

FIFTY-FOURTH DAY - APRIL 4, 2006**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
SECOND SESSION****FIFTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 4, 2006

PRAYER

The prayer was offered by Senator Kruse.

ROLL CALL

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

The roll was called and all members were present except Senators Beutler, Brown, Heidemann, McDonald, Mines, Dw. Pedersen, D. Pederson, Preister, Price, and Synowiecki who were excused until they arrive.

SPEAKER BRASHEAR PRESIDING**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-third day was approved.

SELECT COMMITTEE REPORTS**Enrollment and Review****Correctly Reengrossed**

The following bills were correctly reengrossed: LBs 819, 856, 856A, and 962A.

Correctly Engrossed

The following bills were correctly engrossed: LBs 898, 904, 1010, 1038, 1107, and 1148.

ER9099

Enrollment and Review Change to LB 904

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, AM7205:

a. On page 2, line 18; and page 4, line 3, "are" has been struck and "is" inserted; and

b. On page 5, line 15, "the Highway Allocation Fund" has been struck and "street and road funds" inserted; and in line 18 "fund" has been struck and "Highway Allocation Fund; to require use of certain sales and use tax revenue for street and road purposes" inserted.

(Signed) Michael Flood, Chairperson

AMENDMENTS - Print in Journal

Senator Cunningham filed the following amendment to LB 1248:
AM3006

(Amendments to Standing Committee amendments, AM2831)

- 1 1. Insert the following new sections:
- 2 Sec. 87. The Long-Term Care Partnership Program is
- 3 established. The program shall be administered by the Department of
- 4 Health and Human Services Finance and Support in accordance with
- 5 federal requirements on state long-term care partnership programs.
- 6 In order to implement the program, the department shall file a
- 7 State plan amendment with the federal Centers for Medicare and
- 8 Medicaid Services pursuant to the requirements set forth in 42
- 9 U.S.C. 1396p(b), as such section existed on March 1, 2006.
- 10 Sec. 91. The following sections are outright repealed:
- 11 Sections 68-1095, 68-1096, 68-1097, 68-1098, and 68-1099, Revised
- 12 Statutes Supplement, 2005.
- 13 2. Renumber the remaining section accordingly.

Senator Jensen filed the following amendment to LB 1248:
AM3007

(Amendments to Standing Committee amendments, AM2831)

- 1 1. Insert the following new section:
- 2 Sec. 87. The Health and Human Services Committee of the
- 3 Legislature shall provide for an independent study and actuarial
- 4 analysis of the impact of behavioral health insurance parity
- 5 legislation in the State of Nebraska. A report of such study and
- 6 analysis shall be submitted to the Governor, the Health and Human
- 7 Services Committee of the Legislature, and the Banking, Commerce
- 8 and Insurance Committee of the Legislature on or before December 1,
- 9 2006.
- 10 2. Renumber the remaining section accordingly.

Senator Beutler filed the following amendment to LB 1248:
FA668

Amendment to AM2831

On page 6, line 24 change "may" to "shall"

Senator Chambers filed the following amendment to LB 1248:

FA669

Amendment to AM2831

P. 2, strike subsection (3).

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 346 and 358 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 346 and 358.

SENATOR CUDABACK PRESIDING**GENERAL FILE****LEGISLATIVE BILL 845A.** Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 5 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 1113A. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 9 present and not voting, and 11 excused and not voting.

LEGISLATIVE BILL 1222A. Title read. Considered.

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

MOTION - Return LB 994A to Select File

Senator Thompson moved to return LB 994A to Select File for her specific pending amendment, AM3057, found on page 1397.

The Thompson motion to return prevailed with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

SELECT FILE**LEGISLATIVE BILL 994A.** The Thompson specific pending amendment, AM3057, found on page 1397, was adopted with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

Advanced to E & R for engrossment.

GENERAL FILE

LEGISLATIVE BILL 385. Title read. Considered.

The Standing Committee amendment, AM2548, found on page 857, was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Senator Chambers renewed his pending amendment, FA650, found on page 1331.

The Chambers amendment was adopted with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 30 ayes, 1 nay, 11 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 385A. Title read. Considered.

Advanced to E & R for review with 26 ayes, 1 nay, 15 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 1024. Title read. Considered.

The Standing Committee amendment, AM2687, printed separately and referred to on page 1332, was considered.

Senator Bourne renewed his pending amendment, AM3005, found on page 1386, to the Standing Committee amendment.

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

Senator Bourne requested a roll call vote on his amendment.

Voting in the affirmative, 9:

Aguilar	Connealy	Howard	Landis	Synowiecki
Bourne	Cornett	Johnson	Preister	

Voting in the negative, 13:

Brown	Erdman	Kruse	Raikes	Wehrbein
Burling	Foley	Pahls	Redfield	
Byars	Jensen	Pedersen, Dw.	Thompson	

Present and not voting, 23:

Baker	Cunningham	Heidemann	Langemeier	Schrock
Brashear	Engel	Hudkins	Mines	Smith
Chambers	Fischer	Janssen	Pederson, D.	Stuthman
Combs	Flood	Kopplin	Price	
Cudaback	Friend	Kremer	Schimek	

Excused and not voting, 4:

Beutler	Louden	McDonald	Stuhr
---------	--------	----------	-------

The Bourne amendment lost with 9 ayes, 13 nays, 23 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Pending.

EXPLANATION OF VOTES

Had I been present, I would have voted "aye" on final passage of LBs 968, 968A, and 188.

(Signed) Dwite Pedersen

RESOLUTION

LEGISLATIVE RESOLUTION 443. Introduced by Howard, 9.

WHEREAS, every child deserves a loving, nurturing, and permanent home; and

WHEREAS, adoption gives children a brighter future, brings great joy to the adoptive parents, and places fewer demands on social services; and

WHEREAS, adopted children often need extra patience and support to help them overcome previous hardships; and

WHEREAS, there are families able and willing to adopt children who have special needs; and

WHEREAS, children waiting for adoptive parents and families who have adopted children require and deserve community and public support.

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

1. That the Nebraska Legislature recognizes the month of November, 2006, as Adoption Awareness Month in Nebraska.

2. That during this week communities are encouraged to participate in activities designed to increase public awareness about the benefits of adoption.

Laid over.

MESSAGE FROM THE GOVERNOR

April 4, 2006

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

Dear Mr. O'Donnell:

Engrossed Legislative Bill 287e was received in my office on April 3, 2006.

I signed this bill and delivered it to the Secretary of State on April 4, 2006.

Sincerely,
(Signed) Dave Heineman
Governor

STANDING COMMITTEE REPORTS
Natural Resources

LEGISLATIVE BILL 783. Placed on General File.

LEGISLATIVE BILL 102. Indefinitely postponed.
LEGISLATIVE BILL 820. Indefinitely postponed.
LEGISLATIVE BILL 901. Indefinitely postponed.
LEGISLATIVE BILL 919. Indefinitely postponed.
LEGISLATIVE BILL 938. Indefinitely postponed.
LEGISLATIVE BILL 1082. Indefinitely postponed.
LEGISLATIVE BILL 1095. Indefinitely postponed.
LEGISLATIVE BILL 1156. Indefinitely postponed.
LEGISLATIVE BILL 1161. Indefinitely postponed.
LEGISLATIVE BILL 1186. Indefinitely postponed.
LEGISLATIVE BILL 1187. Indefinitely postponed.
LEGISLATIVE BILL 1214. Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Price asked unanimous consent to add her name as cointroducer to LB 385. No objections. So ordered.

VISITORS

Visitors to the Chamber were 12 student senators and sponsors from District 47; Chris Green from Omaha; Abby Tranel from Hampton; 67 fourth- and fifth-grade students and teachers from Wildewood Elementary School, Ralston; 75 student nurses and teachers from Creighton University, Omaha; 48 student members and sponsors from the Nebraska Federation of Women's Clubs; and 78 eighth-grade students and teachers from Mary Our Queen School, Omaha.

RECESS

At 12:00 p.m., on a motion by Senator Landis, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Beutler, Cornett, Engel, Foley, McDonald, D. Pederson, Preister, Price, Stuhr, and Synowiecki who were excused until they arrive.

SELECT COMMITTEE REPORTS Enrollment and Review

LEGISLATIVE BILL 1113. Placed on Select File as amended.
E & R amendment to LB 1113:
AM7217

- 1 1. In the Standing Committee amendments, AM2785:
- 2 a. On page 13, line 8, strike "town" and insert
- 3 "village";
- 4 b. On page 15, line 27, before "recovered" insert "been";
- 5 c. On page 25, line 17, after "buccal" insert "cell";
- 6 d. On page 51, line 20, strike the semicolon and insert
- 7 an underscored comma; and in line 23 strike "and" and show as
- 8 stricken;
- 9 e. On page 59, line 21, after the second comma insert
- 10 "and";
- 11 f. On page 60, line 8, after "neighborhood" insert
- 12 an underscored comma; in line 10 strike the comma and show as
- 13 stricken; and in line 16 after "recency" insert an underscored
- 14 comma;
- 15 g. On page 61, line 25, strike "by" and show as stricken;
- 16 and
- 17 h. On page 63, line 12, strike "47-612" and insert
- 18 "47-619".

19 2. On page 1, strike beginning with "crimes" in line
 20 1 through line 5 and insert "civil and criminal regulation;
 21 to amend sections 2-3290, 2-3296, 2-3297, 18-1755, 28-311.04,
 22 28-813, 42-364, 42-364.13, 42-1103, 43-256, 43-271, 43-408,
 23 43-1412, 43-3001, 43-3342.05, 47-619, 47-620, 83-192, 83-1,114,
 1 and 83-1,115, Reissue Revised Statutes of Nebraska, sections
 2 2-3202, 20-504, 28-311.02, 28-311.03, 28-728, 28-729, 28-730,
 3 29-4101, 29-4102, 29-4104, 29-4106, 29-4107, and 86-291, Revised
 4 Statutes Cumulative Supplement, 2004, and sections 29-4126, 47-623,
 5 47-624, and 47-625, Revised Statutes Supplement, 2005; to change
 6 and provide provisions relating to foreign national minors,
 7 recreational use of land, racial profiling, stalking, child abuse
 8 and neglect, obscene literature or material, the DNA Detection
 9 of Sexual and Violent Offenders Act, DNA testing, references to
 10 social security numbers in court documents, domestic relations
 11 orders, detention of juveniles, the State Disbursement and Child
 12 Support Advisory Commission, the Community Corrections Act, release
 13 on parole, and court-ordered interception of communications; to
 14 state intent; to define and redefine terms; to provide duties for
 15 the Department of Health and Human Services, cities, villages,
 16 the Supreme Court, and the Board of Parole; to eliminate duties;
 17 to provide penalties; to harmonize provisions; and to repeal the
 18 original sections."

LEGISLATIVE RESOLUTION 274CA. Placed on Select File.

LEGISLATIVE BILL 924. Placed on Select File as amended.

E & R amendment to LB 924:

AM7219

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 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 utility or
 20 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. Section 76-883, Reissue Revised Statutes of
 26 Nebraska, is amended to read:

27 76-883 (a) A person required to deliver a public-offering
 1 statement pursuant to subsection (c) of section 76-879 shall
 2 provide a purchaser of a unit with a copy of the public-offering
 3 statement and all amendments thereto before conveyance of that unit
 4 and not later than the date of any contract of sale. Unless a
 5 purchaser is given the public-offering statement more than fifteen
 6 days before execution of a contract for the purchase of a unit,
 7 the purchaser, before conveyance, may cancel the contract within
 8 fifteen days after first receiving the public-offering statement.

9 (b) After receiving the public-offering statement and
 10 all amendments, a purchaser has the right to have an independent
 11 inspection of the building's structure and mechanical systems
 12 conducted at the purchaser's expense.

13 (b) (c) If a purchaser elects to cancel a contract
 14 pursuant to subsection (a) of this section, he or she may do so by
 15 hand-delivering notice thereof to the offeror or by mailing notice
 16 thereof by mail postage prepaid to the offeror or to his or her
 17 agent for service of process. Cancellation is without penalty, and
 18 all payments made by the purchaser before cancellation shall be
 19 refunded promptly.

20 (e) (d) If a person required to deliver a public-offering
 21 statement pursuant to subsection (c) of section 76-879 fails
 22 to provide a purchaser to whom a unit is conveyed with that
 23 public-offering statement and all amendments thereto as required
 24 by subsection (a) of this section, the purchaser is entitled to
 25 receive damages and other relief from that person.

26 Sec. 4. Original sections 76-701 and 76-883, Reissue
 27 Revised Statutes of Nebraska, are repealed.

1 2. On page 1, line 2, strike "18-2103, 18-2123, and" and
 2 after "76-701" insert "and 76-883"; strike beginning with "to" in
 3 line 3 through the semicolon in line 4; and in line 5 after the
 4 first semicolon insert "to provide certain rights for purchasers of
 5 condominiums";.

LEGISLATIVE BILL 79. Placed on Select File as amended.

E & R amendment to LB 79:

AM7218

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

3 Section 1. Section 74-1334, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 74-1334 (1) Wherever any railroad track crosses any
 6 public road in a cut, on a curve or side hill, in timber lands,
 7 near buildings, or near any obstruction of view from the road,
 8 the Department of Roads shall direct such precautions to be taken
 9 as it deems necessary for the safety of the traveling public.
 10 Each railroad carrier shall also provide and maintain such gates,
 11 crossings, signs, signals, alarm bells, and warning personnel as
 12 the department directs. The department may direct the placement of
 13 special signs where the physical conditions of any crossing warrant
 14 such action.

15 (2) Any public railroad crossing without gates, signals,
 16 alarm bells, or warning personnel located within one-quarter mile
 17 from a public railroad crossing with gates, signals, alarm bells,
 18 or warning personnel shall be closed unless it is the only railroad
 19 crossing which provides access to property.

20 (3) An interested party may object to an action taken
 21 under subsection (2) of this section only if a written request is
 22 submitted to the Department of Roads by a professional engineer
 23 licensed to practice in the State of Nebraska. The engineer
 1 shall state in writing that the engineer is familiar with the
 2 requirements in this section and with all relevant aspects of
 3 the railroad crossing. The engineer shall also provide a detailed
 4 explanation of why subsection (2) of this section should not apply
 5 to the railroad crossing in question and a statement that the
 6 railroad crossing corridor has been examined by the engineer and
 7 the engineer believes that the railroad crossing will be safe as
 8 designed.

9 Sec. 2. Original section 74-1334, Reissue Revised
 10 Statutes of Nebraska, is repealed.

LEGISLATIVE BILL 845A. Placed on Select File.

LEGISLATIVE BILL 1113A. Placed on Select File.

LEGISLATIVE BILL 1222A. Placed on Select File.

(Signed) Michael Flood, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1024. Senator Howard renewed her pending amendment, AM3013, found on page 1381, to the Standing Committee amendment.

Senator Howard withdrew her amendment.

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

AM3065

(Amendments to Standing Committee amendments, AM2687)

- 1 1. Insert the following new section:
 2 Sec. 113. (1) On or before January 1 immediately
 3 following the establishment of a learning community, the learning
 4 community coordinating council shall appoint an integration task
 5 force for the learning community. In order to appoint the members
 6 of the task force, the learning community coordinating council
 7 shall divide the learning community into two quadrants along a
 8 north and south axis and two quadrants along an east and west axis
 9 with each axis geographically centered in the learning community.
 10 The task force shall consist of twelve members who are not members
 11 of any school board and are not employees of any school district as
 12 follows:
 13 (a) Two of the members shall be employed in a planning
 14 capacity for a city within the boundaries of the learning
 15 community;
 16 (b) Two members shall be members of organizations that
 17 represent the interests of minority groups in the learning
 18 community; and
 19 (c) Two members from each of the four quadrants
 20 established as described in this section.
 21 (2) The purpose of the integration task force is to
 22 develop an integration plan for the learning community and to
 1 recommend such plan to the learning community coordinating council.
 2 Such plan shall address the following:
 3 (a) What the learning community hopes to accomplish for
 4 students through integration;
 5 (b) How integration should be accomplished in the
 6 learning community;

- 7 (c) How the learning community will know if the
 8 integration is successful; and
 9 (d) What the learning community should do if integration
 10 is not successful.
 11 (3) The integration task force shall meet once per month
 12 for one year, may hold public hearings, shall be subject to the
 13 Open Meetings Act, and shall report to the learning community
 14 coordinating council at the council's monthly meetings in March,
 15 June, September, and December. The task force shall also submit the
 16 integration plan to the Education Committee of the Legislature in
 17 December of such year.
 18 (4) Members of the task force shall not receive
 19 compensation but shall be reimbursed for their actual and necessary
 20 expenses incurred in carrying out their duties as members of the
 21 task force. If a vacancy occurs on the task force, the learning
 22 community coordinating council shall appoint a person to fill the
 23 vacancy who meets the requirements of the member being replaced.
 24 2. On page 73, line 4, after "program" insert "anywhere
 25 in the learning community".
 26 3. On page 152, line 7, before "On" insert "On or before
 27 July 1 following the receipt of the recommendations from the
 1 integration task force pursuant to section 113 of this act, each
 2 learning community coordinating council shall adopt an integration
 3 and diversity plan and shall provide a copy of such plan to the
 4 Education Committee of the Legislature."; in line 9 after "on"
 5 insert "the integration plan,"; in line 14 after "for" insert
 6 "improving the integration plan,"; in line 16 after "community,"
 7 insert "and"; strike beginning with the comma in line 18 through
 8 "areas" in line 21; and in line 22 strike "Clerk" and insert
 9 "Education Committee".
 10 4. Renumber the remaining sections accordingly.

The Raikes amendment was adopted with 28 ayes, 1 nay, 19 present and not voting, and 1 excused and not voting.

Senator Kopplin offered the following amendment to the Standing Committee amendment:
 AM3068

- (Amendments to Standing Committee amendments, AM2687)
 1 1. On page 151, line 2, strike "and"; and in line 4 after
 2 "Act" insert "":
 3 (9) Annually collect from member school districts
 4 employee compensation and benefits data, including, but not limited
 5 to, salary, vacation leave, sick leave, personal leave, maternity
 6 leave, in-service days, retirement, and extra-duty compensation;
 7 and
 8 (10) Annually recommend a salary and benefits plan for
 9 all employees of member school districts that provides an equitable
 10 and equivalent salary among member school districts".

Senator Kopplin withdrew his amendment.

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

AM3033

(Amendments to Standing Committee amendments, AM2687)

1 1. Strike amendment 1 and insert the following new
2 amendment:

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

5 Section 1. Section 79-407, Revised Statutes Supplement,
6 2005, is amended to read:

7 79-407 The territory within the corporate limits of each
8 incorporated city or village in the State of Nebraska, together
9 with such additional territory and additions to such city or
10 village as may be added thereto, as declared by ordinances to
11 be boundaries of such city or village, having a population of
12 more than one thousand and less than one hundred fifty thousand
13 inhabitants, including such adjacent territory as now is or
14 hereafter may be attached for school purposes, shall constitute
15 a Class III school district. A Class III school district may
16 extend its boundaries as far as but not beyond the extraterritorial
17 zoning jurisdiction of the city within which such Class III school
18 district is located. Except as provided in section 79-473, the
19 title to all school buildings or other real or personal property
20 owned by any school district within the corporate limits of
21 any city or village shall, upon the organization of the school
22 district, vest immediately in the new school district. The school
1 board of the new school district shall have exclusive control
2 of such buildings and real or personal property for all purposes
3 contemplated in this section.

4 Sec. 2. Section 79-473, Revised Statutes Supplement,
5 2005, is amended to read:

6 79-473 (1) If the territory annexed by a change of
7 boundaries of a city or village which lies within a Class III
8 school district as provided in section 79-407 has been part of a
9 Class IV or Class V school district prior to such annexation, a
10 merger of the annexed territory with the Class III school district
11 shall become effective only if the merger is approved by a majority
12 of the members of the school board of the Class IV or V school
13 district and a majority of the members of the school board of the
14 Class III school district within ninety days after the effective
15 date of the annexation ordinance.

16 (2) Notwithstanding subsection (1) of this section, when
17 territory which lies within a Class III school district, Class
18 VI school district, or Class I school district which is attached
19 to a Class VI school district or which does not lie within a
20 Class IV or V school district is annexed by a city or village

21 pursuant to section 79-407, the affected school board of the city
22 or village school district and the affected school board or boards
23 serving the territory subject to the annexation ordinance shall
24 meet within thirty days after the effective date of the annexation
25 ordinance and negotiate in good faith as to which school district
26 shall serve the annexed territory and the effective date of any
27 transfer. During the process of negotiation, the affected boards

1 shall consider the following criteria:

2 (a) The educational needs of the students in the affected
3 school districts;

4 (b) The economic impact upon the affected school
5 districts;

6 (c) Any common interests between the annexed or platted
7 area and the affected school districts and the community which has
8 zoning jurisdiction over the area; and

9 (d) Community educational planning.

10 If no agreement has been reached within ninety days after
11 the effective date of the annexation ordinance, the territory shall
12 transfer to the school district of the annexing city or village
13 ten days after the expiration of such ninety-day period unless an
14 affected school district petitions the district court within the
15 ten-day period and obtains an order enjoining the transfer and
16 requiring the boards of the affected school districts to continue
17 negotiation. The court shall issue the order upon a finding that
18 the affected board or boards have not negotiated in good faith
19 based on one or more of the criteria listed in this subsection. The
20 district court shall require no bond or other surety as a condition
21 for any preliminary injunctive relief. If no agreement is reached
22 after such order by the district court and additional negotiations,
23 the annexed territory shall become a part of the school district of
24 the annexing city or village.

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

10 (4) Whenever an application for approval of a final plat
11 or replat is filed for territory which lies within the zoning
12 jurisdiction of a city of the first or second class and does not
13 lie within the boundaries of a Class IV or V school district, the
14 affected school board of the school district within the city of
15 the first or second class or its representative and the affected

16 board or boards serving the territory subject to the final plat or
 17 replat or their representative shall meet within thirty days after
 18 such application and negotiate in good faith as to which school
 19 district shall serve the platted or replatted territory and the
 20 effective date of any transfer based upon the criteria prescribed
 21 in subsection (2) of this section.

22 If no agreement has been reached prior to the approval
 23 of the final plat or replat, the territory shall transfer to the
 24 school district of the city of the first or second class upon
 25 the filing of the final plat unless an affected school district
 26 petitions the district court within ten days after approval of the
 27 final plat or replat and obtains an order enjoining the transfer
 1 and requiring the affected boards to continue negotiation. The
 2 court shall issue the order upon a finding that the affected board
 3 or boards have not negotiated in good faith based on one or more of
 4 the criteria listed in subsection (2) of this section. The district
 5 court shall require no bond or other surety as a condition for
 6 any preliminary injunctive relief. If no agreement is reached after
 7 such order by the district court and additional negotiations, the
 8 platted or replatted territory shall become a part of the school
 9 district of the city of the first or second class.

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

14 ~~(5) Notwithstanding any other provisions of this section,~~
 15 ~~all negotiated agreements relative to boundaries or to real or~~
 16 ~~personal property of school districts reached by the affected~~
 17 ~~school boards shall be valid and binding.~~

18 Sec. 3. Original sections 79-407 and 79-473, Revised
 19 Statutes Supplement, 2005, are repealed.

Pending.

AMENDMENTS - Print in Journal

Senator Kopplin filed the following amendment to LB 1024:
 AM3038

(Amendments to Standing Committee amendments, AM2687)

- 1 1. On page 57, lines 12 through 14 strike the new matter.

Senator Kopplin filed the following amendment to LB 1024:
 AM3072

(Amendments to Standing Committee amendments, AM2687)

- 1 1. Strike sections 62 to 72 and insert the following new
 2 section:

3 Sec. 114. Commencing no later than August 1, 2006, the
 4 Nebraska Retirement Systems Committee shall conduct a study to
 5 determine the feasibility of merging the School Retirement System

6 of the State of Nebraska and the retirement system established in
 7 the Class V School Employees Retirement Act. The committee shall
 8 report the findings of the study to the Legislature, along with
 9 recommendations for legislation, no later than January 5, 2007.
 10 2. Amend the repealer, correct internal references, and
 11 renumber the remaining sections accordingly.

APPROPRIATIONS COMMITTEE REPORT ON LB 1060

Pursuant to Rule 6, Section 14, the Appropriations Committee has examined the Governor's line-item vetoes contained in LB 1060.

The Appropriations Committee recommends override of the line-item veto, for Fiscal Year 2006-07 only, contained in section 208 of LB 1060, along with the associated earmarks for the fiscal year, for the Qualified Community Health Centers. The Committee's recommended override is for \$218,750 General Funds.

(Signed) Don Pederson, Chair
Appropriations Committee

GENERAL FILE

LEGISLATIVE BILL 1249. Title read. Considered.

The Standing Committee amendment, AM2127, found on page 559, was considered.

Senator Friend asked unanimous consent to withdraw the Friend-Bourne pending amendment, AM2229, found on page 643, and replace it with his substitute pending amendment, AM2708, found on page 1108. No objections. So ordered.

SENATOR BAKER PRESIDING

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

Senator Mines moved for a call of the house. The motion prevailed with 30 ayes, 2 nays, and 17 not voting.

The motion to cease debate failed with 18 ayes, 13 nays, 16 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

SENATOR CUDABACK PRESIDING

Senator Smith moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

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

Senator Bourne requested a roll call vote on the Friend amendment.

Voting in the affirmative, 11:

Aguilar	Friend	Kruse	Preister
Chambers	Janssen	Langemeier	Synowiecki
Connealy	Jensen	Pahls	

Voting in the negative, 18:

Baker	Cunningham	Kremer	Schrock	Thompson
Burling	Engel	Landis	Smith	Wehrbein
Byars	Hudkins	Pedersen, Dw.	Stuhr	
Combs	Kopplin	Redfield	Stuthman	

Present and not voting, 17:

Beutler	Cudaback	Foley	Mines	Schimek
Bourne	Erdman	Heidemann	Pederson, D.	
Brown	Fischer	Johnson	Price	
Cornett	Flood	Louden	Raikes	

Excused and not voting, 3:

Brashear	Howard	McDonald
----------	--------	----------

The Friend amendment lost with 11 ayes, 18 nays, 17 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Bourne offered the following motion:
Reconsider the vote taken on AM2708.

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

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

The motion to cease debate prevailed with 25 ayes, 3 nays, and 21 not voting.

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

Voting in the affirmative, 22:

Aguilar	Cornett	Howard	Kruse	Price
Beutler	Engel	Hudkins	Langemeier	Synowiecki
Bourne	Fischer	Janssen	Pahls	
Chambers	Friend	Jensen	Pederson, D.	
Connealy	Heidemann	Johnson	Preister	

Voting in the negative, 18:

Baker	Cunningham	Landis	Schrock	Thompson
Burling	Erdman	Pedersen, Dw.	Smith	Wehrbein
Byars	Foley	Redfield	Stuhr	
Combs	Kopplin	Schimek	Stuthman	

Present and not voting, 8:

Brashear	Cudaback	Kremer	Mines
Brown	Flood	Louden	Raikes

Excused and not voting, 1:

McDonald

The Bourne motion to reconsider failed with 22 ayes, 18 nays, 8 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 444. Introduced by Flood, 19; Brashear, 4.

WHEREAS, Clayton Andrews was born in 1920; and

WHEREAS, Clayton Andrews married Vivian Felt at Eglin Air Force Base, in Fort Walton Beach, Florida, on May 2, 1943, and has two daughters, Mrs. Jean Kaliner and Mrs. Jane Graber; and

WHEREAS, Clayton Andrews has owned and managed Andrews Van Lines since 1954, a business that has been in his family since it was started by his father, Albert Roy, in 1920, and expanded nationwide across the country; and

WHEREAS, Clayton Andrews founded "The Movers Round Table" and has served as its President for 28 years; and

WHEREAS, Clayton Andrews co-founded the Orphan Grain Train of Norfolk, Nebraska, in 1992, an organization that has donated more than \$10 million in worldwide relief; and

WHEREAS, Clayton Andrews has been the recipient of many awards and honors, including being awarded membership in the Nebraska Pioneer Movers Hall of Fame by The Movers and Warehousemen's Division of the Nebraska Motor Carriers Association, being named Norfolk's Outstanding Citizen in 1994; and is an Honored Member of Who's Who in Leading Executives; and

WHEREAS, Lutheran High Northeast in Norfolk, Nebraska, has named its activities center the Clayton and Vivian Andrews Activity Center in recognition of his service to his church and his state.

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

1. That Clayton Andrews be recognized for his outstanding service and commitment to Madison County.

2. That a copy of this resolution be delivered to Mr. Clayton Andrews.

Laid over.

AMENDMENTS - Print in Journal

Senator Heidemann filed the following amendment to LB 1024:
AM3081

(Amendments to Standing Committee amendments, AM2687)

- 1 1. On page 108, line 14, after "equal" insert "the
- 2 greater of (a)"; and in line 20 after "grouping" insert "or (b) if
- 3 the school district's general fund levy was at or above ninety-nine
- 4 cents per one hundred dollars of valuation for the previous year,
- 5 the school district's prior year formula needs multiplied by
- 6 one-hundred three percent".

Senator Mines filed the following amendment to LB 1227:
AM3079

- 1 1. Insert the following new section:
- 2 Sec. 9. Section 15, Legislative Bill 454, Ninety-ninth
- 3 Legislature, Second Session, 2006, is amended to read:
- 4 Sec. 15. (1)(a) A permitholder may carry a concealed
- 5 handgun anywhere in Nebraska, except any: Police, sheriff, or
- 6 Nebraska State Patrol station or office; detention facility,
- 7 prison, or jail; courtroom or building which contains a courtroom;
- 8 federal, state, or local government building; polling place
- 9 during a bona fide election; meeting of the governing body of a
- 10 county, public school district, municipality, or other political
- 11 subdivision; meeting of the Legislature or a committee of the
- 12 Legislature; financial institution; professional, semiprofessional,
- 13 or collegiate athletic event; school, school grounds, school-owned
- 14 vehicle, or school-sponsored activity or athletic event; place
- 15 of worship; emergency room or trauma center; childcare center;

16 domestic violence victim or sexual assault victim shelter;
17 residence of another person without his or her permission;
18 playground or municipal park; public swimming pool; public
19 recreation facility; youth center; music concert; mental health
20 facility; political rally or fundraiser; establishment having a
21 license issued under the Nebraska Liquor Control Act that derives
22 over one-half of its total income from the sale of alcoholic
23 liquor; place where the possession or carrying of a firearm is
1 prohibited by state or federal law; a place or premises where the
2 person, persons, entity, or entities in control of the property or
3 employer in control of the property has prohibited permitholders
4 from carrying concealed handguns into or onto the place or
5 premises; a passenger air terminal, except that a permitholder may,
6 to the extent otherwise permitted by law, transport a concealed
7 handgun into or out of a passenger air terminal for the sole
8 purpose, respectively, of (i) presenting such concealed handgun to
9 United States Customs and Border Protection officers in advance of
10 an international flight in order to comply with federal law, (ii)
11 checking such concealed handgun with his or her luggage, or (iii)
12 retrieving such concealed handgun from the baggage claim area;
13 or into or onto any other place or premises where handguns are
14 prohibited by law or rule or regulation.

15 (b) A financial institution or air passenger terminal may
16 authorize its security personnel to carry concealed handguns in the
17 financial institution or air passenger terminal while on duty so
18 long as each member of the security personnel, as authorized, is
19 in compliance with the Concealed Handgun Permit Act and possesses a
20 permit to carry a concealed handgun issued pursuant to the act.

21 (2) If a person, persons, entity, or entities in control
22 of the property or an employer in control of the property prohibits
23 a permitholder from carrying a concealed handgun into or onto the
24 place or premises and such place or premises are open to the
25 public, a permitholder does not violate this section unless the
26 person, persons, entity, or entities in control of the property
27 or employer in control of the property has posted conspicuous
1 notice that carrying a concealed handgun is prohibited in or
2 on the place or premises or has made a request, directly or
3 through an authorized representative or management personnel, that
4 the permitholder remove the concealed handgun from the place or
5 premises. A permitholder carrying a concealed handgun in a vehicle
6 into or onto any place or premises does not violate this section
7 so long as the handgun is not removed from the vehicle while the
8 vehicle is in or on the place or premises. An employer may prohibit
9 employees or other persons who are permitholders from carrying
10 concealed handguns in vehicles owned by the employer.

11 (3) A permitholder shall not carry a concealed handgun
12 while he or she is consuming alcohol or while the permitholder
13 has remaining in his or her blood, urine, or breath any previously
14 consumed alcohol or any controlled substance as defined in section

- 15 28-401. A permitholder does not violate this subsection if the
 16 controlled substance in his or her blood, urine, or breath was
 17 lawfully obtained and was taken in therapeutically prescribed
 18 amounts.
 19 2. On page 8, line 23, after the comma insert "and
 20 section 15, Legislative Bill 454, Ninety-ninth Legislature, Second
 21 Session, 2006."
 22 3. Renumber the remaining section accordingly.

GENERAL FILE

LEGISLATIVE BILL 1249. Senator Synowiecki withdrew his pending amendments, AM2512 and AM2513, found on page 906.

The Standing Committee amendment, AM2127, found on page 559 and considered in this day's Journal, was renewed.

Senator Chambers offered the following amendment to the Standing Committee amendment:
 FA670

Amendment to AM2127

In line 12 after "determines" insert "after investigation".

SENATOR BAKER PRESIDING

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

SENATOR CUDABACK PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Senator Landis requested a roll call vote, in reverse order, on the Chambers amendment.

Voting in the affirmative, 12:

Aguilar	Cornett	Janssen	Mines
Bourne	Cudaback	Jensen	Preister
Chambers	Friend	Kruse	Synowiecki

Voting in the negative, 11:

Byars	Kopplin	Redfield	Thompson
Cunningham	Landis	Smith	Wehrbein
Foley	Langemeier	Stuhr	

Present and not voting, 25:

Baker	Combs	Flood	Kremer	Price
Beutler	Connealy	Heidemann	Louden	Raikes
Brashear	Engel	Howard	Pahls	Schimek
Brown	Erdman	Hudkins	Pedersen, Dw.	Schrock
Burling	Fischer	Johnson	Pederson, D.	Stuthman

Excused and not voting, 1:

McDonald

The Chambers amendment lost with 12 ayes, 11 nays, 25 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

SELECT COMMITTEE REPORTS Enrollment and Review

LEGISLATIVE BILL 385. Placed on Select File as amended.

(E & R amendment, AM7220, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 385A. Placed on Select File.

(Signed) Michael Flood, Chairperson

AMENDMENTS - Print in Journal

Senator Bourne filed the following amendment to LB 925:
AM3084

(Amendments to E & R amendments, AM7208)

- 1 1. Strike sections 3, 4, and 19 and insert the following
- 2 new section:
- 3 Sec. 17. The Office of Probation Administration shall
- 4 adopt and promulgate rules and regulations to approve the use of
- 5 continuous alcohol monitoring devices by individuals sentenced to
- 6 probation for violating section 60-6.196 or 60-6.197.
- 7 2. On page 3, lines 5, 6, and 8, strike the new matter.
- 8 3. On page 10, line 14, strike "8 and 16" and insert "6,
- 9 14, and 17"; and in line 20 strike "8" and insert "6".
- 10 4. On page 13, line 7, before "Upon" insert "(1)"; in
- 11 lines 9 through 12 strike the new matter and reinstate the stricken
- 12 matter; and in line 11 strike "(1)(a)", show as stricken, and
- 13 insert "(a)(i)".

14 5. On page 14, line 2, strike "(b)(i)", show as stricken,
15 and insert "(ii)(A)"; in line 19 strike "(ii)", show as stricken,
16 and insert "(B)"; in lines 20 and 24 strike "(1)(b)(i)", show as
17 stricken, and insert "(1)(a)(ii)(A)"; in line 26 strike "(iii)",
18 show as stricken, and insert "(C)"; and in line 27 strike "(1)",
19 show as stricken, and insert "(1)(a)".

20 6. On page 15, line 2, strike "(2)", show as stricken,
21 and insert "(b)" and strike "(1)", show as stricken, and insert
22 "(1)(a)"; in lines 4, 5, 10, 12, 13, 14, 18, and 19 strike the new
1 matter; and after line 21 insert the following new subsection:
2 "(2) In addition to the restrictions required by
3 subdivision (1)(b) of this section, the court may require a person
4 convicted of a second or subsequent violation of section 60-6.196
5 or 60-6.197 to use a continuous alcohol monitoring device and
6 abstain from alcohol use for a period of time not to exceed
7 the maximum term of license revocation ordered by the court. A
8 continuous alcohol monitoring device shall not be ordered for a
9 person convicted of a second or subsequent violation unless the
10 installation of an ignition interlock device is also required.".

11 7. On page 22, strike lines 18 through 20.

12 8. On page 23, strike beginning with "The" in line 12
13 through line 15.

14 9. On page 28, lines 2, 3, and 12, strike the new matter
15 and reinstate the stricken matter; in line 13 strike "(b) Use"
16 and insert "(2) If the court orders installation of an ignition
17 interlock device pursuant to subsection (1) of this section, the
18 court may also order the use of" and after "device" insert "and
19 abstention from alcohol use"; in line 14 strike "while operating
20 a motor vehicle"; strike beginning with "be" in line 14 through
21 "shall" in line 15; in line 19 before "Any" insert "(3)"; in line
22 22 strike "(2)", show as stricken, and insert "(4)"; and in lines
23 22 through 25 strike the new matter and reinstate the stricken
24 matter.

25 10. On page 29, lines 2, 3, 11, 12, 14, 15, 18, and 19,
26 strike the new matter; in line 10 strike "(3)", show as stricken,
27 and insert "(5)"; in line 11 reinstate the stricken matter; in line
1 17 strike "(4)", show as stricken, and insert "(6)"; in line 21
2 reinstate the stricken "or"; after line 25 insert the following new
3 subsection:
4 "(7) If a person ordered to use a continuous alcohol
5 monitoring device and abstain from alcohol use pursuant to a court
6 order as provided in subsection (2) of this section violates the
7 provisions of such court order by removing, tampering with, or
8 otherwise bypassing the continuous alcohol monitoring device or by
9 consuming alcohol while required to use such device, he or she
10 shall have his or her Class O license revoked and be unable to
11 apply for license reinstatement for the duration of the revocation
12 period imposed by the court."; in line 26 strike "(5)", show as
13 stricken, and insert "(8)"; and in line 27 strike the new matter.

- 14 11. On page 30, lines 1 and 2, strike the new matter and
 15 reinstate the stricken matter.
 16 12. Correct the repealer and renumber the remaining
 17 sections accordingly.

Senator Bourne filed the following amendment to LB 1199:
 (Amendment, AM3082, is printed separately and available in the Bill Room,
 Room 1104.)

SELECT COMMITTEE REPORTS Enrollment and Review

Correctly Engrossed

The following bills and resolution were correctly engrossed: LBs 808, 956, 956A, 994, 994A, 1189, 1189A, 1222, and LR 259CA.

ER9098

Enrollment and Review Change to LB 808

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Raikes-Landis amendment, AM3003:
 - a. On page 4, line 27, "and" has been struck and shown as stricken;
 - b. On page 13, line 16, the first occurrence of "act" has been struck and "County Civil Service Act" inserted;
 - c. On page 17, line 8; and page 22, line 27, "act" has been struck and "County Civil Service Act" inserted; and
 - d. On page 26, line 3, "section" has been struck and "sections 23-114.03 and" inserted.
2. In the E & R amendments, AM7196, on page 2, lines 3, 4, and 5 have been struck; in line 7 "taxation" has been struck and "government" inserted; in line 8 "23-2517, 23-2519, 23-2520, 23-2522, 23-2524, 23-2525, 23-2526, 23-2527, 23-2531, 23-2533," has been inserted after the third comma; in line 10 "23-114.03, 23-2518," has been inserted after the second comma; in line 13 "77-1507.01," has been struck; and in line 16 "county zoning regulations, county civil service provisions," has been inserted after the first comma.
3. In the Standing Committee amendments, AM2210:
 - a. Section 30 and all amendments thereto have been struck and the following new section inserted:
 Sec. 47. Sections 5, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 43, 44, 49, and 52 of this act become operative on January 1, 2007. Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 50 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.;
 - b. On page 30, line 1, "protestor" has been struck, shown as stricken, and "protester" inserted; and

c. On page 31, line 8; and page 32, line 13, "protestor" has been struck and "protester" inserted.

ER9097

Enrollment and Review Change to LB 1222

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, AM7200:

a. On page 1, lines 5 and 6, "3, 4, and 11" has been struck and "5, 6, and 13" inserted; in line 12 "3 and 4" has been struck and "5 and 6" inserted;

b. On page 2, line 25, "per month per access line" has been inserted after "cents"; and

c. On page 9, lines 3 and 4, "the Enhanced Wireless 911 Services Act" has been struck and "telecommunications" inserted; and in line 6 "; to define and redefine terms" has been struck and ", and section 86-420, Revised Statutes Supplement, 2005; to provide duties for counties under the Emergency Telephone Communications Systems Act; to define and redefine terms under the Enhanced Wireless 911 Services Act" inserted.

(Signed) Michael Flood, Chairperson

VISITORS

Visitors to the Chamber were 33 fourth-grade students and teacher from Sandoz Elementary School, Lexington; Sarah Kersten from Bloomfield; and Adrian Draney from Lincoln.

The Doctor of the Day was Dr. Rubab Husain from Omaha.

ADJOURNMENT

At 7:00 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Wednesday, April 5, 2006.

Patrick J. O'Donnell
Clerk of the Legislature

