

**FORTY-FIRST DAY - MARCH 10, 2006****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
SECOND SESSION****FORTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, March 10, 2006

**PRAYER**

The prayer was offered by Senator Langemeier.

**ROLL CALL**

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

The roll was called and all members were present except Senator Aguilar who was excused; and Senators Cunningham, Howard, Landis, Dw. Pedersen, and Raikes who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fortieth day was approved.

**REPORT**

The following report was received by the Legislature:

**Auditor of Public Accounts**

Statewide Single Audit for year ended June 30, 2005

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 9, 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  
Conservation Voters, Nebraska League of

Hansen, Stephen  
Todd Kaufman

Kissel/Erickson & Sederstrom Associates, LLC  
Families for Effective Autism Treatment (FEAT) (Withdrawn 03/07/2006)

Plucker, Julia  
Coast Casinos, Inc. (Withdrawn 03/09/2006)  
Kelley & Lehan, PC

### SELECT FILE

**LEGISLATIVE BILL 454.** Senator Chambers renewed his pending amendment, FA549, found on page 967, to his pending amendment, AM1238, found on page 1218, First Session, 2005, and considered on page 961.

### SPEAKER BRASHEAR PRESIDING

Senator Combs offered the following motion:  
Invoke cloture on LB 454, pursuant to Rule 7, Section 10.

Senator Combs moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

Senator Combs requested a roll call vote, in reverse order, on her motion to invoke cloture.

Voting in the affirmative, 33:

Baker	Cornett	Foley	Kremer	Schrock
Beutler	Cudaback	Friend	Langemeier	Smith
Bourne	Cunningham	Heidemann	Louden	Stuhr
Burling	Engel	Hudkins	McDonald	Synowiecki
Byars	Erdman	Janssen	Pahls	Wehrbein
Combs	Fischer	Jensen	Pedersen, Dw.	
Connealy	Flood	Kopplin	Redfield	

Voting in the negative, 9:

Brown	Johnson	Price	Schimek	Thompson
Chambers	Mines	Raikes	Stuthman	

Present and not voting, 3:

Brashear	Kruse	Pederson, D.
----------	-------	--------------

Excused and not voting, 4:

Aguilar            Howard            Landis            Preister

The Combs motion to invoke cloture prevailed with 33 ayes, 9 nays, 3 present and not voting, and 4 excused and not voting.

The Chambers amendment, FA549, lost with 1 aye, 22 nays, 22 present and not voting, and 4 excused and not voting.

The Chambers amendment, AM1238, lost with 1 aye, 22 nays, 22 present and not voting, and 4 excused and not voting.

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

Voting in the affirmative, 31:

Baker	Cornett	Friend	Louden	Stuhr
Bourne	Cunningham	Heidemann	McDonald	Synowiecki
Brashear	Engel	Hudkins	Pahls	Wehrbein
Burling	Erdman	Janssen	Pedersen, Dw.	
Byars	Fischer	Jensen	Redfield	
Combs	Flood	Kremer	Schrock	
Connealy	Foley	Langemeier	Smith	

Voting in the negative, 9:

Beutler	Chambers	Mines	Raikes	Thompson
Brown	Johnson	Price	Schimek	

Present and not voting, 5:

Cudaback	Kopplin	Kruse	Pederson, D.	Stuthman
----------	---------	-------	--------------	----------

Excused and not voting, 4:

Aguilar            Howard            Landis            Preister

Advanced to E & R for engrossment with 31 ayes, 9 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 454A.** E & R amendment, AM7160, found on page 611, was adopted.

**SENATOR CUDABACK PRESIDING**

Senator Combs withdrew her pending amendments, AM1867 and AM2471, found on pages 324 and 906.

Senator Chambers offered the following motion:  
Indefinitely postpone LB 454A.

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

The Chambers motion to indefinitely postpone failed with 4 ayes, 30 nays, 11 present and not voting, and 4 excused and not voting.

### **SPEAKER BRASHEAR PRESIDING**

Senator Combs offered the following motion:  
Invoke cloture on LB 454A, pursuant to Rule 7, Section 10.

Senator Combs requested a roll call vote, in reverse order, on her motion to invoke cloture.

Voting in the affirmative, 36:

Baker	Cornett	Friend	Langemeier	Smith
Beutler	Cudaback	Heidemann	Louden	Stuhr
Bourne	Cunningham	Howard	McDonald	Synowiecki
Brashear	Engel	Hudkins	Pahls	Wehrbein
Burling	Erdman	Janssen	Pedersen, Dw.	
Byars	Fischer	Kopplin	Pederson, D.	
Combs	Flood	Kremer	Redfield	
Connealy	Foley	Kruse	Schrock	

Voting in the negative, 7:

Chambers	Mines	Raikes	Thompson
Johnson	Price	Schimek	

Present and not voting, 2:

Brown	Preister
-------	----------

Excused and not voting, 4:

Aguilar	Jensen	Landis	Stuthman
---------	--------	--------	----------

The Combs motion to invoke cloture prevailed with 36 ayes, 7 nays, 2 present and not voting, and 4 excused and not voting.

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

Voting in the affirmative, 32:

Baker	Cunningham	Heidemann	McDonald	Smith
Bourne	Engel	Hudkins	Pahls	Stuhr
Brashear	Erdman	Janssen	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kremer	Pederson, D.	Wehrbein
Byars	Flood	Kruse	Raikes	
Combs	Foley	Langemeier	Redfield	
Cornett	Friend	Louden	Schrock	

Voting in the negative, 6:

Chambers	Mines	Schimek
Howard	Price	Thompson

Present and not voting, 7:

Beutler	Connealy	Johnson	Preister
Brown	Cudaback	Kopplin	

Excused and not voting, 4:

Aguilar	Jensen	Landis	Stuthman
---------	--------	--------	----------

Advanced to E & R for engrossment with 32 ayes, 6 nays, 7 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

## SENATOR CUDABACK PRESIDING

### RESOLUTION

**LEGISLATIVE RESOLUTION 303.** Introduced by Bourne, 8.

**PURPOSE:** The purpose of this study is to review issues relating to the salary structure of the Commission of Industrial Relations. Current law, section 48-806, provides the following compensation to judges of the commission:

"As soon as such compensation may be legally paid under the Constitution of Nebraska, the compensation of judges of the Commission of Industrial Relations shall be two hundred fifty dollars per day for each day's time actually engaged in the performance of the duties of their office. Each judge shall also be paid his or her necessary traveling expenses incurred while away from his or her place of residence upon business of the commission in accordance with sections 81-1174 to 81-1177."

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

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

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

Referred to the Executive Board.

**SELECT COMMITTEE REPORT**  
**Enrollment and Review**

**Correctly Engrossed**

The following bill was correctly engrossed: LB 57.

(Signed) Michael Flood, Chairperson

**AMENDMENTS - Print in Journal**

Senator Schrock filed the following amendment to LB 933A:  
AM2634

- 1 1. Insert the following new section:
- 2 Sec. 2. There is hereby appropriated (1) \$5,000,000 from
- 3 the General Fund for FY2006-07 and (2) \$5,000,000 from the General
- 4 Fund for FY2007-08 to the Department of Environmental Quality, for
- 5 Program 513, to aid in carrying out the provisions of Legislative
- 6 Bill 933, Ninety-ninth Legislature, Second Session, 2006.
- 7 Total expenditures for permanent and temporary salaries
- 8 and per diems from funds appropriated in this section shall not
- 9 exceed \$38,115 for FY2006-07 or \$38,115 for FY2007-08.
- 10 There is included in the appropriation to this program
- 11 for FY2006-07 \$4,912,854 General Funds for state aid, which
- 12 shall only be used for such purpose. There is included in the
- 13 appropriation to this program for FY2007-08 \$4,917,854 General
- 14 Funds for state aid, which shall only be used for such purpose.

Senator Beutler filed the following amendment to LB 1226:  
AM2659

(Amendments to Standing Committee amendments, AM2578)

- 1 1. Insert the following section:
- 2 Sec. 20. (1) Whenever the Department of Natural Resources
- 3 determines that the state is out of compliance with an interstate
- 4 compact or decree, the department may institute temporary controls
- 5 identified in sections 46-716 and 46-739 in areas subject to
- 6 such interstate compact or decree, on an emergency basis without
- 7 enactment of rules or regulations, for purposes of gaining
- 8 compliance with the terms of the interstate compact or decree,
- 9 Exercise of such powers by the department shall be followed by
- 10 rulemaking to authorize the permanent use of such power within no
- 11 more than one year following the determination of noncompliance
- 12 pursuant to this section.

13 (2) The department shall provide prompt notice of its  
14 determination of noncompliance and of the temporary controls  
15 instituted by the department to all licensed water well contractors  
16 in the state and to each natural resources district that  
17 encompasses any of the area subject to the interstate compact or  
18 decree. Such notice to natural resources districts shall be by  
19 certified mail. The notice shall be addressed to the manager of  
20 the natural resources district or the manager's designee and shall  
21 include the signature of the director of the department. Beginning  
22 ten days after the mailing of the notice to the natural resources  
1 district, the natural resources district shall be suspended from  
2 exercising powers relating to ground water quantity use pursuant  
3 to subdivisions (1)(a), (b), (c), (d), (e), (f), (k), and (m) and  
4 subsections (5) and (6) of section 46-739.

5 (3) The department shall also notify the public of  
6 the determination of noncompliance and of the temporary controls  
7 instituted by the department. Such notice to the public shall  
8 be provided by publication once each week for three consecutive  
9 weeks in at least one newspaper of statewide circulation and in  
10 such other newspaper or newspapers of general circulation in the  
11 area subject to the interstate compact or decree as are deemed  
12 appropriate by the department.

13 2. On page 39, line 21, strike "section 20" and insert  
14 "sections 20 and 21".

15 3. Renumber the remaining sections and correct internal  
16 references accordingly and amend the operative date provisions so  
17 that this section becomes operative three calendar months after  
18 adjournment of this legislative session.

### SELECT FILE

**LEGISLATIVE BILL 1175.** E & R amendment, AM7177, found on page 962, was adopted.

Senator Friend renewed his pending amendment, AM2654, found on page 961.

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

The Friend amendment was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:  
Reconsider the vote taken on AM2654.

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

18 ayes, 1 nay, and 30 not voting.

The Chambers motion to reconsider failed with 5 ayes, 30 nays, 7 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Pending.

### AMENDMENTS - Print in Journal

Senator Baker filed the following amendment to LB 1069:  
AM2585

- 1 1. Strike original section 4 and all amendments thereto
- 2 and insert the following new sections:
- 3 Section 1. Section 75-109.01, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 75-109.01 Except as otherwise specifically provided by
- 6 law, the Public Service Commission shall have jurisdiction, as
- 7 prescribed, over the following subjects:
- 8 (1) Common carriers, generally, pursuant to sections
- 9 75-101 to 75-158;
- 10 (2) Grain pursuant to the Grain Dealer Act and the Grain
- 11 Warehouse Act and sections 89-1,104 to 89-1,108;
- 12 (3) Manufactured homes and recreational vehicles
- 13 pursuant to the Uniform Standard Code for Manufactured Homes and
- 14 Recreational Vehicles;
- 15 (4) Modular housing units pursuant to the Nebraska
- 16 Uniform Standards for Modular Housing Units Act;
- 17 (5) Motor carrier registration and safety pursuant to
- 18 sections 75-301 to 75-322, 75-369.03, 75-370, and 75-371; ~~75-383,~~
- 19 ~~and 75-384;~~
- 20 (6) Pipeline carriers and rights-of-way pursuant to
- 21 sections 57-1301 to 57-1307 and 75-501 to 75-503;
- 22 (7) Railroad carrier safety pursuant to sections 74-918,
- 23 74-919, 74-1323, and 75-401 to 75-430;
- 1 (8) Telecommunications carriers pursuant to the
- 2 Automatic Dialing-Announcing Devices Act, the Emergency Telephone
- 3 Communications Systems Act, the Enhanced Wireless 911 Services
- 4 Act, the Intrastate Pay-Per-Call Regulation Act, the Nebraska
- 5 Telecommunications Regulation Act, the Nebraska Telecommunications
- 6 Universal Service Fund Act, the Telecommunications Relay System
- 7 Act, the Telephone Consumer Slamming Prevention Act, and sections
- 8 86-574 to 86-580;
- 9 (9) Transmission lines and rights-of-way pursuant to
- 10 sections 70-301 and 75-702 to 75-724;
- 11 (10) Water service pursuant to the Water Service
- 12 Regulation Act; and

13 (11) Jurisdictional utilities governed by the State  
 14 Natural Gas Regulation Act. If the provisions of Chapter 75  
 15 are inconsistent with the provisions of the State Natural Gas  
 16 Regulation Act, the provisions of the State Natural Gas Regulation  
 17 Act control.

18 Sec. 4. Section 75-370, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20 75-370 Enforcement of sections 75-307 to 75-307.03, and  
 21 ~~75-309, 75-383, and 75-384~~ shall be carried out by the carrier  
 22 enforcement division of the Nebraska State Patrol or the Nebraska  
 23 State Patrol pursuant to the rules and regulations adopted and  
 24 promulgated by the commission to enforce such sections. Any  
 25 violation of such sections by any regulated motor carrier, motor  
 26 carrier, or private carrier shall be referred to the commission for  
 27 disposition under section 75-156, and the commission may take any  
 1 other action provided by section 75-133.

2 Sec. 5. Section 75-371, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 75-371 Any person, private carrier, common carrier, or  
 5 contract carrier which operates any motor vehicle in violation  
 6 of section 75-307, 75-307.01, 75-307.02, or 75-307.03, 75-383,  
 7 ~~or 75-384~~ or any rule, regulation, or order of the commission  
 8 pertaining to any of such sections shall be guilty of a Class IV  
 9 misdemeanor. Each day of such violation shall constitute a separate  
 10 offense.

11 Sec. 6. Original sections 75-109.01, 75-302, 75-370, and  
 12 75-371, Reissue Revised Statutes of Nebraska, are repealed.

13 Sec. 7. The following sections are outright repealed:

14 Sections 75-383 and 75-384, Reissue Revised Statutes of Nebraska.

15 2. On page 2, line 14, strike "1" and insert "2".

16 3. Renumber the remaining sections accordingly.

Senator Beutler filed the following amendment to LB 529:

(Amendment, AM2643, is printed separately and available in the Bill Room,  
 Room 1104.)

Senator Schrock filed the following amendment to LR 259CA:  
 AM2627

1 1. On page 2, line 17, strike "used" through "Act",  
 2 show as stricken, and insert "distributed exclusively through  
 3 competitive grants to public and private entities as determined  
 4 by the Nebraska Environmental Trust Board for the purpose of  
 5 conserving, enhancing, and restoring the natural physical and  
 6 biological environment of Nebraska, transferred to the Nebraska  
 7 Environmental Endowment Fund to be distributed exclusively through  
 8 competitive grants to public and private entities as determined  
 9 by the Nebraska Environmental Trust Board for the purpose  
 10 of conserving, enhancing, and restoring the natural physical  
 11 and biological environment of Nebraska, and used for related

12 administrative costs".

13 2. On page 4, line 8, before the period insert "and  
14 change provisions relating to the use of state lottery proceeds  
15 transferred to the Nebraska Environmental Trust Fund".

Senator Beutler filed the following amendments to LB 1226:

AM2670

(Amendments to Standing Committee amendments, AM2578)

- 1 1. Strike sections 19 and 20.
- 2 2. Amend the repealer and renumber the remaining sections
- 3 accordingly.

AM2672

(Amendments to Standing Committee amendments, AM2578)

- 1 1. On page 39, line 27, after "Act" insert "and related
- 2 to the management of interrelated water".

AM2671

(Amendments to Standing Committee amendments, AM2578)

- 1 1. On page 40, line 3, after the first "commission"
- 2 insert "approved by the Director of Natural Resources".

AM2673

(Amendments to Standing Committee amendments, AM2578)

- 1 1. On page 40, line 12, after the period insert "No
- 2 grants approved under this section shall be used for acquiring
- 3 temporary conservation easements or to lease land for the purpose
- 4 of reducing the number of acres being irrigated.".

Senators Baker, Landis, and Redfield filed the following amendment to  
LB 904:

AM2645

(Amendments to Standing Committee amendments, AM2576)

- 1 1. Insert the following new sections:
- 2 Sec. 2. Section 39-2510, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 39-2510 (1) No money derived from fees, excises, or
- 5 license fees relating to registration, operation, or use of
- 6 vehicles on the public highways, or to fuels used for the
- 7 propulsion of such vehicles, shall be expended for other than cost
- 8 of administering laws under which such money is derived, statutory
- 9 refunds and adjustments provided therein, payment of highway
- 10 obligations, cost of construction, reconstruction, maintenance, and
- 11 repair of public highways and bridges and county, city, township,
- 12 and village roads, streets, and bridges, and all facilities,
- 13 appurtenances, and structures deemed necessary ~~or desirable~~ in
- 14 connection with such highways, bridges, roads, and streets, except
- 15 that the provisions of this ~~section~~ subsection shall not apply to
- 16 money derived from the motor vehicle operators' license fees or

17 money received from parking meter proceeds, fines, and penalties.

18 (2) The provisions of subsection (1) of this section  
 19 apply to:

20 (a) One-third of the money derived from sales and use  
 21 taxes imposed upon motor vehicles, trailers, and semitrailers  
 22 pursuant to sections 13-319 and 77-27,142 commencing October 1,  
 1 2006;

2 (b) Two-thirds of the money derived from sales and use  
 3 taxes imposed upon motor vehicles, trailers, and semitrailers  
 4 pursuant to sections 13-319 and 77-27,142 commencing October 1,  
 5 2007; and

6 (c) All of the money derived from sales and use taxes  
 7 imposed upon motor vehicles, trailers, and semitrailers pursuant to  
 8 sections 13-319 and 77-27,142 commencing October 1, 2008.

9 Sec. 3. Section 39-2520, Reissue Revised Statutes of  
 10 Nebraska, is amended to read:

11 39-2520 (1) No money derived from fees, excises, or  
 12 license fees relating to registration, operation, or use of  
 13 vehicles on the public highways, or to fuels used for the  
 14 propulsion of such vehicles, shall be expended for other than cost  
 15 of administering laws under which such money is derived, statutory  
 16 refunds and adjustments provided therein, payment of highway  
 17 obligations, cost of construction, reconstruction, maintenance, and  
 18 repair of public highways and bridges and county, city, township,  
 19 and village roads, streets, and bridges, ~~offstreet public parking~~  
 20 ~~owned by the municipality,~~ and all facilities, appurtenances, and  
 21 structures deemed necessary ~~or desirable~~ in connection with such  
 22 highways, bridges, roads, and streets, except that this ~~section~~  
 23 subsection shall not apply to money derived from the motor vehicle  
 24 operators' license fees or money received from parking meter  
 25 proceeds, fines, and penalties.

26 (2) The provisions of subsection (1) of this section  
 27 apply to:

1 (a) One-third of the money derived from sales and use  
 2 taxes imposed upon motor vehicles, trailers, and semitrailers  
 3 pursuant to sections 13-319 and 77-27,142 commencing October 1,  
 4 2006;

5 (b) Two-thirds of the money derived from sales and use  
 6 taxes imposed upon motor vehicles, trailers, and semitrailers  
 7 pursuant to sections 13-319 and 77-27,142 commencing October 1,  
 8 2007; and

9 (c) All of the money derived from sales and use taxes  
 10 imposed upon motor vehicles, trailers, and semitrailers pursuant to  
 11 sections 13-319 and 77-27,142 commencing October 1, 2008.

12 2. On page 2, line 15, after "39-2401" insert ", 39-2510,  
 13 39-2520,".

14 3. Renumber the remaining sections accordingly.

Senator Beutler filed the following amendment to LB 1226:  
AM2667

(Amendments to Standing Committee amendments, AM2578)

1 1. Insert the following new section:

2 Sec. 31. (1) The Director of Natural Resources shall  
3 establish and collect a contingency deposit as provided in this  
4 section. The contingency deposit shall be collected commencing in  
5 2009.

6 (2)(a) The contingency deposit shall be collected on  
7 irrigated real property in natural resources districts that have  
8 land area subject to the provisions of an interstate water compact  
9 or decree for which the State of Nebraska is an upstream state on  
10 a per-acre basis and on municipal water service in such natural  
11 resources districts on a per-resident basis in amounts determined  
12 by the director under subsection (3) of this section.

13 (b) The contingency deposit collected on irrigated real  
14 property shall be included by the county on the property tax  
15 statement provided for in section 77-1701. County assessors and  
16 county treasurers shall provide access to property information and  
17 assistance to the Department of Natural Resources for purposes of  
18 calculating and collecting the contingency deposit. The department  
19 shall provide each county with land subject to the contingency  
20 deposit the information necessary to include the contingency  
21 deposits on property tax statements by October 15. County  
22 treasurers shall remit the amounts collected by December 31, less  
1 a three-percent collection fee, to the State Treasurer for credit  
2 to the Republican River Compact Contingency Deposit Fund. County  
3 treasurers shall have no obligation to take any legal action to  
4 enforce collection. Such action may be brought by or on behalf of  
5 the department. Each county treasurer shall annually provide the  
6 department a list of the amounts uncollected along with the names  
7 and addresses of those property owners. The county shall not be  
8 liable for such uncollected amounts. The contingency deposit shall  
9 be due on March 1 of the year following imposition and delinquent  
10 on September 1 of such year. Delinquent amounts shall have a  
11 penalty of twenty-five percent of the contingency deposit due added  
12 to the amount due when payment is made.

13 (c) The contingency deposit collected on municipal water  
14 service shall be based on the number of residents in the  
15 municipality according to the most recent federal decennial census.  
16 Municipalities shall remit the amounts to the State Treasurer for  
17 credit to the Republican River Compact Contingency Deposit Fund by  
18 December 31 of the year following imposition. A municipality may  
19 impose a surcharge for water service for this purpose.

20 (3) The Department of Natural Resources, after  
21 consultation with each natural resources district that has land  
22 area subject to the provisions of an interstate water compact  
23 or decree for which the State of Nebraska is an upstream state,  
24 shall establish criteria for determining whether the streamflow

25 depletions caused by withdrawal of ground water in such districts  
26 exceeds the amount of depletion that is permissible if the state  
27 is to remain in compliance with the interstate water compact  
1 or decree involved. Beginning in 2009, the department shall  
2 determine for such districts whether withdrawals in previous  
3 years from water wells located in the land area subject to the  
4 interstate water compact or decree caused streamflow depletions  
5 in the immediately preceding year that were in excess of the  
6 permissible amount of depletion for that district in that year. If  
7 those depletions exceeded that permissible amount, the department  
8 shall determine a dollar amount that the department concludes  
9 would likely be adequate to cover any damages for which the  
10 state could be held liable because of noncompliance with the  
11 interstate water compact or decree to the extent caused by such  
12 excess depletion. The department shall set the contingency deposit  
13 amounts to recover that dollar amount of damages. The contingency  
14 deposit per irrigated acre shall not exceed three dollars. In  
15 setting the contingency deposit amounts per irrigated acre and  
16 per municipal resident, the director shall estimate the total  
17 annual water use for irrigation and municipal purposes in natural  
18 resources districts that have land area subject to the provisions  
19 of an interstate water compact or decree for which the State of  
20 Nebraska is an upstream state and determine the portions of such  
21 total use for irrigation purposes and for municipal purposes.  
22 Each contingency deposit amount set by the director shall reflect  
23 those portions of total use so that the amounts collected on  
24 irrigated acres and from municipalities are approximately the same  
25 portions of the total use. If the contingency deposit amounts  
26 set at the maximum rates permitted in this section would not  
27 produce sufficient funds to pay the damage amount determined by  
1 the department, the contingency deposit amounts shall be set at  
2 the maximum rates. Natural resources districts that have land  
3 area subject to the provisions of an interstate water compact or  
4 decree for which the State of Nebraska is an upstream state shall  
5 provide information requested by the department for purposes of  
6 administration of the contingency deposits by May 1.

7 (4) The Republican River Compact Contingency Deposit Fund  
8 is created. The fund shall be used to make possible future payments  
9 to the State of Kansas for overuse of water pursuant to the  
10 Republican River Basin settlement and the Republican River Compact  
11 and for administrative costs of the Department of Natural Resources  
12 incurred under this section. Any money in the fund available  
13 for investment shall be invested by the state investment officer  
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
15 State Funds Investment Act. Investment earnings shall be credited  
16 to the fund.

17 (5) If the streamflow depletions caused by withdrawals  
18 from water wells in natural resources districts that have land area  
19 subject to the provisions of an interstate water compact or decree

20 for which the State of Nebraska is an upstream state in any given  
 21 year are less than the permissible depletions for those districts,  
 22 and if, in accordance with the provisions of the interstate water  
 23 compact or decree involved, the streamflow depletions caused by  
 24 such withdrawals in those districts for any multiyear period that  
 25 is used to determine interstate water compact or decree compliance  
 26 do not exceed the permissible depletions for those districts  
 27 during that multiyear period, the department may credit contingency  
 1 deposits already paid to future contingency deposits or may refund  
 2 such amounts.

- 3 2. Correct the operative date section so that the section
- 4 added by this amendment becomes operative on its effective date
- 5 with the emergency clause.
- 6 3. Renumber the remaining sections and correct internal
- 7 references accordingly.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Beutler asked unanimous consent to add his name as cointroducer to LB 904. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 26 fifth-grade students and teacher from Clarmar Elementary, Fremont; Scot Blehm from Lincoln; Fritz Steinhoff from Harrington; Zach Cavalier from Wilber; Senator Cunningham's parents, Dean and Elda, from Wausa; Delores, Ralph, Jeanette, Meaghan, Bryan, and Christopher Bode from Raeville; Ada Robinson from Lincoln; Dave and Sharon Peters, and Senator Cunningham's brother, sister-in-law, and nephew, Gail, Suzanne, and Dalton Cunningham, from Bloomfield; John Abrahamson and Erin and Erica Sturgis from Holdredge; Kevin, Ryan, and Phillip Sandberg, Adam Ostdiek, Bryce Leavitt, and Michael Perez from Gering; and Senator Kremer's daughter, son-in-law, and grandchildren, Shauna, Gary, Grant, Bailey, and Brooklyn Moody, from Aurora.

### **ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Cunningham, the Legislature adjourned until 10:00 a.m., Monday, March 13, 2006.

Patrick J. O'Donnell  
Clerk of the Legislature