

ELEVENTH DAY - JANUARY 24, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****ELEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, January 24, 2008

PRAYER

The prayer was offered by Senator Kruse.

ROLL CALL

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

The roll was called and all members were present except Senator Harms who was excused; and Senators Ashford, Chambers, Cornett, Synowiecki, White, and Wightman who were excused until they arrive.

SPEAKER FLOOD PRESIDING**CORRECTIONS FOR THE JOURNAL**

The Journal for the tenth day was approved.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB1009	Education (rereferred)
LB1061	Natural Resources
LB1062	Government, Military and Veterans Affairs
LB1063	Judiciary
LB1064	Transportation and Telecommunications
LB1065	Natural Resources
LB1066	Natural Resources
LB1067	Government, Military and Veterans Affairs
LB1068	Transportations and Telecommunications
LB1069	Transportation and Telecommunications
LB1070	Health and Human Services
LB1071	Revenue
LB1072	Urban Affairs

LB1073 Business and Labor
 LB1074 Health and Human Services
 LB1075 Appropriations
 LB1076 Judiciary
 LB1077 Judiciary
 LB1078 Judiciary
 LB1079 Education
 LB1080 Revenue
 LB1081 Revenue
 LB1082 Business and Labor
 LB1083 Education
 LB1084 Judiciary
 LB1085 Judiciary
 LB1086 Business and Labor
 LB1087 Transportation and Telecommunications
 LB1088 Revenue
 LB1089 Education
 LB1090 Banking, Commerce and Insurance
 LR230CA Revenue

(Signed) L. Patrick Engel, Chairperson
 Legislative Council, Executive Board

NOTICE OF COMMITTEE HEARINGS
 Government, Military and Veterans Affairs

Room 1507

Thursday, January 31, 2008 1:30 p.m.

LB803
 LB991
 LB1062
 LR225CA

Friday, February 01, 2008 1:30 p.m.

LB748
 LB904
 LB822

(Signed) Ray Aguilar, Chairperson

GENERAL FILE

LEGISLATIVE BILL 632. Committee AM527, found on page 697, First Session, 2007, and considered on page 340, was renewed.

SENATOR LANGEMEIER PRESIDING

The committee amendment was adopted with 27 ayes, 3 nays, 12 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 621. Title read. Considered.

Committee AM533, found on page 717, First Session, 2007, was considered.

SENATOR ERDMAN PRESIDING

The committee amendment was adopted with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

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

Advanced to Enrollment and Review Initial with 27 ayes, 5 nays, 14 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 480. Title read. Considered.

Senator Johnson renewed his amendment, AM1534, found on page 168.

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

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 386. Title read. Considered.

Advanced to Enrollment and Review Initial with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

PRESIDENT SHEEHY PRESIDING

LEGISLATIVE BILL 352. Title read. Considered.

Committee AM665, found on page 841, First Session, 2007, was considered.

Pending.

COMMITTEE REPORTS

Transportation and Telecommunications

LEGISLATIVE BILL 279. Placed on General File.

LEGISLATIVE BILL 59. Indefinitely postponed.

LEGISLATIVE BILL 163. Indefinitely postponed.

LEGISLATIVE BILL 182. Indefinitely postponed.

LEGISLATIVE BILL 287. Indefinitely postponed.

LEGISLATIVE BILL 360. Indefinitely postponed.

LEGISLATIVE BILL 421. Indefinitely postponed.

LEGISLATIVE BILL 660. Indefinitely postponed.

(Signed) Deb Fischer, Chairperson

Revenue

LEGISLATIVE BILL 896. Placed on General File.

LEGISLATIVE BILL 898. Placed on General File.

(Signed) Ray Janssen, Chairperson

NOTICE OF COMMITTEE HEARINGS

Natural Resources

Room 1525

Thursday, January 31, 2008 1:30 p.m.

LB986

LB1061

John Baker - Environmental Quality Council

John Turnbull - Environmental Quality Council

(Signed) LeRoy Louden, Chairperson

Judiciary

Room 1113

Thursday, January 31, 2008 1:30 p.m.

LB787

LB1024

LB847

LB901

LB952

(Signed) Brad Ashford, Chairperson

AMENDMENTS - Print in Journal

Senator Langemeier filed the following amendment to LB386:
AM1618 is available in the Bill Room.

Senator Langemeier filed the following amendment to LB386:
AM1620 is available in the Bill Room.

Senator Flood filed the following amendment to LB467:
AM1624

(Amendments to E & R amendments, ER8136)

- 1 1. On page 1, line 15, after the underscored comma insert
- 2 "any regional behavioral health authority, any community-based
- 3 behavioral health services provider that contracts with a regional
- 4 behavioral health authority."; and in line 22 before the comma
- 5 insert "or a regional behavioral health authority".
- 6 2. On page 2, strike beginning with "or" in line
- 7 26 through line 27 and insert "and to all regional behavioral
- 8 health authorities that provide services and all community-based
- 9 behavioral health services providers that contract with a regional
- 10 behavioral health authority to provide services, for any individual
- 11 who was a patient within the prior twelve months of a state-owned
- 12 and state-operated regional center, and to all complaints
- 13 pertaining to administrative acts of the department, authority,
- 14 or provider when those acts are concerned with the rights
- 15 and interests of individuals placed within those institutions
- 16 and facilities or receiving community-based behavioral health
- 17 services.".
- 18 3. On page 3, strike lines 1 through 6.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 179A. Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 179, One Hundredth Legislature, Second Session, 2008.

GENERAL FILE

LEGISLATIVE BILL 352. Committee AM665, found on page 841, First Session, 2007, and considered in this day's Journal, was renewed.

Senator Chambers offered the following amendment to the committee amendment:

FA161

Amend AM665

Line 5 strike beginning with "under" through "occupancy" in line 6.

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

The Chambers amendment was adopted with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Pending.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 465. Placed on Select File with amendment.
ER8142

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 29-1928, Revised Statutes Cumulative
- 4 Supplement, 2006, is amended to read:
- 5 29-1928 The Legislature finds and declares that the
- 6 interests of justice may be thwarted by unreliable testimony at
- 7 trial. There is a compelling state interest in providing safeguards
- 8 against the admission of testimony the reliability of which may be
- 9 or has been compromised through improper inducements.
- 10 The Legislature further finds and declares that the
- 11 testimony of a jailhouse informer is sometimes unreliable. A
- 12 jailhouse informer, due to the receipt or promise of a benefit, is
- 13 presumed to provide testimony that may be unreliable.
- 14 For purposes of sections 29-1928 and 29-1929, a jailhouse
- 15 informer is a person in custody as: An accused defendant, a
- 16 convicted defendant awaiting sentencing, a convicted defendant
- 17 serving a sentence, ~~or~~ a criminal suspect, or a person detained
- 18 for questioning regarding the event for which such person received
- 19 a deal, promise, inducement, or benefit. A jailhouse informer is
- 20 deemed to be in custody whether physically in jail or not.
- 21 Sec. 2. Section 29-1929, Revised Statutes Cumulative
- 22 Supplement, 2006, is amended to read:
- 23 29-1929 Before the testimony of a jailhouse informer is
- 1 admissible in court, the following requirements must be met:
- 2 At least ten days before trial, the state shall disclose
- 3 to the person against whom the jailhouse informer will testify, or
- 4 to such person's counsel:
- 5 (1) The known criminal history of the jailhouse informer;
- 6 (2) Any deal, promise, inducement, or benefit that the
- 7 state or any person acting on behalf of the state has made or may

8 make in the future to the jailhouse informer;

9 (3) The specific statements allegedly made by the person
10 against whom the jailhouse informer will testify and the time,
11 place, and manner of disclosure;

12 (4) All cases known to the state in which the jailhouse
13 informer testified or offered statements against a person but
14 was not called as a witness, whether or not the statements were
15 admitted as evidence in the case, and whether the jailhouse
16 informer received any deal, promise, inducement, or benefit in
17 exchange for or subsequent to such testimony or statement, and all
18 investigations in which the jailhouse informer was involved, known
19 to the prosecutor or the law enforcement authority, during the
20 course of which the jailhouse informer was offered or received any
21 deal, promise, inducement, or benefit; and

22 (5) Whether at any time the jailhouse informer recanted
23 testimony or statements and, if so, a transcript or copy of such
24 recantation.

25 Sec. 3. Original sections 29-1928 and 29-1929, Revised
26 Statutes Cumulative Supplement, 2006, are repealed.

LEGISLATIVE BILL 586. Placed on Select File with amendment.
ER8143

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

3 Section 1. Section 52-401, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 52-401 Whenever any person employs a physician, nurse,
6 chiropractor, or hospital to perform professional service or
7 services of any nature, in the treatment of or in connection
8 with an injury, and such injured person claims damages from the
9 party causing the injury, such physician, nurse, chiropractor, or
10 hospital, as the case may be, shall have a lien upon any sum
11 awarded the injured person in judgment or obtained by settlement or
12 compromise on the amount due for the usual and customary charges
13 of such physician, nurse, chiropractor, or hospital applicable
14 at the times services are performed, except that no such lien
15 shall be valid against anyone coming under the Nebraska Workers'
16 Compensation Act. For persons covered under medical insurance or
17 another health benefit plan, the amount of the lien shall be
18 reduced by the discount or other limitation which would have been
19 applied had the claim been submitted for reimbursement to the
20 medical insurer or administrator of such other health benefit plan.

21 In order to prosecute such lien, it shall be necessary
22 for such physician, nurse, chiropractor, or hospital to serve a
23 written notice upon the person or corporation from whom damages
1 are claimed that such physician, nurse, chiropractor, or hospital
2 claims a lien for such services and stating the amount due and the
3 nature of such services, except that whenever an action is pending
4 in court for the recovery of such damages, it shall be sufficient

5 to file the notice of such lien in the pending action.

6 A physician, nurse, chiropractor, or hospital claiming
7 a lien under this section shall not be liable for attorney's
8 fees and costs incurred by the injured person in securing the
9 judgment, settlement, or compromise, but the lien of the injured
10 person's attorney shall have precedence over the lien created by
11 this section.

12 Upon a written request and with the injured person's
13 consent, a lienholder shall provide medical records, answers
14 to interrogatories, depositions, or any expert medical testimony
15 related to the recovery of damages within its custody and control
16 at a reasonable charge to the injured person.

17 Sec. 2. Original section 52-401, Reissue Revised Statutes
18 of Nebraska, is repealed.

19 Sec. 3. Since an emergency exists, this act takes effect
20 when passed and approved according to law.

LEGISLATIVE BILL 619. Placed on Select File with amendment.
ER8144

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

3 Section 1. Section 84-617, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 84-617 (1) There is hereby created the State Treasurer
6 Administrative Fund. Funds received by the State Treasurer pursuant
7 to his or her administrative duties shall be credited to the fund.

8 Such funds shall include:

9 ~~(a) Payments for returned check charges or for electronic~~
10 ~~payments not accepted;~~

11 ~~(b)-(a)~~ Payments for wire transfers initiated by the
12 State Treasurer at the request of state agencies;

13 ~~(e)-(b)~~ Payments for copies of cashed state warrants;

14 ~~(d)-(c)~~ Payments for copies, including microfilm,
15 computer disk, or magnetic tape, of listings relating to
16 outstanding state warrants; and

17 ~~(e)-(d)~~ Payments for copies, including microfilm,
18 computer disk, or magnetic tape, of listings of owners of unclaimed
19 property held by the State Treasurer pursuant to the Uniform
20 Disposition of Unclaimed Property Act.

21 Money in the fund received pursuant to subdivisions

22 (1)(a) through ~~(d)-(c)~~ of this section shall be credited to the
23 General Fund quarterly. Money in the State Treasurer Administrative

1 Fund received pursuant to subdivision ~~(1)(e)-(1)(d)~~ of this section
2 shall be credited to the Unclaimed Property Cash Fund. The State

3 Treasurer may retain such amount as he or she deems appropriate
4 in the State Treasurer Administrative Fund for purposes of making

5 change for cash payments. Any money in the fund available for
6 investment shall be invested by the state investment officer

7 pursuant to the Nebraska Capital Expansion Act and the Nebraska

8 State Funds Investment Act.

9 (2) The State Treasurer may establish a fee schedule for
10 any of the services listed in subsection (1) of this section. The
11 fees shall approximate the cost of providing the service.

12 ~~(3) At any time that the State Treasurer assesses a
13 returned check charge or a charge for an electronic payment that
14 is not accepted against a state agency, that agency may assess the
15 charge to the payor of the check or the person who authorized the
16 electronic payment. The charges assessed by the state agency shall
17 be used to make payment to the State Treasurer or to reimburse the
18 state agency for the assessments.~~

19 Sec. 2. Any time that the State Treasurer assesses a
20 returned check charge or a charge for an electronic payment that
21 is not accepted against a state agency, that agency may assess a
22 charge to the payor of the check or the person who authorized the
23 electronic payment. The charges assessed by the state agency shall
24 be used to make payment to the State Treasurer and to reimburse
25 the state agency for the assessments and any administrative costs
26 incurred by the agency. The charge assessed by the State Treasurer
27 or a state agency shall not exceed thirty dollars. The charge
1 assessed by the State Treasurer shall be credited to the General
2 Fund and shall be used to offset the expenses incurred in the
3 collection of state agency bad debt.

4 Sec. 3. Original section 84-617, Revised Statutes
5 Cumulative Supplement, 2006, is repealed.

LEGISLATIVE BILL 620. Placed on Select File with amendment.
ER8145

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

3 Section 1. Section 43-3342.03, Revised Statutes
4 Cumulative Supplement, 2006, is amended to read:

5 43-3342.03 (1) All support orders shall direct payment
6 of support as provided in section 42-369. Any support order
7 issued prior to the date that the State Disbursement Unit becomes
8 operative for which the payment is to be made to the clerk of
9 the district court shall be deemed to require payment to the State
10 Disbursement Unit after a notice to the obligor is issued.

11 (2) The unit may collect a fee equal to the actual cost
12 of processing any payments for returned check charges or charges
13 for electronic payments not accepted, except that the fee shall not
14 exceed thirty dollars. After a payor has originated two payments
15 resulting in returned check charges or charges for electronic
16 payments not accepted within a period of two years, the unit may
17 issue a notice to the originator that, for the following year,
18 any payment shall be required to be paid by money order, cashier's
19 check, or certified check. After a payor has originated ~~three~~ two
20 payments resulting in returned check charges or electronic payments
21 not accepted, the unit may issue a notice to the originator that

22 all future payments shall be paid by money order, cashier's check,
 23 or certified check, except that pursuant to rule and regulation
 1 and at least two years after such issuance of notice, the unit
 2 may waive for good cause shown such requirements for methods of
 3 payment. The fees shall be remitted to the State Treasurer for
 4 credit to the State Disbursement Unit Cash Fund, which is hereby
 5 created, which funds shall be used to offset the expenses incurred
 6 in the collection of child support bad debt. Any money in the fund
 7 available for investment shall be invested by the state investment
 8 officer pursuant to the Nebraska Capital Expansion Act and the
 9 Nebraska State Funds Investment Act.

10 (3) The State Disbursement Unit shall use automated
 11 procedures, electronic processes, and computer-driven technology
 12 to the maximum extent feasible, efficient, and economical for the
 13 collection and disbursement of support payments.

14 (4) Employers with more than fifty employees who have
 15 an employee with a child support order shall remit child support
 16 payments electronically.

17 Sec. 2. (1) The State Treasurer, with state agency
 18 approval, may collect a fee from a debtor of the state agency
 19 electronically equal to the cost of processing any payments for
 20 returned check charges or charges for electronic payments not
 21 accepted, except that the fee shall not exceed thirty dollars. The
 22 fee shall be remitted to the Treasury Management Cash Fund. The fee
 23 shall be used to offset the cost incurred by the State Treasurer
 24 from the collection of bad debt incurred by the state agency.

25 (2) After the payor has originated two bad debt payments
 26 to a state agency in a period of one year, the state agency may
 27 refuse to accept future payments by check and may require a money
 1 order, cash, a cashier's check, or a certified check for payment.

2 Sec. 3. Original section 43-3342.03, Revised Statutes
 3 Cumulative Supplement, 2006, is repealed.

4 2. On page 1, line 1, strike "child support" and insert
 5 "debt collection"; and in line 3 after the first "to" insert
 6 "collection and disbursement of child support by" and after "Unit"
 7 insert "and collection of debt by state agencies; to provide for
 8 fees".

LEGISLATIVE BILL 196. Placed on Select File with amendment.
 ER8146

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

3 Section 1. Section 55-133, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 55-133 (1) The Adjutant General shall assign to each
 6 organization an armory and such other equipment as may be
 7 necessary to comply with the requirements of United States laws
 8 or regulations for National Guard units allotted to the State of
 9 Nebraska.

10 (2)(a) The Adjutant General may designate any publicly
11 owned military vehicles of the National Guard described in
12 subdivision (b) of this subsection as military emergency vehicles.
13 Military emergency vehicles shall be operated as emergency vehicles
14 only when responding to a public disaster, war, riot, invasion,
15 insurrection, or resistance of process or in case of imminent
16 danger of the occurrence of any of such events. The Adjutant
17 General shall develop and enforce standard operating procedures for
18 military emergency vehicles.

19 (b) Vehicles eligible for designation as military
20 emergency vehicles shall be limited to vehicles assigned to:

21 (i) The Civil Support Team, or any successor unit; and

22 (ii) The chemical, biological, radiological, nuclear, and
23 high-yield explosives enhanced response force package, commonly
1 known as the CERFP unit, or any successor unit.

2 Sec. 2. Section 60-610, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 60-610 Authorized emergency vehicle shall mean such
5 fire department vehicles, police vehicles, rescue vehicles, and
6 ambulances as are publicly owned, ~~and~~ such other publicly or
7 privately owned vehicles as are designated by the Director of Motor
8 Vehicles, and such publicly owned military vehicles of the National
9 Guard as are designated by the Adjutant General pursuant to section
10 55-133.

11 Sec. 3. Section 60-6,230, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 60-6,230 (1) Except as provided in sections 60-6,231 to
14 60-6,233 and subsections (4) and (5) of this section, no person
15 shall operate any motor vehicle or any equipment of any description
16 on any highway in this state with any rotating or flashing light.

17 (2) Except for stop lights and directional signals, which
18 may be red, yellow, or amber, no person shall display any color
19 of light other than red on the rear of any motor vehicle or any
20 equipment of any kind on any highway within this state.

21 ~~(3) Blue and green lights may Amber rotating or flashing~~
22 lights shall be displayed on vehicles of the Military Department
23 for purpose of convoy control when on any state emergency mission.

24 (4) A single flashing white light may be displayed on
25 the roof of school transportation vehicles during extremely adverse
26 weather conditions.

27 (5) Blue and amber rotating or flashing lights may be
1 displayed on vehicles used for the movement of snow when operated
2 by the Department of Roads or any local authority.

3 Sec. 4. Section 60-6,231, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 60-6,231 A flashing or rotating red light or red and
6 white light shall be displayed on any authorized emergency vehicle
7 whenever operated in this state. A blue light may also be displayed
8 with such flashing or rotating red light or red and white light.

9 For purposes of this section, ~~any publicly owned police, fire,~~
 10 ~~or rescue vehicles and publicly or privately owned ambulances and~~
 11 ~~funeral escort vehicles shall be considered to be emergency an~~
 12 ~~authorized emergency vehicle shall include funeral escort vehicles.~~
 13 Sec. 5. Original sections 55-133, 60-610, 60-6,230, and
 14 60-6,231, Reissue Revised Statutes of Nebraska, are repealed.

(Signed) Amanda McGill, Chairperson

COMMITTEE REPORTS

Agriculture

LEGISLATIVE BILL 790. Placed on General File.

LEGISLATIVE BILL 791. Placed on General File.

LEGISLATIVE BILL 925. Placed on General File with amendment.
 AM1607

1 1. Strike section 2.

2 2. On page 4, line 5, strike "sections 54-401 and 54-415"

3 and insert "section 54-401"; and in line 6 strike "are" and insert

4 "is".

(Signed) Philip Erdman, Chairperson

NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1524

Monday, February 04, 2008 1:30 p.m.

LB959

LB960

LB961

Agency 10 - State Auditor

Agency 12 - State Treasurer

Agency 16 - Department of Revenue

Agency 75 - Nebraska Investment Council

Agency 93 - Tax Equalization and Review Commission

Tuesday, February 05, 2008 1:30 p.m.

LB1060

LB1075

LB905

Agency 48 - Coordinating Commission for Postsecondary Education

Agency 50 - Nebraska State Colleges

Agency 51 - University of Nebraska

Agency 47 - Educational Telecommunications Commission

(Signed) Lavon Heidemann, Chairperson

General Affairs

Room 1510

Monday, February 04, 2008 1:30 p.m.

LB996

LB1058

LB728

Murray Newman - Nebraska Arts Council

David Catalan - Nebraska Arts Council

Richard Vierk - Nebraska Arts Council

Donna Hastings - Nebraska Arts Council

Nana Smith - Nebraska Arts Council

(Signed) Vickie McDonald, Chairperson

VISITORS

Visitors to the Chamber were 8 seventh-grade student advisory group, teacher, and sponsor from Norfolk Middle School, Norfolk; 14 eleventh- and twelfth-grade students and teachers from Kearney Catholic School, Kearney; and Skip Quint from Omaha.

The Doctor of the Day was Dr. Jeffrey Harrison from Papillion.

ADJOURNMENT

At 12:07 p.m., on a motion by Senator McGill, the Legislature adjourned until 9:00 a.m., Friday, January 25, 2008.

Patrick J. O'Donnell
Clerk of the Legislature

