

FORTY-EIGHTH DAY - MARCH 27, 2008**LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE
SECOND SESSION****FORTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 27, 2008

PRAYER

The prayer was offered by Father Paul Rutten, Madonna Rehabilitation Hospital, Lincoln.

ROLL CALL

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

The roll was called and all members were present except Senators Carlson and White who were excused; and Senators Ashford, Avery, Dubas, Erdman, Heidemann, Hudkins, Karpisek, Lautenbaugh, Loudon, and Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-seventh day was approved.

RESOLUTION

LEGISLATIVE RESOLUTION 298. Introduced by Aguilar, 35.

PURPOSE: To study issues under the jurisdiction of the Government, Military and Veterans Affairs Committee of the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 806. Title read. Considered.

Committee AM1754, found on page 501, was considered.

Senator Johnson offered the following amendment to the committee amendment:

AM2549

(Amendments to Standing Committee amendments, AM1754)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendment:
- 3 "1. On page 22, strike beginning with "may" in line 19
- 4 through "from" in line 21, show the old matter as stricken, and
- 5 insert "to"; and in line 24 after "animal" insert "shall not charge
- 6 an additional deposit for such animal".

The Johnson amendment was adopted with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

The committee amendment, as amended, was adopted with 29 ayes, 0 nays, 8 present and not voting, and 12 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 8 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 819. Title read. Considered.

PRESIDENT SHEEHY PRESIDING

Committee AM1791, found on page 545, was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 953. Title read. Considered.

Committee AM1941, found on page 669, was adopted with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 995. Title read. Considered.

Committee AM2118, found on page 995, was adopted with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

Senator Chambers offered the following amendment:

FA236

P. 3, line 3 after "cemeteries" and in line 11 after "cemetery" insert "and the inhabitants thereof".

The Chambers amendment was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Senator Chambers offered the following amendment:

FA237

P. 3, line 6 after "collected" insert "from cemetery residents".

Senator Chambers withdrew his amendment.

Senator Chambers offered the following amendment:

FA238

P. 2, line 3 strike and show as stricken "less" and insert "fewer"; and in line 7 strike "less" and insert "fewer".

The Chambers amendment was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 745. Title read. Considered.

Advanced to Enrollment and Review Initial with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 1082. Title read. Considered.

Committee AM2252, found on page 886, was considered.

Senator Cornett offered the following amendment to the committee amendment:

AM2550

(Amendments to Standing Committee amendments, AM2252)

- 1 1. On page 2, strike line 2 and insert "or an
- 2 out-of-hospital emergency care provider as defined in section
- 3 38-1208".

Senator Cornett moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Cornett requested a roll call vote on her amendment.

Voting in the affirmative, 25:

Adams	Cornett	Janssen	McDonald	Preister
Aguilar	Dierks	Johnson	McGill	Raikes
Ashford	Flood	Karpisek	Nantkes	Rogert
Avery	Fulton	Kopplin	Pankonin	Schimek
Chambers	Howard	Lathrop	Pirsch	Wallman

Voting in the negative, 0.

Present and not voting, 16:

Burling	Hansen	Lautenbaugh	Pedersen
Erdman	Harms	Louden	Stuthman
Fischer	Heidemann	Nelson	Synowiecki
Gay	Hudkins	Pahls	Wightman

Excused and not voting, 8:

Carlson	Dubas	Friend	Langemeier
Christensen	Engel	Kruse	White

The Cornett amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Pending.

RESOLUTIONS

LEGISLATIVE RESOLUTION 299. Introduced by Pankonin, 2; Pahls, 31; Pirsch, 4.

PURPOSE: To examine changes being implemented by insurance companies doing business in Nebraska to reduce private insurance benefits covering prosthetic limbs as part of necessary medical care and to consider whether or not legislation should be introduced to address the changes. In order to carry out the purpose of this resolution, the study committee should seek the assistance of the Department of Insurance, representatives from the insurance industry, and the Amputee Coalition of Nebraska and should consider the input of interested persons as the committee deems necessary and beneficial.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 300. Introduced by Janssen, 15.

PURPOSE: In 2004, LB 826 was passed by the Legislature to clarify the law setting the boundaries of Nebraska game refuges in response to a court action. As passed, the authority to determine the boundaries and to make the initial boundary determination was given to the Department of Natural Resources. Since the implementation of the law, concerns remain about the setting of these boundaries, specifically in Garden County.

The purpose of this resolution is to review the action that led to the introduction and passage of LB 826, any actions taken by the Department of Natural Resources after the passage of the bill, the impact of those actions, and the possible need to review and amend the changes made in LB 826.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

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

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

Referred to the Executive Board.

MOTION - Print in Journal

Senator Harms filed the following motion to LB1092:
MO155

Unanimous consent to bracket until April 5, 2008.

AMENDMENTS - Print in Journal

Senator Lautenbaugh filed the following amendment to LB1082:
FA239

Amend AM2252

Strike in line 4 page 1 beginning with "an employee" through line 7, and insert "a first responder if said first responder:"

Senator Kruse filed the following amendment to LB1068:
AM2554

(Amendments to E & R amendments, ER8213)

- 1 1. Insert the following new section:
2 Section 1. Section 13-1210, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:
4 13-1210 (1) The Department of Roads shall annually
5 certify the amount of operating costs eligible for funding under
6 the public transportation assistance program established under
7 section 13-1209.
8 (2) The department shall submit an annual report to the
9 chairperson of the Appropriations Committee of the Legislature
10 on or before December 1 of each year regarding funds requested
11 by each applicant for eligible operating costs in the current
12 fiscal year pursuant to subsection (2) of section 13-1209 and
13 the total amount of state grants projected to be awarded in
14 the current fiscal year pursuant to the public transportation
15 assistance program. The report shall separate into two categories
16 the requests and grants awarded for handicapped vans, otherwise
17 known as paratransit vehicles, and requests and grants awarded for
18 handicapped-accessible fixed route bus systems.
19 2. Renumber the remaining sections and correct the
20 repealer accordingly.

VISITORS

Visitors to the Chamber were Dehnia Herrick from Lincoln; 30 first-through twelfth-grade students and teacher from West Fairview School, Milford; Senator Kopplin's wife and daughter, Mary Lou Kopplin and Deb Siemers, from Gretna; 47 fourth- and fifth-grade students, teachers, and sponsors from Shell Creek Elementary, Columbus; and members of the Columbus Junior City Council from Columbus.

RECESS

At 11:58 a.m., on a motion by Speaker Flood, the Legislature recessed until 1:30 p.m.

AFTER RECESS

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

ROLL CALL

The roll was called and all members were present except Senators Carlson and White who were excused; and Senators Ashford, Christensen, Dierks, Engel, Erdman, Fischer, Flood, Heidemann, Janssen, McDonald, Preister, Raikes, and Snowiecki who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 907. Title read. Considered.

Advanced to Enrollment and Review Initial with 25 ayes, 0 nays, 8 present and not voting, and 16 excused and not voting.

LEGISLATIVE BILL 786. Title read. Considered.

Committee AM2084, found on page 728, was considered.

Senator Howard offered the following motion:

MO156

Unanimous consent to bracket until April 6, 2008.

No objections. So ordered.

COMMITTEE REPORT

Business and Labor

The Business and Labor 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.

Bernard J. McGinn - Commission of Industrial Relations

Aye: 5 Senators Cornett, Lathrop, McGill, Rogert, Wallman. Nay: 0.
Absent: 2 Senators Chambers, White.

AMENDMENTS - Print in Journal

Senator Louden filed the following amendment to LB986:

AM2522

(Amendments to Standing Committee amendments, AM1998)

- 1 1. Insert the following new sections:
- 2 Sec. 7. On or before January 31, 2009, and each January
- 3 31 thereafter, an electronic device retailer shall remit to the
- 4 department a recycling fee equal to two dollars per electronic
- 5 device sold by the retailer in the previous calendar year.
- 6 Sec. 13. Section 81-1504.01, Revised Statutes Supplement,
- 7 2007, is amended to read:
- 8 81-1504.01 The Department of Environmental Quality shall
- 9 provide the following information to the Governor and to the Clerk
- 10 of the Legislature by December 1 of each year:
- 11 (1) A report by type of service or aid provided by the
- 12 use and distribution of federal funds received by the department.
- 13 The report shall also include user fees, permit fees, license
- 14 fees, and application fees authorized by the federal Environmental
- 15 Protection Agency as follows:

16 (a) Actual expenditure of each grant or authorized fees
 17 for the most recently completed state fiscal year, including state
 18 matching funds;

19 (b) Current budget and planned use and distribution of
 20 each grant and authorized fees for the current state fiscal year,
 21 including state matching funds;

22 (c) A summary of the projected funding level of each
 1 grant and authorized fees and the impact of federal mandates and
 2 regulations upon the future use of each grant and authorized fees;
 3 and

4 (d) Program summaries including statistical summaries
 5 when applicable for the most recently completed state fiscal year
 6 and program activity goals for the current state fiscal year;

7 (2) A summary of regulations of the federal Environmental
 8 Protection Agency which the department is required to implement and
 9 which do not include federal funding assistance and the possible
 10 financial impact to the state and political subdivisions;

11 (3) A report by type of service or aid provided by the
 12 use and distribution of state general and cash funds, including
 13 user fees, permit fees, license fees, and application fees, to
 14 carry out activities that are not funded by federal grants as
 15 follows:

16 (a) Actual expenditure of state funds, by agency
 17 sections, for the most recently completed state fiscal year,
 18 including a breakdown of expenditures by personal services,
 19 operations, travel, capital outlay, and consulting and contractual
 20 services;

21 (b) Current budget and planned use and distribution of
 22 state funds, by agency sections, for the current state fiscal
 23 year, including a breakdown of expenditures for personal services,
 24 operations, travel, capital outlay, and consulting and contractual
 25 services;

26 (c) A summary of projected program funding needs based
 27 upon the statutory requirements and public demand for services and
 1 the department's assessment of anticipated needs statewide; and

2 (d) Program summaries including statistical summaries
 3 when applicable for the most recently completed state fiscal year
 4 and program activity goals for the current state fiscal year;

5 (4) A report regarding staff turnover by job class and
 6 the department's assessment of its ability to hire and retain
 7 qualified staff considering the state's personnel pay plan;

8 (5) A report listing the method used by each new or
 9 existing licensee, permittee, or other person who is required by
 10 the department to establish proof of financial responsibility; ~~and~~

11 (6) A report for the previous state fiscal year relating
 12 to the purpose of the Nebraska Litter Reduction and Recycling
 13 Act and of funds credited to the Nebraska Litter Reduction and
 14 Recycling Fund; and -

15 (7) A report for the previous state fiscal year relating

16 to the funds credited to the Waste Reduction and Recycling
 17 Incentive Fund pursuant to sections 6 and 7 of this act.

18 2. On page 1, line 3, strike "11" and insert "12".

19 3. On page 2, after line 14 insert the following new
 20 subdivision:

21 "(4) Electronic device retailer means a person who sells
 22 electronic devices in this state under a brand or label that is not
 23 owned by the retailer;"; and renumber the remaining subdivisions
 24 accordingly.

25 4. On page 4, lines 10 and 12, after "manufacturer"
 26 insert "or electronic device retailer".

27 5. On page 5, line 18, strike "section 6" and insert
 1 "sections 6 and 7".

2 6. Renumber the remaining sections and correct the
 3 repealer accordingly.

Senator Loudon filed the following amendment to LB986:
 AM2555

(Amendments to Standing Committee amendments, AM1998)

1 1. On page 4, line 14, strike "(1)"; strike lines 18

2 through 24; in line 25 strike "(1)"; and strike line 27.

3 2. On page 5, strike line 1; in line 5 strike "(a)" and

4 insert "(1)"; in line 7 strike "(b)" and insert "(2)"; in line 9

5 strike "(c)" and insert "(3)"; and strike lines 11 through 16.

RESOLUTIONS

LEGISLATIVE RESOLUTION 301. Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to study issues regarding the Comprehensive Health Insurance Pool (CHIP) and consider whether amendments should be recommended to the CHIP Act, Neb. Rev. Stat. sections 44-4201 to 44-4235. The study should include an examination of: The funding of the net loss of CHIP; the determination of annual premium rates; the extent of CHIP policy coverage; provider reimbursement methodology; eligibility for pool coverage; and cost containment strategies. In order to carry out the purpose of this resolution, the study committee should seek the assistance of the Department of Insurance and should consider the input of interested persons as the committee deems necessary and beneficial.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 302. Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to direct the Executive Board of the Legislative Council to conduct a study on the following issues:

(1) The availability of rooms for school children who visit the State Capitol building to conveniently gather and eat lunch when they visit and the possibility of designating rooms for such purposes;

(2) The availability of rooms for senators to meet with school children and other groups who are visiting the State Capitol building and the possibility of designating rooms for such purposes;

(3) The restrictions on senators who wish to use the Warner Chamber to meet with school children or other groups who are touring the State Capitol building;

(4) Making the State Capitol building and its environs a place where the public feels welcome;

(5) How the experience of visiting the State Capitol building influences the public's perceptions of the Legislature;

(6) The difference in the coordination of tours when the Legislature is in session and when it is not in session;

(7) The coordination of school tours of the State Capitol building conducted by the capitol tour office and senators' offices; and

(8) The needs of the capitol tour office or other agencies affected by guests in the State Capitol building to efficiently and adequately meet the needs and issues identified in this resolution.

The board may study any other issue related to such issues.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Executive Board of the Legislative Council shall be designated to conduct an interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 303. Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to direct the Health and Human Services Committee of the Legislature to conduct a study on the following issues:

(1) The benefits of establishing a laboratory at the University of Nebraska Medical Center to conduct medical research on umbilical cord blood and tissue as proposed in LB 1003 (2008);

(2) Designating a sustainable funding source for the construction, development, staffing, maintenance, and accreditation of such a laboratory;

(3) Finding a sustainable source of umbilical cord blood and tissue to support a laboratory and medical research;

(4) The relationship between the issues identified in this study and LB 606 (2008); and

(5) Whether a laboratory in Nebraska could cooperate with a laboratory or an umbilical cord blood bank in another state to support the mission of the laboratory in this state.

The committee may study any other issue related to such issues.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 304. Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to direct the Education Committee of the Legislature to conduct a study on the following issues:

(1) Determination of the number of public school teachers who retire early;

(2) Determination of the options for a public school teacher who opts to retire early to obtain affordable health insurance upon retiring;

(3) Determination of the level of responsibility or the role of public school districts to provide health insurance to their retirees until the retirees are eligible for other health care coverage;

(4) Determination of the cost of premiums to the retired teachers and the districts that would offer such coverage; and

(5) Determination of the reasons teachers who retire early are dropped from health care insurance coverage by a public school district.

The committee may study any other issue related to such issues.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

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

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

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 305. Introduced by Pahls, 31.

PURPOSE: The purpose of this resolution is to study whether Nebraska should enact legislation to require issuers of group health benefit plans to provide the plan sponsor with information regarding claims paid and the amount of premiums by line of coverage. The study should include an examination of issues raised during consideration of LB 1002 (2008) by the Banking, Commerce and Insurance Committee. In order to carry out the purpose of this resolution, the study committee should seek the assistance of the Department of Insurance and should consider the input of interested persons as the committee deems necessary and beneficial.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRETH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

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

Referred to the Executive Board.

GENERAL FILE**LEGISLATIVE BILL 308.** Title read. Considered.

Committee AM2016, found on page 716, was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review Initial with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 1072. Title read. Considered.

Committee AM1843, found on page 643, was adopted with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

Senator Friend renewed his amendment, AM2275, found on page 915.

SPEAKER FLOOD PRESIDING

The Friend amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 928. Title read. Considered.

Committee AM2435, found on page 1028, was considered.

Senator Johnson offered the following amendment to the committee amendment:

AM2557

(Amendments to Standing Committee amendments, AM2435)

- 1 1. On page 42, line 20, strike "dispensing" and insert
- 2 "administration"; and in line 21 strike "dispensed or".
- 3 2. On page 44, line 12, strike "package insert" and
- 4 insert "in written patient information"; and in line 15 strike "or"
- 5 and after "dispensing" insert ", or administering".

The Johnson amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Senator Chambers offered the following amendment to the committee amendment:

FA250

Amend AM2435

Strike section 32.

SENATOR ERDMAN PRESIDING

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

The committee amendment, as amended, was adopted with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 916. Placed on Select File with amendment. ER8215 is available in the Bill Room.

LEGISLATIVE BILL 965. Placed on Select File with amendment. ER8216 is available in the Bill Room.

LEGISLATIVE BILL 846. Placed on Select File with amendment. ER8217 is available in the Bill Room.

LEGISLATIVE BILL 846A. Placed on Select File.

(Signed) Amanda McGill, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1016. Title read. Considered.

Committee AM2322, found on page 973, was considered.

Senator Friend requested a division of the question on the committee amendment.

The Chair sustained the division of the question.

The first committee amendment is as follows:

AM2578

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

3 Section 1. Sections 1 to 10 of this act shall be known
4 and may be cited as the Contractor Employee Classification and
5 Public Contract Duty Act.

6 Sec. 2. For purposes of the Contractor Employee
7 Classification and Public Contract Duty Act:

8 (1) Construction has the same meaning as in section
9 48-2103;

10 (2) Contractor means a sole proprietor, partnership,
11 firm, corporation, limited liability company, association, or other
12 legal form engaged in the business of construction and includes a
13 general contractor or subcontractor;

14 (3) Interested party means a person with an interest in
15 compliance with the act, including an employee, the Department of
16 Labor, or the Department of Revenue; and

17 (4) Performing services means the performance of
18 construction labor for remuneration.

19 Sec. 3. (1) An individual performing services is an
20 employee of a contractor unless the following are true, in which
21 case the individual is an independent contractor:

22 (a) The individual has been and will continue to be free
23 from control or direction over the performance of the service, both
1 under the contract and in fact;

2 (b) The individual is engaged in an independently
3 established trade, occupation, profession, or business;

4 (c) The individual makes performance of the service
5 available to the general public;

6 (d) When appropriate, the individual furnishes the tools
7 and equipment necessary to provide service; and

8 (e) The contractor does not represent the individual as
9 an employee to customers.

10 (2) An individual performing services is presumed to be
11 an independent contractor if:

12 (a) The individual has registered as a contractor

13 pursuant to the Contractor Registration Act at least six months
 14 prior to commencing construction work for the contractor;

15 (b) The individual has been assigned a combined tax rate
 16 pursuant to subdivision (4) of section 48-649 or the employees of
 17 the individual are exempted from unemployment insurance coverage
 18 pursuant to subdivision (6) of section 48-604; and

19 (c) The individual is listed on the data base established
 20 by the Department of Revenue under subsection (3) of section
 21 77-2753 as found in AM2244 to LB 1001 (2008).

22 (3) The Department of Revenue shall establish and operate
 23 a hotline for contractors to call to confirm compliance under
 24 subsection (2) of this section.

25 Sec. 4. It is a violation of the Contractor Employee
 26 Classification and Public Contract Duty Act for a contractor to
 27 designate an individual as an independent contractor who would be
 1 properly classified as an employee under section 3 of this act.

2 Sec. 5. In addition to any other remedies available
 3 to the Department of Labor and the Department of Revenue, an
 4 interested party aggrieved by a violation of the Contractor
 5 Employee Classification and Public Contract Duty Act may bring
 6 an action in the district court in the county where an alleged
 7 violation occurred. All interested parties shall be joined in such
 8 action and shall have the right to be represented by counsel
 9 of their own choosing. The cause of action provided for in this
 10 section is available for the following:

11 (1) The amount of combined tax, with interest, that would
 12 have been paid by the contractor under the Employment Security
 13 Law, based upon the contractor's combined tax rate at the time
 14 of employment, if the individual working for such contractor would
 15 have been properly classified as an employee under section 3 of
 16 this act;

17 (2) The amount of state income tax that would have been
 18 withheld by the contractor, based upon the rates at the time of
 19 employment, if the individual working for the contractor would have
 20 been properly classified as an employee under section 3 of this
 21 act;

22 (3) The difference in the compensation paid to the
 23 individual by the contractor as compared to the average prevailing
 24 rate of compensation for like work, as determined by the Department
 25 of Labor, during the time of employment;

26 (4) In the case of unlawful retaliation, all legal and
 27 equitable relief as may be appropriate; and

1 (5) Attorney's fees and costs.
 2 Amounts recovered by settlement or judgment shall be
 3 equitably divided as agreed upon by the interested parties or, in
 4 the absence of an agreement, as determined by the district court
 5 where the action was pending or might have been brought.

6 Sec. 6. It is a violation of the Contractor Employee
 7 Classification and Public Contract Duty Act for a contractor, or

8 an agent of a contractor, to retaliate through discharge or in
9 any other manner against an individual for exercising any right
10 granted under the act. Rights granted under the act include making
11 a complaint to the contractor or a governmental agency, bringing an
12 action under the act, or participating in an investigation of an
13 alleged violation of the act.

14 Sec. 7. Every contractor shall post in a conspicuous
15 place at the job site in English and Spanish the following notice:

16 (1) Every individual working for a contractor has the
17 right to be properly classified by the contractor as an employee
18 rather than an independent contractor if the individual does not
19 meet the requirements of an independent contractor under the state
20 law known as the Contractor Employee Classification and Public
21 Contract Duty Act;

22 (2) If you as an individual working for a contractor have
23 been improperly classified, you may bring a lawsuit against the
24 contractor under the state law known as the Contractor Employee
25 Classification and Public Contract Duty Act. Your lawsuit may
26 include claims for:

27 (a) The amount of combined tax, with interest, that
1 should have been paid by the contractor under the Employment
2 Security Law as provided in such state law;

3 (b) The amount of state income tax that should have been
4 withheld by the contractor as provided in such state law;

5 (c) The difference in the compensation paid to you as
6 compared to the average prevailing rate of compensation for like
7 work;

8 (d) In the case of unlawful retaliation by the contractor
9 against you, all legal and equitable relief as may be appropriate;
10 and

11 (e) Your expenses for attorney's fees and court and other
12 costs relating to the lawsuit;

13 (3) It is a violation of the state law known as the
14 Contractor Employee Classification and Public Contract Duty Act for
15 a contractor, or an agent of the contractor, to retaliate through
16 discharge or in any other manner against you for exercising any
17 right granted under the act. Rights granted under such state law
18 include making a complaint to the contractor or a governmental
19 agency, bringing an action under the act, or participating in an
20 investigation of an alleged violation of such state law; and

21 (4) If you believe you have not been properly classified
22 as an employee by the contractor you work for, contact an attorney,
23 the Department of Labor, or the Department of Revenue.

24 Sec. 10. The Contractor Employee Classification and
25 Public Contract Duty Act shall not be construed to affect or
26 apply to a common-law or statutory action providing for recovery in
27 tort and shall not be construed to affect or change the common-law
1 interpretation of independent contractor status as it relates to
2 tort liability or a workers' compensation claim.

The second committee amendment is as follows:
AM2579

- 1 1. Insert the following sections:
2 Sec. 8. The state or any political subdivision entering
3 into a contract for construction shall require that each contractor
4 who performs construction services pursuant to the contract
5 submit an affidavit attesting that each individual performing
6 services for such contractor is properly classified under the
7 Contractor Employee Classification and Public Contract Duty Act,
8 such contractor has a completed federal I-9 immigration form on
9 file for each individual performing services, and such contractor
10 has no reasonable basis to believe that such individual is an
11 undocumented worker.
12 Sec. 9. Any contractor who knowingly provides a false
13 affidavit under section 8 of this act to the state or a political
14 subdivision shall be subject to the penalties for perjury and upon
15 a second or subsequent violation shall not be permitted to contract
16 with the state or any political subdivision for a period of three
17 years after the date of discovery of the falsehood.

The first committee amendment, AM2578, found in this day's Journal, was renewed.

Pending.

BILLS ON FIRST READING

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

LEGISLATIVE BILL 928A. Introduced by Johnson, 37.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 928, One Hundredth Legislature, Second Session, 2008; and to reduce an appropriation.

LEGISLATIVE BILL 308A. Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 308, One Hundredth Legislature, Second Session, 2008.

SELECT FILE

LEGISLATIVE BILL 988. ER8211, found on page 1069, was adopted.

Senator Raikes asked unanimous consent to withdraw his amendment, AM2410, found on page 1020, and replace it with his substitute amendment, AM2545. No objections. So ordered.
AM2545 is available in the Bill Room.

SENATOR SCHIMEK PRESIDING**SENATOR FRIEND PRESIDING**

Senator Raikes moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

The Raikes amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Kopplin reoffered his amendment, AM2433, found on page 1017.

SENATOR LANGEMEIER PRESIDING**SENATOR SCHIMEK PRESIDING**

Senator Kopplin withdrew his amendment.

Senator Friend withdrew and refiled his amendment, AM2431, found on page 1085.

Senator Raikes offered the following amendment:
AM2547

(Amendments to E & R amendments, ER8211)

- 1 1. Insert the following new section:
- 2 Sec. 21. (1) For school fiscal year 2008-09, aid
- 3 stabilization shall be calculated for each local system and
- 4 disbursed in an amount equal to the difference of the state
- 5 aid paid to such local system for school fiscal year 2007-08
- 6 pursuant to section 79-1022 minus two and one-half percent of the
- 7 need calculated for the school fiscal year for which aid is being
- 8 calculated and minus the sum of the calculated equalization aid,
- 9 allocated income tax funds, and net option funding for such school
- 10 fiscal year, except that aid stabilization shall not be less than
- 11 zero.
- 12 (2) For school fiscal year 2009-10, aid stabilization
- 13 shall be calculated for each local system and disbursed in an
- 14 amount equal to the difference of the state aid paid to such
- 15 local system for school fiscal year 2007-08 pursuant to section
- 16 79-1022 minus five percent of the need calculated for the school
- 17 fiscal year for which aid is being calculated and minus the sum
- 18 of the calculated equalization aid, allocated income tax funds, and
- 19 net option funding for such school fiscal year, except that aid
- 20 stabilization shall not be less than zero.

21 2. On page 12, line 17, strike "20" and insert "21".

22 3. On page 46, line 21, before "For" insert "(1)"; and
 1 in line 27 after "least" insert "ninety-six cents per one hundred
 2 dollars of taxable valuation for aid calculated for school fiscal
 3 year 2008-09 and at least".

4 4. On page 47, line 1, after "valuation" insert "for aid
 5 calculated for school fiscal year 2009-10 and each school fiscal
 6 year thereafter"; in line 10 before "The" insert "(2)"; in line 13
 7 after "calculated" insert ".".

8 (3) The percentages to be used in the calculation of
 9 averaging adjustments for school fiscal year 2008-09 shall be as
 10 follows:

11 (a) If such levy was at least ninety-six cents per one
 12 hundred dollars of taxable valuation but less than ninety-seven
 13 cents per one hundred dollars of taxable valuation, the percentage
 14 shall be ten percent;

15 (b) If such levy was at least ninety-seven cents per one
 16 hundred dollars of taxable valuation but less than ninety-eight
 17 cents per one hundred dollars of taxable valuation, the percentage
 18 shall be twenty percent;

19 (c) If such levy was at least ninety-eight cents per
 20 one hundred dollars of taxable valuation but less than ninety-nine
 21 cents per one hundred dollars of taxable valuation, the percentage
 22 shall be thirty percent;

23 (d) If such levy was at least ninety-nine cents per one
 24 hundred dollars of taxable valuation but less than one dollar per
 25 one hundred dollars of taxable valuation, the percentage shall be
 26 forty percent;

27 (e) If such levy was at least one dollar per one hundred
 1 dollars of taxable valuation but less than one dollar and one cent
 2 per one hundred dollars of taxable valuation, the percentage shall
 3 be fifty percent;

4 (f) If such levy was at least one dollar and one cent per
 5 one hundred dollars of taxable valuation but less than one dollar
 6 and two cents per one hundred dollars of taxable valuation, the
 7 percentage shall be sixty percent;

8 (g) If such levy was at least one dollar and two
 9 cents per one hundred dollars of taxable valuation but less than
 10 one dollar and three cents per one hundred dollars of taxable
 11 valuation, the percentage shall be seventy percent;

12 (h) If such levy was at least one dollar and three cents
 13 per one hundred dollars of taxable valuation but less than one
 14 dollar and four cents per one hundred dollars of taxable valuation,
 15 the percentage shall be eighty percent; and

16 (i) If such levy was at least one dollar and four cents
 17 per one hundred dollars of taxable valuation, the percentage shall
 18 be ninety percent.

19 (4) The percentages to be used in the calculation of
 20 averaging adjustments for school fiscal year 2009-10 and each

- 21 school fiscal year thereafter shall be"; in line 14 strike "(1)"
 22 and insert "(a)"; in line 18 strike "(2)" and insert "(b)"; in line
 23 22 strike "(3)" and insert "(c)"; and in line 26 strike "(4)" and
 24 insert "(d)".
 25 5. On page 48, line 3, strike "(5)" and insert "(e)";
 26 and in line 23 after "equal" insert "ten percent for school fiscal
 27 years 2008-09 and 2009-10 and" and after "percent" insert "for each
 1 school fiscal year thereafter".
 2 6. Renumber the remaining sections and correct internal
 3 references accordingly.

The Raikes amendment was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Pending.

AMENDMENT - Print in Journal

Senator Langemeier filed the following amendment to LB777:
 AM2587

- 1 1. Strike the original sections and all amendments
 2 thereto and insert the following new sections:
 3 Section 1. Section 77-1359, Revised Statutes Cumulative
 4 Supplement, 2006, is amended to read:
 5 77-1359 The Legislature finds and declares that
 6 agricultural land and horticultural land shall be a separate and
 7 distinct class of real property for purposes of assessment. The
 8 assessed value of agricultural land and horticultural land shall
 9 not be uniform and proportionate with all other real property, but
 10 the assessed value shall be uniform and proportionate within the
 11 class of agricultural land and horticultural land.
 12 For purposes of sections 77-1359 to 77-1363:
 13 (1) Agricultural land and horticultural land means a
 14 parcel of land, excluding any building or enclosed structure
 15 and the land associated with such building or enclosed structure
 16 located on the parcel, which is primarily used for agricultural or
 17 horticultural purposes, including wasteland lying in or adjacent to
 18 and in common ownership or management with other agricultural land
 19 and horticultural land; ~~–Agricultural land and horticultural land~~
 20 ~~does not include any land directly associated with any building or~~
 21 ~~enclosed structure;~~
 22 (2) Agricultural or horticultural purposes means used for
 23 the commercial production of any plant or animal product in a
 1 raw or unprocessed state that is derived from the science and
 2 art of agriculture, aquaculture, or horticulture. Agricultural or
 3 horticultural purposes includes the following uses of land:
 4 (a) Land retained or protected for future agricultural or
 5 horticultural purposes under a conservation easement as provided
 6 in the Conservation and Preservation Easements Act except when the

7 parcel or a portion thereof is being used for purposes other than
 8 agricultural or horticultural purposes; and
 9 (b) Land enrolled in a federal or state program in which
 10 payments are received for removing such land from agricultural or
 11 horticultural production;

12 (3) Farm home site means not more than one acre of
 13 land contiguous to a farm site which includes an inhabitable
 14 residence and improvements used for residential purposes, and such
 15 improvements include utility connections, water and sewer systems,
 16 and improved access to a public road; and

17 (4) Farm site means the portion of land contiguous to
 18 land actively devoted to agriculture which includes improvements
 19 that are agricultural or horticultural in nature, including any
 20 uninhabitable or unimproved farm home site.

21 Sec. 2. This act becomes operative on January 1, 2009.

22 Sec. 3. Original section 77-1359, Revised Statutes
 23 Cumulative Supplement, 2006, is repealed.

COMMITTEE REPORTS

Education

LEGISLATIVE BILL 1079. Placed on General File with amendment.
 AM2506

1 1. On page 7, line 13, after "means" insert "For
 2 the second school fiscal year immediately preceding the school
 3 fiscal year in which aid is to be paid as reported on the annual
 4 financial report prior to December 1 of the school fiscal year
 5 immediately preceding the school fiscal year in which aid is to
 6 be paid (a) for school fiscal years prior to school fiscal year
 7 2009-10."; in line 18 reinstate the stricken matter; and in line
 8 23 strike the underscored comma and insert "; and (b) for school
 9 fiscal year 2009-10 and each school fiscal year thereafter, the
 10 total general fund expenditures minus categorical funds, tuition
 11 paid, transportation fees paid to other districts, adult education,
 12 summer school, community services, redemption of the principal
 13 portion of general fund debt service, retirement incentive plans,
 14 staff development assistance, transfers from other funds into the
 15 general fund.".

LEGISLATIVE BILL 1151. Placed on General File with amendment.
 AM2509

1 1. On page 9, line 6, strike "school fiscal year" and
 2 insert "and second school fiscal years".
 3 2. On page 10, line 4, after "purchased" insert "either
 4 by, or on behalf of, the school district or educational service
 5 unit seeking reimbursement".
 6 3. On page 11, line 3, after the semicolon insert
 7 "(c) For purchases made on behalf of a school district or
 8 educational service unit, evidence that such purchase was made on

9 behalf of such school district or educational service unit and that
 10 such school district or educational service unit paid directly or
 11 indirectly for such purchase;"; and in line 4 strike "(c)", show as
 12 stricken, and insert "(d)".

LEGISLATIVE BILL 1153. Placed on General File with amendment.
 AM2510

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

3 Section 1. At the request of a parent or guardian, a
 4 school district shall issue a certificate of attendance to a
 5 student who receives special education services under the Special
 6 Education Act, who has reached seventeen years of age, and who
 7 has not completed his or her individualized education plan. A
 8 school district shall allow a student who receives a certificate
 9 of attendance under this section to participate in the high school
 10 graduation ceremony of such high school with students receiving
 11 high school diplomas. A student may receive only one certificate of
 12 attendance and may participate in only one graduation ceremony
 13 based on such certificate. The receipt of a certificate of
 14 attendance pursuant to this section shall not affect a school
 15 district's obligation to continue to provide special education
 16 services to a student receiving such certificate.

17 This section does not preclude a student from receiving
 18 a high school diploma by meeting the school district's graduation
 19 requirements established pursuant to section 79-729 or in his
 20 or her individualized education plan or receiving a diploma of
 21 high school equivalency under section 79-730 upon completing the
 22 requirements of such section. The school district may allow a
 23 student who has previously participated in a graduation ceremony
 1 based on a certificate of attendance to participate in an
 2 additional graduation ceremony when such student receives a high
 3 school diploma.

(Signed) Ron Raikes, Chairperson

SELECT FILE

LEGISLATIVE BILL 988. Senator Raikes offered the following
 amendment:
 AM2548

(Amendments to E & R amendments, ER8211)

1 1. Insert the following new section:

2 Sec. 7. Section 79-1005.01, Revised Statutes Cumulative
 3 Supplement, 2006, is amended to read:

4 79-1005.01 For state aid calculated for all school fiscal
 5 years except school fiscal years 2002-03 through 2007-08:

6 (1) An amount equal to the amount appropriated to
 7 the School District Income Tax Fund for distribution in school

8 fiscal year 1992-93 shall be disbursed as option payments as
9 determined under section 79-1009 and as allocated income tax
10 funds as determined in this section and sections 79-1008.01,
11 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in
12 section 79-1008.02. Funds not distributed as allocated income tax
13 funds due to minimum levy adjustments shall not increase the amount
14 available to local systems for distribution as allocated income tax
15 funds;

16 (2) Not later than November 15 of each year, the Tax
17 Commissioner shall certify to the department for the preceding tax
18 year the income tax liability of resident individuals for each
19 local system. The 1996 income tax liability of resident individuals
20 of Class I districts that are affiliated with multiple high school
21 districts shall be divided between local systems based on the
22 percentage of the Class I district's valuation affiliated with each
1 high school district; and

2 (3) Using the data certified by the Tax Commissioner
3 pursuant to subdivision (2) of this section, the department
4 shall calculate the allocation percentage and each local system's
5 allocated income tax funds. The allocation percentage shall be an
6 amount equal to the amount appropriated to the School District
7 Income Tax Fund for distribution in school fiscal year 1992-93
8 minus the total amount paid for option students pursuant to
9 section 79-1009 and, for aid calculated for school fiscal year
10 2008-09, minus twenty million dollars with the difference divided
11 by the aggregate statewide income tax liability of all resident
12 individuals certified pursuant to subdivision (2) of this section.
13 Each local system's allocated income tax funds shall be calculated
14 by multiplying the allocation percentage times the local system's
15 income tax liability certified pursuant to subdivision (2) of this
16 section.

17 2. On page 47, line 5, after "adjustment" insert
18 "for aid calculated for school fiscal year 2008-09 shall equal
19 seventy-five percent of the product of the district's formula
20 students multiplied by the percentage specified in this section for
21 such district of the difference between the statewide average basic
22 funding per formula student minus such district's basic funding per
23 formula student. The averaging adjustment for aid calculated for
24 school fiscal year 2009-10 and each school fiscal year thereafter".

25 3. Renumber the remaining sections and correct internal
26 references accordingly.

The Raikes amendment was adopted with 26 ayes, 1 nay, 18 present and not voting, and 4 excused and not voting.

Senator Raikes offered the following amendment:

AM2585

(Amendments to E & R amendments, ER8211)

1 1. Insert the following new section:

2 Section 1. Section 44-4317, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 44-4317 (1)(a) Any public agency which has the authority
5 to levy a tax shall be authorized to levy a tax, to contract
6 indebtedness, and to issue general obligation bonds payable from
7 such a tax levy to pay the premium costs of general liability
8 insurance, property insurance, workers' compensation insurance,
9 health, dental, or accident insurance, life insurance, and any
10 other insurance to protect against any of the losses described in
11 section 44-4304 and to pay all costs and expenses associated with
12 membership in a risk management pool, including, but not limited
13 to, standard insurance coverages, group self-insurance coverages,
14 assessments levied by the pool, retirement of debt incurred by the
15 pool, and operating expenses of the pool.

16 (b) A member of a risk management pool which has the
17 authority to levy a tax shall be authorized to enter into
18 agreements obligating the member to make payments beyond its
19 current budget year for any of such purposes.

20 (c) Taxes levied by a public agency other than an
21 educational service unit or school district for the payment of the
22 principal of, premium of, or interest on such a general obligation
1 bond of such public agency, the payment of such insurance premium
2 costs, and the payment of all costs and expenses associated with
3 membership in a risk management pool may be levied in excess of any
4 tax limitation imposed by statute.

5 (d) Except as permitted in subdivision (1)(e) of this
6 section, taxes levied by an educational service unit or school
7 district on or after the effective date of this act for the
8 payment of the principal of, premium of, or interest on such a
9 general obligation bond of such public agency, the payment of such
10 insurance premium costs, and the payment of all costs and expenses
11 associated with membership in a risk management pool shall be
12 subject to the levy limit applicable to such public agency under
13 section 77-3442.

14 (e) Taxes levied by an educational service unit or school
15 district prior to fiscal year 2012-13 for the payment of the
16 principal of, premium of, or interest on such a general obligation
17 bond of such educational service unit or school district issued
18 prior to the effective date of this act shall be excluded from the
19 levy limit applicable to such public agency under section 77-3442.

20 (2) Nothing in the Intergovernmental Risk Management
21 Act shall be construed or interpreted as permitting the State
22 of Nebraska, represented by the Risk Manager, to enter into any
23 agreement or contract or do any act in contravention of the
24 Constitution of the State of Nebraska.

25 2. On page 7, line 27, before the comma insert "except
 26 as provided in section 44-4317 for bonded indebtedness issued by
 27 educational service units and school districts".

1 3. Renumber the remaining sections and correct internal
 2 references and the repealer accordingly.

Senator Langemeier offered the following amendment to the Raikes amendment:
 AM2588

(Amendments to AM2585)

1 1. On page 2, line 15, strike "prior to fiscal year
 2 2012-13".

The Langemeier amendment was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

The Raikes amendment, as amended, was adopted with 34 ayes, 1 nay, 10 present and not voting, and 4 excused and not voting.

Senator Raikes offered the following amendment:
 AM2507

(Amendments to E & R amendments, ER8211)

1 1. On page 19, line 27, strike "years".
 2 2. On page 20, line 1, strike "and 2009-10"; in line 22
 3 strike "and" and insert the following new subdivision:
 4 "(c) For school fiscal year 2009-10, as reported for the
 5 second school fiscal year immediately preceding the school fiscal
 6 year in which aid is to be paid on the annual financial report
 7 submitted prior to December 1 of the school fiscal year immediately
 8 preceding the school fiscal year in which aid is to be paid,
 9 the total general fund expenditures minus (i) the amount of all
 10 receipts to the general fund, to the extent that such receipts
 11 are not included in local system formula resources, from early
 12 childhood education tuition, summer school tuition, educational
 13 entities as defined in section 79-1201.01 for providing distance
 14 education courses through the Educational Service Unit Coordinating
 15 Council to such educational entities, private foundations,
 16 individuals, associations, charitable organizations, the textbook
 17 loan program authorized by section 79-734, and federal impact aid,
 18 (ii) the amount of expenditures for categorical funds, tuition
 19 paid, transportation fees paid to other districts, adult education,
 20 community services, redemption of the principal portion of general
 21 fund debt service, retirement incentive plans authorized by section
 22 79-855, and staff development assistance authorized by section
 1 79-856, (iii) the amount of any transfers from the general fund
 2 to any bond fund and transfers from other funds into the general
 3 fund, and (iv) any legal expenses in excess of fifteen-hundredths
 4 of one percent of the formula need for the school fiscal year in
 5 which the expenses occurred; and"; and in line 23 strike "(c)" and

6 insert "(d)".
 7 3. On page 21, line 17, strike "and"; and in line 19
 8 strike the underscored semicolon and insert ", and (iv) any legal
 9 expenses in excess of fifteen-hundredths of one percent of the
 10 formula need for the school fiscal year in which the expenses
 11 occurred.".

The Raikes amendment was adopted with 26 ayes, 6 nays, 13 present and not voting, and 4 excused and not voting.

Senator Friend reoffered his amendment, AM2431, found on page 1085 and considered in this day's Journal.

The Friend amendment was adopted with 25 ayes, 3 nays, 17 present and not voting, and 4 excused and not voting.

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

Advanced to Enrollment and Review for Engrossment with 28 ayes, 12 nays, 5 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 988A. Senator Raikes offered the following amendment:

AM2567

1 1. On page 2, line 7, strike "1,022,930,676" and insert
 2 "1,027,559,109"; in line 11 strike "1,287,657,601" and insert
 3 "1,292,286,034"; in line 17 strike "\$1,022,930,676" and insert
 4 "\$1,027,559,109"; and in line 26 strike "\$818,898,810" and insert
 5 "\$823,527,243".
 6 2. On page 5, after line 24, insert the following:
 7 "It is the intent of the Legislature that the changes
 8 made by Legislative Bill 959, section 69, to Laws 2007, LB321,
 9 section 49, are null and void and are superseded by the changes
 10 made by this legislative bill.".
 11 3. Strike the Raikes amendment, AM2407.

The Raikes amendment was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 1154. Placed on Select File with amendment.
 ER8220

1 1. In the Standing Committee amendments, AM2449:
 2 a. On page 55, line 12, after "program" insert an
 3 underscored comma;

- 4 b. On page 56, lines 12 and 27, after "(2)" insert "or
 5 (3)";
- 6 c. On page 63, line 5, strike "with", show as stricken,
 7 and insert "within"; and
- 8 d. On page 65, line 5, before the period insert
 9 "training"; in line 24 strike "and 13-519" and insert ", 13-519,
 10 and 79-201"; and in line 25 strike "79-201,".
- 11 2. On page 1, strike beginning with "learning" in line
 12 1 through the first semicolon in line 10 and insert "education;
 13 to amend sections 79-234, 79-1202, 79-1225, 81-1203, and 81-1204,
 14 Reissue Revised Statutes of Nebraska, sections 13-508, 13-519,
 15 and 79-201, Revised Statutes Cumulative Supplement, 2006, and
 16 sections 32-546.01, 32-604, 77-3442, 79-611, 79-769, 79-1028,
 17 79-1073, 79-1241.03, 79-2102, 79-2102.01, 79-2104, 79-2107,
 18 79-2110, 79-2111, 79-2113, 79-2115, 79-2117, and 79-2118, Revised
 19 Statutes Supplement, 2007; to change provisions relating to
 20 learning community coordinating councils, educational service
 21 units, budgets, tax levies, diversity plans, open enrollment, state
 22 aid, and job training grants; to require reporting by school
 23 districts; to provide for nonvoting learning community coordinating
 1 council members; to provide for an advisory committee;".

LEGISLATIVE BILL 736. Placed on Select File with amendment.
 ER8218

- 1 1. On page 1, strike lines 2 through 6 and insert
 2 "sections 60-498.02, 60-4,118.06, and 60-6,209, Reissue Revised
 3 Statutes of Nebraska, sections 60-480, 60-497.01, 60-4,115,
 4 60-601, 60-6,197.01, 60-6,211.05, and 83-1,127.02, Revised Statutes
 5 Cumulative Supplement, 2006, and section 60-6,197.03, Revised
 6 Statutes Supplement, 2007; to provide for an ignition interlock
 7 permit; to change penalty provisions; to change provisions relating
 8 to installation and use of an ignition interlock device; to provide
 9 fees; to create a fund; to harmonize provisions; to provide an
 10 operative date; and to repeal the original sections.".

LEGISLATIVE BILL 895. Placed on Select File with amendment.
 ER8219 is available in the Bill Room.

(Signed) Amanda McGill, Chairperson

AMENDMENTS - Print in Journal

Senator Erdman filed the following amendment to LB765:
 AM2526

- 1 1. Insert the following new section:
 2 Sec. 2. Section 71-5829.06, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 71-5829.06 All rehabilitation beds which require a

5 certificate of need are subject to a moratorium, ~~except under~~
 6 ~~the following condition:~~ unless one of the following exceptions
 7 applies:

8 (1) If the average occupancy for all rehabilitation beds
 9 located in Nebraska has exceeded ninety percent occupancy during
 10 the most recent three consecutive calendar quarters as reported
 11 at the time of the filing of the application, the department may
 12 grant an exception to the moratorium and issue a certificate of
 13 need. If the department determines the average occupancy for all
 14 rehabilitation beds located in Nebraska does not exceed ninety
 15 percent occupancy during the most recent three consecutive calendar
 16 quarters as reported at the time of the filing of the application,
 17 the department shall deny the application; or-

18 (2) If the average occupancy for all rehabilitation beds
 19 within a health planning region exceeds eighty percent occupancy
 20 during the most recent three consecutive calendar quarters as
 21 reported at the time of the filing of the application and no other
 22 comparable services are otherwise available in the health planning
 23 region, the department shall grant an exception to the moratorium
 1 and issue a certificate of need for up to three rehabilitation
 2 beds.

3 2. In the Standing Committee amendments, AM1755:

4 a. On page 2, line 25, strike "or"; and

5 b. On page 3, line 4, after "period" insert "; or

6 (8) Any relocation of rehabilitation beds in Nebraska
 7 from one health care facility to another health care facility".

8 3. On page 3, line 12, strike "section 71-5829.03" and
 9 insert "sections 71-5829.03 and 71-5829.06"; and in line 13 strike
 10 "is" and insert "are".

11 4. Renumber the remaining section accordingly.

Senator Cornett filed the following amendment to LB1055:
 AM2444

(Amendments to E & R amendments, ER8183)

1 1. Insert the following new sections:

2 Section 1. Section 28-101, Revised Statutes Supplement,
 3 2007, is amended to read:

4 28-101 Sections 28-101 to 28-1350 and section 3 of this
 5 act shall be known and may be cited as the Nebraska Criminal Code.

6 Sec. 2. Section 28-1008, Revised Statutes Supplement,
 7 2007, is amended to read:

8 28-1008 For purposes of sections 28-1008 to 28-1017 and
 9 section 3 of this act

10 (1) Abandon means to leave any animal in one's care,
 11 whether as owner or custodian, for any length of time without
 12 making effective provision for its food, water, or other care as is
 13 reasonably necessary for the animal's health;

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

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

19 (4) Cruelly neglect means to fail to provide any animal
 20 in one's care, whether as owner or custodian, with food, water, or
 21 other care as is reasonably necessary for the animal's health;

22 (5) Humane killing means the destruction of an animal by
 1 a method which causes the animal a minimum of pain and suffering;

2 (6) Law enforcement officer means any member of the
 3 Nebraska State Patrol, any county or deputy sheriff, any member
 4 of the police force of any city or village, or any other public
 5 official authorized by a city or village to enforce state or
 6 local animal control laws, rules, regulations, or ordinances.
 7 Law enforcement officer also includes any inspector under the
 8 Commercial Dog and Cat Operator Inspection Act to the extent that
 9 such inspector may exercise the authority of a law enforcement
 10 officer under section 28-1012 while in the course of performing
 11 inspection activities under the Commercial Dog and Cat Operator
 12 Inspection Act;

13 (7) Mutilation means intentionally causing permanent
 14 injury, disfigurement, degradation of function, incapacitation, or
 15 imperfection to an animal. Mutilation does not include conduct
 16 performed by a veterinarian licensed to practice veterinary
 17 medicine and surgery in this state or conduct that conforms to
 18 accepted veterinary practices;

19 ~~(7)-(8)~~ Police animal means a horse or dog owned or
 20 controlled by the State of Nebraska for the purpose of assisting a
 21 Nebraska state trooper in the performance of his or her official
 22 enforcement duties; ~~and~~

23 (9) Repeated beating means intentional successive strikes
 24 to an animal by a person resulting in serious bodily injury or
 25 death to the animal;

26 ~~(8)-(10)~~ Serious injury or illness includes any injury
 27 or illness to any animal which creates a substantial risk of death
 1 or which causes broken bones, prolonged impairment of health, or
 2 prolonged loss or impairment of the function of any bodily organ;
 3 ~~and-~~

4 (11) Torture means intentionally subjecting an animal
 5 to extreme pain, suffering, or agony. Torture does not include
 6 conduct performed by a veterinarian licensed to practice veterinary
 7 medicine and surgery in this state or conduct that conforms to
 8 accepted veterinary practices.

9 Sec. 3. (1)(a) Any person convicted of a Class IV felony
 10 under section 28-1005 or 28-1009 shall not own, possess, or reside
 11 with any animal for not less than fifteen years from the date of
 12 conviction. Any person violating this subdivision shall be guilty
 13 of a Class I misdemeanor.

14 (b) Any person convicted of a Class I misdemeanor under
 15 subdivision (2)(a) of section 28-1009 or a Class III misdemeanor

16 under section 28-1010 shall not own, possess, or reside with any
17 animal for not less than five years from the date of conviction.
18 Any person violating this subdivision shall be guilty of a Class IV
19 misdemeanor.

20 (c) Any animal involved in a violation of subdivisions
21 (a) and (b) of this subsection shall be subject to seizure by law
22 enforcement.

23 (d) A court may extend the time restrictions for owning,
24 possessing, or residing with any animal under this subsection as
25 the court deems reasonable and necessary.

26 (2) The time restrictions in subdivisions (1)(a) and (b)
27 of this section shall not apply to any person convicted under
1 section 28-1005 or 28-1009 if a licensed physician confirms in
2 writing that ownership or possession of or residence with an animal
3 is essential to the health of such person.

4 Sec. 4. Section 28-1013, Revised Statutes Supplement,
5 2007, is amended to read:

6 28-1013 Sections 28-1008 to 28-1017 and section 3 of this
7 act shall not apply to:

8 (1) Care or treatment of an animal by a veterinarian
9 licensed under the Nebraska Veterinary Practice Act until December
10 1, 2008, and the Veterinary Medicine and Surgery Practice Act on
11 and after December 1, 2008;

12 (2) Commonly accepted care or treatment of a police
13 animal by a law enforcement officer in the normal course of his or
14 her duties;

15 (3) Research activity carried on by any research facility
16 currently meeting the standards of the federal Animal Welfare Act,
17 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;

18 (4) Commonly accepted practices of hunting, fishing, or
19 trapping;

20 (5) Commonly accepted practices occurring in conjunction
21 with rodeos, animal racing, or pulling contests;

22 (6) Humane killing of an animal by the owner or by his or
23 her agent or a veterinarian upon the owner's request;

24 (7) Commonly accepted practices of animal husbandry with
25 respect to farm animals, including their transport from one
26 location to another and nonnegligent actions taken by personnel
27 or agents of the Nebraska Department of Agriculture or the United
1 States Department of Agriculture in the performance of duties
2 prescribed by law;

3 (8) Use of reasonable force against an animal, other than
4 a police animal, which is working, including killing, capture, or
5 restraint, if the animal is outside the owned or rented property
6 of its owner or custodian and is injuring or posing an immediate
7 threat to any person or other animal;

8 (9) Killing of house or garden pests;

9 (10) Commonly followed practices occurring in conjunction
10 with the slaughter of animals for food or byproducts; and

11 (11) Commonly accepted animal training practices.

12 Sec. 5. Section 28-1014, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 28-1014 Any city, village, or county may adopt and
15 promulgate rules, regulations, and ordinances which are not
16 inconsistent with the provisions of sections 28-1008 to 28-1017
17 and section 3 of this act for the protection of the public, public
18 health, and animals within its jurisdiction.

19 Sec. 6. Section 28-1015, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 28-1015 When an animal is owned by a minor child, the
22 parent of such minor child with whom the child resides or legal
23 guardian with whom the child resides shall be subject to the
24 penalties provided under sections 28-1008 to 28-1017 and section 3
25 of this act if the animal is abandoned or cruelly neglected.

26 Sec. 7. Section 28-1016, Revised Statutes Cumulative
27 Supplement, 2006, is amended to read:

1 28-1016 Nothing in sections 28-1008 to 28-1017 and
2 section 3 of this act shall be construed as amending or changing
3 the authority of the Game and Parks Commission as established in
4 the Game Law or to prohibit any conduct authorized or permitted by
5 such law.

6 2. On page 10, line 9, after the last comma insert
7 "sections 28-1014, 28-1015, and 28-1016, Revised Statutes
8 Cumulative Supplement, 2006, and sections 28-101, 28-1008, and
9 28-1013, Revised Statutes Supplement, 2007,".

10 3. Renumber the remaining sections and correct internal
11 references accordingly.

BILL ON FIRST READING

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

LEGISLATIVE BILL 983A. Introduced by Cornett, 45.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 983, One Hundredth Legislature, Second Session, 2008.

UNANIMOUS CONSENT - Add Cointroducer

Senator Lautenbaugh asked unanimous consent to add his name as cointroducer to LB920. No objections. So ordered.

VISITORS

Visitors to the Chamber were 50 students and teachers from St. Libory 1-R School/Champman, Grand Island; and 20 twelfth-grade students, teacher, and sponsors from Cambridge.

The Doctor of the Day was Dr. Jeffrey Meade from Auburn.

ADJOURNMENT

At 8:30 p.m., on a motion by Senator Lathrop, the Legislature adjourned until 9:00 a.m., Friday, March 28, 2008.

Patrick J. O'Donnell
Clerk of the Legislature