

**EIGHTY-FIRST DAY - MAY 16, 2007****LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE  
FIRST SESSION****EIGHTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, May 16, 2007

**PRAYER**

The prayer was offered by Pastor William Safranek, St. Peter's Church, Ewing.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Erdman presiding.

The roll was called and all members were present except Senators Aguilar, Cornett, Dubas, Flood, Friend, Gay, Howard, Karpisek, Lathrop, Loudon, Mines, Pedersen, and White who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eightieth day was approved.

**COMMITTEE REPORT  
Education**

**LEGISLATIVE BILL 653.** Placed on General File - Com AM1319.  
AM1319

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 79-757, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 79-757 Sections 79-757 to 79-762 and sections 2, 4, 7,
- 6 and 8 of this act shall be known and may be cited as the Quality
- 7 Education Accountability Act.
- 8 Sec. 2. For purposes of the Quality Education
- 9 Accountability Act:
- 10 (1) Assessment means the process of measuring student
- 11 achievement and progress on state and locally adopted standards;
- 12 (2) Assessment instrument means a test aligned with state
- 13 and local standards that is designed to measure student progress
- 14 and achievement;

15 (3) Assessment portfolio means the compilation of  
16 assessment practices and procedures, assessment instruments, and  
17 national assessment instruments used by a school district in  
18 meeting assessment and reporting requirements; and

19 (4) National assessment instrument means a nationally  
20 norm-referenced test developed and scored by a national testing  
21 service.

22 Sec. 3. Section 79-760, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

1 79-760 ~~(4)~~~~The~~~~(1)(a)~~ For school years prior to 2008-09,  
2 the State Board of Education shall implement a statewide system  
3 for the assessment of student learning and for reporting the  
4 performance of school districts and learning communities pursuant  
5 to this section. The assessment and reporting system shall test  
6 student knowledge of subject matter materials covered by the  
7 measurable model academic content standards approved by the state  
8 board. The state board shall adopt an assessment and reporting  
9 plan and begin implementation of the assessment and reporting  
10 system in the 2000-01 school year beginning with the assessment  
11 of reading and writing. The state board shall prescribe statewide  
12 assessments of writing that rely on writing samples beginning in  
13 the spring of 2001 with students in each of three grades selected  
14 by the state board. For each academic year thereafter, one of the  
15 three selected grades shall participate in the statewide writing  
16 assessment. The state board shall develop an assessment system and  
17 prescribe statewide assessments for the subject areas of reading,  
18 mathematics, science, social studies, and history. The assessment  
19 and reporting system for each subject area, except writing, shall  
20 be based on locally developed assessments the first year.

21 (b) Following the first assessment in each subject area,  
22 except writing, the State Department of Education shall contract  
23 with independent, recognized assessment experts to review and rate  
24 locally developed assessments. The department shall identify the  
25 criteria for rating the model assessments. The assessment experts  
26 shall identify not more than four model assessments receiving  
27 the highest ratings. Districts shall thereafter adopt one of the  
1 four model assessments and may, in addition, adapt their locally  
2 developed assessments.

3 (c) The aggregate results of any assessments required  
4 by the state board pursuant to this section shall be reported by  
5 the district on a building basis to the public in that district,  
6 to the learning community coordinating council if such district  
7 is a member of a learning community, and to the department. Each  
8 learning community shall also report the aggregate results of any  
9 assessments required by the state board pursuant to this section to  
10 the public in that learning community and to the department.

11 (d) The department shall report the aggregate results  
12 of any assessments required by the state board pursuant to this

13 section on a learning community, district, and building basis as  
 14 part of the statewide assessment and reporting system.

15 (2) The purposes of the assessment and reporting system  
 16 described in subsection (1) of this section are to:

17 (a) Determine how well public schools are performing in  
 18 terms of achievement of public school students related to the model  
 19 state academic content standards;

20 (b) Report the performance of public schools based upon  
 21 the results of the assessment;

22 (c) Provide information for the public and policymakers  
 23 on the performance of public schools; and

24 (d) Provide for the comparison ~~of among~~ Nebraska public  
 25 schools ~~to their peers and to school systems of other states and~~  
 26 ~~other countries, and the comparison of Nebraska public schools to~~  
 27 public schools in the nation and the world.

1 (3)(a) The assessment and reporting plan described in  
 2 subsection (1) of this section shall

3 (i) Provide for the confidentiality of the results of  
 4 individual students; and

5 (ii) Include ~~include~~ all public schools and all public  
 6 school students.

7 (b) The state board shall adopt criteria for the  
 8 inclusion of students with disabilities, students entering the  
 9 school for the first time, and students with limited English  
 10 proficiency.

11 ~~(4) The assessment and reporting plan shall provide for~~  
 12 ~~the confidentiality of the individual students.~~

13 ~~(5) The state board shall adopt and promulgate rules and~~  
 14 ~~regulations to carry out this section.~~

15 Sec. 4. (1) For school year 2008-09 and each school  
 16 year thereafter, the State Board of Education shall implement  
 17 a statewide system for the assessment of student learning and  
 18 for reporting the performance of school districts and learning  
 19 communities pursuant to this section.

20 (2) The state board shall adopt a plan for an assessment  
 21 and reporting system and implement and maintain the assessment and  
 22 reporting system. The state board shall select three grade levels  
 23 for assessment and reporting. The purposes of the system are to:

24 (a) Determine how well public schools are performing in  
 25 terms of achievement of public school students related to the state  
 26 academic content standards;

27 (b) Report the performance of public schools based upon  
 1 the results of state assessment instruments and national assessment  
 2 instruments;

3 (c) Provide information for the public and policymakers  
 4 on the performance of public schools; and

5 (d) Provide for the comparison among Nebraska public  
 6 schools and the comparison of Nebraska public schools to public  
 7 schools in the nation and the world.

8 (3) The state board shall prescribe a statewide  
9 assessment of writing that relies on writing samples in each of  
10 three grades selected by the state board. Each year at least one  
11 of the three selected grades shall participate in the statewide  
12 writing assessment with each selected grade level participating at  
13 least once every three years.

14 (4) For school year 2008-09 and for each school year  
15 thereafter, the state board shall prescribe a statewide assessment  
16 of reading that is based on model assessments developed pursuant  
17 to section 79-760. The reading assessment instruments shall be  
18 developed in collaboration with educational service units and  
19 be approved by a majority of the educational service unit  
20 administrators. The statewide assessment of reading shall include  
21 assessment instruments for each of the grade levels selected by the  
22 state board.

23 (5) For school year 2009-10 and for each school year  
24 thereafter, the state board shall prescribe a statewide assessment  
25 of mathematics that is based on model assessments developed  
26 pursuant to section 79-760. The mathematics assessment instruments  
27 shall be developed in collaboration with educational service units  
1 and be approved by a majority of the educational service unit  
2 administrators. The statewide assessment of mathematics shall  
3 include assessment instruments for each of the grade levels  
4 selected by the state board.

5 (6) School districts shall develop or adopt assessment  
6 portfolios. Such assessment portfolios may be developed through  
7 school district collaboration with educational service units and  
8 learning communities or through interlocal agreements. Educational  
9 service units shall conduct a peer review of local district  
10 assessments annually. Educational service units shall submit  
11 documentation of the district portfolios for review by the State  
12 Department of Education not more than once every three years.  
13 Assessment portfolios shall include all assessment instruments  
14 required by the state board and by the Quality Education  
15 Accountability Act.

16 (7) The department shall identify criteria for rating  
17 assessment instruments and assessment portfolios. The department  
18 shall establish statewide minimum proficiency levels for local  
19 assessments and shall include proficiency levels in the rating of  
20 assessment instruments and assessment portfolios. The department  
21 shall contract with independent, recognized assessment experts  
22 to review and rate locally developed assessment instruments and  
23 portfolios according to such criteria and proficiency levels.

24 (8) The department shall annually conduct studies  
25 to verify the technical quality of assessment instruments and  
26 demonstrate the comparability of assessment instrument results  
27 required by the Quality Education Accountability Act. The  
1 department shall annually report such findings to the Governor, the  
2 Legislature, and the State Board of Education.

3 (9) The State Board of Education shall recommend national  
 4 assessment instruments for the purpose of national comparison. Each  
 5 school district shall include national assessment instruments in  
 6 its assessment portfolio.

7 (10) The aggregate results of assessment instruments  
 8 and national assessment instruments shall be reported by the  
 9 district on a building basis to the public in that district, to  
 10 the learning community coordinating council if such district is  
 11 a member of a learning community, and to the department. Each  
 12 learning community shall also report the aggregate results of  
 13 any assessment instruments and national assessment instruments to  
 14 the public in that learning community and to the department. The  
 15 department shall report the aggregate results of any assessment  
 16 instruments and national assessment instruments on a learning  
 17 community, district, and building basis as part of the statewide  
 18 assessment and reporting system.

19 (11)(a) The assessment and reporting plan shall:

20 (i) Provide for the confidentiality of the results of  
 21 individual students; and

22 (ii) Include all public schools and all public school  
 23 students.

24 (b) The state board shall adopt criteria for the  
 25 inclusion of students with disabilities, students entering the  
 26 school for the first time, and students with limited English  
 27 proficiency.

1 Sec. 5. Section 79-760.01, Reissue Revised Statutes of  
 2 Nebraska, is amended to read:

3 79-760.01 The State Board of Education shall adopt  
 4 measurable model academic content standards for at least three  
 5 grade levels, no later than July 1, 2001. The standards for  
 6 each subject area shall be adopted prior to the implementation  
 7 of the assessment and reporting system under section 79-760  
 8 for that subject area, beginning with writing and reading. The  
 9 standards shall cover the subject areas of reading, writing,  
 10 mathematics, science, and social studies, ~~and history.~~ The  
 11 standards adopted shall be sufficiently clear and measurable to  
 12 be used for testing student performance with respect to mastery  
 13 of the content described in the state standards. The State Board  
 14 of Education shall develop a plan to review and update standards  
 15 for each subject area every five years, beginning with reading in  
 16 school year 2008-09, mathematics in school year 2009-10, and all  
 17 other subject areas by July 1, 2012. The state board plan should  
 18 include a review of commonly accepted standards adopted by school  
 19 districts, educational service units, and learning communities.

20 Sec. 6. Section 79-760.02, Reissue Revised Statutes of  
 21 Nebraska, is amended to read:

22 79-760.02 In accordance with timelines that are adopted  
 23 by the State Board of Education, but in no event later than  
 24 July 1, 2003, one year following the adoption or modification

25 of state standards, each school district shall adopt measurable  
 26 quality academic content standards in the subject areas of reading,  
 27 writing, mathematics, science, and social studies, ~~and history~~.

1 The standards may be the same as, or may be equal to or exceed in  
 2 rigor, the measurable model academic content standards adopted by  
 3 the state board and shall cover at least the same grade levels.

4 School districts may work collaboratively with educational service  
 5 units, learning communities, or through interlocal agreements to  
 6 develop such standards. Educational service units and learning  
 7 communities shall develop a composite set of standards shared by  
 8 member school districts. The State Department of Education shall  
 9 adopt and promulgate appropriate rules and regulations to insure  
 10 the rigor of the measurable quality academic content standards.

11 Sec. 7. (1) Educational service units consisting of  
 12 school districts that are also a part of a learning community shall  
 13 develop and implement a plan to establish grade level standards and  
 14 provide for assessment of students in grades kindergarten through  
 15 three. The standards and assessment plan should include, but not be  
 16 limited to, the subject areas of reading and mathematics and should  
 17 be developed to measure student progress toward such standards.

18 (2) The high-needs education coordinator appointed  
 19 pursuant to section 79-11,150 and the State Department of Education  
 20 shall provide assistance in the development of the standards and  
 21 assessment described in subsection (1) of this section.

22 (3) Data collected pursuant to this section shall be  
 23 reported and collected by educational service units consisting of  
 24 school districts that are also part of a learning community. The  
 25 data should conform with the data collection procedures established  
 26 for the student identifier system pursuant to section 8 of this act.

27 Sec. 8. (1) The State Board of Education shall implement  
 1 a statewide system for tracking individual student achievement,  
 2 using the student identifier system of the State Department of  
 3 Education, that can be aggregated to track student progress by  
 4 demographic characteristics including, but not limited to, race,  
 5 poverty, high mobility, attendance, and limited English proficiency  
 6 on available measures of student achievement which include,  
 7 but need not be limited to, national assessment instruments,  
 8 state assessment instruments, local assessment instruments, and  
 9 other similar measures. Such a system shall be designed so  
 10 as to aggregate student data by available educational input  
 11 characteristics, including class size, teacher education, teacher  
 12 experience, special education, early childhood programs, federal  
 13 programs, and other targeted education programs. School districts  
 14 shall provide the department with individual student achievement  
 15 data as requested in order to implement the statewide system.

16 (2) The department and the high-needs education  
 17 coordinator appointed pursuant to section 79-11,150 shall annually  
 18 analyze and report on student achievement for the state, each  
 19 school district, and each learning community aggregated by the

20 demographic characteristics described in subsection (1) of this  
 21 section. The department shall report the findings to the Governor,  
 22 the Legislature, school districts, educational service units, and  
 23 each learning community. Such analysis shall include aggregated  
 24 data that would indicate differences in achievement due to  
 25 available educational input characteristics described in subsection  
 26 (1) of this section. Such analysis shall include indicators of  
 27 progress toward state achievement goals for students in poverty,  
 1 limited English proficient students, and highly mobile students  
 2 according to the plan developed by the high-needs education  
 3 coordinator pursuant to section 79-11,150.  
 4 Sec. 9. Original sections 79-757, 79-760.01, and  
 5 79-760.02, Reissue Revised Statutes of Nebraska, and section  
 6 79-760, Revised Statutes Cumulative Supplement, 2006, are repealed.

(Signed) Ron Raikes, Chairperson

### EXPLANATION OF VOTES

Had I been present, I would have voted "aye" on final passage of LBs 5, 8, 69, 132, 147, 152, 199, 214, 226e, 227, 233, 252, 256, 277, 364, 382, 388, 396e, 424, 445, 449, 481e, 508e, 561, 580, 664, 218, 596e, 144e, 188e, 208, 219e, 289, 471e, 368, 368A, 236, 236A, 463, 564e, 435e, 610, and LR 6CA.

(Signed) Abbie Cornett

### GENERAL FILE

**LEGISLATIVE BILL 377A.** Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 4 present and not voting, and 13 excused and not voting.

**LEGISLATIVE BILL 482A.** Title read. Considered.

Advanced to E & R for review with 34 ayes, 1 nay, 7 present and not voting, and 7 excused and not voting.

**LEGISLATIVE RESOLUTION 2CA.** Senator Rogert asked unanimous consent to bracket until January 9, 2008. No objections. So ordered.

**LEGISLATIVE BILL 358.** Title read. Considered.

Committee AM214, found on page 516, lost with 0 ayes, 25 nays, 20 present and not voting, and 4 excused and not voting.

Senator Hudkins renewed her amendment, AM1034, printed separately and referred to on page 1298.

The Hudkins amendment was adopted with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

**WITHDRAW - Amendment to LB 343**

Senator Preister withdrew his amendment, AM1147, found on page 1345, to LB 343.

**MOTION - Return LB 343 to Select File**

Senator Preister moved to return LB 343 to Select File for his specific amendment, AM1146, found on page 1390.

The Preister motion to return prevailed with 44 ayes, 0 nays, 3 present and not voting, and 2 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 343.** The Preister specific amendment, AM1146, found on page 1390, was adopted with 44 ayes, 0 nays, 4 present and not voting, and 1 excused and not voting.

Advanced to E & R for reengrossment.

**LEGISLATIVE BILL 603.** ER8090, printed separately and referred to on page 1327, was adopted.

Senator Raikes renewed his amendment, AM1171, found on page 1392.

**SENATOR LANGEMEIER PRESIDING**

The Raikes amendment was adopted with 30 ayes, 0 nays, 18 present and not voting, and 1 excused and not voting.

Senator Raikes offered the following amendment:  
(Amendment, AM1318, is on file and available in the Clerk's Office, Room 2014.)

Senator Raikes withdrew his amendment.

**SENATOR ERDMAN PRESIDING**

**SENATOR FRIEND PRESIDING**

**SPEAKER FLOOD PRESIDING**

Pending.

## RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 123, 125, and 131 were adopted.

## SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 123, 125, and 131.

## SELECT FILE

**LEGISLATIVE BILL 603.** Considered.

## SENATOR FRIEND PRESIDING

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

Senator Mines moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator Mines requested a roll call vote, in reverse order, on the motion to cease debate.

Voting in the affirmative, 22:

Avery	Engel	Johnson	McGill	White
Burling	Flood	Karpisek	Mines	Wightman
Carlson	Hansen	Kopplin	Nantkes	
Dierks	Harms	Kruse	Raikes	
Dubas	Hudkins	Lathrop	Stuthman	

Voting in the negative, 15:

Adams	Cornett	Louden	Pankonin	Schimek
Ashford	Fischer	Nelson	Pedersen	Synowiecki
Chambers	Gay	Pahls	Pirsch	Wallman

Present and not voting, 11:

Aguilar	Fulton	Janssen	Preister
Christensen	Heidemann	Langemeier	Rogert
Friend	Howard	McDonald	

Absent and not voting, 1:

Erdman

The motion to cease debate failed with 22 ayes, 15 nays, 11 present and not voting, and 1 absent and not voting.

The Chair declared the call raised.

Advanced to E & R for engrossment.

### MESSAGE FROM THE GOVERNOR

May 16, 2007

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 5, 8, 69, 132, 144e, 147, 152, 188e, 199, 208, 214, 218, 219e, 226e, 227, 233, 236, 236A, 252, 256, 277, 289, 364, 368, 368A, 382, 388, 396e, 424, 435e, 445, 449, 463, 471e, 481e, 508e, 561, 564e, 580, 596e, 610, and 664 were received in my office on May 10, 2007.

I signed Legislative Bills 236, 236A, and 463 on May 15, 2007.

I signed Legislative Bills 5, 8, 69, 132, 144e, 147, 152, 188e, 199, 208, 214, 218, 219e, 226e, 227, 233, 252, 256, 277, 289, 364, 368, 368A, 382, 388, 396e, 424, 435e, 445, 449, 471e, 481e, 508e, 561, 564e, 580, 596e, 610, and 664 on May 16, 2007.

All legislative bills, as noted above, were delivered to the Secretary of State on May 16, 2007.

Sincerely,  
(Signed) Dave Heineman  
Governor

### AMENDMENTS - Print in Journal

Senator Lathrop filed the following amendment to LB 221:  
AM1326

(Amendments to Final Reading copy)

- 1 1. Strike section 2.
- 2 2. On page 1, line 2; and page 13, line 7, strike "
- 3 43-1101,".
- 4 3. On page 1, line 3, strike "notice" and insert

5 "petition".

6 4. Renumber the remaining sections accordingly.

Senators Cornett, Gay, Kopplin, Langemeier, and Pankonin filed the following amendment to LB 641:

AM1348

(Amendments to AM1258)

1 1. On page 63, strike beginning with "and" in line 12  
2 through the period in line 16, show as stricken, and insert an  
3 underscored period.

4 2. On page 69, strike beginning with "and" in line 14  
5 through the last comma in line 17 and show the old matter as  
6 stricken.

Senator Preister filed the following amendment to LR 1CA:

AM1308

1 1. On page 1, line 3, strike "the general election in  
2 November 2008" and insert "a special election held in conjunction  
3 with the statewide primary election in 2010".

4 2. On page 2, lines 2 and 3 and 5, strike "January 7,  
5 2009," and insert "January 5, 2011,".

## VISITORS

Visitors to the Chamber were AmeriCorps and AmeriCorps Vista Teams from across the state; 55 fourth-grade students and teachers from Gates Elementary, Grand Island; 85 third-grade students and adults from Campbell Elementary, Lincoln; and 28 eighth-grade students and teachers from Our Lady of the Lourdes, Omaha.

## RECESS

At 12:11 p.m., on a motion by Senator Dierks, the Legislature recessed until 1:30 p.m.

## AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Langemeier presiding.

## ROLL CALL

The roll was called and all members were present except Senators Ashford, Cornett, Dierks, Engel, Flood, McDonald, Mines, and Nantkes who were excused until they arrive.

## SENATOR FRIEND PRESIDING

**SELECT FILE**

**LEGISLATIVE BILL 603A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 456.** ER8105, found on page 1433, was adopted.

Senator Raikes renewed his amendment, AM1312, found on page 1608.

The Raikes amendment was adopted with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 342.** ER8110, printed separately and referred to on page 1549, was adopted.

Senator Raikes renewed his amendment, AM1320, found on page 1607.

The Raikes amendment was adopted with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 342A.** Senator Raikes offered the following amendment:

AM1339

- 1 1. On page 2, lines 1 and 2, strike "\$12,000,000" and
- 2 insert "\$8,000,000".

Senator Raikes withdrew his amendment.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 542.** ER8108, found on page 1549, was adopted.

Senator Synowiecki renewed his amendment, AM1295, found on page 1607.

**PRESIDENT SHEEHY PRESIDING**

The Synowiecki amendment was adopted with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

Senator Stuthman offered the following amendment:

AM1357

(Amendments to AM1202)

- 1 1. On page 3, line 27, strike "division" and all
- 2 amendments thereto and insert "department" and strike "consider
- 3 the plan submitted".

4 2. On page 4, line 1, strike "under this section and  
 5 shall"; and strike beginning with "within" in line 2 through  
 6 line 3 and all amendments thereto and insert "for the children's  
 7 behavioral health plan to the Governor and the committee by January  
 8 4, 2008. The chairperson of the Health and Human Services Committee  
 9 of the Legislature shall prepare legislation or amendments to  
 10 legislation to implement this subdivision for introduction in the  
 11 2008 legislative session.".

The Stuthman amendment was adopted with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 482.** ER8107, found on page 1550, was adopted.

Senator Erdman renewed his amendment, AM1275, found on page 1472.

Senator Erdman withdrew his amendment.

Senator Johnson offered the following amendment:

AM1343

(Amendments to E & R amendments, ER8107)

- 1 1. On page 2, line 1, after the period insert "Transfers  
 2 from the Nebraska Health Care Cash Fund under this section and  
 3 section 71-7611 shall be utilized as the state match for the waiver  
 4 established under section 5 of this act upon the approval of such  
 5 waiver.".
- 6 2. On page 4, line 3, after "designated" insert "each  
 7 year"; and strike beginning with the period in line 4 through "be"  
 8 in line 5 and insert "and shall be distributed in each fiscal  
 9 year".

Senator Harms moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Johnson amendment was adopted with 36 ayes, 0 nays, and 13 present and not voting.

Advanced to E & R for engrossment.

## COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 551.** Placed on Select File - ER8112.

ER8112

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

3 Section 1. Section 13-2602, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 13-2602 (1) The Legislature finds that it will be  
6 beneficial to the economic well-being of the people of this  
7 state that there be convention and meeting center facilities,  
8 sports arena facilities, and hotel facilities of appropriate size  
9 and quality to host regional, national, or international events.  
10 Regional refers to states that border Nebraska; national refers  
11 to states other than those that border Nebraska; and international  
12 refers to nations other than the United States.

13 (2) The Legislature further finds that such facilities  
14 may (a) generate new economic activity as well as additional state  
15 and local taxes from persons residing within and outside the state  
16 and (b) create new economic opportunities for residents.

17 (3) In order that the state may receive any long-term  
18 economic and fiscal benefits from such facilities, a need exists to  
19 provide some state financial assistance to political subdivisions  
20 endeavoring to construct, acquire, substantially reconstruct,  
21 expand, operate, improve, or equip such facilities.

22 (4) Therefor, it is deemed to be in the best interest of  
23 both the state and its political subdivisions that the state assist  
1 political subdivisions in financing the construction, acquisition,  
2 substantial reconstruction, expansion, operation, improvement, or  
3 equipping of such facilities.

4 (5) The amount of state financial assistance shall be  
5 limited to a designated portion of ~~new state sales tax revenue~~  
6 ~~attributed to such facilities and defined events hosted at such~~  
7 ~~facilities, collected by retailers and operators doing business at~~  
8 such facilities, including primary and secondary box office sales,  
9 merchandise sales, and contracted labor for which sales tax is  
10 paid.

11 Sec. 2. Section 13-2603, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 13-2603 For purposes of the Convention Center Facility  
14 Financing Assistance Act:

15 ~~(1) Attributable revenue means new state tax revenue~~  
16 ~~generated due to the construction of the eligible facility,~~  
17 ~~employment at the eligible facility, and spending by participants,~~  
18 ~~increased by the applicable investment multiplier;~~

19 ~~(2)-(1)~~ Board means a board consisting of the Governor,  
20 the State Treasurer, the chairperson of the Nebraska Investment  
21 Council, the chairperson of the Nebraska State Board of Public  
22 Accountancy, and a professor of economics on the faculty of a  
23 state postsecondary educational institution appointed to a two-year  
24 term on the board by the Coordinating Commission for Postsecondary  
25 Education. For administrative and budget purposes only, the board  
26 shall be considered part of the Department of Revenue;

27 ~~(3)-(2)~~ Bond means a general obligation bond,  
1 redevelopment bond, lease-purchase bond, revenue bond, or

2 combination of any such bonds;

3 ~~(4)-(3)~~ Convention and meeting center facility means any  
4 real or personal property necessary for a convention and meeting  
5 center, including an auditorium, an exhibition hall, a facility for  
6 onsite food preparation and serving, an onsite, directly connected  
7 parking facility for the use of the convention and meeting center  
8 facility, and an administrative office of the convention and  
9 meeting center facility;

10 ~~(5)-(4)~~ Eligible facility means any ~~publicly owned~~  
11 convention and meeting center facility, sports arena facility,  
12 or hotel facility acquired, constructed, improved, or equipped  
13 after January 1, 1999;

14 ~~(6)-(5)~~ General obligation bond means any bond or  
15 refunding bond issued by a political subdivision and which is  
16 payable from the proceeds of an ad valorem tax;

17 ~~(7)~~ Investment multiplier means the number of times  
18 spending induces additional spending on goods and services;

19 ~~(8)~~ New regional, national, or international event means  
20 a convention, meeting, trade show, or other educational function  
21 at which at least fifty percent of the participants are registered  
22 from a location outside Nebraska and which was not held in Nebraska  
23 during the three years prior to the completion of construction of  
24 the convention and meeting center facilities;

25 ~~(9)~~ Participant means a person registered to attend and  
26 shown to have attended a new regional, national, or international  
27 event at a convention and meeting center facility financed under  
1 the act;

2 ~~(6)~~ Hotel facility means any facility in which the public  
3 may, for a consideration, obtain sleeping accommodations and which  
4 is located within two hundred yards of a convention and meeting  
5 center facility or a sports arena facility;

6 ~~(10)-(7)~~ Political subdivision means any local  
7 governmental body formed and organized under state law and any  
8 joint entity or joint public agency created under state law to act  
9 on behalf of political subdivisions which has statutory authority  
10 to issue general obligation bonds;

11 ~~(11)-(8)~~ Revenue bond means any bond or refunding bond  
12 issued by a political subdivision which is limited or special  
13 rather than a general obligation bond of the political subdivision  
14 and which is not payable from the proceeds of an ad valorem tax;  
15 and

16 ~~(9)~~ Sports arena facility means any enclosed real or  
17 personal property used for observing competitive sports, including  
18 arenas, dressing and locker facilities, concession areas, parking  
19 facilities, and onsite administrative offices in connection with  
20 operating the facilities. ~~(12)~~ State tax revenue means the Nebraska  
21 income tax imposed pursuant to the Nebraska Revenue Act of 1967,  
22 the Nebraska sales and use tax imposed pursuant to the Nebraska  
23 Revenue Act of 1967, and the state tax imposed by section 81-1253.

24 Sec. 3. Section 13-2605, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26 13-2605 (1) All applications for state assistance under  
27 the Convention Center Facility Financing Assistance Act shall be in  
1 writing and shall include a certified copy of the approving action  
2 of the governing body of the applicant describing the ~~proposed~~  
3 eligible facility and the anticipated financing.

4 (2) The application shall contain:

5 (a) A description of the ~~proposed~~ financing of the  
6 eligible facility, including the estimated principal and interest  
7 requirements for the bonds proposed to be issued in connection  
8 with the eligible facility or the amounts necessary to repay the  
9 original investment by the applicant in the eligible facility;

10 ~~(b) The estimated number of participants and the~~  
11 ~~estimated amount of the spending impact of these participants on~~  
12 ~~attributable revenue;~~

13 ~~(c) A specific listing of the investment multipliers~~  
14 ~~suggested for use in evaluating the application;~~

15 ~~(d) Estimates of attributable revenue based on the~~  
16 ~~investment multipliers;~~

17 ~~(e)~~ (b) Documentation of local financial commitment to  
18 support the project, including all public and private resources  
19 pledged or committed to the project; and

20 ~~(f)~~ (c) Any other project information deemed appropriate  
21 by the board.

22 (3) Upon receiving an application for state assistance,  
23 the board shall review the application and notify the applicant of  
24 any additional information needed for a proper evaluation of the  
25 application.

26 (4) Any state assistance received pursuant to the act  
27 shall not be used for any private purpose.

1 Sec. 4. Section 13-2607, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3 13-2607 (1) After consideration of the application and  
4 the evidence, the board shall issue a finding of whether the  
5 convention and meeting center facility, sports arena facility, or  
6 hotel facility described in the application is eligible for state  
7 assistance.

8 (2) If the board finds that the facility described in the  
9 application is an eligible facility and that state assistance is in  
10 the best interest of the state, the application shall be approved.

11 (3) In determining whether state assistance is in the  
12 best interest of the state, the board shall consider ~~the amount~~  
13 ~~of attributable revenue estimated to be derived by the state from~~  
14 ~~the eligible facility and~~ the fiscal and economic capacity of the  
15 applicant to finance the local share of the eligible facility.

16 (4) A majority of the board members constitutes a quorum  
17 for the purpose of conducting business. All actions of the board  
18 shall be by a majority vote of all the board members, one of whom

19 must be the Governor.

20 Sec. 5. Section 13-2609, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 13-2609 If an application is approved, the board shall  
23 annually:

24 (1) Audit or review audits of the approved convention and  
25 meeting center facility, sports arena facility, or hotel facility  
26 to determine the state sales tax revenue collected by retailers  
27 and operators doing business at such facilities, including primary  
1 and secondary box office sales, merchandise sales, and contracted  
2 labor for which sales tax is paid; and number of participants at  
3 the facility that are registered from a location outside Nebraska  
4 and to assure the number of conventions which were not held in  
5 the state during the three years prior to the construction of the  
6 facility;

7 ~~(2) Determine the amount of attributable revenue with~~  
8 ~~regard to construction, improvement, or equipping of the eligible~~  
9 ~~facility, employment at the eligible facility, and participants~~  
10 ~~attending a new regional, national, or international event for~~  
11 ~~which at least one half of the participants were registered from a~~  
12 ~~location outside Nebraska; and~~

13 ~~(2) (3) Certify the amount of state sales tax revenue~~  
14 ~~collected by retailers and operators doing business at such~~  
15 ~~facilities, including primary and secondary box office sales,~~  
16 ~~merchandise sales, and contracted labor for which sales tax is~~  
17 ~~paid, attributable revenue to the State Treasurer.~~

18 Sec. 6. Section 13-2610, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 13-2610 (1) Upon the annual certification under section  
21 13-2609, the State Treasurer shall transfer after the audit  
22 the amount certified to the Convention Center Support Fund. The  
23 Convention Center Support Fund is created. Any money in the fund  
24 available for investment shall be invested by the state investment  
25 officer pursuant to the Nebraska Capital Expansion Act and the  
26 Nebraska State Funds Investment Act.

27 ~~(2) (2)(a) It is the intent of the Legislature to~~  
1 ~~appropriate from the fund to any political subdivision for which~~  
2 ~~an application for state assistance under the Convention Center~~  
3 ~~Facility Financing Assistance Act has been approved an amount not~~  
4 ~~to exceed seventy percent of the attributable revenue, seventy five~~  
5 ~~million dollars for any one approved project, or the cost of~~  
6 ~~acquiring, constructing, improving, or equipping the eligible~~  
7 ~~facility. state sales tax revenue collected by retailers and~~  
8 ~~operators doing business at such facilities, including primary and~~  
9 ~~secondary box office sales, merchandise sales, and contracted labor~~  
10 ~~for which sales tax is paid. The money shall not be used for an~~  
11 ~~operating subsidy or other ancillary facility.~~

12 ~~(b) Ten percent of such funds appropriated to a city of~~  
13 ~~the metropolitan class under this subsection shall be utilized for~~

14 projects in areas with a high concentration of poverty to promote  
 15 athletics and tourism.

16 (c) For purposes of this subsection, an area with a high  
 17 concentration of poverty means an area in which the average poverty  
 18 rate exceeds twenty percent for the total federal census tract or  
 19 tracts or federal census block group or block groups in the area or  
 20 within a reasonable proximity to the area when the area is located  
 21 within the legal boundaries of a city of the metropolitan class.

22 (3) State assistance to the political subdivision shall  
 23 no longer be available upon the retirement of the bonds issued  
 24 to acquire, construct, improve, or equip the facility or any  
 25 subsequent bonds that refunded the original issue, ~~or when the cost~~  
 26 ~~of acquiring, constructing, improving, or equipping the eligible~~  
 27 ~~facility exceeds seventy five million dollars, whichever comes~~  
 1 ~~first.~~

2 (4) ~~It is the intent of the Legislature that the~~ The  
 3 remaining thirty percent of attributable revenue state sales tax  
 4 revenue collected by retailers and operators doing business at  
 5 such facilities, including primary and secondary box office sales,  
 6 merchandise sales, and contracted labor for which sales tax is  
 7 paid, shall be appropriated by the Legislature to the Local Civic,  
 8 Cultural, and Convention Center Financing Fund.

9 (5) Any municipality that has applied for and received a  
 10 grant of assistance under the Local Civic, Cultural, and Convention  
 11 Center Financing Act may not receive state assistance under the  
 12 Convention Center Facility Financing Assistance Act.

13 Sec. 7. Section 13-2612, Revised Statutes Cumulative  
 14 Supplement, 2006, is amended to read:

15 13-2612 The board shall not accept applications  
 16 for assistance under the Convention Center Facility Financing  
 17 Assistance Act ~~shall terminate on after June 1, 2010, 2002, if no~~  
 18 applications for assistance have been approved prior to such date.

19 Sec. 8. Section 13-2706, Revised Statutes Cumulative  
 20 Supplement, 2006, is amended to read:

21 13-2706 Any municipality, except a city ~~of the~~  
 22 ~~metropolitan class,~~ that has received funding under the Convention  
 23 Center Facility Financing Assistance Act, may apply for a grant  
 24 of assistance from the fund. Application shall be made on forms  
 25 developed by the department.

26 Sec. 9. Original sections 13-2602, 13-2603, 13-2605,  
 27 13-2607, 13-2609, 13-2610, 13-2612, and 13-2706, Revised Statutes  
 1 Cumulative Supplement, 2006, are repealed.

2 Sec. 10. The following section is outright repealed:  
 3 Section 13-2608, Revised Statutes Cumulative Supplement, 2006.

4 Sec. 11. Since an emergency exists, this act takes effect  
 5 when passed and approved according to law.

6 2. On page 1, strike beginning with "13-2601" in  
 7 line 2 through line 11 and insert "13-2602, 13-2603, 13-2605,  
 8 13-2607, 13-2609, 13-2610, 13-2612, and 13-2706, Revised Statutes

9 Cumulative Supplement, 2006; to provide for state sales tax revenue  
 10 appropriations to the Convention Center Support Fund and the Local  
 11 Civic, Cultural, and Convention Center Financing Fund; to change  
 12 and eliminate provisions relating to attributable revenue, eligible  
 13 facilities, and receipt of funding; to define and redefine terms;  
 14 to eliminate a termination date; to harmonize provisions; to  
 15 repeal the original sections; to outright repeal section 13-2608,  
 16 Revised Statutes Cumulative Supplement, 2006; and to declare an  
 17 emergency.".

**LEGISLATIVE BILL 377A.** Placed on Select File.

**LEGISLATIVE BILL 482A.** Placed on Select File.

(Signed) Amanda McGill, Chairperson

### **WITHDRAW - Amendments to LB 367**

Senator Dubas withdrew her amendment, AM1054, found on page 1209, to LB 367.

Senator White withdrew his amendments, AM1049 and AM1050, found on pages 1204 and 1206, to LB 367.

Senator Mines withdrew his amendments, AM1062 and AM1068, found on pages 1207 and 1210, to LB 367.

### **MOTIONS - Return LB 367 to Select File**

Senator Kruse moved to return LB 367 to Select File for the following specific amendment:

AM1033

1 1. Insert the following new section:  
 2 Sec. 15. Section 77-2704.12, Revised Statutes Cumulative  
 3 Supplement, 2006, is amended to read:  
 4 77-2704.12 (1) Sales and use taxes shall not be imposed  
 5 on the gross receipts from the sale, lease, or rental of and the  
 6 storage, use, or other consumption in this state of purchases by  
 7 any organization created exclusively for religious purposes, any  
 8 nonprofit organization providing services exclusively to the blind,  
 9 any private educational institution established under sections  
 10 79-1601 to 79-1607, any private college or university established  
 11 under sections 85-1101 to 85-1111, any hospital, health clinic  
 12 when two or more hospitals or the parent corporations of the  
 13 hospitals own or control the health clinic for the purpose  
 14 of reducing the cost of health services or when the health  
 15 clinic receives federal funds through the United States Public  
 16 Health Service for the purpose of serving populations that are  
 17 medically underserved, skilled nursing facility, intermediate care  
 18 facility, assisted-living facility, intermediate care facility for

19 the mentally retarded, nursing facility, home health agency,  
20 hospice or hospice service, or respite care service licensed  
21 under the Health Care Facility Licensure Act and organized not  
22 for profit, any licensed child-caring agency, any licensed child  
23 placement agency, or any nonprofit organization certified by the  
1 Department of Health and Human Services to provide community-based  
2 services for persons with developmental disabilities.

3 (2) Any organization listed in subsection (1) of this  
4 section shall apply for an exemption on forms provided by the  
5 Tax Commissioner. The application shall be approved and a numbered  
6 certificate of exemption received by the applicant organization in  
7 order to be exempt from the sales and use tax.

8 (3) The appointment of purchasing agents shall be  
9 recognized for the purpose of altering the status of the  
10 construction contractor as the ultimate consumer of building  
11 materials which are physically annexed to the structure and  
12 which subsequently belong to the owner of the organization or  
13 institution. The appointment of purchasing agents shall be in  
14 writing and occur prior to having any building materials annexed  
15 to real estate in the construction, improvement, or repair. The  
16 contractor who has been appointed as a purchasing agent may apply  
17 for a refund of or use as a credit against a future use tax  
18 liability the tax paid on inventory items annexed to real estate  
19 in the construction, improvement, or repair of a project for a  
20 licensed not-for-profit institution.

21 (4) Any organization listed in subsection (1) of this  
22 section which enters into a contract of construction, improvement,  
23 or repair upon property annexed to real estate without first  
24 issuing a purchasing agent authorization to a contractor or  
25 repairperson prior to the building materials being annexed to  
26 real estate in the project may apply to the Tax Commissioner for  
27 a refund of any sales and use tax paid by the contractor or  
1 repairperson on the building materials physically annexed to real  
2 estate in the construction, improvement, or repair.

3 (5) Any person purchasing, storing, using, or  
4 otherwise consuming building materials in the performance of any  
5 construction, improvement, or repair by or for any institution  
6 enumerated in subsection (1) of this section which is licensed upon  
7 completion although not licensed at the time of construction or  
8 improvement, which building materials are annexed to real estate  
9 and which subsequently belong to the owner of the institution,  
10 shall pay any applicable sales or use tax thereon. Upon becoming  
11 licensed and receiving a numbered certificate of exemption,  
12 the institution organized not for profit shall be entitled to  
13 a refund of the amount of taxes so paid in the performance  
14 of such construction, improvement, or repair and shall submit  
15 whatever evidence is required by the Tax Commissioner sufficient  
16 to establish the total sales and use tax paid upon the building  
17 materials physically annexed to real estate in the construction,

18 improvement, or repair.

19 2. Amend the operative date and repealer sections so that  
20 section 15 added by this amendment becomes operative October 1,  
21 2007.

22 3. Renumber the remaining sections and correct internal  
23 references accordingly.

### SENATOR ERDMAN PRESIDING

Senator Kruse withdrew his motion to return.

Senator Chambers moved to return LB 367 to Select File for the following specific amendment:

FA95

Amend AM911 Strike sections 10, 11, 12, 13, 14, 15, 16.

Senator Chambers withdrew his motion to return.

Senator Chambers moved to return LB 367 to Select File for the following specific amendment:

AM1225

1 1. In AM911, strike sections 6, 10 to 17, and 19 and all  
2 amendments thereto and insert the following new section:

3 Sec. 5. Section 77-2701.02, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 77-2701.02 Pursuant to section 77-2715.01:

6 (1) Until July 1, 1998, the rate of the sales tax levied  
7 pursuant to section 77-2703 shall be five percent;

8 (2) Commencing July 1, 1998, and until July 1, 1999, the  
9 rate of the sales tax levied pursuant to section 77-2703 shall be  
10 four and one-half percent;

11 (3) Commencing July 1, 1999, and until the start of the  
12 first calendar quarter after July 20, 2002, the rate of the sales  
13 tax levied pursuant to section 77-2703 shall be five percent; ~~and~~

14 (4) Commencing on the start of the first calendar quarter  
15 after July 20, 2002, and until October 1, 2007, the rate of the  
16 sales tax levied pursuant to section 77-2703 shall be five and  
17 one-half percent; ~~and~~ -

18 (5) Commencing October 1, 2007, the rate of the sales tax  
19 levied pursuant to section 77-2703 shall be five percent.

20 2. In AM1187, strike sections 6 to 8.

21 3. Correct the repealer and operative date sections  
22 accordingly.

Senator Chambers withdrew his motion to return.

### WITHDRAW - Amendment to LB 367

Senator Janssen withdrew his amendment, AM1238, found on page 1404, to

LB 367.

**BILL ON FINAL READING**

**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 367 with 40 ayes, 3 nays, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 367.** With Emergency.

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

Senator Chambers requested a roll call vote.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

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

Voting in the negative, 2:

Chambers	Schimek
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Excused and not voting, 1:

Pedersen

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**MOTION - Return LB 367A to Select File**

Senator Chambers moved to return LB 367A to Select File for the following specific amendment:

FA99

Amend FA97 Strike "\$99,000,000", and strike lines 10 through 15.

Senator Chambers withdrew his motion to return.

**BILL ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 367A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 367, One Hundredth Legislature, First Session, 2007.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

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

Voting in the negative, 1:

Chambers

Present and not voting, 2:

Ashford

Raikes

Excused and not voting, 2:

Dierks            Pedersen

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**SPEAKER FLOOD PRESIDING**

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 367 and 367A.

**COMMITTEE REPORT  
Enrollment and Review**

**Correctly Reengrossed**

The following bill was correctly reengrossed: LB 343.

(Signed) Amanda McGill, Chairperson

**PRESIDENT SHEEHY PRESIDING**

**GENERAL FILE**

**LEGISLATIVE BILL 554.** Title read. Considered.

Committee AM1140, printed separately and referred to on page 1349, was considered.

Senator Wightman offered the following amendment to the committee amendment:

AM1359

(Amendments to Standing Committee amendments, AM1140)

- 1     1. Insert the following new section:
- 2     Sec. 40. Section 43-512.15, Reissue Revised Statutes of
- 3     Nebraska, is amended to read:
- 4     43-512.15 (1) The county attorney or authorized attorney,
- 5     upon referral from the Department of Health and Human Services,
- 6     shall file a complaint to modify a child support order unless the
- 7     attorney determines in the exercise of independent professional
- 8     judgment that:
- 9     (a) The variation from the Supreme Court child support
- 10    guidelines pursuant to section 42-364.16 is based on material
- 11    misrepresentation of fact concerning any financial information
- 12    submitted to the attorney;

13 (b) The variation from the guidelines is due to a  
 14 voluntary reduction in net monthly income. For purposes of this  
 15 section, incarceration for a period of six months or more in a  
 16 county or city jail or a federal or state correctional facility  
 17 shall be considered an involuntary reduction of income unless the  
 18 incarceration is a result of a conviction for criminal nonsupport  
 19 pursuant to section 28-706 or a conviction for a violation of  
 20 any federal law or law of another state substantially similar to  
 21 section 28-706; or

22 (c) When the amount of the order is considered with all  
 1 the other undisputed facts in the case, no variation from the  
 2 criteria set forth in subdivisions (1) and (2) of section 43-512.12  
 3 exists.

4 (2) The proceedings to modify a child support order shall  
 5 comply with section 42-364, and the county attorney or authorized  
 6 attorney shall represent the state in the proceedings.

7 (3) After a complaint to modify a child support order is  
 8 filed, any party may choose to be represented personally by private  
 9 counsel. Any party who retains private counsel shall so notify the  
 10 county attorney or authorized attorney in writing.

11 2. Renumber the remaining sections and correct internal  
 12 references and the repealer accordingly.

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

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

The motion to cease debate prevailed with 25 ayes, 6 nays, 17 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

The Wightman amendment was adopted with 37 ayes, 4 nays, 7 present and not voting, and 1 excused and not voting.

Senator Flood offered the following amendment to the committee amendment:

AM1362

(Amendments to Standing Committee amendments, AM1140)

1 1. Insert the following sections:

2 Sec. 26. Section 33-106.03, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 33-106.03 In addition to the fees provided for in  
 5 sections 33-106 and 33-123, the clerk of the court shall collect  
 6 an additional ~~twenty five~~ seventy-five dollars in docket fees for  
 7 dissolution of marriages. The ~~twenty five dollar~~ fee shall be  
 8 remitted to the State Treasurer ~~for~~ who shall credit twenty-five

9 dollars to the Nebraska Child Abuse Prevention Fund and fifty  
 10 dollars to the Parenting Act Fund.

11 Sec. 27. Section 33-107.02, Reissue Revised Statutes of  
 12 Nebraska, is amended to read:

13 33-107.02 (1) A docket fee of ~~fifteen-sixty-five~~ dollars  
 14 shall be collected by the clerk of the county court or the clerk  
 15 of the district court for each proceeding to modify a decree of  
 16 dissolution or annulment of marriage, a modification of an award of  
 17 child support, or a modification of child custody, parenting time,  
 18 visitation, or other access as defined in section 3 of this act. ~~or~~  
 19 ~~visitation.~~ Such fees shall be remitted to the State Treasurer on  
 20 forms prescribed by the State Treasurer within ten days after the  
 21 close of each month. ~~for credit~~ Fifteen dollars shall be credited  
 22 to the Legal Aid and Services Fund and fifty dollars shall be  
 1 credited to the Parenting Act Fund.

2 (2) Any proceeding filed by a county attorney or an  
 3 authorized attorney, as defined in section 43-1704, in a case in  
 4 which services are being provided under Title IV-D of the federal  
 5 Social Security Act, as amended, shall not be subject to the  
 6 provisions of this section.

7 2. On page 68, line 16, after the first comma insert  
 8 "33-106.03, 33-107.02,".

9 3. Renumber the remaining sections and correct internal  
 10 references accordingly.

The Flood amendment was adopted with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

The committee amendment, as amended, was adopted with 34 ayes, 0 nays, 14 present and not voting, and 1 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

### PRESENTED TO THE GOVERNOR

Presented to the Governor on May 16, 2007, at 4:43 p.m. were the following: LBs 367e and 367A.

(Signed) Jamie Kruse  
 Clerk of the Legislature's Office

### COMMITTEE REPORT Enrollment and Review

**LEGISLATIVE BILL 358.** Placed on Select File - ER8113.  
 ER8113

1 1. In the Hudkins amendment, AM1034, on page 17, line 13,  
 2 strike "sections 75-307 and 75-390" and insert "section 75-307".

3 2. On page 1, strike beginning with "interstate" in  
4 line 1 through line 12 and insert "motor carriers; to amend  
5 section 75-307, Reissue Revised Statutes of Nebraska, and sections  
6 60-3,137, 60-3,205, 66-1406.02, 75-302, 75-369.03, 75-370, 75-371,  
7 and 75-386, Revised Statutes Cumulative Supplement, 2006; to  
8 authorize registration under the unified carrier registration plan  
9 and agreement; to provide powers and duties for the Director  
10 of Motor Vehicles and the Division of Motor Carrier Services;  
11 to provide a penalty; to change and eliminate certain motor  
12 carrier provisions; to harmonize provisions; to repeal the original  
13 sections; and to outright repeal sections 75-307.01, 75-307.02,  
14 75-307.03, and 75-352, Reissue Revised Statutes of Nebraska.".

(Signed) Amanda McGill, Chairperson

### **GENERAL FILE**

**LEGISLATIVE BILL 573.** Title read. Considered.

### **SENATOR AGUILAR PRESIDING**

Committee AM1088, found on page 1342, was considered.

Senator Kruse renewed his amendment, AM1195, found on page 1371, to the committee amendment.

### **PRESIDENT SHEEHY PRESIDING**

Senator Kruse withdrew his amendment.

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

The committee amendment was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Senator Pirsch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 2 nays, and 19 not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Pirsch asked unanimous consent to add his name as cointroducer to LB 367. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 90 fourth-grade students and adults from Rumsey Station Elementary, Papillion; and 36 fourth-, fifth-, and sixth-grade students and teachers from Wheeler Central School, Bartlett.

The Doctor of the Day was Dr. Bob Rauner from Lincoln.

**ADJOURNMENT**

At 8:09 p.m., on a motion by Senator Langemeier, the Legislature adjourned until 9:00 a.m., Thursday, May 17, 2007.

Patrick J. O'Donnell  
Clerk of the Legislature