

THIRTEENTH DAY - JANUARY 28, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****THIRTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Monday, January 28, 2008

PRAYER

The prayer was offered by Father Damien Zuerlein, St. Columbkille Catholic Church, Papillion.

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 Rogert who was excused; and Senators Christensen, Cornett, Dubas, Janssen, Johnson, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twelfth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 269. Placed on Final Reading.

LEGISLATIVE BILL 575. Placed on Final Reading.

LEGISLATIVE BILL 706. Placed on Final Reading.

LEGISLATIVE BILL 707. Placed on Final Reading.

(Signed) Amanda McGill, Chairperson

NOTICE OF COMMITTEE HEARINGS

Banking, Commerce and Insurance

Room 1507

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

LB848

LB907

LB1011
LB1028

(Signed) Rich Pahls, Chairperson

Education

Room 1525

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

LB1089
LB903
LB976
LB977

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

LB1100
LB1057
LB1009
LB1036

Monday, February 11, 2008 1:30 p.m.

LB873
LB879
LB988
LB1079

Tuesday, February 12, 2008 1:30 p.m.

LB970
LB978
LB886
LB1005
LB1154
LB1158

Tuesday, February 19, 2008 1:30 p.m.

LB990
LB1152
LB1153
LB1023
LB1083

Monday, February 25, 2008 1:30 p.m.

LB1135
LB719
LB1021
LB1125
LB1151

Tuesday, February 26, 2008 1:30 p.m.

LB1141
LB1157
LB731
LB1155

(Signed) Ron Raikes, Chairperson

Transportation and Telecommunications

Room 1113

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

Dillon, Sid - Motor Vehicle Industry Licensing Board
Rolfmeier, Douglas - Motor Vehicle Industry Licensing Board
Stone, Fred - Motor Vehicle Industry Licensing Board
Bauer, James - Board of Public Roads Classifications and Standards
Figard, Roger - Board of Public Roads Classifications and Standards
Peters, Randy - Board of Public Roads Classifications and Standards
Pierce, Richard - Board of Public Roads Classifications and Standards
Ruby, Richard - Board of Public Roads Classifications and Standards
Tagge, Darold - Board of Public Roads Classifications and Standards
Thieman, Henry - Board of Public Roads Classifications and Standards
Wootton, Edward - Board of Public Roads Classifications and Standards

LB1087
LB841
LB911

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

LB845
LB917
LB919
LB867

(Signed) Deb Fischer, Chairperson

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Schroeder, Dave - Foster Care Review Board - Health and Human Services
 Deiml, Keith - State Emergency Response Commission - Government,
 Military and Veterans Affairs
 Gandara, Gary - State Emergency Response Commission - Government,
 Military and Veterans Affairs
 Graf, Mark - State Emergency Response Commission - Government,
 Military and Veterans Affairs
 Virgil, Steven - State Emergency Response Commission - Government,
 Military and Veterans Affairs

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

COMMITTEE REPORTS

Government, Military and Veterans Affairs

LEGISLATIVE BILL 744. Placed on General File.

LEGISLATIVE BILL 747. Placed on General File.

(Signed) Ray Aguilar, Chairperson

Revenue

LEGISLATIVE BILL 722. Placed on General File.

(Signed) Ray Janssen, Chairperson

MOTION - Withdraw LB1099

Senator Hudkins renewed her motion, MO112, found on page 374, to withdraw LB1099.

The Hudkins motion to withdraw prevailed with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

MOTION - Withdraw LB1148

Senator Schimek renewed her motion, MO114, found on page 378, to withdraw LB1148.

The Schimek motion to withdraw prevailed with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 474. Title read. Considered.

Committee AM641, found on page 845, First Session, 2007, was considered.

Senator Friend offered the following motion:

MO118

Recommit to Judiciary Committee.

SPEAKER FLOOD PRESIDING

Pending.

NOTICE OF COMMITTEE HEARINGS

Banking, Commerce and Insurance

Room 1507

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

LB876
LB1090
LB734

Monday, February 11, 2008 1:30 p.m.

LB825
LB969
LB980

Tuesday, February 12, 2008 1:30 p.m.

LB831
LB900
LB785
LB1045

Tuesday, February 19, 2008 1:30 p.m.

LB953
LB1002
LB1144

(Signed) Rich Pahls, Chairperson

Agriculture

Room 2102

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

Hayes, Mike - Climate Assessment Response Committee

(Signed) Philip Erdman, Chairperson

COMMITTEE REPORT

Health and Human Services

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Judy Meter - Foster Care Review Board
 Alfredo Ramirez - Foster Care Review Board
 Ronald Albin - Foster Care Review Board
 Gene Klein - Foster Care Review Board

Aye: 6 Senators Erdman, Gay, Hansen, Howard, Pankonin, Stuthman. Nay:
 0. Absent: 1 Senator Johnson.

(Signed) Tim Gay, Vice Chairperson

MOTION - Print in Journal

Senator Cornett filed the following motion to LB1166:

MO117

To indefinitely postpone.

AMENDMENT - Print in Journal

Senator Synowiecki filed the following amendment to LB204A:

AM1604

(Amendments to Final Reading copy)

- 1 1. Strike original section 1 and insert the following new
- 2 section:
- 3 Section 1. There is hereby appropriated (1) \$175,575
- 4 from the Contractor Registration Cash Fund for FY2008-09 and (2)
- 5 \$156,883 from the Contractor Registration Cash Fund for FY2009-10
- 6 to the Department of Labor, for Program 194, to aid in carrying out
- 7 the provisions of Legislative Bill 204, One Hundredth Legislature,
- 8 Second Session, 2008.

9 Total expenditures for permanent and temporary salaries
 10 and per diems from funds appropriated in this section shall not
 11 exceed \$102,935 for FY2008-09 or \$99,787 for FY2009-10.

ANNOUNCEMENT

Senator Pankonin designates LB983 as his priority bill.

NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1003

Wednesday, February 06, 2008 1:30 p.m.

LB1150

LB1161

LB1109

Agency 21 - State Fire Marshal

Agency 22 - Department of Insurance

Agency 33 - Game and Parks Commission

Agency 54 - Nebraska State Historical Society

Thursday, February 07, 2008 1:30 p.m.

Agency 30 - State Electrical Board

Agency 53 - Real Property Appraiser Board

Agency 56 - Nebraska Wheat Board

Agency 74 - Nebraska Power Review Board

Agency 76 - Nebraska Indian Commission

Agency 77 - Commission of Industrial Relations

(Signed) Lavon Heidemann, Chairperson

GENERAL FILE

LEGISLATIVE BILL 474. The Friend motion, MO118, found in this day's Journal, to recommit to Judiciary Committee, was renewed.

SENATOR LANGEMEIER PRESIDING

Senator Friend withdrew his motion.

Committee AM641, found on page 845, First Session, 2007 and considered in this day's Journal, was renewed.

SENATOR FISCHER PRESIDING

SENATOR LANGEMEIER PRESIDING

The committee amendment lost with 0 ayes, 35 nays, 7 present and not voting, and 7 excused and not voting.

Pending.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 205. Placed on Final Reading.

LEGISLATIVE BILL 210. Placed on Final Reading.

LEGISLATIVE BILL 312. Placed on Final Reading.

(Signed) Amanda McGill, Chairperson

COMMITTEE REPORTS

Natural Resources

LEGISLATIVE BILL 140. Placed on General File.

LEGISLATIVE BILL 724. Placed on General File.

LEGISLATIVE BILL 725. Placed on General File.

LEGISLATIVE BILL 726. Placed on General File.

LEGISLATIVE BILL 939. Placed on General File.

(Signed) LeRoy Loudon, Chairperson

AMENDMENTS - Print in Journal

Senator Cornett filed the following amendment to LB500:
AM1670

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following sections:
- 3 Section 1. Section 48-652, Revised Statutes Supplement,
- 4 2007, is amended to read:
- 5 48-652 (1)(a) A separate experience account shall be
- 6 established for each employer who is liable for payment of
- 7 contributions. Whenever and wherever in the Employment Security
- 8 Law the terms reserve account or experience account are used,
- 9 unless the context clearly indicates otherwise, such terms shall be
- 10 deemed interchangeable and synonymous and reference to either of
- 11 such accounts shall refer to and also include the other.
- 12 (b) A separate reimbursement account shall be established
- 13 for each employer who is liable for payments in lieu of
- 14 contributions. All benefits paid with respect to service in
- 15 employment for such employer shall be charged to his or her
- 16 reimbursement account and such employer shall be billed for and
- 17 shall be liable for the payment of the amount charged when billed
- 18 by the commissioner. Payments in lieu of contributions received

19 by the commissioner on behalf of each such employer shall be
20 credited to such employer's reimbursement account, and two or more
21 employers who are liable for payments in lieu of contributions may
22 jointly apply to the commissioner for establishment of a group
23 account for the purpose of sharing the cost of benefits paid that
1 are attributable to service in the employ of such employers. The
2 commissioner shall prescribe such rules and regulations as he or
3 she deems necessary with respect to applications for establishment,
4 maintenance, and termination of group accounts authorized by this
5 subdivision.

6 (2) All contributions paid by an employer shall be
7 credited to the experience account of such employer. State
8 unemployment insurance tax payments shall not be credited to
9 the experience account of each employer. Partial payments of
10 combined tax shall be credited so that at least eighty percent
11 of the combined tax payment excluding interest and penalty is
12 credited first to contributions due. In addition to contributions
13 credited to the experience account, each employer's account shall
14 be credited as of June 30 of each calendar year with interest
15 at a rate determined by the commissioner based on the average
16 annual interest rate paid by the Secretary of the Treasury of
17 the United States of America upon the state's account in the
18 Unemployment Trust Fund for the preceding calendar year multiplied
19 by the balance in his or her experience account at the beginning
20 of such calendar year. If the total credits as of such date to
21 all employers' experience accounts are equal to or greater than
22 ninety percent of the total amount in the Unemployment Compensation
23 Fund, no interest shall be credited for that year to any employer's
24 account. Contributions with respect to prior years which are
25 received on or before January 31 of any year shall be considered
26 as having been paid at the beginning of the calendar year. All
27 voluntary contributions which are received on or before January
1 10 of any year shall be considered as having been paid at the
2 beginning of the calendar year.

3 (3)(a) Each experience account shall be charged only
4 for benefits based upon wages paid by such employer. No benefits
5 shall be charged to the experience account of any employer if (i)
6 such benefits were paid on the basis of a period of employment
7 from which the claimant (A) left work voluntarily without good
8 cause, (B) left work voluntarily due to a nonwork-connected illness
9 or injury, (C) left work voluntarily with good cause to escape
10 abuse as defined in section 42-903 between household members as
11 provided in subdivision (1) of section 48-628.01, (D) left work
12 from which he or she was discharged for misconduct connected with
13 his or her work, ~~or~~ (E) left work voluntarily and is entitled to
14 unemployment benefits without disqualification in accordance with
15 subdivision (3) or (5) of section 48-628.01, or (F) participated
16 in an employee training program approved under 19 U.S.C. 2296(a),
17 and (ii) the employer has filed timely notice of the facts on which

18 such exemption is claimed in accordance with rules and regulations
19 prescribed by the commissioner. No benefits shall be charged to
20 the experience account of any employer if such benefits were paid
21 on the basis of wages paid in the base period that are wages for
22 insured work solely by reason of subdivision (5)(b) of section
23 48-627.

24 (b) Each reimbursement account shall be charged only for
25 benefits paid that were based upon wages paid by such employer in
26 the base period that were wages for insured work solely by reason
27 of subdivision (5) of section 48-627.

1 (c) Benefits paid to an eligible individual shall be
2 charged against the account of his or her most recent employers
3 within his or her base period against whose accounts the maximum
4 charges hereunder have not previously been made in the inverse
5 chronological order in which the employment of such individual
6 occurred. The maximum amount so charged against the account of any
7 employer, other than an employer for which services in employment
8 as provided in subdivision (4)(a) of section 48-604 are performed,
9 shall not exceed the total benefit amount to which such individual
10 was entitled as set out in section 48-626 with respect to base
11 period wages of such individual paid by such employer plus one-half
12 the amount of extended benefits paid to such eligible individual
13 with respect to base period wages of such individual paid by
14 such employer. The commissioner shall by rules and regulations
15 prescribe the manner in which benefits shall be charged against
16 the account of several employers for whom an individual performed
17 employment during the same quarter or during the same base period.
18 Any benefit check duly issued and delivered or mailed to a claimant
19 and not presented for payment within one year from the date of its
20 issue may be invalidated and the amount thereof credited to the
21 Unemployment Compensation Fund, except that a substitute check may
22 be issued and charged to the fund on proper showing at any time
23 within the year next following. Any charge made to an employer's
24 account for any such invalidated check shall stand as originally
25 made.

26 (4)(a) An employer's experience account shall be deemed
27 to be terminated one calendar year after such employer has ceased
1 to be subject to the Employment Security Law, except that if the
2 commissioner finds that an employer's business is closed solely
3 because of the entrance of one or more of the owners, officers,
4 partners, or limited liability company members or the majority
5 stockholder into the armed forces of the United States, or of any
6 of its allies, after July 1, 1950, such employer's account shall
7 not be terminated and, if the business is resumed within two years
8 after the discharge or release from active duty in the armed forces
9 of such person or persons, the employer's experience account shall
10 be deemed to have been continuous throughout such period.

11 (b) An experience account terminated pursuant to this
12 subsection shall be reinstated if (i) the employer becomes subject

13 again to the Employment Security Law within one calendar year after
 14 termination of such experience account and the employer makes a
 15 written application for reinstatement of such experience account
 16 to the commissioner within two calendar years after termination of
 17 such experience account and (ii) the commissioner finds that the
 18 employer is operating substantially the same business as prior to
 19 the termination of such experience account.

20 (5) All money in the Unemployment Compensation Fund shall
 21 be kept mingled and undivided. The payment of benefits to an
 22 individual shall in no case be denied or withheld because the
 23 experience account of any employer does not have a total of
 24 contributions paid in excess of benefits charged to such experience
 25 account.

26 (6) A contributory or reimbursable employer shall be
 27 relieved of charges if the employer was previously charged for
 1 wages and the same wages are being used a second time to establish
 2 a new claim as a result of the October 1, 1988, change in the base
 3 period.

4 Sec. 2. Original section 48-652, Revised Statutes
 5 Supplement, 2007, is repealed.

Senator Chambers filed the following amendment to LB474:
 AM1673

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

3 Section 1. Any disciplinary action which involves any
 4 specific act which was deemed to be in violation of or contrary to
 5 an official policy, rule, or state law governing: A town marshal;
 6 a chief of police or a local police officer; a sheriff or a deputy
 7 sheriff; a deputy state sheriff; a special deputy sheriff; the
 8 Superintendent of Law Enforcement and Public Safety; an officer of
 9 the Nebraska State Patrol; a carrier enforcement officer; a game
 10 and Parks Commission conservation officer; or any other person with
 11 similar authority to make arrests under authority granted by this
 12 state or by any of its political subdivisions, shall be considered
 13 a public record.

14 Sec. 2. Section 79-8,109, Reissue Revised Statutes of
 15 Nebraska, is amended to read:

16 79-8,109 (1) Any teacher, administrator, or full-time
 17 employee of any public school district shall, upon his or her
 18 request, have access to his or her personnel file maintained by the
 19 district and shall have the right to attach a written response to
 20 any item in such file. Such teacher, administrator, or employee may
 21 in writing authorize any other person to have access to such file,
 22 which authorization shall be honored by the district. Such access
 23 and right to attach a written response shall not be granted with
 1 respect to any letters of recommendation solicited by the employer
 2 which appear in the personnel file.

3 (2) Except as set forth in this subsection, no ~~No~~

4 other person except school officials while engaged in their
 5 professional duties shall be granted access to ~~such a teacher's,~~
 6 administrator's, or full-time employee's personnel file, and the
 7 contents thereof shall not be divulged in any manner to any
 8 unauthorized person. This subsection shall not apply to specific
 9 documents in the personnel file which record disciplinary action
 10 taken by the employing district's administration involving a
 11 teacher, administrator, or full-time employee which involves any
 12 specific event, occurrence, or act which was deemed to be in
 13 violation of or contrary to school district policy, rule, or state
 14 law.

15 Sec. 3. Original section 79-8,109, Reissue Revised
 16 Statutes of Nebraska, is repealed.

MOTION - Print in Journal

Senator Friend filed the following motion to LB474:
 MO119
 Indefinitely postpone.

COMMITTEE REPORTS

Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Adjutant General Timothy Kadavy - Military Department

Aye: 8 Senators Adams, Aguilar, Avery, Friend, Karpisek, Lautenbaugh, Pahls, Rogert. Nay: 0. Absent: 0.

(Signed) Ray Aguilar, Chairperson

Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Kent Forney - Nebraska Game and Parks Commission

Aye: 7 Senators Carlson, Christensen, Dubas, Hudkins, Kopplin, Loudon, Wallman. Nay: 0. Absent: 1 Senator Fischer.

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Donald Williams - Environmental Quality Council

Aye: 7 Senators Carlson, Christensen, Dubas, Hudkins, Kopplin, Loudon, Wallman. Nay: 0. Absent: 1 Senator Fischer.

(Signed) LeRoy Loudon, Chairperson

NOTICE OF COMMITTEE HEARINGS
Natural Resources

Room 1525

Friday, February 22, 2008 1:30 p.m.

LB727
LB1145

(Signed) LeRoy Loudon, Chairperson

Revenue

Room 1524

Wednesday, February 06, 2008 1:30 p.m.

LB895
LB784
LB1033
LB1046
LB1088
LB912

Thursday, February 07, 2008 1:30 p.m.

LB1137
LB708
LB762
LB1001
LB1010

Wednesday, February 13, 2008 1:30 p.m.

LB1026
LR230CA
LB732

LB733
LR220CA
LB913

Thursday, February 14, 2008 1:30 p.m.

LB863
LB1000
LB887
LB888
LB1175

(Signed) Ray Janssen, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Carlson asked unanimous consent to add his name as cointroducer to LB920. No objections. So ordered.

VISITORS

Visitors to the Chamber were the Governor's Youth Advisory Council; and members of Nebraska LEAD Program, Group XXVII.

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

ADJOURNMENT

At 12:00 p.m., on a motion by Senator Aguilar, the Legislature adjourned until 9:00 a.m., Tuesday, January 29, 2008.

Patrick J. O'Donnell
Clerk of the Legislature