections 77-908, 77-2101.01, 77-2101.03, 77-2701, 77-2701.04, 77-2701.10, 77-2701.16, 77-2701.34, 77-2703, 77-2703.01, 77-2704.33, 77-2704.55, 77-2715.02, 77-2715.07, 77-2716.01, 77-2717, 77-2734.03, and 77-27,235, Revised Statutes Cumulative Supplement, 2006; to adopt the Property Tax Credit Act; to change and eliminate provisions relating to estate taxes, generation-skipping transfer taxes, sales and use taxes, and income taxes; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 77-2709.01 and 77-27,222, Reissue Revised Statutes of Nebraska, and section 77-2701.45, Revised Statutes Cumulative Supplement, 2006; and to declare an emergency." inserted.

ST9029

Enrollment and Review Change to LB 564

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

1. In the Lathrop amendment, AM1190:
 - a. Section 6 has been struck;
 - b. On page 1, lines 2 and 11, "(1)" has been inserted after the last period; in lines 3 and 12 "skateboard park" has been struck and "skatepark" inserted; and in lines 8 and 16 paragraphing and "(2)" has been inserted after the period; and
 - c. Sections 2 and 4 have been renumbered as sections 3 and 5, respectively.
2. In the E & R amendments, ER8069:
 - a. The following new sections have been inserted:

Section 1. Section 13-901, Reissue Revised Statutes of Nebraska, is amended to read:

13-901 Sections 13-901 to 13-926 and section 3 of this act shall be known and may be cited as the Political Subdivisions Tort Claims Act.

Sec. 6. Section 81-8,235, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,235 Sections 81-8,209 to 81-8,235 and section 5 of this act shall be known and may be cited as the State Tort Claims Act.
 - b. On page 10, lines 9 and 14, "13-901 and 81-8,235, Reissue Revised Statutes of Nebraska, and sections" has been inserted after "sections"; and in line 18 "to require the posting of signs as prescribed;" has been inserted after the last semicolon.

(Signed) Amanda McGill, Chairperson

RESOLUTIONS**LEGISLATIVE RESOLUTION 113.** Introduced by Schimek, 27.

PURPOSE: To examine the issues relating to urban storm water runoff, especially the compliance of political subdivisions with the National Pollutant Discharge Elimination System under the federal Clean Water Act.

The following Nebraska political subdivisions are required by the Department of Environmental Quality to comply with the federal Clean Water Act and are mandated to expend money to develop and implement storm water programs and projects: Omaha, Lincoln, Bellevue, Boys Town, La Vista, Papillion, Ralston, South Sioux City, Dakota City, Scottsbluff, North Platte, Lexington, Kearney, Grand Island, Hastings, Columbus, Norfolk, Fremont, Beatrice, Douglas County, Sarpy County, Lancaster County, and Dakota County.

The cost to Nebraska's political subdivisions to comply with the provisions of the federal Clean Water Act, as it relates to storm water management, currently exceeds \$24 million annually and does not include the cost of other storm water issues which drive these costs even higher.

This study will address the following issues:

- (1) The need for state-enabling authority for political subdivisions subject to storm water requirements under the federal Clean Water Act; and
- (2) The need to establish local storm water utilities as an optional funding source to pay for the cost of development, establishment, and implementation of storm water management programs.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH 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 114. Introduced by Janssen, 15.

PURPOSE: This study is to examine the burden of proof and standard of review of valuation cases appealed to the Tax Equalization and Review Commission. As established by case law and codified in the statute, decisions of the county board of equalization are granted great deference. Such decisions are entitled to a presumption of correctness and are not reversed by the commission unless the valuation is "arbitrary or unreasonable". Case law has established that this means without basis.

In recent years, bills have been introduced seeking to soften this standard of review, the thought being that a lower standard of review would allow more plaintiffs to prevail. Another argument in support of this change is that county boards of equalization do not have the expertise or resources to

become a first trier of fact. Issues arise however, because more appeals would mean more expense for the commission and less local control through the county board of equalization.

This study should examine the entire process of placing a value on real property from the time the county assessor places a value on a parcel, through the protest process before the county board of equalization, through appeals to the commission, and finally, appeal of the commission's decision to the Court of Appeals. The study is to answer the following questions:

What should the process before the county board look like?

What should be established to change the recommendation of the county assessor?

Should there be a record maintained for the proceedings before the county board of equalization or should the proceeding before the Tax Equalization and Review Commission be the first formal trial-like proceeding?

If the county board proceeding is to become more formal, what in the way of procedure, training, qualifications, and transcription must be provided to the counties to make this process meaningful?

What would it cost?

If the commission is to be the trial-level proceeding, what additional training, qualifications, and resources must be provided to the commission?

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRETH 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 115. Introduced by Janssen, 15.

PURPOSE: This study is to examine an income-based method of placing a value on agricultural and horticultural land. The study should include the assistance and recommendations of the Property Tax Administrator and the Greenbelt Advisory Committee and shall develop the best possible methodology for determining the value of agricultural and horticultural land based on its income-producing capabilities. The study shall give consideration to:

(1) The constitutional requirement that the methodology produce values that are uniform and proportionate within the entire class of agricultural and horticultural land;

(2) The use of technology, including, but not limited to, global positioning system mapping to the extent feasible in the methodology;

(3) The preservation of a viable appeals process for taxpayers;

(4) The information and data necessary to implement an income-based methodology and whether or not such information is readily available;

(5) The roles and functions of county assessors and the Department of Property Assessment and Taxation and the Department of Revenue in implementing an income-based methodology; and

(6) The administrative cost of an income-based methodology in comparison to current practice.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH 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 116. Introduced by Janssen, 15.

PURPOSE: An interim study shall be performed by the staff of the Revenue Committee of the Legislature to examine residential, business, and agricultural tax burdens in Nebraska. Measurements of relative levels of taxation and history of tax increases shall be developed. Changes in the fiscal conditions of municipal, county, and school governments shall be examined as part of the study. A report shall be presented to the Revenue Committee by October 1, and a final report presented prior to the 2008 legislative session.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH 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 117. Introduced by Mines, 18.

PURPOSE: To analyze the municipal county process as it exists under the law and research ways in which the process can be changed in order to make it more effective.

The study shall include, but not be limited to:

(1) Examination of the financial impact of reorganization that accompanies the creation of a municipal county;

(2) Examination of potential efficiencies that could be achieved in the creation of a municipal county and the subsequent elimination of governmental overlap;

(3) Examination of the manner in which votes would be counted under the municipal county process;

(4) Examination of the manner in which utility districts would be determined under a new municipal county process; and

(5) Examination of the municipal county process in other states.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRETH 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.

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendment to LB 299:
AM1241

- 1 1. Insert the following section:
- 2 Sec. 16. Section 37-614, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 37-614 (1) When a person pleads guilty to or is convicted
- 5 of any violation listed in this subsection, the court shall, in
- 6 addition to any other penalty, revoke and require the immediate
- 7 surrender of all permits to hunt, fish, and harvest fur held by
- 8 such person and suspend the privilege of such person to hunt,
- 9 fish, and harvest fur and to purchase such permits for a period
- 10 of not less than one nor more than three years. The court shall
- 11 consider the number and severity of the violations of the Game Law
- 12 in determining the length of the revocation and suspension. The
- 13 violations shall be:
 - 14 (a) Carelessly or purposely killing or causing injury to
 - 15 livestock with a firearm or bow and arrow;
 - 16 (b) Purposely taking or having in his or her possession
 - 17 a number of game animals, game fish, game birds, or fur-bearing
 - 18 animals exceeding twice the limit established pursuant to section
 - 19 37-314;
 - 20 (c) Taking any species of wildlife protected by the Game
 - 21 Law during a closed season in violation of section 37-502;
 - 22 (d) Resisting or obstructing any officer or any employee
 - 23 of the commission in the discharge of his or her lawful duties in
 - 1 violation of section 37-609; and
 - 2 (e) Being a habitual offender of the Game Law.
- 3 (2) When a person pleads guilty to or is convicted of any
- 4 violation listed in this subsection, the court may, in addition to
- 5 any other penalty, revoke and require the immediate surrender of
- 6 all permits to hunt, fish, and harvest fur held by such person and
- 7 suspend the privilege of such person to hunt, fish, and harvest
- 8 fur and to purchase such permits for a period of not less than

9 one nor more than three years. The court shall consider the number
10 and severity of the violations of the Game Law in determining the
11 length of the revocation and suspension. The violations shall be:

12 (a) Hunting, fishing, or fur harvesting without a permit
13 in violation of section 37-411;

14 (b) Hunting from a vehicle, aircraft, or boat in
15 violation of section 37-513, 37-514, 37-515, 37-535, or 37-538;
16 ~~and~~

17 (c) Trapping wildlife in the county right-of-way in
18 violation of section 37-513; and

19 ~~(e)-(d)~~ Knowingly taking any wildlife on private land
20 without permission in violation of section 37-722.

21 (3) When a person pleads guilty to or is convicted of
22 any violation of the Game Law or the rules and regulations of the
23 commission not listed in subsection (1) or (2) of this section, the
24 court may, in addition to any other penalty, revoke and require
25 the immediate surrender of all permits to hunt, fish, and harvest
26 fur held by such person and suspend the privilege of such person
27 to hunt, fish, and harvest fur and to purchase such permits for a
1 period of one year.

2 2. In the Standing Committee amendment, AM189, on page
3 1, strike beginning with "The" in line 10 through "(b)" in line
4 14 and insert "It shall be unlawful to trap any wildlife in the
5 county road right-of-way. The county board may, by resolution,
6 allow for trapping the county right-of-way if written permission is
7 obtained from the board or its designee. Failure to obtain written
8 permission from the county board under this subdivision shall
9 constitute second degree criminal trespass under section 28-521.

10 (b) When the county board has passed a resolution to
11 allow trapping the county right-of-way, the county board may adopt
12 and promulgate rules and regulations for trapping the county road
13 right-of-way. Such rules and regulations may include, but are
14 not limited to, requirements, notification, identification, and
15 trapping methods allowed.

16 (c)".

17 3. On page 23, line 3, after "37-548," insert "37-614,".

18 4. Renumber the remaining sections accordingly.

Senator Johnson filed the following amendment to LB 247:

(Amendment, AM1221, is printed separately and available in the Bill Room, Room 1104.)

VISITORS

Visitors to the Chamber were 96 fourth-grade students from Wheeler Elementary, Omaha; 12 high school students and teacher from Lincoln East High School, Lincoln; 20 high school students and teacher from Johnson-Brock High School; and 12 fourth-grade students from Humphrey St. Francis, Humphrey.

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., Senator Aguilar presiding.

ROLL CALL

The roll was called and all members were present except Senator McGill who was excused; and Senators Ashford, Cornett, Howard, Hudkins, Loudon, Nantkes, and Raikes who were excused until they arrive.

SELECT FILE

LEGISLATIVE BILL 318. Considered.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 319. Advanced to E & R for engrossment.

LEGISLATIVE BILL 320. Senator Heidemann renewed his amendment, AM1193, found on page 1418.

The Heidemann amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Senator Schimek offered the following amendment:
AM1261

(Amendments to Standing Committee amendments, AM727)

- 1 Purpose: To appropriate funds to support Capitol interior
- 2 courtyard fountain design work.
- 3 1. Insert the following new section:
- 4 Sec. 42. AGENCY NO. 65 - DEPARTMENT OF ADMINISTRATIVE
- 5 SERVICES
- 6 Program No. 901 - State Capitol Improvements
- 7

	FY2007-08	FY2008-09	FUTURE
8 STATE BUILDING FUND	40,000	-0-	-0-
9 PROGRAM TOTAL	40,000	-0-	-0-
- 10 2. Renumber the remaining sections accordingly.

Senator Schimek withdrew her amendment.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 321. ER8103, found on page 1388, was adopted.

Senator Friend withdrew his amendment, AM1161, found on page 1352.

Senator White renewed his amendment, AM1177, found on page 1371.

Pending.

COMMITTEE REPORTS **Enrollment and Review**

LEGISLATIVE BILL 540A. Placed on Select File.

LEGISLATIVE BILL 629A. Placed on Select File.

Correctly Engrossed

The following bill was correctly engrossed: LB 236A.

(Signed) Amanda McGill, Chairperson

NOTICE OF COMMITTEE HEARING **Business and Labor** Room 2102

Thursday, May 17, 2007

12:15 p.m.

Robert Hill - Boiler Safety Code Advisory Board

Thomas Hix - Boiler Safety Code Advisory Board

William Yates - Boiler Safety Code Advisory Board

(Signed) Abbie Cornett, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 118. Introduced by Schimek, 27; Karpisek, 32.

WHEREAS, on May 19, 2004, 8-year old Alexa Foster tragically lost her life when a wall in a public park restroom fell on her during a picnic on the last day of school; and

WHEREAS, the State of Nebraska has thousands of public park shelters and restrooms statewide that are managed by entities in both the public and private sector; and

WHEREAS, parks and recreation areas play an important role in the physical and mental well-being of children as well as in the development of our communities; and

WHEREAS, a statewide volunteer effort has been initiated by the Foster family and other interested parties to implement the Alexa Check campaign which will help review restrooms and shelters in Nebraska's parks with the goal of increasing safety and also urge citizens to be vigilant while visiting these areas and report any unsafe conditions.

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

1. That the Legislature proclaim May 19, 2007, as ALEXA CHECK DAY.
2. That a copy of this legislative resolution be sent to the Foster family.

Laid over.

SELECT FILE

LEGISLATIVE BILL 321. The White amendment, AM1177, found on page 1371 and considered in this day's Journal, was renewed.

SENATOR FRIEND PRESIDING

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 2 nays, and 21 not voting.

Senator White moved for a call of the house. The motion prevailed with 38 ayes, 1 nay, and 10 not voting.

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

Voting in the affirmative, 17:

Ashford	Dubas	Gay	Pirsch	White
Chambers	Erdman	Howard	Preister	
Christensen	Flood	Karpisek	Rogert	
Cornett	Friend	Lathrop	Wallman	

Voting in the negative, 23:

Adams	Fulton	Janssen	Mines	Stuthman
Avery	Hansen	Johnson	Nantkes	Synowiecki
Carlson	Harms	Kopplin	Nelson	Wightman
Engel	Heidemann	Kruse	Pankonin	
Fischer	Hudkins	McDonald	Schimek	

Present and not voting, 6:

Aguilar	Dierks	Pahls
Burling	Langemeier	Raikes

Excused and not voting, 3:

Louden	McGill	Pedersen
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The White amendment lost with 17 ayes, 23 nays, 6 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Langemeier withdrew his amendment, AM1209, found on page 1379.

Senator Langemeier renewed his amendment, AM1213, found on page 1379.

SENATOR ERDMAN PRESIDING

Senator Langemeier withdrew his amendment.

Senator Aguilar renewed the Pedersen amendment, AM1203, found on page 1418.

SENATOR LANGEMEIER PRESIDING

Senator Pirsch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

Senator Aguilar moved for a call of the house. The motion prevailed with 31 ayes, 2 nays, and 16 not voting.

Senator Aguilar requested a roll call vote on the Pedersen amendment.

Voting in the affirmative, 18:

Aguilar	Janssen	Langemeier	Pankonin	Wallman
Chambers	Johnson	Lathrop	Rogert	White
Christensen	Karpisek	McDonald	Schimek	
Dubas	Kopplin	Pahls	Stuthman	

Voting in the negative, 23:

Adams	Erdman	Gay	Kruse	Raikes
Avery	Fischer	Hansen	Mines	Synowiecki
Burling	Flood	Harms	Nantkes	Wightman
Carlson	Friend	Heidemann	Nelson	
Engel	Fulton	Hudkins	Pirsch	

Present and not voting, 3:

Ashford	Cornett	Howard
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Excused and not voting, 5:

Dierks	Louden	McGill	Pedersen	Preister
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The Pedersen amendment lost with 18 ayes, 23 nays, 3 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator McDonald renewed the McDonald et al. amendment, AM1166, found on page 1423.

SENATOR ERDMAN PRESIDING

Senator McDonald moved for a call of the house. The motion prevailed with 17 ayes, 1 nay, and 31 not voting.

Senator McDonald requested a roll call vote on the McDonald et al. amendment.

Voting in the affirmative, 20:

Aguilar	Chambers	Flood	Kopplin	Rogert
Ashford	Christensen	Hansen	McDonald	Schimek
Burling	Cornett	Johnson	Pahls	Stuthman
Carlson	Dubas	Karpisek	Pankonin	Wallman

Voting in the negative, 14:

Adams	Fischer	Harms	Nelson	Synowiecki
Engel	Friend	Heidemann	Pirsch	Wightman
Erdman	Fulton	Nantkes	Raikes	

Present and not voting, 8:

Avery	Janssen	Langemeier	Mines
Gay	Kruse	Lathrop	White

Excused and not voting, 7:

Dierks	Hudkins	McGill	Preister
Howard	Louden	Pedersen	

The McDonald et al. amendment lost with 20 ayes, 14 nays, 8 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 119. Introduced by Johnson, 37; Pahls, 31.

PURPOSE: The purpose of this resolution is to review the availability of cost estimates in health care pricing and determine the need to carry out legislation to provide good faith estimates of costs by health care providers and insurers to a consumer upon request. In order to carry out the purpose of this resolution, the Banking, Commerce and Insurance and Health and Human Services Committees of the Legislature should consider input from the Departments of Insurance and Health and Human Services and other interested parties, including insurers and health care providers, as the committees deem necessary and beneficial.

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

1. That the Banking, Commerce and Insurance and Health and Human Services Committees of the Legislature 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.

LEGISLATIVE RESOLUTION 120. Introduced by Wightman, 36.

WHEREAS, inflation in the cost of employer-provided health care in Nebraska has been growing at a double digit annual rate, a much higher rate than the Consumer Price Index and other recognized barometers of our economy; and

WHEREAS, the funding of the state's health insurance plan for the past three years has resulted in a budget deficit of at least \$12 million and consumes an ever-larger share of the budget; and

WHEREAS, growth in the state's health insurance cost is driven by both plans for state employees and employees of schools and political subdivisions; and

WHEREAS, any consideration of health care management initiatives must necessarily consider benefit plan design, short and long-term planning, wellness standards and incentives, disease management, retirement pre-planning, current statutory funding, access and choice for small public employers, comparability and competition both instate and out-of-state, flexibility in plans and options, and quantifying health care spending at all levels of government.

THEREFORE, it is determined that the Appropriations Committee and the Government, Military and Veterans Affairs Committee of the Legislature shall jointly authorize an interim study committee for the following purposes:

To study the cost of public employee health plans at all levels of government within the State of Nebraska, giving particular attention to containment of the cost of health care plans, improvement of health care for public employees, and consideration of possible legislation to accomplish these goals.

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

1. That the Appropriations Committee and 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 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.

AMENDMENT - Print in Journal

Senator Raikes filed the following amendment to LB 342:
AM1256

(Amendments to Standing Committee amendments, AM1079)

- 1 1. On page 1, line 21, strike "plus" and insert "minus".
- 2 2. On page 6, line 8, after "equal" insert "one plus
- 3 the base growth factor plus the percentage growth in full-time
- 4 equivalent enrollments attributable to each community college
- 5 area times"; in line 10 after "(iii)" insert "the average need
- 6 adjustment plus (iv)"; in line 19 after "(a)" insert "Average
- 7 need adjustment shall be calculated for the fiscal year 2007-08
- 8 aid distribution as follows: Average need adjustment shall equal
- 9 the sum of average adjusted revenue per full-time equivalent
- 10 student minus the adjusted revenue per full-time equivalent student
- 11 times the number of full-time equivalent students attributable to
- 12 each community college area except that the amount shall not be
- 13 less than negative seven hundred fifty thousand or greater than
- 14 seven hundred fifty thousand. For purposes of the average need
- 15 adjustment, (i) adjusted revenue per full-time equivalent student
- 16 equals the sum of the prior year revenue for each community college
- 17 area minus the system foundation need divided by the number of
- 18 full-time equivalent students for each community college area and
- 19 (ii) average adjusted revenue per full-time equivalent student
- 20 equals the sum of the prior year revenue for all community college
- 21 areas minus the system foundation need for all areas divided by the
- 22 number of full-time equivalent students for each area;
- 1 (b)"; in line 23 strike "(b)" and insert "(c)"; in line
- 2 24 strike "total" and after "remainder" insert "allowance for all
- 3 community college areas"; and in line 27 strike "(c)" and insert
- 4 "(d)".
- 5 3. On page 7, line 6, strike "(d)" and insert "(e)"; in
- 6 line 7 after "minus" insert "the sum of"; in line 8 strike "and"

7 and insert "plus"; in line 9 strike "(e)" and insert "(f)"; in
 8 line 11 strike "(f)" and insert "(g)"; in line 15 strike "product"
 9 and insert "sum"; in line 18 after "the" insert "total" and after
 10 "tuition" insert "and fees for all community college areas"; in
 11 line 19 after "the" insert "product of the"; and in line 23 after
 12 "tuition" insert "and fees".

13 4. On page 8, line 4, after each occurrence of "tuition"
 14 insert "and fees"; and in line 5 after "student" insert "times the
 15 number of full-time equivalent students".

16 5. On page 9, line 6, strike "eighty-five" and insert
 17 "eighty".

18 6. On page 10, line 3, before the comma insert "until
 19 fiscal year 2007-08"; in line 6 strike "and" and show as stricken;
 20 and in line 9 after "determined" insert ", and (iii) for fiscal
 21 year 2007-08 and each fiscal year thereafter, community college
 22 areas may exceed the base limitation to equal base revenue need
 23 calculated pursuant to section 23 of this act".

24 7. On page 33, strike lines 16 through 27 and show the
 25 old matter as stricken.

26 8. On page 34, strike line 1 and show as stricken;

27 in line 2 strike "(d)", show as stricken, and insert "(19)

1 Full-time equivalent student shall mean a full-time equivalent
 2 student subject to the following limitation"; in line 9 strike
 3 "Reported aid", show as stricken, and insert "Full-time"; in
 4 lines 10 and 13 strike "reported aid", show as stricken, and
 5 insert "full-time"; strike beginning with "one" in line 16 through
 6 "averages" in line 21, show as stricken, and insert "two"; and
 7 strike beginning with "three" in line 25 through line 27 and show
 8 as stricken.

9 9. On page 35, strike lines 1 and 2, show as stricken,
 10 and insert "four"; in lines 9 and 10 strike "reported aid", show
 11 as stricken, and insert "full-time"; in line 22 strike "the average
 12 of" and show as stricken; in line 23 strike "totals", show as
 13 stricken, and insert "total"; in lines 24 and 27 strike "three
 14 fiscal years", show as stricken, and insert "fiscal year"; and in
 15 line 26 strike "(19)(d)", show as stricken, and insert "(19)".

16 10. On page 37, lines 5, 9, and 22; and page 41, line 20,
 17 strike "reported aid", show as stricken, and insert "full-time".

SELECT FILE

LEGISLATIVE BILL 321. Senator Schimek renewed her amendment, AM1155, found on page 1423.

SENATOR AGUILAR PRESIDING

Senator Schimek withdrew her amendment.

Senator Heidemann renewed his amendment, AM1194, found on page 1427.

Senator Heidemann offered the following amendment to his amendment:
AM1259

(Amendments to AM1194)

- 1 1. On page 2, line 15, strike "348" and insert "341".

The Heidemann amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

The Heidemann amendment, AM1194, as amended, was adopted with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

Senator Christensen offered the following amendment:
AM1255

(Amendments to Standing Committee amendments, AM728)

- 1 1. On page 59, strike lines 1 and 2 and insert "CASH
- 2 FUND 13,000,000 13,000,000 PROGRAM TOTAL 13,000,000 13,000,000";
- 3 and in lines 4, 6, 9, and 11 strike "\$14,000,000" and insert
- 4 "\$13,000,000".

Senator Christensen withdrew his amendment.

Senator Chambers offered the following amendment:
AM1252

(Amendments to Standing Committee amendments, AM728)

- 1 Purpose: To assist the Eastern Nebraska Office on Aging
- 2 to cover a projected deficit.
- 3 1. On page 62, strike line 24 and insert "GENERAL FUND
- 4 4,852,586 5,263,853"; and strike line 26 and insert "PROGRAM TOTAL
- 5 13,998,961 14,410,228".
- 6 2. On page 63, line 1, strike "\$4,562,586" and
- 7 insert "\$4,852,586"; in line 4 strike "\$4,973,853" and insert
- 8 "\$5,263,853"; and after line 5 insert the following:
- 9 "Included in the appropriation to this program is
- 10 \$290,000 General Funds for FY2007-08 and \$290,000 General Funds for
- 11 FY2008-09 for supplemental funding for the Eastern Nebraska Office
- 12 on Aging.".

SENATOR ERDMAN PRESIDING

Senator Lathrop moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 3 nays, and 19 not voting.

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

The Chambers amendment was adopted with 31 ayes, 7 nays, 6 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

COMMITTEE REPORTS Enrollment and Review

Correctly Engrossed

The following bill was correctly engrossed: LB 463.

ST9031

Enrollment and Review Change to LB 463

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

1. In the E & R amendments, ER8042, on page 51, line 5, "certified" has been struck, shown as stricken, and "licensed" inserted.
2. On page 9, lines 17 and 18, "an operative date" has been struck and "operative dates" inserted.
3. On page 75, line 24, an underscored comma has been inserted after "act".
4. On page 84, line 23, "on or" has been inserted after "appointed".
5. On page 86, line 19, "on or" has been inserted after "board".
6. On page 465, line 10, "Dispenser" has been struck and "Dispensers" inserted.
7. On page 475, line 15, "(1)" has been struck and shown as stricken.
8. On page 480, line 9, the semicolon has been struck and an underscored comma inserted.
9. On page 534, line 19, an underscored comma has been inserted after "board".
10. On page 738, line 12, the stricken "the" has been reinstated.
11. On page 861, line 20; and page 863, line 2, an underscored comma has been inserted after "Act".
12. On page 879, line 3, "certified" has been struck, shown as stricken, and "licensed" inserted.

(Signed) Amanda McGill, Chairperson

VISITORS

Visitors to the Chamber were Senator Carlson's wife, Margo, and Gary and Eileen Yost from Holdrege and Nancy and Emily Huckabee from Lincoln; and 7 students and sponsors from Zion Lutheran, Pierce.

The Doctor of the Day was Dr. Brian Finley from Papillion.

ADJOURNMENT

At 9:15 p.m., on a motion by Senator Ashford, the Legislature adjourned until 9:00 a.m., Tuesday, May 8, 2007.

Patrick J. O'Donnell
Clerk of the Legislature

