

**THIRTY-SEVENTH DAY - MARCH 2, 2006****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
SECOND SESSION****THIRTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 2, 2006

**PRAYER**

The prayer was offered by Pastor John Henderson, Burchard United Methodist Church, Burchard.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Heidemann who was excused; and Senators Bourne, Brashear, Burling, Cornett, Cunningham, and Stuthman who were excused until they arrive.

**PRESIDENT SHEEHY PRESIDING****CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-sixth day was approved.

**MESSAGE FROM THE GOVERNOR**

February 28, 2006

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 individuals were appointed to the Nebraska Educational Telecommunications Commission.

**APPOINTEES:**

Dennis W. Miller, Jr., 311 Fairman Street, Lewellen NE 69147  
Dr. Steven E. Titus, 2524 Park Place Drive, Fremont NE 68025

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
 (Signed) Dave Heineman  
 Governor

web/  
 Enclosure

### **STANDING COMMITTEE REPORTS** **Banking, Commerce and Insurance**

**LEGISLATIVE BILL 1143.** Placed on General File as amended.  
 Standing Committee amendment to LB 1143:  
 AM2552

- 1 1. Strike original sections 1, 3, and 4 and insert the
- 2 following new section:
- 3 Sec. 2. Original section 76-883, Reissue Revised Statutes
- 4 of Nebraska, is repealed.
- 5 2. Renumber the remaining section accordingly.

(Signed) Mick Mines, Chairperson

### **Transportation and Telecommunications**

The Transportation and Telecommunications 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.

Doug Kristensen - Nebraska Information Technology Commission  
 Janie C. Park - Nebraska Information Technology Commission

VOTE: Aye: Senators Stuthman, Hudkins, Foley, Aguilar, Dw. Pedersen, Smith, Baker and Brown. Nay: None. Absent: None.

The Transportation and Telecommunications 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.

Gene Acklie - Board of Public Roads Classifications and Standards  
 Barbara Keegan - Board of Public Roads Classifications and Standards  
 Dean Lux - Board of Public Roads Classifications and Standards  
 Arthur Yonkey - Board of Public Roads Classifications and Standards

VOTE: Aye: Senators Stuthman, Hudkins, Foley, Aguilar, Dw Pedersen, Smith, Baker and Brown. Nay: None. Absent: None.

The Transportation and Telecommunications 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.

Jamie Karl - Nebraska Railway Council  
 Robert Kelly - Nebraska Railway Council  
 Michael Shannon - Nebraska Railway Council

VOTE: Aye: Senators Stuthman, Hudkins, Foley, Aguilar, Dw. Pedersen, Smith, Baker and Brown. Nay: None. Absent: None.

(Signed) Tom Baker, Chairperson

### **REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 1, 2006, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
 Clerk of the Legislature

Cutshall & Associates  
 Credit Advisors

O'Hara, Lindsay & Associates, Inc.  
 TracFone Wireless, Inc.

Peetz, Natalie, Peetz & Company  
 Mid-America Companies, LLC/Lundeen

### **REPORTS**

The following reports were received by the Legislature:

#### **Investment Finance Authority**

Drinking Water State Revolving Fund Program Notice  
 Wastewater Treatment Facilities (Clean Water) State Revolving Fund Notice

#### **Property Assessment and Taxation, Department of**

Redevelopment Projects for Cities Using Tax Increment Financing

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 297.** Introduced by Aguilar, 35.

WHEREAS, Brandon Hudiburgh of Grand Island High School won the

189-pound state championship match in Class A at the 2006 Nebraska High School State Wrestling Championship; and

WHEREAS, Brandon defeated top-rated and previously undefeated Josh Marcum of Omaha Benson in the championship match, after being pinned and defeated by technical fall in his previous two matches with Marcum; and

WHEREAS, Brandon is the Grand Island Islanders' all-time leader in victories and team points; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

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

1. That the Legislature congratulates Brandon Hudiburgh on his 189-pound Class A state wrestling championship win.

2. That a copy of this resolution be sent to Brandon Hudiburgh.

Laid over.

### MOTIONS - Approve Appointments

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 775:

Oil and Gas Conservation Commission  
Marquis Reed Gilmore

Voting in the affirmative, 31:

Aguilar	Fischer	Kremer	Pahls	Schrock
Baker	Flood	Kruse	Pedersen, Dw.	Stuhr
Brown	Friend	Landis	Pederson, D.	Wehrbein
Byars	Hudkins	Langemeier	Price	
Combs	Janssen	Louden	Raikes	
Connealy	Johnson	McDonald	Redfield	
Erdman	Kopplin	Mines	Schimek	

Voting in the negative, 0.

Present and not voting, 11:

Beutler	Engel	Jensen	Synowiecki
Chambers	Foley	Preister	Thompson
Cudaback	Howard	Smith	

Excused and not voting, 7:

Bourne	Burling	Cunningham	Stuthman
Brashear	Cornett	Heidemann	

The appointment was confirmed with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 795:

Nebraska Power Review Board  
Eugene Bade

Voting in the affirmative, 35:

Aguilar	Erdman	Jensen	Louden	Schimek
Baker	Fischer	Johnson	McDonald	Schrock
Beutler	Flood	Kopplin	Mines	Smith
Brown	Friend	Kremer	Pahls	Stuhr
Byars	Howard	Kruse	Pederson, D.	Stuthman
Chambers	Hudkins	Landis	Raikes	Thompson
Combs	Janssen	Langemeier	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 8:

Connealy	Engel	Pedersen, Dw.	Price
Cudaback	Foley	Preister	Synowiecki

Excused and not voting, 6:

Bourne	Burling	Cunningham
Brashear	Cornett	Heidemann

The appointment was confirmed with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 823:

Coordinating Commission for Postsecondary Education  
James Strand

Voting in the affirmative, 40:

Aguilar	Cudaback	Jensen	McDonald	Schimek
Baker	Engel	Johnson	Mines	Schrock
Bourne	Erdman	Kopplin	Pahls	Smith
Brown	Fischer	Kremer	Pedersen, Dw.	Stuhr
Byars	Friend	Kruse	Pederson, D.	Stuthman
Chambers	Howard	Landis	Price	Synowiecki
Combs	Hudkins	Langemeier	Raikes	Thompson
Connealy	Janssen	Louden	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 5:

Beutler	Cornett	Flood	Foley	Preister
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Excused and not voting, 4:

Brashear	Burling	Cunningham	Heidemann
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The appointment was confirmed with 40 ayes, 0 nays, 5 present and not voting, and 4 excused and not voting.

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 823:

State Personnel Board  
Brian Tessman

Voting in the affirmative, 29:

Aguilar	Cudaback	Janssen	Mines	Schrock
Baker	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Fischer	Kremer	Price	Stuthman
Chambers	Friend	Kruse	Raikes	Thompson
Combs	Howard	Landis	Redfield	Wehrbein
Connealy	Hudkins	McDonald	Schimek	

Voting in the negative, 1:

Langemeier

Present and not voting, 16:

Beutler	Cornett	Jensen	Pederson, D.
Bourne	Engel	Johnson	Preister
Brown	Flood	Louden	Smith
Byars	Foley	Pahls	Synowiecki

Excused and not voting, 3:

Burling	Cunningham	Heidemann
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The appointment was confirmed with 29 ayes, 1 nay, 16 present and not voting, and 3 excused and not voting.

Senator Baker moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following

appointment(s) found on page 831:

State Highway Commission  
 Duane W. Acklie  
 John Kingsbury  
 Douglas Leafgreen  
 Greg Wolford

Voting in the affirmative, 30:

Aguilar	Connealy	Howard	Landis	Redfield
Baker	Cornett	Hudkins	McDonald	Schrock
Bourne	Cudaback	Janssen	Pedersen, Dw.	Smith
Brashear	Engel	Kopplin	Pederson, D.	Stuhr
Brown	Erdman	Kremer	Price	Thompson
Chambers	Friend	Kruse	Raikes	Wehrbein

Voting in the negative, 0.

Present and not voting, 16:

Beutler	Flood	Langemeier	Preister
Byars	Foley	Louden	Schimek
Combs	Jensen	Mines	Stuthman
Fischer	Johnson	Pahls	Synowiecki

Excused and not voting, 3:

Burling      Cunningham      Heidemann

The appointments were confirmed with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Senator Baker moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 831:

Nebraska Motor Vehicle Industry Licensing Board  
 Charles A. Borgmann

Voting in the affirmative, 33:

Aguilar	Cudaback	Jensen	McDonald	Smith
Baker	Engel	Johnson	Pedersen, Dw.	Stuhr
Bourne	Erdman	Kopplin	Pederson, D.	Stuthman
Brashear	Foley	Kremer	Price	Thompson
Chambers	Howard	Kruse	Raikes	Wehrbein
Connealy	Hudkins	Landis	Redfield	
Cornett	Janssen	Langemeier	Schimek	

Voting in the negative, 0.

Present and not voting, 13:

Beutler	Combs	Friend	Pahls	Synowiecki
Brown	Fischer	Louden	Preister	
Byars	Flood	Mines	Schrock	

Excused and not voting, 3:

Burling            Cunningham    Heidemann

The appointment was confirmed with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

### RESOLUTION

**LEGISLATIVE RESOLUTION 290.** Read. Considered.

LR 290 was adopted with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

### PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR 290.

### SELECT FILE

**LEGISLATIVE BILL 856.** E & R amendment, AM7165, printed separately and referred to on page 734, was adopted.

Senator Beutler renewed his pending amendment, AM2515, found on page 840.

The Beutler amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Senators Fischer and Kremer offered the following amendment:  
AM2564

(Amendments to E & R amendments, AM7165)

- 1     1. Insert the following new sections:
- 2        Sec. 22. The Department of Agriculture may, within the
- 3 framework and consistent with standards of the National Animal
- 4 Identification System, cooperate and coordinate with the Animal and
- 5 Plant Health Inspection Service of the United States Department
- 6 of Agriculture and other local, state, and national agencies
- 7 and organizations, public or private, to define premises where
- 8 livestock are located, to develop a premises registration system
- 9 for Nebraska, and to implement other state components of a national

10 uniform system of animal identification.

11 Sec. 23. (1) Any information that a person provides to  
 12 the Department of Agriculture for purposes of premises registration  
 13 or otherwise for voluntary participation in or compliance with  
 14 a uniform system of animal identification shall not be subject  
 15 to public inspection pursuant to sections 84-712 to 84-712.09.  
 16 The department and its employees or agents shall not disclose  
 17 such information to any other person or agency except when such  
 18 disclosure:

19 (a) Is authorized by the person who provides the  
 20 information; or

21 (b) Is necessary for purposes of disease surveillance or  
 22 to carry out epidemiological investigations related to incidences  
 1 of animal disease.

2 (2) The department may disclose information as authorized  
 3 by this section subject to any confidentiality requirements that  
 4 the department determines are appropriate under the circumstances.

5 (3) Any person who violates this section shall be subject  
 6 to prosecution and penalty for official misconduct pursuant to  
 7 section 28-924.

8 (4) Nothing in this section shall be construed to  
 9 prohibit the department from discussing, reporting, or otherwise  
 10 disclosing the progress or results of disease surveillance  
 11 activities or epidemiological investigation related to incidences  
 12 of animal disease.

13 Sec. 24. The Revisor of Statutes shall assign sections 22  
 14 and 23 of this act within sections 54-701 to 54-705.

15 2. Renumber the remaining sections accordingly.

The Fischer-Kremer amendment was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Senator Mines offered the following amendment:

AM2563

(Amendments to E & R amendments, AM7165)

1 1. Insert the following sections:

2 Sec. 11. Section 28-1008, Revised Statutes Cumulative  
 3 Supplement, 2004, is amended to read:

4 28-1008 For purposes of sections 28-1008 to 28-1017:

5 (1) Abandon means to leave any animal for any length of  
 6 time without making effective provision for its food, water, or  
 7 other care as is reasonably necessary for the animal's health;

8 (2) Animal means any vertebrate member of the animal  
 9 kingdom. The term does not include an uncaptured wild creature;

10 (3) Cruelly mistreat means to knowingly and intentionally  
 11 kill, maim, disfigure, torture, beat, mutilate, burn, scald, or  
 12 otherwise inflict harm upon any animal;

13 (4) Cruelly neglect means to fail to provide any animal  
 14 in one's care, whether as owner or custodian, with food, water, or

15 other care as is reasonably necessary for the animal's health;  
 16 (5) Humane killing means the destruction of an animal by  
 17 a method which causes the animal a minimum of pain and suffering;

18 (6) Law enforcement officer means any member of the  
 19 Nebraska State Patrol, any inspector under the Commercial Dog and  
 20 Cat Operator Inspection Act, any county or deputy sheriff, any  
 21 member of the police force of any city or village, or any other  
 22 public official authorized by a city or village to enforce state or

1 local animal control laws, rules, regulations, or ordinances; and  
 2 (7) Police animal means a horse or dog owned or  
 3 controlled by the State of Nebraska for the purpose of assisting a  
 4 Nebraska state trooper in the performance of his or her official  
 5 enforcement duties.

6 Sec. 12. Section 28-1018, Revised Statutes Cumulative  
 7 Supplement, 2004, is amended to read:

8 28-1018 (1) A person, other than an animal control  
 9 facility or animal shelter, who sells a puppy or kitten under ~~six~~  
 10 eight weeks of age without its mother is guilty of a Class V  
 11 misdemeanor.

12 (2) For purposes of this section:

13 (a) Animal control facility means a facility operated by  
 14 the state or any political subdivision of the state for the purpose  
 15 of impounding or harboring seized, stray, homeless, abandoned, or  
 16 unwanted animals; and

17 (b) Animal shelter means a facility used to house  
 18 or contain dogs or cats and owned, operated, or maintained by  
 19 an incorporated humane society, animal welfare society, society  
 20 for the prevention of cruelty to animals, or other nonprofit  
 21 organization devoted to the welfare, protection, and humane  
 22 treatment of such animals.

23 Sec. 13. Section 54-627, Reissue Revised Statutes of  
 24 Nebraska, is amended to read:

25 54-627 (1) Beginning April 1, 2001, a person shall not  
 26 operate as a commercial breeder, a dealer, or a boarding kennel and  
 27 beginning October 1, 2003, a person shall not operate as an animal  
 1 control facility or an animal shelter unless the person obtains  
 2 the appropriate license as a commercial breeder, dealer, boarding  
 3 kennel, animal control facility, or animal shelter. Beginning  
 4 January 1, 2004, a person shall not operate as a pet shop unless  
 5 the person obtains a license as a pet shop. A pet shop shall  
 6 only be subject to the Commercial Dog and Cat Operator Inspection  
 7 Act and the rules and regulations adopted and promulgated pursuant  
 8 thereto in any area or areas of the establishment used for the  
 9 keeping and selling of pet animals.

10 (2) An applicant for a license shall submit an  
 11 application for the appropriate license to the department, on a  
 12 form prescribed by the department, together with a ~~nonreturnable~~  
 13 the annual license fee. ~~Such fee shall be one hundred fifty~~  
 14 dollars. The license fee shall be paid annually. Such fee

15 is nonreturnable. Additionally, the department may conduct an  
 16 inspection of the facilities and sanitation and confinement  
 17 practices of the applicant or any other practices that may affect  
 18 the humane treatment of ~~dogs and cats~~ pet animals. Upon receipt  
 19 of the application and ~~initial~~ annual license fee, the appropriate  
 20 license may be issued by the department. Such license shall not be  
 21 transferable to another person or location.

22 ~~(2) The fee charged under this section may be raised or~~  
 23 ~~lowered by the director after a public hearing is held outlining~~  
 24 ~~the reason for any proposed change in the rate. The maximum rate~~  
 25 ~~fixed by the director shall not exceed two hundred dollars.~~

26 (3) The annual license fee shall be according to a fee  
 27 schedule prepared by the director. The fees shall be based upon  
 1 the number of animals served by the licensee, and there shall be  
 2 startup discounts for new licensees. The maximum annual license fee  
 3 shall not exceed two hundred fifty dollars.

4 ~~(3) (4) A license to operate as a commercial breeder, a~~  
 5 ~~license to operate as a dealer, a license to operate as a boarding~~  
 6 ~~kennel, or a license to operate as a pet shop shall be renewed by~~  
 7 ~~filing with the department at least thirty days prior to April 1~~  
 8 ~~of each year a renewal application and the annual license fee. A~~  
 9 ~~license to operate as an animal control facility or animal shelter~~  
 10 ~~shall be renewed by filing with the department at least thirty~~  
 11 ~~days prior to October 1 of each year a renewal application and~~  
 12 ~~the annual license fee. Failure to renew a license prior to the~~  
 13 ~~expiration of the license shall result in an additional fee of~~  
 14 ~~twenty dollars required upon application to renew such license.~~

15 2. Renumber the remaining sections, correct internal  
 16 references, and amend the repealer accordingly.

The Mines amendment was adopted with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

Senator Chambers offered the following amendment:

FA524

Amendment to AM7165

P. 1, line 15 strike "to produce" and insert "for the purpose of producing".

The Chambers amendment was adopted with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

Senator Chambers offered the following amendment:

FA525

Amendment to AM7165

P. 1, line 18 strike "on one premises" show as stricken and insert "at one location".

Senator Chambers withdrew his amendment.

Senator Chambers offered the following amendment:

FA526

Amendment to AM7165

P. 2 in lines 13 and 14 strike "retested with two consecutive official negative tests" show as stricken and insert "subjected to retesting which produced two consecutive negative results".

Senator Chambers offered the following amendment to his pending amendment:

FA529

Amendment to FA526

In line 3 after "to" insert "official".

The Chambers amendment was adopted with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

The Chambers amendment, FA526, as amended, was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Senator Chambers offered the following amendment:

FA527

Amendment to AM7165

P. 7, line 11 strike "from the requirements" and insert "of the requirement to comply with the provisions".

### **SENATOR CUDABACK PRESIDING**

The Chambers amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Senator Chambers offered the following amendment:

FA528

Amendment to AM7165

P. 7, line 22 strike "uncaptured" show as stricken after "animals" insert "at large".

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

Advanced to E & R for engrossment.

### **PRESIDENT SHEEHY PRESIDING**

**LEGISLATIVE BILL 856A.** Advanced to E & R for engrossment.

**STANDING COMMITTEE REPORTS**  
**Judiciary**

**LEGISLATIVE RESOLUTION 274CA.** Placed on General File.

**LEGISLATIVE BILL 1252.** Placed on General File.

**LEGISLATIVE BILL 385.** Placed on General File as amended.

Standing Committee amendment to LB 385:

AM2548

- 1     1. On page 7, lines 9 through 12, strike the new matter.

**LEGISLATIVE BILL 773.** Placed on General File as amended.

Standing Committee amendment to LB 773:

AM2540

- 1     1. Strike the original sections and insert the following  
2 new sections:

3     Section 1. (1) The Legislature finds that families have  
4 a substantial interest in organizing and attending funerals for  
5 deceased relatives and that the rights of families to peacefully  
6 and privately mourn the loss of deceased relatives are violated  
7 when funerals are targeted for picketing or protest activities.

8     (2) The Legislature also recognizes individuals have a  
9 right to free speech and in the context of funeral ceremonies, the  
10 competing interests of picketers and funeral participants must be  
11 balanced. Therefore, the Legislature declares that the purposes of  
12 sections 1 to 3 of this act are to protect the privacy of grieving  
13 families and to preserve the peaceful character of cemeteries,  
14 mortuaries, churches, and other places of worship while still  
15 providing picketers and protestors the opportunity to communicate  
16 their message at a time and place that minimizes the interference  
17 with the rights of funeral participants.

18     Section 2. (1) Funeral means the ceremonies and memorial  
19 services held in connection with the burial or cremation of the  
20 dead but does not include funeral processions on public streets.

21     (2) Picketing means protest activities engaged in by a  
22 person or persons located within three hundred feet of a cemetery,  
23 mortuary, church, or other place of worship.

1     Section 3. (1) A person commits the offense of unlawful  
2 picketing of a funeral if he or she engages in picketing from one  
3 hour prior to through two hours following the commencement of a  
4 funeral.

5     (2) Unlawful picketing of a funeral is a Class III  
6 misdemeanor.

7     Section 28-101, Revised Statutes Cumulative  
8 Supplement, 2004, is amended to read:

9     28-101 Sections 28-101 to 28-1350 and sections 1 to 3 of  
10 this act shall be known and may be cited as the Nebraska Criminal  
11 Code.

12 Sec. 5. Since an emergency exists, this act takes effect  
13 when passed and approved according to law.

**LEGISLATIVE BILL 924.** Placed on General File as amended.  
Standing Committee amendment to LB 924:  
AM2521

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

3 Section 1. Section 76-701, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~76-701 As used in sections 76-701 to 76-724, unless~~  
6 ~~the context otherwise requires~~ For purposes of sections 76-701 to  
7 76-726 and section 2 of this act:

8 (1) Condemner means any legal entity that by law has been  
9 granted the right to exercise the power of eminent domain; and  
10 includes the state and any governmental or political subdivision  
11 thereof;

12 (2) Condemnee means any person, partnership, limited  
13 liability company, corporation, or association owning or having  
14 an encumbrance on any interest in property that is sought to be  
15 acquired by a condemner or in possession of or occupying any such  
16 property;

17 (3) Property means any such interest in real or personal  
18 property as the condemner is empowered by law to acquire for public  
19 use; and

20 (4) County judge means the county judge of the county  
21 where condemnation proceedings provided by such sections 76-701 to  
22 76-724 are had.

23 Sec. 2. (1) A condemner may not take property through the  
1 use of eminent domain under sections 76-704 to 76-724 if the taking  
2 is for an economic development purpose.

3 (2) For purposes of this section, economic development  
4 purpose means taking property for subsequent use by a commercial  
5 for-profit enterprise or to increase tax revenue, tax base,  
6 employment, or general economic conditions.

7 (3) This section does not affect the use of eminent  
8 domain for:

9 (a) Public projects or private projects that make the  
10 property available for use by the general public or for use as a  
11 right-of-way, aqueduct, pipeline, or similar use;

12 (b) Removing harmful uses of property if such uses  
13 constitute an immediate threat to public health and safety;

14 (c) Leasing property to a private person who occupies an  
15 incidental part of public property or a public facility, such as a  
16 retail establishment on the ground floor of a public building;

17 (d) Acquiring abandoned property;

18 (e) Clearing defective property title;

19 (f) Taking private property for use by a public utility  
20 or railroad; and

21 (g) Taking private property based upon a finding of  
 22 blighted or substandard conditions under the Community Development  
 23 Law if the private property is not agricultural land or  
 24 horticultural land as defined in section 77-1359.  
 25 Sec. 3. Original section 76-701, Reissue Revised Statutes  
 26 of Nebraska, is repealed.

**LEGISLATIVE BILL 1227.** Placed on General File as amended.  
 Standing Committee amendment to LB 1227:  
 AM2555

- 1 1. Insert the following new section:
- 2 Sec. 10. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law.

(Signed) Patrick J. Bourne, Chairperson

### **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 786.** Placed on General File as amended.  
 Standing Committee amendment to LB 786:  
 AM2533

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 32-101, Revised Statutes Supplement,
- 4 2005, is amended to read:
- 5 32-101 Sections 32-101 to 32-1551 and section 4 of this
- 6 act shall be known and may be cited as the Election Act.
- 7 Sec. 2. Section 32-1301, Reissue Revised Statutes of
- 8 Nebraska, is amended to read:
- 9 32-1301 For purposes of sections 32-1301 to 32-1309,
- 10 ~~filing clerk shall mean~~ and section 4 of this act:
- 11 (1) Filing clerk means the election commissioner or
- 12 county clerk for recall of elected officers of cities, villages,
- 13 counties, irrigation districts, natural resources districts,
- 14 public power districts, school districts, community college areas,
- 15 educational service units, hospital districts, and metropolitan
- 16 utilities districts; -
- 17 (2) Malfeasance means the willful commission of an
- 18 unlawful or wrongful act in the performance of the duties of
- 19 a public official which is outside the scope of the authority of
- 20 the public official and which infringes on the rights of any person
- 21 or entity;
- 22 (3) Misfeasance means the negligent performance of the
- 23 duties of a public official or the negligent failure to perform a
- 1 specific act which is a required part of the duties of the public
- 2 official; and
- 3 (4) Nonfeasance means the willful failure to perform a
- 4 specific act which is a required part of the duties of the public
- 5 official.

6 Sec. 3. Section 32-1302, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 ~~32-1302 (1) Except for trustees of sanitary and~~  
9 ~~improvement districts, as otherwise provided in sections 31-786~~  
10 ~~to 31-793, any elected official of a political subdivision and~~  
11 ~~any elected member of the governing bodies of cities, villages,~~  
12 ~~counties, irrigation districts, natural resources districts,~~  
13 ~~public power districts, school districts, community college areas,~~  
14 ~~educational service units, hospital districts, and metropolitan~~  
15 ~~utilities districts may be removed from office by recall pursuant~~  
16 ~~to sections 32-1301 to 32-1309 and section 4 of this act. A trustee~~  
17 ~~of a sanitary and improvement district may be removed from office~~  
18 ~~by recall pursuant to sections 31-786 to 31-793.~~

19 (2) If due to reapportionment the boundaries of the area  
20 served by the official or body change, the recall procedure and  
21 special election provisions of sections 32-1301 to 32-1309 and  
22 section 4 of this act shall apply to the registered voters within  
23 the boundaries of the new area.

24 (3) The recall procedure and special election provisions  
25 of such sections shall apply to members of the governing bodies  
26 listed in subsection (1) of this section, ~~other than sanitary and~~  
27 ~~improvement districts~~, who are elected by precinct, district, or  
1 subdistrict of the political subdivision. Only registered voters of  
2 such member's precinct, district, or subdistrict may sign a recall  
3 petition or vote at the recall election. The recall election shall  
4 be held within the member's precinct, district, or subdistrict.  
5 When an elected member is nominated by precinct, district, or  
6 subdistrict in the primary election and elected at large in  
7 the general election, the recall provisions shall apply to the  
8 registered voters at the general election.

9 (4) The recall procedure and special election provisions  
10 shall apply to the mayor and members of the city council  
11 of municipalities with a home rule charter notwithstanding any  
12 contrary provisions of the home rule charter.

13 Sec. 4. One or more registered voters proposing the  
14 recall of an elected official or elected member of a governing  
15 body listed in section 32-1302 shall submit to the filing clerk  
16 a statement, in typewritten form and in concise language of sixty  
17 words or less, stating allegations supporting the grounds of  
18 malfeasance, misfeasance, or nonfeasance in office for which recall  
19 is sought. Such voter or voters shall be deemed to be the principal  
20 circulator or circulators of the recall petition.

21 Sec. 5. Section 32-1303, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 32-1303 (1) A petition demanding that the question of  
24 removing an elected official or elected member of a governing body  
25 listed in section 32-1302 be submitted to the registered voters  
26 shall be signed by registered voters equal in number to at least  
27 thirty-five percent of the total vote cast for that office in the

1 last general election, except that (a) for an office for which  
2 more than one candidate is chosen, the petition shall be signed by  
3 registered voters equal in number to at least thirty-five percent  
4 of the number of votes cast for the person receiving the most votes  
5 for such office in the last general election, (b) for a member of  
6 a board of a Class I school district, the petition shall be signed  
7 by registered voters of the school district equal in number to at  
8 least twenty-five percent of the total number of registered voters  
9 residing in the district on the date that the recall petitions  
10 are first checked out from the filing clerk by the principal  
11 circulator, and (c) for a member of a governing body of a village,  
12 the petition shall be signed by registered voters equal in number  
13 to at least forty-five percent of the total vote cast for the  
14 person receiving the most votes for that office in the last general  
15 election. The signatures shall be affixed to petition papers and  
16 shall be considered part of the petition.

17 (2) Petition circulators shall conform to the  
18 requirements of section 32-630.

19 (3) The petition papers shall be procured from the filing  
20 clerk. Prior to the issuance of such petition papers, an affidavit  
21 shall be signed and filed with the filing clerk by ~~at least one~~  
22 ~~registered voter. Such voter or voters shall be deemed to be~~  
23 the principal circulator or circulators of the recall petition.  
24 The affidavit shall state the name and office of the electe  
25 official or elected member sought to be removed, shall include  
26 in typewritten form in concise language of sixty words or less  
27 the reason or reasons for which recall is sought the statement  
1 of allegations filed under section 4 of this act, and shall  
2 request that the filing clerk issue initial petition papers to the  
3 principal circulator for circulation.

4 (4) The filing clerk shall notify the official individual  
5 sought to be removed by any method specified in section 25-505.01  
6 or, if notification cannot be made with reasonable diligence by  
7 any of the methods specified in section 25-505.01, by leaving  
8 a copy of the affidavit at the official's individual's usual  
9 place of residence and mailing a copy by first-class mail to  
10 the official's individual's last-known address. ~~If the official~~  
11 ~~chooses~~ Within twenty days after the individual receives the copy  
12 of the affidavit, he or she may submit a defense statement in  
13 typewritten form and in concise language of sixty words or less  
14 for inclusion on the petition or he or she may file a suit in the  
15 district court having jurisdiction over the county in which the  
16 individual resides. The district court shall conduct a hearing on  
17 the statement. The clerk of the district court shall notify the  
18 individual whose removal is sought and the principal circulator of  
19 the hearing date. Both parties may appear with counsel. The court  
20 shall hear arguments as to the sufficiency of the allegations. The  
21 district court shall determine, without cost to any party, whether  
22 or not the allegations in the statement show, by a preponderance

23 of the evidence, the existence of the grounds of malfeasance,  
 24 misfeasance, or nonfeasance in office. The clerk of the district  
 25 court shall notify the filing clerk and both parties of the court's  
 26 decision within five days after the decision is rendered. If  
 27 grounds are found to exist, the individual whose removal is sought  
 1 may submit a defense statement as described in this subsection  
 2 within twenty days after receiving the notice of the decision. Upon  
 3 receipt of the defense statement or upon the expiration of such  
 4 twenty-day period if no defense statement is submitted, the filing  
 5 clerk shall issue the petition papers to the principal circulator  
 6 or circulators pursuant to this section. If grounds are found not  
 7 to exist, the filing clerk shall not issue the petition papers.  
 8 ~~Any such defense statement shall be submitted to the filing clerk~~  
 9 ~~within twenty days after the official receives the copy of the~~  
 10 ~~affidavit.~~

11 (5) The filing clerk shall notify the principal  
 12 circulator or circulators that the necessary signatures must be  
 13 gathered within thirty days ~~after from~~ the date of issuing the  
 14 petitions. (4) The filing clerk, upon issuing the initial petition  
 15 papers or any subsequent petition papers, shall enter in a record,  
 16 to be kept in his or her office, the name of the principal  
 17 circulator or circulators to whom the papers were issued, the date  
 18 of issuance, and the number of papers issued. The filing clerk  
 19 shall certify on the papers the name of the principal circulator  
 20 or circulators to whom the papers were issued and the date they  
 21 were issued. No petition paper shall be accepted as part of the  
 22 petition unless it bears such certificate. The principal circulator  
 23 or circulators who check out petitions from the filing clerk may  
 24 distribute such petitions to persons who may act as circulators of  
 25 such petitions.

26 ~~(5)~~ (6) Petition signers shall conform to the  
 27 requirements of sections 32-629 and 32-630. Each signer of a recall  
 1 petition shall be a registered voter and qualified by his or her  
 2 place of residence to vote for the office in question.

3 Sec. 6. Section 32-1304, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 32-1304 (1) The Secretary of State shall design the  
 6 uniform petition papers to be distributed by all filing clerks  
 7 and shall keep a sufficient number of such blank petition papers  
 8 on file for distribution to any filing clerk requesting recall  
 9 petitions. The petition papers shall as nearly as possible conform  
 10 to the requirements of section 32-628.

11 (2) In addition to the requirements specified in section  
 12 32-628, for the purpose of preventing fraud, deception, and  
 13 misrepresentation, every sheet of each petition paper presented  
 14 to a registered voter for his or her signature shall have upon  
 15 it, above the lines for signatures, (a) a statement that the  
 16 signatories must be registered voters qualified by residence to  
 17 vote for the office in question and support the holding of a recall

18 election and (b) in letters not smaller than sixteen-point type in  
19 red print (i) the name and office of the individual sought to be  
20 recalled, (ii) ~~the reason or reasons for which recall is sought~~  
21 statement of allegations filed under section 4 of this act, (iii)  
22 the defense statement, if any, submitted by the elected official  
23 or elected member under section 32-1303, and (iv) the name of the  
24 principal circulator or circulators of the recall petition. The  
25 decision of a county attorney to prosecute or not to prosecute  
26 any individual and the finding of the district court under section  
27 32-1303 shall not be stated on a petition as a reason for recall.

1 (3) Every sheet of each petition paper presented to a  
2 registered voter for his or her signature shall have upon it, below  
3 the lines for signatures, an affidavit as required in subsection  
4 (3) of section 32-628 which also includes language substantially as  
5 follows: "and that the affiant stated to each signer, before the  
6 signer affixed his or her signature to the petition, the following:  
7 (a) The name and office of the individual sought to be recalled,  
8 (b) ~~the reason or reasons for which recall is sought as printed on~~  
9 ~~the petition~~ statement of allegations filed under section 4 of this  
10 act, (c) the defense statement, if any, submitted by the official  
11 or member as printed on the petition, and (d) the name of the  
12 principal circulator or circulators of the recall petition."

13 (4) Each petition paper shall contain a statement  
14 entitled Instructions to Petition Circulators prepared by the  
15 Secretary of State to assist circulators in understanding the  
16 provisions governing the petition process established by sections  
17 32-1301 to 32-1309. The instructions shall include the following  
18 statements:

19 (a) No one circulating this petition paper in an attempt  
20 to gather signatures shall sign the circulator's affidavit unless  
21 each person who signed the petition paper did so in the presence of  
22 the circulator.

23 (b) No one circulating this petition paper in an attempt  
24 to gather signatures shall allow a person to sign the petition  
25 until the circulator has stated to the person (i) the object of the  
26 petition as printed on the petition, (ii) the name and office of  
27 the individual sought to be recalled, (iii) ~~the reason or reasons~~  
1 ~~for which recall is sought as printed on the petition~~ statement of  
2 allegations filed under section 4 of this act, (iv) the defense  
3 statement, if any, submitted by the official or member as printed  
4 on the petition, and (v) the name of the principal circulator or  
5 circulators of the recall petition.

6 Sec. 7. Original sections 32-1301, 32-1302, 32-1303, and  
7 32-1304, Reissue Revised Statutes of Nebraska, and section 32-101,  
8 Revised Statutes Supplement, 2005, are repealed.

(Signed) DiAnna R. Schimek, Chairperson

**Natural Resources**

**LEGISLATIVE BILL 1097.** Placed on General File as amended.

Standing Committee amendment to LB 1097:

AM2519

1 1. Strike the original section and insert the following  
2 new section:  
3 Section 1. The Storm Water Management Plan Program is  
4 created. The purpose of the program is to facilitate and fund  
5 the duties of cities and counties under the federal Clean  
6 Water Act, 33 U.S.C. 1251 et seq., as such act existed on  
7 January 1, 2006, regarding storm water runoff under the National  
8 Pollutant Discharge Elimination System requirements. The Storm  
9 Water Management Plan Program shall function as a grant program  
10 administered by the Department of Environmental Quality, using  
11 funds appropriated for the program. The department shall deduct  
12 from funds appropriated amounts sufficient to reimburse itself for  
13 its costs of administration of the grant program. Any city applying  
14 for a grant under the program shall have a storm water management  
15 plan approved by the department which meets the requirements of the  
16 National Pollutant Discharge Elimination System. Grant applications  
17 shall be made to the department on forms prescribed by the  
18 department. Grant funds shall be distributed by the department as  
19 follows:

20 (1) Not less than eighty percent of the funds available  
21 for grants under this section shall be provided to cities and  
22 counties in urbanized areas, as identified in 64 Federal Register  
23 68822, as such section existed on January 1, 2006, that apply  
1 for grants and meet the requirements of this section. Grants made  
2 pursuant to this subdivision shall be distributed proportionately  
3 based on the population of applicants within such category, as  
4 determined by the most recent federal census update or recount  
5 certified by the United States Department of Commerce, Bureau of  
6 the Census. Any funds available for grants under this subdivision  
7 and not awarded by the end of a calendar year shall be available  
8 for grants in the following year; and

9 (2) Not more than twenty percent of the funds available  
10 for grants under this section shall be provided to cities and  
11 counties outside of urbanized areas, as identified in 64 Federal  
12 Register 68822, as such section existed on January 1, 2006, with  
13 populations greater than ten thousand inhabitants as determined by  
14 the most recent federal census update or recount certified by the  
15 United States Department of Commerce, Bureau of the Census that  
16 apply for grants and meet the requirements of this section. Grants  
17 under this subdivision shall be distributed proportionately based  
18 on the population of applicants within this category as determined  
19 by the most recent federal census update or recount certified by  
20 the United States Department of Commerce, Bureau of the Census.  
21 Any funds available for grants pursuant to this subdivision which

22 have not been awarded at the end of each calendar year shall be  
 23 available for awarding grants pursuant to subdivision (1) of this  
 24 section.  
 25 Any city or county receiving a grant under subdivision  
 26 (1) or (2) of this section shall contribute matching funds equal to  
 27 twenty percent of the grant amount.

(Signed) Ed Schrock, Chairperson

### AMENDMENT - Print in Journal

Senator Wehrbein filed the following amendment to LB 990:  
 AM2562

- 1 1. On page 13, line 10, after "disclose" insert "(a)" and
- 2 strike "and" and insert ".(b)"; and in line 12 after "year" insert
- 3 "., and (c) the location of the project".

### BILL ON FIRST READING

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

**LEGISLATIVE BILL 766A.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 766, Ninety-ninth Legislature, Second Session, 2006; and to declare an emergency.

### SELECT COMMITTEE REPORT Enrollment and Review

**LEGISLATIVE BILL 1115.** Placed on Select File as amended.  
 E & R amendment to LB 1115:  
 AM7175

- 1 1. In the Standing Committee amendment, AM2038:
- 2 a. On page 2, line 24, strike "effective date of this
- 3 act" and insert "operative date of this section"; and in line
- 4 25 strike "This act" and insert "The Uniform Conflict of Laws
- 5 Limitations Act";
- 6 b. On page 13, line 1, after "magistrate" insert an
- 7 underscored comma;
- 8 c. On page 17, lines 18 and 19, strike the new matter; in
- 9 line 19 reinstate the stricken matter; and in line 22 strike the
- 10 paragraphing and "(b) The" and insert "the";
- 11 d. On page 18, line 27, strike "are" and insert "is"; and
- 12 e. On page 24, line 21, reinstate the stricken matter and
- 13 strike the new matter.
- 14 2. On page 1, strike beginning with "civil" in line 1
- 15 through line 5 and insert "legal processes and reporting; to amend
- 16 sections 25-214, 25-302, 25-307, 25-308, 25-316, 25-322, 25-325,

17 25-326, 25-329, 25-2009, 29-812, 29-814.01, 30-2603, 42-108,  
 18 42-116, 42-371.01, 43-247, 43-2, 129, 43-1314, 44-3311, 71-507,  
 19 71-510, and 84-917, Reissue Revised Statutes of Nebraska, sections  
 20 25-2720.01, 29-4202, 29-4203, 29-4204, 29-4205, 29-4206, 29-4207,  
 21 71-612, and 71-628, Revised Statutes Cumulative Supplement,  
 22 2004, and section 71-601.01, Revised Statutes Supplement, 2005;  
 23 to adopt the Uniform Conflict of Laws Limitations Act; to  
 1 change and eliminate provisions relating to civil actions,  
 2 courts, search warrants, audiovisual court appearances, payments  
 3 to minors, marriage ceremonies, foster care placements, and  
 4 reporting regarding lawyers; to provide for abstracts of marriage,  
 5 reporting of exposure to infectious diseases, waiver of sovereign  
 6 immunity, and modification of findings and decisions in contested  
 7 administrative cases; to harmonize provisions; to provide operative  
 8 dates; to repeal the original sections; to outright repeal section  
 9 25-215, Reissue Revised Statutes of Nebraska; and to declare an  
 10 emergency.".

(Signed) Michael Flood, Chairperson

### REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Miller, Dennis W., Jr. - Nebraska Educational Telecommunications  
 Commission - Education

Titus, Steven E. - Nebraska Educational Telecommunications Commission -  
 Education

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

### SELECT FILE

**LEGISLATIVE BILL 663.** E & R amendment, AM7174, printed  
 separately and referred to on page 800, was adopted.

Senator Cudaback renewed his pending amendment, AM2522, found on  
 page 839.

The Cudaback amendment was adopted with 26 ayes, 0 nays, 19 present and  
 not voting, and 4 excused and not voting.

Senator Chambers renewed his pending amendment, FA517, found on page  
 839.

The Chambers amendment was adopted with 26 ayes, 0 nays, 18 present and  
 not voting, and 5 excused and not voting.

Senator Chambers renewed his pending amendment, FA518, found on page 839.

The Chambers amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Senator Chambers renewed his pending amendment, FA519, found on page 839.

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

Senator Chambers asked unanimous consent to withdraw his pending amendment, FA520, found on page 840, and replace it with his substitute amendment, FA523. No objections. So ordered.

FA523

P. 8, line 4 strike "for a determination of"

The Chambers amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Senator Baker offered the following amendment:

AM2559

(Amendments to E & R amendments, AM7174)

- 1 1. Strike section 30 and insert the following new
- 2 sections:
- 3 Sec. 19. Section 60-169, Revised Statutes Supplement,
- 4 2005, is amended to read:
- 5 60-169 ~~(4) Each~~ (1)(a) Except as otherwise provided in
- 6 subdivision (b) of this subsection, each owner of a vehicle and
- 7 each person mentioned as owner in the last certificate of title,
- 8 when the vehicle is dismantled, destroyed, or changed in such
- 9 a manner that it loses its character as a vehicle or changed in such
- 10 a manner that it is not the vehicle described in the certificate
- 11 of title, shall surrender his or her certificate of title to the
- 12 county clerk or designated county official of the county where such
- 13 certificate of title was issued or, if issued by the department,
- 14 to the department. If the certificate of title is surrendered
- 15 to the county clerk or designated county official, he or she
- 16 shall, with the consent of any holders of any liens noted thereon,
- 17 enter a cancellation upon his or her records and shall notify the
- 18 department of such cancellation. If the certificate is surrendered
- 19 to the department, it shall, with the consent of any holder of any
- 20 lien noted thereon, enter a cancellation upon its records.
- 21 (b)(i) In the case of a mobile home or manufactured
- 22 home for which a certificate of title has been issued, if such
- 1 mobile home or manufactured home is affixed to real property in

2 which the owner of the mobile home or manufactured home has an  
3 ownership interest, the certificate of title may be surrendered  
4 for cancellation to the county clerk or designated county official  
5 of the county where such certificate of title is issued or, if  
6 issued by the department, to the department, if at the time of  
7 surrender the owner submits to the county clerk, the designated  
8 county official, or the department an affidavit of affixture on a  
9 form provided by the department that contains all of the following,  
10 as applicable:

11 (A) The names and addresses of all of the owners of  
12 record of the mobile home or manufactured home;

13 (B) A description of the mobile home or manufactured  
14 home that includes the name of the manufacturer, the year of  
15 manufacture, the model, and the manufacturer's serial number;

16 (C) The legal description of the real property upon which  
17 the mobile home or manufactured home is affixed;

18 (D) A statement that the mobile home or manufactured home  
19 is affixed to the real property;

20 (E) The written consent of each holder of a lien duly  
21 noted on the certificate of title to the release of such lien and  
22 the cancellation of the certificate of title;

23 (F) A copy of the certificate of title surrendered for  
24 cancellation; and

25 (G) The name and address of an owner, a financial  
26 institution, or another entity to which notice of cancellation of  
27 the certificate of title may be delivered.

1 (i) The person submitting an affidavit of affixture  
2 pursuant to subdivision (b)(i) of this subsection shall swear or  
3 affirm that all statements in the affidavit are true and material  
4 and further acknowledge that any false statement in the affidavit  
5 may subject the person to penalties relating to perjury under  
6 section 28-915.

7 (2) If a certificate of title of a mobile home or  
8 manufactured home is surrendered to the county clerk or designated  
9 county official, along with the affidavit required by subdivision  
10 (1)(b) of this section, he or she shall enter a cancellation upon  
11 his or her records, notify the department of such cancellation,  
12 forward a duplicate original of the affidavit to the department,  
13 and deliver a duplicate original of the executed affidavit under  
14 subdivision (1)(b) of this section to the register of deeds for the  
15 county in which the real property is located to be filed by the  
16 register of deeds. The county clerk or designated county official  
17 shall be entitled to collect fees from the person submitting the  
18 affidavit in accordance with sections 33-109 and 33-112 to cover  
19 the costs of filing such affidavit. If the certificate of title is  
20 surrendered to the department, along with the affidavit required by  
21 subdivision (1)(b) of this section, the department shall enter a  
22 cancellation upon its records and deliver a duplicate original of  
23 the executed affidavit under subdivision (1)(b) of this section to

24 the register of deeds for the county in which the real property  
25 is located to be filed by the register of deeds. The department  
26 shall be entitled to collect fees from the person submitting the  
27 affidavit in accordance with sections 33-109 and 33-112 to cover  
1 the costs of filing such affidavit. Following the cancellation of  
2 a certificate of title for a mobile home or manufactured home,  
3 neither the county clerk, the designated county official, nor the  
4 department shall issue a certificate of title for such mobile home  
5 or manufactured home, except as provided in subsection (5) of this  
6 section.

7 (3) If a mobile home or manufactured home is affixed to  
8 real estate before the operative date of this section, a person  
9 who is the holder of a lien or security interest in both the  
10 mobile home or manufactured home and the real estate to which it is  
11 affixed on such date may enforce its liens or security interests by  
12 accepting a deed in lieu of foreclosure or in the manner provided  
13 by law for enforcing liens on the real estate.

14 (4) A mobile home or manufactured home for which the  
15 certificate of title has been canceled and for which an affidavit  
16 of affixture has been duly recorded pursuant to subsection (2) of  
17 this section shall be treated as part of the real estate upon which  
18 such mobile home or manufactured home is located. Any lien thereon  
19 shall be perfected and enforced in the same manner as a lien on  
20 real estate. The owner of such mobile home or manufactured home may  
21 convey ownership of the mobile home or manufactured home only as a  
22 part of the real estate to which it is affixed.

23 (5)(a) If an owner of both the mobile home or  
24 manufactured home and the real estate described in subdivision  
25 (1)(b) of this section intends to detach the mobile home or  
26 manufactured home from the real estate, the owner shall do both of  
27 the following: (i) Before detaching the mobile home or manufactured  
1 home, record an affidavit of detachment in the office of the  
2 register of deeds in the county in which the affidavit is recorded  
3 under subdivision (1)(b) of this section; and (ii) apply for a  
4 certificate of title for the mobile home or manufactured home  
5 pursuant to section 60-147.

6 (b) The affidavit of detachment shall contain all of the  
7 following:

8 (i) The names and addresses of all of the owners of  
9 record of the mobile home or manufactured home;

10 (ii) A description of the mobile home or manufactured  
11 home that includes the name of the manufacturer, the year of  
12 manufacture, the model, and the manufacturer's serial number;

13 (iii) The legal description of the real estate from which  
14 the mobile home or manufactured home is to be detached;

15 (iv) A statement that the mobile home or manufactured  
16 home is to be detached from the real property;

17 (v) A statement that the certificate of title of the  
18 mobile home or manufactured home has previously been canceled;

19 (vi) The name of each holder of a lien of record against  
 20 the real estate from which the mobile home or manufactured home  
 21 is to be detached, with the written consent of each holder to the  
 22 detachment; and

23 (vii) The name and address of an owner, a financial  
 24 institution, or another entity to which the certificate of title  
 25 may be delivered.

26 (6) An owner of an affixed mobile home or manufactured  
 27 home for which the certificate of title has previously been  
 1 canceled pursuant to subsection (2) of this section shall not  
 2 detach the mobile home or manufactured home from the real estate  
 3 before a certificate of title for the mobile home or manufactured  
 4 home is issued by the county clerk, designated county official,  
 5 or department. If a certificate of title is issued by the county  
 6 clerk, designated county official, or department, the mobile home  
 7 or manufactured home is no longer considered part of the real  
 8 property. Any lien thereon shall be perfected pursuant to section  
 9 60-164. The owner of such mobile home or manufactured home may  
 10 convey ownership of the mobile home or manufactured home only by  
 11 way of a certificate of title.

12 (7) For purposes of this section:

13 (a) A mobile home or manufactured home is affixed to real  
 14 estate if the wheels, towing hitches, and running gear are removed  
 15 and it is permanently attached to a foundation or other support  
 16 system; and

17 (b) Ownership interest means the fee simple interest in  
 18 real estate or an interest as the lessee under a lease of the real  
 19 property that has a term that continues for at least twenty years  
 20 after the recording of the affidavit under subsection (2) of this  
 21 section.

22 ~~(2)~~ (8) Upon cancellation of a certificate of title  
 23 in the manner prescribed by this section, the county clerk or  
 24 designated county official and the department may cancel and  
 25 destroy all certificates and all memorandum certificates in that  
 26 chain of title.

27 Sec. 20. Section 60-193, Revised Statutes Supplement,  
 1 2005, is amended to read:

2 60-193 The statement required by section 60-192 shall be  
 3 on a form prescribed by the department or shall appear on the  
 4 certificate of title. Such statement shall be submitted with the  
 5 application for certificate of title, ~~and unless the statement~~  
 6 ~~appears on the certificate of title being submitted with the~~  
 7 ~~application. The statement required by section 60-192 shall appear~~  
 8 ~~on the new certificate of title issued in the name of the~~  
 9 ~~transferee, shall have recorded thereon the mileage shown by such~~  
 10 ~~statement and a notation that the recorded mileage is actual, not~~  
 11 ~~actual, or in excess of the mechanical odometer limit, whichever~~  
 12 ~~is applicable. No certificate of title shall be issued for a motor~~  
 13 ~~vehicle unless the application is accompanied by such statement or~~

14 unless the information required by such statement appears on the  
15 certificate of title being submitted with the application.

16 Sec. 35. Sections 19 and 37 of this act become operative  
17 on June 1, 2006. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,  
18 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30,  
19 31, 32, 33, 34, and 36 of this act become operative three calendar  
20 months after the adjournment of this legislative session. The other  
21 sections of this act become operative on their effective date.

22 Sec. 37. Original section 60-169, Revised Statutes  
23 Supplement, 2005, is repealed.

24 Sec. 38. Original section 60-193, Revised Statutes  
25 Supplement, 2005, is repealed.

26 Sec. 39. Since an emergency exists, this act takes effect  
27 when passed and approved according to law.

1 2. On page 11, strike beginning with "in" in line 8  
2 through "department" in line 9 and show as stricken.

3 3. On page 27, line 23, strike "60-3,131,".

4 4. Renumber the remaining sections and correct internal  
5 references accordingly.

Senator Beutler offered the following amendment to the Baker pending  
amendment:  
AM2577

(Amendments to AM2559)

1 1. On page 2, line 2, strike the first "the" and insert  
2 "each" and strike "an" and insert "any"; and in line 17 after  
3 "affixed" insert "and the names of all of the owners of record of  
4 the real property".

5 2. On page 4, line 23, strike "an" and insert "each".

6 3. On page 5, line 14, after "detached" insert "and the  
7 names of all of the owners of record of the real estate".

The Beutler amendment was adopted with 31 ayes, 0 nays, 12 present and  
not voting, and 6 excused and not voting.

The Baker amendment, as amended, was adopted with 31 ayes, 0 nays, 12  
present and not voting, and 6 excused and not voting.

Senator Beutler offered the following amendment:  
AM2571

(Amendments to E & R amendments, AM7174)

1 1. On page 5, line 13, after the period insert "The  
2 determination of the department shall be final and nonappealable.";  
3 and in line 27 strike "shall" and insert "may".

4 2. On page 6, line 2, strike "shall" and insert "may"; in  
5 line 3 after the period insert "The determination of the department  
6 regarding designation of an individual as a qualified car club  
7 representative and placement on the list of qualified car club

8 representatives shall be final and nonappealable."; in line 21  
 9 strike "and"; and in line 22 strike "for good cause shown".

The Beutler amendment was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

## STANDING COMMITTEE REPORTS

### Health and Human Services

**LEGISLATIVE BILL 915.** Placed on General File as amended.  
 Standing Committee amendment to LB 915:  
 AM2566

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

3 Section 1. For purposes of sections 1 to 4 of this act:

4 (1) Clandestine drug lab means any area where glassware,  
 5 heating devices, or other equipment or precursors, solvents, or  
 6 related articles or reagents are used to unlawfully manufacture  
 7 methamphetamine;

8 (2) Contaminated property means an enclosed area of  
 9 any property intended for human habitation or use which has  
 10 been contaminated by chemicals, chemical residue, methamphetamine,  
 11 methamphetamine residue, or other substances from a clandestine  
 12 drug lab;

13 (3) Department means the Department of Health and Human  
 14 Services Regulation and Licensure;

15 (4) Law enforcement agency has the meaning found in  
 16 section 81-1401;

17 (5) Methamphetamine means methamphetamine, its salts,  
 18 optical isomers, and salts of its isomers;

19 (6) Local public health department has the meaning found  
 20 in section 71-1626; and

21 (7) Rehabilitate or rehabilitation means all actions  
 22 necessary to ensure that contaminated property is safe for human  
 23 habitation or use.

1 Sec. 2. A law enforcement agency that discovers a  
 2 clandestine drug lab in the State of Nebraska shall report the  
 3 location of such lab to the Nebraska State Patrol within thirty  
 4 days after making such discovery. Such report shall include the  
 5 date of discovery of such lab, the county where the property  
 6 containing such lab is located, and a legal description of  
 7 the property or other description or address of such property  
 8 sufficient to clearly establish its location. As soon as  
 9 practicable after such discovery, the law enforcement agency shall  
 10 provide the Nebraska State Patrol with a complete list of the  
 11 chemicals, including methamphetamine, its precursors, solvents, and  
 12 related reagents, found at or removed from the location of such

13 lab. Upon receipt, the Nebraska State Patrol shall promptly forward  
 14 a copy of such report and list to the department, the Department  
 15 of Environmental Quality, the municipality or county where the lab  
 16 is located, and the director of the local public health department  
 17 servng such municipality or county.

18 Sec. 3. (1) The public health department serving the  
 19 municipality or county where a clandestine drug lab has been  
 20 discovered shall monitor the rehabilitation of any contaminated  
 21 property at such location in accordance with standards and  
 22 procedures established or approved by the department. The  
 23 department shall adopt and promulgate rules and regulations to  
 24 establish such standards and procedures no later than July 15,  
 25 2007. The department, upon request, may approve other standards and  
 26 procedures that are as stringent as or more stringent than those  
 27 established by the department as meeting the requirements of this  
 1 subsection.

2 (2) A local public health department may charge and  
 3 collect fees from the owner or owners of contaminated property to  
 4 cover the costs associated with monitoring the rehabilitation of  
 5 such property under this section, and may contract with other local  
 6 public health departments or other appropriate entities to assist  
 7 in the monitoring of such rehabilitation. Upon the completion  
 8 of such rehabilitation, the local public health department shall  
 9 release the property for human habitation and use.

10 (3) The owner or owners of contaminated property shall  
 11 not permit the human habitation or use of such property until the  
 12 rehabilitation of such property has been completed and the property  
 13 has been released for such habitation or use under this section.

14 Sec. 4. Notwithstanding any other provision of law, if  
 15 leased property contains a clandestine drug lab, an owner may  
 16 terminate the lease agreement upon three days' written notice  
 17 for the purpose of rehabilitating the contaminated property in  
 18 accordance with the rules and regulations adopted and promulgated  
 19 pursuant to section 3 of this act.

(Signed) Jim Jensen, Chairperson

## Agriculture

**LEGISLATIVE BILL 986.** Placed on General File.

**LEGISLATIVE BILL 834.** Placed on General File as amended.  
 Standing Committee amendment to LB 834:  
 AM2505

- 1 1. On page 2, line 5, after "seeds" insert "based upon
- 2 the type, nature, or genetic makeup of such seeds".

**LEGISLATIVE BILL 517.** Indefinitely postponed.

**LEGISLATIVE BILL 964.** Indefinitely postponed.

**LEGISLATIVE BILL 1018.** Indefinitely postponed.

**LEGISLATIVE BILL 1053.** Indefinitely postponed.

(Signed) Bob Kremer, Chairperson

**AMENDMENTS - Print in Journal**

Senator Howard filed the following amendment to LB 994:  
AM2458

(Amendments to AM2157)

- 1 1. Insert the following new section:
- 2 Sec. 40. It is the intent of the Legislature to
- 3 appropriate funds to the Department of Health and Human Services to
- 4 provide for at least ten full-time income maintenance workers for
- 5 the department to implement the changes made to sections 68-1713
- 6 and 68-1721 by this legislative bill.

Senator Mines filed the following amendment to LB 819:  
AM2547

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
- 2 Section 1. Section 81-885.07, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 81-885.07 (1) There is hereby created the State Real
- 5 Estate Commission which shall consist of the Secretary of State,
- 6 who shall be chairperson of the commission, and six members
- 7 appointed by the Governor. ~~Four~~ Three of the members of the
- 8 commission appointed by the Governor shall be active and licensed
- 9 real estate brokers who have engaged in the real estate business
- 10 as brokers or associate brokers for not less than five years,
- 11 which members shall be appointed by the Governor, one from each
- 12 of the ~~four~~ three congressional districts as the districts were
- 13 constituted on January 1, ~~1961~~ 2006. The remaining members shall
- 14 be appointed at large, one of whom shall be representative of
- 15 the public, ~~and~~ one of whom shall be a licensed real estate
- 16 salesperson who has engaged in the real estate business as a
- 17 salesperson for not less than three years, ~~and one of whom shall be~~
- 18 an active and licensed real estate broker who has engaged in the
- 19 real estate business as a broker or associate broker for not less
- 20 than five years. The member representing the former congressional
- 21 district 1 on the effective date of this act shall represent
- 22 congressional district 1 for the balance of his or her term. The
- 1 member representing the former congressional district 2 on the
- 2 effective date of this act shall represent congressional district
- 3 2 for the balance of his or her term. The member representing the
- 4 former congressional district 3 on the effective date of this act
- 5 shall become an at-large member for the balance of his or her term.
- 6 The member representing the former congressional district 4 on the
- 7 effective date of this act shall represent congressional district 3

8 for the balance of his or her term.

9 (2) At the expiration of the term of any member of  
10 the commission, the Governor shall appoint a successor for a  
11 term of six years. Any appointed member shall be limited to  
12 one six-year term, in addition to any partial term served. In  
13 the event of a vacancy on the commission, the Governor shall  
14 fill such vacancy by appointing a member to serve during the  
15 unexpired term of the member whose office has become vacant. In  
16 the absence of the chairperson, the senior member of the commission  
17 in point of service present shall serve as presiding officer. Not  
18 less than four members of the commission must be present at any  
19 official meeting of the commission. The action of the majority  
20 of the members of the commission shall be deemed the action of  
21 the commission. No appointed person may act as a member of the  
22 commission while holding any other elective or appointive state or  
23 federal office.

24 (3) Each member of the commission shall receive as  
25 compensation for each day actually spent on official duties at  
26 scheduled meetings the sum of one hundred dollars and actual  
27 and necessary expenses incurred in the performance of his or her  
1 official duties.

2 (4) The commission shall employ a director who shall keep  
3 a record of all the proceedings, transactions, communications, and  
4 official acts of the commission, be custodian of all the records  
5 of the commission, and perform such other duties as the commission  
6 may require. The director shall call a meeting of the commission at  
7 his or her discretion or upon the direction of the chairperson or  
8 upon a written request of two or more members of the commission.  
9 The commission may employ such other employees as may be necessary  
10 to properly carry out the Nebraska Real Estate License Act, fix  
11 the salaries of such employees, and make such other expenditures  
12 as are necessary to properly carry out the act. The office of the  
13 commission shall be maintained in Lincoln and all files, records,  
14 and property of the commission shall remain in such office. Neither  
15 the director nor any employee of the commission may be an officer  
16 or paid employee of any real estate association or group of real  
17 estate dealers or brokers.

18 (5) The commission may adopt and promulgate rules and  
19 regulations relating to the administration of but not inconsistent  
20 with the act.

21 (6) The commission may conduct or assist in conducting  
22 real estate institutes and seminars and incur and pay the necessary  
23 expenses in connection therewith, which institutes or seminars  
24 shall be open to all licensees.

25 (7) The commission may charge reasonable fees for  
26 services it renders, not to exceed the actual costs thereof, except  
27 as otherwise provided in the act. The fees established by the  
1 commission pursuant to the act shall be established at the level  
2 necessary to meet expenditures of the commission as approved by the

3 Legislature and to provide a sufficient cash fund balance.

4 Sec. 2. Section 81-885.17, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 81-885.17 (1)(a) A nonresident of this state who is  
7 actively engaged in the real estate business, who maintains a  
8 place of business in his or her resident regulatory jurisdiction,  
9 and who has been duly licensed in that regulatory jurisdiction  
10 to conduct such business in that regulatory jurisdiction may, in  
11 the discretion of the commission, be issued a nonresident broker's  
12 license.

13 (b) A nonresident salesperson employed by a broker  
14 holding a nonresident broker's license may, in the discretion  
15 of the commission, be issued a nonresident salesperson's license  
16 under such nonresident broker.

17 (c) A nonresident who becomes a resident of the State  
18 of Nebraska and who holds a broker's or salesperson's license  
19 in his or her prior resident regulatory jurisdiction shall be  
20 issued a resident broker's or salesperson's license upon filing an  
21 application, paying the applicable license fee, complying with the  
22 criminal history record information check under subsection (4) of  
23 this section, and filing the affidavit required by subsection (7)  
24 of this section.

25 (2) Obtaining a nonresident broker's license shall  
26 constitute sufficient contact with this state for the exercise of  
27 personal jurisdiction over the licensee in any action arising out  
1 of the licensee's activity in this state.

2 (3) Prior to the issuance of any license to any  
3 nonresident, he or she shall file with the commission a duly  
4 certified copy of the license issued to the applicant by the  
5 resident regulatory jurisdiction and pay to the commission the  
6 nonresident license fee as provided in section 81-885.14 for the  
7 obtaining of a broker's or salesperson's license.

8 (4) An applicant for an original nonresident broker's  
9 or salesperson's license shall be subject to fingerprinting and a  
10 check of his or her criminal history record information maintained  
11 by the Federal Bureau of Investigation through the Nebraska State  
12 Patrol. Each applicant shall furnish to the Nebraska State Patrol  
13 a full set of fingerprints to enable a criminal background  
14 investigation to be conducted. The applicant shall request that  
15 the Nebraska State Patrol submit the fingerprints to the Federal  
16 Bureau of Investigation for a national criminal history record  
17 check. The applicant shall pay the actual cost, if any, of the  
18 fingerprinting and check of his or her criminal history record  
19 information. The applicant shall authorize release of the national  
20 criminal history record check to the commission. The criminal  
21 history record information check shall be completed within ninety  
22 days preceding the date the original application for a license is  
23 received in the commission's office, and if not, the application  
24 shall be returned to the applicant.

25 (5) Nothing in this section shall preclude the commission  
 26 from entering into reciprocal agreements with other regulatory  
 27 jurisdictions when such agreements are necessary to provide  
 1 Nebraska residents authority to secure licenses in other regulatory  
 2 jurisdictions.

3 (6) Nonresident licenses granted as provided in this  
 4 section shall remain in force for only as long as the requirements  
 5 of issuing and maintaining a license are met unless (a) suspended  
 6 or revoked by the commission for just cause or (b) lapsed for  
 7 failure to pay the annual renewal fee.

8 (7) Prior to the issuance of any license to a nonresident  
 9 applicant, an affidavit shall be filed by the applicant with  
 10 the commission certifying that the applicant has reviewed and  
 11 is familiar with the Nebraska Real Estate License Act and the  
 12 rules and regulations of the commission and agrees to be bound  
 13 by the act, rules, and regulations. Within ninety days after the  
 14 issuance of a license to a nonresident licensee, the licensee  
 15 shall provide to the commission adequate proof of completion  
 16 of a three-hour class approved by the commission specific to  
 17 the Nebraska Real Estate License Act and the law of agency  
 18 relationships enumerated in sections 76-2401 to 76-2430. If the  
 19 licensee fails to provide adequate proof of completion of the  
 20 approved class to the commission within the ninety-day period, the  
 21 director of the commission or his or her designee shall place the  
 22 license on inactive status and notify the licensee that he or she  
 23 must show cause why the license should not be revoked.

24 2. On page 1, strike beginning with "the" in line  
 25 1 through line 4 and insert "real estate; to amend sections  
 26 81-885.07, 81-885.17, and 81-885.20, Reissue Revised Statutes of  
 27 Nebraska; to change the membership of the State Real Estate  
 1 Commission to reflect the current congressional districts; to  
 2 change procedures relating to licenses; to change provisions  
 3 relating to the Nebraska Real Estate License Act; and to repeal the  
 4 original sections."

5 3. On page 2, line 20, strike "section" and insert  
 6 "sections 81-885.07, 81-885.17, and"; and in line 21 strike "is"  
 7 and insert "are".

8 4. Renumber the remaining sections accordingly.

Senator Synowiecki filed the following amendment to LB 489:  
 (Amendment, AM2344, is printed separately and available in the Bill Room,  
 Room 1104.)

### ANNOUNCEMENT

Senator Raikes announced the Education Committee will hold an executive  
 session Tuesday, March 7, 2006, at 8:00 a.m., in Room 2022.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Combs asked unanimous consent to add her name as cointroducer to LBs 773 and 1253. No objections. So ordered.

Senator Fischer asked unanimous consent to add her name as cointroducer to LB 856. No objections. So ordered.

Senator Redfield asked unanimous consent to add her name as cointroducer to LB 965. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 36 twelfth-grade students and teacher from Millard West, Omaha; 4 twelfth-grade students and teacher from Diller-Odell School; a delegation from Hartington; 36 twelfth-grade students and teacher from Millard West, Omaha; and Kelsay Varwig from the UNL Student Ambassador Program, Lincoln.

The Doctor of the Day was Dr. Dale Michels from Lincoln.

**ADJOURNMENT**

At 12:03 p.m., on a motion by Senator Stuhr, the Legislature adjourned until 10:00 a.m., Tuesday, March 7, 2006.

Patrick J. O'Donnell  
Clerk of the Legislature