

NINETEENTH DAY - FEBRUARY 5, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****NINETEENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 5, 2008

PRAYER

The prayer was offered by Senator Dierks.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Johnson, Langemeier, and Preister who were excused; and Senators Ashford, Cornett, Heidemann, Lathrop, Lautenbaugh, Pirsch, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighteenth day was approved.

NOTICE OF COMMITTEE HEARINGS

Appropriations

Room 1003

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

Agency 9 - Secretary of State

(Signed) Lavon Heidemann, Chairperson

Government, Military and Veterans Affairs

Room 1507

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

Graf, Mark - State Emergency Response Commission

Wednesday, February 20, 2008 1:30 p.m.

Gandara, Gary - State Emergency Response Commission

(Signed) Ray Aguilar, Chairperson

AMENDMENT - Print in Journal

Senator Langemeier filed the following amendment to LB386:
AM1691 is available in the Bill Room.

ANNOUNCEMENT

The Chair announced today is Senator Dubas' birthday.

GENERAL FILE

LEGISLATIVE BILL 782. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 6 present and not voting, and 8 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 235. Senator Chambers renewed his motion, MO121, found on page 494, to reconsider the vote on FA166.

Senator Chambers asked unanimous consent to withdraw his motion to reconsider. No objections. So ordered.

Senator Nantkes offered the following motion:
MO124

Unanimous consent to bracket until March 1, 2008.

No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 823. Title read. Considered.

Committee AM1614, found on page 463, was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

NOTICE OF COMMITTEE HEARINGS
Natural Resources

Room 1525

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

Anderson, Douglas - Environmental Quality Council

LB1094
LB1127
LB1131
LB1132

Wednesday, February 20, 2008 1:30 p.m.

LB1049
LB1050
LB802

Thursday, February 21, 2008 1:30 p.m.

LB1059
LB1162
LB1164

(Signed) LeRoy Louden, Chairperson

COMMITTEE REPORT
Enrollment and Review

LEGISLATIVE BILL 268. Placed on Select File.

(Signed) Amanda McGill, Chairperson

COMMITTEE REPORT
Education

LEGISLATIVE BILL 849. Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

GENERAL FILE

LEGISLATIVE BILL 624. Title read. Considered.

Senator Chambers offered the following amendment:
FA172

P. 3, line 15 after "results" insert "directly and proximately" and in line 16 after "person" insert "if such death or injury is caused directly and proximately by the vehicle being driven by the person fleeing to avoid arrest".

Senator Chambers moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

The Chambers amendment lost with 2 ayes, 18 nays, 23 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

MO125

Reconsider the vote on FA172.

Senator Chambers asked unanimous consent to withdraw his motion to reconsider. No objections. So ordered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 495. Title read.

Senator White renewed his motion, MO115, found on page 396, to recommit to the Business and Labor Committee.

The White motion to recommit to committee prevailed with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

AMENDMENT - Print in Journal

Senator Schimek filed the following amendment to LB823:
AM1735

- 1 1. Insert the following new sections:
- 2 Sec. 11. Section 86-552, Revised Statutes Cumulative
- 3 Supplement, 2006, is amended to read:
- 4 86-552 For purposes of the Intergovernmental Data
- 5 Services Program Act, the definitions found in sections ~~86-553~~
- 6 86-554 to 86-561 apply.
- 7 Sec. 12. Section 86-562, Revised Statutes Cumulative
- 8 Supplement, 2006, is amended to read:
- 9 86-562 The purpose of the system is to allow for
- 10 the efficient operation of state government and its political
- 11 subdivisions. In managing and allocating resources on the system,
- 12 the ~~administrator-officer~~ shall assign first priority to providing
- 13 capacity for statewide applications that are essential to carrying
- 14 out the duties of state agencies in an efficient and effective

15 manner. The system may also serve local data processing needs of
16 political subdivisions, provide citizens with a point of access to
17 governmental services and information, and serve other state and
18 local needs, subject to available resources.

19 Sec. 13. Section 86-563, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 86-563 In establishing and maintaining the system:

22 (1) The division:

23 (a) Shall provide the computer network and services for
1 the system with assistance from the division of communications of
2 the office;

3 (b) Shall, within available resources, assist ~~the~~
4 ~~Intergovernmental Data Communications Advisory Council, the~~
5 ~~Geographic Information System Steering Committee, and other~~ local,
6 state, and federal collaborative efforts to encourage coordination
7 of information systems and data sharing;

8 (c) Shall coordinate its activities and responsibilities
9 with the functions of the division of communications to minimize
10 overlap and duplication of technical services between the divisions
11 in supporting the system, its applications, and application
12 development; and

13 (d) May undertake and coordinate planning studies to
14 determine the feasibility, benefits, costs, requirements, and
15 options for the intergovernmental transfer of data;

16 (2) ~~The administrator:~~ officer:

17 (a) Shall approve and coordinate the design, development,
18 installation, training, and maintenance of applications by state
19 agencies for use on the system. Any agency proposing to add
20 an application to the system shall submit an evaluation to
21 the ~~administrator~~ officer that examines the cost-effectiveness,
22 technical feasibility, and potential use of the proposed
23 application; that identifies the total costs of the application,
24 including design, development, testing, installation, operation,
25 and any changes to the computer network that are necessary for its
26 operation; and that provides a schedule that shows the estimated
27 completion dates for design, development, testing, installation,
1 training, and full operational status. The ~~administrator~~ officer
2 shall not approve an application by a state agency for use on the
3 system unless his or her review shows that the application is cost
4 effective and technically feasible, that funding is available, and
5 that the proposed schedule is reasonable and feasible;

6 (b) Shall approve changes in the design of applications
7 by state agencies for use on the system. The ~~administrator~~ officer
8 may require such information from the agency as necessary to
9 determine that the proposed change in design is cost effective
10 and technically feasible, that funding is available, and that the
11 proposed schedule for implementation is reasonable and feasible;

12 (c) May, ~~with the approval of the officer,~~ contract with
13 other governmental entities or private vendors in carrying out the

14 duties relating to the intergovernmental data services program;
 15 (d) ~~Shall, in cooperation with the division of~~
 16 ~~communications,~~ establish a rate schedule that reflects the rates
 17 adopted by the division of communications and the information
 18 management services division, plus any additional costs of the
 19 system. Such fees may reflect a base cost for access to the system,
 20 costs for actual usage of the system, costs for special equipment
 21 or services, or a combination of these factors. The ~~administrator~~
 22 ~~officer~~ may charge for the costs of changes to the system that are
 23 requested by or are necessary to accommodate a request by a user.
 24 All fees shall be set to recover all costs of operation;

25 (e) ~~May, with the approval of the officer,~~ enter into
 26 agreements with other state and local governments, the federal
 27 government, or private-sector entities for the purpose of sale,
 1 lease, or licensing for third-party resale of applications and
 2 system design. Proceeds from such agreements shall be deposited to
 3 the Data Systems Cash Fund;

4 (f) Shall determine whether a local application shall be
 5 a component of the system. No local application shall be resident
 6 or operational in any component of the system without explicit
 7 authorization of the ~~administrator; officer; and~~

8 (g) Shall approve or disapprove the attachment of any
 9 peripheral device to the system and may prescribe standards and
 10 specifications that such devices must meet; ~~and~~

11 ~~(h) Shall provide assistance as requested by the Nebraska~~
 12 ~~Information Technology Commission to support the technical panel~~
 13 ~~created in section 86-521;~~

14 (3) The ~~officer and administrator~~ shall be responsible
 15 for the proper operation of the system, applications, and
 16 peripheral devices purchased or developed by the expenditure of
 17 state funds. The ownership of such system, applications, and
 18 peripheral devices shall be vested with the state; and

19 (4) All communications and telecommunications services
 20 for the intergovernmental data services program and the system
 21 shall be secured from the division of communications.

22 Sec. 14. Section 86-564, Revised Statutes Cumulative
 23 Supplement, 2006, is amended to read:

24 86-564 (1) The ~~administrator-officer~~ shall submit as
 25 part of the biennial budget request of the office a listing of
 26 all applications submitted for consideration, cost estimates for
 27 development, testing, and full operation of each application, a
 1 recommended priority listing of the applications for which an
 2 evaluation is completed, and funding recommendations by application
 3 contained within the budget request for the division. All
 4 application estimates and requests shall be scheduled over ensuing
 5 fiscal years such that annual projected costs and completion of
 6 application phases to the point of fully operational status can be
 7 clearly determined. Local applications shall not be subject to the
 8 provisions of this subsection.

9 (2) All development costs for approved new applications
 10 shall be budgeted and appropriated to the division or to
 11 participating state agencies at the discretion of the Legislature.
 12 Agencies may independently request appropriations for such
 13 application development, however such requests shall be subject
 14 to the review and prioritization set forth in subdivision (2)(a)
 15 of section 86-563, and at such time as the application becomes
 16 an authorized application and funded by the Legislature, the
 17 cost of such development shall be appropriated to the division
 18 or to participating state agencies. To the extent possible, if
 19 office cash or revolving funds or federal funds may be used
 20 for application development, such funds may be transferred to
 21 the division and expended for application development in order
 22 to properly account for all costs associated with application
 23 development.

24 Sec. 15. Section 86-565, Revised Statutes Cumulative
 25 Supplement, 2006, is amended to read:

26 86-565 The ~~administrator-officer~~ may adopt and promulgate
 27 rules, regulations, guidelines, and procedures to carry out
 1 sections 86-563 and 86-564.

2 Sec. 16. Section 86-569, Revised Statutes Cumulative
 3 Supplement, 2006, is amended to read:

4 86-569 (1) The Legislature finds that ~~the~~ Geographic
 5 Information ~~System is~~ Systems are a computer-based technology that
 6 captures, stores, analyzes, and displays information about the
 7 earth's surface from ~~a geographically referenced system, systems,~~
 8 that an interest in the ~~system systems~~ is rapidly increasing at all
 9 levels of government, and that an institutional mechanism is needed
 10 to encourage initiatives, coordinate efforts, avoid duplication,
 11 seek efficiencies, develop guidelines, policies, and standards for
 12 operations and management, promote education and training, and make
 13 recommendations so that such technology will benefit the entire
 14 state and endure as an analysis tool for decisionmakers.

15 ~~(2) The Intergovernmental Data Communications Advisory~~
 16 ~~Council has found that there are many levels of experience,~~
 17 ~~expertise, and hardware and software sophistication among the~~
 18 ~~various levels of government and that guidelines, policies,~~
 19 ~~coordination, and standards are required to realize the maximum~~
 20 ~~benefits of this technology, avoid data quality problems, and~~
 21 ~~resolve conflicts at a reasonable cost for the state.~~

22 ~~(3)-(2) It is the intent of the Legislature that a~~
 23 ~~Geographic Information System Steering Committee Systems Council~~
 24 ~~be created with statewide responsibilities to take an active~~
 25 ~~role in implementing the Geographic Information System Systems.~~
 26 Such ~~committee council~~ would help facilitate acquisition of such
 27 technology at all levels of government and make recommendations
 1 to the Legislature for program initiatives and funding and the
 2 fostering of communication, training, and education.

3 (3) It is the intent of the Legislature that the

4 Geographic Information Systems Council serve as an advisory council
 5 to the Nebraska Information Technology Commission and assist the
 6 commission in its overall information technology planning and
 7 oversight and provide technical advice and recommendations related
 8 to the specialized needs of Geographic Information Systems.

9 Sec. 17. Section 86-570, Revised Statutes Supplement,
 10 2007, is amended to read:

11 86-570 (1) The Geographic Information ~~System Steering~~
 12 ~~Committee~~ Systems Council is hereby created and shall consist of
 13 ~~nineteen members as follows:~~

14 (a) The Chief Information Officer or his or her designee
 15 and the director or designee of the Department of Environmental
 16 Quality, the Department of Health and Human Services, the
 17 Conservation and Survey Division of the University of Nebraska, the
 18 Department of Natural Resources, and the Governor's Policy Research
 19 Office;

20 (b) The Director-State Engineer or designee;

21 (c) The State Surveyor or designee;

22 (d) The Clerk of the Legislature or designee;

23 (e) The secretary of the Game and Parks Commission or
 24 designee;

25 (f) The Property Tax Administrator or designee;

26 (g) One representative of federal agencies appointed by
 27 the Governor;

1 (h) One representative of the natural resources districts
 2 nominated by the Nebraska Association of Resources Districts and
 3 appointed by the Governor;

4 (i) One representative of the public power districts
 5 appointed by the Governor;

6 (j) Two representatives of the counties nominated by
 7 the Nebraska Association of County Officials and appointed by the
 8 Governor;

9 (k) One representative of the municipalities nominated
 10 by the League of Nebraska Municipalities and appointed by the
 11 Governor; ~~and~~

12 (l) Two members at large appointed by the Governor; ~~and~~

13 (m) Such other members as nominated by the Nebraska
 14 Information Technology Commission and appointed by the Governor.

15 (2) The appointed members shall serve ~~for terms of~~
 16 ~~four years, except that of the initial members appointed by the~~
 17 ~~Governor, one of the representatives of the counties shall be~~
 18 ~~appointed for one year and the other shall be appointed for three~~
 19 ~~years, one of the members at large shall be appointed for one~~
 20 ~~year and the other for three years, and the representative of the~~
 21 ~~public power districts shall be appointed for two years. Their~~
 22 ~~successors shall be appointed for four year terms. Any vacancy~~
 23 ~~on the committee shall be filled in the same manner as the~~
 24 ~~original appointment, and the person selected to fill such vacancy~~
 25 ~~shall have the same qualifications as the member whose vacancy is~~

26 ~~being filled~~, as determined by the Nebraska Information Technology
27 Commission.

1 (3) The members shall be reimbursed for their actual and
2 necessary expenses as provided in sections 81-1174 to 81-1177.

3 Sec. 18. Section 86-571, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 86-571 (1) The Geographic Information ~~System Steering~~
6 ~~Committee Systems Council~~ shall elect a chairperson from its
7 members and such other officers as the ~~committee council~~ deems
8 necessary.

9 (2) As the need arises, advisory committees may be
10 established by the ~~committee council~~ from various levels of
11 government, industry, or the general public to assist the
12 ~~committee council~~. The members of advisory committees shall be
13 reimbursed for their actual and necessary expenses as provided in
14 sections 81-1174 to 81-1177.

15 (3) The ~~committee council~~ shall meet quarterly or upon
16 the call of the chairperson.

17 Sec. 19. Section 86-572, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 86-572 The Geographic Information ~~System Steering~~
20 ~~Committee Systems Council~~ shall:

21 (1) Make recommendations to the Legislature and the
22 Nebraska Information Technology Commission for program initiatives
23 and funding;

24 (2) Establish guidelines and policies for statewide
25 Geographic Information ~~System Systems~~ operations and management
26 to include:

27 (a) The acquisition, development, maintenance, quality
1 assurance such as ~~quality control~~ standards, access, ownership,
2 cost recovery, and priorities of data bases;

3 (b) The compatibility, acquisition, and communications of
4 hardware and software;

5 (c) The assessment of needs, identification of scope,
6 setting of standards, and determination of an appropriate
7 enforcement mechanism;

8 (d) The fostering of training programs and promoting
9 education and information about ~~the Geographic Information System;~~
10 Systems; and

11 (e) The promoting of ~~the Geographic Information System~~
12 Systems development in the State of Nebraska and providing or
13 coordinating additional support to address Geographic Information
14 ~~System Systems~~ issues as such issues arise;

15 (3) Report to, assist, and advise the Chief Information
16 Officer in setting information technology policy; and

17 (4) Provide assistance as requested by the ~~Nebraska~~
18 ~~Information Technology Commission to~~ commission and support the
19 technical panel created in section 86-521.

20 Sec. 20. Section 86-573, Revised Statutes Cumulative

21 Supplement, 2006, is amended to read:

22 ~~86-573 -Annually, the chairperson of the Geographic~~
 23 ~~Information System Steering Committee shall submit a written~~
 24 ~~report, approved by the committee, to the Governor and the Clerk~~
 25 ~~of the Legislature and shall send a copy of such report to the~~
 26 ~~Intergovernmental Data Communications Advisory Council.~~

27 The Geographic Information Systems Council shall provide
 1 a report of its activities to the Nebraska Information Technology
 2 Commission for inclusion in the biannual progress report submitted
 3 to the Governor and the Legislature by the commission pursuant to
 4 section 86-518.

5 Sec. 22. The following sections are outright repealed:

6 Sections 86-531, 86-532, 86-533, 86-534, 86-535, 86-536, 86-537,
 7 86-538, 86-539, 86-540, 86-541, 86-542, 86-543, 86-544, 86-545,
 8 86-546, 86-547, 86-548, 86-549, and 86-553, Revised Statutes
 9 Cumulative Supplement, 2006.

10 2. On page 3, line 21, after the comma insert
 11 "intergovernmental data communications,".

12 3. Renumber the remaining section and correct the
 13 repealer accordingly.

COMMITTEE REPORTS

General Affairs

LEGISLATIVE BILL 728. Placed on General File.

The General 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.

Richard Vierk - Nebraska Arts Council
 David Catalan - Nebraska Arts Council
 Murray Newman - Nebraska Arts Council
 Donna Hastings - Nebraska Arts Council
 Nana Smith - Nebraska Arts Council

Aye: 7 Senators Dierks, Dubas, Erdman, Friend, Karpisek, McDonald, Preister. Nay: 0. Absent: 1 Senator Janssen.

(Signed) Vickie McDonald, Chairperson

Judiciary

LEGISLATIVE BILL 774. Placed on General File.

LEGISLATIVE BILL 775. Placed on General File.

LEGISLATIVE BILL 826. Placed on General File.

(Signed) Brad Ashford, Chairperson

Health and Human Services

LEGISLATIVE BILL 765. Placed on General File with amendment.
AM1755

1 1. Strike original section 1 and insert the following new
2 section:

3 Section 1. Section 71-5829.03, Reissue Revised Statutes
4 of Nebraska, is amended to read:

5 71-5829.03 No person, including persons acting for or
6 on behalf of a health care facility, shall engage in any of the
7 following activities without having first applied for and received
8 the necessary certificate of need:

9 (1) The initial establishment of long-term care beds
10 or rehabilitation beds except as permitted under ~~subdivision (5)~~
11 subdivisions (6) and (7) of this section;

12 ~~(2) An increase in the long-term care beds or~~
13 ~~rehabilitation beds of a health care facility by more than ten beds~~
14 ~~or more than ten percent of the total bed capacity, whichever is~~
15 ~~less, over a two-year period;~~

16 (2) An increase in the long-term care beds of a health
17 care facility by more than ten long-term care beds or more than ten
18 percent of the total long-term care bed capacity of such facility,
19 whichever is less, over a two-year period;

20 (3) An increase in the rehabilitation beds of a health
21 care facility by more than ten rehabilitation beds or more than ten
22 percent of the total rehabilitation bed capacity of such facility,
23 whichever is less, over a two-year period;

1 ~~(3)-(4)~~ A relocation of long-term care beds from a
2 health care facility at one physical facility or contiguous site to
3 another noncontiguous site within the same health planning region
4 if the relocation will cause an aggregate increase in long-term
5 care beds between those locations of more than ten beds or more
6 than ten percent of the total bed capacity, whichever is less, over
7 a two-year period;

8 ~~(4)-(5)~~ Any relocation of long-term care beds from a
9 health care facility located in one health planning region to a
10 health care facility in a different health planning region;

11 ~~(5) Any conversion by a hospital of any type of hospital~~
12 ~~beds to long-term care beds or rehabilitation beds if the total bed~~
13 ~~capacity of the hospital will have changed by more than ten beds or~~
14 ~~more than ten percent of the total bed capacity, whichever is less,~~
15 ~~over a two-year period;~~

16 ~~(6) Any change by a residential care facility to convert~~
17 ~~residential care beds to long-term care beds; or~~

18 ~~(7) Any change by a domiciliary facility to convert~~
19 ~~domiciliary beds to long-term care beds.~~

20 (6) Any initial establishment of long-term care beds
21 through conversion by a hospital of any type of hospital beds to
22 long-term care beds if the total beds converted by the hospital

23 are more than ten beds or more than ten percent of the total
 24 bed capacity of such hospital, whichever is less, over a two-year
 25 period; or
 26 (7) Any initial establishment of rehabilitation beds
 27 through conversion by a hospital of any type of hospital beds to
 1 rehabilitation beds if the total beds converted by the hospital
 2 are more than ten beds or more than ten percent of the total
 3 bed capacity of such hospital, whichever is less, over a two-year
 4 period.

(Signed) Tim Gay, Vice Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senators Aguilar, Avery, Harms, Pankonin, Pedersen, and Schimek asked unanimous consent to add their names as cointroducers to LB812. No objections. So ordered.

VISITORS

Visitors to the Chamber were Joann Jensen, Elizabeth Samelson, and Laurel Johnson from Bloomfield and Brenda Johnson from Norfolk; Senator Dubas' son and granddaughter, Ron and Mya Dubas, from Waverly; and members of Nebraska Bankers Association from across the state.

The Doctor of the Day was Dr. Shawn Murdock from Omaha.

ADJOURNMENT

At 12:01 p.m., on a motion by Senator Pankonin, the Legislature adjourned until 9:00 a.m., Wednesday, February 6, 2008.

Patrick J. O'Donnell
 Clerk of the Legislature