

SEVENTY-NINTH DAY - MAY 17, 2005

LEGISLATIVE JOURNAL

**NINETY-NINTH LEGISLATURE
FIRST SESSION**

SEVENTY-NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, May 17, 2005

PRAYER

The prayer was offered by Senator Smith.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Combs, Engel, and Mines who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventy-eighth day was approved.

**SELECT COMMITTEE REPORTS
Enrollment and Review**

LEGISLATIVE BILL 90A. Placed on Select File.

Correctly Engrossed

The following bills were correctly engrossed: LBs 683 and 683A.

(Signed) Michael Flood, Chairperson

MESSAGE FROM THE GOVERNOR

May 13, 2005

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 82, 161, and 682 were received in my office on May 9, 2005.

These bills were signed by me and delivered to the Secretary of State on May 13, 2005.

Sincerely,
(Signed) Dave Heineman
Governor

ATTORNEY GENERAL'S OPINION

Opinion 05008

DATE: May 12, 2005

SUBJECT: Sale or Lease of the Hastings Correctional Center to a Private Contractor

REQUESTED BY: Carroll Burling, Senator
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Lynn A. Melson, Assistant Attorney General

You have requested our opinion whether current state statutes "allow the state to lease or sell HCC (Hastings Correctional Center) to a private contractor for purposes of incarceration." You note that it was recently announced that HCC will officially close on June 1, 2005 and the facility will then be vacant. It is our understanding that HCC was closed as a facility to house state inmates in 2002, but has been used pursuant to a contract with the federal government as a holding center for detained illegal immigrants.

The operation, leasing and construction of Nebraska prisons by private contractors is governed by the Private Prison Contracting Act. Neb. Rev. Stat. §§ 47-801 to 47-807 (2004). This Act, enacted in 2001, was intended to regulate all private prisons in Nebraska. Committee Records on LB 751, 97th Neb. Leg., 1st Sess. 2-4 (March 1, 2001). (LB 751 was later amended into LB 85). The Act authorizes the Department of Correctional Services (DCS) to provide for incarceration at facilities other than those operated by DCS, to contract for the operation of correctional institutions of the department by private prison contractors and to seek approval, when there is demonstrated need, for the construction of correctional institutions by private prison contractors. Neb. Rev. Stat. § 47-802(1), (2) and (3).

We note that the Act reserves the use of private correctional facilities to DCS, specifically withholding such authority from counties and other political subdivisions. Neb. Rev. Stat. § 47-806. The Act further provides

that a "private prison contractor shall not accept or house federal inmates or inmates from another state." Neb. Rev. Stat. § 47-805. You have inquired about leasing or selling HCC to a private contractor. With regard to leasing Neb. Rev. Stat. § 47-802 (11) specifically provides as follows:

The Director of Administrative Services may lease real property and improvements on such property to a private prison contractor in conjunction with a contract for private management of a state correctional institution located or to be built on the property. The lease may be entered into for a two-year term renewable at the sole option of the State of Nebraska.

Therefore, if the State determines there is a need to again operate HCC as a state correctional institution, this statute would allow the State to lease HCC to a private prison contractor who would then manage the state correctional institution subject to the restrictions of the Private Prison Contracting Act.

If it is determined that HCC is no longer needed by DCS for use as a state correctional institution and the facility is vacant, the sale of the facility may fall within the purview of Neb. Rev. Stat. §§ 72-811 through 72-817 (2003) which concern vacant buildings and excess lands. These statutes create the Vacant Buildings and Excess Lands Committee which is authorized to declare a building or land to be vacant or excess and may then dispose of the building or land "through sale, lease, demolition or otherwise." Neb. Rev. Stat. § 72-813. However, while these statutes set out the procedure for sale or lease of state property under these circumstances, it is doubtful that the property could be sold to a private contractor for incarceration purposes as it appears that private prisons in Nebraska are limited to those which are governed by the Private Prison Contracting Act discussed above. While that Act itself does not expressly prohibit private prisons other than those operated through a contract with DCS, the Act does not allow a county or other political subdivision to contract with a private prison contractor and prohibits private prison contractors from accepting federal inmates or inmates from another state. Neb. Rev. Stat. §§ 47-805 and 47-806. Therefore, the net effect of the Act is to preclude private prisons other than those operating under a contract with DCS. In our view, after a determination by the Committee that the building is vacant, HCC could only be sold or leased to a private entity for purposes other than a private prison.

Sincerely,
JON BRUNING
Attorney General
(Signed) Lynn A. Melson
Assistant Attorney General

AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 116:
AM1462

(Amendments to Standing Committee amendments, AM1130)

- 1 1. Insert the following new section:
- 2 "Sec. 11. Section 43-2911, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 43-2911. The costs of the mediation or remediation
- 5 process shall be paid by the parties on an equal-share basis
- 6 according to each party's ability to pay or on a sliding fee scale.
- 7 If a court refers a case to court-based mediation or remediation,
- 8 there shall be no fee."
- 9 2. On page 3, line 6, after "(1)" insert "For purposes
- 10 of this section:
- 11 (a) Abuse has the same meaning as in section 42-903;
- 12 (b) Family or household member has the same meaning as in
- 13 section 42-903;
- 14 (c) Joint legal custody means shared authority and
- 15 responsibility of the parents for making fundamental decisions
- 16 regarding the child's welfare, including choices regarding
- 17 education and health; and
- 18 (d) Joint physical custody means shared authority and
- 19 responsibility of the parents regarding the child's place of
- 20 residence and the exertion of continuous physical custody by both
- 21 parents over the child for significant periods of time.
- 22 (2); and in line 16 after "ongoing" insert
- 23 "substantial".
- 1 3. On page 9, line 13, after "(6)" insert "(a) When
- 2 determining custody arrangements of a minor child, the court shall
- 3 give first consideration to placing the minor child in joint legal
- 4 custody. The custody determination of the court shall include both
- 5 the determination of legal custody of the child and the
- 6 determination of physical custody of the child as separate and
- 7 independent issues;
- 8 (b), after "joint" insert "legal", and after "custody"
- 9 insert "only"; in line 15 after "joint" insert "legal"; and in line
- 10 18 after the period insert "The court need not consider joint legal
- 11 custody or joint physical custody if it finds credible evidence of
- 12 abuse inflicted upon any family or household member; and
- 13 (c) A decree ordering joint legal custody or joint
- 14 physical custody shall specify each parent's separate or shared
- 15 role and responsibility to make decisions regarding the minor
- 16 child. A decree may include a parenting plan developed pursuant to
- 17 the Parenting Act."
- 18 4. Renumber the remaining sections and correct internal
- 19 references accordingly and correct the operative date and repealer
- 20 provisions so that the section added by this amendment becomes
- 21 operative three calendar months after adjournment of this
- 22 legislative session.

SELECT FILE

LEGISLATIVE BILL 364. E & R amendment, AM7094, found on page 1408, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 312. E & R amendment, AM7100, printed separately and referred to on page 1513, was adopted.

Senator Beutler asked unanimous consent to withdraw his pending amendment, FA255, found on page 1437, and replace it with his substitute amendment, AM1623. No objections. So ordered.

AM1623

(Amendments to E & R amendments, AM7100)

- 1 1. Insert the following new section:
- 2 "Sec. 26. Distressed area means a municipality that has
- 3 had a population decrease between the two most recent federal
- 4 decennial censuses, an unincorporated area within a county that has
- 5 had a population decrease between the two most recent federal
- 6 decennial censuses, a designated federal enterprise zone, and a
- 7 census tract that based on the most recent federal decennial census
- 8 data available has less than eighty percent of the statewide per
- 9 capita income."
- 10 2. On page 50, line 15, strike "52" and insert "53"; and
- 11 in line 24 strike "39" and insert "40".
- 12 3. On page 64, line 16, after "employees" insert "if the
- 13 average wage of the new employees equals at least seventy percent
- 14 of the Nebraska average annual wage for the year of application or,
- 15 for a project in a distressed area, at least sixty percent of the
- 16 Nebraska average annual wage for the year of application"; and in
- 17 line 18 after "least" insert "eighty-five percent of the Nebraska
- 18 average annual wage for the year of application or, for a project
- 19 in a distressed area, at least".
- 20 4. On page 65, line 4, after "least" insert "seventy
- 21 percent of the Nebraska average annual wage for the year of
- 22 application or, for a project in a distressed area, at least".
- 23 5. Renumber the remaining sections and correct internal
- 1 references accordingly.

Senator Beutler moved for a call of the house. The motion prevailed with 15 ayes, 1 nay, and 33 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Beutler	Fischer	Kruse	Price	Thompson
Byars	Howard	Louden	Raikes	Wehrbein
Chambers	Janssen	Pedersen, Dw.	Schimek	
Engel	Kopplin	Preister	Synowiecki	

Voting in the negative, 9:

Burling	Cornett	Erdman	Langemeier	Smith
Connealy	Cunningham	Flood	Redfield	

Present and not voting, 19:

Aguilar	Brown	Heidemann	Landis	Schrock
Baker	Cudaback	Jensen	McDonald	Stuhr
Bourne	Foley	Johnson	Pahls	Stuthman
Brashear	Friend	Kremer	Pederson, D.	

Excused and not voting, 3:

Combs	Hudkins	Mines
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The Beutler amendment lost with 18 ayes, 9 nays, 19 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Beutler asked unanimous consent to withdraw his pending amendment, FA256, found on page 1437, and replace it with his substitute amendment, AM1622. No objections. So ordered.

AM1622

(Amendments to E & R amendments, AM7100)

- 1 1. Insert the following new section:
- 2 "Sec. 53. (1) On January 1, 2006, and each January 1
- 3 thereafter, an employer shall submit on a form and in a manner
- 4 approved by the Tax Commissioner:
- 5 (a) The amount spent by the employer in the year
- 6 immediately preceding the previous calendar year on health
- 7 insurance costs in the state; and
- 8 (b) The percentage of payroll that was spent by the
- 9 employer in the year immediately preceding the previous calendar
- 10 year on health insurance costs in the state.
- 11 (2) The Tax Commissioner shall adopt and promulgate rules
- 12 and regulations that specify the information that an employer shall
- 13 submit under this section.
- 14 (3) The information required shall be in a report signed
- 15 by the principal executive officer or an individual performing a
- 16 similar function and include an affidavit under penalty of perjury
- 17 that the information was reviewed by the signing officer and is
- 18 true to the best of the signing officer's knowledge, information,

19 and belief.

20 (4) When calculating the percentage of payroll under
21 subsection (1) of this section, an employer may exempt wages paid
22 to any employee beyond the amount taxable for federal Social
23 Security purposes and wages paid to an employee who is enrolled in
1 or eligible for medicare.

2 (5) An employer that does not spend up to six percent of
3 the total wages paid to employees in the state on health insurance
4 costs shall pay to the Tax Commissioner an amount equal to the
5 difference between what the employer spends for health insurance
6 costs and an amount equal to eight percent of the total wages paid
7 to employees in the state. An employer may not deduct any payment
8 made under this subsection from the wages of an employee. An
9 employer shall make the payment required under this section to the
10 Tax Commissioner on a periodic basis as determined by the Tax
11 Commissioner. The Tax Commissioner shall remit any money collected
12 under this subsection to the State Treasurer for credit to the Fair
13 Share Health Care Fund, which is created. Any money in the fund
14 available for investment shall be invested by the state investment
15 officer pursuant to the Nebraska Capital Expansion Act and the
16 Nebraska State Funds Investment Act.

17 (6) Failure to report in accordance with this section
18 shall result in the imposition by the Tax Commissioner of a civil
19 penalty of two hundred fifty dollars for each day that the report
20 is not timely filed.

21 (7) Failure to make the payment required under this
22 section shall result in the imposition by the Tax Commissioner of a
23 civil penalty of five thousand dollars for each day the payment or
24 any portion thereof is late.

25 (8) For purposes of this section:

26 (a) Employee means all individuals who are Nebraska
27 employees and who are employed for twenty or more hours per week
1 directly by an employer;

2 (b) Employer means any employer receiving tax credits or
3 incentives under the Nebraska Advantage Act; and

4 (c) Health insurance costs means the amount paid by an
5 employer to provide health care or health insurance to employees in
6 the state to the extent deductible by the employer under federal
7 tax law. Health insurance costs includes payments for medical
8 care, prescription drugs, vision care, medical savings accounts,
9 and any other costs to provide health benefits as defined in
10 section 213(d) of the Internal Revenue Code of 1986.

11 (9) This section applies to an employer beginning in the
12 calendar year when tax credits or incentives are first received
13 under the act and for the following fifteen years.

14 (10) This section does not apply to an employer whose
15 health care benefits are substantially comparable, as determined by
16 the Tax Commissioner, to those offered to employees of the State of
17 Nebraska for calendar year 2004 if the employer is paying at least

- 18 seventy-nine percent of the cost of such benefits.
 19 (11) The Tax Commissioner may adopt and promulgate rules
 20 and regulations to carry out this section."
 21 2. On page 50, line 15, strike "52" and insert "53".
 22 3. Renumber the remaining sections and correct internal
 23 references accordingly.

Senator Beutler moved for a call of the house. The motion prevailed with 24 ayes, 1 nay, and 24 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 14:

Aguilar	Howard	Louden	Price	Synowiecki
Beutler	Johnson	Pedersen, Dw.	Raikes	Thompson
Chambers	Kruse	Preister	Schimek	

Voting in the negative, 12:

Baker	Connealy	Kremer	Smith
Brown	Flood	Langemeier	Stuthman
Burling	Friend	Redfield	Wehrbein

Present and not voting, 20:

Bourne	Cunningham	Foley	Kopplin	Pahls
Brashear	Engel	Heidemann	Landis	Pederson, D.
Byars	Erdman	Janssen	McDonald	Schrock
Cudaback	Fischer	Jensen	Mines	Stuhr

Excused and not voting, 3:

Combs	Cornett	Hudkins
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The Beutler amendment lost with 14 ayes, 12 nays, 20 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Beutler asked unanimous consent to withdraw his pending amendment, FA257, found on page 1437, and replace it with the Synowiecki substitute amendment, AM1609. No objections. So ordered. AM1609

(Amendments to E & R amendments, AM7100)

1. On page 64, line 20, before the period insert "or if
2 the average wage of the new employees equals at least sixty percent
3 of the Nebraska average annual wage and the taxpayer offers to pay
4 at least fifty percent of the premium for a health benefit plan for

5 all new employees for the year of application"; and in line 24
6 before the period insert "or if the average wage of the new
7 employees equals at least seventy-five percent of the Nebraska
8 average annual wage and the taxpayer offers to pay at least fifty
9 percent of the premium for a health benefit plan for all new
10 employees for the year of application".
11 2. On page 65, line 1, strike "average" and insert ";
12 (a) Average"; in line 5 strike "and" and insert ";
13 (b) Health benefit plan has the same meaning as in
14 section 44-5242;
15 (c)"; and in line 7 before the period insert "; and
16 (d) Premium means all money paid by the taxpayer and new
17 employee as a condition of receiving coverage under a health
18 benefit plan, including any fees or other contributions associated
19 with the health benefit plan".

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

Senator Synowiecki requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Aguilar	Cudaback	Heidemann	Kruse	Price
Beutler	Cunningham	Howard	Louden	Schimek
Byars	Engel	Janssen	Pedersen, Dw.	Synowiecki
Chambers	Fischer	Kopplin	Preister	Thompson

Voting in the negative, 2:

Baker	Smith
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Present and not voting, 22:

Bourne	Erdman	Johnson	Pahls	Stuhr
Brashear	Flood	Kremer	Pederson, D.	Wehrbein
Brown	Foley	Landis	Raikes	
Burling	Friend	Langemeier	Redfield	
Connealy	Jensen	Mines	Schrock	

Excused and not voting, 5:

Combs	Cornett	Hudkins	McDonald	Stuthman
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The Synowiecki amendment lost with 20 ayes, 2 nays, 22 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENT - Print in Journal

Senator Schimek filed the following amendment to LB 566:
(Amendment, AM0993, is printed separately and available in the Bill Room, Room 1104.)

STANDING COMMITTEE REPORT
General Affairs

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

Robert E. Logsdon - Nebraska Liquor Control Commission

VOTE: Aye: Senators Connealy, Fischer, Friend, Janssen, Landis. Nay: None. Absent: Senators Cornett, Erdman, Wehrbein.

(Signed) Ray Janssen, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 117. Introduced by Foley, 29.

PURPOSE: The purpose of this resolution is to study employee wage collection after the close of each pay period. The study shall specifically focus on the length of time allowable under current law in which an employer shall remit wages after the close of each pay period. The widespread use of electronic technologies suggests that it may be possible to require an acceleration of the payment of wages after the close of pay periods without causing undue hardship to employers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 118. Introduced by Schrock, 38.

PURPOSE: To study issues relating to earmarking of personal property tax revenue from irrigation equipment, pumps, motors, pipes, and pivots for natural resources districts.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 119. Introduced by Schrock, 38.

PURPOSE: The Department of Natural Resources has jurisdiction over all dams in high hazard locations regardless of size or storage capacity and all other dams having a height of 25 feet or more or having a storage capacity of 50 acre-feet or more. The department insures that all jurisdictional dams are designed properly, taking into account downstream improvements which may directly impact on the assigned hazard classification of the dam and issues storage and use permits as appropriate. Nebraska has over 2,000 permitted dams built to the appropriate hazard classification at the time of construction with approximately 1,700 low-hazard dams, 250 significant hazard dams, and 100 high hazard dams. The construction of certain improvements, such as houses, businesses, roads, etc., downstream of existing dams can result in an upgrade of the hazard classification by the department if those improvements are in the area that would be flooded (breach inundation area) should the dam fail. Upgrading of the hazard classification by the department will result in an order to the owner of the dam requiring the owner of the dam to take "necessary action" to correct deficiencies and defects in order that the dam be operated and maintained in a safe condition. The Natural Resources Committee of the Legislature should study this issue in conjunction with the department, natural resources districts, the Nebraska Association of County Officials, the League of Municipalities, and others to develop a solution to keep downstream improvements from being located in potentially hazardous locations downstream of existing dams.

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

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 120. Introduced by Schrock, 38.

PURPOSE: The purpose of this study is to examine the concept of

developing special hunting permits for big game and determine the impacts of such permits.

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

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 121. Introduced by Schrock, 38.

PURPOSE: To examine the Livestock Waste Management Act and the federal Concentrated Animal Feeding Operations rules and regulations and their economic impact on the small and medium-sized animal operations in the State of Nebraska.

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

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 122. Introduced by Schrock, 38.

PURPOSE: The purpose of this study is to examine livestock operation transfers, including, but not limited to, notice of such transfers.

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

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 123. Introduced by Heidemann, 1.

WHEREAS, Michael Keslar of Syracuse, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement of rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot; Second Class; First Class; Star; Life; and finally, Eagle. Throughout his Scouting experience, Michael Keslar has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his Eagle Scout community service project, Michael designed and built enclosed dugouts at the Syracuse Elementary School ball field, a field which is widely used by all ages; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates Michael Keslar on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Michael Keslar.

Laid over.

LEGISLATIVE RESOLUTION 124. Introduced by Heidemann, 1.

WHEREAS, Cody Busekist of Syracuse, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement of rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot; Second Class; First Class; Star; Life; and finally, Eagle. Throughout his Scouting experience, Cody Busekist has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his Eagle Scout community service project, Cody developed and led a project to build a scoreboard at a local baseball field used daily by the youth of Syracuse; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates Cody Busekist on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Cody Busekist.

Laid over.

LEGISLATIVE RESOLUTION 125. Introduced by Friend, 10; Erdman, 47; Foley, 29; Jensen, 20; Langemeier, 23; Redfield, 12; Schimek, 27.

WHEREAS, in October 1879 the Nebraska band program was founded within the military department of the University of Nebraska; and

WHEREAS, under the direction of Samuel B. Hohman, the University of Nebraska Military Cadet Band made its first official performance in April 1880 at the military department's annual dress parade; and

WHEREAS, in 1893 the first "halftime" show was performed during a football game at the suggestion of the university's military commander, Lt. John J. Pershing; and

WHEREAS, following World War I, when the university's military department was reorganized into the Reserve Officer Training Corps, the band became known as the R. O. T. C. Band; and

WHEREAS, during Billy Quick's tenure as director from 1918 to 1937, the band began performing as a concert ensemble as well as marching unit; and

WHEREAS, in 1927 John Philip Sousa presented a silver cup to the Nebraska band as a reward for attaining the United States War Department's "Blue Star Rating" for meeting exemplary standards; and

WHEREAS, in 1938 the band became independent of the university's military department; and

WHEREAS, Band Day flourished under the direction of director Donald Lenz and included high school bands from across Nebraska who performed at halftime of one of the Nebraska football games each year from the 1920s until 1971; and

WHEREAS, director Jack R. Snider introduced the solo twirler to the band in 1961 and Dr. Robert A. Fought ushered women into the band in 1974 through Title IX and also introduced the flag line to audiences in 1975; and

WHEREAS, in 1996 the Cornhusker Marching Band was the recipient of the prestigious Sudler Trophy presented by the John Philip Sousa Foundation for excellence and leadership in collegiate marching bands; and

WHEREAS, the University of Nebraska's marching and concert ensembles have performed in front of national and international audiences; and

WHEREAS, the University of Nebraska Band Program has provided superior musical experiences and life-long fellowship for generations of student musicians and has served as a steadfast exemplar of school spirit and tradition throughout its 125-year history; and

WHEREAS, that through the leadership of many directors and the involvement of countless student musicians, the University of Nebraska Band Program celebrates its 125th Anniversary.

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

1. That the Legislature celebrates the history and accomplishments of one

of the finest collegiate band programs in the country.

2. That a copy of this resolution be sent to the University of Nebraska-Lincoln School of Music.

Laid over.

LEGISLATIVE RESOLUTION 126. Introduced by Raikes, 25.

WHEREAS, Ryan Shoemaker, son of Dave and Karen Shoemaker, of Lincoln, Nebraska, and David Sievers, son of LeRoy and Jane Sievers, also of Lincoln, have completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout their Scouting experience, Ryan Shoemaker and David Sievers have learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. Ryan Shoemaker, for his Eagle Scout community service project, organized a benefit concert for the Lincoln Food Bank that was called the "PB&J Bash". David Sievers, for his Eagle Scout community service project, developed the outdoor sports area for the East Lincoln Christian Church; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Ryan Shoemaker and David Sievers received the rank of Eagle Scout, thereby, through their hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes.

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

1. That the Legislature congratulates Ryan Shoemaker and David Sievers on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Ryan Shoemaker and David Sievers.

Laid over.

LEGISLATIVE RESOLUTION 127. Introduced by Cornett, 45.

WHEREAS, Mark Borytsky, Jr., has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of

leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Mark Borytsky, Jr., has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates Mark Borytsky, Jr., on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Mark Borytsky, Jr.

Laid over.

LEGISLATIVE RESOLUTION 128. Introduced by Cornett, 45.

WHEREAS, Doug McAcy has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Doug McAcy has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates Doug McAcy on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Doug McAcy.

Laid over.

LEGISLATIVE RESOLUTION 129. Introduced by Cornett, 45.

WHEREAS, Joshua Brown has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement

rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Joshua Brown has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates Joshua Brown on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Joshua Brown.

Laid over.

LEGISLATIVE RESOLUTION 130. Introduced by Cornett, 45.

WHEREAS, Grant Coultas has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Grant Coultas has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

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

1. That the Legislature congratulates Grant Coultas on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Grant Coultas.

Laid over.

LEGISLATIVE RESOLUTION 131. Introduced by Cornett, 45.

WHEREAS, George Lamperti III has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, George Lamperti III has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, George's Eagle Project involved improvements to the parish library of St. Mary's Catholic Church, including waterproofing and the building of new bookcases.

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

1. That the Legislature congratulates George Lamperti III on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to George Lamperti III.

Laid over.

LEGISLATIVE RESOLUTION 132. Introduced by Cornett, 45.

WHEREAS, Scott Johnson has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Scott Johnson has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Scott's Eagle Project involved improvements to the Senior High Room at St. James United Methodist Church, including repairing and repainting walls and installing new furnishings.

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

1. That the Legislature congratulates Scott Johnson on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Scott Johnson.

Laid over.

LEGISLATIVE RESOLUTION 133. Introduced by Cornett, 45.

WHEREAS, Preston Schweiger has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Preston Schweiger has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Preston's Eagle Project involved scraping and repainting the fitness course, shelters, and tables in the city park in the Golden Hills neighborhood.

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

1. That the Legislature congratulates Preston Schweiger on achieving the rank of Eagle Scout.
2. That a copy of this resolution be sent to Preston Schweiger.

Laid over.

LEGISLATIVE RESOLUTION 134. Introduced by Janssen, 15.

PURPOSE: The purpose of this study is to investigate the implications of a bill that would exempt amounts levied by political subdivisions to satisfy the fees provided in section 33-114 from statutory levy limitations. Section 33-114 authorizes county treasurers to receive fees on behalf of their respective counties for taxes collected on behalf of other political subdivisions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 135. Introduced by Kremer, 34.

PURPOSE: The purpose of this interim study is to examine current law and policy pertaining to security requirements of licensees under the Grain Warehouse Act and Grain Dealer Act. It is the goal of the study to examine means to increase the affordability and availability of security for storage and dealer transactions and to explore other means that may be made available to producers and other participants in such transactions to insure payment and the value of grain involved.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 136. Introduced by Foley, 29.

PURPOSE: The purpose of this resolution is to examine the Universal Service Fund (USF). The study shall specifically focus on the following issues:

(1) A review of the USF rate charged in Nebraska as contrasted with other jurisdictions;

(2) An examination of why the Public Service Commission has not revised the USF rate in Nebraska while other jurisdictions have revised the rate;

(3) A review of the policy considerations associated with the payment of USF subsidies to wire-line companies while not making payments to wireless companies; and

(4) The advisability of the current statewide rate parity policy to determine whether it discourages competition and efficiency.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 137. Introduced by Connealy, 16.

PURPOSE: The purpose of this study is to explore the need to find a dependable funding source for capital construction and renovation projects

for higher education and state government. The study shall include, but not be limited to:

- (1) An inventory of the existing state government capital needs;
- (2) The history of state investment in capital facilities;
- (3) The potential use of bonding to provide a source of revenue such as that provided in LB 1100 passed in 1998;
- (4) Potential dedicated revenue sources for capital facilities;
- (5) Efforts which have been undertaken in other states to provide a predictable source of revenue to take care of capital needs; and
- (6) Other issues raised through the introduction of LB 605, Ninety-ninth Legislature, First Session.

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

1. That a 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.

MESSAGES FROM THE GOVERNOR

May 16, 2005

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

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed as Superintendent of the Nebraska State Patrol.

APPOINTEE:

Major Bryan Tuma, 5421 NW Fairway Drive, Lincoln NE 68521

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Dave Heineman
Governor

web/
Enclosure

May 16, 2005

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

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed as Director of the Department of Agriculture.

APPOINTEE:

Greg Ibach, Department of Agriculture, 301 Centennial Mall South, Lincoln NE 68509

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Dave Heineman
Governor

web/
Enclosure

May 16, 2005

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

Dear Mr. President, Speaker Brashear and Senators:

Although Neb. Rev. Stat. section 81-1242 does not require your confirmation of my appointment of the Executive Director for the Nebraska Commission on Law Enforcement and Criminal Justice, I am writing to provide you with a formal note that I have appointed Mike Behm to this position. He will assume this position effective May 25, 2005.

Sincerely,
(Signed) Dave Heineman
Governor

web/

SELECT FILE

LEGISLATIVE BILL 312. Senator Connealy asked unanimous consent to withdraw the Connealy et al. pending amendment, AM1471, found on page 1402, and replace it with the Connealy, Baker, Janssen, Landis, Preister, and Redfield substitute amendment, AM1608. No objections. So ordered.

(Amendment, AM1608, is printed separately and available in the Bill Room, Room 1104.)

Senator Connealy offered the following amendment to the Connealy et al. pending amendment:

FA269

Amend AM1608

On page 26, lines 17 and 23 and page 28, line 19 strike "may" and insert "shall".

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

The Connealy et al. amendment, AM1608, as amended, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Senator Chambers renewed his pending amendment, FA258, found on page 1437.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 138. Introduced by Schrock, 38.

PURPOSE: To study issues relating to elimination of personal property tax on agricultural property and changing agricultural land valuation, except grassland, from 80% of market value to 85% of market value.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 45 eighth-grade students and teachers from Our Lady of Lourdes School, Omaha; 72 fourth-grade students and teachers from J. Sterling Morton Elementary School, Omaha; and Rotarians from Hastings and the Philippines.

RECESS

At 12:02 p.m., on a motion by Senator Janssen, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Byars, Cornett, and Cunningham who were excused until they arrive.

SELECT FILE

LEGISLATIVE BILL 312. Senator Chambers renewed his pending amendment, FA258, found on page 1437 and considered in this day's Journal.

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

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Aguilar	Cudaback	Kopplin	Preister	Synowiecki
Brown	Howard	Kruse	Price	Thompson
Chambers	Janssen	Mines	Raikes	
Connealy	Johnson	Pedersen, Dw.	Schimek	

Voting in the negative, 16:

Baker	Fischer	Hudkins	Smith
Burling	Foley	Jensen	Stuhr
Engel	Friend	Kremer	Stuthman
Erdman	Heidemann	Langemeier	Wehrbein

Present and not voting, 12:

Beutler	Combs	Louden	Pederson, D.
Bourne	Flood	McDonald	Redfield
Brashear	Landis	Pahls	Schrock

Excused and not voting, 3:

Byars	Cornett	Cunningham
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The Chambers amendment lost with 18 ayes, 16 nays, 12 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 529:
AM1307

- 1 1. In the Standing Committee amendments, AM0215:
- 2 a. Strike amendment 2;
- 3 b. On page 1, strike beginning with the semicolon in
- 4 line 21 through the last quotation mark in line 22; and
- 5 c. Renumber the remaining amendments accordingly.
- 6 2. On page 3, strike beginning with the first "the" in
- 7 line 22 through line 26 and insert "there shall be a clerk of the
- 8 district court position if there was such a position on the
- 9 operative date of this section or the county clerk will be the ex
- 10 officio clerk of the district court and perform the duties of the
- 11 position of clerk of the district court if he or she was performing
- 12 such duties on such date.".
- 13 3. On page 4, strike beginning with the comma in line 5
- 14 through "are" in line 6 and insert ". Until the position of clerk
- 15 of the district court is a state position, such appointment shall
- 16 be subject to the approval of the appropriate county board and the
- 17 appointed clerk shall be subject to removal for cause by the
- 18 appropriate county board. After the position of clerk of the
- 19 district court is a state position, an appointed clerk shall serve
- 20 at the pleasure of the district court judges and the appointed
- 21 clerk is"; strike lines 8 through 16 and insert the following new
- 22 subsection:
- 23 "(3) Each person serving as an elected clerk of the
- 24 district court on the operative date of this section may serve the
- 1 remainder of his or her term of office. After the term is
- 2 completed, such clerk may continue to serve as the clerk of the
- 3 district court unless removed for cause or unless the position is
- 4 consolidated under section 1 of this act, and during such service
- 5 the clerk may be removed for cause by the appropriate county
- 6 board."; in line 19 strike "appointed"; and in line 24 strike "7"
- 7 and insert "4".
- 8 4. On page 6, line 27, strike the first "of the" and
- 9 insert "and separate juvenile court judges of the district court";
- 10 and in line 28 after "the" insert "county court".
- 11 5. On page 8, line 6, after "(1)" insert "During the
- 12 time before becoming state employees pursuant to section 1 or 2 of
- 13 this act, employees who will become transferred employees shall
- 14 receive annual pay increases from the county of no less than the
- 15 average pay increase for other county officials for the year.";
- 16 strike beginning with "Nothing" in line 21 through line 25 and
- 17 insert "An employee of the district court who is working at least
- 18 thirty-five hours per week as of January 1, 2005, and is considered

19 a full-time employee by the county as of such date shall have his
20 or her salary proportionately increased upon becoming a state
21 employee pursuant to section 1 or 2 of this act if the employee is
22 required to work additional hours per week. An employee of the
23 county court at the time of consolidation shall continue employment
24 unless removed for cause pursuant to personnel rules adopted by the
25 Supreme Court.".

26 6. On page 9, lines 8 and 28, after the period insert

27 "The reimbursement to the employee shall be made prior to the
1 reimbursement to the state and payments by a county to an employee
2 shall be made in the county's final paycheck to the employee,
3 except that the county is not required to make payments to an
4 employee or to the state that exceed the estimated amount of the
5 savings realized from the transfer of employees to state employment
6 in any budget year."; in line 12 after "county" insert "and state";
7 and in line 14 after the period insert "For purposes of calculating
8 the number of hours of sick leave to be granted, past county and
9 state employment includes continuous years of service and years of
10 service of an employee prior to termination of employment with the
11 state or a county for any reason other than for disciplinary
12 reasons if such employee returned to state or county employment
13 within five years from the date of termination.".

14 7. On page 9, line 15, and page 10, line 7, after

15 "state" insert "within a reasonable time".

16 8. On page 10, line 4, after "county" insert "and

17 state"; and in line 6 after the period insert "For purposes of
18 calculating the number of hours of vacation leave to be granted,
19 past county and state employment includes continuous years of
20 service and years of service of an employee prior to termination of
21 employment with the state or a county for any reason other than for
22 disciplinary reasons if such employee returned to state or county
23 employment within five years from the date of termination.".

24 9. On page 11, after line 7 insert:

25 "(7) No interest shall accrue on payments required by
26 this section.".

27 10. On page 16, line 12, strike "elected"; and in line

1 14 after "board" insert ". Bond is required for clerks of the
2 district court until the position becomes one of a state employee".

3 11. On page 18, line 13, and page 19, line 2, strike

4 "elected" and after "court" insert "required to be bonded under
5 section 11-119".

6 12. On page 23, lines 19 and 20, strike the new matter

7 and insert "county courts, district courts".

8 13. On page 29, line 16, before the comma insert

9 "pursuant to section 1 of this act"; and strike the new matter in
10 lines 24 through 26 and insert "Except in counties where a judicial
11 administrator, as defined by the Supreme Court, serves as clerk of
12 the county court, the presiding judge shall assign the magistrate
13 duties to the clerk of the county court if there is a clerk of the

14 county court or to".

15 14. On page 44, line 2, after "sections" insert

16 "33-106.02".

17 15. On page 46, lines 14 and 19, before "clerk" insert

18 "date that the"; and in line 21 after "funds" insert ", except

19 reimbursement funds for indirect costs," and after the period

20 insert "For reimbursement funds for indirect costs, the State Court

21 Administrator, in consultation with the counties, shall determine

22 which indirect costs shall be certified to the federal government

23 by the counties and which indirect costs shall be certified to the

24 federal government by the state.".

RESOLUTIONS

LEGISLATIVE RESOLUTION 139. Introduced by Baker, 44.

PURPOSE: To review laws and regulations including, but not limited to, allowable vehicle dimensions, weights, and fees as they pertain to increasing efficiency and commerce within the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 140. Introduced by Baker, 44.

PURPOSE: To examine the State of Nebraska's current laws and procedures regarding the dissemination or sale of motor vehicle records disclosure, personal information, and other citizen information in electronic format. Recent highly publicized misappropriations of information by national information resellers have compromised the safety and security of citizens. The purpose of this study is to determine if current laws and practices strike an appropriate balance between providing access to information for legitimate business uses and limiting access for illegitimate uses, to analyze developments in this area, and to make recommendations as necessary.

The committee shall request input from the State Records Board and the Department of Motor Vehicles in reviewing the subject matter of this study.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 141. Introduced by Baker, 44.

PURPOSE: The purpose of this study is to examine matters and issues within the jurisdiction of the Transportation and Telecommunications Committee of the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 142. Introduced by Baker, 44.

PURPOSE: To examine the motor vehicle titling laws of the various states regarding the allowable timeframe in which a lienholder must deliver a motor vehicle title after discharge of the lien. Laws 2005, LB 276, section 64 requires the lienholder to deliver the title within fifteen days after payment is received. The study shall compare this time limitation with that of other states and whether any steps may be taken to reduce the length of time in which a title is delivered, particularly when the lienholder resides outside Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 143. Introduced by Baker, 44.

PURPOSE: An integral part of the public safety network is 911 emergency telephone service. Pursuant to the Emergency Telephone Communications Systems Act, individual cities and counties are responsible for the implementation of landline 911 service in their area. They are permitted to impose a uniform service surcharge to cover costs associated with the

purchase, installation, maintenance, and operation of landline 911 service. Except for cities of the metropolitan class, the surcharge may not exceed one dollar. The surcharge imposed by cities of the metropolitan class may not exceed fifty cents. The Public Service Commission currently administers the Enhanced Wireless 911 Fund and oversees implementation of enhanced wireless 911 services throughout the state pursuant to the Enhanced Wireless 911 Services Act. Annually, the commission reviews and determines the level of surcharge necessary to carry out the Enhanced Wireless 911 Services Act. The surcharge may not exceed 50 cents per subscriber.

This study shall investigate issues related to the current state of landline and enhanced wireless 911 service and the means to ensure statewide access to landline 911 and enhanced wireless 911 service for all Nebraska residents. Input shall be solicited from the Public Service Commission, landline telecommunications carriers, wireless telecommunications carriers, counties, municipalities, public safety answering points, and the public.

Study topics shall include, but need not be limited to, the following areas:

- (1) Issues relating to landline 911, including:
 - (a) Analyzing the current status of landline 911 in each county;
 - (b) The rate of the surcharge established by each county; and
 - (c) The use of the surcharge funds collected;
- (2) Issues related to enhanced wireless 911, including:
 - (a) Analyzing the current status of enhanced wireless 911 in Nebraska;
 - (b) Analyzing how other states have implemented Phase I and Phase II of enhanced wireless service;
 - (c) Reimbursement of costs of wireless service providers; and
 - (d) Modification of the distribution of the wireless surcharge;
- (3) Issues relating to the consolidation of oversight of landline and wireless 911, including:
 - (a) Funding mechanisms;
 - (b) Administration of programs; and
 - (c) Costs, including those related to software, networks, and equipment;
- (4) Issues related to consolidation of public safety answering points, including:
 - (a) Impacts on local dispatch of emergency services;
 - (b) Issues related to stranded investment;
 - (c) Administration and oversight;
 - (d) Costs, including, but not limited to, software, equipment, and network;
- (5) The use of federal homeland security funding or other federal funding to fund projects in Nebraska; and
- (6) Any other issues arising during the course of the study relevant to furthering access to enhanced wireless 911 service.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 144. Introduced by Baker, 44.

PURPOSE: Pursuant to the Nebraska Telecommunications Universal Service Fund Act, Neb. Rev. Stat. sections 86-316 to 86-329 (Cum. Supp. 2004), the policy of the State of Nebraska to preserve and advance universal service is based on the following principles: Quality telecommunications and information services at just, reasonable, and affordable rates for all consumers in all regions of the state, including low-income and those in rural and high-cost areas; access to advanced telecommunications and information services in all regions of the state; equitable and nondiscriminatory contributions by all providers of telecommunications to the preservation and advancement of universal service; that schools, libraries, and health care providers in rural areas should have access to advanced telecommunications services; and that the costs of administration of the Nebraska Telecommunications Universal Service Fund (the "fund") should be kept to a minimum.

This study shall investigate the purpose of the Nebraska Telecommunications Universal Service Fund Act and the services currently supported by the fund in order to determine whether the act should include dedicated support for wireless telecommunications services. Input shall be solicited from the Public Service Commission, regulated entities, wireless telecommunications carriers, and the public.

Study topics shall include, but not be limited to, the following areas:

- (1) Issues relating to services currently receiving support, including:
 - (a) Landline telecommunications service;
 - (b) Broadband telecommunications;
 - (c) The Nebraska Telephone Assistance Program; and
 - (d) The telehealth system.
- (2) Issues related to providing support for wireless telecommunications services, including:
 - (a) The nature and extent of any fund support to be provided;
 - (b) The nature and extent of eligibility requirements for receiving support from the fund including requirements for obtaining state and federal eligible telecommunications carrier status;
 - (c) The nature of cost recovery mechanisms to be used related to the construction of wireless infrastructure with support from the fund;
 - (d) The nature and extent of any regulatory oversight, if any, to be implemented with respect to carriers receiving any support from the fund; and
 - (e) Issues related to the ownership and sharing of any wireless infrastructure constructed with support from the fund.
- (3) Any other issues arising during the course of the study relevant to furthering the stated policy of the state of preserving and advancing universal service.

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

NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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.

SELECT FILE

LEGISLATIVE BILL 312. Senator Chambers withdrew his pending amendments, FA240, FA241, FA243, FA244, FA245, FA246, FA247, FA248, FA249, FA250, FA251, FA252, FA253, and FA254, found on pages 1437 and 1438.

Senator Redfield offered the following amendment:

AM1615

(Amendments to E & R amendments, AM7100)

- 1 1. On page 63, line 8, after "dollars" insert "and
 2 maintaining at least the same number of equivalent employees as
 3 were employed in the base year for the year the taxpayer attains
 4 the required level of investment and the following nine years".
- 5 2. On page 73, line 12, after "(3)" insert "In the case
 6 of a taxpayer qualified under tier 5 who has failed to maintain the
 7 number of equivalent employees at the project for the year the
 8 taxpayer attained the required amount of investment, any refunds in
 9 tax allowed under subdivision (2)(a) of section 43 of this act
 10 shall be disallowed. In the case of a taxpayer qualified under
 11 tier 5 who has failed to maintain the number of equivalent
 12 employees at the project for any of the nine years following the
 13 year the taxpayer attained the required amount of investment, any
 14 refunds in tax allowed under subdivision (2)(a) of section 43 of
 15 this act shall be partially recaptured from the taxpayer. The
 16 amount of recapture for each year the taxpayer failed to maintain
 17 the number of equivalent employees shall be the total amount of
 18 refunds allowed for all years times the reduction in the number of
 19 equivalent employees employed in the year from the number of
 20 equivalent employees employed in the base year divided by the
 21 number of equivalent employees employed in the base year. The
 22 amount of recapture shall not exceed the total amount of refunds
 23 received for all years in the entitlement period.
 1 (4)" and in line 19 strike "(4)" and insert "(5)".
 2 3. On page 74, line 2, strike "(5)" and insert "(6)"; in
 3 line 6 strike "(6)" and insert "(7)"; and in line 10 strike "(7)"
 4 and insert "(8)".

Senator Redfield moved for a call of the house. The motion prevailed with

16 ayes, 0 nays, and 33 not voting.

Senator Redfield requested a roll call vote on her amendment.

Voting in the affirmative, 24:

Aguilar	Cunningham	Heidemann	Pedersen, Dw.	Schimek
Beutler	Erdman	Howard	Preister	Smith
Byars	Fischer	Hudkins	Price	Stuhr
Chambers	Foley	Janssen	Raikes	Thompson
Combs	Friend	Pahls	Redfield	

Voting in the negative, 8:

Brown	Engel	Jensen	Schrock
Connealy	Flood	Johnson	Wehrbein

Present and not voting, 13:

Baker	Cudaback	Kruse	Mines	Synowiecki
Bourne	Kopplin	Landis	Pederson, D.	
Brashear	Kremer	Langemeier	Stuthman	

Excused and not voting, 4:

Burling	Cornett	Louden	McDonald
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The Redfield amendment lost with 24 ayes, 8 nays, 13 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Raikes offered the following amendment:

AM1626

(Amendments to E & R amendments, AM7100)

- 1 1. Strike sections 8 to 11.
- 2 2. On page 79, line 23, strike "77-2701.04,".
- 3 3. Renumber the remaining sections and correct internal
- 4 references accordingly.

Senator Raikes moved for a call of the house. The motion prevailed with 21 ayes, 2 nays, and 26 not voting.

Senator Raikes requested a roll call vote on his amendment.

Voting in the affirmative, 5:

Chambers	Pedersen, Dw.	Price	Raikes	Synowiecki
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Voting in the negative, 28:

Aguilar	Byars	Foley	Kremer	Stuhr
Baker	Cornett	Heidemann	Langemeier	Stuthman
Bourne	Cunningham	Howard	McDonald	Thompson
Brashear	Erdman	Hudkins	Mines	Wehrbein
Brown	Fischer	Jensen	Pahls	
Burling	Flood	Kopplin	Smith	

Present and not voting, 16:

Beutler	Engel	Kruse	Preister
Combs	Friend	Landis	Redfield
Connealy	Janssen	Louden	Schimek
Cudaback	Johnson	Pederson, D.	Schrock

The Raikes amendment lost with 5 ayes, 28 nays, and 16 present and not voting.

The Chair declared the call raised.

Senator Preister withdrew his pending amendment, AM0282, found on page 450.

Senator Landis offered the following amendment:
AM1635

(Amendments to AM1608)

- 1 1. On page 11, line 10, strike "calendar".

The Landis amendment was adopted with 27 ayes, 1 nay, and 21 present and not voting.

Senator Smith offered the following amendment:
AM1610

(Amendments to E & R amendments, AM7100)

- 1 1. Insert the following new section:
- 2 "Sec. 17. Section 77-27,187.02, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 77-27,187.02. (1) For tax years beginning or deemed to
- 5 begin on or after January 1, 2004, under the Internal Revenue Code
- 6 of 1986, as amended, in order to earn the incentives set forth in
- 7 the Employment Expansion and Investment Incentive Act, the taxpayer
- 8 shall file an application for an agreement with the Tax
- 9 Commissioner.
- 10 (2) The application shall contain:
- 11 (a) A written statement describing the full expected
- 12 employment and investment for a qualified business in this state;
- 13 (b) Sufficient documents, plans, and specifications as
- 14 required by the Tax Commissioner to support the plan and to define

15 a project;

16 (c) An application fee of five hundred dollars. The fee
17 shall be remitted to the State Treasurer for credit to the
18 Employment Expansion and Investment Incentive Fund, which fund is
19 hereby created. Any money in the fund available for investment
20 shall be invested by the state investment officer pursuant to the
21 Nebraska Capital Expansion Act and the Nebraska State Funds
22 Investment Act. The application and all supporting information
23 shall be confidential except for the name of the taxpayer, the
1 location of the project, and the amounts of increased employment
2 and investment.

3 (3) Once satisfied that the plan in the application
4 defines a project that meets the investment, employment, and wage
5 requirements and is located in an eligible municipality, county, or
6 enterprise zone, and that these requirements will be reached within
7 the required time period, the Tax Commissioner shall approve the
8 application and authorize the total amount of credits expected to
9 be earned as a result of the project. The Tax Commissioner shall
10 not approve further applications once the expected credits from the
11 approved projects total two million five hundred thousand dollars
12 in each of fiscal years 2004-05 and 2005-06 and three million
13 dollars in fiscal year 2006-07 and each fiscal year thereafter.
14 Four hundred dollars of the application fee shall be refunded to
15 the applicant if the application is not approved because the
16 expected credits from approved projects exceed such amounts.
17 Applications for benefits shall be considered in the order in which
18 they are received.

19 (4) After approval, the taxpayer and the Tax Commissioner
20 shall enter into a written agreement. The taxpayer shall agree to
21 complete the project, and the Tax Commissioner, on behalf of the
22 State of Nebraska, shall designate the approved plans of the
23 taxpayer as a project and, in consideration of the taxpayer's
24 agreement, agree to allow the taxpayer to use the incentives
25 contained in the Employment Expansion and Investment Incentive Act
26 up to the total amount that were authorized by the Tax Commissioner
27 at the time of approval. The application, and all supporting
1 documentation, to the extent approved, shall be considered a part
2 of the agreement. The agreement shall state:

3 (a) The levels of employment and investment required by
4 the act for the project;

5 (b) The time period under the act in which the required
6 level must be met;

7 (c) The documentation the taxpayer will need to supply
8 when claiming an incentive under the act;

9 (d) The date the application was filed; and

10 (e) The maximum amount of credits authorized."

11 2. On page 46, line 18, after "any" insert "municipality
12 or"; and in line 27 after "any" insert "municipality or".

13 3. On page 79, line 21, after the fifth comma insert

14 "77-27,187.02,".

15 4. Renumber the remaining sections and correct internal
16 references accordingly.

Senator Smith withdrew his amendment.

Pending.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Ibach, Greg - Department of Agriculture - Agriculture

Tuma, Bryan - Nebraska State Patrol - Government, Military and Veterans
Affairs

Behm, Mike - Nebraska Commission on Law Enforcement and Criminal
Justice - Government, Military and Veterans Affairs

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

RESOLUTIONS

LEGISLATIVE RESOLUTION 145. Introduced by Dw. Pedersen, 39.

PURPOSE: The purpose of this resolution is to study parole issues, including, but not limited to, consideration of correctional programs, community programs, decisionmaking by the Board of Parole, administrative performance of the Office of Parole Administration, and the role of the Board of Parole in the pardon process. Some of the areas to be considered are:

(1) The adequacy of preparation for release by the Department of Correctional Services in the areas of mental health, substance abuse, education, and job skills;

(2) A survey of community programs that are available and/or needed to address the needs of community custody inmates, parolees, and inmates who have completed their incarceration;

(3) A review of the decisionmaking processes of the Board of Parole, including a review of the numbers of inmates paroled, the criminal histories of the inmates paroled, and the length of parole;

(4) A review of the administrative performance of the Office of Parole Administration, including the case loads of parole officers, the statewide distribution of parole administration staff, and the budget of the Office of Parole Administration;

(5) The pardon process with particular attention devoted to the question of the recommendations from the Board of Parole to the Board of Pardons regarding commutation of sentences; and

(6) Review of the use of medical or hardship parole in the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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. The committee shall utilize the energies and expertise of legislative staff, Department of Correctional Services staff, the Board of Parole and the Office of Parole Administration, any community resources, and other interested parties. This study shall be completed before December 31, 2005.

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 146. Introduced by Business and Labor Committee: Cunningham, 40; Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

PURPOSE: To study the workers' compensation program to determine whether changes in benefits or procedures are warranted. The study shall include, but not be limited to, the following areas:

(1) Evaluating the policies, procedures, and goals of the workers' compensation program;

(2) An evaluation of Nebraska's program and how it compares with other states;

(3) Evaluating and determining whether changes in current benefits and services are in order;

(4) Evaluating whether there are cost containment measures that can be implemented and whether they should be implemented;

(5) Evaluating the use and benefit of managed care plans and whether they should be continued and to what extent;

(6) An evaluation of the current vocational rehabilitation program to determine whether it is meeting the Legislature's goals;

(7) Determining how to provide employees with the best care in the shortest period of time in order to meet the policies and goals of the workers' compensation program; and

(8) Evaluating whether a judicial court or an industrial relations board is the appropriate form of review for workers' compensation claims.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 147. Introduced by Business and Labor Committee: Cunningham, 40; Chairperson; Burling, 33; Combs, 32; Preister, 5; Schimek, 27.

PURPOSE: To study the Workplace Safety Consultation Program as set forth under Neb. Rev. Stat. section 48-446, and its proposed revisions under LB 656, introduced in the Ninety-ninth Legislature, First Session, 2005. This study shall include, but not be limited to, identifying how to adequately and effectively fund the Workplace Safety Consultation Program in order to carry out the targeted inspections and consultations for the program to be self-sufficient into the future. The study shall also include identifying the businesses that should receive the inspection and consultation services and, should the Legislature vote to reestablish the program, a timeline for reestablishing the Workplace Safety Consultation Program.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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.

SELECT FILE

LEGISLATIVE BILL 312. Senator Louden offered the following motion: Reconsider the vote taken on the Redfield amendment, AM1615.

Senator Louden moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Senator Louden requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 26:

Aguilar	Cornett	Howard	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Hudkins	Preister	Thompson
Burling	Erdman	Janssen	Price	
Byars	Fischer	Louden	Raikes	
Chambers	Friend	McDonald	Redfield	
Combs	Heidemann	Pahls	Schimek	

Voting in the negative, 16:

Baker	Connealy	Johnson	Mines
Bourne	Engel	Kopplin	Schrock
Brashear	Flood	Kremer	Smith
Brown	Jensen	Landis	Wehrbein

Present and not voting, 7:

Cudaback	Kruse	Pederson, D.	Synowiecki
Foley	Langemeier	Stuthman	

The Louden motion to reconsider prevailed with 26 ayes, 16 nays, and 7 present and not voting.

The Redfield amendment, AM1615, found in this day's Journal, was reconsidered.

The Redfield amendment was adopted with 26 ayes, 16 nays, and 7 present and not voting.

The Chair declared the call raised.

Pending.

AMENDMENTS - Print in Journal

Senators Bourne and Aguilar filed the following amendment to LB 117:
AM1592

(Amendments to E & R amendments, AM7091)

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 28-707, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 28-707. (1) A person commits child abuse if he or she
- 5 knowingly, intentionally, or negligently causes or permits a minor
- 6 child to be:
- 7 (a) Placed in a situation that endangers his or her life
- 8 or physical or mental health;
- 9 (b) Cruelly confined or cruelly punished;
- 10 (c) Deprived of necessary food, clothing, shelter, or
- 11 care;
- 12 (d) Placed in a situation to be sexually exploited by
- 13 allowing, encouraging, or forcing such minor child to solicit for
- 14 or engage in prostitution, debauchery, public indecency, or obscene
- 15 or pornographic photography, films, or depictions; ~~or~~
- 16 (e) Placed in a situation to be sexually abused as
- 17 defined in section 28-319 or 28-320.01; or
- 18 (f) Placed in or near the processing, cooking, or
- 19 manufacturing of methamphetamine.
- 20 (2) The statutory privilege between patient and
- 21 physician, between client and professional counselor, and between

22 husband and wife shall not be available for excluding or refusing
23 testimony in any prosecution for a violation of this section.

- 1 (3) Child abuse is a Class I misdemeanor if the offense
2 is committed negligently.
- 3 (4) Child abuse is a Class IIIA felony if the offense is
4 committed knowingly and intentionally and does not result in
5 serious bodily injury as defined in section 28-109.
- 6 (5) Child abuse is a Class III felony if the offense is
7 committed knowingly and intentionally and results in serious bodily
8 injury as defined in ~~such~~ section 28-109.
- 9 (6) Child abuse is a Class IB felony if the offense is
10 committed knowingly and intentionally and results in the death of
11 such child."
- 12 2. On page 17, line 11, strike "nineteen" and insert
13 "eighteen"; and in lines 19 and 20 strike "an operator's license or
14 state identification card" and insert "a valid driver's or
15 operator's license, a Nebraska state identification card, a
16 military identification card, an alien registration card, or a
17 passport".
- 18 3. On page 18, line 7, strike "by retail"; in line 8
19 after "acquire" insert "other than wholesale acquisition by a
20 retail business in the normal course of its trade or business";
21 and in line 15 strike "and" and after "28-456" insert ", and
22 28-707".
- 23 4. Renumber the remaining section accordingly.

Senator Chambers filed the following amendment to LB 425:
AM1632

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 "Sec. 279. LEGISLATIVE INTENT.
- 3 It is the intent of the Legislature that there shall be
4 no discrimination by any agency receiving funds under this act
5 against any person based on sexual orientation."
- 6 2. Renumber the remaining sections accordingly.

Senator Chambers filed the following amendment to LB 427:
AM1633

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 "Sec. 3. The State of Nebraska declares that when it is
3 acting as an employer sexual orientation shall not be a basis for
4 discrimination in personnel matters and shall not be a criterion in
5 determining just cause for hiring, firing, promotion, demotion, and
6 other personnel matters covered by its employment contracts with
7 its employees or other employer-employee relationships."
- 8 2. On page 1, line 1, strike "the Cash Reserve Fund" and
9 insert "state government"; in line 3 strike "completed fund" and
10 insert "Cash Reserve Fund"; and in line 4 after the first semicolon

11 insert "to state policy as prescribed;".

12 3. Renumber the remaining sections accordingly.

BILL ON FIRST READING

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

LEGISLATIVE BILL 312A. Introduced by Landis, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 312, Ninety-ninth Legislature, First Session, 2005.

SELECT FILE

LEGISLATIVE BILL 312. Senator Chambers offered the following amendment:

FA270

Amend E & R amendments, AM7100

1. Strike the original sections and all amendments thereto and insert the following new section:

"Section 1. Notwithstanding any other provision of law, no business, regardless of size or number of employees shall pay any tax of any kind whatsoever."

Senator Chambers moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 4:

Chambers	Friend	Kruse	Schrock
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Voting in the negative, 18:

Aguilar	Foley	Landis	Preister	Thompson
Connealy	Howard	Louden	Schimek	Wehrbein
Engel	Janssen	McDonald	Smith	
Erdman	Kopplin	Mines	Synowiecki	

Present and not voting, 21:

Baker	Byars	Heidemann	Pedersen, Dw.	Stuthman
Beutler	Cornett	Hudkins	Pederson, D.	
Bourne	Cudaback	Jensen	Price	
Brashear	Fischer	Johnson	Raikes	
Brown	Flood	Pahls	Stuhr	

Excused and not voting, 6:

Burling	Cunningham	Langemeier
Combs	Kremer	Redfield

The Chambers amendment lost with 4 ayes, 18 nays, 21 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 42 ayes, 3 nays, 3 present and not voting, and 1 excused and not voting.

LEGISLATIVE BILL 90. E & R amendment, AM7099, printed separately and referred to on page 1514, was adopted.

Senator Beutler withdrew his pending amendments, FA262 and AM1543, found on pages 1454 and 1484.

Senators Stuhr and Beutler offered the following amendment:
AM1602

(Amendments to E & R amendments, AM7099)

- 1 1. On page 4, line 7, after "any" insert "agricultural
- 2 or value-added agricultural product".
- 3 2. On page 5, strike beginning with line 13 through the
- 4 semicolon in line 14; in line 15 strike "(8)" and insert "(7)"; in
- 5 line 20 after "grants" insert "for projects"; and in line 21 after
- 6 "Act" insert "to eligible entities".
- 7 3. On page 6, strike beginning with "Grant" in line 21
- 8 through line 24.

The Stuhr-Beutler amendment was adopted with 29 ayes, 0 nays, 19 present and not voting, and 1 excused and not voting.

Senator Bourne offered the following amendment:
AM1631

(Amendments to E & R amendments, AM7099)

- 1 1. Insert the following new sections:
- 2 "Sec. 18. Section 66-1345, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 66-1345. (1) There is hereby created the Ethanol
- 5 Production Incentive Cash Fund which shall be used by the board to
- 6 pay the credits created in section 66-1344 to the extent provided
- 7 in this section. Any money in the fund available for investment
- 8 shall be invested by the state investment officer pursuant to the
- 9 Nebraska Capital Expansion Act and the Nebraska State Funds
- 10 Investment Act. The State Treasurer shall transfer to the Ethanol

11 Production Incentive Cash Fund such money as shall be (a)
12 appropriated to the Ethanol Production Incentive Cash Fund by the
13 Legislature, (b) given as gifts, bequests, grants, or other
14 contributions to the Ethanol Production Incentive Cash Fund from
15 public or private sources, (c) made available due to failure to
16 fulfill conditional requirements pursuant to investment agreements
17 entered into prior to April 30, 1992, (d) received as return on
18 investment of the Ethanol Authority and Development Cash Fund, (e)
19 credited to the Ethanol Production Incentive Cash Fund from the
20 excise taxes imposed by section 66-1345.01, and (f) credited to the
21 Ethanol Production Incentive Cash Fund pursuant to sections 66-489,
22 66-4,134, 66-726, 66-1345.04, and 66-1519.

23 (2) The Department of Revenue shall, at the end of each
1 calendar month, notify the State Treasurer of the amount of motor
2 fuel tax that was not collected in the preceding calendar month due
3 to the credits provided in section 66-1344. The State Treasurer
4 shall transfer from the Ethanol Production Incentive Cash Fund to
5 the Highway Trust Fund an amount equal to such credits less the
6 following amounts:
7 (a) For 1993, 1994, and 1995, the amount generated during
8 the calendar quarter by a one-cent tax on motor fuel pursuant to
9 sections 66-489 and 66-6,107;
10 (b) For 1996, the amount generated during the calendar
11 quarter by a three-quarters-cent tax on motor fuel pursuant to such
12 sections;
13 (c) For 1997, the amount generated during the calendar
14 quarter by a one-half-cent tax on motor fuel pursuant to such
15 sections; and
16 (d) For 1998 and each year thereafter, no reduction.
17 For 1993 through 1997, if the amount generated pursuant
18 to subdivisions (a), (b), and (c) of this subsection and the amount
19 transferred pursuant to subsection (1) of this section are not
20 sufficient to fund the credits provided in section 66-1344, then
21 the credits shall be funded through the Ethanol Production
22 Incentive Cash Fund but shall not be funded through either the
23 Highway Cash Fund or the Highway Trust Fund. For 1998 and each
24 year thereafter, the credits provided in such section shall be
25 funded through the Ethanol Production Incentive Cash Fund but shall
26 not be funded through either the Highway Cash Fund or the Highway
27 Trust Fund.

1 If, during any month, the amount of money in the Ethanol
2 Production Incentive Cash Fund is not sufficient to reimburse the
3 Highway Trust Fund for credits earned pursuant to section 66-1344,
4 the Department of Revenue shall suspend the transfer of credits by
5 ethanol producers until such time as additional funds are available
6 in the Ethanol Production Incentive Cash Fund for transfer to the
7 Highway Trust Fund. Thereafter, the Department of Revenue shall,
8 at the end of each month, allow transfer of accumulated credits
9 earned by each ethanol producer on a prorated basis derived by

10 dividing the amount in the fund by the aggregate amount of
11 accumulated credits earned by all ethanol producers.

12 (3) The State Treasurer shall transfer from the Ethanol
13 Production Incentive Cash Fund to the Management Services Expense
14 Revolving Fund the amount reported under subsection (4) of section
15 66-1345.02 for each calendar month of the fiscal year as provided
16 in such subsection.

17 (4) On December 31, 2012, the State Treasurer shall
18 transfer one-half of the unexpended and unobligated funds from the
19 Ethanol Production Incentive Cash Fund to the Nebraska Corn
20 Development, Utilization, and Marketing Fund and Grain Sorghum
21 Development, Utilization, and Marketing Fund in the same proportion
22 as funds were collected pursuant to section 66-1345.01 from corn
23 and grain sorghum. The Department of Agriculture shall assist the
24 State Treasurer in determining the amounts to be transferred to the
25 funds. The remaining one-half of the unexpended and unobligated
26 funds shall be transferred to the General Fund.

27 (5) ~~Whenever the unobligated balance in the Ethanol
1 Production Incentive Cash Fund exceeds twenty million dollars, the
2 Department of Revenue shall notify the Department of Agriculture at
3 which time the Department of Agriculture shall suspend collection
4 of the excise tax levied pursuant to section 66-1345.01. If, after
5 suspension of the collection of such excise tax, the balance of the
6 fund falls below ten million dollars, the Department of Revenue
7 shall notify the Department of Agriculture which shall resume
8 collection of the excise tax~~ Whenever the balance in the Ethanol
9 Production Incentive Cash Fund is projected to fall below one
10 million dollars in the next fiscal year, the Department of Revenue
11 shall notify the State Treasurer at which time the State Treasurer
12 shall transfer six million dollars from the Cash Reserve Fund to
13 the Ethanol Production Incentive Cash Fund no later than the
14 seventh day of the new fiscal year in which the balance is
15 projected to fall below one million dollars. Such transfer shall
16 occur in each year the balance is projected to fall below one
17 million dollars. The transfer required pursuant to this section
18 shall be in addition to the General Fund transfers authorized in
19 section 66-1345.04.

20 (6) On or before December 1, 2003, and each December 1
21 thereafter, the Department of Revenue and the Nebraska Ethanol
22 Board shall jointly submit a report to the Legislature which shall
23 project the anticipated revenue and expenditures from the Ethanol
24 Production Incentive Cash Fund through the termination of the
25 ethanol production incentive programs pursuant to section 66-1344.
26 The initial report shall include a projection of the amount of
27 ethanol production for which the Department of Revenue has entered
1 agreements to provide ethanol production credits pursuant to
2 section 66-1344.01 and any additional ethanol production which the
3 Department of Revenue and the Nebraska Ethanol Board reasonably
4 anticipate may qualify for credits pursuant to section 66-1344.

5 Sec. 21. Section 84-612, Revised Statutes Supplement,
6 2004, is amended to read:
7 84-612. (1) There is hereby created within the state
8 treasury a fund known as the Cash Reserve Fund which shall be under
9 the direction of the State Treasurer. The fund shall only be used
10 pursuant to this section.
11 (2) The State Treasurer shall transfer funds from the
12 Cash Reserve Fund to the General Fund upon certification by the
13 Director of Administrative Services that the current cash balance
14 in the General Fund is inadequate to meet current obligations.
15 Such certification shall include the dollar amount to be
16 transferred. Any transfers made pursuant to this subsection shall
17 be reversed upon notification by the Director of Administrative
18 Services that sufficient funds are available.
19 (3) On July 23, 2001, the State Treasurer shall transfer
20 three hundred seventy thousand dollars from the Cash Reserve Fund
21 to the Municipal Natural Gas Regulation Revolving Loan Fund for
22 purposes of loaning to Nebraska communities that seek to review
23 natural gas rates. Any transfer made pursuant to this subsection
24 shall be reversed upon notification by the Director of Policy
25 Research that a sufficient court judgment has been obtained. Upon
26 reversal, any money in excess of three hundred seventy thousand
27 dollars shall be transferred to the Municipal Rate Negotiations
1 Revolving Loan Fund.
2 (4) On June 15, 2004, the State Treasurer shall transfer
3 three million dollars from the Cash Reserve Fund to the General
4 Fund.
5 (5) On June 15, 2005, the State Treasurer shall transfer
6 twenty-six million dollars from the Cash Reserve Fund to the
7 General Fund.
8 (6) The State Treasurer, at the direction of the budget
9 administrator of the budget division of the Department of
10 Administrative Services, shall transfer such amounts not to exceed
11 five million seven hundred twenty-seven thousand seven hundred
12 seven dollars in total from the Cash Reserve Fund to the Nebraska
13 Capital Construction Fund between July 1, 2003, and June 30, 2007.
14 (7) The State Treasurer, at the direction of the budget
15 administrator, shall transfer an amount equal to the total amount
16 transferred pursuant to subsection (6) of this section from the
17 General Fund to the Cash Reserve Fund on or before June 30, 2008.
18 (8) In addition to receiving transfers from other funds,
19 the Cash Reserve Fund shall receive federal funds received by the
20 State of Nebraska for undesignated general government purposes,
21 federal revenue sharing, or general fiscal relief of the state.
22 (9) The State Treasurer, at the direction of the budget
23 administrator of the budget division of the Department of
24 Administrative Services, shall transfer fifty-eight million one
25 hundred ninety-one thousand eight hundred sixty-two dollars from
26 the Cash Reserve Fund to the General Fund on or before June 30,

- 27 2004. There is included in this subsection a transfer of
 1 fifty-eight million one hundred ninety-one thousand eight hundred
 2 sixty-two dollars of federal payments made to the State of Nebraska
 3 under the Jobs and Growth Tax Relief Reconciliation Act of 2003 to
 4 the General Fund for purposes of providing essential government
 5 services such as health care and education as appropriated from the
 6 General Fund for fiscal year 2003-04 in Laws 2003, LB 407.
 7 (10) The State Treasurer shall transfer funds from the
 8 Cash Reserve Fund to the Ethanol Production Incentive Cash Fund as
 9 provided in subsection (5) of section 66-1345."
 10 2. On page 22, line 6, strike each occurrence of
 11 "seven-eighths" and insert "one".
 12 3. On page 23, line 24, strike "\$2,500,000" and insert
 13 "\$4,000,000"; and in line 26 strike "\$5,500,000" and insert
 14 "\$7,000,000".
 15 4. On page 24, line 1, strike "\$2,500,000" and insert
 16 "\$4,000,000"; and in lines 8 and 9 strike "section 66-1345.01" and
 17 insert "sections 66-1345, 66-1345.01, and 84-612".
 18 5. Renumber the remaining sections accordingly.

Senator Connealy offered the following amendment to the Bourne pending amendment:

FA271

Amend AM1631

On page 7 strike lines 10 and 11.

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

Senator Landis moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

The motion to cease debate prevailed with 26 ayes, 1 nay, and 22 not voting.

Senator Kremer requested a roll call vote, in reverse order, on the Connealy amendment.

Voting in the affirmative, 7:

Brown	Cudaback	Friend	Synowiecki
Connealy	Erdman	Smith	

Voting in the negative, 19:

Beutler	Cornett	Jensen	Langemeier	Stuhr
Brashear	Cunningham	Kopplin	Mines	Thompson
Byars	Flood	Kruse	Pederson, D.	Wehrbein
Chambers	Hudkins	Landis	Redfield	

Present and not voting, 19:

Baker	Fischer	Janssen	McDonald	Schimek
Bourne	Foley	Johnson	Pahls	Schrock
Burling	Heidemann	Kremer	Price	Stuthman
Combs	Howard	Louden	Raikes	

Excused and not voting, 4:

Aguilar Engel Pedersen, Dw. Preister

The Connealy amendment lost with 7 ayes, 19 nays, 19 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

The Bourne pending amendment, AM1631, found in this day's Journal, was renewed.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 33 ayes, 1 nay, and 15 not voting.

Senator Bourne withdrew his amendment.

Advanced to E & R for engrossment.

RESOLUTIONS

LEGISLATIVE RESOLUTION 148. Introduced by Burling, 33.

PURPOSE: The purpose of this study is to assess and determine the policy issues that coincide with the inclusion of exempt agriculture producers and the penalty provisions that they are subject to under the Nebraska Workers' Compensation Act.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 149. Introduced by Mines, 18.

PURPOSE: The purpose of this resolution is to study whether Nebraska

should further develop legislation to save expenditure of state tax dollars by providing greater assurance that state benefit programs, including the medical assistance program, are actually payors of last resort when applicants and recipients under them are also covered by health plans that provide for payment to or on behalf of an individual as a result of an illness, disability, or injury or change in a health condition.

The study should include a review of issues raised during consideration of LB 589 (Legislative Performance Audit Committee) introduced in 2005 and referred to the Banking, Commerce and Insurance Committee.

In order to carry out the purpose of this resolution, the committee should seek the assistance of the Legislative Research Division and should consider the input of the Department of Health and Human Services and the Department of Health and Human Services Finance and Support, the Department of Insurance, and interested persons as it deems necessary and beneficial.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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.

LEGISLATIVE RESOLUTION 150. Introduced by Schrock, 38.

PURPOSE: The purpose of this interim study is to examine the eligibility requirements for directors of public power districts. The study shall include the following:

1. Review the current director eligibility requirements for all public power districts;

2. Review the current procedures to exclude areas served by other power suppliers from the chartered service territory of a public power district to determine if changes are necessary;

3. Determine the need or practicality to have public power district candidates be retail consumers on record with the public power district;

4. Identify a means to provide representation on public power district boards in an equitable manner that would be inclusive of all consumers of the public power district; and

5. Determine whether changing director eligibility requirements would improve the election process and public power district board operations.

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

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

2. That the committee shall upon the conclusion of its study make a report

of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 151. Introduced by Cornett, 45.

PURPOSE: The purpose of this study is to examine the practices and procedures regarding the collection of delinquent corporate and business taxes. The study shall examine present practices in the State of Nebraska and other states and shall look for improvements to the present system from the standpoint of the state, counties, and taxpayers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 152. Introduced by Raikes, 25.

PURPOSE: Nebraska all-terrain vehicle (ATV) dealers have reported adverse business effects due to the state policy that tax on sales of such vehicles be collected at the location of sale. These effects result from would-be customers purchasing vehicles from retailers outside of the state then failing, through ignorance or willful intent, to remit the applicable sales tax to the Department of Revenue. Failure to remit such sales tax lowers the overall cost of the ATV purchase for the customer and thereby places Nebraska dealers, who are statutorily required to collect sales tax at the time of sale, at a competitive disadvantage to out-of-state dealers. The implementation of a registration system for ATVs could aid in addressing this concern. By collecting sales tax at registration, greater compliance in remitting sales tax could be achieved allowing the state to claim additional revenue. The requirement for ATV dealers to collect sales tax at the location of sale would also be removed, eliminating the competitive disadvantage. The implementation of a registration process might also enhance compliance with the titling requirement for ATVs.

This study shall consider:

(1) Whether implementation of a registration process will adequately address the issue of noncompliance in remitting sales tax and titling ATVs;

(2) Whether payment of sales tax should be consolidated with the current titling requirements; and

(3) Whether and how revenue resulting from registration fees could be used to enhance recreational opportunities for Nebraska ATV operators.

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

1. That a 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 153. Introduced by Janssen, 15.

PURPOSE: To review LB 530, introduced during the Ninety-ninth Legislature, First Session, that proposed changing retail liquor license issuance consideration.

Introduced at the request of the Nebraska Liquor Control Commission, LB 530 contained some of the commission's recommendations for liquor law changes that were presented to the Governor as required by subdivision (9) of section 53-117. LB 530 proposed giving the commission more discretion to take license density into account when issuing retail liquor licenses. The commission has indicated that there have been increased liquor law violations in areas where there is an over-saturation of licensees. The suggested revision to section 53-132 would have changed directory language into discretionary language relating to the conditions under which the commission must grant a license and updated the criteria used by the commission and local governing bodies in considering new licenses.

The study shall consider, but not be limited to, the following:

(1) The provisions of LB 530 and any formal or informal discussions held on the bill;

(2) The effect that such a policy would have on the issuance of new licenses;

(3) The effect, if any, on current licensees;

(4) Whether any local control over license approval would be affected;

(5) Whether the problem of over-saturation would be addressed by changing the statutory language;

(6) The effect of using or not using the word "density" in any new statutory language, and how to lawfully consider density;

(7) The case law on liquor license issuance and legislation in Nebraska; and

(8) Possible statutory solutions to address the over-saturation problem.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 154. Introduced by Byars, 30.

PURPOSE: To examine the potential of combining the Board of Barber Examiners and the Board of Cosmetology Examiners within the Department of Health and Human Services Regulation and Licensure.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 155. Introduced by Loudon, 49.

PURPOSE: The purpose of this study is to examine the relationship between school districts' formula needs as calculated under the Tax Equity and Educational Opportunities Support Act and school districts' costs of meeting accreditation under Rule 10, including, but not limited to, elementary curriculum, secondary curriculum, administrative costs, and other mandatory requirements for legal operation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 156. Introduced by Schrock, 38.

PURPOSE: The purpose of this study is to explore the environmental impact of historical waste disposal at the Agricultural Research and Development Center near Mead, Nebraska, the potential impact of any remediation on the University of Nebraska and potential funding sources to fund such remediation.

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

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 157. Introduced by Stuthman, 22.

PURPOSE: To examine the current statutory scheme regarding enforcement of rental agreements and leases under the Uniform Residential Landlord and Tenant Act. The study shall be specifically focused on determining whether a rental agreement or lease for a specified term is enforceable for the duration of the lease rather than enforceable for a lesser period. The study shall also examine the feasibility of making statutory changes to give landlords a proper remedy in the event that the rental agreement or lease is prematurely terminated by the tenant.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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.

AMENDMENTS - Print in Journal

Senator Landis filed the following amendment to LB 48:
(Amendment, AM1498, is printed separately and available in the Bill Room, Room 1104.)

Senator McDonald filed the following amendment to LB 332:
AM1630

(Amendments to Standing Committee amendments, AM0795)

- 1 1. Insert the following new section:
- 2 "Sec. 3. It is the intent of the Legislature to
- 3 appropriate five hundred thousand dollars from the General Fund for
- 4 FY2005-06 and five hundred thousand dollars from the General Fund
- 5 for FY2006-07, for compulsive gamblers assistance programs, which
- 6 appropriations shall be in addition to any funds appropriated from
- 7 the Charitable Gaming Operations Trust Fund or the State Lottery
- 8 Operation Trust Fund to the Compulsive Gamblers Assistance Fund in
- 9 such fiscal years for such programs."
- 10 2. Renumber the remaining sections accordingly.

Senator Bourne filed the following amendment to LB 713:
AM1344

(Amendments to Standing Committee amendments, AM1108)

- 1 1. Strike sections 2 and 9 through 19.
- 2 2. Renumber the remaining section, correct internal
- 3 references, and correct the repealer accordingly.

Senator Landis filed the following amendment to LB 48:
AM1637

(Amendments to Standing Committee amendments, AM0662)

- 1 1. On page 8, after line 14 insert the following
- 2 subsection:
- 3 "(4) In the event that the maps filed pursuant to
- 4 subsection (1) of this section indicate that the same area is
- 5 claimed by two or more jurisdictional utilities, cities, or
- 6 metropolitan utilities districts or a combination thereof as being
- 7 within each of their claimed initial exclusive service areas, the
- 8 commission shall, after notice to the affected and claiming
- 9 entities and a hearing, order a modification of the boundaries of
- 10 the initial service areas as provided in the act.".

Senator Landis filed the following amendment to LB 48:
AM1640

(Amendments to Standing Committee amendments, AM0662)

- 1 1. Insert the following new section:
- 2 "Sec. 16. This legislative bill shall not change the
- 3 authority and power conferred upon the boards of directors of
- 4 metropolitan utilities districts under section 14-2113.".
- 5 2. Renumber the remaining sections accordingly.

Senator Landis filed the following amendment to LB 48:
AM1639

(Amendments to Standing Committee amendments, AM0662)

- 1 1. Insert the following new section:
- 2 "Sec. 16. This legislative bill shall not change the
- 3 rights and powers conferred upon metropolitan utilities districts
- 4 under section 14-2116.".
- 5 2. Renumber the remaining sections accordingly.

Senator Landis filed the following amendment to LB 48:
AM1638

(Amendments to Standing Committee amendments, AM0662)

- 1 1. On page 10, line 9, after the second comma insert "a
- 2 city, a metropolitan utilities district,"; in line 14 strike
- 3 "unlawful" and insert "unauthorized natural gas"; and in line 15
- 4 strike "unlawful" and insert "unauthorized natural gas service".

SELECT FILE

LEGISLATIVE BILL 90A. Senator Chambers reoffered his amendment, AM1528, found on page 1459 and considered on page 1512.

SENATOR SCHIMEK PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with

13 ayes, 1 nay, and 35 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Bourne	Conneally	Hudkins	Louden	Schimek
Brown	Cornett	Janssen	McDonald	Stuthman
Byars	Fischer	Kopplin	Pahls	Synowiecki
Chambers	Howard	Kruse	Price	

Voting in the negative, 13:

Cunningham	Flood	Langemeier	Redfield	Wehrbein
Engel	Jensen	Mines	Smith	
Erdman	Landis	Raikes	Thompson	

Present and not voting, 11:

Baker	Burling	Heidemann	Schrock
Beutler	Foley	Johnson	Stuhr
Brashear	Friend	Kremer	

Excused and not voting, 6:

Aguilar	Cudaback	Pederson, D.
Combs	Pedersen, Dw.	Preister

The Chambers amendment lost with 19 ayes, 13 nays, 11 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 500. Senator Chambers renewed his pending motion, found on page 1470, to reconsider the vote to recommit to the Revenue Committee.

SENATOR BAKER PRESIDING

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

Senator Landis moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

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

Voting in the affirmative, 30:

Baker	Connealy	Foley	Kopplin	Pahls
Beutler	Cornett	Friend	Kremer	Pederson, D.
Brashear	Cunningham	Howard	Kruse	Price
Brown	Engel	Hudkins	Landis	Schrock
Burling	Erdman	Jensen	Langemeier	Smith
Byars	Flood	Johnson	Mines	Thompson

Voting in the negative, 8:

Bourne	Janssen	Schimek	Stuthman
Chambers	Raikes	Stuhr	Synowiecki

Present and not voting, 5:

Fischer	Heidemann	Louden	Redfield	Wehrbein
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Excused and not voting, 6:

Aguilar	Cudaback	Pedersen, Dw.
Combs	McDonald	Preister

The motion to cease debate prevailed with 30 ayes, 8 nays, 5 present and not voting, and 6 excused and not voting.

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

Voting in the affirmative, 19:

Bourne	Engel	Janssen	Price	Stuhr
Burling	Fischer	Kremer	Raikes	Stuthman
Chambers	Foley	Langemeier	Redfield	Synowiecki
Cunningham	Hudkins	Louden	Schimek	

Voting in the negative, 22:

Baker	Cornett	Jensen	Mines	Thompson
Beutler	Erdman	Johnson	Pahls	Wehrbein
Brashear	Flood	Kopplin	Pederson, D.	
Brown	Friend	Kruse	Schrock	
Connealy	Howard	Landis	Smith	

Present and not voting, 2:

Byars	Heidemann
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Excused and not voting, 6:

Aguilar	Cudaback	Pedersen, Dw.
Combs	McDonald	Preister

The Chambers motion to reconsider failed with 19 ayes, 22 nays, 2 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 158. Introduced by Stuhr, 24; Bourne, 8.

PURPOSE: To study the topic of human trafficking in the state and whether or not current statutes are adequate to address this issue. Issues addressed by this interim study may include, but are not limited to, the following:

- (1) Collect and organize data on the nature and extent of trafficking in persons in the state;
- (2) Investigate collaborative models for protecting victims of trafficking;
- (3) Measure and evaluate the progress of the state in:
 - (a) Preventing trafficking;
 - (b) Protecting and providing assistance to victims of trafficking; and
 - (c) Prosecuting persons engaged in trafficking;
- (4) Identify available federal, state, and local programs that provide services to victims of trafficking that include, but are not limited to, health care, human services, housing, education, legal assistance, job training or preparation, interpreting services, English as a second language classes, voluntary repatriation, and victim's compensation;
- (5) Evaluate approaches to increase public awareness of trafficking;
- (6) Analyze existing state criminal statutes for their adequacy in addressing trafficking and, if such analysis determines that those statutes are inadequate, recommend revisions to those statutes or the enactment of new statutes that specifically define and address trafficking; and
- (7) Consult with governmental and nongovernmental organizations in developing recommendations to strengthen state and local efforts to prevent trafficking, protect and assist victims of trafficking, and prosecute traffickers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 159. Introduced by Stuhr, 24; Jensen, 20.

PURPOSE: The purpose of this interim study is to study the advantages and disadvantages of enacting a safe haven law in the state. Several bills have been introduced dealing with concerns surrounding this topic. Issues addressed by this interim study may include, but are not limited to, the following:

- 1) Data on the nature and extent of infant abandonment in Nebraska;
- 2) The progress of the state in preventing infant abandonment;
- 3) Federal, state, and local programs available that provide services to women facing unplanned or crisis pregnancy, or others who might abandon an infant;
- 4) Approaches to increase public awareness of infant abandonment and the alternatives to abandonment;
- 5) Legislation in other states and how they have dealt with infant abandonment;
- 6) Existing state statutes and their adequacy in addressing infant abandonment; and
- 7) Consultations with governmental and nongovernmental organizations in developing recommendations to strengthen state and local efforts to prevent infant abandonment.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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 160. Introduced by Kremer, 34.

PURPOSE: The purpose of this interim study is to examine lending to grain warehouses secured in part or in whole by grain inventories. The study shall examine the Grain Warehouse Act and other law governing the position of grain warehouse creditors in relation to valid storers, owners, and depositors of grain in the disposition of grain inventories seized in regulatory interventions of the Public Service Commission. The object of the study is to determine whether existing policy is optimal in terms of the ability of the grain industry to secure financing and in terms of maximizing the availability of warehouses to offer marketing options and payment security for producers and other depositors of grain.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST 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.

GENERAL FILE

LEGISLATIVE BILL 500. Senator Chambers offered the following motion:

Bracket LB 500 until June 3, 2005.

Pending.

UNANIMOUS CONSENT - Add Cointroducer

Senator Stuhr asked unanimous consent to have her name added as cointroducer to LB 90. No objections. So ordered.

ADJOURNMENT

At 7:35 p.m., on a motion by Senator Landis, the Legislature adjourned until 9:00 a.m., Wednesday, May 18, 2005.

Patrick J. O'Donnell
Clerk of the Legislature

