

SIXTY-NINTH DAY - APRIL 28, 2009**LEGISLATIVE JOURNAL****ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION****SIXTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 28, 2009

PRAYER

The prayer was offered by Senator Hadley.

ROLL CALL

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

The roll was called and all members were present except Senator Friend who was excused; and Senators Carlson, Cook, and White who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-eighth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 97. Placed on Select File with amendment. ER8094 is available in the Bill Room.

LEGISLATIVE BILL 402. Placed on Select File.

LEGISLATIVE BILL 195. Placed on Select File with amendment. ER8096

- 1 1. In the Standing Committee amendments, AM952, on page
- 2 45, line 24, after "or" insert "the".
- 3 2. On page 1, strike beginning with "the" in line
- 4 1 through line 14 and insert "public health and welfare; to
- 5 amend sections 28-401, 28-407, 28-414, 37-413, 38-101, 38-121,
- 6 38-167, 38-507, 38-511, 38-512, 38-524, 38-1215, 38-1217, 38-1218,
- 7 38-1219, 38-1221, 38-1224, 38-1232, 38-1501, 38-1502, 38-1503,
- 8 38-1504, 38-1505, 38-1506, 38-1507, 38-1508, 38-1509, 38-1510,
- 9 38-1511, 38-1512, 38-1513, 38-1514, 38-1515, 38-1516, 38-1517,
- 10 38-1518, 38-2008, 38-2014, 38-2015, 38-2017, 38-2018, 38-2037,
- 11 38-2047, 38-2049, 38-2050, 38-2055, 38-2801, 38-2802, 38-2871,

12 69-2603, 71-201, 71-208.02, 71-208.06, 71-216, 71-219, 71-219.01,
 13 71-219.02, 71-223.01, 71-224, 71-239, 71-242, 71-245, 71-2413,
 14 71-2414, 71-2416, 71-2417, 71-5829.04, 71-5865, 71-8205, 71-8207,
 15 71-8208, 71-8210, 71-8216, 71-8218, 71-8222, 71-8230, 71-8232,
 16 71-8234, 71-8235, 71-8237, 71-8240, 71-8242, 71-8243, 71-8244,
 17 71-8245, 71-8246, 71-8247, 71-8248, and 86-275, Reissue Revised
 18 Statutes of Nebraska, and sections 48-120, 71-604, 71-605, 71-2411,
 19 71-2412, 71-2445, 71-2447, 71-2449, 71-2450, 71-5403, 71-5829.03,
 20 71-5830.01, and 71-8239, Revised Statutes Cumulative Supplement,
 21 2008; to adopt, change, and eliminate provisions relating to
 22 controlled substances, hearing aid fitting and dispensing,
 23 emergency medical services licensure classifications, physician
 1 assistants, transfer of prescriptions, barbering, the Emergency Box
 2 Drug Act, automated medication systems, drug product selection,
 3 certificates of need, and statewide trauma systems; to define
 4 and redefine terms; to rename an act and a board; to harmonize
 5 provisions; to repeal the original sections; and to outright
 6 repeal sections 38-2009, 38-2051, 71-2415, 71-5829.01, 71-5829.02,
 7 and 71-8223, Reissue Revised Statutes of Nebraska, and section
 8 71-1,106.01, Revised Statutes Cumulative Supplement, 2008."
 9 3. On page 2, strike line 1.

LEGISLATIVE BILL 653. Placed on Select File with amendment.
 ER8095

- 1 1. On page 1, line 2, after "Committee" insert "; to
- 2 state findings; to provide powers and duties; and to declare an
- 3 emergency".

LEGISLATIVE BILL 198A. Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

GENERAL FILE

LEGISLATIVE BILL 9. Title read. Considered.

Committee AM709, found on page 720, was adopted with 36 ayes, 0 nays, 7 present and not voting, and 6 excused and not voting.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 494. Title read. Considered.

Committee AM844, found on page 943, was considered.

Senator Coash renewed his amendment, AM984, found on page 1155, to the committee amendment.

The Coash amendment was adopted with 38 ayes, 1 nay, 4 present and not voting, and 6 excused and not voting.

Senator Cornett offered the following amendment to the committee amendment:

AM1203

(Amendments to Standing Committee amendments, AM844)

- 1 1. Insert the following new sections:
- 2 Section 1. Section 28-1008, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 28-1008 For purposes of sections 28-1008 to 28-1017 and
- 5 28-1019 and section 7 of this act
- 6 (1) Abandon means to leave any animal in one's care,
- 7 whether as owner or custodian, for any length of time without
- 8 making effective provision for its food, water, or other care as is
- 9 reasonably necessary for the animal's health;
- 10 (2) Animal means any vertebrate member of the animal
- 11 kingdom. The term does not include an uncaptured wild creature;
- 12 (3) Bovine means a cow, an ox, or a bison;
- 13 (4) Cruelly mistreat means to knowingly and intentionally
- 14 kill, maim, disfigure, torture, beat, mutilate, burn, scald, or
- 15 otherwise inflict harm upon any animal;
- 16 (5) Cruelly neglect means to fail to provide any animal
- 17 in one's care, whether as owner or custodian, with food, water, or
- 18 other care as is reasonably necessary for the animal's health;
- 19 (6) Equine means a horse, pony, donkey, mule, hinny, or
- 20 llama;
- 21 (7) Humane killing means the destruction of an animal by
- 22 a method which causes the animal a minimum of pain and suffering;
- 1 (8) Law enforcement officer means any member of the
- 2 Nebraska State Patrol, any county or deputy sheriff, any member
- 3 of the police force of any city or village, or any other public
- 4 official authorized by a city or village to enforce state or
- 5 local animal control laws, rules, regulations, or ordinances.
- 6 Law enforcement officer also includes any inspector under the
- 7 Commercial Dog and Cat Operator Inspection Act to the extent that
- 8 such inspector may exercise the authority of a law enforcement
- 9 officer under section 28-1012 while in the course of performing
- 10 inspection activities under the Commercial Dog and Cat Operator
- 11 Inspection Act;
- 12 (9) Mutilation means intentionally causing permanent
- 13 injury, disfigurement, degradation of function, incapacitation, or
- 14 imperfection to an animal. Mutilation does not include conduct
- 15 performed by a veterinarian licensed to practice veterinary
- 16 medicine and surgery in this state or conduct that conforms to
- 17 accepted veterinary practices;
- 18 (10) Police animal means a horse or dog owned or
- 19 controlled by the State of Nebraska for the purpose of assisting a
- 20 Nebraska state trooper in the performance of his or her official

21 enforcement duties;

22 (11) Repeated beating means intentional successive
23 strikes to an animal by a person resulting in serious bodily injury
24 or death to the animal;

25 (12) Serious injury or illness includes any injury or
26 illness to any animal which creates a substantial risk of death
27 or which causes broken bones, prolonged impairment of health, or
1 prolonged loss or impairment of the function of any bodily organ;
2 and

3 (13) Torture means intentionally subjecting an animal
4 to extreme pain, suffering, or agony. Torture does not include
5 conduct performed by a veterinarian licensed to practice veterinary
6 medicine and surgery in this state or conduct that conforms to
7 accepted veterinary practices.

8 Sec. 2. Section 28-1013, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 28-1013 Sections 28-1008 to 28-1017 and 28-1019 shall not
11 apply to:

12 (1) Care or treatment of an animal or other conduct by a
13 veterinarian or veterinary technician licensed under the ~~Nebraska~~
14 ~~Veterinary Practice Act until December 1, 2008, and the Veterinary~~
15 ~~Medicine and Surgery Practice Act on and after December 1, 2008;~~
16 that occurs within the scope of his or her employment, that occurs
17 while acting in his or her professional capacity, or that conforms
18 to commonly accepted veterinary practices;

19 (2) Commonly accepted care or treatment of a police
20 animal by a law enforcement officer in the normal course of his or
21 her duties;

22 (3) Research activity carried on by any research facility
23 currently meeting the standards of the federal Animal Welfare Act,
24 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;

25 (4) Commonly accepted practices of hunting, fishing, or
26 trapping;

27 (5) Commonly accepted practices occurring in conjunction
1 with sanctioned rodeos, animal racing, or pulling contests;

2 (6) Humane killing of an animal by the owner or by his or
3 her agent or a veterinarian upon the owner's request;

4 (7) Commonly accepted practices of animal husbandry with
5 respect to farm animals and commercial livestock operations,
6 including their transport from one location to another and
7 nonnegligent actions taken by personnel or agents of the Nebraska
8 Department of Agriculture or the United States Department of
9 Agriculture in the performance of duties prescribed by law;

10 (8) Use of reasonable force against an animal, other than
11 a police animal, which is working, including killing, capture, or
12 restraint, if the animal is outside the owned or rented property
13 of its owner or custodian and is injuring or posing an immediate
14 threat to any person or other animal;

15 (9) Killing of house or garden pests;

16 (10) Commonly followed practices occurring in conjunction
17 with the slaughter of animals for food or byproducts; and

18 (11) Commonly accepted animal training practices.

19 Sec. 3. Section 28-1014, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 28-1014 Any city, village, or county may adopt and
22 promulgate rules, regulations, and ordinances which are not
23 inconsistent with the provisions of sections 28-1008 to 28-1017 and
24 28-1019 and section 7 of this act for the protection of the public,
25 public health, and animals within its jurisdiction.

26 Sec. 4. Section 28-1015, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 28-1015 When an animal is owned by a minor child, the
2 parent of such minor child with whom the child resides or legal
3 guardian with whom the child resides shall be subject to the
4 penalties provided under sections 28-1008 to 28-1017 and 28-1019
5 and section 7 of this act if the animal is abandoned or cruelly
6 neglected.

7 Sec. 5. Section 28-1016, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 28-1016 Nothing in sections 28-1008 to 28-1017 and
10 28-1019 and section 7 of this act shall be construed as amending
11 or changing the authority of the Game and Parks Commission as
12 established in the Game Law or to prohibit any conduct authorized
13 or permitted by such law.

14 Sec. 6. Section 28-1017, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 28-1017 (1) For purposes of this section:

17 (a) Reasonably suspects means a basis for reporting
18 knowledge or a set of facts that would lead a person of ordinary
19 care and prudence to believe and conscientiously entertain a strong
20 suspicion that criminal activity is at hand or that a crime has
21 been committed; and

22 (b) Employee means any employee of ~~an agency relating~~
23 ~~to a governmental~~ agency dealing with child or adult protective
24 services, animal control, or animal abuse.

25 (2) Any employee, while acting in his or her professional
26 capacity or within the scope of his or her employment, who
27 observes or is involved in an incident which leads the employee
1 to reasonably suspect that an animal has been abandoned, cruelly
2 neglected, or cruelly mistreated shall report such to the entity or
3 entities that investigate such reports in that jurisdiction.

4 (3) The report of an employee shall be made within two
5 working days of acquiring the information concerning the animal by
6 facsimile transmission of a written report presented in the form
7 described in subsection (6) of this section or by telephone. When
8 an immediate response is necessary to protect the health and safety
9 of the animal or others, the report of an employee shall be made by
10 telephone as soon as possible.

11 (4) Nothing in this section shall be construed to impose
12 a duty to investigate observed or reasonably suspected animal
13 abandonment, cruel neglect, or cruel mistreatment. Any person
14 making a report under this section is immune from liability except
15 for false statements of fact made with malicious intent.

16 (5) ~~Reports~~ A report made by an employee pursuant to this
17 section shall include:

18 (a) The reporter's name and title, business address, and
19 telephone number;

20 (b) The name, if known, of the animal owner or custodian,
21 whether a business or individual;

22 (c) A description of the animal or animals involved,
23 person or persons involved, and location of the animal or animals
24 and the premises; and

25 (d) The date, time, and a description of the observation
26 or incident which led the reporter to reasonably suspect animal
27 abandonment, cruel neglect, or cruel mistreatment and any other
1 information the reporter believes may be relevant.

2 (6) ~~Reports~~ A report made by an employee pursuant to this
3 section may be made on preprinted forms prepared by the entity
4 or entities that investigate reports of animal abandonment, cruel
5 neglect, or cruel mistreatment in that jurisdiction. The form shall
6 include space for the information required under subsection (5) of
7 this section.

8 (7) When two or more employees jointly have observed or
9 reasonably suspected animal abandonment, cruel neglect, or cruel
10 mistreatment and there is agreement between or among them, a report
11 may be made by one person by mutual agreement. Any such reporter
12 who has knowledge that the person designated to report has failed
13 to do so shall thereafter make the report.

14 (8) Any employee failing to report under this section
15 shall be guilty of an infraction.

16 Sec. 7. (1) Any animal health care professional, while
17 acting in his or her professional capacity or within the scope of
18 his or her employment, who observes or is involved in an incident
19 which leads the animal health care professional to reasonably
20 suspect that an animal has been abandoned, cruelly neglected, or
21 cruelly mistreated, shall report such treatment to an entity that
22 investigates such reports in the appropriate jurisdiction.

23 (2) Nothing in this section shall be construed to impose
24 a duty to investigate observed or reasonably suspected abandonment,
25 cruel neglect, or cruel mistreatment of an animal. Any person
26 making a report under this section is immune from liability except
27 for false statements of fact made with malicious intent.

1 (3) For purposes of this section, an animal health care
2 professional means a licensed veterinarian as defined in section
3 38-3310 or a licensed veterinary technician as defined in section
4 38-3311.

- 5 2. Correct internal references and the repealer and
6 renumber the remaining sections accordingly.

Pending.

COMMITTEE REPORTS

Enrollment and Review

- LEGISLATIVE BILL 159.** Placed on Final Reading.
LEGISLATIVE BILL 159A. Placed on Final Reading.
LEGISLATIVE BILL 246. Placed on Final Reading.
LEGISLATIVE BILL 440. Placed on Final Reading.
LEGISLATIVE BILL 549. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORTS

Enrollment and Review

- LEGISLATIVE BILL 671.** Placed on Select File with amendment.
ER8097

- 1 1. In the Standing Committee amendments, AM1009, on page
2 4, line 26, strike the comma.
3 2. On page 1, strike beginning with "a" in line 6 through
4 "fee" in line 7 and insert "checklists, standardized procedures,
5 best practices, a voluntary network of regional officials, and
6 standardized forms; to require training for coroners and deputy
7 coroners; to provide duties for the Nebraska Commission on Law
8 Enforcement and Criminal Justice".

- LEGISLATIVE BILL 476.** Placed on Select File with amendment.
ER8098

- 1 1. On page 1, line 2, after "Act" insert "; to repeal
2 the Career Education Partnership Act; to provide an operative date;
3 to outright repeal sections 79-763, 79-764, 79-765, 79-766, 79-767,
4 and 79-768, Reissue Revised Statutes of Nebraska; and to declare an
5 emergency".
6 2. On page 2, line 1, strike "5" and insert "4".
7 3. On page 3, line 17, strike "community" and insert
8 "communities".

- LEGISLATIVE BILL 476A.** Placed on Select File.

(Signed) Jeremy Nordquist, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 101. Introduced by Haar, 21.

PURPOSE: The purpose of this interim study is to examine issues related to the impact of additional well development on water use by domestic wells in areas of the state where ground water supplies are limited. This study should address (1) the potential impact of additional domestic and other types of well development on the water supplies of existing domestic wells, (2) the potential impact of a proliferation of new domestic wells on the water supplies of existing wells, and (3) how to ensure that new development will have access to a water supply adequate for its proposed uses.

Current statutes provide no authority, except for the preference language in section 46-204, for either the State of Nebraska or the natural resources districts to manage well development to protect domestic wells. There is also no authority for either the state or the natural resources districts to manage domestic wells. This study should explore potential legislation to protect existing domestic well users, to protect existing wells from a proliferation of new domestic wells, and to ensure that there will be an adequate water supply for new permitted uses in areas where ground water supplies are limited.

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

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 494. The Cornett amendment, AM1203, found in this day's Journal, to the committee amendment, was renewed.

SENATOR LANGEMEIER PRESIDING

SENATOR ROBERT PRESIDING

Senator Cornett withdrew her amendment.

Committee AM844, found on page 943 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 633. Title read. Considered.

Committee AM907, found on page 897, was considered.

Senator Mello renewed his amendment, AM1072, found on page 1180, to the committee amendment.

SENATOR KARPISEK PRESIDING

Pending.

AMENDMENTS - Print in Journal

Senator Gloor filed the following amendment to LB195:
AM1221

(Amendments to Standing Committee amendments, AM952)

- 1 1. On page 55, strike lines 7 through 12 and insert the
- 2 following new subsection:
- 3 "(4) A physician assistant may pronounce death and may
- 4 complete and sign death certificates and any other forms if such
- 5 acts are within the scope of practice of the physician assistant,
- 6 are delegated by his or her supervising physician, and are not
- 7 otherwise prohibited by law.".

Senator Fischer filed the following amendment to LB497:
AM1182

(Amendments to AM1015)

- 1 1. On page 20, line 14, after "The" insert "revocation
- 2 order shall require that the person not drive for a period of
- 3 forty-five days, after which the"; in line 15 strike "during the
- 4 period of revocation"; and strike beginning with "and" in line 17
- 5 through "appropriate" in line 24, show the old matter as stricken,
- 6 and insert "for the remainder of the revocation period and have
- 7 an ignition interlock device installed on any motor vehicle he
- 8 or she operates during the remainder of the revocation period.
- 9 Such revocation shall be administered upon sentencing, upon final
- 10 judgment of any appeal or review, or upon the date that any
- 11 probation is revoked".
- 12 2. On page 21, line 13, strike the underscored period and
- 13 reinstate the stricken matter; and in line 27 strike "If".
- 14 3. On page 22, strike lines 1 through 6.
- 15 4. On page 24, strike beginning with "If" in line 10
- 16 through the period in line 16.
- 17 5. On page 25, strike beginning with "If" in line 20
- 18 through the period in line 26.

19 6. On page 27, line 27, strike "If the court orders that
20 the person apply".

21 7. On page 28, strike beginning with line 1 through the
22 period in line 6.

1 8. On page 30, strike beginning with "If" in line 5
2 through the period in line 11.

Senator Cook filed the following amendment to LB195:
AM930

1 1. Insert the following new sections:

2 Section 1. Section 38-2315, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 38-2315 (1) A nurse practitioner may provide health
5 care services within specialty areas. A nurse practitioner shall
6 function by establishing collaborative, consultative, and referral
7 networks as appropriate with other health care professionals.
8 Patients who require care beyond the scope of practice of a
9 nurse practitioner shall be referred to an appropriate health care
10 provider.

11 (2) Nurse practitioner practice means health promotion,
12 health supervision, illness prevention and diagnosis, treatment,
13 and management of common health problems and chronic conditions,
14 including:

15 (a) Assessing patients, ordering diagnostic tests and
16 therapeutic treatments, synthesizing and analyzing data, and
17 applying advanced nursing principles;

18 (b) Dispensing, incident to practice only, sample
19 medications which are provided by the manufacturer and are
20 provided at no charge to the patient and drugs for the treatment
21 and prevention of tuberculosis which are provided through the
22 department and are dispensed at no charge to the patient; and

23 (c) Prescribing therapeutic measures and medications
1 relating to health conditions within the scope of practice. Any
2 limitation on the prescribing authority of the nurse practitioner
3 for controlled substances listed in Schedule II of section 28-405
4 shall be recorded in the integrated practice agreement established
5 pursuant to section 38-2310.

6 (3) A nurse practitioner who has proof of a current
7 certification from an approved certification program in a
8 psychiatric or mental health specialty may manage the care of
9 patients committed under the Nebraska Mental Health Commitment
10 Act. Patients who require care beyond the scope of practice of a
11 nurse practitioner who has proof of a current certification from an
12 approved certification program in a psychiatric or mental health
13 specialty shall be referred to an appropriate health care provider.

14 Sec. 2. Section 38-2850, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 38-2850 As authorized by the Uniform Credentialing Act,
17 the practice of pharmacy may be engaged in by a pharmacist, a

18 pharmacist intern, or a practitioner with a pharmacy license. The
19 practice of pharmacy shall not be construed to include:

20 (1) Persons who sell, offer, or expose for sale
21 completely denatured alcohol or concentrated lye, insecticides, and
22 fungicides in original packages;

23 (2) Practitioners, other than veterinarians, certified
24 nurse midwives, certified registered nurse anesthetists, and nurse
25 practitioners, who dispense drugs or devices as an incident to
26 the practice of their profession, except that if such practitioner
27 regularly engages in dispensing such drugs or devices to his or
1 her patients for which such patients are charged, such practitioner
2 shall obtain a pharmacy license;

3 (3) Persons who sell, offer, or expose for sale
4 nonprescription drugs or proprietary medicines, the sale of which
5 is not in itself a violation of the Nebraska Liquor Control Act;

6 (4) Medical representatives, detail persons, or persons
7 known by some name of like import, but only to the extent of
8 permitting the relating of pharmaceutical information to health
9 care professionals;

10 (5) Licensed veterinarians practicing within the scope of
11 their profession;

12 (6) Certified nurse midwives, certified registered
13 nurse anesthetists, and nurse practitioners who dispense sample
14 medications which are provided by the manufacturer and are
15 dispensed at no charge to the patient;

16 (7) Nurse practitioners who dispense drugs for the
17 treatment and prevention of tuberculosis which are provided through
18 the department and are dispensed at no charge to the patient with
19 proper labeling and patient counseling;

20 ~~(7)-(8)~~ Hospitals engaged in the compounding and
21 dispensing of drugs and devices pursuant to chart orders for
22 persons registered as patients and within the confines of the
23 hospital, except that if a hospital engages in such compounding and
24 dispensing for persons not registered as patients and within the
25 confines of the hospital, such hospital shall obtain a pharmacy
26 license or delegated dispensing permit;

27 ~~(8)-(9)~~ Optometrists who prescribe or dispense eyeglasses
1 or contact lenses to their own patients;

2 ~~(9)-(10)~~ Registered nurses employed by a hospital who
3 administer pursuant to a chart order, or procure for such
4 purpose, single doses of drugs or devices from original drug
5 or device containers or properly labeled prepackaged drug or
6 device containers to persons registered as patients and within the
7 confines of the hospital;

8 ~~(10)-(11)~~ Persons employed by a facility where dispensed
9 drugs and devices are delivered from a pharmacy for pickup by
10 a patient or caregiver and no dispensing or storage of drugs or
11 devices occurs; and

12 ~~(11)-(12)~~ Persons who sell or purchase medical products,

13 compounds, vaccines, or serums used in the prevention or cure of
 14 animal diseases and maintenance of animal health if such medical
 15 products, compounds, vaccines, or serums are not sold or purchased
 16 under a direct, specific, written medical order of a licensed
 17 veterinarian.

18 Sec. 3. Section 71-3601, Revised Statutes Cumulative
 19 Supplement, 2008, is amended to read:

20 71-3601 For purposes of the Tuberculosis Detection and
 21 Prevention Act:

22 (1) Communicable tuberculosis means tuberculosis
 23 manifested by a laboratory report of sputum or other body fluid
 24 or excretion found to contain tubercle bacilli or by chest X-ray
 25 findings interpreted as active tuberculosis by competent medical
 26 authority;

27 (2) Department means the Department of Health and Human
 1 Services;

2 (3) Directed health measure means any measure, whether
 3 prophylactic or remedial, intended and directed to prevent, treat,
 4 or limit the spread of tuberculosis;

5 ~~(3)-(4)~~ Facility means a structure in which suitable
 6 isolation for tuberculosis can be given and which is approved
 7 by the department for the detention of recalcitrant ~~tuberculosis~~
 8 tuberculous persons;

9 ~~(4)-(5)~~ Local health officer means (a) the health
 10 director of a local public health department as defined in section
 11 71-1626 or (b) the medical advisor to the board of health of a
 12 county, city, or village;

13 ~~(5)-(6)~~ Recalcitrant tuberculous person means a person
 14 affected with tuberculosis in an active stage who by his or her
 15 conduct or mode of living endangers the health and well-being of
 16 other persons, by exposing them to tuberculosis, and who refuses to
 17 accept adequate treatment; and

18 ~~(6)-(7)~~ State health officer means the chief medical
 19 officer as described in section 81-3115.

20 Sec. 4. Section 71-3602, Revised Statutes Cumulative
 21 Supplement, 2008, is amended to read:

22 71-3602 ~~(1) When a person with communicable tuberculosis~~
 23 ~~violates the rules, regulations, or orders adopted and promulgated~~
 24 ~~by the department and is thereby conducting himself or herself~~
 25 ~~in such a way as to expose others to danger of infection, after~~
 26 ~~having been ordered by the state health officer or a local health~~
 27 ~~officer to comply, there are reasonable grounds to believe that~~
 1 a person has communicable tuberculosis and the person refuses to
 2 submit to the examination necessary to determine the existence of
 3 communicable tuberculosis, the state health officer or local health
 4 officer may order such person to submit to such examination. If
 5 such person refuses to comply with such order, the state health
 6 officer or a local health officer shall institute proceedings
 7 for commitment, returnable to the county court of the county in

8 which the person resides or, if the person is a nonresident or
 9 has no permanent residence, in the county in which the person
 10 is found. Strictness of pleading is not required, and a general
 11 allegation that the public health requires commitment of the person
 12 is sufficient.

13 (2) When a person with communicable tuberculosis conducts
 14 himself or herself in such a way as to expose another person
 15 to the danger of infection, the state health officer or local
 16 health officer may order such person to submit to directed health
 17 measures necessary for the treatment of the person and to prevent
 18 the transmission of the disease. If such person refuses to comply
 19 with such order, the state health officer or a local health
 20 officer shall institute proceedings for commitment, returnable to
 21 the county court of the county in which the person resides or, if
 22 the person is a nonresident or has no permanent residence, in the
 23 county in which the person is found. Strictness of pleading is not
 24 required, and a general allegation that the public health requires
 25 commitment of the person is sufficient.

26 Sec. 5. Section 71-3604, Reissue Revised Statutes of
 27 Nebraska, is amended to read:

1 71-3604 Upon the hearing set in the order, the person
 2 named in the order shall have a right to be represented by counsel,
 3 to confront and cross-examine witnesses against him or her, and to
 4 have compulsory process for the securing of witnesses and evidence
 5 in his or her own behalf.

6 Upon a consideration of the petition and evidence, ~~if~~
 7 (1) If the court finds that there are reasonable grounds
 8 to believe that the person named in the petition has communicable
 9 tuberculosis and has refused to submit to an examination to
 10 determine the existence of communicable tuberculosis, the court
 11 shall order such person to submit to such examination. If after
 12 such examination is completed it is determined that the person has
 13 communicable tuberculosis, the court shall order directed health
 14 measures necessary for the treatment of the person and to prevent
 15 the transmission of the disease; or

16 (2) If the court finds that the person named in the
 17 petition has communicable tuberculosis and conducts himself or
 18 herself in such a way as to be a danger to the public health, an
 19 order shall be issued committing the person named to a facility
 20 and directing the sheriff to take him or her into custody and
 21 deliver him or her to the facility or to submit to directed health
 22 measures necessary for the treatment of the person and to prevent
 23 the transmission of the disease.

24 If the court does not so find, the petition shall be
 25 dismissed. The cost of transporting such person to the facility
 26 shall be paid from county general funds.

27 Sec. 6. Section 71-3614, Revised Statutes Cumulative
 1 Supplement, 2008, is amended to read:

2 71-3614 (1) When any person who has communicable or

3 ~~contagious~~-tuberculosis and who has relatives, friends, or a
 4 private or public agency or organization willing to undertake the
 5 obligation to support him or her or to aid in supporting him or her
 6 in any other state or country, the department may furnish him or
 7 her with the cost of transportation to such other state or country
 8 if it finds that the interest of the State of Nebraska and the
 9 welfare of such person will be promoted thereby. The expense of
 10 such transportation shall be paid by the department out of funds
 11 appropriated to it for the purpose of carrying out the Tuberculosis
 12 Detection and Prevention Act.

13 (2) No funds appropriated to the department for the
 14 purpose of carrying out the act shall be used for meeting the
 15 cost of the care, maintenance, or treatment of any person who has
 16 communicable or ~~contagious~~-tuberculosis in a health care facility
 17 on either an inpatient or an outpatient basis, or otherwise, for
 18 directed health measures, or for transportation to another state
 19 or country, to the extent that such cost is covered by an insurer
 20 or other third-party payor or any other entity under obligation to
 21 such person by contract, policy, certificate, or any other means
 22 whatsoever. The department in no case shall expend any such funds
 23 to the extent that any such person is able to bear the cost of
 24 such care, maintenance, treatment, or transportation. To protect
 25 the health and safety of the public, the department may pay, in
 26 part or in whole, the cost of drugs and medical care used to
 27 treat any person for or to prevent the spread of communicable
 1 tuberculosis and for evaluation and diagnosis of persons who
 2 have been identified as contacts of a person with communicable
 3 tuberculosis. The department shall determine the ability of a
 4 person to pay by consideration of the following factors: (a) The
 5 person's age, (b) the number of his or her dependents and their
 6 ages and physical condition, (c) the person's length of care,
 7 maintenance, or treatment, (d) his or her liabilities, ~~and~~ (e) the
 8 extent that such cost is covered by an insurer or other third-party
 9 payor, and (f) his or her assets. Pursuant to the Administrative
 10 Procedure Act, the department shall adopt and promulgate rules
 11 and regulations for making the determinations required by this
 12 subsection.

13 Rules, regulations, and orders in effect under this
 14 section prior to July 16, 2004, shall continue to be effective
 15 until revised, amended, repealed, or nullified pursuant to law.

16 2. Amend the repealer and renumber the remaining section
 17 accordingly.

Senator Stuthman filed the following amendment to LB97:
 AM1234

(Amendments to E & R amendments, ER8094)

1 1. Insert the following new section:

2 Sec. 30. (1) No individual who has been convicted of a

3 felony or of any crime involving moral turpitude, or who has been

4 charged with or indicted for a felony or crime involving moral
5 turpitude and there has been no final resolution of the prosecution
6 of the crime, shall provide transportation services under contract
7 with the Department of Health and Human Services, whether as an
8 employee or as a volunteer, for vulnerable adults as defined in
9 section 28-371 or for persons under nineteen years of age.

10 (2) In order to assure compliance with subsection (1)
11 of this section, any individual who will be providing such
12 transportation services to such vulnerable adults or persons under
13 nineteen years of age and any individual who is providing such
14 services on the effective date of this act shall be subject
15 to a national criminal history record information check by the
16 Department of Health and Human Services through the Nebraska State
17 Patrol.

18 (3) In addition to the national criminal history record
19 information check required in subsection (2) of this section,
20 all individuals employed to provide transportation services under
21 contract with the Department of Health and Human Services to
22 vulnerable adults or persons under nineteen years of age shall
1 submit to a national criminal history record information check
2 every two years during the period of such employment.

3 (4) Individuals shall submit two full sets of
4 fingerprints to the Nebraska State Patrol to be submitted to
5 the Federal Bureau of Investigation for the national criminal
6 history record information check required under this section. The
7 individual shall pay the actual cost of fingerprinting and the
8 national criminal history record information check.

9 (5)(a) Individuals shall authorize release of the results
10 and contents of a national criminal history record information
11 check under this section to the employer and the Department of
12 Health and Human Services as provided in this section.

13 (b) The Nebraska State Patrol shall not release the
14 contents of a national criminal history record information check
15 under this section to the employer or the individual but shall only
16 indicate in writing to the employer and the individual whether the
17 individual has a criminal record.

18 (c) The Nebraska State Patrol shall release the results
19 and the contents of a national criminal history record information
20 check under this section in writing to the department in accordance
21 with applicable federal law.

22 (6) The Department of Health and Human Services may
23 develop and implement policies that provide for administrative
24 exceptions to the prohibition in subsection (1) of this section,
25 including, but not limited to, situations in which relatives of
26 the vulnerable adult or person under nineteen years of age provide
27 transportation services for such vulnerable adult or person under
1 nineteen years of age or situations in which the circumstances
2 of the crime or the elapsed time since the commission of the
3 crime do not warrant the prohibition. Any decision made by the

- 4 department regarding an administrative exception under this section
 5 is discretionary and is not appealable.
 6 (7) An individual who does not comply with this section
 7 is guilty of a Class V misdemeanor.
 8 2. Renumber remaining sections and correct internal
 9 references accordingly.

UNANIMOUS CONSENT - Add Cointroducer

Senator Flood asked unanimous consent to add his name as cointroducer to LB97. No objections. So ordered.

VISITORS

Visitors to the Chamber were 55 fourth-grade students and teachers from Hillrise Elementary, Elkhorn; 19 fourth-grade students and teacher from Fullerton; 51 fourth-grade students and teachers from Shoemaker Elementary, Grand Island; 9 twelfth-grade students and teacher from Diller-Odell High School, Odell; 9 seventh- and eighth-grade students and teachers from Schuyler; Mary Morgan, Emma Lefler, Mary Gilroy, Rose Jarsz, and Betty Schuele from Cedar Rapids; and 20 students, teachers, and sponsors from Central Community College, Hastings.

RECESS

At 11:59 a.m., on a motion by Senator Janssen, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Friend, Pahls, and Stuthman who were excused; and Senator Ashford who was excused until he arrives.

GENERAL FILE

LEGISLATIVE BILL 633. Senator Mello renewed his amendment, AM1072, found on page 1180 and considered in this day's Journal, to the committee amendment.

PRESIDENT SHEEHY PRESIDING

The Mello amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Committee AM907, found on page 897 and considered in this day's Journal, as amended, was renewed.

The committee amendment, as amended, was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 29 ayes, 2 nays, 15 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 342. Title read. Considered.

Committee AM741, found on page 818, was considered.

Senator Campbell renewed her amendment, AM1225, found on page 1204, to the committee amendment.

Pending.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 56. Placed on Final Reading.

LEGISLATIVE BILL 162. Placed on Final Reading.
ST9023

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

1. On page 1, line 6, ", registration by nonresident contractors," has been inserted after "Act".

LEGISLATIVE BILL 430. Placed on Final Reading.
ST9022

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

1. In the Christensen amendment, FA31, on page 1 "; and page 2, line 4," has been inserted after "line 11".

2. In the Avery amendment, AM993, on page 6, line 10, "or" has been inserted after the first comma; and in line 13 "and" has been inserted after the second comma.

3. In the E & R amendments, ER8052, amendment 2 has been struck.

4. On page 1, line 1, "15-255, 16-227, 17-556, 28-1201, 28-1204.03, and 28-1204.04, Reissue Revised Statutes of Nebraska, and sections 14-102," has been inserted after "sections"; and in line 5 "firearms" has been struck and "concealed handguns; to change provisions relating to possession of a firearm at school as defined" inserted.

LEGISLATIVE BILL 436. Placed on Final Reading.

LEGISLATIVE BILL 551. Placed on Final Reading.

(Signed) Jeremy Nordquist, Chairperson

COMMITTEE REPORT

Natural Resources

LEGISLATIVE BILL 561. Placed on General File with amendment.
AM1210

1 1. Insert the following new section:

2 Sec. 2. Section 70-1014.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 70-1014.01 ~~As~~ (1) Except as provided in subsection
5 (2) of this section, an application by a municipality, a
6 registered group of municipalities, a public power district, a
7 public power and irrigation district, an electric cooperative, an
8 electric membership association, or any other governmental entity
9 for a facility that will generate not more than ten thousand
10 kilowatts of electric energy at rated capacity and will generate
11 electricity using solar, wind, biomass, landfill gas, methane gas,
12 or hydropower generation technology or an emerging generation
13 technology, including, but not limited to, fuel cells and
14 micro-turbines, shall be deemed a special generation application.
15 Such application shall be approved by the board if the board finds
16 that ~~(4)-(a)~~ the application qualifies as a special generation
17 application, ~~(2)-(b)~~ the application will provide public benefits
18 sufficient to warrant approval of the application, although it may
19 not constitute the most economically feasible generation option,
20 and ~~(3)-(c)~~ the application under consideration represents a
21 separate and distinct project from any previous special generation
22 application the applicant may have filed.

23 (2)(a) An application by a municipality, a registered
1 group of municipalities, a public power district, a public power
2 and irrigation district, an electric cooperative, an electric
3 membership association, or any other governmental entity for a
4 facility that will generate more than ten thousand kilowatts of
5 electric energy at rated capacity and will generate electricity
6 using renewable energy sources such as solar, wind, biomass,
7 landfill gas, methane gas, or new hydropower generation technology
8 or an emerging technology, including, but not limited to, fuel
9 cells and micro-turbines, may be filed with the board if (i)
10 the total production from all such renewable projects, excluding
11 sales from such projects to other electric-generating entities,
12 does not exceed ten percent of total energy sales as shown in
13 the producer's Annual Electric Power Industry Report to the United
14 States Department of Energy and (ii) the applicant's governing body
15 conducts at least one advertised public hearing which affords the
16 ratepayers of the applicant a chance to review and comment on the
17 subject of the application.

18 (b) The application shall be approved by the board
19 if the board finds that (i) the applicant is using renewable

20 energy sources described in this subsection, (ii) that the total
 21 production from all renewable projects of the applicant does
 22 not exceed ten percent of the producer's total energy sales as
 23 described in subdivision (2)(a) of this section, and (iii) the
 24 applicant's governing body has conducted at least one advertised
 25 public hearing which affords its ratepayers a chance to review and
 26 comment on the subject of the application.

27 (3) A community-based energy development project
 1 organized pursuant to the Rural Community-Based Energy Development
 2 Act which intends to develop renewable energy sources for sale to
 3 one or more Nebraska electric utilities described in this section
 4 may also make an application to the board pursuant to subsection
 5 (2) of this section if (a) the purchasing electric utilities
 6 conduct a public hearing described in such subsection and (b)
 7 the power and energy from the renewable energy sources is sold
 8 exclusively to such electric utilities for a term of at least
 9 twenty years.

10 2. Correct the repealer and renumber the remaining
 11 sections accordingly.

(Signed) Chris Langemeier, Chairperson

AMENDMENTS - Print in Journal

Senator Pankonin filed the following amendment to LB188:
 AM1153

(Amendments to Standing Committee amendments, AM611)

1 1. On page 1, line 4, reinstate the stricken matter and
 2 after the reinstated matter insert "and until July 1"; in line 6
 3 strike the new matter and reinstate the stricken matter; in line 7
 4 after the period insert "Commencing July 1, 2009, and until July
 5 1, 2010, each officer while in the service of the Nebraska State
 6 Patrol shall pay or have paid on his or her behalf a sum equal to
 7 fifteen percent of his or her monthly compensation. Commencing July
 8 1, 2010, each officer while in the service of the Nebraska State
 9 Patrol shall pay or have paid on his or her behalf a sum equal to
 10 sixteen percent of his or her monthly compensation."; in line 15
 11 after the third comma insert "and until July 1, 2010."; and in line
 12 19 after the period insert "Commencing July 1, 2010, there shall
 13 be assessed against the appropriation of the Nebraska State Patrol
 14 a sum equal to the amount of sixteen percent of each officer's
 15 monthly compensation which shall be credited to the State Patrol
 16 Retirement Fund.".

Senator Coash filed the following amendment to LB498:
 AM1131

1 1. Insert the following new section:
 2 Sec. 2. Any trustee of Wyuka Cemetery who would be
 3 required to take any action or make any decision in the discharge

4 of his or her official duties that may cause financial benefit
 5 or detriment to him or her, a member of his or her immediate
 6 family, or a business with which he or she is associated, which
 7 is distinguishable from the effects of such action on the public
 8 generally or a broad segment of the public, shall take the
 9 following actions as soon as he or she is aware of such potential
 10 conflict or should reasonably be aware of such potential conflict,
 11 whichever is sooner:

12 (1) Prepare a written statement describing the matter
 13 requiring action or decision and the nature of the potential
 14 conflict;

15 (2) Deliver a copy of the statement to the person in
 16 charge of keeping records for the board of trustees of Wyuka
 17 Cemetery who shall enter the statement onto the public records of
 18 the board of trustees; and

19 (3) Abstain from participating or voting on the matter in
 20 which the trustee has a conflict of interest.

21 2. Renumber the remaining sections accordingly.

Senator Pankonin filed the following amendment to LB414:
 AM1236

1 1. Insert the following new sections:

2 Sec. 2. Section 24-703, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 24-703 (1) Each original member shall contribute monthly
 5 four percent of his or her monthly compensation to the fund
 6 until the maximum benefit as limited in subsection (1) of section
 7 24-710 has been earned. It shall be the duty of the Director
 8 of Administrative Services in accordance with subsection (10) of
 9 this section to make a deduction of four percent on the monthly
 10 payroll of each original member who is a judge of the Supreme
 11 Court, a judge of the Court of Appeals, a judge of the district
 12 court, a judge of a separate juvenile court, a judge of the county
 13 court, a clerk magistrate of the county court who was an associate
 14 county judge and a member of the fund at the time of his or her
 15 appointment as a clerk magistrate, or a judge of the Nebraska
 16 Workers' Compensation Court showing the amount to be deducted and
 17 its credit to the fund. The Director of Administrative Services
 18 and the State Treasurer shall credit the four percent as shown
 19 on the payroll and the amounts received from the various counties
 20 to the fund and remit the same to the director in charge of the
 21 judges retirement system who shall keep an accurate record of the
 22 contributions of each judge.

23 ~~(2)(a) Beginning~~ In addition to the contribution required
 1 under subdivision (c) of this subsection, beginning on July 1,
 2 2004, each future member who has not elected to make contributions
 3 and receive benefits as provided in section 24-703.03 shall
 4 contribute monthly six percent of his or her monthly compensation
 5 to the fund until the maximum benefit as limited in subsection

6 (2) of section 24-710 has been earned. After the maximum benefit
 7 as limited in subsection (2) of section 24-710 has been earned,
 8 such future member shall make no further contributions to the fund,
 9 except that (i) any time the maximum benefit is changed, a future
 10 member who has previously earned the maximum benefit as it existed
 11 prior to the change shall contribute monthly six percent of his
 12 or her monthly compensation to the fund until the maximum benefit
 13 as changed and as limited in subsection (2) of section 24-710 has
 14 been earned and (ii) such future member shall continue to make the
 15 contribution required under subdivision (c) of this subsection.

16 (b) ~~Beginning~~ In addition to the contribution required
 17 under subdivision (c) of this subsection, beginning on July 1,
 18 2004, a judge who first serves as a judge on or after such date
 19 or a future member who elects to make contributions and receive
 20 benefits as provided in section 24-703.03 shall contribute monthly
 21 eight percent of his or her monthly compensation to the fund until
 22 the maximum benefit as limited by subsection (2) of section 24-710
 23 has been earned. ~~After~~ In addition to the contribution required
 24 under subdivision (c) of this subsection, after the maximum benefit
 25 as limited in subsection (2) of section 24-710 has been earned,
 26 such judge or future member shall contribute monthly four percent
 27 of his or her monthly compensation to the fund for the remainder of
 1 his or her active service.

2 (c) Beginning on July 1, 2009, until July 1, 2014, a
 3 member or judge described in subdivisions (a) and (b) of this
 4 subsection shall contribute monthly an additional one percent of
 5 his or her monthly compensation to the fund.

6 ~~(e)-(d)~~ It shall be the duty of the Director of
 7 Administrative Services to make a deduction on the monthly payroll
 8 of each such future member who is a judge of the Supreme Court,
 9 a judge of the Court of Appeals, a judge of the district court,
 10 a judge of a separate juvenile court, a judge of the county
 11 court, a clerk magistrate of the county court who was an associate
 12 county judge and a member of the fund at the time of his or her
 13 appointment as a clerk magistrate, or a judge of the Nebraska
 14 Workers' Compensation Court showing the amount to be deducted and
 15 its credit to the fund. This shall be done each month. The Director
 16 of Administrative Services and the State Treasurer shall credit the
 17 amount as shown on the payroll and the amounts received from the
 18 various counties to the fund and remit the same to the director in
 19 charge of the judges retirement system who shall keep an accurate
 20 record of the contributions of each judge.

21 (3) ~~A-Except~~ as otherwise provided in this subsection,
 22 a Nebraska Retirement Fund for Judges fee of five dollars shall
 23 be taxed as costs in each (a) civil cause of action, criminal
 24 cause of action, traffic misdemeanor or infraction, and city or
 25 village ordinance violation filed in the district courts, the
 26 county courts, and the separate juvenile courts, (b) filing in the
 27 district court of an order, award, or judgment of the Nebraska

1 Workers' Compensation Court or any judge thereof pursuant to
2 section 48-188, (c) appeal or other proceeding filed in the Court
3 of Appeals, and (d) original action, appeal, or other proceeding
4 filed in the Supreme Court. Beginning on July 1, 2009, and until
5 July 1, 2014, such fee shall be six dollars. In county courts a sum
6 shall be charged which is equal to ten percent of each fee provided
7 by sections 33-125, 33-126.02, 33-126.03, and 33-126.06, rounded to
8 the nearest even dollar. No judges retirement fee shall be charged
9 for filing a report pursuant to sections 33-126.02 and 33-126.06.
10 When collected by the clerk of the district or county court, such
11 fees shall be paid and information submitted to the director in
12 charge of the judges retirement system on forms prescribed by the
13 board by the clerk within ten days after the close of each calendar
14 quarter. The board may charge a late administrative processing fee
15 not to exceed twenty-five dollars if the information is not timely
16 received or the money is delinquent. In addition, the board may
17 charge a late fee of thirty-eight thousandths of one percent of the
18 amount required to be submitted pursuant to this section for each
19 day such amount has not been received. Such director shall promptly
20 thereafter remit the same to the State Treasurer for credit to
21 the fund. No Nebraska Retirement Fund for Judges fee which is
22 uncollectible for any reason shall be waived by a county judge as
23 provided in section 29-2709.

24 (4) All expenditures from the fund shall be authorized by
25 voucher in the manner prescribed in section 24-713. The fund shall
26 be used for the payment of all annuities and other benefits and for
27 the expenses of administration.

1 (5) The fund shall consist of the total fund as of
2 December 25, 1969, the contributions of members as provided in this
3 section, all supplementary court fees as provided in subsection (3)
4 of this section, and any required contributions of the state.

5 (6) Not later than January 1 of each year, the State
6 Treasurer shall transfer to the fund the amount certified by the
7 board as being necessary to pay the cost of any benefits accrued
8 during the fiscal year ending the previous June 30 in excess
9 of member contributions for that fiscal year and court fees as
10 provided in subsection (3) of this section and fees pursuant to
11 sections 25-2804, 33-103, 33-103.01, 33-106, 33-106.02, 33-123,
12 33-125, 33-126.02, 33-126.03, and 33-126.06 and directed to be
13 remitted to the fund, if any, for that fiscal year plus any
14 required contributions of the state as provided in subsection (9)
15 of this section.

16 (7) Benefits under the retirement system to members or to
17 their beneficiaries shall be paid from the fund.

18 (8) Any member who is making contributions to the fund on
19 December 25, 1969, may, on or before June 30, 1970, elect to become
20 a future member by delivering written notice of such election to
21 the board.

22 (9) Not later than January 1 of each year, the State

23 Treasurer shall transfer to the fund an amount, determined on
24 the basis of an actuarial valuation as of the previous June 30
25 and certified by the board, to fully fund the unfunded accrued
26 liabilities of the retirement system as of June 30, 1988, by level
27 payments up to January 1, 2000. Such valuation shall be on the
1 basis of actuarial assumptions recommended by the actuary, approved
2 by the board, and kept on file with the board. For the fiscal
3 year beginning July 1, 2002, and each fiscal year thereafter,
4 the actuary for the board shall perform an actuarial valuation
5 of the system using the entry age actuarial cost method. Under
6 this method, the actuarially required funding rate is equal to the
7 normal cost rate, plus the contribution rate necessary to amortize
8 the unfunded actuarial accrued liability on a level payment basis.
9 The normal cost under this method shall be determined for each
10 individual member on a level percentage of salary basis. The normal
11 cost amount is then summed for all members. The initial unfunded
12 actual accrued liability as of July 1, 2002, if any, shall be
13 amortized over a twenty-five-year period. Prior to July 1, 2006,
14 changes in the funded actuarial accrued liability due to changes
15 in benefits, actuarial assumptions, the asset valuation method, or
16 actuarial gains or losses shall be measured and amortized over a
17 twenty-five-year period beginning on the valuation date of such
18 change. Beginning July 1, 2006, any existing unfunded liabilities
19 shall be reinitialized and amortized over a thirty-year period,
20 and during each subsequent actuarial valuation, changes in the
21 funded actuarial accrued liability due to changes in benefits,
22 actuarial assumptions, the asset valuation method, or actuarial
23 gains or losses shall be measured and amortized over a thirty-year
24 period beginning on the valuation date of such change. If the
25 unfunded actuarial accrued liability under the entry age actuarial
26 cost method is zero or less than zero on an actuarial valuation
27 date, then all prior unfunded actuarial accrued liabilities shall
1 be considered fully funded and the unfunded actuarial accrued
2 liability shall be reinitialized and amortized over a thirty-year
3 period as of the actuarial valuation date. If the actuarially
4 required contribution rate exceeds the rate of all contributions
5 required pursuant to the Judges Retirement Act, there shall be a
6 supplemental appropriation sufficient to pay for the differences
7 between the actuarially required contribution rate and the rate of
8 all contributions required pursuant to the Judges Retirement Act.
9 (10) The state or county shall pick up the member
10 contributions required by this section for all compensation paid
11 on or after January 1, 1985, and the contributions so picked up
12 shall be treated as employer contributions in determining federal
13 tax treatment under the Internal Revenue Code as defined in section
14 49-801.01, except that the state or county shall continue to
15 withhold federal income taxes based upon these contributions until
16 the Internal Revenue Service or the federal courts rule that,
17 pursuant to section 414(h) of the code, these contributions shall

18 not be included as gross income of the member until such time as
 19 they are distributed or made available. The state or county shall
 20 pay these member contributions from the same source of funds which
 21 is used in paying earnings to the member. The state or county
 22 shall pick up these contributions by a compensation deduction
 23 through a reduction in the compensation of the member. Member
 24 contributions picked up shall be treated for all purposes of the
 25 Judges Retirement Act in the same manner and to the extent as
 26 member contributions made prior to the date picked up.

27 Sec. 3. Sections 2 and 6 of this act become operative on
 1 July 1, 2009. The other sections of this act become operative on
 2 their effective date.

3 Sec. 4. This act shall be considered a complete act
 4 and its provisions inseverable. If any provision of this act is
 5 declared unconstitutional, the entire act shall be invalid.

6 Sec. 6. Original section 24-703, Reissue Revised Statutes
 7 of Nebraska, is repealed.

8 2. Renumber the remaining sections accordingly.

Senator Adams filed the following amendment to LB9:
 AM1217

1 1. Insert the following new sections:

2 Section 1. Sales and use taxes shall not be imposed on
 3 the gross receipts from the sale, lease, or rental of and the
 4 storage, use, or other consumption in this state of mineral oil to
 5 be applied to grain as a dust suppressant.

6 Sec. 2. Section 77-2701, Revised Statutes Cumulative
 7 Supplement, 2008, is amended to read:

8 77-2701 Sections 77-2701 to 77-27,135.01 and section 1 of
 9 this act and 77-27,228 to 77-27,236 shall be known and may be cited
 10 as the Nebraska Revenue Act of 1967.

11 Sec. 3. Section 77-2701.04, Revised Statutes Cumulative
 12 Supplement, 2008, is amended to read:

13 77-2701.04 For purposes of sections 77-2701.04 to 77-2713
 14 and section 1 of this act, unless the context otherwise requires,
 15 the definitions found in sections 77-2701.05 to 77-2701.53 shall be
 16 used.

17 Sec. 6. Original sections 77-2701 and 77-2701.04, Revised
 18 Statutes Cumulative Supplement, 2008, are repealed.

19 2. On page 3, line 7, strike "This act becomes" and
 20 insert "Sections 4, 5, 7, and 8 of this act become"; and after the
 21 period insert "The other sections of this act become operative on
 22 October 1, 2009."

23 3. Renumber the remaining sections accordingly.

BILL ON FIRST READING

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

LEGISLATIVE BILL 633A. Introduced by Mello, 5.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 633, One Hundred First Legislature, First Session, 2009.

GENERAL FILE

LEGISLATIVE BILL 160. Considered.

Senator Gay moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

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

Voting in the affirmative, 31:

Adams	Cornett	Giese	Mello	Wallman
Ashford	Council	Gloor	Nelson	White
Avery	Dubas	Haar	Nordquist	Wightman
Campbell	Fischer	Harms	Pankonin	
Carlson	Flood	Louden	Price	
Christensen	Fulton	McCoy	Schilz	
Coash	Gay	McGill	Sullivan	

Voting in the negative, 11:

Dierks	Howard	Langemeier	Nantkes
Hadley	Janssen	Lathrop	Utter
Hansen	Karpisek	Lautenbaugh	

Present and not voting, 3:

Cook	Pirsch	Rogert
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Absent and not voting, 1:

Heidemann

Excused and not voting, 3:

Friend	Pahls	Stuthman
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Advanced to Enrollment and Review Initial with 31 ayes, 11 nays, 3 present and not voting, 1 absent and not voting, and 3 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 630. Title read. Considered.

Committee AM874, found on page 904, was considered.

Senator Schilz renewed his amendment, FA27, found on page 1020, to the committee amendment.

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

Senator Nantkes moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Senator Nantkes requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 16:

Ashford	Haar	McGill	Rogert
Dierks	Howard	Mello	Sullivan
Giese	Karpisek	Nantkes	Wallman
Gloor	Lathrop	Nordquist	White

Voting in the negative, 27:

Adams	Cook	Fulton	Langemeier	Schilz
Avery	Cornett	Gay	Lautenbaugh	Utter
Campbell	Council	Hadley	McCoy	Wightman
Carlson	Dubas	Hansen	Nelson	
Christensen	Fischer	Harms	Pirsch	
Coash	Flood	Janssen	Price	

Present and not voting, 1:

Louden

Excused and not voting, 5:

Friend	Heidemann	Pahls	Pankonin	Stuthman
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The motion to cease debate failed with 16 ayes, 27 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

COMMITTEE REPORT
Nebraska Retirement Systems

LEGISLATIVE BILL 187. Placed on General File with amendment.
AM1180

1 1. Strike the original sections and insert the following
2 new sections:
3 Section 1. Section 79-958, Reissue Revised Statutes of
4 Nebraska, is amended to read:
5 79-958 (1) Beginning on September 1, 2006, and ending
6 August 31, 2007, for the purpose of providing the funds to pay
7 for formula annuities, every employee shall be required to deposit
8 in the School Retirement Fund seven and eighty-three hundredths
9 percent of compensation. Beginning on September 1, 2007, and ending
10 August 31, 2009, for the purpose of providing the funds to pay
11 for formula annuities, every employee shall be required to deposit
12 in the School Retirement Fund seven and twenty-eight hundredths
13 percent of compensation. Beginning on September 1, 2009, and ending
14 August 31, 2014, for the purpose of providing the funds to pay
15 for formula annuities, every employee shall be required to deposit
16 in the School Retirement Fund eight and twenty-eight hundredths
17 percent of compensation. Beginning on September 1, 2014, for the
18 purpose of providing the funds to pay for formula annuities, every
19 employee shall be required to deposit in the School Retirement Fund
20 seven and twenty-eight hundredths percent of compensation. Such
21 deposits shall be transmitted at the same time and in the same
22 manner as required employer contributions.

23 (2) For the purpose of providing the funds to pay for
1 formula annuities, every employer shall be required to deposit
2 in the School Retirement Fund one hundred one percent of the
3 required contributions of the school employees of each employer.
4 Such deposits shall be transmitted to the retirement board at
5 the same time and in the same manner as such required employee
6 contributions.

7 (3) The employer shall pick up the member contributions
8 required by this section for all compensation paid on or after
9 January 1, 1986, and the contributions so picked up shall
10 be treated as employer contributions in determining federal tax
11 treatment under the Internal Revenue Code as defined in section
12 49-801.01, except that the employer shall continue to withhold
13 federal income taxes based upon these contributions until the
14 Internal Revenue Service or the federal courts rule that, pursuant
15 to section 414(h) of the code, these contributions shall not be
16 included as gross income of the member until such time as they
17 are distributed or made available. The employer shall pay these
18 member contributions from the same source of funds which is used
19 in paying earnings to the member. The employer shall pick up these
20 contributions by a compensation deduction through a reduction in
21 the cash compensation of the member. Member contributions picked

22 up shall be treated for all purposes of the School Employees
23 Retirement Act in the same manner and to the same extent as member
24 contributions made prior to the date picked up.

25 (4) The employer shall pick up the member contributions
26 made through irrevocable payroll deduction authorizations pursuant
27 to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08, and
1 the contributions so picked up shall be treated as employer
2 contributions in the same manner as contributions picked up under
3 subsection (3) of this section.

4 Sec. 2. Section 79-966, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 79-966 (1) On the basis of all data in the possession
7 of the retirement board, including such mortality and other tables
8 as are recommended by the actuary engaged by the retirement board
9 and adopted by the retirement board, the retirement board shall
10 annually, on or before July 1, determine the state deposit to be
11 made by the state in the School Retirement Fund for that fiscal
12 year. The amount of such state deposit shall be determined pursuant
13 to section 79-966.01. The retirement board shall thereupon certify
14 the amount of such state deposit, and on the warrant of the
15 Director of Administrative Services, the State Treasurer shall, as
16 of July 1 of such year, transfer from funds appropriated by the
17 state for that purpose to the School Retirement Fund the amount of
18 such state deposit.

19 (2) In addition to the state deposits required by
20 subsections (1) and (3) of this section, the state shall deposit
21 in the School Retirement Fund an amount equal to seven-tenths of
22 one percent of the compensation of all members of the retirement
23 system for each fiscal year on or after July 1, 1984, until July
24 1, 2009. For each fiscal year beginning July 1, 2009, until July
25 1, 2014, in addition to the state deposits required by subsections
26 (1) and (3) of this section, the state shall deposit in the School
27 Retirement Fund an amount equal to one percent of the compensation
1 of all members of the retirement system. For each fiscal year
2 beginning July 1, 2014, in addition to the state deposits required
3 by subsections (1) and (3) of this section, the state shall deposit
4 in the School Retirement Fund an amount equal to seven-tenths of
5 one percent of the compensation of all members of the retirement
6 system.

7 (3) In addition to the state deposits required by
8 subsections (1) and (2) of this section, beginning on July 1,
9 2005, and each fiscal year thereafter, the state shall deposit
10 in the Service Annuity Fund such amounts as may be necessary to
11 pay the normal cost and amortize the unfunded actuarial accrued
12 liability of the service annuity benefit established pursuant to
13 sections 79-933 and 79-952 as accrued through the end of the
14 previous fiscal year of the school employees who are members of
15 the retirement system established pursuant to the Class V School
16 Employees Retirement Act.

17 Sec. 3. Section 79-9,113, Reissue Revised Statutes of
18 Nebraska, is amended to read:
19 79-9,113 ~~(1)(a)~~ If, at any future time, a majority of
20 the eligible members of the retirement system votes to be included
21 under an agreement providing old age and survivors insurance under
22 the Social Security Act of the United States, the contributions
23 to be made by the member and the school district for membership
24 service, from and after the effective date of the agreement with
25 respect to services performed subsequent to December 31, 1954,
26 shall each be reduced from five to three percent but not less than
27 three percent of the member's salary per annum, and the credits
1 for membership service under this system, as provided in section
2 79-999, shall thereafter be reduced from one and one-half percent
3 to nine-tenths of one percent and not less than nine-tenths of
4 one percent of salary or wage earned by the member during each
5 fiscal year, and from one and sixty-five hundredths percent to one
6 percent and not less than one percent of salary or wage earned
7 by the member during each fiscal year and from two percent to
8 one and two-tenths percent of salary or wage earned by the member
9 during each fiscal year, and from two and four-tenths percent to
10 one and forty-four hundredths percent of salary or wage earned by
11 the member during each fiscal year, except that after September
12 1, 1963, and prior to September 1, 1969, all employees of the
13 school district shall contribute an amount equal to the membership
14 contribution which shall be two and three-fourths percent of salary
15 covered by old age and survivors insurance, and five percent above
16 that amount. Commencing September 1, 1969, all employees of the
17 school district shall contribute an amount equal to the membership
18 contribution which shall be two and three-fourths percent of the
19 first seven thousand eight hundred dollars of salary or wages
20 earned each fiscal year and five percent of salary or wages earned
21 above that amount in the same fiscal year. Commencing September
22 1, 1976, all employees of the school district shall contribute
23 an amount equal to the membership contribution which shall be two
24 and nine-tenths percent of the first seven thousand eight hundred
25 dollars of salary or wages earned each fiscal year and five and
26 twenty-five hundredths percent of salary or wages earned above
27 that amount in the same fiscal year. Commencing on September 1,
1 1982, all employees of the school district shall contribute an
2 amount equal to the membership contribution which shall be four and
3 nine-tenths percent of the compensation earned in each fiscal year.
4 Commencing September 1, 1989, all employees of the school district
5 shall contribute an amount equal to the membership contribution
6 which shall be five and eight-tenths percent of the compensation
7 earned in each fiscal year. Commencing September 1, 1995, all
8 employees of the school district shall contribute an amount equal
9 to the membership contribution which shall be six and three-tenths
10 percent of the compensation earned in each fiscal year. Commencing
11 September 1, 2007, all employees of the school district shall

12 contribute an amount equal to the membership contribution which
13 shall be seven and three-tenths percent of the compensation paid
14 in each fiscal year. Commencing September 1, 2009, all employees
15 of the school district shall contribute an amount equal to the
16 membership contribution which shall be eight and three-tenths
17 percent of the compensation paid in each fiscal year.

18 (b) The contributions by the school district in any
19 fiscal year beginning on or after September 1, 1999, shall be the
20 greater of ~~(a)~~ (i) one hundred percent of the contributions by the
21 employees for such fiscal year or ~~(b)~~ (ii) such amount as may be
22 necessary to maintain the solvency of the system, as determined
23 annually by the board upon recommendation of the actuary and the
24 trustees.

25 (c) The contributions by the school district in any
26 fiscal year beginning on or after September 1, 2007, shall be the
27 greater of (i) one hundred and one percent of the contributions
1 by the employees for such fiscal year or (ii) such amount as may
2 be necessary to maintain the solvency of the system, as determined
3 annually by the board upon recommendation of the actuary and the
4 trustees.

5 (d) The employee's contribution shall be made in the
6 form of a monthly deduction from compensation as provided in
7 subsection (2) of this section. Every employee who is a member of
8 the system shall be deemed to consent and agree to such deductions
9 and shall receipt in full for compensation, and payment to such
10 employee of compensation less such deduction shall constitute a
11 full and complete discharge of all claims and demands whatsoever
12 for services rendered by such employee during the period covered
13 by such payment except as to benefits provided under the Class V
14 School Employees Retirement Act.

15 (e) After September 1, 1963, and prior to September 1,
16 1969, all employees shall be credited with a membership service
17 annuity which shall be nine-tenths of one percent of salary or wage
18 covered by old age and survivors insurance and one and one-half
19 percent of salary or wages above that amount, except that those
20 employees who retire on or after August 31, 1969, shall be credited
21 with a membership service annuity which shall be one percent of
22 salary or wages covered by old age and survivors insurance and
23 one and sixty-five hundredths percent of salary or wages above
24 that amount for service performed after September 1, 1963, and
25 prior to September 1, 1969. Commencing September 1, 1969, all
26 employees shall be credited with a membership service annuity which
27 shall be one percent of the first seven thousand eight hundred
1 dollars of salary or wages earned by the employee during each
2 fiscal year and one and sixty-five hundredths percent of salary
3 or wages earned above that amount in the same fiscal year, except
4 that all employees retiring on or after August 31, 1976, shall be
5 credited with a membership service annuity which shall be one and
6 forty-four hundredths percent of the first seven thousand eight

7 hundred dollars of salary or wages earned by the employee during
8 such fiscal year and two and four-tenths percent of salary or wages
9 earned above that amount in the same fiscal year and the retirement
10 annuities of employees who have not retired prior to September 1,
11 1963, and who elected under the provisions of section 79-988 as
12 such section existed immediately prior to February 20, 1982, not
13 to become members of the system shall not be less than they would
14 have been had they remained under any preexisting system to date of
15 retirement.

16 (f) Members of this system having the service
17 qualifications of members of the School Retirement System of the
18 State of Nebraska, as provided by section 79-926, shall receive
19 the state service annuity provided by sections 79-933 to 79-935
20 and 79-951.

21 (2) The school district shall pick up the employee
22 contributions required by this section for all compensation paid
23 on or after January 1, 1985, and the contributions so picked up
24 shall be treated as employer contributions in determining federal
25 tax treatment under the Internal Revenue Code, except that the
26 school district shall continue to withhold federal income taxes
27 based upon these contributions until the Internal Revenue Service
1 or the federal courts rule that, pursuant to section 414(h)
2 of the Internal Revenue Code, these contributions shall not be
3 included as gross income of the employee until such time as
4 they are distributed or made available. The school district shall
5 pay these employee contributions from the same source of funds
6 which is used in paying earnings to the employee. The school
7 district shall pick up these contributions by a salary deduction
8 either through a reduction in the cash salary of the employee
9 or a combination of a reduction in salary and offset against a
10 future salary increase. Beginning September 1, 1995, the school
11 district shall also pick up any contributions required by sections
12 79-990, 79-991, and 79-992 which are made under an irrevocable
13 payroll deduction authorization between the member and the school
14 district, and the contributions so picked up shall be treated as
15 employer contributions in determining federal tax treatment under
16 the Internal Revenue Code, except that the school district shall
17 continue to withhold federal and state income taxes based upon
18 these contributions until the Internal Revenue Service rules that,
19 pursuant to section 414(h) of the Internal Revenue Code, these
20 contributions shall not be included as gross income of the employee
21 until such time as they are distributed from the system. Employee
22 contributions picked up shall be treated for all purposes of the
23 Class V School Employees Retirement Act in the same manner and to
24 the extent as employee contributions made prior to the date picked
25 up.

26 Sec. 4. This act becomes operative on July 1, 2009.

27 Sec. 5. Original sections 79-958, 79-966, and 79-9,113,

1 Reissue Revised Statutes of Nebraska, are repealed.

- 2 Sec. 6. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

(Signed) Dave Pankonin, Chairperson

VISITOR

The Doctor of the Day was Dr. Tuck Smith from Holdrege.

ADJOURNMENT

At 4:52 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Wednesday, April 29, 2009.

Patrick J. O'Donnell
Clerk of the Legislature