

SIXTY-EIGHTH DAY - APRIL 26, 2005**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
FIRST SESSION****SIXTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 26, 2005

PRAYER

The prayer was offered by Pastor Paul Witt, St. Mary's Catholic Church, Lincoln.

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 Senator Thompson who was excused; and Senators Byars, Combs, Cornett, Engel, Landis, Dw. Pedersen, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-seventh day was approved.

GENERAL FILE

LEGISLATIVE BILL 70A. The Chambers pending motion, found on page 1291, to indefinitely postpone, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

Senator Chambers requested a roll call vote on his motion to indefinitely postpone.

Voting in the affirmative, 3:

Chambers Cornett Johnson

Voting in the negative, 30:

Aguilar	Cudaback	Heidemann	Landis	Pederson, D.
Baker	Cunningham	Howard	Langemeier	Schrock
Bourne	Erdman	Hudkins	Louden	Smith
Brashear	Fischer	Janssen	McDonald	Stuhr
Combs	Foley	Kremer	Mines	Stuthman
Connealy	Friend	Kruse	Pedersen, Dw.	Wehrbein

Present and not voting, 10:

Beutler	Burling	Pahls	Price	Schimek
Brown	Kopplin	Preister	Redfield	Synowiecki

Excused and not voting, 6:

Byars	Flood	Raikes
Engel	Jensen	Thompson

The Chambers motion to indefinitely postpone failed with 3 ayes, 30 nays, 10 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA185, found on page 1293.

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 33:

Aguilar	Cornett	Friend	Landis	Schrock
Baker	Cunningham	Heidemann	Langemeier	Smith
Bourne	Engel	Howard	Louden	Stuhr
Brashear	Erdman	Hudkins	McDonald	Stuthman
Burling	Fischer	Janssen	Mines	Wehrbein
Combs	Flood	Kremer	Pedersen, Dw.	
Connealy	Foley	Kruse	Pederson, D.	

Present and not voting, 12:

Beutler	Jensen	Pahls	Redfield
Brown	Johnson	Preister	Schimek
Cudaback	Kopplin	Price	Synowiecki

Excused and not voting, 3:

Byars Raikes Thompson

The Chambers amendment lost with 1 aye, 33 nays, 12 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENT - Print in Journal

Senator Cornett filed the following amendment to LB 326:
AM1318

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 79-473, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 79-473. (1) If the territory annexed by a change of
- 5 boundaries of a city or village which lies within a Class III
- 6 school district as provided in section 79-407 has been part of a
- 7 Class IV or Class V school district prior to such annexation, a
- 8 merger of the annexed territory with the Class III school district
- 9 shall become effective only if the merger is approved by a majority
- 10 of the members of the school board of the Class IV or V school
- 11 district and a majority of the members of the school board of the
- 12 Class III school district within ninety days after the effective
- 13 date of the annexation ordinance.
- 14 (2) Notwithstanding subsection (1) of this section, when
- 15 territory which lies within a Class III school district, Class VI
- 16 school district, or Class I school district which is attached to a
- 17 Class VI school district or which does not lie within a Class IV or
- 18 V school district is annexed by a city or village pursuant to
- 19 section 79-407, the affected school board of the city or village
- 20 school district and the affected school board or boards serving the
- 21 territory subject to the annexation ordinance shall meet within
- 22 thirty days after the effective date of the annexation ordinance
- 23 and negotiate in good faith as to which school district shall serve
- 24 the annexed territory and the effective date of any transfer.
- 1 During the process of negotiation, the affected boards shall
- 2 consider the following criteria:
- 3 (a) The educational needs of the students in the affected
- 4 school districts;
- 5 (b) The economic impact upon the affected school
- 6 districts;
- 7 (c) Any common interests between the annexed or platted
- 8 area and the affected school districts and the community which has
- 9 zoning jurisdiction over the area; and

10 (d) Community educational planning.

11 If no agreement has been reached within ninety days after
12 the effective date of the annexation ordinance, the territory shall
13 transfer to the school district of the annexing city or village ten
14 days after the expiration of such ninety-day period unless an
15 affected school district petitions the district court within the
16 ten-day period and obtains an order enjoining the transfer and
17 requiring the boards of the affected school districts to continue
18 negotiation. The court shall issue the order upon a finding that
19 the affected board or boards have not negotiated in good faith
20 based on one or more of the criteria listed in this subsection.

21 The district court shall require no bond or other surety as a
22 condition for any preliminary injunctive relief. If no agreement
23 is reached after such order by the district court and additional
24 negotiations, the annexed territory shall become a part of the
25 school district of the annexing city or village.

26 (3) If, within the boundaries of the annexed territory,
27 there exists a Class VI school, the school building, facilities,
1 and land owned by the school district shall remain a part of the
2 Class VI school district. If the Class VI school district from
3 which territory is being annexed wishes to dispose of such school
4 building, facilities, or land to any individual or political
5 subdivision, including a Class I school district, the question of
6 such disposition shall be placed on the ballot for the next primary
7 or general election. All legal voters of such Class VI school
8 district shall then vote on the question at such election. A
9 simple majority of the votes cast shall resolve the issue.

10 (4) Whenever an application for approval of a final plat
11 or replat is filed for territory which lies within the zoning
12 jurisdiction of a city of the first or second class and does not
13 lie within the boundaries of a Class IV or V school district, the
14 affected school board of the school district within the city of the
15 first or second class or its representative and the affected board
16 or boards serving the territory subject to the final plat or replat
17 or their representative shall meet within thirty days after such
18 application and negotiate in good faith as to which school district
19 shall serve the platted or replatted territory and the effective
20 date of any transfer based upon the criteria prescribed in
21 subsection (2) of this section.

22 If no agreement has been reached prior to the approval of
23 the final plat or replat, the territory shall transfer to the
24 school district of the city of the first or second class upon the
25 filing of the final plat unless an affected school district
26 petitions the district court within ten days after approval of the
27 final plat or replat and obtains an order enjoining the transfer
1 and requiring the affected boards to continue negotiation. The
2 court shall issue the order upon a finding that the affected board
3 or boards have not negotiated in good faith based on one or more of
4 the criteria listed in subsection (2) of this section. The

5 district court shall require no bond or other surety as a condition
 6 for any preliminary injunctive relief. If no agreement is reached
 7 after such order by the district court and additional negotiations,
 8 the platted or replatted territory shall become a part of the
 9 school district of the city of the first or second class.

10 For purposes of this subsection, plat and replat apply
 11 only to (a) vacant land, (b) land under cultivation, or (c) any
 12 plat or replat of land involving a substantive change in the size
 13 or configuration of any lot or lots.

14 (5) Notwithstanding any other provisions of this section,
 15 all negotiated agreements relative to boundaries or to real or
 16 personal property of school districts reached by the affected
 17 school boards shall be valid and binding until annexation by a city
 18 of the first or second class located in a county having a
 19 population of one hundred thousand inhabitants or more but not more
 20 than two hundred thousand inhabitants."

21 2. Amend the repealer and renumber the remaining section
 22 accordingly.

SELECT COMMITTEE REPORT **Enrollment and Review**

LEGISLATIVE RESOLUTION 8CA. Placed on Select File as amended.
 E & R amendment to LR 8CA:
 AM7087

- 1 1. On page 1, line 7, strike "28" and insert "30"; and
- 2 in line 8 strike "I-28" and insert "I-30".

(Signed) Michael Flood, Chairperson

SPEAKER BRASHEAR PRESIDING

RESOLUTION

Pursuant to Rule 4, Sec. 5(b), LR 77 was adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 77.

GENERAL FILE

LEGISLATIVE BILL 70A. Senator Smith offered the following motion:
 Invoke cloture on LB 70A, pursuant to Rule 7, Section 10.

Senator Smith moved for a call of the house. The motion prevailed with 42 ayes, 0 nays, and 7 not voting.

Senator Smith requested a roll call vote on his motion to invoke cloture.

Voting in the affirmative, 33:

Aguilar	Cudaback	Friend	Langemeier	Schrock
Baker	Cunningham	Heidemann	Louden	Smith
Bourne	Engel	Hudkins	McDonald	Stuhr
Brashear	Erdman	Janssen	Mines	Stuthman
Burling	Fischer	Kremer	Pahls	Wehrbein
Combs	Flood	Kruse	Pedersen, Dw.	
Connealy	Foley	Landis	Pederson, D.	

Voting in the negative, 7:

Beutler	Chambers	Howard	Synowiecki
Brown	Cornett	Kopplin	

Present and not voting, 6:

Jensen	Preister	Redfield
Johnson	Price	Schimek

Excused and not voting, 3:

Byars	Raikes	Thompson
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The Smith motion to invoke cloture prevailed with 33 ayes, 7 nays, 6 present and not voting, and 3 excused and not voting.

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

Voting in the affirmative, 42:

Aguilar	Cornett	Heidemann	Langemeier	Schrock
Baker	Cudaback	Howard	Louden	Smith
Beutler	Cunningham	Hudkins	McDonald	Stuhr
Bourne	Engel	Janssen	Mines	Stuthman
Brashear	Erdman	Johnson	Pahls	Synowiecki
Brown	Fischer	Kopplin	Pederson, D.	Wehrbein
Burling	Flood	Kremer	Preister	
Combs	Foley	Kruse	Price	
Connealy	Friend	Landis	Schimek	

Voting in the negative, 2:

Chambers	Pedersen, Dw.
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Present and not voting, 2:

Jensen Redfield

Excused and not voting, 3:

Byars Raikes Thompson

Advanced to E & R for review with 42 ayes, 2 nays, 2 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

SENATOR CUDABACK PRESIDING

LEGISLATIVE BILL 117. Title read. Considered.

The Standing Committee amendment, AM0712, printed separately and referred to on page 871, was considered.

Senator Beutler renewed his pending amendment, AM1181, found on page 1189, to the Standing Committee amendment.

Senator Beutler withdrew his amendment.

Senator Chambers requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:

(FA188 consists of the following portions of the Standing Committee amendment:

Pages 1-14

Page 15, Lines 1-19, 26, and 27

Page 16

Page 17, Lines 1-10 and 24-27

Page 18, Lines 1-6 and 14-16)

Pending.

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendment to LB 70A:

FA186

On page 2, in line 1 strike "\$8,000".

Senator Chambers filed the following amendment to LB 70A:

FA187

On page 2, in line 9 strike "\$120,000" and insert "\$120";

In lines 10 and 11 strike "\$60,000" and insert "\$60".

Senator Beutler filed the following amendment to LB 117:
AM1316

(Amendments to Standing Committee amendments, FA188)

- 1 1. Insert the following new section:
- 2 "Sec. 7. No person shall possess pseudoephedrine or
- 3 phenylpropanolamine, or their salts, isomers, or salts of isomers,
- 4 in quantities greater than seven thousand two hundred milligrams of
- 5 pseudoephedrine base or seven thousand two hundred milligrams of
- 6 phenylpropanolamine base. This section shall not apply to bona
- 7 fide businesses and persons in the pharmaceutical industry as
- 8 manufacturers, transporters, wholesalers, or retailers, acting in
- 9 the normal course of business. Any person who violates this
- 10 section is guilty of a Class IV felony."
- 11 2. On page 9, line 15, strike "section 6" and insert
- 12 "sections 6 and 7".
- 13 3. Renumber the remaining sections accordingly.

VISITORS

Visitors to the Chamber were 50 sixth-grade students and teachers from Edison Elementary School, Omaha; 67 fourth-grade students and teachers from Aldrich Elementary School, Omaha; 13 fourth-grade students and teacher from David City Public School and Bellwood Attendance Center; and 63 fourth-grade students and teachers from Dodge Elementary School, Grand Island.

RECESS

At 11:57 a.m., on a motion by Senator Schrock, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senator Thompson who was excused; and Senators Cornett, Engel, Landis, and Louden who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 40. The Standing Committee amendment, AM0387, found on page 505 and considered on page 1281, as amended, was renewed.

The Beutler pending amendment, AM1263, found on page 1281, to the Standing Committee amendment, was renewed.

SENATOR SCHIMEK PRESIDING

Senator Beutler withdrew his amendment.

Senator Synowiecki withdrew his pending amendment, AM0299, found on page 525.

Senator Beutler withdrew his pending amendment, AM1204, found on page 1195.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA195

Amend AM0387

Repeal outright section 76-901 (p. 6)

PRESIDENT SHEEHY PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 1 nay, and 30 not voting.

The Chambers amendment lost with 1 aye, 31 nays, 13 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA196

Amend AM0387

Outright repeal section 77-1327.

SENATOR CUDABACK PRESIDING

Senator Chambers withdrew his amendment.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 40A. Title read. Considered.

Senator Redfield withdrew the Redfield et al. pending amendment, AM1232, found on page 1214.

Senator Redfield renewed her pending amendment, AM1259, found on page

1244.

The Redfield amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 114. Title read. Considered.

The Standing Committee amendment, AM0247, found on page 440, was considered.

Pending.

NOTICE OF COMMITTEE HEARING
Business and Labor
Room 2102

Tuesday, May 10, 2005

1:00 p.m.

Charles Cole - Boiler Safety Code Advisory Board

Jeffrey L. Orr - Commission of Industrial Relations

(Signed) Douglas Cunningham, Chairperson

AMENDMENTS - Print in Journal

Senator D. Pederson filed the following amendment to LB 566:
AM1315

- 1 1. Strike original section 59 and insert the following
- 2 new sections:
- 3 "Sec. 32. Section 32-554, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 32-554. (1)(a) Any city not under a home rule charter,
- 6 village, county, or school district nominating and electing members
- 7 to its governing board at large may at a general election submit
- 8 the question of nominating and electing members to its governing
- 9 board by district or ward.
- 10 (b) Any city not under a home rule charter, village,
- 11 county having not more than three hundred thousand inhabitants, or
- 12 school district nominating and electing members to its governing
- 13 board by district or ward may at a general election submit the
- 14 question of nominating and electing members to its governing board
- 15 at large.
- 16 (c) Any city of the first class, except a city having
- 17 adopted the commissioner or city manager plan of government,
- 18 nominating and electing members to its governing body by ward may
- 19 at a general election submit the question of nominating and
- 20 electing some of the members to its governing body by ward and some

21 at large either by ordinance by a vote of a majority of the members
22 of the governing body or by petition of the registered voters of
23 the city. No more than three members of the city council may be
24 elected on an at-large basis, and at least four members of the city
1 council shall be elected by ward. The ordinance or petition shall
2 specify the number of at-large members to be elected. At the first
3 election in which one or more at-large members are to be elected to
4 the city council, the members shall be elected to serve for initial
5 terms of office of the following lengths:

6 (i) If one at-large member is to be elected, he or she
7 shall serve for a four-year term;

8 (ii) If two at-large members are to be elected, the
9 candidate receiving the highest number of votes shall be elected to
10 serve for a four-year term and the other elected member shall be
11 elected to serve for a two-year term; and

12 (iii) If three at-large members are to be elected, the
13 two candidates receiving the highest number of votes shall be
14 elected to serve for four-year terms and the other elected member
15 shall be elected to serve for a two-year term. Following the
16 initial term of office, all at-large council members shall be
17 elected to serve for four-year terms. No candidate may file as
18 both an at-large candidate and a candidate by ward at the same
19 election.

20 (2) Petitions for submission of the question shall be
21 signed by registered voters of the city, village, county, or school
22 district desiring to change the procedures for electing the
23 governing board of the city, village, county, or school district.
24 The petition or petitions shall be signed by registered voters
25 equal in number to twenty-five percent of the votes cast for the
26 person receiving the highest number of votes in the city, village,
27 county, or school district at the preceding general election for
1 electing the last member or members to its governing board. Each
2 sheet of the petition shall have printed the full and correct copy
3 of the question as it will appear on the official ballot. The
4 petitions shall be filed with the county clerk or election
5 commissioner not less than seventy days prior to the date of the
6 general election, and no signatures shall be added or removed from
7 the petitions after they have been so filed. Petitions shall be
8 verified as provided in section 32-631. If the petition or
9 petitions are found to contain the required number of valid
10 signatures, the county clerk or election commissioner shall place
11 the question on a separate ballot to be issued to the registered
12 voters of the city, village, county, or school district entitled to
13 vote on the question.

14 (3)(a) Any city, village, county, or school district
15 voting to change from nominating and electing the members of its
16 governing board by district or ward to nominating and electing some
17 or all of such members at large shall notify the public and
18 instruct the filing officer to accept the appropriate filings on an

19 at-large basis. Candidates to be elected at large shall be
 20 nominated and elected on an at-large basis at the next primary and
 21 general election following submission of the question.

22 (b) Any city, village, county, or school district voting
 23 to change from nominating and electing the members of its governing
 24 board at large to nominating and electing by district or ward shall
 25 notify the public and instruct the filing officer to accept all
 26 filings by district or ward. Candidates shall be nominated and
 27 elected by district or ward at the next primary and general
 1 election following submission of the question. When district or
 2 ward elections have been approved by the majority of the
 3 electorate, the governing board of any city, village, county, or
 4 school district approving such question shall establish districts
 5 substantially equal in population as determined by the most recent
 6 federal decennial census except as provided in subsection (2) of
 7 section 32-553.

8 (4) Except as provided in section 14-201, each city not
 9 under a home rule charter, village, county, and school district
 10 which votes to nominate and elect members to its governing board by
 11 district or ward shall establish districts or wards so that
 12 approximately one-half of the members of its governing board may be
 13 nominated and elected from districts or wards ~~bearing odd numbers~~
 14 ~~at one election and from districts or wards bearing even numbers at~~
 15 ~~the following at each~~ election. Districts or wards shall be
 16 created not later than October 1 in the year following the general
 17 election at which the question was voted upon. If the governing
 18 board fails to draw district boundaries by October 1, the
 19 procedures set forth in section 32-555 shall be followed.

20 Sec. 60. Sections 32 and 61 of this act become operative
 21 three calendar months after the adjournment of this legislative
 22 session. The other sections of this act become operative on
 23 January 1, 2006.

24 Sec. 61. Original section 32-554, Reissue Revised
 25 Statutes of Nebraska, is repealed."

26 2. Renumber the remaining sections and correct internal
 27 references accordingly.

Senator Beutler filed the following amendment to LB 40:
 AM1329

(Amendments to AM1227)

1 1. Insert the following new section:

2 "Sec. 6. Section 76-905, Reissue Revised Statutes of
 3 Nebraska, is amended to read:

4 76-905. Any register of deeds who ~~shall record knowingly~~
 5 ~~records~~ any deed upon which a tax is imposed by ~~the provisions of~~
 6 sections 76-901 to 76-907 without collecting the proper amount of
 7 tax as required by ~~the provisions of~~ sections 76-901 to 76-907 as
 8 is indicated in the declaration appended to such deed shall, ~~upon~~
 9 ~~conviction thereof, be fined the sum of fifty dollars be guilty of~~

10 official misconduct as defined in section 28-924.".

11 2. Renumber the remaining sections and correct the
12 repealer accordingly.

Senator Landis filed the following amendment to LB 211:
AM1327

(Amendments to Final Reading copy)

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

3 "Section 1. This act shall be known and may be cited as
4 the Nebraska Archaeological Resources Preservation Act.

5 Sec. 2. The Legislature hereby finds and declares that:

6 (1) The resource base of archaeological sites is being
7 threatened at an increasing rate by agricultural, urban,
8 commercial, transportation, governmental, and industrial
9 development; and

10 (2) Archaeological sites represent an important public
11 resource embodying the record of our state's cultural heritage.

12 Sec. 3. For purposes of the Nebraska Archaeological
13 Resources Preservation Act:

14 (1) Archaeological resource means any material object of
15 past human life or activities that is of archaeological interest.
16 Such objects include, but are not limited to, pottery, basketry,
17 bottles, weapons, tools, structures or portions of structures,
18 dwellings, rock paintings, rock carvings, intaglios, graves, human
19 skeletal materials, or any portion or piece of any of such items.
20 Nonfossilized and fossilized paleontological specimens, or any
21 portion or piece thereof, shall not be considered archaeological
22 resources unless found in an archaeological context. No object
23 shall be treated as an archaeological resource under this
1 subdivision unless such object is determined to be at least fifty
2 years of age;

3 (2) Archaeological site means a place or location where
4 archaeological resources are found;

5 (3) Master archaeological site file means the records
6 inventory of all known Nebraska archaeological sites maintained by
7 the Nebraska State Historical Society;

8 (4) National Register of Historic Places means the
9 register of districts, sites, buildings, structures, and objects
10 significant in American history, architecture, archaeology,
11 engineering, and culture, maintained by the Secretary of the
12 Interior under the authority of the federal Historic Sites,
13 Buildings, and Antiquities Act, 16 U.S.C. 462(b), and the National
14 Historic Preservation Act, 16 U.S.C. 470a(a)(1)(A);

15 (5) State agency means any division, department, board,
16 bureau, commission, or agency of the State of Nebraska; and

17 (6) Undertaking means a project, activity, or program
18 funded in whole or in part under the jurisdiction of a state
19 agency.

20 Sec. 4. (1) There is hereby established the State
21 Archaeology Office which shall be a division within the Nebraska
22 State Historical Society. The purpose of the office shall be to
23 coordinate and encourage appropriate archaeological undertakings
24 and to preserve archaeological resources. The State Archaeology
25 Office may adopt and promulgate rules and regulations to carry out
26 the purposes of the Nebraska Archaeological Resources Preservation
27 Act.

1 (2) The State Archaeology Office shall be headed by the
2 State Archaeologist. The State Archaeologist shall be a graduate
3 of a recognized college or university with a graduate degree in
4 archaeology or anthropology and shall have sufficient practical
5 experience and knowledge of archaeology to carry out the purposes
6 of the act.

7 (3) The State Archaeology Office shall:

8 (a) Promote development of archaeological resources for
9 educational, cultural, tourism, and scientific purposes;

10 (b) Support popular and avocational interest in
11 archaeological resources through field trips, demonstrations,
12 seminars, and excavations throughout the state;

13 (c) Conduct a program of locating, identifying,
14 quantifying, and assessing the significance of the state's
15 archaeological resources;

16 (d) Maintain the master archaeological site file;

17 (e) Advise state agencies, political subdivisions,
18 nongovernmental organizations, commercial and business interests,
19 private property owners, individuals, and others as to the
20 provisions and requirements of the act;

21 (f) Serve as the liaison office in transactions dealing
22 with archaeological resources between state agencies and between
23 the state and the federal government;

24 (g) Cooperate with state agencies and others in
25 overseeing the execution of undertakings required by the act;

26 (h) Serve as the liaison office between state agencies
27 and Indian tribes, the Commission on Indian Affairs, or other
1 constituent groups culturally affiliated with archaeological sites
2 involved in undertakings;

3 (i) Maintain a list of archaeologists qualified to
4 conduct research projects required by the act;

5 (j) Maintain a permanent repository and electronic data
6 base of published and unpublished sources on the archaeological
7 resources of the state;

8 (k) Prepare, publish, and distribute for professional use
9 and public education reports, bulletins, pamphlets, maps, and other
10 products necessary to achieve the purposes of the act;

11 (l) Implement a program of emergency salvage archaeology,
12 which includes surveys and either salvage or preservation of
13 archaeological resources imperiled by development activities or
14 natural forces;

15 (m) Administer and manage grants, bequests, devises, tax
16 incentives, and easements of property to the state for the purposes
17 of preserving archaeological sites and resources; and

18 (n) Ensure the long-term curation and management of
19 collections and records resulting from undertakings within the
20 state;

21 (o) Identify properties included in the National Register
22 of Historic Places that are endangered, and coordinate or
23 facilitate the purchase and maintenance of such properties by other
24 public or private agencies; and

25 (p) Conduct all other activities necessary to carry out
26 the purposes of the act.

27 Sec. 5. (1) Except as provided in subsection (2) of this
1 section, the head of any state agency having jurisdiction over a
2 proposed state or state-funded undertaking, which has potential to
3 affect archaeological resources or sites, shall, prior to the
4 approval of the expenditure of any state funds on the undertaking,
5 notify the State Archaeology Office of the undertaking and
6 cooperate with the office to identify and develop measures to
7 mitigate the effect of the undertaking on any archaeological site
8 or resource that is included in or eligible for inclusion in the
9 National Register of Historic Places.

10 (2) The Department of Roads shall be exempt from the
11 provisions of the Nebraska Archaeological Resources Preservation
12 Act as long as a cooperative agreement exists between the
13 Department of Roads and the Nebraska State Historical Society which
14 ensures that all highway construction projects meet federal
15 historic preservation legislation and regulations, and such federal
16 preservation legislation and regulations fulfill or exceed the
17 objectives and standards of the act.

18 (3) Nothing in this section shall be construed to abridge
19 the rights of private property owners and in no case shall a
20 private property owner be required to pay for activities undertaken
21 by the State Archaeology Office.

22 Sec. 6. The State Archaeology Office may accept, use,
23 disburse, and administer all funds or other property, services, and
24 money allotted to it for purposes of the Nebraska Archaeological
25 Resources Preservation Act and may prescribe the conditions under
26 which such funds, property, services, or money will be accepted and
27 administered.

1 Sec. 7. (1) Any person who knowingly and willfully
2 appropriates, excavates, injures, or destroys any archaeological
3 resource on public land without written permission from the State
4 Archaeology Office is guilty of a Class III misdemeanor.

5 (2) When the State Archaeology Office has cause to
6 believe that a person has engaged in or is engaging in any unlawful
7 conduct prescribed in this section, it may apply for and obtain, in
8 an action in the appropriate district court of this state, a
9 temporary restraining order or injunction, or both, pursuant to the

10 Nebraska rules of civil procedure prohibiting such person from
 11 continuing such practices, or engaging therein, or doing any act in
 12 furtherance thereof.

13 Sec. 8. No person shall enter or attempt to enter upon
 14 the lands of another without permission and intentionally
 15 appropriate, excavate, injure, or destroy any archaeological
 16 resource or any archaeological site. Any person committing such
 17 act is guilty of a Class III misdemeanor.

18 Sec. 9. The Nebraska State Historical Society may use
 19 General Fund appropriations to match other funds, grants, or money
 20 received to carry out the Nebraska Archaeological Resources
 21 Preservation Act.

22 Sec. 10. The State Archaeology Cash Fund is hereby
 23 created. The fund may be used to carry out the purposes of the
 24 Nebraska Archaeological Resources Preservation Act. Any money in
 25 the fund available for investment shall be invested by the state
 26 investment officer pursuant to the Nebraska Capital Expansion Act
 27 and the Nebraska State Funds Investment Act.

1 Sec. 12. Section 11 of this act becomes operative on
 2 January 1, 2006. The other sections of this act become operative
 3 on their effective date."

4 2. On page 1, line 1, strike "cemeteries" and insert
 5 "the Nebraska State Historical Society" and after the semicolon
 6 insert "to adopt the Nebraska Archaeological Resources Preservation
 7 Act; to provide penalties;"; and in lines 2 and 3 strike "an
 8 operative date" and insert "operative dates".

9 3. Renumber the remaining section accordingly.

GENERAL FILE

LEGISLATIVE BILL 114. The Standing Committee amendment, AM0247, found on page 440 and considered in this day's Journal, was renewed.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

The Standing Committee amendment was adopted with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

Senator Chambers offered the following amendment:
 FA201

On page 3, in line 16, strike and show as stricken "for" and insert "to".

Senator Chambers withdrew his amendment.

Senator Bourne offered the following amendment:
 AM0975

- 1 1. Insert the following new section:
 2 "Sec. 3. This act is a complete act and its provisions
 3 inseverable. If any provision is declared unconstitutional, the
 4 entire act is invalid."
 5 2. On page 3, after line 7, insert the following new
 6 subsection:
 7 "(4) Any licensed physician, physician assistant,
 8 advanced practice registered nurse, or optometrist shall perform
 9 the visual evaluation required by subsection (3) of this section
 10 free of charge for any child whose parent or guardian requests such
 11 an evaluation if the parent or guardian asserts that the family's
 12 income is equal to or less than one hundred fifty percent of the
 13 Office of Management and Budget income poverty guidelines.".
 14 3. Renumber the remaining sections accordingly.

Senator Bourne withdrew his amendment.

Advanced to E & R for review with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

STANDING COMMITTEE REPORT

Business and Labor

LEGISLATIVE BILL 737. Placed on General File as amended.
 Standing Committee amendment to LB 737:
 AM1294

- 1 1. Strike original section 2 and insert the following
 2 new sections:
 3 "Sec. 2. There are hereby appropriated the following
 4 sums of money, or so much thereof as may be required, from the
 5 General Fund or from other funds as indicated in the state
 6 treasury, not otherwise appropriated, for the payment of tort
 7 claims which have been settled by the Attorney General in the
 8 district court or in which court judgments have been entered and
 9 which require the approval of the Legislature for payment.
 10 DESCRIPTION DOLLARS
 11 Tort Claim No. 02-458, against the Department of
 12 Roads, pay to Joshua Smith and James Schaefer,
 13 Attorney, 1001 Farnam Street, Omaha, NE 68102,
 14 out of the Roads Operations Cash Fund. 241,000.00
 15 The claim included in this section shall be paid through
 16 Program 591 in Agency 65.
 17 For informational purposes only, the appropriation
 18 contained in this section and fund source:
 19 GENERAL FUND -0-
 20 CASH FUNDS 241,000.00
 21 TOTAL 241,000.00
 22 Sec. 3. There are hereby appropriated the following sums
 23 of money, or so much thereof as may be required, from the indicated

24 fund in the state treasury, not otherwise appropriated, for the	
1 payment of workers' compensation claims which have been settled by	
2 the Attorney General or in which court judgments have been entered	
3 and which require the approval of the Legislature for payment.	
4 DESCRIPTION	DOLLARS
5 Workers' compensation judgment, pay to <u>Alice Jones</u>	
6 and <u>Elaine A. Waggoner, Attorney</u> , 216 North 11th	
7 Street, Suite 301, Lincoln, NE 68508, out of the	
8 Workers' Compensation Claims Revolving Fund.	116,285.76
9 Workers' compensation judgment, pay to <u>Cynthia</u>	
10 <u>Blodgett-McDeavitt and Stephen L. Gerdes, Attorney</u> ,	
11 11920 Burt Street, #145, Omaha, NE 68154, out of the	
12 Workers' Compensation Claims Revolving Fund.	28,604.66
13 Workers' compensation lump-sum settlement, pay to	
14 <u>Duane Saltz and Ralph Bradley, Attorney</u> , 202 West 3rd	
15 Street, Grand Island, NE 68802, out of the	
16 Workers' Compensation Claims Revolving Fund.	35,000.00
17 The claims in this section shall be paid through Program	
18 593 in Agency 65.	
19 For informational purposes only, the appropriations	
20 contained in this section and fund source:	
21 REVOLVING FUNDS	179,890.42
22 TOTAL	179,890.42".
23 2. On page 3, line 17, strike "151,077.50" and insert	
24 "153,332.58"; in line 22 strike "596,704.37" and insert	
25 "598,959.45"; and in line 25 strike "644,437.06" and insert	
26 "646,692.14".	
27 3. On page 5, line 11, strike "1,450.00" and insert	
1 "1,145.00".	
2 4. Renumber the remaining sections accordingly.	

(Signed) Douglas Cunningham, Chairperson

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendment to LB 57:

FA197

On page 2, in line 9 strike "Homo" and insert "Hetero".

Senator Chambers filed the following amendment to LB 57:

FA198

Add a new section: "The provisions of this act shall not apply until the individual member of Homo sapiens in utero has reached a stage of development where arms, legs, hands, feet and a head are present."

Senator Chambers filed the following amendment to LB 57:

FA199

On page 2 in lines 7, 8, 12, 13, 14, 17, 18, 20, 23, 24, 25; and on page 3, in line 11 strike "an unborn child" and insert "a fetus".

Senator Chambers filed the following amendment to LB 57:
FA200

On page 2, after line 10 insert: "For purposes of this act, serious bodily injury means bodily injury which involves a substantial risk of serious permanent disfigurement, or a temporary or protracted loss or impairment of the function of any part or organ of the body."

Senator Friend filed the following amendment to LB 401:
AM1314

(Amendments to Final Reading copy)

- 1 1. On page 2, line 19; and page 3, lines 3, 14, and 27,
- 2 strike the new matter.

UNANIMOUS CONSENT - Add Cointroducer

Senator Combs asked unanimous consent to have her name added as cointroducer to LB 117. No objections. So ordered.

VISITORS

Visitors to the Chamber were 34 fourth-grade students and teachers from Sutton; and 40 fifth-grade students and teachers from Hawthorne Elementary School, Hastings.

ADJOURNMENT

At 5:15 p.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Wednesday, April 27, 2005.

Patrick J. O'Donnell
Clerk of the Legislature

