

SEVENTH DAY - JANUARY 13, 2005**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
FIRST SESSION****SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, January 13, 2005

PRAYER

The prayer was offered by Senator Smith.

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 Brashear, Landis, Dw. Pedersen, and Wehrbein who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixth day was approved.

MOTION - Adopt Temporary Rules

Senator Hudkins moved that the rules, as now in our possession, be adopted for today only, Thursday, January 13, 2005.

The motion prevailed.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

LB/LR	Committee
LB 251	Transportation and Telecommunications (referred)
LB 301	Health and Human Services
LB 302	Urban Affairs
LB 303	Education
LB 304	Education
LB 305	Education
LB 306	Health and Human Services
LB 307	Health and Human Services
LB 308	Judiciary

LB 309	Revenue
LB 310	Banking, Commerce and Insurance
LB 311	Revenue
LB 312	Revenue
LB 313	Revenue
LB 314	Education
LB 315	Banking, Commerce and Insurance
LB 316	Judiciary
LB 317	Agriculture
LB 318	Health and Human Services
LB 319	Health and Human Services
LB 320	Judiciary
LB 321	Government, Military and Veterans Affairs
LB 322	Judiciary
LB 323	Appropriations
LB 324	Revenue
LB 325	Revenue
LB 326	Education
LB 327	Education
LB 328	Nebraska Retirement Systems
LB 329	Nebraska Retirement Systems
LB 330	Agriculture
LB 331	Health and Human Services
LB 332	Health and Human Services
LB 333	Transportation and Telecommunications
LB 334	Revenue
LB 335	Natural Resources
LB 336	Natural Resources
LB 337	Government, Military and Veterans Affairs
LB 338	Health and Human Services
LB 339	Health and Human Services
LB 340	Natural Resources
LB 341	Transportation and Telecommunications
LB 342	Natural Resources
LB 343	Transportation and Telecommunications
LB 344	Transportation and Telecommunications
LB 345	Judiciary
LB 346	Revenue
LB 347	Education
LB 348	Judiciary
LB 349	Judiciary
LB 350	Education
LB 351	Natural Resources
LB 352	Education
LB 353	Revenue
LB 354	Business and Labor
LB 355	General Affairs
LB 356	Revenue
LB 357	Education

LB 358	Revenue
LB 359	Natural Resources
LB 360	Judiciary
LB 361	Judiciary
LB 362	Judiciary
LB 363	Judiciary
LB 364	Nebraska Retirement Systems
LB 365	Nebraska Retirement Systems
LB 366	Nebraska Retirement Systems
LB 367	Nebraska Retirement Systems
LB 368	Nebraska Retirement Systems
LB 369	Nebraska Retirement Systems
LB 370	Health and Human Services
LB 371	Revenue
LB 372	Urban Affairs
LB 373	Executive Board
LB 374	Banking, Commerce and Insurance
LB 375	Banking, Commerce and Insurance
LB 376	Appropriations
LB 377	Judiciary
LB 378	Education
LR 11CA	Government, Military and Veterans Affairs
LR 12CA	Executive Board
LR 13CA	Executive Board
LR 14CA	Executive Board
LR 16CA	Executive Board

(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

ANNOUNCEMENT

The Rules Committee elected Senator Thompson as Vice Chairperson.

NOTICE OF COMMITTEE HEARING

Judiciary
Room 1113

LB 81	Thursday, January 20, 2005	1:30 p.m.
LB 100	Thursday, January 20, 2005	1:30 p.m.
LB 112	Thursday, January 20, 2005	1:30 p.m.
LB 115	Thursday, January 20, 2005	1:30 p.m.
LB 200	Thursday, January 20, 2005	1:30 p.m.
LB 260	Thursday, January 20, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 419. Introduced by Connealy, 16; Flood, 19.

A BILL FOR AN ACT relating to public service attorneys; to amend section 29-3927, Revised Statutes Supplement, 2004; to adopt the Legal Education for Public Service Loan Repayment Act; to create a fund; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 420. Introduced by Connealy, 16.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-121, Reissue Revised Statutes of Nebraska; to change provisions relating to injuries to specific body parts and duration of payments; and to repeal the original section.

MESSAGE FROM THE GOVERNOR

January 13, 2005

Mr. President, Mr. Speaker,
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President and Senators:

Today, I present budget recommendations for your consideration for the 2005-2007 biennium.

This past year has brought a turn for the positive in the economy of our nation and for the State of Nebraska. It was just two years ago that we faced the prospect of preparing the state biennial budget upon two years of negative growth in tax receipts. The current forecast of tax receipts for the next biennium represents an average of 4.1 percent growth. This is good news.

Our experience these past three years with fiscal adversity illustrates the importance of building the state's biennial budget, for both the short and long term, on sound financial principles including an adherence to structural balance and adequate cash reserves. Our fiscal discipline has served us well and will be critically important in the preparation of the 2005-2007 biennial budget.

The various state agencies, boards, and commissions have submitted budget proposals that exceed a 12 percent increase in the state budget. You will be presented with many additional worthy proposals for both short and

long term commitments to additional spending. Needless to say, it is not possible to fund all requests.

This budget plan first addresses two fiscal and legal imperatives that must be accomplished in the development of the 2005-2007 biennial budget. It rebuilds the State's General Fund operating reserve by providing for a biennium ending balance that meets the current 3% minimum reserve requirement. It also proposes to pay \$145.8 million on August 1, 2005 to satisfy the low-level radioactive waste judgment against the state. A delay in full payment would require spending another \$8.2 million.

This budget plan does not recommend any tax increases and does not restore the many base budget reductions made since 2001. The recommendation fully funds the K-12 TEEOSA school aid formula and is the single largest increase in the State budget. It includes additional support for statewide economic initiatives and recommends financing the care of elderly citizens in state and private, long and short term care facilities. It also provides ongoing support for the very important and historic reforms in mental health, child protection, and the stewardship of a vital natural resource -- water.

These recommendations for the 2005-2007 biennium represent a two year average growth of 5.8 percent. The majority of that growth is accounted for within three recommendations. The recommendation to fully finance the state aid to schools formula results, in the first year, in an increase of \$61 million, which is 40 percent of the total increase in spending. The recommendation to finance Medicaid, a major portion of which is our commitment to care for our aging population, represents an increase of nearly \$32 million, which is 20 percent of the total increase in spending. The recommendation to enhance financial support of our university, state colleges, and community colleges, involves an increase of nearly \$22 million, which is 14 percent of the overall increase in spending. When combined, these three recommendations account for nearly 75 percent of all recommended growth. Another 8 percent, \$12.7 million of the recommended spending increase is earmarked to meet annual financing requirements for State employee salaries and benefits.

A third fiscal imperative addressed in the budget recommendations is the need for structural balance--a positive difference between net general fund tax receipts and general fund appropriations. These recommendations provide for that balance. However, this becomes increasingly difficult for the Governor and the Legislature as state aid to schools and Medicaid claim increasingly larger shares of the state budget. In that regard, planning estimates for the following 2007-2009 budget biennium indicate a continuance of the aid adjustment factor and the \$1.05 maximum levy limit for purposes of determining TEEOSA school aid. The planning estimates further indicate that future allowable spending growth can be no greater than five percent.

As always, I appreciate the special personal investment that each of you make on behalf of your constituents and the entire State of Nebraska.

Sincerely,
(Signed) Mike Johanns
Governor

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 421. Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2003, LB 46A, section 6; Laws 2003, LB 404, section 19; Laws 2003, LB 406, sections 8 and 9; Laws 2003, LB 407, sections 94, 104, 105, 107, 118, 119, 138, and 254; and Laws 2004, LB 1089, sections 17, 18, 19, 20, 21, 22, 24, 25, 26, 28, 31, 46, 47, 50, 52, 55, 59, 60, 61, 62, 66, 68, 70, 73, 76, 77, 86, 95, 98, 103, 105, 106, 107, 108, 109, 111, 112, 114, 116, 119, 120, 123, 127, 138, 140, 142, 143, 146, 147, 149, 150, 158, 168, 177, 178, 179, 181, 185, 186, 191, 193, 195, 196, 199, 200, 201, 202, 206, 210, 217, 221, 225, 228, 231, 233, and 235; to define terms; to provide, change, and eliminate provisions relating to appropriations; to provide for transfers; to repeal the original sections; to outright repeal Laws 2004, LB 1084A, section 1; and to declare an emergency.

LEGISLATIVE BILL 422. Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of the salaries and benefits of certain state officers for FY2005-06 and FY2006-07; to define terms; to provide an operative date; and to declare an emergency.

LEGISLATIVE BILL 423. Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of salaries of members of the Nebraska Legislature and payments to be made as provided by Chapter 68, article 6, for FY2005-06 and FY2006-07; to provide an operative date; and to declare an emergency.

LEGISLATIVE BILL 424. Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to define terms; to appropriate funds for capital construction and property acquisition as prescribed; to state intent; to require program statements; to provide an

operative date; and to declare an emergency.

LEGISLATIVE BILL 425. Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to state intent; to define terms; to make appropriations for the expenses of Nebraska State Government; for the biennium ending June 30, 2007; to transfer funds; to provide duties; to provide an operative date; and to declare an emergency.

LEGISLATIVE BILL 426. Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to funds; to amend sections 47-632 and 72-816, Reissue Revised Statutes of Nebraska, and sections 29-2262.07, 71-7611, and 81-1561, Revised Statutes Supplement, 2004; to create funds; to transfer funds; to eliminate obsolete provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 427. Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend section 84-612, Revised Statutes Supplement, 2004; to transfer funds as prescribed and to eliminate completed transfers; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 428. Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to the Deferred Building Renewal Act; to amend sections 81-188.02, 81-188.04, and 81-188.06, Revised Statutes Supplement, 2004; to change provisions relating to renewal assessment funds; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 429. Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to court fees; to amend section 33-107.03, Reissue Revised Statutes of Nebraska, and sections 81-1428 and 81-1429, Revised Statutes Supplement, 2004; to increase a fee; to extend a fee; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 430. Introduced by Cornett, 45.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 9-647 and 53-179, Reissue Revised Statutes of Nebraska; to change provisions relating to permissible retail sale hours; to harmonize

provisions; and to repeal the original sections.

LEGISLATIVE BILL 431. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to courts; to amend section 24-301.02, Revised Statutes Supplement, 2004; to change district court judicial districts as prescribed; and to repeal the original section.

LEGISLATIVE BILL 432. Introduced by Brown, 6; Friend, 10; Redfield, 12; Thompson, 14.

A BILL FOR AN ACT relating to counties; to create and provide duties for a task force; to require a report; and to declare an emergency.

LEGISLATIVE BILL 433. Introduced by Cunningham, 40.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-120, 48-120.02, and 48-146.03, Reissue Revised Statutes of Nebraska; to change provisions relating to selection of physician; to harmonize provisions; and to repeal the original sections.

MOTION - Adopt Permanent Rules

Senator Hudkins moved to adopt the permanent rules for the Ninety-Ninth Legislature, First Session.

Senator Schimek renewed her proposed rules change found on page 198.

Senator Schimek withdrew her proposed rules change.

Senator Smith offered the following proposed rules change:

Amend Rule 3, Sec. 13

Sec. 13. Public Hearing, Notice, Video Teleconferencing. (a) Before taking final action on a bill, resolution, or gubernatorial appointment, a committee shall hold a public hearing thereon and shall give at least seven calendar days' notice, after the bill or pronouncement of the appointee shall have been printed, by publication in the Legislative Journal. No bill or resolution having been set for public hearing shall be withdrawn nor the hearing canceled within seven calendar days of the date set for said public hearing.

(b) No more than twice per calendar year, any member may direct a committee to broadcast a public hearing through live video teleconferencing to designated locations within the state, provided written notice of such directive is given to the chairperson of the committee holding such public hearing no less than three legislative days prior to the date of such hearing.

Senator Chambers offered the following amendment to the Smith proposed rules change:

Amend Smith Proposal

In line 1, strike "direct" and insert "request";

In line 4, strike "directive" and insert "request"

Senator Chambers withdrew his amendment.

Senator Smith withdrew his proposed rules change.

Senator Hudkins renewed her pending motion to adopt the permanent rules for the Ninety-Ninth Legislature, First Session.

Senator Chambers moved for a call of the house. The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

Senator Chambers requested a roll call vote on the motion to adopt permanent rules.

Voting in the affirmative, 39:

Aguilar	Connealy	Howard	Louden	Schimek
Baker	Cornett	Hudkins	McDonald	Schrock
Beutler	Cudaback	Janssen	Mines	Stuhr
Bourne	Cunningham	Jensen	Pahls	Stuthman
Brown	Engel	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Combs	Heidemann	Kruse	Raikes	

Voting in the negative, 4:

Chambers	Erdman	Foley	Smith
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Present and not voting, 2:

Friend	Redfield
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Excused and not voting, 4:

Brashear	Landis	Langemeier	Pedersen, Dw.
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The Hudkins motion to adopt permanent rules prevailed with 39 ayes, 4 nays, 2 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

NOTICE OF COMMITTEE HEARINGS**Natural Resources**

Room 1525

LB 34	Thursday, January 20, 2005	1:30 p.m.
LB 121	Thursday, January 20, 2005	1:30 p.m.
LB 162	Thursday, January 20, 2005	1:30 p.m.
LR 8CA	Thursday, January 20, 2005	1:30 p.m.

Thursday, January 20, 2005 1:30 p.m.

James J. Jenkins - Nebraska Ethanol Board

Charles J. "Tod" Brodersen - Nebraska Ethanol Board

LB 94	Friday, January 21, 2005	1:30 p.m.
LB 139	Friday, January 21, 2005	1:30 p.m.
LB 298	Friday, January 21, 2005	1:30 p.m.
LB 335	Friday, January 21, 2005	1:30 p.m.

Friday, January 21, 2005 1:30 p.m.

Ken Kunze - Nebraska Power Review Board

(Signed) Ed Schrock, Chairperson

Nebraska Retirement Systems

Room 1525

LB 329	Thursday, January 20, 2005	12:15 p.m.
LB 368	Thursday, January 20, 2005	12:15 p.m.

(Signed) Elaine Stuhr, Chairperson

Health and Human Services

Room 1510

LB 164	Thursday, January 20, 2005	1:30 p.m.
LB 174	Thursday, January 20, 2005	1:30 p.m.
LB 25	Thursday, January 20, 2005	1:30 p.m.
LB 26	Thursday, January 20, 2005	1:30 p.m.
LB 27	Thursday, January 20, 2005	1:30 p.m.
LB 301	Thursday, January 20, 2005	1:30 p.m.

LB 205	Friday, January 21, 2005	1:30 p.m.
LB 246	Friday, January 21, 2005	1:30 p.m.
LB 243	Friday, January 21, 2005	1:30 p.m.
LB 244	Friday, January 21, 2005	1:30 p.m.

(Signed) Jim Jensen, Chairperson

Revenue
Room 1524

LB 216	Thursday, January 20, 2005	1:30 p.m.
LB 16	Thursday, January 20, 2005	1:30 p.m.
LB 17	Thursday, January 20, 2005	1:30 p.m.
LB 371	Thursday, January 20, 2005	1:30 p.m.
LB 44	Thursday, January 20, 2005	1:30 p.m.
LB 45	Thursday, January 20, 2005	1:30 p.m.
LB 46	Thursday, January 20, 2005	1:30 p.m.

(Signed) Matt Connealy, Vice Chairperson

REPORT OF THE EXECUTIVE BOARD

Senator Engel, Chairperson of the Executive Board, reported the appointments of the following members of the Legislature to the following special committees:

Building Maintenance

Connealy	Jensen	Smith
Janssen	D. Pederson	Thompson

Education Commission of the States

Fischer	Raikes	Stuhr
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Midwestern Higher Education Commission (Midwest Compact)

Fischer	Raikes
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Legislative Performance Audit

Beutler	Engel	McDonald	Price
Brashear	Erdman	D. Pederson	

Midwest Interstate Passenger Rail Compact

Cornett	Stuthman
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(Signed) Pat Engel, Chairperson
Legislative Council, Executive Board

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 434. Introduced by Cunningham, 40; Combs, 32.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-120 and 48-1,110, Reissue Revised Statutes of Nebraska; to change provisions relating to medical services and fees; to harmonize

provisions; and to repeal the original sections.

LEGISLATIVE BILL 435. Introduced by Cunningham, 40; Combs, 32.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-120, 48-121, and 48-1,110, Reissue Revised Statutes of Nebraska; to change provisions relating to medical fees, compensation for disability, and duration of certain compensation; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 436. Introduced by Combs, 32; Connealy, 16; Preister, 5.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-121, Reissue Revised Statutes of Nebraska; to provide for compensation for permanent disfigurement or scarring as prescribed; and to repeal the original section.

LEGISLATIVE BILL 437. Introduced by Smith, 48; Engel, 17; Erdman, 47; Foley, 29; Hudkins, 21; Jensen, 20; Langemeier, 23; Schrock, 38; Stuhr, 24.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2004; to adopt the Human Cloning Prohibition Act; to provide a penalty; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 438. Introduced by Janssen, 15; Byars, 30; Flood, 19; Pahls, 31.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-310 and 60-315, Reissue Revised Statutes of Nebraska; to provide for Shriners Plates; to change provisions for message plates; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 439. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to grain; to amend sections 75-902, 75-903, 75-905, 88-535, and 88-543, Reissue Revised Statutes of Nebraska, and sections 88-525, 88-526, and 88-528, Revised Statutes Supplement, 2004; to provide for direct ship storage programs as prescribed; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 440. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to adopt the Feedlot Statutory Trust Act.

LEGISLATIVE BILL 441. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to amend section 54-1,108, Reissue Revised Statutes of Nebraska; to change the livestock brand inspection fee; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 442. Introduced by McDonald, 41.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-115, Reissue Revised Statutes of Nebraska; to allow coverage for members of county fair boards and county agricultural societies; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 443. Introduced by McDonald, 41; Schimek, 27.

A BILL FOR AN ACT relating to county government; to amend sections 23-148, 23-296, and 23-297, Reissue Revised Statutes of Nebraska; to change provisions relating to the discontinuance of township organization; to provide powers and duties; to harmonize provisions; to repeal the original sections; to outright repeal section 23-290, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 444. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to child support; to amend sections 43-3342.01 and 43-3342.03, Reissue Revised Statutes of Nebraska; to change provisions relating to the State Disbursement Unit; and to repeal the original sections.

LEGISLATIVE BILL 445. Introduced by Jensen, 20.

A BILL FOR AN ACT relating to physical therapy; to amend sections 71-2801 to 71-2803, 71-2804, 71-2807, and 71-2810, Reissue Revised Statutes of Nebraska, and section 71-101, Revised Statutes Supplement, 2004; to name the Physical Therapy Practice Act; to change and eliminate provisions relating to physical therapists, physical therapist assistants, and physical therapy aides; to harmonize provisions; to repeal the original sections; and to outright repeal sections 71-2803.01, 71-2805, 71-2808, 71-2809, 71-2811, 71-2812, 71-2814 to 71-2817, and 71-2820 to 71-2822, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 446. Introduced by Jensen, 20; Brown, 6; Byars, 30; Combs, 32; Cunningham, 40; Erdman, 47; Howard, 9; Johnson, 37; Kruse, 13; Price, 26; Stuthman, 22.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-168, 71-168.02, and 71-6736, Reissue Revised Statutes of Nebraska, and section 84-712.05, Revised Statutes Supplement, 2004; to adopt the Patient Safety Improvement Act; to harmonize provisions; and to

repeal the original sections.

LEGISLATIVE BILL 447. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to retirement; to amend sections 84-1308 and 84-1331, Revised Statutes Supplement, 2004; to create a health care account for state employees; to change contribution rates; and to repeal the original sections.

LEGISLATIVE BILL 448. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.14, Reissue Revised Statutes of Nebraska, and section 77-2701.16, Revised Statutes Supplement, 2004; to redefine a term; to change provisions relating to a sales and use tax exemption; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 449. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the Nebraska Scholarship Act; to amend section 85-1914, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to the distribution of awards; and to repeal the original section.

LEGISLATIVE BILL 450. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to trade practices; to amend section 87-210, Reissue Revised Statutes of Nebraska; to change provisions for trade name registration; and to repeal the original section.

LEGISLATIVE BILL 451. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to secured transactions; to amend section 52-1312, Reissue Revised Statutes of Nebraska, and section 9-522, Uniform Commercial Code; to change provisions relating to the maintenance and destruction of records; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 452. Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Combs, 32; Connealy, 16; Janssen, 15; Schimek, 27.

A BILL FOR AN ACT relating to cities and villages; to amend sections 19-4801 and 29-424, Revised Statutes Supplement, 2004; to change provisions relating to the issuance of citations for code violations; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 453. Introduced by Cunningham, 40; Baker, 44; Stuthman, 22.

A BILL FOR AN ACT relating to medical radiography; to amend section 71-3519, Reissue Revised Statutes of Nebraska; to create an advisory committee; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 454. Introduced by Combs, 32; Aguilar, 35; Baker, 44; Cornett, 45; Cudaback, 36; Cunningham, 40; Erdman, 47; Fischer, 43; Flood, 19; Friend, 10; Hudkins, 21; Janssen, 15; Jensen, 20; Kremer, 34; Langemeier, 23; McDonald, 41; Pahls, 31; Dw. Pedersen, 39; Redfield, 12; Schrock, 38; Smith, 48; Stuhr, 24; Wehrbein, 2.

A BILL FOR AN ACT relating to handguns; to amend section 28-1202, Reissue Revised Statutes of Nebraska; to adopt the Concealed Handgun Permit Act; to provide penalties; to harmonize provisions; to provide an operative date; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 455. Introduced by Combs, 32; Aguilar, 35; Burling, 33; Cudaback, 36; Cunningham, 40; Erdman, 47; Foley, 29; Heidemann, 1; Kremer, 34; Langemeier, 23; Mines, 18; Pahls, 31; D. Pederson, 42; Redfield, 12; Schrock, 38; Smith, 48; Stuhr, 24; Snowniewiecki, 7.

A BILL FOR AN ACT relating to civil procedure; to prohibit civil actions based on weight gain or obesity in certain circumstances; to define terms; to provide applicability; and to provide a duty for the Revisor of Statutes.

LEGISLATIVE BILL 456. Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to streets and roads; to amend sections 66-4,148 and 66-6,109, Reissue Revised Statutes of Nebraska, and sections 66-4,145 and 66-4,146, Revised Statutes Supplement, 2004; to increase motor fuel taxes; to allocate revenue as prescribed; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 457. Introduced by Cornett, 45; Aguilar, 35; Connealy, 16; Flood, 19; Kruse, 13; Schimek, 27; Stuthman, 22.

A BILL FOR AN ACT relating to driving under the influence; to amend section 60-6,197.03, Reissue Revised Statutes of Nebraska, and section 28-106, Revised Statutes Supplement, 2004; to change penalties relating to driving under the influence; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 458. Introduced by Baker, 44.

A BILL FOR AN ACT relating to telecommunications; to amend section 86-457, Revised Statutes Supplement, 2004; to change provisions relating to a wireless carrier surcharge; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 459. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1401, 49-1449, and 49-14,140, Reissue Revised Statutes of Nebraska; to require committees to pay registration fees; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 460. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to postsecondary education; to amend sections 85-9,177 to 85-9,182, Revised Statutes Supplement, 2004; to rename and change provisions relating to the Minority Scholarship Program Act; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 461. Introduced by Kremer, 34; Aguilar, 35; McDonald, 41.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 16-117 and 79-407, Reissue Revised Statutes of Nebraska; to authorize annexation of redevelopment project areas as prescribed; to define a term; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 462. Introduced by D. Pederson, 42.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-146.02, Reissue Revised Statutes of Nebraska; to provide access to medical records as prescribed; and to repeal the original section.

LEGISLATIVE BILL 463. Introduced by Cunningham, 40.

A BILL FOR AN ACT relating to the Employment Security Law; to amend sections 48-602 and 48-649, Reissue Revised Statutes of Nebraska; to change provisions relating to remuneration subject to tax and the combined tax rate; and to repeal the original sections.

LEGISLATIVE BILL 464. Introduced by Heidemann, 1; Aguilar, 35; Beutler, 28; Byars, 30; Combs, 32; Cornett, 45; Cudaback, 36; Cunningham, 40; Engel, 17; Foley, 29; Friend, 10; Howard, 9; Hudkins, 21; Jensen, 20; Johnson, 37; Kopplin, 3; Kremer, 34; Kruse, 13; Pahls, 31; Dw. Pedersen, 39; Price, 26; Raikes, 25; Schimek, 27; Smith, 48; Stuhr, 24.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-1,121, Reissue Revised Statutes of Nebraska; to change provisions relating to civil protective custody; and to repeal the original section.

LEGISLATIVE BILL 465. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to insurance; to amend sections 44-371 and 44-1089, Reissue Revised Statutes of Nebraska; to change provisions relating to claims of creditors; and to repeal the original sections.

LEGISLATIVE BILL 466. Introduced by Mines, 18.

A BILL FOR AN ACT relating to banks and banking; to amend section 8-143.01, Revised Statutes Supplement, 2004; to change provisions relating to credit report requirements of licensed executive officers; and to repeal the original section.

LEGISLATIVE BILL 467. Introduced by Byars, 30.

A BILL FOR AN ACT relating to schools; to amend sections 79-728, 79-761, 79-809, 79-810, 79-8,136, 79-1101, 79-1103, 79-1142, 79-1144, and 79-1310, Reissue Revised Statutes of Nebraska, and section 9-812, Revised Statutes Supplement, 2004; to adopt the Creating Essential Educational Opportunities for All Students Act; to change provisions relating to allocation of state lottery funds; to create the Beginning Teacher Mentoring and Induction Program; to change provisions relating to kindergarten programs, mentor teacher programs, fees, early childhood education grants, and special education funding; to create a fund; to eliminate the Excellence in Education Council and provisions relating to school technology funding and the School Technology Fund; to harmonize provisions; to repeal the original sections; and to outright repeal section 79-1328, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 468. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to retirement; to amend section 24-708, Revised Statutes Supplement, 2004; to change the retirement benefit for judges; and to repeal the original section.

LEGISLATIVE BILL 469. Introduced by Bourne, 8; D. Pederson, 42.

A BILL FOR AN ACT relating to guardianship; to amend sections 30-2201, 30-2601, 30-2627, and 30-2639, Revised Statutes Supplement, 2004; to adopt the Public Guardianship Act; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 470. Introduced by Johnson, 37.

A BILL FOR AN ACT relating to roads; to provide funding for state highway system projects that meet economic development needs.

LEGISLATIVE BILL 471. Introduced by Loudon, 49; Baker, 44; Byars,

30; Combs, 32; Connealy, 16; Howard, 9; Hudkins, 21; Dw. Pedersen, 39; D. Pederson, 42; Price, 26; Redfield, 12; Schimek, 27; Thompson, 14.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,232, Reissue Revised Statutes of Nebraska; to permit a rotating or flashing amber light on a motor vehicle owned by or operated on behalf of a railroad as prescribed; and to repeal the original section.

LEGISLATIVE BILL 472. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.07, Reissue Revised Statutes of Nebraska, and section 77-2701, Revised Statutes Supplement, 2004; to provide an income tax credit for donations of perpetual conservation easements; to impose a fee on water wells; to harmonize provisions; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 473. Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to elections; to amend section 32-610, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to political parties and filing for office; to repeal the original section; and to outright repeal section 32-718, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 474. Introduced by Jensen, 20; Brown, 6; Mines, 18.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 14-405, 19-905, and 23-165, Reissue Revised Statutes of Nebraska; to change provisions relating to zoning; and to repeal the original sections.

LEGISLATIVE BILL 475. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to state government; to amend section 81-2701, Reissue Revised Statutes of Nebraska; to require a written notice under the State Government Effectiveness Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 476. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to unclaimed property; to amend section 69-1311, Reissue Revised Statutes of Nebraska; to change notice provisions for property presumed abandoned; and to repeal the original section.

LEGISLATIVE BILL 477. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend sections 32-101 and 32-915, Reissue Revised Statutes of Nebraska; to provide for replacement

absentee ballots or provisional ballots as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 478. Introduced by Cornett, 45; Aguilar, 35; Baker, 44; Brown, 6; Byars, 30; Combs, 32; Connealy, 16; Erdman, 47; Flood, 19; Foley, 29; Friend, 10; Janssen, 15; Jensen, 20; Johnson, 37; Kopplin, 3; Kruse, 13; Pahls, 31; Smith, 48; Synowiecki, 7; Thompson, 14.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Reissue Revised Statutes of Nebraska; to exclude military retirement benefits from income taxation; and to repeal the original section.

LEGISLATIVE BILL 479. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to municipal economic development; to amend section 18-2709, Revised Statutes Supplement, 2004; to redefine qualifying business; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 480. Introduced by Thompson, 14; Aguilar, 35; Brown, 6; Byars, 30; Foley, 29; Jensen, 20; Johnson, 37; Kruse, 13; Preister, 5; Price, 26; Raikes, 25; Redfield, 12; Schrock, 38.

A BILL FOR AN ACT relating to the Nebraska Clean Indoor Air Act; to amend sections 71-5701, 71-5702, 71-5703, 71-5704, 71-5708, 71-5710, and 71-5711, Reissue Revised Statutes of Nebraska, and section 71-5707, Revised Statutes Supplement, 2004; to define and redefine terms; to change provisions for smoking in public places; to provide an operative date; and to repeal the original sections.

RESOLUTIONS

LEGISLATIVE RESOLUTION 17CA. Introduced by Chambers, 11.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article V, section 30:

V-30 (1) A Justice or Judge of the Supreme Court or judge of any court of this state may be reprimanded, disciplined, censured, suspended without pay for a definite period of time, ~~not to exceed six months~~, or removed from office for (a) willful misconduct in office, (b) willful disregard of or failure to perform his or her duties, (c) habitual intemperance, (d) conviction of a crime involving moral turpitude, (e) disbarment as a member of the legal profession licensed to practice law in the State of Nebraska, or (f) conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or he or she may be retired for physical or mental disability

seriously interfering with the performance of his or her duties if such disability is determined to be permanent or reasonably likely to become permanent. Any citizen of the State of Nebraska may request the Commission on Judicial Qualifications to consider the qualifications of any Justice or Judge of the Supreme Court or other judge, and in such event the commission shall make such investigation as the commission deems necessary and shall, upon a finding of probable cause, reprimand such Justice or Judge of the Supreme Court or other judge or order a formal open hearing to be held before it concerning the reprimand, discipline, censure, suspension, removal, or retirement of such Justice or Judge of the Supreme Court or other judge. In the alternative or in addition, the commission may request the Supreme Court to appoint one or more special masters who shall be judges of courts of record to hold a formal open hearing to take evidence in any such matter, and to report to the commission. If, after formal open hearing, or after considering the record and report of the masters, the commission finds that the charges are established by clear and convincing evidence, it shall recommend to the Supreme Court that the Justice or Judge of the Supreme Court or other judge involved shall be reprimanded, disciplined, censured, suspended without pay for a definite period of time not to exceed six months, removed, or retired as the case may be.

(2) The Supreme Court shall review the record of the proceedings and in its discretion may permit the introduction of additional evidence. The Supreme Court shall make such determination as it finds just and proper, and may order the reprimand, discipline, censure, suspension, removal, or retirement of such Justice or Judge of the Supreme Court or other judge, or may wholly reject the recommendation. Upon an order for retirement, the Justice or Judge of the Supreme Court or other judge shall thereby be retired with the same rights and privileges as if he or she had retired pursuant to statute. Upon an order for removal, the Justice or Judge of the Supreme Court or other judge shall be removed from office, his or her salary shall cease from the date of such order, and he or she shall be ineligible for judicial office. Upon an order for suspension, the Justice or Judge of the Supreme Court or other judge shall draw no salary and shall perform no judicial functions during the period of suspension. Suspension shall not create a vacancy in the office of Justice or Judge of the Supreme Court or other judge.

(3) Upon order of the Supreme Court, a Justice or Judge of the Supreme Court or other judge shall be disqualified from acting as a Justice or Judge of the Supreme Court or other judge, without loss of salary, while there is pending (a) an indictment or information charging him or her in the United States with a crime punishable as a felony under Nebraska or federal law or (b) a recommendation to the Supreme Court by the Commission on Judicial Qualifications for his or her removal or retirement.

(4) In addition to the procedure set forth in subsections (1) and (2) of this section, on recommendation of the Commission on Judicial Qualifications or on its own motion, the Supreme Court (a) shall remove a Justice or Judge of the Supreme Court or other judge from office when in any court in the United States such justice or judge pleads guilty or no contest to a crime punishable as a felony under Nebraska or federal law, and (b) may suspend

a Justice or Judge of the Supreme Court or other judge from office without salary when in any court in the United States such justice or judge is found guilty of a crime punishable as a felony under Nebraska or federal law or of any other crime that involves moral turpitude. If his or her conviction is reversed, suspension shall terminate and he or she shall be paid his or her salary for the period of suspension. If he or she is suspended and his or her conviction becomes final the Supreme Court shall remove him or her from office.

~~(5) All papers filed with and proceedings before the commission or masters appointed by the Supreme Court pursuant to this section prior to a reprimand or formal open hearing shall be confidential. The filing of papers with and the testimony given before the commission or masters or the Supreme Court shall be deemed a privileged communication.~~

~~When the Commission on Judicial Qualifications determines that disciplinary action is warranted, whether it be a reprimand or otherwise, the Commission on Judicial Qualifications shall issue one or more short announcements confirming that a complaint has been filed; stating the subject and nature of the complaint, the disciplinary action recommended or reprimand issued, or the date of the hearing; clarifying the procedural aspects; and reciting the right of a judge to a fair hearing.~~

~~When the Commission on Judicial Qualifications determines that disciplinary action is not warranted, and the existence of any investigation or complaint has become publicly known, the judge against whom a complaint has been filed or investigation commenced may waive the confidentiality of papers and proceedings under this subsection.~~

The Supreme Court shall by rule provide for procedure under this section before the commission, the masters, and the Supreme Court.

(6) No Justice or Judge of the Supreme Court or other judge shall participate, as a member of the commission, or as a master, or as a member of the Supreme Court, in any proceedings involving his or her own reprimand, discipline, censure, suspension, removal, or retirement.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment relating to disciplinary actions for court judges that eliminates the six-month limitation for suspension of pay for judges and confidentiality restrictions for papers and proceedings.

For

Against.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 18CA. Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article XI, section 1:

XI-1 No city, county, town, precinct, municipality, or other ~~sub-division~~subdivision of the state, shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein of any railroad, or private corporation, or association, except that, notwithstanding any provision of a home rule charter: (1) The Legislature may authorize the funds of any city of the metropolitan or primary class available for such purpose to be invested in securities of the United States, in securities of the State of Nebraska, in the city's own securities, in securities of a county in which such city is located or a school district of such city, in securities of municipally owned and operated public utility property and plants of such city, or in the same manner as funds of the State of Nebraska are invested; and (2) the Legislature may authorize the funds of any city, county, town, precinct, municipality, or other subdivision of the state available for such purpose to be invested under the supervision and direction of a duly authorized state official such as the state investment officer in the same manner as funds of the State of Nebraska are invested.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to provide an exception by legislative authorization for cities of the metropolitan or primary class to invest in specified securities and to provide an exception by legislative authorization for any city, county, town, precinct, municipality, or other subdivision of the state to invest funds in the same manner as funds of the state are invested.

For

Against.

Referred to the Reference Committee.

UNANIMOUS CONSENT - Add Cointroducers

Senator McDonald asked unanimous consent to have her name added as cointroducer to LB 100. No objections. So ordered.

Senators Baker, Brown, and Mines asked unanimous consent to have their names added as cointroducers to LB 273. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 400. No objections. So ordered.

Senator Louden asked unanimous consent to have his name added as cointroducer to LB 414. No objections. So ordered.

Senator Engel asked unanimous consent to have his name added as cointroducer to LBs 454 and 455. No objections. So ordered.

WITHDRAW - Cointroducer

Senator Fischer withdrew her name as cointroducer to LB 266.

VISITORS

Visitors to the Chamber were 14 students and professors from Doane College.

ADJOURNMENT

At 11:17 a.m., on a motion by Senator Raikes, the Legislature adjourned until 10:00 a.m., Friday, January 14, 2005.

Patrick J. O'Donnell
Clerk of the Legislature

