

FIFTIETH DAY - APRIL 3, 2002
LEGISLATIVE JOURNAL
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

FIFTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 3, 2002

PRAYER

The prayer was offered by Senator Jensen.

ROLL CALL

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

The roll was called and all members were present except Senators Bromm, Price, Tyson, and Wehrbein who were excused until they arrive.

SPEAKER KRISTENSEN PRESIDING

CORRECTIONS FOR THE JOURNAL

Page 1333, line 4, strike "AM7122" and insert "AM7211".
The Journal for the forty-ninth day was approved as corrected.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits this report of the following appointment:

Lamberty, Louis E. - Nebraska Power Review Board - Natural Resources

(Signed) George Coordsen, Chairperson
Legislative Council
Executive Board

COMMUNICATION

April 3, 2002

Patrick O'Donnell
Clerk of the Legislature

State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Please be advised that pursuant to Rule 1, Section 17, the Executive Board met and approved Speaker Kristensen's request that LB 1085 and LB 1309 be designated major proposals.

Sincerely,
(Signed) George Coordsen
Chairman, Executive Board

AMENDMENTS - Print in Journal

Senator Erdman filed the following amendment to LB 1206:
AM3509

- 1 1. Insert the following new sections:
- 2 "Sec. 12. Section 79-802, Revised Statutes Supplement,
- 3 2000, is amended to read:
- 4 79-802. (1) Except as provided in subsection (2) of this
- 5 section, no person shall be employed to teach in any public,
- 6 private, denominational, or parochial school in this state who does
- 7 not hold a valid Nebraska certificate or permit issued by the
- 8 Commissioner of Education legalizing him or her to teach the grade
- 9 or subjects to which elected.
- 10 (2) Any person who holds a valid certificate or permit to
- 11 teach issued by another state may be employed as a substitute
- 12 teacher in any public, private, denominational, or parochial school
- 13 in this state for not more than ten working days if he or she
- 14 begins the application process, on the first employment day, for a
- 15 Nebraska substitute teacher's certificate and the issuance of such
- 16 certificate is pending.
- 17 (3) Public, private, denominational, or parochial schools
- 18 in the state may employ persons who do not hold a valid Nebraska
- 19 teaching certificate or permit issued by the Commissioner of
- 20 Education to serve as aides to a teacher or teachers. Such teacher
- 21 aides may not assume any teaching responsibilities. A teacher aide
- 22 may be assigned duties which are nonteaching in nature if the
- 23 employing school has assured itself that the aide has been
- 24 specifically prepared for such duties, including the handling of
- 1 emergency situations which might arise in the course of his or her
- 2 work.
- 3 (4) No person employed to coach or supervise
- 4 extracurricular activities shall be required to hold a valid
- 5 Nebraska certificate or permit to teach pursuant to sections 79-806
- 6 to 79-816, but every person employed to coach or supervise
- 7 extracurricular activities who does not hold a valid Nebraska
- 8 certificate or permit to teach pursuant to such sections shall meet

9 any qualifications for such employment adopted by the State Board
10 of Education and shall meet the requirements of sections 79-8,112
11 to 79-8,117 and section 13 of this act.

12 Sec. 13. Every person employed to coach or supervise
13 extracurricular activities who does not hold a valid Nebraska
14 certificate or permit to teach pursuant to such sections shall file
15 a complete set of his or her legible fingerprints with the
16 Commissioner of Education.

17 Sec. 14. Section 79-8,112, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 79-8,112. Upon request by the Commissioner of Education,
20 the Nebraska State Patrol shall undertake a search for criminal
21 history record information relating to an applicant described in
22 section 79-8,111 or a noncertificated person employed to coach or
23 supervise extracurricular activities pursuant to section 79-802 and
24 section 13 of this act, including transmittal of ~~the applicant's~~
25 his or her fingerprints to the Identification Division of the
26 Federal Bureau of Investigation for a national criminal history
27 record information check. The criminal history record information
1 check shall include information concerning the applicant or
2 noncertificated person from federal repositories of such
3 information and repositories of such information in other states if
4 authorized by federal law. The Nebraska State Patrol shall issue a
5 report to the Commissioner of Education, ~~and to the applicant,~~ and
6 for noncertificated persons described in such sections, to the
7 school board of the school district or the governing authority of
8 the private school employing such noncertificated person. The
9 report which shall include the criminal history record information,
10 ~~concerning the applicant.~~

11 Sec. 15. Section 79-8,114, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 79-8,114. Criminal history record information subject to
14 federal confidentiality requirements shall remain confidential and
15 may be released only upon the written authorization by the
16 ~~applicant, except that if the applicant~~ subject of the information.
17 If the subject is an applicant for a certificate or permit to teach
18 under sections 79-806 to 79-816 who appeals the denial of a
19 certificate or permit by the Commissioner of Education, the filing
20 of an administrative appeal shall constitute a release of the
21 information for the limited purpose of the appeal. If the
22 applicant requests a closed hearing, such request shall be subject
23 to sections 84-1408 to 84-1414.

24 Sec. 16. Section 79-8,115, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 79-8,115. The State Department of Education shall adopt
27 and promulgate rules and regulations to carry out sections 79-8,111
1 to ~~79-8,114~~ 79-8,117 and section 13 of this act.

2 Sec. 17. Section 79-8,116, Reissue Revised Statutes of
3 Nebraska, is amended to read:

- 4 79-8,116. The State Board of Education shall determine
 5 and set the costs for processing criminal history record
 6 information checks under sections 79-8,111 to 79-8,117 and section
 7 13 of this act which shall be borne by the applicant ~~for a~~
 8 ~~certificate or permit described in section 79-8,111 or the person~~
 9 employed to coach or supervise. The costs shall be limited to the
 10 actual direct costs arising from the processing of the criminal
 11 history record information checks."
- 12 2. Amend the repealer so that the sections added by this
 13 amendment becomes operative three calendar months after adjournment
 14 of this legislative session.
- 15 3. Renumber the remaining sections and correct internal
 16 references accordingly.

Senator Baker filed the following amendment to LB 1149:
 AM3495

(Amendments to Standing Committee amendments, AM3477)

- 1 1. On page 2, line 3, strike "eighty-five", show as
 2 stricken, and insert "fifty"; in lines 16 and 21 strike "fifty" and
 3 insert "twenty"; and in line 22 strike "eighty-five" and insert
 4 "fifty".

Senator Baker filed the following amendment to LB 1149:
 AM3496

(Amendments to Standing Committee amendments, AM3477)

- 1 1. Insert the following new section:
 2 "Section 1. Section 68-1713, Revised Statutes
 3 Supplement, 2000, is amended to read:
 4 68-1713. (1) The Department of Health and Human Services
 5 shall submit a waiver request or requests to the United States
 6 Department of Health and Human Services and the United States
 7 Department of Agriculture as necessary for federal authorization to
 8 implement the provisions of the Welfare Reform Act. The Department
 9 of Health and Human Services may include the provisions of sections
 10 68-1718 to 68-1726 in its waiver requests and shall designate
 11 counties for implementation on or after July 1, 1995, of such
 12 sections for recipient families in the aid to dependent children
 13 program. It is the intent of the Legislature that such designated
 14 counties include at least one county with a population of not more
 15 than thirty-five thousand inhabitants and one county with a
 16 population of at least one hundred fifty thousand inhabitants but
 17 not more than three hundred thousand inhabitants.
 18 The Department of Health and Human Services shall
 19 implement the following policies:
 20 (a) Permit Work Experience in Private for Profit
 21 Enterprises;
 22 (b) Permit Job Search to Extend Beyond Eight Weeks Each
 23 Year;
 1 (c) Permit Employment to be Considered a JOBS Program

- 2 Component;
- 3 (d) Make Sanctions More Stringent to Emphasize
- 4 Participant Obligations;
- 5 (e) Alternative Hearing Process;
- 6 (f) Permit Adults in Two-Parent Households to Participate
- 7 in JOBS Activities Based on Their Self-Sufficiency Needs;
- 8 (g) Eliminate Exemptions for Individuals with Children
- 9 Between the Ages of 12 Weeks and Age Six;
- 10 (h) Providing Poor Working Families with Transitional
- 11 Child Care to Ease the Transition from Welfare to Self-Sufficiency;
- 12 (i) Provide Transitional Health Care for 24 Months After
- 13 Termination of ADC;
- 14 (j) Cap Family Benefits Based on the Number of Children
- 15 in the Unit at the Time of Initial Eligibility;
- 16 (k) Require Adults to Ensure that Children in the Family
- 17 Unit Attend School;
- 18 (l) Encourage Minor Parents to Live with Their Parents;
- 19 (m) Establish a Resource Limit of \$4,000 for a single
- 20 individual and \$6,000 for two or more individuals for ADC;
- 21 (n) Exclude the Value of One Vehicle Per Family When
- 22 Determining ADC Eligibility;
- 23 (o) Exclude the Cash Value of Life Insurance Policies in
- 24 Calculating Resources for ADC;
- 25 (p) Permit the Self-Sufficiency Contract Assessment to
- 26 Substitute for the Six-Month ADC Redetermination Process;
- 27 (q) Establish Food Stamps as a Continuous Benefit with
- 1 Eligibility Reevaluated with Yearly Redeterminations;
- 2 (r) Establish a Budget the Gap Methodology Whereby
- 3 Countable Earned Income is Subtracted from the Standard of the Need
- 4 and Payment is Based on the Difference or Maximum Payment Level,
- 5 Whichever is Less. That this Gap be Established at a Level that
- 6 Encourages Work but at Least at a Level that Ensures that Those
- 7 Currently Eligible for ADC do not Lose Eligibility Because of the
- 8 Adoption of this Methodology;
- 9 (s) Adopt ~~the Food Stamp Program's an~~ Earned Income
- 10 Disregard of ~~Twenty Percent of Gross Earnings in the ADC and~~
- 11 ~~Related Medical Assistance Program~~ Ninety Dollars;
- 12 (t) Disregard Financial Assistance Received Intended for
- 13 Books, Tuition, or Other Self-Sufficiency Related Use;
- 14 (u) Culture: Eliminate the 100-Hour Rule, The Quarter of
- 15 Work Requirement, and The 30-Day Unemployed/Underemployed Period
- 16 for ADC-UP Eligibility;
- 17 (v) Make ADC a Time-Limited Program;
- 18 (w) Eliminate Self-Initiated Training as a JOBS Option;
- 19 and
- 20 (x) Other Waivers: Statewide Operation of the
- 21 Demonstration Project.
- 22 At the end of the first year of implementation, the
- 23 department shall identify any adjustments or adaptations that may

24 be needed before the policies of the Welfare Reform Act are
25 implemented in other areas of the state. Such review shall include
26 an evaluation of the impact of such policies. The department shall
27 implement the policies in additional counties as necessary to

1 complete statewide implementation.

2 (2) The Department of Health and Human Services shall (a)
3 apply for a waiver to allow for a sliding-fee schedule for the
4 population served by the caretaker relative program or (b) pursue
5 other public or private mechanisms, to provide for transitional
6 health care benefits to individuals and families who do not qualify
7 for cash assistance. It is the intent of the Legislature that
8 transitional health care coverage be made available on a
9 sliding-scale basis to individuals and families with incomes up to
10 one hundred eighty-five percent of the federal poverty level if
11 other health care coverage is not available.".

12 2. Amend the repealer and renumber the remaining
13 sections accordingly.

RESOLUTION

LEGISLATIVE RESOLUTION 409. Introduced by Foley, 29.

PURPOSE: Many women across the State of Nebraska suffer or have suffered from three common reproductive diseases: Endometriosis, polycystic ovarian disease, and pelvic adhesive disease. These diseases affect women of all ages and, if left untreated, can become very painful and destructive to the body.

Despite these diseases' inclusion in most health insurance policies in Nebraska, numerous women have reported that their claims for treatment have been denied by insurance companies. In many cases, insurance companies refuse to cover treatment of reproductive diseases in women because they claim treatment is done solely for the purpose of achieving pregnancy by treating infertility, which is specifically excluded in insurance coverage.

LB 825, introduced in 2001 and carried over for General File debate in 2002, stated: "Reproductive disease processes in and of themselves are serious health matters that need to be properly diagnosed, maintained, and treated." The bill would have prohibited those insurance companies offering coverage for treatment of endometriosis, polycystic ovarian disease, and pelvic adhesive disease from denying claims solely "on the basis of fertility or infertility." In other words, LB 825 would have prevented companies from denying coverage of treatment for diseases already included in their policies.

The purpose of this study is to investigate the frequency and scope of these and similar denials while reviewing possible solutions in the following ways:

1. Examine any and all complaints on file with the Department of Insurance related to the denial of coverage by insurance providers for the treatment of any of these three diseases; and

2. Evaluate potential solutions to address and correct the problem of these insurance abuses, either legislatively or administratively through the Department of Insurance.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Banking, Commerce and Insurance 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.

SELECT FILE

LEGISLATIVE BILL 82A. Senator Brashear renewed his pending motion, found on page 1314, to indefinitely postpone.

The Brashear motion to indefinitely postpone prevailed with 25 ayes, 2 nays, 18 present and not voting, and 4 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 1073A. Senator Thompson renewed her pending motion, found on page 1307, to indefinitely postpone.

The Thompson motion to indefinitely postpone prevailed with 33 ayes, 1 nay, 12 present and not voting, and 3 excused and not voting.

BILLS ON FINAL READING

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1310 with 36 ayes, 2 nays, 10 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1310. With Emergency.

A BILL FOR AN ACT relating to funds; to amend sections 43-1906, 48-1,116, 60-1409, 77-4025, and 81-1188, Reissue Revised Statutes of Nebraska, sections 71-5714, 81-179, 81-184, 81-188.01, and 81-188.03 to 81-188.06, Revised Statutes Supplement, 2000, sections 9-1,101, 66-1519, 77-1342, 81-188.02, and 84-612, Revised Statutes Supplement, 2001, and section 9-812, Revised Statutes Supplement, 2001, as amended by section 1,

Legislative Bill 3, Ninety-seventh Legislature, First Special Session, 2001; to provide for interfund transfers; to change provisions relating to the use of funds; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 45:

Aguilar	Connealy	Janssen	Pederson, D.	Smith
Baker	Coordsen	Jensen	Preister	Stuhr
Beutler	Cunningham	Jones	Price	Suttle
Bourne	Dierks	Kremer	Quandahl	Synowiecki
Brashear	Engel	Kristensen	Raikes	Thompson
Bromm	Erdman	Kruse	Redfield	Tyson
Bruning	Foley	Maxwell	Robak	Vrtiska
Burling	Hartnett	McDonald	Schimek	Wehrbein
Byars	Hudkins	Pedersen, Dw.	Schrock	Wickersham

Voting in the negative, 2:

Brown Chambers

Present and not voting, 2:

Cudaback Landis

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

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1309 with 41 ayes, 2 nays, and 6 present and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1309. With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2001, LB 244A, section 1; Laws 2001, LB 329A, section 1; Laws 2001, LB 335A, section 1; Laws 2001, LB 468A, section 2; Laws 2001, LB 542, sections 38, 40, 43, and 51; Laws 2001, LB 543, sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 24, 25, 26, 29, 31, 33, 37, 38, 39, 40, 44, 48, 49, 53, 57, 59, 68, 69, 70, 71, 72, 73, 75, 80, 81, 83, 95, 96, 97, 102, 103, 105, 109, 110, 118, 123, 124, 125, 127, 128, 130, 131, 136, 137, 142, 143, 144, 145, 146, 147, 149,

150, 151, 154, 159, 161, 162, 163, 166, 167, 168, 169, 170, 171, 172, 177, 189, 190, 191, 192, 193, 198, 199, 200, 202, 203, 207, 209, 213, 214, 215, 216, 217, 219, 220, 221, 223, 227, 228, 230, 231, 232, 233, 234, 235, 236, 237, 241, 242, 244, 247, 252, 255, 258, 259, 261, 262, and 268; Laws 2001, LB 640A, sections 1, 2, and 3; and Laws 2001, LB 659A, section 1; as amended by sections 9, 11, 12, 13, 16, 17, 19, 22, 25 to 33, 36 to 43, 45 to 51, 53, 54, 56 to 65, 67, 69 to 76, 78 to 114, 116 to 118, 120, 121, 123, 124, 126 to 133, 135 to 137, 139 to 146, 148 to 161, and 163, respectively, Legislative Bill 1, Ninety-seventh Legislature, First Special Session, 2001; Laws 2001, LB 432A, section 2; Laws 2001, LB 539, section 9; Laws 2001, LB 542, sections 11, 29, 33, and 59; and Laws 2001, LB 543, sections 41, 60, 86, 90, 98, 99, 101, 112, 134, 135, 152, 176, 186, 238, and 250; Laws 2001, LB 668A, section 1; and section 18, Legislative Bill 1, Ninety-seventh Legislature, First Special Session, 2001; to define terms; to change certain appropriations as prescribed; to change certain transfers; to repeal the original sections; and to declare an emergency.

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

Voting in the affirmative, 47:

Aguilar	Connealy	Janssen	Preister	Suttle
Baker	Coordsen	Jensen	Price	Synowiecki
Beutler	Cudaback	Jones	Quandahl	Thompson
Bourne	Cunningham	Kremer	Raikes	Tyson
Brashear	Dierks	Kristensen	Redfield	Vrtiska
Bromm	Engel	Kruse	Robak	Wehrbein
Brown	Erdman	Maxwell	Schimek	Wickersham
Bruning	Foley	McDonald	Schrock	
Burling	Hartnett	Pedersen, Dw.	Smith	
Byars	Hudkins	Pederson, D.	Stuhr	

Voting in the negative, 1:

Chambers

Present and not voting, 1:

Landis

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

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 1310 and 1309.

SELECT FILE

LEGISLATIVE BILL 1040. E & R amendment, AM7210, found on page 1191, was adopted.

Senator Connealy renewed his pending amendment, AM3484, found on page 1346.

Senator Connealy withdrew his amendment.

Advanced to E & R for engrossment.

LEGISLATIVE RESOLUTION 6CA. E & R amendment, AM7174, found on page 739, was adopted.

Senator Beutler renewed the Beutler-Schimek pending amendment, AM3288, found on page 1127.

SENATOR CUDABACK PRESIDING

Senator Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Connealy moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 30 ayes, 1 nay, and 18 not voting.

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

Senator Beutler requested a roll call vote on the Beutler-Schimek amendment.

Voting in the affirmative, 31:

Aguilar	Byars	Hartnett	Pederson, D.	Synowiecki
Beutler	Chambers	Hudkins	Preister	Thompson
Bourne	Connealy	Janssen	Raikes	Wehrbein
Brashear	Coordsen	Landis	Redfield	
Bromm	Cudaback	Maxwell	Schimek	
Brown	Cunningham	McDonald	Schrock	
Burling	Engel	Pedersen, Dw.	Suttle	

Voting in the negative, 16:

Baker	Foley	Kristensen	Stuhr
Bruning	Jensen	Price	Tyson
Dierks	Jones	Robak	Vrtiska
Erdman	Kremer	Smith	Wickersham

Present and not voting, 2:

Kruse Quandahl

The Beutler-Schimek amendment was adopted with 31 ayes, 16 nays, and 2 present and not voting.

The Chair declared the call raised.

Pending.

AMENDMENT - Print in Journal

Senator Jensen filed the following amendment to LB 1033:
AM3321

(Amendments to Standing Committee amendments, AM2761)

1 1. On page 1, line 15, strike "be trained, tested, and"
2 and insert "volunteer or be"; in line 16, strike "by" and insert
3 "at"; in line 22, strike the first "the".
4 2. On page 2, strike beginning with "Establish" in line
5 1 through "71-419" in line 18 and insert "Establish criteria for
6 emergency medical technicians-intermediate and emergency medical
7 technicians-paramedic performing activities within their scope of
8 practice at a hospital or health clinic under subsection (3) of
9 section 71-5184. Such criteria shall include, but not be limited
10 to: (a) Requirements for the orientation of registered nurses,
11 physician assistants, and physicians involved in the supervision of
12 such personnel; (b) supervisory and training requirements for the
13 physician medical director or other person in charge of the medical
14 staff at such hospital or health clinic; and (c) a requirement that
15 such activities shall only be performed at the discretion of, and
16 with the approval of, the governing authority of such hospital or
17 health clinic. For purposes of this subdivision, health clinic has
18 the definition found in section 71-416 and hospital has the
19 definition found in section 71-419".

PRESENTED TO THE GOVERNOR

Presented to the Governor on April 3, 2002, at 9:30 a.m., were the following: LBs 1310e and 1309e.

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

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board referred the Peru State College and Wayne State College's request to issue revenue bonds to the Appropriations Committee for further consideration.

(Signed) George Coordsen, Chairperson
Legislative Council
Executive Board

BILL ON FIRST READING

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

LEGISLATIVE BILL 687A. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 687, Ninety-seventh Legislature, Second Session, 2002; and to declare an emergency.

RESOLUTIONS

LEGISLATIVE RESOLUTION 410. Introduced by Jensen, 20.

PURPOSE: The purpose of this study is to conduct research and develop recommendations relating to the state medical assistance program, otherwise known as Medicaid. A committee consisting of three members of the Health and Human Services Committee and three members of the Appropriations Committee shall be appointed by the chairpersons of such committees to conduct the study.

The committee shall conduct research and propose changes to the medical assistance program to reduce program expenditures and simplify program organization and administration, and shall consider and develop other recommendations relating to the program as directed by the chairpersons of the committees. The chairpersons of the committees, in consultation with the committees, shall propose draft legislation containing such recommendations to the Legislature on or before December 31, 2002.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Health and Human Services and Appropriations Committees of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 411. Introduced by Jensen, 20.

PURPOSE: The purpose of this study is to examine health and human services issues, including, but not limited to: The Nebraska Health Care Funding Act; the Nebraska Mental Health Commitment Act, mental health services, the role and mission of the regional centers, and assertive

community treatment; implementation of the federal Ticket to Work and Work Incentives Act; early childhood care and education, and child support enforcement; welfare reform and TANF funding; marriage and family, teenage pregnancy, placement and care of state wards, and juvenile justice; developmental disabilities services; licensing of health care professionals and facilities, health insurance, prescription drugs, rural health, minority health, health care quality, health care availability and affordability, and availability of health care providers; public health development, state public health law, implementation of the Public Health Improvement Plan, and tobacco control and cessation; and health and human services funding, health and human services statutes, and the Nebraska Health and Human Services System.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Health and Human Services 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.

LEGISLATIVE RESOLUTION 412. Introduced by Bromm, 23; Connealy, 16.

PURPOSE: To examine the issues raised by LB 1185, introduced during the 2002 legislative session, with respect to the agriculture exemption within the Nebraska Workers' Compensation Act. The issues to be studied shall include, but are not limited to, the impact of the commercial nature of agricultural work on eligibility for workers' compensation coverage, the availability of coverage in the insurance market, and other issues deemed relevant.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Business and Labor 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.

LEGISLATIVE RESOLUTION 413. Introduced by Brashear, 4.

PURPOSE: Prior to 1981, a passenger in a motor vehicle who was injured

through the negligence of the driver could not recover damages for his or her injuries unless the driver was found to have committed gross negligence. Such was known as the "guest statute." In 1981, the Legislature passed LB 54, which amended the guest statute so that it was applicable only to passengers who were related to the driver within the second degree of consanguinity or affinity. LB 54 is now codified in section 25-21,237.

The purpose of this study is to determine whether this last vestige of the guest statute is fair to those injured in motor vehicle accidents and whether such should be repealed by the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Judiciary 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.

LEGISLATIVE RESOLUTION 414. Introduced by Bourne, 8; Byars, 30; Kristensen, 37; Jensen, 20; Brashear, 4.

PURPOSE: The Legislature recognizes the importance of a well-developed system of highways and roads throughout the State of Nebraska. As of 2000, the Department of Roads had the responsibility for approximately 9,969 miles of highways and a workforce of over 2,200 employees. The Department of Roads' stated mission is to "provide and maintain, in cooperation with public and private organizations, a safe, efficient, affordable and coordinated statewide transportation system for the movement of people and goods."

With this mission statement in mind, it is the intent of the Legislature to conduct an interim study to review the current process for Department of Roads' projects including, but not limited to:

(1) A review of all projects valued at more than ten million dollars and their proposed construction schedules;

(2) How projects are prioritized;

(3) Considerations for how projects are funded;

(4) The current level of legislative review and oversight of projects and plans;

(5) The impact of Department of Roads projects on current roads infrastructure; and

(6) The level of communication between the Department of Roads and project stakeholders.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Transportation and Telecommunications 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.

LEGISLATIVE RESOLUTION 415. Introduced by Suttle, 10.

PURPOSE: To examine issues relating to employee licensure, employer licensure, job protection, whistleblower protection, staff ratios, working conditions, worker safety, employee liability, employer liability, and patient health, care, and safety when publicly and privately employed nurses and other health care professionals are required to work mandatory overtime.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Health and Human Services 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.

SELECT FILE

LEGISLATIVE RESOLUTION 6CA. Senator Schrock renewed his pending amendment, AM3294, found on page 1129.

Senator Byars asked unanimous consent to be excused until he returns. No objections. So ordered.

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 416. Introduced by Hartnett, 45.

PURPOSE: This study would involve a review of the issues currently before the Urban Affairs Committee on the development of a program for effective natural gas regulation in Nebraska based upon the report of the consultant and the amendments to LB 806 (2002) crafted by the working group of government and industry representatives that worked during the 2001 interim and on into the early weeks of the 2002 regular session.

The goal will be to draft new legislation for introduction in the 2003 legislative session providing for a comprehensive natural gas regulatory program. In pursuing that goal, the committee will continue to engage

representatives from all interested groups and parties involved in providing natural gas to consumers in Nebraska and the consumers themselves in discussions aimed at narrowing differences and finding ways of arriving at consensus on the final solution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Urban Affairs 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.

LEGISLATIVE RESOLUTION 417. Introduced by Hartnett, 45.

PURPOSE: Nebraska currently is one of only three states in the nation that offers no tax incentive to promote the preservation of historic properties, although historic preservation is recognized as an important component in housing and neighborhood redevelopment, commercial and "main street" revitalization, and tourism enhancement in our state.

To remedy that situation, LR 14CA was introduced in the 2001 legislative session to provide the constitutional authorization for the Legislature to craft a statutory program to provide an exemption from property taxes for the portion of the value of a qualifying property which is attributable to improvements designed primarily to renovate, rehabilitate, or preserve the property. A qualifying property would have to be one of historical significance.

Lingering questions about the cost, efficacy, and potential parameters of such a program require additional study before the Revenue Committee takes final action on such an amendment.

This study would compile additional information on similar programs and strategies adopted in other states for providing economic and tax incentives, review the experience of those states in terms of program cost and effectiveness, and craft potential enabling legislation for such a program in Nebraska if such a proposed constitutional amendment proposal was adopted. Efforts will also be undertaken to determine what sorts of property should be included in such program, the extent to which historical districts should qualify, and the interest of property owners and local communities in supporting and participating in such a program.

The study will be conducted in cooperation with the Nebraska State Historical Society.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Revenue 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.

VISITORS

Visitors to the Chamber were Tony Spurlin from Mullen; 36 fourth-grade students, teachers, and assistant from Stanton; Cadi Kadlecek from Raymond Central High School; 17 seniors from Arnold; 80 fourth-grade students and teachers from Prescott Elementary School, Lincoln; and former Senator Joyce Hillman and husband, Judge Al Kortum, from Gering.

RECESS

At 12:00 p.m., on a motion by Senator Coordsen, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Kristensen presiding.

ROLL CALL

The roll was called and all members were present except Senators Hartnett, Thompson, and Tyson who were excused until they arrive.

RESOLUTIONS

LEGISLATIVE RESOLUTION 418. Introduced by Connealy, 16.

PURPOSE: To study Nebraska's employment security laws. Issues to be addressed shall include, but not be limited to, the following: The condition of the Unemployment Compensation Fund; the effect of state and federal initiatives related to unemployment compensation; and the feasibility of various policy proposals that would utilize the unemployment compensation system for the benefit of the state's economy and workers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Business and Labor 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.

LEGISLATIVE RESOLUTION 419. Introduced by Connealy, 16.

PURPOSE: To examine the Workplace Safety Consultation Program administered by the Department of Labor. The study shall include an evaluation of the program's effectiveness, the ability of the Department of Labor to sufficiently and fairly administer the program due to changes in the program's funding source; whether business selection criteria need to be revised; and whether alternate program funding sources should be utilized.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Business and Labor 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.

LEGISLATIVE RESOLUTION 420. Introduced by Connealy, 16.

PURPOSE: To study Nebraska's Employee Suggestion System. The issues to be investigated shall include:

(1) A review of the overall program, taking into consideration the number of suggestions received, the number accepted, the number denied, total amount of state savings because of the program, and total amount of awards granted;

(2) A review of the Suggestion System Rules, and whether the rules fit the administration of the program;

(3) A review of the process used to evaluate and approve or deny suggestions; and

(4) Whether statutory or administrative changes are necessary to ensure the program's efficiency.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Government, Military and Veterans Affairs 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.

LEGISLATIVE RESOLUTION 421. Introduced by Connealy, 16.

PURPOSE: Under sections 48-182 and 48-185 of the Nebraska Workers'

Compensation Act, an award made by a single judge may be reviewed by a panel of three judges. Prior to changes made by LB 360 in 1992, this review was a rehearing de novo. Since passage of LB 360, the review is done on the record made before the single judge without any additional evidence. The purpose of this study is to examine whether the review by three judges is an efficient use of judicial resources and whether repeal of that review would result in any unfairness to any of the litigants.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Business and Labor 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.

LEGISLATIVE RESOLUTION 422. Introduced by Connealy, 16; Beutler, 28.

PURPOSE: To study the minimum wage in Nebraska. The study should consider the ramifications of raising the state's minimum wage; benefits and detriments of raising the minimum wage on employers, workers, and the state; and minimum wage and living wage policy activities in other states and on the federal level.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Business and Labor 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.

LEGISLATIVE RESOLUTION 423. Introduced by Price, 26.

PURPOSE: The purpose of this study is to analyze the effects of not requiring persons employed to coach or supervise extracurricular activities to hold a valid Nebraska certificate or permit to teach, the relationship between certification and coaching, and the need to require criminal background checks to ensure the safety of the children in the schools of the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Education 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.

SELECT FILE

LEGISLATIVE RESOLUTION 6CA. The Schrock pending amendment, AM3294, found on page 1129 and considered on page 1363, was renewed.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

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

Senator Schrock requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 22:

Aguilar	Coordsen	Maxwell	Schimek	Vrtiska
Bourne	Cudaback	McDonald	Schrock	Wickersham
Bromm	Cunningham	Pedersen, Dw.	Suttle	
Brown	Hartnett	Pederson, D.	Synowiecki	
Connealy	Janssen	Preister	Thompson	

Voting in the negative, 23:

Baker	Chambers	Hudkins	Landis	Stuhr
Brashear	Dierks	Jensen	Price	Tyson
Bruning	Engel	Jones	Redfield	Wehrbein
Burling	Erdman	Kremer	Robak	
Byars	Foley	Kristensen	Smith	

Present and not voting, 4:

Beutler	Kruse	Quandahl	Raikes
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The Schrock amendment lost with 22 ayes, 23 nays, and 4 present and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORT
Health and Human Services

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

Commission for the Blind and Visually Impaired
Nichelle Ferreyra
Dorothy Westin-Yockey

Foster Care Review Board
Debra K. Starr

VOTE: Aye: Senators Jensen, Byars, Suttle, Cunningham, Maxwell, and Erdman. Nay: None. Absent: Senator Price.

(Signed) Jim Jensen, Chairperson

BILL ON FIRST READING

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

LEGISLATIVE BILL 1085A. Introduced by Wickersham, 49.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1085, Ninety-seventh Legislature, Second Session, 2002; and to declare an emergency.

RESOLUTIONS

LEGISLATIVE RESOLUTION 424. Introduced by Connealy, 16.

PURPOSE: To evaluate methods to increase biofuel consumption in Nebraska. The study should include, but not be limited to, innovative pricing structures, product labeling, consumer acceptance, and environmental benefits.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Agriculture 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.

LEGISLATIVE RESOLUTION 425. Introduced by Connealy, 16.

PURPOSE: To study the potential economic impact of a credit-trading mechanism under the proposed renewable fuel standard considered by the 107th United States Congress.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND 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.

LEGISLATIVE RESOLUTION 426. Introduced by Connealy, 16.

PURPOSE: To study the funds of the Nebraska Workers' Compensation Court. Issues to be investigated shall include, but not be limited to, the following: The effect of transferring \$4,000,000 from the Compensation Court Cash Fund to the General Fund as a part of the budget package; whether the cash fund is sufficiently protected from subsequent transfers; and other issues relating to the cash fund's administration.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Business and Labor 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.

LEGISLATIVE RESOLUTION 427. Introduced by Connealy, 16.

PURPOSE: To study the Nebraska Workers' Compensation Court's role in oversight of the activities of self-insured employers. Issues to be investigated shall include, but not be limited to, the following: Whether sufficient oversight of self-insured employers exists in the State of Nebraska; what government entities regulate self-insured employers and the extent of such regulation; and any matters concerning injured employees, quality of care, and quality of safety.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Business and Labor 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.

LEGISLATIVE RESOLUTION 428. Introduced by Janssen, 15.

PURPOSE: The purpose of this resolution is to study the issuance and use of special designated liquor licenses. Currently, special designated licenses for the sale or consumption of alcoholic liquor are issued by the Nebraska Liquor Control Commission to certain designated organizations, including municipal corporations, fine arts museums incorporated as nonprofit corporations, religious nonprofit corporations that are exempted from the payment of federal income taxes, and any other nonprofit corporation the purpose of which is fraternal, charitable, or public service and which is exempted from the payment of federal income taxes. The number of special designated licenses issued has grown dramatically over the last several years and there have been complaints about the way the events utilizing these licenses have been conducted and the ability of the commission and law enforcement to enforce the requirements of the Nebraska Liquor Control Act upon these special designated licenseholders. It is important for the safety and welfare of the people of Nebraska and other retail liquor licenseholders that these special designated licenseholders uphold all the applicable laws of the state and cooperate with law enforcement.

This study of special designated licenses shall include, but not be limited to, a review of the trends in special designated licenses, including the number issued, the holders of the licenses, and the overall use of the licenses. In addition, it shall study various options that could address concerns raised with utilization and enforcement of the licenses, including limiting the organizations that may obtain a special designated license or requiring that the organization work with a retail licensee in obtaining the license. In order to carry out the purpose of this resolution, the committee should seek the assistance of the Nebraska Liquor Control Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the General Affairs 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.

LEGISLATIVE RESOLUTION 429. Introduced by Janssen, 15.

PURPOSE: The purpose of this resolution is to study charitable gaming in Nebraska. The study shall include, but not be limited to, examining methods of addressing declining revenues generated by these forms of gaming, new methods of conducting charitable gaming, and any other matters that are determined to be necessary by the committee for the full consideration of this topic.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the General Affairs 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.

LEGISLATIVE RESOLUTION 430. Introduced by Janssen, 15.

PURPOSE: The purpose of this resolution is to study the current system for tracking cemetery locations in the state. The study shall include, but not be limited to, examining the availability of current records regarding cemeteries, contacting the entities that currently maintain these records, and determining the feasibility of requiring a centralized registration location for cemeteries.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the General Affairs 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.

LEGISLATIVE RESOLUTION 431. Introduced by Janssen, 15.

PURPOSE: To study sales of alcoholic liquor in Whiteclay, Nebraska.

The study shall examine:

1. The total annual sales of alcoholic liquor in Whiteclay;
2. The tracking of inventory at Whiteclay alcoholic liquor retail outlets;
3. Facilities and services available to consumers;
4. The effect of volume sales of alcoholic liquor upon the citizens of Whiteclay and surrounding communities, in particular the effect upon their

general health, welfare, and quality of life; and

5. Any other matters appropriate for a complete examination of the issue.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the General Affairs 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.

LEGISLATIVE RESOLUTION 432. Introduced by Janssen, 15.

PURPOSE: To study the feasibility of reclassifying the liquor licensing system in order to simplify and streamline the process.

The study shall examine:

1. The statutes relating to the current classification system and its administration;

2. The fees charged for each class of license and a comparison of such fees relative to the other classes;

3. The possibility that some licenses are under-utilized in relation to the cost;

4. The possible disparity in fees and whether the fees are proportional to the alcoholic liquor sold; and

5. Any other matters appropriate for a complete examination of the issue.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the General Affairs 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.

LEGISLATIVE RESOLUTION 433. Introduced by Janssen, 15.

PURPOSE: The purpose of this resolution is to study the Nebraska Lottery and Raffle Act and the Nebraska Small Lottery and Raffle Act. The study should determine whether legislation should be introduced to update the acts. The study shall include, but not be limited to, examining the monetary limits for lotteries and raffles established in the acts, insuring that the provisions of the acts are consistent with current practice in the industry, and insuring the consistency of the acts with the statutes governing other forms

of charitable gaming.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the General Affairs 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.

LEGISLATIVE RESOLUTION 434. Introduced by Janssen, 15.

PURPOSE: To review existing law and the need for legislation regarding the predatory pricing of motor fuel. Unfair competition in the marketing of motor fuel occurs whenever costs associated with the marketing of motor fuel are recovered from other operations, allowing the refined motor fuel to be sold at subsidized prices. Such subsidies most commonly occur in one of three ways: A refiner uses profits from refining crude oil to cover below normal or negative returns earned from motor fuel marketing operations; a motor fuel retailer with more than one location uses profits from one location to cover losses from predatory pricing practices of motor fuel at another location; and a business uses profits from nonmotor fuel sales to cover losses from the predatory pricing being lost on motor fuel sales. The study shall include the review of the long-term effects on the competitive market of companies pricing motor fuel at predatory pricing levels, ways to encourage fair and honest competition, and options to safeguard the public against the creation of monopolies or unfair methods of competition, in transactions involving the sale of, offer to sell, or inducement to sell motor fuel in the wholesale or retail trades in this state. In addition, it shall study the feasibility of not allowing the pricing of motor fuel as an infinite resource to be used as a loss-leader product.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND 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.

LEGISLATIVE RESOLUTION 435. Introduced by Raikes, 25.

PURPOSE: To study the state's sales and use tax, in particular the probable

economic impact and state revenue effects of extending the tax to services.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Revenue 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.

LEGISLATIVE RESOLUTION 436. Introduced by Connealy, 16; Dierks, 40.

PURPOSE: To study current law enforcement funding in counties with tribal land and multijurisdictional law enforcement agencies.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Judiciary 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.

LEGISLATIVE RESOLUTION 437. Introduced by Bromm, 23.

PURPOSE: To study the issues that come under the jurisdiction of the Transportation and Telecommunications Committee of the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Transportation and Telecommunications 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.

LEGISLATIVE RESOLUTION 438. Introduced by Bromm, 23.

PURPOSE: To study the impact to the State of Nebraska and the motoring public from tire debris on Nebraska's highways.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Transportation and Telecommunications 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.

LEGISLATIVE RESOLUTION 439. Introduced by Bromm, 23.

PURPOSE: To study the issues surrounding the safety and fitness of holders of commercial driver's licenses when such a licenseholder has a change in his or her medical condition or health.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Transportation and Telecommunications 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.

LEGISLATIVE RESOLUTION 440. Introduced by Bromm, 23; Schrock, 38; Jones, 43.

PURPOSE: To examine the environmental effects of livestock production as related to the Livestock Waste Management Act, review the economic implications of the Livestock Waste Management Act, and examine the relationship of the Livestock Waste Management Act to the numbers of livestock and livestock production facilities within the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND 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.

LEGISLATIVE RESOLUTION 441. Introduced by Jones, 43; Dierks, 40; Erdman, 47; Vrtiska, 1; Burling, 33; Schrock, 38.

PURPOSE: To study the effects and benefits to the state of expanding the brand inspection area under the Livestock Brand Act and of requiring brand inspections in areas outside the brand inspection area under the act. The committee shall determine which approach would be more beneficial and shall recommend any needed changes to the act to accomplish the goal.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Agriculture 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.

LEGISLATIVE RESOLUTION 442. Introduced by Landis, 46.

PURPOSE: To study the Uniform Mediation Act, as approved by the National Conference of Commissioners on Uniform State Laws in August, 2001, and to determine what changes, if any, would need to be made to it or to other Nebraska statutes to promote the increasingly important use of mediation as an appropriate means of dispute resolution, while also protecting the rights of the participants in a mediation process.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Judiciary 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.

MOTIONS - Print in Journal

Senator Byars filed the following motion to LB 1149:
Bracket until April 19, 2002.

Senator Byars filed the following motion to LB 1149:
Recommit to the Revenue Committee.

Senator Byars filed the following motion to LB 1149:
Indefinitely postpone.

AMENDMENTS - Print in Journal

Senators Byars, Suttle, and Price filed the following amendment to LB 1149:

(Amendment, AM3498, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

Senators Suttle, Price, and Byars filed the following amendment to LB 1149:

(Amendment, AM3493, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

Senators Byars, Suttle, and Price filed the following amendment to LB 1149:

AM3499

(Amendments to Standing Committee amendments, AM3477)

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. (1) It is the intent of the Legislature that
- 4 the State of Nebraska serve its disabled populations in the most
- 5 integrated and appropriate setting. The Legislature further finds
- 6 that there is a need to develop a plan to ensure the transition of
- 7 qualified individuals into community-based settings at a reasonable
- 8 pace and identify improvements that could be made by the state.
- 9 (2) The Department of Health and Human Services shall
- 10 develop and submit a comprehensive plan to the Clerk of the
- 11 Legislature by September 30, 2002, and by each September 30
- 12 thereafter. The comprehensive plan shall:
- 13 (a) Identify available community-based services in the
- 14 state and assess the extent to which such services are able to
- 15 serve individuals in the most integrated setting appropriate;
- 16 (b) Formulate a reliable estimate of the number of
- 17 individuals with disabilities currently institutionalized and
- 18 eligible for services in community-based settings;
- 19 (c) Review and identify available funding sources,
- 20 including both medicaid and other sources, to increase the
- 21 availability of community-based services, including any ongoing
- 22 efforts to coordinate access to such services;
- 23 (d) Assess the extent to which funding sources can be
- 1 organized into a coherent system of long-term care which affords
- 2 individuals reasonable and timely access to community-based
- 3 services, including recommendations to make services available in
- 4 the most integrated setting appropriate;
- 5 (e) Examine the operation of waiting lists, including any
- 6 recommendations to ensure that individuals are able to come off
- 7 waiting lists and receive needed community-based services at a
- 8 reasonable pace;
- 9 (f) Afford individuals with disabilities and their
- 10 families the opportunity to make informed choices regarding how

11 their needs can best be met in community-based or institutional
12 settings; and

13 (g) Identify needs which have not been met.

14 (3) The department shall provide an opportunity for
15 interested persons, including individuals with disabilities and
16 their representatives, to be integral participants in plan
17 development and followup. The department shall make affirmative
18 efforts to involve individuals with disabilities, and their
19 representatives, if appropriate, in the plan development and
20 implementation process, including the consideration of methods and
21 options to ensure constructive, ongoing involvement and dialogue in
22 the process.

23 Sec. 2. (1) The Department of Health and Human Services
24 shall file a written report with the Clerk of the Legislature
25 regarding placement and services for individuals with disabilities
26 in Nebraska by September 30, 2002, and by each September 30
27 thereafter. The report shall cover the time period of the
1 immediately preceding state fiscal year. The report shall gather
2 information regarding (a) individuals residing in an institution
3 who are or have waited to receive community-based services and (b)
4 individuals residing outside an institution who are or have waited
5 to receive community-based services.

6 (2) For individuals residing in an institution, the
7 report shall include information tabulated on a statewide basis, by
8 county of residence, and by state-operated facility. The tabulated
9 information shall include:

10 (a) The number of individuals residing in institutions on
11 July 1 of the immediately preceding state fiscal year;

12 (b) The number of individuals residing in institutions on
13 June 30 of the immediately preceding state fiscal year;

14 (c) The number of individuals residing in institutions
15 during the immediately preceding state fiscal year who received
16 community-based services;

17 (d) The number of individuals residing in institutions
18 during the immediately preceding state fiscal year who did not
19 receive community-based services, the reason that each individual
20 did not receive community-based services, and the projected cost
21 for each individual of providing such services;

22 (e) The number of individuals residing in institutions on
23 July 1 of the immediately preceding state fiscal year who were
24 waiting to receive community-based services, the reason that each
25 individual did not receive community-based services, and the
26 projected cost for each individual of providing such services; and

27 (f) The number of individuals residing in institutions on
1 June 30 of the immediately preceding state fiscal year who were
2 waiting to receive community-based services, the reason that each
3 individual did not receive community-based services, and the
4 projected cost for each individual of providing such services.

5 (3) For individuals not residing in an institution, the

6 report shall include information tabulated on a statewide basis and
 7 by county of residence. The tabulated information shall include:
 8 (a) The number of individuals during the immediately
 9 preceding state fiscal year who are or have been waiting to receive
 10 community-based services;
 11 (b) The number of individuals on July 1 of the
 12 immediately preceding state fiscal year who were waiting to receive
 13 community-based services, the reason that each individual did not
 14 receive community-based services, and the projected cost for each
 15 individual of providing such services; and
 16 (c) The number of individuals on June 30 of the
 17 immediately preceding state fiscal year who were waiting to receive
 18 community-based services, the reason that each individual did not
 19 receive community-based services, and the projected cost for each
 20 individual of providing such services."

Senators Byars, Suttle, and Price filed the following amendment to
LB 1149:
 AM3502

(Amendments to Standing Committee amendments, AM3477)

- 1 1. On page 2, line 26, after "eligibility" insert ".
- 2 The department shall not conduct a monthly review of eligibility
- 3 for families who have applied or are enrolled in the medical
- 4 assistance program".

Senators Byars and Suttle filed the following amendment to LB 1149:
 AM3501

(Amendments to Standing Committee amendments, AM3477)

- 1 1. On page 2, line 1, after "ineligibility" insert ".A
- 2 review of eligibility based on income by the department shall
- 3 consider an average family income based on no less than three
- 4 recent, consecutive months".

Senators Byars, Suttle, and Price filed the following amendment to
LB 1149:
 AM3500

(Amendments to Standing Committee amendments, AM3477)

- 1 1. On page 1, line 24, strike "six" and insert "three".

Senators Byars, Suttle, and Price filed the following amendment to
LB 1149:
 AM3497

(Amendments to Standing Committee amendments, AM3477)

- 1 1. On page 5, line 1, strike "2002" and insert "2005".

Senators Suttle and Byars filed the following amendment to LB 1149:
 (Amendment, AM3528, may be found in the Bill Books. The amendment
 has been printed separately and is on file in the Bill Room - Room 1102.)

Senators Byars, Suttle, and Price filed the following amendment to LB 1149:
AM3514

(Amendments to Standing Committee amendments, AM3477)

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new section:
- 3 "Section 1. (1) The Legislature finds that the Kids
- 4 Connection medical assistance program should be studied to
- 5 determine the following:
- 6 (a) The number of enrolled families between one hundred
- 7 fifty and one hundred eighty-five percent of the federal poverty
- 8 level;
- 9 (b) The number of families actually remaining on Kids
- 10 Connection while consistently earning above one hundred eighty-five
- 11 percent of the federal poverty level;
- 12 (c) The current caseloads for Kids Connection
- 13 caseworkers;
- 14 (d) The number of families that do not reenroll in Kids
- 15 Connection because their income exceeds one hundred eighty-five
- 16 percent of the federal poverty level;
- 17 (e) The administrative costs of reviewing eligibility for
- 18 Kids Connection on a six-month basis; and
- 19 (f) The costs and benefits of passive reenrollment for
- 20 families.
- 21 (2) A task force is created to carry out the purposes of
- 22 this section. The task force shall consist of:
- 23 (a) Two representatives of the Department of Health and
- 1 Human Services appointed by the Director of Health and Human
- 2 Services;
- 3 (b) Two members of the Health and Human Services
- 4 committee of the Legislature appointed by the Chairperson of the
- 5 Executive Board of the Legislative Council;
- 6 (c) Two members of the medical community with experience
- 7 in serving the health care needs of children enrolled in Kids
- 8 Connection appointed by the Governor; and
- 9 (d) Two representatives of child advocacy groups
- 10 appointed by the Governor.
- 11 (3) The task force shall upon the conclusion of its study
- 12 make a report of its findings, together with its recommendations,
- 13 no later than December 1, 2002, to the Governor and the Legislative
- 14 Council or Legislature.
- 15 (4) The task force shall terminate on July 1, 2003."

SELECT FILE

LEGISLATIVE RESOLUTION 6CA. Senator Raikes offered the following amendment:
FA1038
Amend AM3288

page 3, line 25, strike "operated" and insert "regulated" and strike "or" and insert "and operated by".

Senator Raikes moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Raikes requested a roll call vote on his amendment.

Voting in the affirmative, 12:

Aguilar	Foley	Kruse	Robak
Baker	Hartnett	Pedersen, Dw.	Schimek
Chambers	Janssen	Raikes	Wickersham

Voting in the negative, 30:

Beutler	Byars	Jensen	Price	Suttle
Bourne	Coordsen	Jones	Quandahl	Synowiecki
Brashear	Dierks	Kremer	Redfield	Thompson
Brown	Engel	Kristensen	Schrock	Tyson
Bruning	Erdman	Landis	Smith	Vrtiska
Burling	Hudkins	Pederson, D.	Stuhr	Wehrbein

Present and not voting, 7:

Bromm	Cudaback	Maxwell	Preister
Connealy	Cunningham	McDonald	

The Raikes amendment lost with 12 ayes, 30 nays, and 7 present and not voting.

The Chair declared the call raised.

Senator Schimek moved for a call of the house. The motion prevailed with 45 ayes, 0 nays, and 4 not voting.

Senator Schimek requested a roll call vote on the advancement of the resolution.

Voting in the affirmative, 20:

Aguilar	Byars	Cunningham	Maxwell	Suttle
Beutler	Chambers	Hartnett	McDonald	Synowiecki
Bourne	Connealy	Janssen	Preister	Thompson
Bromm	Cudaback	Kruse	Robak	Wehrbein

Voting in the negative, 26:

Baker	Engel	Kremer	Quandahl	Vrtiska
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Brashear	Erdman	Kristensen	Raikes	Wickersham
Bruning	Foley	Landis	Redfield	
Burling	Hudkins	Pedersen, Dw.	Smith	
Coordsen	Jensen	Pederson, D.	Stuhr	
Dierks	Jones	Price	Tyson	

Present and not voting, 3:

Brown	Schimek	Schrock
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Failed to advance to E & R for engrossment with 20 ayes, 26 nays, and 3 present and not voting.

The Chair declared the call raised.

RESOLUTIONS

LEGISLATIVE RESOLUTION 443. Introduced by Bromm, 23; Baker, 44.

PURPOSE: Currently, emergency medical technicians in the State of Nebraska are required to take the National Registry Test in order to receive an EMT-B license. The test requires extensive hours of preparation and has a low passage rate. This study should examine the effect of this requirement and other requirements for EMT certification, especially with relation to recruitment and retention of EMT's in volunteer and rural fire departments.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Health and Human Services 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.

LEGISLATIVE RESOLUTION 444. Introduced by Hartnett, 45.

PURPOSE: Over the course of the past several legislative sessions, the Urban Affairs Committee has been called upon to review several legislative proposals dealing broadly with the structure of local municipal government: The roles of the mayor and city council, the duties and functions of the various municipal officers, the powers granted to the city administrator, the distinctions between classes of municipalities and the powers granted to them, and the desirability of crafting a meaningful constitutional amendment to define the powers of a municipality in adopting or amending a home rule charter, as proposed in LR 20CA, heard by the committee in the 2001

legislative session.

While this list is not comprehensive, it summarizes some of the key issues in local municipal government operation, issues which have not been addressed in any structured, cohesive, or comprehensive manner for several decades.

The purpose of this study will be to review the existing statutes governing the structure and operations of the various classes of municipalities, as opposed to the forms of power or authority granted to them, to identify key issues and problems and determine (1) if significant structural revisions are appropriate and (2) if appropriate, what form such revisions should take.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Urban Affairs 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.

LEGISLATIVE RESOLUTION 445. Introduced by Hartnett, 45.

PURPOSE: To Investigate the various economic development programs that operate by providing sales or income tax credits, such as the Employment and Investment Growth Act, the Invest Nebraska Act, and the Quality Jobs Act, to determine how the benefits are used and what factors operate to determine how and when the credits are used. The results of the study should be used to develop alternative incentive strategies or amendments to existing programs to make them more useful or cost effective.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Revenue 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.

LEGISLATIVE RESOLUTION 446. Introduced by Hartnett, 45.

PURPOSE: State law gives authority to cities and villages to adopt building codes, plumbing codes, electrical codes, fire prevention codes, and other codes relating to building or construction. Under state law, cities and villages that adopt building codes are required to adopt the Uniform Building Code, although they can make modifications to accommodate local

conditions. The three model building code organizations, including the organization that developed the Uniform Building Code, have engaged in a process to unify, coordinate, and integrate the various building codes and have completed the 2000 International Codes to replace the existing building codes. LB 811 was introduced by the Urban Affairs Committee in the 2001 legislative session to amend the state building code to reflect these developments. Resulting comment and testimony from local building officials and other interested parties have revealed the need for further review of the proposed changes and investigation of the potential consequences of adoption of some of the specialized codes which are a part of the family of codes involved. This study would address these issues and determine whether, and in what fashion, the state building code should be amended, whether cities and villages should adopt some or all of the 2000 International Codes as their building codes, what other options are available to cities and villages, and what state laws need to be amended to accommodate any changes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Urban Affairs 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.

LEGISLATIVE RESOLUTION 447. Introduced by Hartnett, 45.

PURPOSE: Since the adoption in 1980 of the Nebraska Visitors Development Act, counties in Nebraska have been authorized to collect a lodging tax of two percent on hotel and motel occupancy charges to create funding for promotional activities to encourage tourism in the area. Since 1989, Douglas County has been authorized to collect up to an additional two percent and can use the funds collected to improve visitor attractions and facilities in the county.

Over the course of the past three legislative sessions, several bills have been introduced for the purpose of extending the authority now granted only to Douglas County to use some or all of the locally collected lodging tax revenue for capital improvements to visitor attractions and facilities in other counties. With regard to each proposal, concerns were raised about the potential detrimental impact of such activities in different parts of the state.

Recent discussions on LB 732 (2001) and LB 1240 (2002) have revealed new interest in providing additional revenue for local tourism activities, the need to provide funding for facility improvements, and the importance of maintaining a secure, dedicated revenue stream for promotional activities.

This study would investigate the current status of the local lodging tax, the amount of revenue it generates, and the manner in which that revenue is

used. It would endeavor to determine the appropriate statutory rationale for permitting these funds to be devoted to capital improvement purposes and would seek to establish whether, in the interests of good public policy and in accomplishing the stated goals of the act, additional changes should be made. Additionally, the study would endeavor to determine what additional sources of funding would be appropriate for local tourism activities and what other states in similar circumstances are doing to meet their own local needs.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Government, Military and Veterans Affairs 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.

LEGISLATIVE RESOLUTION 448. Introduced by Hartnett, 45.

PURPOSE: With the passage of the constitutional amendment and the enabling legislation to permit the taxation of real property owned by political subdivisions but devoted to other than public purposes, it is important to determine from the experience of the county assessors who have been engaged in implementing the statutory changes:

- (1) The amount of property being identified as taxable;
- (2) The manner in which the taxable property has been identified;
- (3) The difficulties identified in implementing the law; and
- (4) Changes to existing statutes necessary to better carry out the purposes of the law.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Revenue 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.

LEGISLATIVE RESOLUTION 449. Introduced by Hartnett, 45.

PURPOSE: This study will provide the opportunity for the Urban Affairs Committee of the Legislature to investigate and review matters and issues arising during the interim which are within its jurisdiction and which may be the subject of bills to be introduced in the 2003 legislative session. This

would provide the opportunity for a careful review of proposed legislation and the drafting of such legislation before time constraints and the pace of legislative activity makes studied review more problematic. This process has also served to facilitate review of bills during the session and has helped the committee avoid the need for committee amendments which slow down the consideration of bills by the full Legislature.

This study will involve:

(1) A review of legislation considered by the Urban Affairs Committee during the 2001 and 2002 legislative sessions which was either killed by the committee or held in committee to determine what action by the committee in the upcoming biennium might be warranted with regard to the particular subjects of individual bills;

(2) A review or problems, concerns, or legislation proposed for introduction by senators or other parties for study, technical discussion, or conceptual refinement before the start of the next legislative session; and

(3) The conducting of at least one public hearing to provide an opportunity for public comment and discussion with members of the committee and the public on issues involving matters within the committee's jurisdiction.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Urban Affairs 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.

LEGISLATIVE RESOLUTION 450. Introduced by Hartnett, 45.

PURPOSE: To review the impact of both levy lids and budget lids for cities experiencing increased population growth. Both the cities and school districts in such areas are required to provide increased services, yet they are limited by levy and budget lids in providing such services.

The study should include the issue of exempting the operating costs of new facilities constructed since 1998 with voter-approved bond issues, such as libraries, fire stations, and school buildings.

The study should further include the treatment of increased sales taxes and growth in the property tax base under the levy and budget lids.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Government, Military and Veterans Affairs 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.

SELECT FILE

LEGISLATIVE BILL 276. E & R amendment, AM7190, found on page 1030, was adopted.

Senator Redfield withdrew her pending amendment, AM3215, found on page 1069.

Senator Redfield renewed her pending amendment, AM3275, found on page 1111.

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

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1073. E & R amendment, AM7197, found on page 1043, was adopted.

Senator Smith reoffered his amendment, AM3158, found on page 1012.

Senator Smith asked unanimous consent to replace his pending amendment, AM3158, found on page 1012, with a substitute amendment. No objections. So ordered.

Senator Smith withdrew his pending amendment, AM3158, found on page 1012.

Senator Smith renewed his substitute pending amendment, AM3424, printed separately and referred to on page 1314.

Senator Maxwell asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Thompson requested a ruling of the Chair on whether the Smith amendment is germane to the bill.

The Chair ruled the Smith amendment is not germane to the bill.

Senator Smith challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Senator Dierks moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 3 nays, and 20 not

voting.

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

Senator Smith requested a roll call vote, in reverse order, on his motion to overrule the Chair.

Voting in the affirmative, 21:

Baker	Connealy	Foley	Redfield	Wickersham
Bourne	Coordsen	Jones	Schrock	
Bruning	Cunningham	Kremer	Smith	
Burling	Engel	McDonald	Tyson	
Chambers	Erdman	Quandahl	Vrtiska	

Voting in the negative, 25:

Aguilar	Byars	Janssen	Maxwell	Schimek
Beutler	Cudaback	Jensen	Pederson, D.	Suttle
Brashear	Dierks	Kristensen	Preister	Synowiecki
Bromm	Hartnett	Kruse	Price	Thompson
Brown	Hudkins	Landis	Raikes	Wehrbein

Present and not voting, 3:

Pedersen, Dw.	Robak	Stuhr
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The Smith motion to overrule the Chair failed with 21 ayes, 25 nays, and 3 present and not voting.

The Chair was sustained.

Senator Smith asked unanimous consent to replace his pending amendment, AM3159, found on page 1014, with a substitute amendment. No objections. So ordered.

Senator Smith withdrew his pending amendment, AM3159, found on page 1014.

Senator Smith renewed his substitute pending amendment, AM3470, found on page 1307.

Senators Aguilar, Maxwell, and Coordsen asked unanimous consent to be excused until they return. No objections. So ordered.

SENATOR CUDABACK PRESIDING

Senator Kristensen asked unanimous consent to be excused until he returns.

No objections. So ordered.

Senator Smith requested a record vote on his amendment.

Voting in the affirmative, 9:

Bourne	Bruning	Connealy	Robak	Vrtiska
Brown	Burling	Preister	Smith	

Voting in the negative, 11:

Byars	Hudkins	Pedersen, Dw.	Redfield
Dierks	Janssen	Pederson, D.	Wehrbein
Engel	Landis	Price	

Present and not voting, 25:

Baker	Cudaback	Jensen	Quandahl	Suttle
Beutler	Cunningham	Jones	Raikes	Synowiecki
Brashear	Erdman	Kremer	Schimek	Thompson
Bromm	Foley	Kruse	Schrock	Tyson
Chambers	Hartnett	McDonald	Stuhr	Wickersham

Excused and not voting, 4:

Aguilar	Coordsen	Kristensen	Maxwell
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The Smith amendment lost with 9 ayes, 11 nays, 25 present and not voting, and 4 excused and not voting.

Senator Smith withdrew his pending amendment, AM3178, found on page 1014.

Senator Schimek withdrew her pending amendment, AM2940, found on page 1015.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 407. E & R amendment, AM7176, found on page 981, was adopted.

Senator Bruning renewed his pending amendment, AM3200, found on page 1140.

Senators Dw. Pedersen and Brashear asked unanimous consent to be excused until they return. No objections. So ordered.

The Bruning amendment was adopted with 25 ayes, 0 nays, 18 present and

not voting, and 6 excused and not voting.

Senator Wickersham renewed his pending amendment, AM3218, found on page 1146.

The Wickersham amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Senator Janssen renewed his pending amendment, AM3201, found on page 1171.

The Janssen amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1021. E & R amendment, AM7181, found on page 983, was adopted.

Senator Byars withdrew his pending amendment, AM3131, printed separately and referred to on page 1049.

Senator Jensen renewed the Jensen-Byars pending amendment, AM3219, printed separately and referred to on page 1066.

Senator Jensen offered the following amendment to the Jensen-Byars pending amendment:
AM3309

(Amendments to AM3219)

- 1 1. On page 18, line 16; and page 19, line 7, after
- 2 "licensed" insert "funeral director and".

Senator Aguilar asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Jensen withdrew his amendment, AM3309.

Senator Jensen withdrew the Jensen-Byars amendment, AM3219.

Senator Schimek renewed her pending amendment, AM3362, found on page 1195.

SPEAKER KRISTENSEN PRESIDING

The Schimek amendment was adopted with 26 ayes, 1 nay, 20 present and not voting, and 2 excused and not voting.

Senator Jensen offered the following amendment:

(Amendment, AM3055, is on file in the Clerk's Office - Room 2018.)

Senator Beutler offered the following amendment to the Jensen pending

amendment:

FA1041

Amend AM3055

On page 8, line 20 after "would" insert "intentionally"

On page 8, line 24, after the first "a" insert "intentional"

The Beutler amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

The Jensen amendment, as amended, was adopted with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

Senator Jensen offered the following amendment:

AM3106

- 1 1. Insert the following new sections:
- 2 "Sec. 66. Section 71-4301, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-4301. ~~As used in~~ For purposes of sections 71-4301 to
- 5 71-4307, unless the context otherwise requires, swimming pool means
- 6 ~~÷ Swimming pool shall mean~~ any artificial basin of water ~~which has~~
- 7 ~~been wholly designed,~~ modified, improved, constructed, or installed
- 8 solely for the purpose of public swimming, wading, diving,
- 9 recreation, or instruction. Swimming pool includes, but is not
- 10 limited to, a pool serving a community, a subdivision, an apartment
- 11 complex, a condominium, a club, a camp, a school, an institution, a
- 12 park, a manufactured home park, a hotel, a motel, a recreational
- 13 area, or a water park. Swimming pool includes a spa, hot tub, or
- 14 whirlpool or similar device which (1) is designed for recreational
- 15 use and not to be drained, cleaned, and refilled after each
- 16 individual use and (2) may consist of elements, including, but not
- 17 limited to, hydrojet circulation, hot water, cold water, mineral
- 18 baths, air induction systems, or any combination thereof. Swimming
- 19 pool does not include an artificial lake, a pool at a private
- 20 residence and which is equipped with equipment to filter and
- 21 disinfect, and shall include pools for community use, pools at
- 22 apartments or housing developments having five or more living
- 23 units, clubs, camps, schools, institutions, park and recreation
- 24 areas, motels, hotels and other commercial establishments.
- 1 Sections 71-4301 to 71-4307 shall not apply to pools at private
- 2 residences intended only for the use of the owner and guests, or a
- 3 pool operated exclusively for medical treatment, physical therapy,
- 4 water rescue training, or training of divers.
- 5 Sec. 67. Section 71-4302, Reissue Revised Statutes of
- 6 Nebraska, is amended to read:
- 7 71-4302. The Department of Health and Human Services
- 8 Regulation and Licensure shall prepare, adopt, and have printed
- 9 minimum sanitary and safety requirements in the form of regulations
- 10 for the design, construction, equipment, and operation of swimming
- 11 pools and bather preparation facilities. Such requirements shall

12 include, but not be limited to, provisions for waiver or variance
 13 of design standards and the circumstances under which such waiver
 14 or variance may be granted.

15 Sec. 68. Section 71-4305, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 71-4305. (1) The Department of Health and Human Services
 18 Regulation and Licensure shall make at least one inspection every
 19 year of each swimming pool to determine that such swimming pool
 20 complies with the minimum sanitary and safety requirements.

21 (2) The owner and operator of any swimming pool shall
 22 submit such operation and analytical records as may be requested at
 23 any time by the Department of Health and Human Services Regulation
 24 and Licensure to determine the sanitary and safety condition of the
 25 swimming pool.

26 (3) ~~The distinction between Class A and Class B swimming~~
 27 ~~pools shall be prescribed by regulation by the~~ Department of Health
 1 and Human Services Regulation and Licensure shall adopt and
 2 promulgate rules and regulations which classify swimming pools on
 3 the basis of criteria deemed appropriate by the department. The
 4 department shall charge engineering firms, swimming pool owners and
 5 operators, and other appropriate parties fees established by rules
 6 and regulations ~~regulation~~ for the review of plans and
 7 specifications of a swimming pool, the issuance of a license or
 8 permit, the provision of swimming pool operator testing services,
 9 the inspection of a swimming pool, and any other services rendered
 10 at a rate which defrays no more than the actual cost of the
 11 services provided. All fees shall be paid as a condition of annual
 12 renewal of licensure or of continuance of licensure.

13 All fees collected under this section shall be ~~deposited~~
 14 ~~in remitted to the State Treasurer for credit to~~ the Department of
 15 Health and Human Services Regulation and Licensure Cash Fund. The
 16 Department of Health and Human Services Regulation and Licensure
 17 shall not charge a municipal corporation an inspection fee for an
 18 inspection of a swimming pool owned by such municipal
 19 corporation."

20 2. Renumber the remaining sections and correct internal
 21 references and the repealer accordingly.

The Jensen amendment was adopted with 26 ayes, 0 nays, 21 present and
 not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 391, 470, 470A, and
 1172.

Enrollment and Review Change to LB 391

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

ER9124

1. In the Raikes et al. amendment, AM2837:

a. On page 1, line 15, "after" has been struck and "before" inserted; and in line 16 "is" has been inserted after "(b)" and "does not" has been inserted after "or"; and

b. On page 2, line 10, "the second" has been inserted after "strike".

Enrollment and Review Change to LB 470

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

ER9125

1. In lieu of the Bromm-Jones amendment, FA1037, in the Kristensen amendment, AM3384, on page 1, line 3, "officers, including carrier enforcement officers as prescribed in sections 60-1301 to 60-1309 and section 4 of this act and officers of the Nebraska State Patrol as prescribed in sections 81-2001 to 81-2009 and section 3 of this act assigned to the carrier enforcement division" has been inserted after "eighty-eight".

2. In the Kristensen amendment, AM3384, on page 1, line 1, "The" has been struck and "Through June 30, 2005, the" inserted; and in line 3 "through June 30, 2005" has been struck.

Enrollment and Review Change to LB 1172

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

ER9126

1. In the Raikes amendment, AM3375, on page 1, line 24; and page 2, line 27, an underscored comma has been inserted after "act".

2. The E & R amendments have been struck.

3. On page 1, line 4, "to provide severability;" has been inserted after the semicolon.

(Signed) Philip Erdman, Chairperson

NOTICE OF COMMITTEE HEARING

Appropriations

Room 1003

Wednesday, April 10, 2002

1:00 PM

Bond Issue - Wayne & Peru State Colleges residence hall improvements

(Signed) Roger R. Wehrbein, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 451. Introduced by Byars, 30; Suttle, 10; Price, 26; Maxwell, 9.

PURPOSE: To study the Kids Connection medical assistance program in order to determine the following:

(1) The number of enrolled families between one hundred fifty percent and one hundred eighty-five percent of the federal poverty level;

(2) The number of families actually remaining on Kids Connection while consistently earning above one hundred eighty-five percent of the federal poverty level;

(3) The current caseloads for Kids Connection caseworkers;

(4) The number of families that do not reenroll in Kids Connection because their income exceeds one hundred eighty-five percent of the federal poverty level;

(5) The administrative costs of reviewing eligibility for Kids Connection on a six-month basis; and

(6) The costs and benefits of passive reenrollment for families.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That a task force shall be convened to carry out the purposes of this resolution. The task force shall consist of:

(a) Two representatives of the Department of Health and Human Services appointed by the Director of Health and Human Services;

(b) Two members of the Health and Human Services Committee of the Legislature appointed by the Chairperson of the Executive Board of the Legislative Council;

(c) Two members of the medical community with experience in serving the health care needs of children enrolled in Kids Connection appointed by the Governor; and

(d) Two representatives of child advocacy groups appointed by the Governor.

2. That the task force shall upon the conclusion of its study make a report of its findings, together with its recommendations, no later than December 1, 2002, to the Governor and the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 452. Introduced by Coordsen, 32.

PURPOSE: LB 1049 received a great deal of attention, but there was not the time during the short session to evaluate alternatives to that proposed by the bill. The purpose of this study is to evaluate and determine whether an alternative method under the Administrative Procedures Act is warranted for bringing forth a claim. The alternatives to evaluate include, but should not be limited to, a central hearing panel, a process similar to the small claims court process, and a different standard of review on an appeal.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Government, Military and Veterans Affairs 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.

LEGISLATIVE RESOLUTION 453. Introduced by Bromm, 23.

PURPOSE: To investigate the need for the reorganization and the recodification of the motor vehicle titling and registration laws in Chapter 60, articles 1 and 3.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Transportation and Telecommunications 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.

LEGISLATIVE RESOLUTION 454. Introduced by Coordsen, 32; Tyson, 19.

WHEREAS, the Presidential Award for Excellence in Mathematics and Science Teaching is the highest award for science and mathematics educators; and

WHEREAS, Nancy Kunkel, a Thayer Central teacher, was selected from more than 600 national finalists to be one of up to 216 teachers to receive the award; and

WHEREAS, Nancy Kunkel began teaching at Hebron Public Schools in 1978, spending many years as a first-grade teacher, a kindergarten teacher, and a fourth-grade teacher; and

WHEREAS, as an award recipient, Nancy Kunkel received a \$7,500 grant for her school and a trip to Washington D.C. to receive the award.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature extends its congratulations to Nancy Kunkel, recipient of the Presidential Award for Excellence in Mathematics and Science Teaching.

2. That a copy of this resolution be presented to Nancy Kunkel.

Laid over.

LEGISLATIVE RESOLUTION 455. Introduced by Stuhr, 24.

PURPOSE: To examine state policies relating to education and career preparation programs in Nebraska. This study shall include, but not be limited to, the following:

(1) Delivery systems of career and technical education in Nebraska on the secondary and postsecondary levels; and

(2) Articulation agreements between secondary and postsecondary institutions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Education 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.

LEGISLATIVE RESOLUTION 456. Introduced by Beutler, 28.

PURPOSE: To examine the feasibility and desirability of reducing General Fund appropriations to the Public Service Commission and to assess the costs of administering the commission's regulatory functions to the regulated entities. Input shall be solicited from both the commission and regulated entities, and the study shall include the following:

(1) A summary of the commission's existing regulatory costs and expenses for each area of the commission's regulatory jurisdiction, including the source of any existing funding;

(2) At least two proposed fee schedules for each regulatory program administered by the commission, including a summary of the projected impact on regulated entities;

(3) The projected increases in the costs of administering the commission's programs over time and an examination of alternative methods for adjusting fee schedules over time which address the costs and benefits of each method; and

(4) A review of how other states fund the costs of regulating the telecommunications industry and other utilities within the jurisdiction of the commission.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Appropriations 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.

AMENDMENTS - Print in Journal

Senator Wickersham filed the following amendment to LB 1085:
AM3531

(Amendments to AM3440)

- 1 1. On page 9, line 11, strike "line 26," and insert
- 2 "line 10, after '2002' insert ', section 168(k) or 1400L of the
- 3 Internal Revenue Code of 1986, as amended,'; in line 26"; and in
- 4 line 15 strike "2006" and insert "2005".

Senator Wickersham filed the following amendment to LB 1085:
FA1042

Amend AM3440

On page 4, line 25 after "or" insert "sells or".

SELECT FILE

LEGISLATIVE BILL 1139. E & R amendment, AM7186, found on page 1029, was adopted.

Senator Landis renewed his pending amendment, AM3287, found on page 1171.

The Landis amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Senator Beutler offered the following amendment:

FA1040

On page 9, line 19, after the period insert: "The actuarial statement shall include a confirmation that the stop-loss insurance policy required by section 9 of this act is in force."; and on line 20, strike "may" and insert "shall".

The Beutler amendment was adopted with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1003. E & R amendment, AM7187, printed separately and referred to on page 1034, was adopted.

Senator Kremer reoffered his amendment, AM3038, found on page 869 and considered on page 965.

Senator Kremer asked unanimous consent to replace his pending

amendment, AM3038, found on page 869, with a substitute amendment. No objections. So ordered.

Senator Kremer withdrew his pending amendment, AM3038, found on page 869.

Senator Kremer renewed his substitute pending amendment, AM3126, found on page 1020.

Senator Beutler renewed his pending amendment, AM3510, found on page 1345, to the Kremer pending amendment.

Senator Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

SENATOR CONNEALY PRESIDING

Senator Dierks moved the previous question. The question is, "Shall the debate now close?" The motion failed with 6 ayes, 15 nays, and 28 not voting.

Senator Suttle asked unanimous consent to be excused. No objections. So ordered.

Senator Beutler requested a division of the question on his amendment.

The Chair sustained the division of the question.

The first Beutler amendment, to the Kremer pending amendment, is as follows:

FA1045

(Amendments to AM3126)

- 1 1. On page 2, line 15, after "threatened" insert "or, if
- 2 the subject species' range extends over more than five counties, in
- 3 a newspaper of statewide circulation distributed in the county"; in
- 4 line 17 strike "and state agencies" and insert ", the Department of
- 5 Agriculture, the Department of Environmental Quality, and the
- 6 Department of Natural Resources"; and in line 19 strike "county,"
- 7 and strike the second comma.

Senator Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

The first Beutler amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

The second Beutler amendment, to the Kremer pending amendment, is as follows:

FA1046

(Amendments to AM3126)

- 8 2. On page 3, line 3, after the semicolon insert "and";
 9 and strike beginning with the semicolon in line 12 through "37-807"
 10 in line 21.
 11 3. On page 4 strike beginning with "and" in line 1
 12 through "subsection" in line 2; and strike beginning with "and" in
 13 line 5 through the comma in line 7.

The second Beutler amendment lost with 0 ayes, 26 nays, 20 present and not voting, and 3 excused and not voting.

Senator Preister offered the following amendment to the Kremer pending amendment:

FA1043

Amend AM3126

delete section (iii) on page 2 lines 18 through 21.

The Preister amendment lost with 5 ayes, 18 nays, 23 present and not voting, and 3 excused and not voting.

Senator Preister offered the following amendment to the Kremer pending amendment:

FA1048

Amend AM3126

delete the words "Governor and" on page 2 line 17.

The Preister amendment was adopted with 26 ayes, 8 nays, 13 present and not voting, and 2 excused and not voting.

The Kremer amendment, AM3126, as amended, was adopted with 28 ayes, 4 nays, 15 present and not voting, and 2 excused and not voting.

Senator Beutler renewed his pending amendment, AM3343, found on page 1314.

SPEAKER KRISTENSEN PRESIDING

Senator Schrock offered the following amendment to the Beutler pending amendment:

AM3518

(Amendments to AM3343)

- 1 1. On page 1, line 10, strike "At", show as stricken,
 2 and insert "Until January 1, 2006, at"; and in line 12 strike "
 3 and not", show as stricken, and insert ". On and after January 1,
 4 2006, at least three members of the commission shall be actually
 5 engaged in agricultural pursuits and at least two of such members
 6 shall reside on a farm or ranch. Not".

The Schrock amendment was adopted with 28 ayes, 0 nays, 19 present and

not voting, and 2 excused and not voting.

Senator Erdman offered the following amendment to the Beutler pending amendment:

FA1049

Amend AM3343

Strike new language on page 1 lines 19-22.

Senators Landis and Bourne asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Erdman withdrew his amendment.

Pending.

BILL ON FIRST READING

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

LEGISLATIVE BILL 1149A. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1149, Ninety-seventh Legislature, Second Session, 2002; and to reduce appropriations.

AMENDMENTS - Print in Journal

Senator Bourne filed the following amendment to LB 1168:
AM3513

- 1 1. Insert the following new sections:
- 2 "Sec. 5. (1) No Class I railroad company shall allow the
- 3 operation of any freight train or locomotive in over-the-road
- 4 movements in this state unless the freight train or locomotive has
- 5 a crew of at least two railroad company employees.
- 6 (2) For purposes of sections 5 to 7 of this act:
- 7 (a) Class I has the meaning as in 49 C.F.R. 1201, as such
- 8 regulation existed on January 1, 2002;
- 9 (b) Over-the-road movements means the transport of
- 10 locomotives attached to freight cars or other locomotives and does
- 11 not include hostler and helper movements or mechanical or
- 12 incidental movements; and
- 13 (c) Railroad company means any individual, partnership,
- 14 firm, limited liability company, corporation, company, society, or
- 15 association managing, maintaining, operating, or in possession of a
- 16 railroad in whole or in part within this state whether as owner or
- 17 contractor. The term also includes any form of nonhighway ground
- 18 transportation that runs on rails or electromagnetic guideways and
- 19 any entity providing such transportation.
- 20 Sec. 6. Section 5 of this act does not apply if the

21 United States Secretary of Transportation, through the Federal
22 Railroad Administration, prescribes a regulation or issues an order
23 covering the subject matter of the state requirement.

24 Sec. 7. Any railroad company that violates section 5 of
1 this act is subject to a first offense fine of not less than one
2 hundred dollars, a second offense fine of not less than two hundred
3 fifty dollars, and a third offense fine of five hundred dollars.
4 All fines shall apply to each freight train or locomotive operated
5 on each day of operation in this state, shall be enforced by the
6 Public Service Commission, and shall be remitted to the State
7 Treasurer for credit to the permanent school fund.

8 Sec. 8. Section 74-1415.04, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 74-1415.04. No investment in any acquisition,
11 rehabilitation or improvement, operation, or rail facility
12 construction project ~~shall be approved unless the council's~~
13 ~~investment is secured by a first lien on any combination of real~~
14 ~~and personal property the value of which is at least one hundred~~
15 ~~twenty percent of the amount of the investment. in which the~~
16 council loans funds shall be approved unless the borrower provides
17 a guarantee and collateral for the loan which is acceptable to the
18 council as sufficient security to protect the interests of the
19 council.

20 Sec. 9. Section 74-1415.05, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 74-1415.05. The council shall not acquire any property
23 or ~~invest~~ loan funds in any acquisition, rehabilitation or
24 improvement, operation, or rail facility construction project
25 unless an independent certified appraiser verifies that the value
26 of the property proposed to be acquired or to be held as security
27 is at least ~~one hundred twenty percent of the purchase price to be~~
1 ~~paid~~ equal to the amount the council determines is sufficient to
2 protect the interests of the council. The council shall select the
3 independent certified appraiser. The entity requesting the
4 financial assistance shall bear the cost of the appraisal.

5 Sec. 10. If any section in this act or any part of any
6 section is declared invalid or unconstitutional, the declaration
7 shall not affect the validity or constitutionality of the remaining
8 portions, therefor, such portions shall be severable.

9 Sec. 11. Original sections 74-1415.04 and 74-1415.05,
10 Reissue Revised Statutes of Nebraska, are repealed."

11 2. Insert underscoring in the original sections and all
12 amendments thereto.

13 3. Renumber the remaining section accordingly.

Senator Beutler filed the following amendment to LB 1303:

FA944

Amend AM3134

Substitute a period for the comma on line 14, page 4 and strike all language after the comma

Strike lines 15 and 16 on page 4

Senator Beutler filed the following amendment to LB 1236:
AM3523

(Amendments to Standing Committee amendments, AM2946)

- 1 1. On page 3, line 27, strike "eleven" and insert
- 2 "thirteen".
- 3 2. On page 4, line 3, strike the second "and"; in line 8
- 4 after "large" insert "; and
- 5 (c) The chancellor of the University of Nebraska-Lincoln
- 6 or his or her designee and the chairperson of the Nebraska Arts
- 7 Council"; and in line 27 after the period insert "No member of the
- 8 Legislature may serve on the board.".

Senator Robak filed the following amendment to LB 1303:
AM3522

(Amendments to Standing Committee amendments, AM3134)

- 1 1. Insert the following new sections:
- 2 "Sec. 10. Section 60-601, Revised Statutes Supplement,
- 3 2001, is amended to read:
- 4 60-601. Sections 60-601 to 60-6,374 and section 11 of
- 5 this act shall be known and may be cited as the Nebraska Rules of
- 6 the Road.
- 7 Sec. 11. It is unlawful to use nitrous oxide in any
- 8 motor vehicle operated on any highway in this state.".
- 9 2. On page 5, line 21, strike "and"; and in line 22
- 10 after the last comma insert "and section 60-601, Revised Statutes
- 11 Supplement, 2001,".
- 12 3. Renumber the remaining sections accordingly.

Senator Bromm filed the following amendment to LB 1105:
AM3451

- 1 1. Strike sections 23 and 459 and insert:
- 2 "Sec. 23. (1) The commission shall implement the federal
- 3 Telecommunications Act of 1996, as such act existed on January 1,
- 4 2002, including section 252 of the act which establishes specific
- 5 procedures for negotiation and arbitration of interconnection
- 6 agreements between telecommunications companies. Interconnection
- 7 agreements approved by the commission pursuant to section 252 of
- 8 the act may contain such enforcement mechanisms and procedures that
- 9 the commission determines to be consistent with the establishment
- 10 of fair competition in Nebraska telecommunications markets.
- 11 (2) The commission shall not mandate any arrangement that
- 12 requires interconnecting telecommunications companies to engage in
- 13 mutual recovery of costs through offsetting of reciprocal
- 14 obligations. This subsection shall not prohibit telecommunications
- 15 companies from entering voluntary agreements to engage in such an

16 agreement.

17 (3) In addition, the commission may administratively fine
 18 pursuant to section 75-156 any person who violates any enforcement
 19 mechanism or procedure established pursuant to this section. The
 20 authority granted to the commission pursuant to this section shall
 21 be broadly construed in a manner consistent with the federal
 22 Telecommunications Act of 1996.

23 Sec. 485. Section 75-109, Revised Statutes Supplement,
 24 2000, as amended by section 9, Legislative Bill 435, Ninety-seventh

1 Legislature, Second Session, 2002, is amended to read:

2 75-109. ~~(1)~~ Except as provided in the Agricultural

3 Suppliers Lease Protection Act and ~~sections~~ section 19-4603;

4 ~~86-803, and 86-808~~ and sections 25 and 42 of this act, the

5 commission shall regulate and exercise general control as provided

6 by law over all common and contract carriers engaged in the

7 transportation of freight or passengers for hire or furnishing

8 telecommunications services for hire in Nebraska intrastate

9 commerce.

10 ~~(2) The commission is authorized to do all things~~

11 ~~reasonably necessary and appropriate to implement the federal~~

12 ~~Telecommunications Act of 1996, Public Law 104-104, including 47~~

13 ~~U.S.C. 251 et seq., as such sections existed on the effective date~~

14 ~~of this act, including section 252 of the act which establishes~~

15 ~~specific procedures for negotiation and arbitration of~~

16 ~~interconnection agreements between telecommunications companies.~~

17 ~~Interconnection agreements approved by the commission pursuant to~~

18 ~~section 252 of the act may contain such enforcement mechanisms and~~

19 ~~procedures that the commission determines to be consistent with the~~

20 ~~establishment of fair competition in Nebraska telecommunications~~

21 ~~markets. In addition, the commission may administratively fine~~

22 ~~pursuant to section 75-156 any person who violates any enforcement~~

23 ~~mechanism or procedure established pursuant to this subsection.~~

24 ~~The authority granted to the commission pursuant to this subsection~~

25 ~~shall be broadly construed in a manner consistent with the federal~~

26 ~~Telecommunications Act of 1996."~~

27 2. On page 7, lines 14 and 15; page 58, lines 6 and 7;

1 page 64, line 7; page 88, lines 9 and 10; page 95, lines 6 and 7;

2 page 114, line 2; page 147, line 1; and page 178, lines 15 and 16,

3 16 and 17, and 19 and 20, strike "the operative date of this

4 section" and insert "January 1, 2002".

5 3. On page 39, line 6, strike "(2)" and insert "(3)".

6 4. On page 51, strike beginning with "applicable" in

7 line 11 through "act" in line 14, show as stricken, and insert

8 "federal regulations for changing long distance service under

9 subpart K of 47 C.F.R. part 64, as such regulations existed on

10 January 1, 2002".

11 5. On page 51, line 23; page 86, line 27; and page 178,

12 line 19, strike "section" and insert "regulation".

13 6. On page 53, strike beginning with "the" in line 13

14 through "Commission" in line 14, show as stricken, and insert "47
15 C.F.R. 64.1100, 64.1120, 64.1130, and 64.1190, as such regulations
16 existed on January 1, 2002."; and strike beginning with "any" in
17 line 17 through "act" in line 18, show as stricken, and insert "the
18 federal regulations for changing long distance service under
19 subpart K of 47 C.F.R. part 64, as such regulations existed on
20 January 1, 2002.".

21 7. On page 58, line 6, strike "425, as such regulation"
22 and insert "part 425, as such regulations"; in line 26 after the
23 second "of" insert "(i)"; and in line 27 strike "47 C.F.R. 64.1100"
24 and insert "(ii) the federal regulations for changing long distance
25 service under subpart K of 47 C.F.R. part 64, as such regulations
26 existed on January 1, 2002.".

27 8. On page 59, strike lines 1 and 2.

1 9. On page 76, line 26; and page 153, lines 8 and 17,

2 strike "sections" and insert "regulations".

3 10. On page 88, strike beginning with "under" in line 7

4 through "rules" in line 9 and insert "for satellite communications

5 under 47 C.F.R. part 25, for remote pickup broadcast stations under

6 subpart D of 47 C.F.R. part 74, for aural broadcast auxiliary

7 stations under subpart E of 47 C.F.R. part 74, for television

8 broadcast auxiliary stations under subpart F of 47 C.F.R. part 74,

9 or for fixed microwave services under 47 C.F.R. part 101, as such

10 regulations"; and in line 11 after "under" insert "47 C.F.R.".

11 11. On page 89, line 9; page 90, line 15; page 91, lines

12 2, 7, and 15; page 92, line 23; page 94, line 27; page 95, line 8;

13 page 96, line 7; page 97, lines 8, 16, 22, and 25; page 98, lines 5

14 and 18; page 103, lines 1, 9, and 26; page 104, line 18; page 107,

15 line 2; page 111, line 22; page 113, lines 12 and 24; and page 115,

16 lines 9 and 20, strike "152" and insert "133".

17 12. On page 90, line 6, strike "152 to 157" and insert

18 "133 to 177".

19 13. On page 92, strike beginning with "engage" in line 5

20 through "section" in line 12, show the old matter as stricken, and

21 insert "intercept or receive, or to assist in the interception or

22 receipt of:"

23 (A) Any communications service offered over a cable

24 system as provided in 47 U.S.C. 553, as such section existed on

25 January 1, 2002; or

26 (B) Any satellite cable programming for private viewing

27 as provided in 47 U.S.C. 605, as such section existed on January 1,

1 2002".

2 14. On page 95, strike beginning with "under" in line 5

3 through "rules" in line 6, show the old matter as stricken, and

4 insert "for remote pickup broadcast stations under subpart D of 47

5 U.S.C. part 74, as such regulations".

6 15. Strike beginning with "under" on page 113, line 27,

7 through "rules" on page 114, line 1, show the old matter as

8 stricken, and insert "for remote pickup broadcast stations under

- 9 subpart D of 47 U.S.C. part 74, as such regulations".
- 10 16. On page 128, strike beginning with "in" in line 3
11 through "procedure" in line 4 and insert "in section 25-534".
- 12 17. On page 178, line 14, strike "defined" and insert
13 "referenced"; and in line 16 strike the second "section" and insert
14 "regulation".
- 15 18. On page 308, line 21, strike "413" and insert "410".

Senator Bromm filed the following amendment to LB 1105:
AM3452

- 1 1. Insert the following new sections:
- 2 "Sec. 433. Section 28-515, Reissue Revised Statutes of
3 Nebraska, is amended to read:
- 4 28-515. (1) A person commits theft if he or she obtains
5 services, which he or she knows are available only for
6 compensation, by deception or threat or by false token or other
7 means to avoid payment for the service. Services include labor,
8 professional service, telephone service, electric service, cable
9 television service, or other public service, accommodation in
10 hotels, restaurants, or elsewhere, admission to exhibitions, and
11 use of vehicles or other movable property. When compensation for
12 service is ordinarily paid immediately upon the rendering of such
13 service, as in the case of hotels and restaurants, refusal to pay
14 or absconding without payment or offer to pay gives rise to a
15 presumption that the service was obtained by deception as to
16 intention to pay.
- 17 (2) A person commits theft if, having control over the
18 disposition of services of others to which he or she is not
19 entitled, he or she diverts such services to his or her own benefit
20 or to the benefit of another not entitled thereto.
- 21 ~~(3) For purposes of this subsection, telecommunications~~
22 ~~service shall include, but not be limited to, telephone service and~~
23 ~~cable television service, and device shall include, but not be~~
24 ~~limited to, instrument, apparatus, equipment, and plans or~~
1 ~~instructions for making or assembling the same.~~
- 2 It shall be a Class II misdemeanor for any person to:
- 3 (a) Knowingly make or possess any device designed to or
4 commonly used to obtain telecommunications service fraudulently
5 from a licensed cable television franchisee with the intent to use
6 such device in the commission of an offense described in subsection
7 (1) of this section;
- 8 (b) Knowingly tamper with, interfere with, or connect to
9 any cables, wires, converters, or other devices used for the
10 distribution of telecommunications services by any mechanical,
11 electrical, acoustical, or other means without authority from the
12 operator of the service with the intent of obtaining
13 telecommunications service fraudulently; or
- 14 (c) Sell, give, transfer, or offer or advertise for sale
15 a device which such person knows or should know is intended to be

16 ~~used for the purpose of obtaining telecommunications service~~
 17 ~~fraudulently.~~

18 Sec. 434. (1) It is unlawful for any person to:

19 (a) Knowingly make or possess any device designed to or
 20 commonly used to obtain telecommunications service fraudulently
 21 from a licensed cable television franchisee with the intent to use
 22 such device in the commission of an offense described in subsection
 23 (1) of section 28-515;

24 (b) Knowingly tamper with, interfere with, or connect to
 25 any cables, wires, converters, or other devices used for the
 26 distribution of telecommunications service by any mechanical,
 27 electrical, acoustical, or other means without authority from the
 1 operator of the service with the intent of obtaining
 2 telecommunications service fraudulently; or

3 (c) Sell, give, transfer, or offer or advertise for sale
 4 a device which such person knows or should know is intended to be
 5 used for the purpose of obtaining telecommunications service
 6 fraudulently.

7 (2) For purposes of this section:

8 (a) Telecommunications service includes, but is not
 9 limited to, telephone service and cable television service; and

10 (b) Device includes, but is not limited to, instrument,
 11 apparatus, equipment, and plans or instructions for making or
 12 assembling the instrument, apparatus, or equipment.

13 (3) A violation of this section is a Class II
 14 misdemeanor.

15 Sec. 435. Section 86-329, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 ~~86-329. (1) Any person who connects~~ It is unlawful for
 18 any person:

19 (a) To connect any instrument, device, or contrivance
 20 with any wire supplying or intended to supply electricity or
 21 electric current or ~~connects to connect~~ any pipe or conduit
 22 supplying gas or water, without the knowledge and consent of the
 23 supplier of such products, in such manner that any portion thereof
 24 may be supplied to any instrument by or at which electricity,
 25 electric current, gas, or water may be consumed without passing
 26 through the meter ~~made~~ or provided for measuring or registering the
 27 amount or quantity thereof passing through it;

1 (b) To ; and any person who knowingly uses use or
 2 knowingly ~~permits permit~~ the use of electricity, electric current,
 3 gas, or water obtained unlawfully pursuant to this section;

4 (c) To reconnect in the above-mentioned unauthorized
 5 ways; shall be deemed guilty of a Class III misdemeanor.

6 (2) ~~When electrical, gas, or water service has been~~
 7 ~~disconnected pursuant to sections 70-1601 to 70-1615, any person~~
 8 ~~who reconnects such service without the knowledge and consent of~~
 9 ~~the supplier of such service if the service has been disconnected~~
 10 pursuant to sections 70-1601 to 70-1615; or

11 (d) To willfully injure, alter, or by any instrument,
 12 device, or contrivance in any manner interfere with or obstruct the
 13 action or operation of any meter made or provided for measuring or
 14 registering the amount or quantity of electricity, electric
 15 current, gas, or water passing through it, without the knowledge
 16 and consent of the supplier of the electricity, electric current,
 17 gas, or water passing or intended to pass through such meter.

18 (2) Proof of the existence of any wire, pipe, or conduit
 19 connection or reconnection or of any injury, alteration,
 20 interference, or obstruction of a meter is prima facie evidence of
 21 the guilt of the person in possession of the premises where such
 22 connection, reconnection, injury, alteration, interference, or
 23 obstruction is proved to exist.

24 (3) A violation of this section is a Class III
 25 misdemeanor, shall be deemed guilty of a Class III misdemeanor.

26 Sec. 473. Section 70-301, Reissue Revised Statutes of
 27 Nebraska, is amended to read:

1 70-301. Any public power district, corporation, or
 2 municipality that is now or may hereafter be engaged in the
 3 generation or transmission, or both, of electric energy for sale to
 4 the public for light and power purposes or the production or
 5 distribution, or both, of ethanol for use as fuel may acquire
 6 right-of-way over and upon lands, except railroad right-of-way and
 7 depot grounds, for the construction of pole lines or underground
 8 lines necessary for the conduct of such business and for the
 9 placing of all poles and constructions for the necessary adjuncts
 10 thereto, in the same manner as railroad corporations may acquire
 11 right-of-way for the construction of railroads. Such district,
 12 corporation, or municipality shall give public notice of the
 13 proposed location of such pole lines or underground lines with a
 14 voltage capacity of thirty-four thousand five hundred volts or more
 15 which involves the acquisition of rights or interests in more than
 16 ten separately owned tracts by causing to be published a map
 17 showing the proposed line route in a legal newspaper of general
 18 circulation within the county where such line is to be constructed
 19 at least thirty days before negotiating with any person, firm, or
 20 corporation to acquire easements or property for such purposes and
 21 shall consider all objections which may be filed to such location.
 22 After securing approval from the Public Service Commission and
 23 having complied with sections ~~86-301 to 86-331~~ 413 to 416 and 471
 24 to 476 of this act, such public power districts, corporations, and
 25 municipalities shall have the right to condemn a right-of-way over
 26 and across railroad right-of-way and depot grounds for the purpose
 27 of crossing the same. The procedure to condemn property shall be
 1 exercised in the manner set forth in sections 76-704 to 76-724.

2 Sec. 475. Section 86-306, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 ~~86-306. (1) Any electric wire~~ All such wires shall be
 5 placed at least eighteen feet above all road crossings. Any

6 ~~electric~~ ; and all such poles and wires shall be so placed as not
 7 to interfere with the public use of any of such highways, and if
 8 ~~whenever~~ practicable, the poles shall be set upon the line of such
 9 highways.

10 (2) If any person engaged in distributing, generating, or
 11 transmitting electric current for power or other purposes by means
 12 of wires seeks to construct an electric wire ~~Where such persons,~~
 13 ~~associations, or corporations seek to carry one or more of such~~
 14 ~~wires over and across the any railroad track or tracks, telegraph~~
 15 ~~wires, or right-of-way rights-of-way of any railroad company in~~
 16 ~~this state, where the same and the electric wire intersects and~~
 17 ~~crosses streets, highways, alleys, and other public thoroughfares,~~
 18 ~~or elsewhere, such person and railroad company such persons,~~
 19 ~~associations, or corporations shall first endeavor to agree by a~~
 20 ~~contract as to the manner and kind of crossing to be constructed.~~
 21 The contract shall at a minimum meet the requirements of sections
 22 75-706 and 75-707 as to terms and conditions of such construction
 23 or placement, which in no case shall be less than twenty seven feet
 24 above the top of the rails of any railroad tracks, and shall
 25 include the compensation, if any, to be awarded as damages. If no
 26 contract is reached, the person agreement can be had with any such
 27 railroad company as to the manner and kind of crossing, or
 1 compensation to be awarded, then such persons, associations, or
 2 corporations may proceed to have the same ascertained and
 3 determined in the manner set forth in sections 76-704 to 76-724.

4 Sec. 476. Section 86-307, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 ~~86-307. If any such person or persons, associations or~~
 7 ~~corporations, so engaged in distributing, generating, or and~~
 8 ~~transmitting electric current for power or other purposes by means~~
 9 ~~of wires, shall construct or place the same constructs or places~~
 10 ~~electric wires over the railroad tracks, telegraph wires, or~~
 11 ~~right of way rights-of-way of any railroad company without having~~
 12 ~~first complied with the provisions in violation of section 86-306,~~
 13 ~~such person or persons, associations or corporations, upon~~
 14 ~~conviction thereof shall be punished by a fine of not exceeding~~
 15 ~~five hundred dollars 472 of this act, section 75-708 shall apply.~~

16 Sec. 487. Except as otherwise specifically provided by
 17 law, the Public Service Commission shall have jurisdiction, as
 18 prescribed, over the following subjects:

19 (1) Common carriers, generally, pursuant to sections
 20 75-101 to 75-158;

21 (2) Grain pursuant to the Grain Dealer Act and the Grain
 22 Warehouse Act and sections 89-1,104 to 89-1,108;

23 (3) Manufactured homes and recreational vehicles pursuant
 24 to the Uniform Standard Code for Manufactured Homes and
 25 Recreational Vehicles;

26 (4) Modular housing units pursuant to the Nebraska
 27 Uniform Standards for Modular Housing Units Act;

1 (5) Motor carrier registration and safety pursuant to
 2 sections 75-301 to 75-322, 75-369.03, 75-370, 75-371, 75-383, and
 3 75-384;
 4 (6) Pipeline carriers and rights-of-way pursuant to
 5 sections 57-1301 to 57-1307 and 75-501 to 75-503;
 6 (7) Railroad carrier safety pursuant to sections 74-918,
 7 74-919, 74-1323, and 75-401 to 75-430;
 8 (8) Telecommunications carriers pursuant to the Automatic
 9 Dialing-Announcing Devices Act, the Emergency Telephone
 10 Communications Systems Act, the Enhanced Wireless 911 Services Act,
 11 the Intrastate Pay-Per-Call Regulation Act, the Nebraska
 12 Telecommunications Regulation Act, the Nebraska Telecommunications
 13 Universal Service Fund Act, the Telecommunications Relay System
 14 Act, the Telephone Consumer Slamming Prevention Act and sections
 15 348 to 352 of this act;
 16 (9) Transmission lines and rights-of-way pursuant to
 17 sections 70-301 and 75-702 to 75-724; and
 18 (10) Water service pursuant to the Water Service
 19 Regulation Act.
 20 Sec. 490. Section 75-117, Reissue Revised Statutes of
 21 Nebraska, is amended to read:
 22 75-117. Any motor carrier or regulated motor carrier as
 23 defined in section 75-302 or common carrier which fails, neglects,
 24 or refuses to comply with any order of the commission shall be
 25 guilty of a Class IV misdemeanor. Each day during which such
 26 failure, neglect, or refusal continues shall constitute a separate
 27 offense. If a motion is filed for a ~~rehearing~~ reconsideration or
 1 to set aside the order or if the order is appealed, the carrier
 2 shall not be subject to such penalty during the pendency of such
 3 motion or such appeal.
 4 Sec. 494. Section 75-132.01, Revised Statutes
 5 Supplement, 2001, is amended to read:
 6 75-132.01. (1) Notwithstanding the provisions of section
 7 75-131, the commission shall have exclusive original jurisdiction
 8 over any action concerning a violation of any provision of (a)
 9 ~~section 75-109, 75-604, 75-609, 75-609.01, or 86-801 to 86-810 by a~~
 10 ~~telecommunications company~~ the Automatic Dialing-Announcing Devices
 11 Act, the Emergency Telephone Communications Systems Act, the
 12 Enhanced Wireless 911 Services Act, the Intrastate Pay-Per-Call
 13 Regulation Act, the Nebraska Telecommunications Regulation Act, the
 14 Nebraska Telecommunications Universal Service Fund Act, the
 15 Telecommunications Relay System Act, the Telephone Consumer
 16 Slamming Prevention Act by any person providing telecommunications
 17 services for a fee in Nebraska intrastate commerce pursuant to such
 18 acts or (b) sections ~~86-2301 to 86-2307~~ 348 to 352 of this act by
 19 an agency or political subdivision of the state.
 20 (2) After all administrative remedies before the
 21 commission have been exhausted, any interested party to an action
 22 may appeal in accordance with the Administrative Procedure Act.

23 (3) If the commission enters an order declining
 24 jurisdiction under subsection (1) of this section, any interested
 25 person may petition the district court of the county in which such
 26 alleged violation has occurred. If it appears to the court, after
 27 a hearing, that a provision of such acts or sections has been

1 violated, the court may issue an injunction or other proper process
 2 to restrain the telecommunications company and its directors,
 3 officers, employees, or agents or the agency or political
 4 subdivision of the state from continuing such violation and may
 5 order additional relief. Any party to the case shall have the
 6 right to appeal the decision of the district court to the Court of
 7 Appeals under the rules provided by law for appeals in civil cases.

8 ~~(4) For purposes of this section, telecommunications~~
 9 ~~company has the same meaning as in section 86-802.~~

10 Sec. 497. Section 75-137, Revised Statutes Supplement,
 11 2000, is amended to read:

12 75-137. The procedure to obtain reversal, modification,
 13 or vacation of an order entered by the commission shall be (1) by
 14 filing a notice of appeal with the commission within thirty days
 15 after the date of the mailing of a copy of the order by the
 16 commission to the party appealing or (2) by filing a motion for
 17 rehearing reconsideration within ten days after the date of the
 18 mailing of a copy of the order by the commission to the party
 19 appealing. If the commission overrules the motion for ~~rehearing~~
 20 reconsideration, a notice of appeal shall be filed with the
 21 commission within thirty days after the date of the mailing of a
 22 copy of the order overruling the motion to the party appealing.
 23 When the commission fails to enter an order ruling on the motion
 24 for rehearing reconsideration within thirty days after such motion
 25 is filed, the appeal may be perfected by filing a notice of appeal
 26 before the commission enters an order ruling on the motion for
 27 rehearing reconsideration, and the review by the court shall be the
 1 same as if the commission had overruled the motion for ~~rehearing~~
 2 reconsideration. Oral arguments on a motion for ~~rehearing~~
 3 reconsideration shall be granted when requested and such arguments
 4 shall be heard by a majority of the commission. An appeal shall be
 5 deemed perfected and the court shall have jurisdiction of the cause
 6 when a notice of appeal has been filed and the docket fee required
 7 by section 33-103 has been deposited in the office of the executive
 8 director of the commission. After being perfected, no appeal shall
 9 be dismissed without notice, and no step other than the filing of
 10 such notice of appeal and the depositing of such docket fee shall
 11 be deemed jurisdictional."

12 2. In the Bromm amendment, AM3382:

13 a. Strike sections 432, 444, 446, 447, and 463;

14 b. On page 362, line 22, strike "432 to 434" and insert
 15 "434 to 437";

16 c. On page 363, line 1, after "(8)" insert "Section 487
 17 of this act to Chapter 75, article 1;

18 (9)"; in line 3 strike "(9)" and insert "(10)"; in line 7
 19 after "25-2503," insert "28-515,"; in line 8 after "75-101," insert
 20 "75-117,"; and in line 22 after "75-134," insert "75-137,"; and
 21 d. On page 364, line 9, after "86-203," insert "86-208
 22 to 86-211, 86-330, 86-331,".
 23 3. Renumber the remaining sections and correct internal
 24 references accordingly.

Senator Bromm filed the following amendment to LB 1105:
 AM3538

1 1. Insert the following new section:
 2 "Sec. 467. Section 60-6,304, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 60-6,304. (1) No vehicle shall be driven or moved on any
 5 highway unless the vehicle is so constructed or loaded as to
 6 prevent its contents from dropping, sifting, leaking, or otherwise
 7 escaping from the vehicle.
 8 (2) No person shall transport any sand, gravel, rock less
 9 than two inches in diameter, or refuse in any ~~motor~~ vehicle on any
 10 hard-surfaced state highway if such material protrudes above the
 11 sides of that part of the vehicle in which it is being transported
 12 unless such material is enclosed or completely covered with canvas
 13 or similar covering.
 14 (3) No person shall drive or move a motor vehicle,
 15 trailer, or semitrailer upon any highway unless the cargo or
 16 contents carried by the motor vehicle, trailer, or semitrailer are
 17 properly distributed and adequately secured to prevent the falling
 18 of cargo or contents from the vehicle. The tailgate, doors,
 19 taraulins, and any other equipment used in the operation of the
 20 motor vehicle, trailer, or semitrailer or in the distributing or
 21 securing of the cargo or contents carried by the motor vehicle,
 22 trailer, or semitrailer shall be secured to prevent falling from
 23 the vehicle. The means of securement to the motor vehicle,
 24 trailer, or semitrailer must be either tiedowns and tiedown
 1 assemblies of adequate strength or sides, sideboards, or stakes and
 2 a rear endgate, endboard, or stakes strong enough and high enough
 3 to assure that cargo or contents will not fall from the vehicle.
 4 (4) Any person who violates any provision of ~~this~~
 5 subsection (2) or (3) of this section shall be guilty of a Class IV
 6 misdemeanor."
 7 2. In the E & R amendment, AM7216, on page 3, line 1,
 8 after "60-6,241," insert "60-6,304,".
 9 3. Renumber the remaining sections and correct internal
 10 references accordingly.

Senator Bromm filed the following amendment to LB 1105:
 (Amendment, AM3533, may be found in the Bill Books. The amendment
 has been printed separately and is on file in the Bill Room - Room 1102.)

VISITORS

Visitors to the Chamber were Senator Aguilar's brother, Dru Duering, and Rich Griffin from Grand Island; 35 fourth-grade students and teachers from St. Johns School, Lincoln; 11 elementary students and teacher from Doniphan-Trumbull Schools; and 45 fourth-grade students and teachers from Morton Elementary School, Lexington.

The Doctor of the Day was Dr. Virginia Hoefer from Lincoln.

ADJOURNMENT

At 7:52 p.m., on a motion by Senator Coordsen, the Legislature adjourned until 9:00 a.m., Thursday, April 4, 2002.

Patrick J. O'Donnell
Clerk of the Legislature

